

Bill No. 352  
2021

By-law No. CPOL.-188( )-\_\_\_

A by-law to amend By-law No. CPOL.-188-440, as amended, being “Real Property Acquisition Policy”, to incorporate changes to legislation.

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*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Municipal Council of The Corporation of the City of London wishes to amend By-law No. CPOL.-188-440, as amended, being “Real Property Acquisition Policy” be amended to incorporate changes to legislation;

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

1. By-law No. CPOL.-188-440, as amended, being “Real Property Acquisition Policy”, is hereby amended by deleting Schedule “A” to the By-law in its entirety and by replacing it with the attached new Schedule “A”.
2. This by-law shall come into force and effect on the date it is passed.

PASSED in Open Council on August 10, 2021.

Ed Holder  
Mayor

Catharine Saunders  
City Clerk

First Reading – August 10, 2021  
Second Reading – August 10, 2021  
Third Reading – August 10, 2021



London  
CANADA

## Real Property Acquisition Policy

**Policy Name:** Real Property Acquisition Policy

**Legislative History:** Enacted September 19, 2017 (By-law No. CPOL.-188-440); Amended July 24, 2018 (By-law No. CPOL.-188(a)-447); Amended August 10, 2021 (By-law No. CPOL.-\_\_\_\_)

**Last Review Date:** August 10, 2021

**Service Area Lead:** Director, Realty Services

### 1. Policy Statement

- 1.1. The City of London acquires real property rights, as required, for municipal purposes consistent with City mandated programs, projects, policies and strategic plans. The general direction for this Policy is set out in “Acquisition and Disposition of Lands policies in Our Tools part of the Official Plan (The London Plan). The City of London will acquire real property rights in a transparent, fair and competitive process to ensure the best interest of the City are met.

### Purpose

- 1.2. The purpose of this Policy is to establish and maintain a consistent and equitable framework for the acquisition of real property interests that support Council approved projects, programs, policies and strategic plans.

### Governing Principles

- 1.3. The Policy is based on the City of London governing principles:
  - Good Government
  - Respect and Integrity
  - Community Engagement
  - Fiscal Responsibility

### 2. Definitions

- 2.1. **Appraisal** – an appraisal is a formal, written, impartial estimate or opinion of value of an adequately described property, as of a specific date, and supported by the presentation and analysis of relevant data.
- 2.2. **Asset Rationalization** – a process to support decision-making related to the acquisition, remediation or disposal of real property, in a cost effective manner, while assuring that essential program and service delivery objectives are not compromised.
- 2.3. **Capital Projects** – have funding or budgets in place and are included in the City’s Capital Budget.
- 2.4. **City Mandated Programs** – support City of London initiatives, as reflected in the Official Plan or Capital Program.
- 2.5. **Client Department** – a City department that is a client of Realty Services and requires a real property for an approved program or project.
- 2.6. **Conflict of Interest** – a situation in which the personal interests of officers, Council Members and key staff members come into conflict, or appear to come into conflict, with the interests of the City.

- 2.7. **Council Approval Report** – a report to Council recommending approval of an acquisition by the City of London.
- 2.8. **Delegated Authority** – authority to approve pursuant to the Delegation of Authority By-law No. A-1, as amended.
- 2.9. **Due Diligence** – any activities required prior or during the acquisition of real property that will effectively assist in the decision making process of the acquisition and will provide a thorough understanding of the potential asset.
- 2.10. **Easement** – a partial interest in real property that is registered on title. An easement reflects the acquisition of property rights either on the surface, above or below ground and can be permanent or temporary and identifies a specific use.
- 2.11. **Expropriation** – acquiring real property without the consent of the owner, by an expropriating authority in the exercise of its statutory powers.
- 2.12. **Highest and Best Use** – that use, which, at the time of the appraisal, is most likely to produce the greatest net return, in money or amenities, over a given period of time.
- 2.13. **Lease** – a legal and binding agreement between two or more parties that specifies a specific property interest, for a specific term, for the right of a specific purpose of use, for a stated consideration and executed by the parties to the agreement.
- 2.14. **Market Rent** – what a willing landlord might reasonably expect to receive, and a willing tenant might reasonably expect to pay for the tenancy, in comparison with rent levels for similar properties in similar areas, if offered in the competitive market.
- 2.15. **Market Value** – the most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.
- 2.16. **Public–Private Partnerships (P3)** – legal agreements between government and private sector entities, for the purpose of providing public infrastructure, community facilities and related municipal services.
- 2.17. **Real Estate Professional** – an individual or firm qualified to provide, in accordance with the City’s current standing offer(s), appraisal and/or real estate consulting services.
- 2.18. **Real Property** – real property includes land, buildings, anything that is erected or growing on or affixed to the surface of the land, minerals and anything subsurface, and all rights issuing out of, annexed to, and exercisable without or about land such as leases, licenses, mortgages, air rights, easements and rights of access.
- 2.19. **Request for Proposal (RFP)** – a process where a need is identified, but the method by which it will be achieved is not prescribed at the outset. This process allows prospective suppliers to propose solutions or methods to arrive at a desired result.
- 2.20. **Real Property Rights** – any right, interest or benefit in land, but is not limited to, fee simple acquisitions, leases, licenses, options, permits, air rights, density transfers, permanent easements, rights-of-way, linear corridors, and other limited interests such as joint-use agreements, temporary working easements, access easements, permissions to enter and construct, and any other legal binding agreement related to the acquisition of property rights for the City of London.

