

Bill No. 303
2016

By-law No. A.-6151()-_____

A by-law to amend By-law No. A.-6151-17, being “A by-law to establish policies for the sale and other disposition of land, hiring of employees, procurement of goods and services, public notice, accountability and transparency, and delegation of powers and duties, as required under section 270(1) of the *Municipal Act, 2001*” by repealing and replacing Schedule “A” to By-law No. A.-6151-17.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS the Municipal Council wishes to amend By-law No. A.-6151-17, being “A by-law to establish policies for the sale and other disposition of land, hiring of employees, procurement of goods and services, public notice, accountability and transparency, and delegation of powers and duties, as required under section 270(1) of the *Municipal Act, 2001*” by repealing and replacing Schedule “A” – Sale & Disposition of Land Policy, to that by-law;

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

1. Schedule “A” to By-law No. A.-6151-17, being “A by-law to establish policies for the sale and other disposition of land, hiring of employees, procurement of goods and services, public notice, accountability and transparency, and delegation of powers and duties, as required under section 270(1) of the *Municipal Act, 2001*” is hereby repealed and replaced with a new Schedule “A” – Sale and Disposition of Land Policy, attached hereto as Schedule “A”.
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on August 30, 2016.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – August 30, 2016
Second Reading – August 30, 2016
Third Reading – August 30, 2016

SCHEDULE "A"

SALE AND OTHER DISPOSITION OF LAND POLICY

PART 1 - APPLICATION

This policy applies to the sale or other disposal of land by The Corporation of the City of London (the City).

This policy does not apply to the sale or other disposition of land by the City to the Housing Development Corporation, London.

PART 2 - POLICY STATEMENT

The City will dispose of surplus land in an open and transparent process to ensure that the consideration for such disposal is fair, reasonable and in the best interest of the City.

PART 3 - DEFINITIONS

In this policy, the following terms shall have this meaning ascribed to them:

"appraisal" means a fair market valuation of the land that is satisfactory to the Manager of Realty Services.

"disposition" means the sale, transfer, conveyance or exchange of the fee simple interest in land or the granting of a lease for a term of twenty-one (21) years or longer, and does not include the granting of an easement or right of way, and "disposal" shall have a similar meaning;

"land" means real property owned by the City;

"surplus" means property that the City no longer requires to meet its current or future needs;

PART 4 - PROCEDURES

The following procedures shall apply to the disposal of real property by the City. Prior to the disposal of any real property by the City of London which has the potential for development as affordable housing, the Housing Development Corporation will be provided with the opportunity to advise Council if the property should be retained by the City or transferred to the Housing Development Corporation for affordable housing purposes.

1. Declaration of Surplus Property

a) Prior to the disposal of land by the City, the Municipal Council shall declare the land to be surplus in the following manner:

- i) the City Treasurer, upon the advice of the Manager of Realty Services will submit a report to the appropriate Standing Committee recommending that the land in question be declared surplus to the needs of the City;

- ii) where the appropriate Standing Committee deems it advisable to adopt the recommendation of the City Treasurer with respect to declaring any land owned by the City to be surplus, the Standing Committee will submit a recommendation to the Municipal Council recommending that the land in question be declared surplus to the needs of the City;
- iii) where the Municipal Council deems it advisable to adopt any recommendation from the Standing Committee with respect to declaring any land owned by the City surplus;
- iv) the Municipal Council will, in a meeting open to the public, pass a resolution declaring any such land surplus to the needs of the City.

b) Notwithstanding the foregoing, the following classes of land are exempt from the requirement to declare such land surplus prior to its disposal:

- i) all land owned by the City that is zoned for industrial uses;
- ii) all cemetery plots owned by the City;
- iii) any land transferred to the City for security or for temporary roads or other works in connection with any agreement to which the City is a party under the *Planning Act*, R.S.O. 1990, c. P. 13 as amended.

2. Appraisal

a) The City, before disposing of land, shall obtain at least one appraisal of the land to be disposed of.

b) Notwithstanding the foregoing, the following classes of land are exempt from the requirement to obtain an appraisal prior to its disposal:

- i) land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*;
- ii) closed highways, road and road allowances;
- iii) land formerly used for railway branch lines if sold to an owner of land abutting the former railway land;
- iv) land that does not have direct access to a highway if sold to the owner of land abutting that land;
- v) land repurchased by an owner in accordance with Section 42 of the *Expropriations Act*;
- vi) land to be used for sites for the establishment and carrying on of industries and of industrial operations and incidental uses;
- vii) cemetery plots;

- viii) disposal to a local board as defined in the *Municipal Affairs Act*;
- ix) disposal to an authority under the *Conservation Authorities Act*; and
- x) disposal to the Crown in Right of Ontario or of Canada and their agencies.

