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| TO: | CHAIR AND MEMBERS FINANCE AND ADMINISTRATION COMMITTEE MEETING ON AUGUST 17, 2011 |
| FROM: | TOM JOHNSON MANAGING DIRECTOR - CORPORATE ASSETS |
| SUBJECT: | FAILED MUNICIPAL TAX SALE PROPERTIES 200 – 202 ADELAIDE STREET NORTH 1851 PENSION LANE |

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| RECOMMENDATION |
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That, on the recommendation of the Managing Director - Corporate Assets, on the advice of the Manager Realty Services, the following report **BE RECIEVED** for information purposes.

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| PREVIOUS REPORTS PERTINENT TO THIS MATTER |
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Finance and Administration Committee – March 9, 2011 – Request for Expressions of Interest

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| BACKGROUND |
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Context

On November 17, 2009, the subject properties were offered for disposal as part of a tax sale conducted by the City in accordance with the provisions of Part XI of the Municipal Act, 2001. Section XI of the Municipal Act requires that the minimum amount that a municipality could accept for any parcel of land must be the accumulated tax arrears and any costs associated with the sale.

The City received no bids for the subject parcels. It is speculated that the reason no bids were received was a result of the lands containing some environmental concerns along with the large amount of accumulated taxes and costs associated with remediation of the properties which may exceed the market value of the lands.

Based on the environmental assessments conducted, it has been determined that there are no significant environmental concerns associated with these properties.

In accordance with Part XI of the Municipal Act, 2001 the City has until November 17, 2011 (two years following a failed tax sale) to investigate and complete its due diligence process to determine whether there is any interest in vesting the property. The City has two approved methods of disposing of properties in tax arrears, as follows:

1. Offer the properties for sale at a tax sale at a minimum price equal to the accumulated taxes and costs.
2. Conduct an Expression of Interest to identify individuals or corporations which may be interested in the property, vest the property and then transfer or sell at a lower price or even a nil price. Where property has significant environmental problems the implications of joining the chain of ownership must be considered.

In accordance with City Policy 26(4) following a failed tax sale, the availability of the subject properties must be circulated to both internal departments and external agencies in order to determine if any interest exists for these lands. A circulation was conducted and it was determined that there are no current or future needs for the subject properties. Phase 1 and Phase 2 Environmental Site Assessments (ESA) have been performed on the subject properties to determine the level of contamination.

Summary

Municipal Council resolved on March 9, 2011 that an Expression of Interest be conducted for 200-202 Adelaide Street North and 1851 Pension Lane. On June 8th 2011, in accordance with the approved City Policy as set out on Schedule A attached, Civic Administration initiated and conducted an Expression Of Interest for the two subject properties.

1851 Pension Lane

Two bids were received and evaluated by the Failed Tax Sale Committee. The City will be entering into negotiations with the highest ranked submission.

200-202 Adelaide St N

No submissions received. After the EOI closed, Realty Services Division did receive two inquires regarding the Adelaide property, of which both parties expressed great interest in acquiring the property. Purchasing Office has confirmed that the expressions of interest received after the EOI may be used to proceed through the sale process.

Responses were received and the City is now prepared to enter into negotiations with the submitters of the Expression of Interest that contains the best bid for each of these properties.

It being noted at any point in time prior to making an agreement with a prospective purchaser and vesting any of the subject properties the City could decide that it is not in the City's interest to vest any particular parcel in accordance with Note D of the City's Policy as set out on Schedule "A" of this report.

Failed Tax Sale Committee Members

This report was prepared with the assistance of David Munteer, Solicitor II, Mike Turner, Deputy City Treasurer, Greg Barrett, Manager III, Land Use Planning Policy, Jamie Skimming, Air Quality Manager, Wes Abbott, Division Manager, Solid Waste Engineering, John Freeman, Manager of Purchasing and Supply, Jim Logan, Division Manager Revenue and Tax, Orest Katolyk, Manager By law Enforcement and Tony Van Rossum, Environmental Services Engineer.

A plan is attached for the Boards information.

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| PREPARED BY: | RECOMMENDED BY: |
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| RON GASPARETTO PROPERTY CO-ORDINATOR / NEGOTIATOR | BILL WARNER MANAGER, REALTY SERVICES |

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| RECOMMENDED BY: |
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| TOM JOHNSON MANAGING DIRECTOR CORPORATE ASSETS |

July 28, 2011
Attach.

File No. P-2140

cc: J. Logan
D. Munteer
M. Losee
O. Katolyk
T. Van Rossum
G. Barrett
M. Turner
J. Freeman

Schedule A

26(4) Procedures on the Treatment of Properties That Do Not Sell at Municipal Tax Sales

- 1) After a failed tax sale, circulate the property to internal departments and external agencies in accordance with City Policy for the sale of City owned properties in order to determine if they have any interest in the property should the City vest the property; (If there is internal or agency interest in a property this interest will be presented to Board of Control and Council for a decision as to whether or not to take ownership for the department or agency after conducting a Phase 1 and Phase 2 ESA as considered appropriate)
- 2) Conduct a Phase 1 Environmental Site Assessment (ESA)
- 3) Conduct a Phase 2 Environmental Site Assessment where appropriate as indicated by the Phase 1 ESA
- 4) Report to the Board of Control and if there is no internal department or external agency interest in the property, market the property by issuing a request for Expressions of Interest
- 5) Enter into negotiations with the submitters of the Expression of Interest that appears to contain the best bid for the property after presenting a report on the Expressions of Interest received to Board of Control.
- 6) Prepare a draft Agreement of Purchase and Sale and prepare report to Board of Control recommending the agreement.
- 7) Vest property and convey to purchaser after approval of sale agreement by Council.
- 8) Apply the proceeds of the sale against the tax arrears, deem any remaining tax arrears uncollectible, and write off the remaining tax arrears upon registration of the notice of vesting of the property by the City.

NOTES:

- a) Clauses in a form satisfactory to the City Solicitor will be included in the Agreement of Purchase and Sale to clarify that the property is being sold by the City on an as is, where is basis, and that the purchaser acknowledges that the City has regulatory liability limitation from MOE orders under the EPA for the time that it owns the property (for up to five (5) years).
- b) Where encumbrances of the Federal or Provincial governments or their agencies exist City staff will attempt to negotiate a resolution of the interest as part of or prior to step 4.
- c) Where it is determined that a property has no environmental risks or liabilities or where the estimated market value will exceed the estimated costs of clean up, City staff may vest the property at any time and follow standard procedures for the designation and sale of surplus City land.
- d) Where it is determined that environmental risks or liabilities are so severe with respect to a property that the City should not vest a property even for the purposes of immediate transfer then a recommendation to take no action with respect to the property will be provided to Council by staff.