2.21. **Service Area Needs Assessment** – a client Service Area’s report documenting the need for and purpose of acquiring real property.

### 3. **Applicability**

This Policy applies where real property rights are acquired by the City of London and includes any right, interest or benefit in land including, but not limited to fee simple acquisitions, leases, licenses, options, air rights, density transfers, permanent easements, rights-of-way, linear corridors, and other limited interests such as joint-use agreements, temporary working easements, access easements, permissions to enter and construct, and any other legal binding agreement related to the acquisition of real property rights. This Policy applies to all City of London employees, and any agents acting on behalf of the City and consultants authorized to acquire real property on behalf of the City.

Real property such as road dedications and easements that are acquired pursuant to the provisions of the Planning Act and any regulations there under will continue to be dealt with as part of that process. Real property acquired through the expropriation process will continue to be dealt with as part of that process and in accordance with the Expropriations Act.

In addition, the following municipal and provincial legislation relate to the acquisition of interests of real property:

- *Municipal Act, 2001*, s. 6, s.8 and s.11
- *City of London Act, 1999*, s.12.3 (1) and s.12.5 (1)
- *Housing Development Act, 1990*, c. H.18, s. 17
- *Ontario Heritage Act, 1990*, c. O.18, s. 36 (1),36 (2) and s. 45
- By-Law No. A-1-11012, February 28, 2011, City of London
- By-Law No. CP-9-20006, September 15, 2020, City of London
- *Municipal Conflict of Interest Act, 1990*, c. M.50
- City of London Official Plan (The London Plan)
- City of London Official Plan (1989)

### 4. **The Policy**

#### 4.1. **Policy Requirements**

The City of London, Realty Services, shall undertake the acquisition of real property interests in conformity with this Policy, unless otherwise directed by the City Council (Council).

#### 4.2. **Service Area Needs Assessment**

Prior to initiating an acquisition of any real property rights as defined in Section 2., the client department will prepare on its behalf, or on behalf of a partner agency, a Service Area acquisition needs assessment. The needs assessment shall:

- a) provide justification and rationale for the proposed acquisition;
- b) state the municipal need or issue the acquisition will satisfy;
- c) evaluate the total cost of ownership including the impact of on-going operating and estimated capital expenditures over the life cycle of the asset;
- d) discuss the risks and benefits of the acquisition;
- e) identify, if any, options to asset acquisition;
- f) evaluate, if required, the lease term and proposed conditions compared to the market;
- g) prepare a Net Present Value analysis (NPV) that considers the financial costs and benefits of these options; and
- h) identify, if any, unique factors that are applicable to the acquisition, including applicable policies, plans or strategies of the City.

All assessments shall be vetted through the Realty Services and Finance in collaboration with the client Service Area to determine whether the City’s existing

real property inventory, or any capital works initiatives, may fulfill the client's requirements and determine the impact, if any, on the remainder of the City's real estate portfolio. In the case of leased property, this process shall apply to all potential leased premises and shall be evaluated by Realty Services.

#### 4.2.1. Service Areas Needs Assessment Exemptions

For real property rights required for infrastructure, environmental acquisition, emergency scenarios and other municipal purposes at the discretion of Realty Services, a Service Area needs assessment shall not be required prior to completing the transaction.

### 4.3. Council Approval

City Council approval of a project shall include authority for the appropriate person(s) or body to initiate and undertake legal surveys, appraisals, environmental assessments, heritage, archaeology, negotiations, expropriations, legal and other such related activities or reports, as may be required. A budget item must be approved for the program or project, including the costs of acquiring a real property and operational budget impacts, before action is taken to acquire property.