3. Notice

a) Upon the Municipal Council having declared land surplus to the needs of the City but before any such land is disposed of by the City, the City Clerk will give notice to the public of the intention of the City to dispose of the land in question.

b) Where the land to be disposed of is, in the opinion of the Manager of Realty Services, developable as a separate parcel of land, the notice referred to in paragraph 3 a) shall be in the following forms:

- i) publication once of an advertisement in a newspaper of general circulation;
- ii) the posting of a "For Sale" sign on the land in question; and
- iii) posting a notice on the City of London "Web Site".

c) Where the land being disposed of is, in the opinion of the Manager of Realty Services, not developable except in conjunction with other adjacent land, the notice referred to in paragraph 3 a) may be in one or more of the forms identified in paragraph 3 b) of this Policy.

d) Notwithstanding the foregoing, no notice to the public of the proposed disposal of any land zoned for industrial uses is required, other than the general marketing of such land by the Manager of Realty Services.

4. Methods of Sale

Depending on the nature of the land, various methods may be employed for the disposal of land including, public auction; tender process; listing through the Multiple Listing Service, direct advertising; through direct negotiations with an abutting property owner; or through other direct negotiations when authorized by Municipal Council. The City Treasurer, upon the advice of the Manager of Realty Services, shall be responsible for determining the appropriate method of sale.

5. Procedures for Disposal of Industrial Land

a) In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of serviced industrial land owned by the City will be undertaken in accordance with the applicable part or parts of the Sale of Land Procedures set out in Attachment "A" of the policy.

b) The sale price for serviced industrial land as adopted by Municipal Council is as set out in Attachment "B" of this policy.

c) The fee to be paid to Real Estate Agents properly involved in the disposition of City-owned industrial land shall be as set out in Attachment "C" of this policy.

6. Procedures for Disposal of Proposal Call

In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of land by proposal call shall be in accordance with the procedures set out in Attachment "D" of the policy.

7. Procedures for Disposal of Public Tender

In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of land by public tender shall be in accordance with the procedures set out in Attachment "E" of the policy.

8. Procedures for Disposal by Direct Negotiation

In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of land by direct negotiation shall be in accordance with the procedures set out in Attachment "F" of this policy.

9. Procedure for Disposal by Public Auction

In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of land by public auction shall be in accordance with the procedures set out in Attachment "G" of this policy.

ATTACHMENT "A"

Disposal of Industrial Land Procedures

1. The purpose of this policy is to establish the terms upon which City-owned serviced industrial land is to be sold and transferred.
2. This policy is to be read and applied fairly and beneficially with such variations as circumstances or the nature of the subject matter require provided the general purpose, intent, meaning and spirit of the policy are maintained.
3. In this policy,
 - (a) Commencement of construction means the date upon which a building permit is issued by the City;
 - (b) Completion of construction is reached when the building or structure or a substantial part thereof is ready for use or is being used for the purpose intended, and;
 - (c) Coverage has the meaning ascribed to it under the applicable zoning by-law

CLASS 1 SALE

4. A class 1 sale is a sale of a land for the purpose of the construction thereon of a building or structure for a detached industrial use.
5. A class 1 sale shall be subject to the following conditions:
 - (a) The purchaser shall commence construction within one year of the registration of the deed or transfer and shall diligently complete construction of the building or structure, in default of which the purchaser shall in the sole discretion of the City reconvey the land to the City in accordance with Section 18 of this policy and free and clear of all encumbrances, easements, restrictions or covenants except as to those originally assumed by the purchaser from the City.
 - (b) The minimum coverage of the building or structure shall be 15 per cent, provided however that, where the maximum coverage permitted under the applicable zoning by-law is 15 percent or less, the maximum coverage under the zoning by-law shall be deemed to be the minimum coverage required by this condition.
 - (c) The purchaser shall not within 10 years of the registration of the deed or transfer convey any vacant part of the land by deed, transfer, grant, assignment, appointment, mortgage, charge, lease or sub-lease (Planning Act, R.S.O. 1990, Chapter P .13), without first notifying the City and, where it has been so notified, the City may either grant its consent (which shall not be unreasonably withheld) to the conveyance or application or may in its sole discretion require the purchaser to reconvey the vacant part to the City in accordance with Section 18 of this policy and free and clear of all encumbrances, easements, restrictions or covenants except as to those originally assumed by the purchaser from the City.
 - (d) The purchaser shall pay local improvement charges and any other special levies assessed at any time against the land on and after completion of the purchase.
6. The Manager of Realty Services may grant one or more extensions (which in total shall not exceed two years) of the time set out in paragraph 5 (a) of Section 5 of this policy within which construction of a building or structure is to be commenced provided the purchaser has filed a written request with the Manager of Realty Services for the extension.
7. A purchaser wishing to notify the City under condition 5 (c) of this policy shall file a written request with the Manager of Realty Services who shall submit a recommendation thereon to Council through Board of Control.

