

Security Policy
A. Rozentals

TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE MEETING ON JULY 22nd, 2014
FROM:	G. KOTISFAS. P.ENG MANAGING DIRECTOR, DEVELOPMENT AND COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL
SUBJECT	SUBDIVISION & DEVELOPMENT AGREEMENT SECURITY POLICY

RECOMMENDATION

That, on the recommendation of the Manager of Development Services & Engineering Liaison, the attached proposed by-law **BE INTRODUCED** at the Municipal Council meeting on July 29, 2014 to repeal and replace Council Policy 19(18) entitled “Subdivisions and Development Security” with a new Council Policy 19(18) entitled “Subdivision & Development Agreement Security Policy”.

PURPOSE

The City of London’s *Subdivision Agreement Security Policy* was last updated in 1987 and needed a thorough review to address key issues brought forward by the development industry and City of London staff. After careful consideration and consultation with internal stakeholders and the development industry, this report’s purpose is to bring a new Security Policy into force to replace the old one.

DISCUSSION

Like most jurisdictions, the City of London requires that developers post performance security with the City to ensure that the developer meets the obligations as set out in their agreement with the City and to protect the public in the event of default. While not used frequently, the City of London has used securities in the past to stabilize sites in cases where the development was defaulted in its early stages. Securities have also been used to finish off site or subdivision works in cases where the development was in later stages with the public already owning homes in the development. In the former case, the security is important to protect the environment while in the latter case it is important to protect the value the public has invested in their new homes.

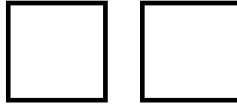
The new proposed *Subdivision & Development Agreement Security Policy* is attached as part of the by-law in Appendix “A”. Below is a summary of the more significant changes in the new proposed policy.

More Detail and In-Depth Explanations

While the existing policy has most of the pertinent, basic information it falls short in certain aspects. The most critical of these include the lack of definitions, explanation of processes, and the omission of some key forms. This caused a lack of certainty of behalf of developers and occasional conflicts in cases of different interpretations and misunderstandings. The new policy aims to correct this with more thorough explanations, examples, definitions, and even process flow charts. The proposed policy was written with the intent that a developer or consultant who has never worked in the City of London before could read it and understand what their security obligations would be.

Simplification of Processes

While the proposed Security Policy has increased in length, much of the new text simply



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explains the processes we already do. In some ways, the new policy is in fact less complicated and easier to read. An example of this is streamlining the security calculations for subdivisions so they are done by street as opposed to by each individual construction item. Updated calculation tables have been created that simplify the determination of required securities and requests for reduction.

Enforcement of Developer Obligations

Under the new policy, the City's enforcement abilities will be modernised to give the City the ability to enforce a developer's subdivision agreement obligations faster and ultimately less costly. Currently the City can only enforce agreement provisions and fix deficiencies by putting the entire subdivision in default. This can cause enforcement issues, especially in minor deficiency cases that can remain outstanding for long periods of time as there is reluctance to take such severe action as a full default. The new policy lays out a process that allows the City to enforce these items without putting the entire subdivision in default.

Clearing of Long-Held Security

The new policy introduces a mechanism for the City to clear long-held security in cases where the City has deemed the security is no longer needed and has been unable to contact the person or company who originally submitted the security.

Security Reduction Parameters

The new policy introduces some reasonable controls on the number of and amount of security reductions. Each reduction takes City staff time to verify and process and with no controls, the City would sometimes receive frequent, small amount security reduction requests. The new controls allow for better management and use of staff time while still allowing developers to reduce their security amounts when warranted.

Consultations

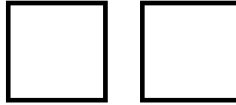
Internal consultations were done at numerous points through the process involving Legal and Finance and the final document has been reviewed by Legal. External consultations with the development industry are detailed below. The circulation list included the London Development Institute (LDI), the London Home Builders Association, and several independent developers. The external consultation list mirrored that of the recent Development Charges Update.

1. February 27, 2013 – Work plan and key objectives introduced at Homebuilders & Development Liaison meeting with opportunity for industry to contribute more objectives
2. June 21, 2013 – Financial Calculations and Definitions chapters sent to circulation list
LDI comments received July 23, 2013
3. Aug 6, 2013 – Logistics chapter sent to circulation list
LDI comments received August 27, 2013
4. Nov 20, 2013 – Meeting with LDI and individual developer representatives to discuss previous comments and emerging issues.
5. March 3, 2014 – Full draft policy sent out to circulation list
Formal response to previous comments sent to LDI
Sifton comments received March 24, 2014
6. May 14, 2014 – Meeting with LDI to discuss the full policy and any outstanding concerns

Overall, the extensive consultation process was fruitful and the vast majority of comments were productive and helpful toward making the policy better.

CONCLUSIONS

The proposed *Subdivision & Development Agreement Security Policy* attached as Appendix "A" would replace the existing policy which has not been updated in nearly 20 years. The proposed new policy addresses key issues brought forward by the development industry and City of London staff. Adopting the recommended policy will deliver a more transparent process and



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more certainty for developers while protecting the City and the public in the event a developer cannot or will not meet their development obligations.

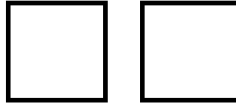
Acknowledgements:

The Security Policy was prepared with the assistance of Michael Harrison of the Development Services Division, D. Mounter of Legal, and the Development Finance Division.

PREPARED BY:	
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Attach. – Appendix A: Subdivision & Development Agreement Security Policy



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Appendix "A"

Bill No.
2014

By-law No. A.-

A by-law to repeal and replace Council Policy 19(18) entitled "Subdivisions and Development Security" with a new Council Policy 19(18) entitled "Subdivision & Development Agreement Security Policy".

WHEREAS subsection 5(3) of the *Municipal Act, 2001* provides that a municipal power shall be exercised by by-law;

AND WHEREAS the Municipal Council deems it advisable to update Council Policy 19(18) entitled "Subdivisions and Development Security";

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Council Policy 19(18), as amended, is hereby repealed and replaced with the attached Council Policy 19(18) entitled "Subdivision & Development Agreement Security Policy".
2. This by-law comes into force and effect on the day it is passed.

PASSED in Open Council on July 29, 2014.

J. Baechler
Mayor

Catharine Saunders
City Clerk