### 4.4. Funding

A source of funding for the acquisition of real property, life cycle costs, including ongoing annualized operating costs of the asset, must be identified through a Council approved budget item, specific to the program, project or policy defining the need, or allocated from an approved Service Area budget, with approval of the City Treasurer.

### 4.5. Methods of Acquisition

Realty Services shall make a determination of the most appropriate method of acquisition, taking into account the needs of the City mandated programs, projects, policies and strategic plans and the best interests of the City and the public interest to achieve these objectives in a timely, fiscally responsible manner, adhering to existing policies and procedures, legislation and applicable Council direction, as amended, from time to time.

#### 4.5.1. Negotiation

Negotiation is the preferred method of obtaining all types of real property rights and interests through a fair and equitable agreement mutually acceptable to all parties. Compensation may be provided as though acquisition was pursuant to the *Expropriations Act*. Negotiations may be conducted with a specific property owner as a result of a direct interest in a particular property or in an emergency situation. Negotiations may originate from a request for proposal with multiple proponents initially, until one is selected for completion of a transaction. Realty staff may negotiate directly with other levels of government, utility companies or other agencies, for direct acquisitions.

#### 4.5.2. Unsolicited Proposals

- a) Unsolicited proposals relating to real property matters, including either requesting the City to acquire a specific property or enter into a lease agreement, shall be:
  - i) subject to the principles of the *Procurement of Goods and Services Policy*;
  - ii) in compliance with Section 4.5.14. of this Policy with respect to Emergency Acquisitions;
  - iii) in compliance with the Delegation By-laws for approval and execution for Sole Source and Single Source; and
  - iv) in all circumstances, immediately referred to Realty Services for review.

- b) In addition to a Service Area needs assessment as identified in Section 4.2. of this Policy, all unsolicited proposals under consideration and review by Realty Services must aim to:
- i) stimulate or support the economic development and growth for the City;
  - ii) illustrate the benefit of acting upon a limited or single opportunity; and
  - iii) identify budget resources for the acquisition including ongoing annualized operating costs of the asset.

Upon review by Realty Services, a report shall be forwarded to Council.

#### 4.5.3. Request for Proposal (RFP)

The City of London may initiate the acquisition of a fee simple or lease interest in real property through a request for proposal process. The RFP process shall comply with the *Procurement of Goods and Services Policy*. The City shall not be obligated to enter into negotiations and complete a transaction under this process.

#### 4.5.4. Expropriation

Where project requirements must be met in a timely manner, or where negotiation is unsuccessful, expropriation may be considered.

The City of London has the authority to expropriate land in accordance with the provisions of the *Expropriations Act*. Expropriation will be used as a last resort for acquisition purposes. Where necessary, Service Area departments should allow for a minimum of 18 months to 24 months lead time in their project planning, in anticipation that real property acquisition by expropriation may be required.

#### 4.5.5. Charitable Donations

The City may acquire real property through gifts or donations, subject to Council approval, or that of its delegated authority. Before accepting a gift of real property, an analysis to determine the conditions of the gift, existing restrictions or encumbrances and assumption of liabilities or any tax implications, shall be carried out. A charitable donation receipt may be issued in the amount of the appraised market value of the donated real property. An independent appraisal shall determine the market value of any donated real property. A satisfactory Phase I Environmental Site Assessment will also be required.

#### 4.5.6. Development Approval Process

This Policy does not apply to acquisitions of real property rights such as parkland dedications, road widening or easements obtained through pursuant to approvals under the *Planning Act* including conditions of final approval for subdivisions, site plans or consents.

#### 4.5.7. Tax Sales – Vesting in Municipality

The municipality may acquire real property, pursuant to Part XI of the *Municipal Act*, (Sale of Land for Tax Arrears) by registering a Notice of Vesting. Procedures on the Treatment of Properties That Do Not Sell at Municipal Tax Sales are outlined in Section 4.9.

#### 4.5.8. Land Exchanges

When an acquisition is contemplated in support of the natural heritage system, as provided for in the London Official Plan or the City's parks and open space system or other municipal purposes, and it is determined that an exchange of City-owned surplus real property is in the best interests of the City, negotiation shall be initiated based on the market value of the respective real properties, pursuant to the *Sale and Other Disposition of Land Policy* as set out in Schedule "A" of By-law No. 6151-17. Land

Exchanges may be considered for other acquisitions of real property in accordance with a departmental needs assessment.