CLASS 2 SALE

8. A class 2 sale is a sale of a land for the purpose of the extension or enlargement of a building or structure erected or to be erected upon land of the purchaser abutting the land.

9. A class 2 sale shall be subject to conditions (c) and (d) of Section 5 of this policy and the further condition that the land shall not be used for any purpose other than the extension or enlargement of a building or structure erected or to be erected upon lands of the purchaser abutting the land.

CLASS 3 SALE

10. A class 3 sale is a sale that is not a class 1 or class 2 sale and that is a sale of a land for the purpose of a use ancillary to a building or structure erected or to be erected upon land of the purchaser abutting the parcel.
11. A class 3 sale shall be subject to conditions (c) and (d) of Section 5 of this policy and the further condition that the land shall not be used for any purpose other than a use ancillary to a building or structure erected or to be erected upon land of the purchaser abutting the parcel.

GENERAL

12. At least annually, the Manager of Realty Services shall review the pricing of industrial land and if a change in pricing is recommended, shall make a recommendation to Board of Control as to the price per acre at which land should be offered for sale during the ensuing year.
13. Pending receipt of an offer to purchase from a prospective purchaser, land may be reserved for a period of 30 days, provided however that, if during the reserve period the City receives an offer to purchase the same land in accordance with this policy from another prospective purchaser, the first prospective purchaser shall be allowed 5 days after notification within which to submit an offer to purchase at the same price and on the same terms; otherwise the City shall be at liberty to accept the second offer to purchase.
14. A prospective purchaser shall complete and execute an offer to purchase in the form provided by the City accompanied by a deposit payable to the City Treasurer by cash or certified cheque equal to 10 per cent of the total purchase price, and the balance shall be payable subject to usual adjustments upon completion of the transaction.
15. The Manager of Realty Services may submit an offer to purchase for acceptance by the City.
16. The transaction shall be completed within 90 days of the passing of the by-law accepting the offer to purchase or within such further period as may be agreed to between the City Solicitor and the purchaser's solicitor in the best interests of the City.
17. Where, in the City's opinion, land is properly sold through a real estate agent, the City shall pay a fee to the agent not exceeding the scale established by the City upon completion of the transaction but no fee shall be payable if the purchaser is permitted

to withdraw from the agreement of purchase and sale prior to the completion of the transaction.

18. Where the whole or any part of land is reconveyed by the purchaser to the City pursuant to a condition of sale or otherwise, the amount payable upon the reconveyance shall be 90 per cent of either the original purchase price (exclusive of interest thereon), if the whole land is reconveyed, or the portion thereof that is in the same ratio as the area of the reconveyed part is to the whole land, subject to adjustments as of the date of reconveyance for taxes, local improvements and other rates and subject, where the City considers necessary, to the City's withholding until a new purchaser is found, an amount sufficient to compensate the City for the cost of restoring the land to its original condition if so required by the new purchaser.
19. The development of the property will be subject to the requirements of the Architectural Control Guidelines as published by the City of London from time to time and the purchaser acknowledges the contents thereof and agrees to conform to those Guidelines.
20. The cost of service connections from the main to the property line is the responsibility of the purchaser.
21. The purchaser accepts the current condition of the site and the cost of removal of topsoil from the site if required is the responsibility of the purchaser.

ATTACHMENT "B"

The current pricing levels of all other City industrial parks be established effective June 23, 2016, as follows:

Pricing for serviced industrial land in Innovation Park, Skyway Industrial Park, River Road Industrial Park, and Cuddy Boulevard Parcels:

Lots up to 3.99 acres	\$75,000.00 per acre
4.00 acres and up	\$65,000.00 per acre

Pricing for serviced industrial land in Trafalgar Industrial Park:

All lot sizes - \$55,000.00 per acre.

Surcharges to be added as follows:

Highway 401 Exposure – 15%;
Veteran's Memorial Parkway Exposure – 5%; and

The cost of service connections from the main to the property line being the responsibility of the purchaser.

Industrial lots are sold on a where is, as is basis, with grading, stripping and removal of excess topsoil being the purchaser's responsibility and cost. The City will strive to provide

grading of the municipal industrial parks on a level-graded basis. Site specific final grading is the responsibility of a purchaser.

