



**Subject: Expropriation of One Foot Reserve - Christmas, Bell and Johnston Streets**

**To: Council**

**From: Office of the Chief Administrative Officer**

Report Number: 2023-01

Meeting Date: January 24, 2023

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### **Recommendation:**

That Chief Administrative Officer Report 2023-01 be received; and

That the expropriation of the one-foot reserve running parallel with Christmas, Bell, and Johnston Streets legally described in PIN 64164-0451 be approved; and

That the Mayor and Acting City Clerk be directed to sign the Certificate of Approval pursuant to the *Expropriations Act*, and all other documents necessary to carry out the expropriation of the lands subject to the satisfaction of the City Solicitor.

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### **Purpose:**

The purpose of this report is to obtain Council approval and outline next steps for the expropriation of the one-foot reserve running north-south and parallel with Christmas Street, Bell Street, and Johnston Street, legally described in PIN 64164-0451 and as shown in Appendix A.

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### **Background:**

The one-foot reserve, as shown in Appendix A, has been owned by the same individual prior to the registration of the Subdivision Plan 871 in 1953. This reserve was not transferred to the City or dedicated as a public road. The City initiated the process to expropriate the one foot reserve to help facilitate development of the adjoining lands, as shown in Appendix B.

The City Solicitor and the solicitor for the owner of the lands outlined in Appendix B, reviewed two methods of proceeding, namely expropriation or an application to the

courts seeking a declaration that the lands have been obtained by adverse possession. Based on a review of the information, the City Solicitor recommended that the expropriation route was the best way to proceed.

The expropriation process was outlined in and initiated with Report 2022-177 which was approved by Council on August 9, 2022. The purpose of the report was to seek approval from Council for the City Solicitor to prepare an application for approval to expropriate the one-foot reserve at the end of Christmas Street, Bell Street and Johnston Street legally described as PIN 64164-0451. The required survey, and appraisal have been completed and the City served notice by an alternative means and notice of the application was advertised in the newspaper.

There is no roll number for the one-foot reserve and there is no other address or contact information for the individual or their estate. The City Solicitor with staff support has conducted an exhaustive search for descendants to the owners but were unable to locate the owners or descendants.

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## **Discussion:**

The request is being made to facilitate legal access to a residential development proposal for an adjacent property that is being reviewed by the City's Planning Division. The one-foot reserve is preventing access and the development of the privately owned adjacent property PIN 64164-0504, see Appendix B. A title search confirms that a one-foot reserve (PIN 64164-0451) running north-south at the ends of Christmas, Bell, and Johnston Streets is registered on title.

The approval of this report is an Approval to Expropriate and is the next step in the expropriation process. If approved, the Notice of Approval will be completed, and the Expropriation Plan will be registered within three months of approval of this report.

Within three (3) months of this approval, the Approval to Expropriate will be advertised in the newspaper to comply with the regulations of the Expropriations Act.

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## **Financial Implications:**

There have been legal, administrative and survey costs incurred by the City. The total estimated costs will be in the range of \$40,000 to \$50,000. All costs associated with this process are being funded from the Economic Land Reserve Account and will be passed on to the developer at the conclusion of the process with the transfer of the one - foot reserve.

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## **Public Engagement:**

As per the *Expropriations Act*, R.S.O 1990, c. E.26, Public Notice of Application for Approval to Expropriate Land was advertised for three (3) consecutive weeks October 27, November 3, and November 10, 2022, in the Port Colborne Leader and there was no response to request a hearing of necessity. A copy of the newspaper advertisement is attached as Appendix C. Upon the approval of this report the Notice of Approval will be completed and placed in the local newspaper in accordance with the Expropriations Act.

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## **Strategic Plan Alignment:**

The initiative contained within this report supports the following pillars of the strategic plan:

- Service and Simplicity - Quality and Innovative Delivery of Customer Services
  - Attracting Business Investment and Tourists to Port Colborne
  - Governance: Communications, Engagement, and Decision-Making
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## **Conclusion:**

There is a privately owned one-foot reserve, shown in Appendix A, that was registered prior to 1953 and never conveyed to the City. It is preventing access to a large vacant parcel shown in Appendix B. City staff recommended expropriating the one-foot reserve to facilitate future residential development on the adjoining property and the expropriation process was approved by Council on August 9, 2022. This will support residential growth and increased assessment. All City costs will be reimbursed by the owner of the parcel shown in Appendix B as a condition of the conveyance. The approval of this report is an Approval to Expropriate and is the next step in the expropriation process.

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## **Appendices:**

- a. 1- Foot Reserve Map – PIN 64164-0451
- b. Abutting property – PIN
- c. Newspaper Advertisement

Respectfully submitted,

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### **Report Approval:**

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.