#### 4.5.9. Public Private Partnerships (P3)

The City of London may acquire or dispose of an interest in real property as part of a Public-Private Partnership (P3) to provide infrastructure, municipal capital facilities and related services that would benefit the municipality, the private sector and City residents.

#### 4.5.10. Other Agencies

The City of London may acquire interests in real property as the result of a transfer of jurisdiction from one level of government to another, such as transfer of highways.

#### 4.5.11. Other Levels of Government and Institutions

The City of London may take advantage of its preferred position as a government agency to acquire interests in real property, prior to property being available on the open market, from other levels of government, school boards and conservation authorities.

#### 4.5.12. Land Assembly

The City of London may acquire property with the intent of a land assembly to satisfy a City mandate, policy, project or strategic plan that supports long term economic growth and be in the public interest.

#### 4.5.13. Acquisition of Real Property by Lease/License

The City of London may, for a specified time period, acquire real property in the form of a lease or license agreement. Leases and licenses may be short or long term, and on terms and conditions satisfactory to Realty Services and the client Service Area. Lease hold interests may be acquired for a nominal sum from other levels of government or at market value. Leases can be entered into under the following situations:

- a) In the form of a long term land lease in conjunction with a P3;
- b) A commercial lease for accommodation for a specific client Service Area to fulfill a municipal requirement;
- c) An option to secure a future fee simple acquisition;
- d) Emergency situations;
- e) Where no fee simple acquisition is available and a current municipal project is approved;
- f) As an interim use; or
- g) As deemed appropriate by Realty Services and the client Service Area as an alternative to fee simple acquisition that would meet the municipal and City residents requirements without a capital expenditure.

The lease or license agreement shall be in form and content satisfactory to the City Solicitor and Realty Services. Leasehold interests must be obtained through a transparent, fair and competitive process and should include consideration of a RFP procedure.

All lease or license agreements must be in compliance with all aspects of this Policy.

#### 4.5.14. Emergency Acquisitions

The City of London Realty Services, is authorized, to acquire any interest in real property in an emergency situation for the purposes of this Policy, an emergency situation shall be any unforeseen circumstances identified in Section 14.2 of the *Procurement of Goods and Services Policy*. In these situations, Realty Services shall provide an information report to Council, including source of financing, as soon as possible after the acquisition.

## 4.6. Special Acquisitions

### 4.6.1. Heritage Properties

Cultural Heritage policies in the City Building Policies part of the Official Plan (The London Plan) provides the policy rationale for the acquisition of properties of heritage value and interest. When acquiring real property that may have a heritage designation or historical value, a comprehensive analysis of that property shall be conducted involving Realty Services and appropriate City Service Areas. The analysis will include:

- Identification of the heritage designation or historical value of the real property (*This should include both buildings and cultural heritage landscapes and “natural heritage”*);
- Confirmation of the City of London program(s) to be implemented at this heritage property;
- Identification of the heritage value of the real property after consultation with the London Advisory Committee on Heritage;
- Identification of the desired long-term use or protection of the real property;
- Assessment of the impact of the operational costs of the real property on the City; and
- Development of an asset management plan, which forecasts the capital renewal and re-investment requirements, to preserve the heritage property.
- Prior to the acquisition of a heritage property, Realty Services requires confirmation that the client Service Area and/or City Council have provided the funding and approval for the acquisition.

### 4.6.2. Parkland Acquisition

The City of London may acquire real property to ensure the sustainability of its natural heritage system and the connectivity of its parks and open space system, as outlined under Land Acquisition Policies in the Green Space Place Type Policies and Parkland Acquisition and Dedication policies in Our Tools parts of the Official Plan (The London Plan). The acquisition of parkland to achieve the objectives of this section may occur through purchase, donation, bequest, expropriation, or through dedication as provided for under the *Planning Act*.

A combination of the various methods of acquisition may be required by the City in order to deliver on a specific mandate, policy or plan or to capitalize on an opportunity for the benefit of the City that can be illustrated in the Service Area needs assessment.

The Parkland Conveyance & Levy By-law, CP-9-20006 effective January 1, 2021 sets out conveyance, levy, and calculation procedures along with prescribed valuation as a condition of development or redevelopment for residential purposes of any land within the city.