ATTACHMENT "C"

Real Estate Commissions for Industrial Land

The fee payable to Real Estate Agents properly involved in the disposal of City owned industrial land be as follows:

- (a) Transactions up to \$100,000 - 5%
- (b) Transactions up to \$200,000 - 5% for the first \$100,000
3% above \$100,000 to \$200,000
- (c) Transactions over \$200,000 - 5% for the first \$100,000
3% above \$100,000 to \$200,000
2% above \$200,000 for remainder

ATTACHMENT "D"

Disposal of Land – Proposal Call Procedure

1. Where land, in the opinion of the Manager of Realty Services, may be suitable for major redevelopment, the General Manager of Finance and Corporate Services will recommend that proposal call documents be drafted.
2. When the document has been prepared, notice of the proposal call will be in accordance with the notice provisions of this policy.
3. Sealed proposal calls will be opened at the appointed time in accordance with the City's tendering policy and referred to the Civic Administration for its consideration and recommendation through the General Manager of Finance and Corporate Services to Board of Control.
4. Further direct negotiations with proponents will be at the direction of Board of Control and Municipal Council.

ATTACHMENT "E"

Disposal of Land – Public Tender Procedure

1. The Realty Services Division will forward inquiries to each City Department, local Board or Commission, requesting their opinions as to the potential sale of the land.
2. Where, subject to the inquiry procedure, land is deemed to be surplus to City requirements, the Realty Services Division will suggest a market value for the land and recommend through the City Treasurer to the appropriate Standing Committee that the Manager of Purchasing be authorized to call tenders for the sale of the land.
3. Notice of the tender call will be in accordance with the notice provisions of this policy.

4. Offers to Purchase will be opened at the appointed time in accordance with the City's tendering policy.
5. The terms of sale of such properties will be a deposit of 10% in the form of a certified cheque and/or cash to accompany the offer and cash on closing.
6. The offers will be referred to the Realty Services Division for review and recommendation through the City Treasurer to the appropriate Standing Committee.
7. If the successful tenderer is introduced to the land by a realtor, a commission may be payable if appropriate as follows:
 - (i) transactions up to \$100,000 - 5%
 - (ii) transactions up to \$200,000 - 5% first \$100,000
3% between \$100,000 and \$200,000
 - (iii) transactions over \$200,000- 5% first \$100,000
3% between \$100,000 and \$200,000
2% all amounts above \$200,000, or
 - (iv) as otherwise approved by Municipal Council.
8. The payment of commission as provided for in paragraph 8 be payable only in the event that the realtor has:
 - (i) completed and deposited with the Manager of Realty Services, the Realtor Registration Form approved by the City not prior to the calling of each tender and not later than the closing of each tender;
 - (ii) obtained the signature of the proposed tenderer on the Realtor Registration Form approved by the City as an acknowledgement of the registration and on the understanding that the payment of the real estate commission may lower the net amount payable to the City which may result in the tender not being accepted;

ATTACHMENT "F"

Disposal of Land – Direct Negotiation Procedure

1. The Realty Services Division will send the appropriate inquiries to each relevant City Department, local Board or Commission, regarding their opinions as to the potential sale of the land.
2. When it has been established through the inquiry procedure that a land is surplus to City requirements and when, in the opinion of the Manager of Realty Services, considering the current market value of the land as well as the value of the said lands to the abutting land owners or other prospective purchasers, it is advisable to dispose of the land through direct negotiations, the Realty Services Division will conduct direct negotiations with the abutting owner(s) or other prospective purchasers and report the

results and recommendations to the appropriate Standing Committee through the City Treasurer.

ATTACHMENT "G"

Disposal of Land – Public Auction Procedure

1. Where, in the opinion of the Manager of Realty Services, it is advisable to dispose of real property through a public auction, the following procedures shall apply
2. The Manager of Realty Services shall be authorized to retain a licenced real estate auctioneer to conduct the auction
3. All costs of advertising being borne by the City on the understanding that the method and format of advertising will be agreed to by the auctioneer and approved by the Manager of Realty Services, prior to publication.
4. The City shall maintain the right to establish a reserve bid based on the results of an internal appraisal on the subject land by City staff, or an external appraisal carried out by an independent appraiser assigned by the City, and on the understanding that the reserve bid will remain confidential until the conclusion of the auction.
5. The conditions of sale being established, in each case, by the City, in conjunction with the Manager of Realty Services and the City Treasurer.
6. The Manager of Realty Services shall report the results of the auction to the appropriate Standing Committee.