## 4.7. Due Diligence Activities

### 4.7.1. Appraisal – Fee Simple or Partial Interest

An appraisal is a formal, written, impartial estimate or opinion of value of an adequately described property, as of a specific date, and supported by the presentation and analysis of relevant data.

All real property acquisitions shall be supported with a current market value appraisal. An appraisal shall be no more than twelve months old or some shorter time-frame at the discretion of the Director, Realty Services. An appraisal will be completed and the appraisal report executed by an independent real estate professional who is accredited with the Appraisal Institute of Canada or by a qualified City staff appraiser. Where the estimated market value is \$750,000 or greater, a second appraisal will be required, one of which will be undertaken by an independent real estate professional.



Appraisal reports will be based on the “Highest and Best Use” of the property in accordance with current standards of practice within the real estate industry and within the guidelines of the Appraisal Institute of Canada, which may be amended, from time to time.

#### 4.7.2. Appraisal – Leasehold Interests

Prior to entering into a lease agreement, a market rent study shall be completed by an independent real estate professional or a qualified City staff appraiser at the discretion of the Director, Realty Services. For the purposes of this Policy market rent is defined as what a willing landlord might reasonably expect to receive, and a willing tenant might reasonably expect to pay for the tenancy, in comparison with rent levels for similar properties in similar areas, if offered in the competitive market.

#### 4.7.3. Acquisition at Market Value

Real property rights shall be acquired on the basis of market value, and where applicable, entitlements, as defined by the Expropriations Act, unless other considerations are included in the transaction and approved by City Council. Where there is a variance between the appraised value and the acquisition price, that variance shall be explained in the approval report.

#### 4.7.4. Environmental Due Diligence

The City of London shall complete a pre-screening on all real property to be acquired to identify potential contamination issues associated with real property e.g., Historical Land Use Inventory (HLUI). When an acquisition involves the entire fee simple interest (total buyout), or where it is deemed necessary by the client Service Area, for the acquisition of a lesser interest, a Phase I Environmental Site Assessment (ESA) shall be completed.

All such ESAs shall be completed in accordance with the Canadian Standards Association (CSA) and site remediation criteria, as set out by provincial regulations. Whenever possible or appropriate, acquisition agreements may provide for the indemnification of the City of London by the vendor for environmental conditions.

#### 4.7.5. Compliance with Section 106 of the *Municipal Act*

Section 106 of the *Municipal Act, 2001* states that the City “shall not assist directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses for that purpose.” The municipality shall not grant assistance by:

- a) giving or lending any property of the municipality, including money;
- b) guaranteeing borrowing;
- c) leasing or selling property of the municipality at below fair market value; or
- d) giving a total or partial exemption from any levy, charge or fee.

The acquisition of any real property rights shall comply with Section 106 of the *Municipal Act, 2011*.

### **4.8. Roles And Responsibilities**

#### 4.8.1. City Council

Unless otherwise provided for by By-law, City Council approval is required for the acquisition of real property right in accordance with the provisions of this Policy and any and all applicable By-laws and Legislation. In accordance with By-law A-1, as amended, executing authority is then delegated to the appropriate City officials.

Elected officials, appointed officers and employees shall not knowingly cause or permit anything to be done or communicated to anyone in a manner which is likely to cause any person to have an unfair advantage or

disadvantage in obtaining a contract for the acquisition of real property from the City. This also includes a contract with any other municipality, local board or public body involved in the purchase of real property rights either jointly or in co-operation with the City. Council Members shall operate within the conflict of interest guidelines as set out in this Policy and under the *Municipal Conflict of Interest Act*.

Elected officials shall separate themselves from the procurement process and have no involvement whatsoever in specific procurements. Elected officials should not see any documents or receive any information related to a particular procurement while the procurement process is ongoing. Elected officials who receive inquiries from suppliers related to any specific procurement shall immediately direct those inquiries to the Director, Realty Services, or the City Treasurer.

#### 4.8.2. Realty Services

Realty Services is responsible for:

- a) Servicing the real estate needs of the client Service Area and agencies, boards and commissions identified in this Policy which can include real estate acquisitions and consulting services or advice on any real estate matters;
- b) Negotiating and representing the City on behalf of all Service Areas with perspective buyers, sellers, landlords, tenants and any other business partners with respect to any real property right proposed transaction whether it be a fee simple, partial acquisition, disposition or lease as defined in Section 2.;
- c) Coordinating with the client Service Area and Finance to review property inventory, prepare a Service Area needs assessment and conduct all real estate activity related to an acquisition;
- d) Reporting to Committee and Council on real estate transactions, subject to the provisions of this Policy; and
- e) Ensuring completion of real estate transactions and monitoring executed lease agreements to ensure all terms and conditions are adhered to.

#### 4.8.3. City Solicitor

The City Solicitor or designate shall act as legal counsel to Service Areas and advise Council on real property transactions. The City Solicitor has authority to undertake all legal actions required to complete a real property transaction, including expropriation proceedings.

#### 4.8.4. Client Service Area

The Client Service Area is responsible for:

- a) Requesting the services of the Realty Services when becoming aware of a real property requirement for acquisition of a fee simple, leasehold or partial interest as further defined in Section 2. or consulting purposes;
- b) Reviewing the existing real property inventory and other acquisition initiatives, in consultation through its Realty Services and Finance, to determine if real property needs can be met through current inventory or initiatives, prior to the initiation of an acquisition;
- c) Ensuring that the asset rationalization effort and confirmation that the acquisition requirement satisfies its City-mandated program, that includes participation in the preparation of the Service Area needs assessment;
- d) Providing confirmation to Realty Services that Capital and Operating Budgets to support an acquisition of real property is available prior to any site search or negotiations are undertaken by Realty Services; and
- e) Referring all third party inquires on real estate acquisition to Realty Service.

#### 4.8.5. Finance Supports

Finance Support is responsible for:

- a) Ensuring any and all payments required under a real estate transaction, including leases/licenses are paid in accordance with the terms of the agreement to ensure no potential penalties to the City;
- b) Providing financial analysis and comment in a departmental needs assessment for property acquisitions in collaboration with the client Service Areas and Realty Services;
- c) Ensuring, in collaboration with the client Service Areas, that no existing corporate asset will meet the current property initiative;
- d) Identifying sources of funding for any proposed initiative;
- e) Providing leadership for RFP process as required by this Policy; and
- f) Engaging the Purchasing Office to support negotiations, as required.

#### 4.8.6. Conflict of Interest

No elected official, appointed officer or employee of the City, agency, board or commission, shall have any interest either directly or indirectly of the real property to be acquired or considered for acquisition and must comply with the *Municipal Conflict of Interest Act*. Once known, any interest must be disclosed to Realty Services, Corporate Asset Management. No party having a Conflict of Interest, even once disclosed, shall have any authority to negotiate the transaction. Direct or indirect interest shall include, but not limited to, being an owner, or partial owner, of the property or a party to financing the asset.

#### 4.8.7. Monitoring/Contraventions

Realty Services will administer the application of this Policy to ensure that all policy requirements are met.

### 4.9. Schedule A

#### **Procedures on the Treatment of Properties That Do Not Sell at Municipal Tax Sales**

- 4.9.1. 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 the appropriate Standing Committee of Council 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).
- 4.9.2. Conduct a Phase 1 Environmental Site Assessment (ESA).
- 4.9.3. Conduct a Phase 2 Environmental Site Assessment where appropriate as indicated by the Phase 1 ESA.
- 4.9.4. Report to the appropriate standing Committee and if there is no internal department or external agency interest in the property, market the property by issuing a Request for Proposal which shall include an evaluation criteria with weighted scoring and a draft Agreement of Purchase and Sale.
- 4.9.5. Evaluate the submissions received from the Request for Proposal and prepare a recommendation report for the Standing Committee for the Proponent with the highest technical combined score for the property acquisition.
- 4.9.6. Vest property and convey to purchaser after approval of sale agreement by the Standing Committee and Council.

- 4.9.7. 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**

- 4.9.8. 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).
- 4.9.9. 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 4.9.4.
- 4.9.10. 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.
- 4.9.11. 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.

## **4.10. References**

City of London Council Policy Manual  
Sale and Other Disposition of Land Policy

### **Legislative and Administrative Authorities**

City of London Delegation of Authority By-law A-1-101007  
City of London Execution of Certain Documents By-law A-1-11012  
City of London Official Plan (1989)  
City of London Official Plan (The London Plan)  
*Expropriations Act, 1990*  
*Environmental Assessment Act, 1990*  
*Ontario Heritage Act, 1990*  
*Housing Development Act, 1990*  
*Municipal Act, 2001*  
*Municipal Tax Sales Act, 1990*  
*Ontario Municipal Board Act, 1990*  
*Planning Act, 1990*  
By-Law CP-9-20006 Parkland Conveyance & Levy By-Law

### **Enquiries**

For more information on this Policy, contact:  
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