

CORPORATE POLICY AND PROCEDURE



POLICY No.

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EFFECTIVE DATE

REVISION

Tab	Corporate Services
Authority	Realty Services
Subject	Policy for the Sale and Disposition of Real Property Interests
Approved by	City Council February 25, 2008
Revision Date	Every 5 years
Replaces	By-law (1995)-14835 – Surplus Property By-law

POLICY STATEMENT The sale and disposition of real property interests shall be carried out in a consistent manner and with a level of diligence appropriate to the circumstances.

PURPOSE The purpose of this Policy is to:

Provide consistent procedures for the sale and disposition of real property interests; and

Establish appropriate standards of diligence for the sale and disposition of real property interests.

PROCEDURE

1.0 Procedures

- 1.1. Surplus Real Property Interests shall be classified by staff as being Generally Marketable or not Generally Marketable in accordance with the definition contained in this Policy.
- 1.2. The procedure for disposition of Real Property Interests that are classified as being Generally Marketable shall be in accordance with Schedule "A" to this Policy.
- 1.3. The procedure for disposition of Real Property Interests which are classified as being not Generally Marketable shall be in accordance with Schedule "B" to this Policy.

2.0 Notice

- 2.1. Notice to the public of a proposed sale or disposition of a Real Property Interest that is classified as being Generally Marketable shall be given by way of a publication in a newspaper that is in general circulation in the City of Guelph and not less than five (5) business days prior to Council considering the approval of such sale or disposition.
- 2.2. Notice to the public is not required for the proposed sale or disposition of Real Property Interests that are classified as being not Generally Marketable.

3.0 General

- 3.1. Whenever reasonably possible, reporting under this Policy shall be through a Standing Committee of Council to Council.
- 3.2. Real Property Interests may be sold or disposed of by public tender, by call for proposal, by listing with a real estate firm or broker, by auction, by sole source, by land exchange agreement, by agreement of purchase and sale, or in any such other manner as Council deems appropriate.
- 3.3. Subject to 3.4, Real Property Interests shall be sold or disposed of at market value.
- 3.4. Notwithstanding 3.3, City Council may authorize the sale or other disposition of Real Property Interests at any price if, in the opinion of City Council, it is in the best interests of the City to do so.
- 3.5. The manner in which the City carries out the sale or other disposition of Real Property Interests, if consistent with the Municipal Act, 2001, as amended from time to time, and this Policy, as applicable, is not open to review as the City is deemed to have acted in good faith.
- 3.6 All Real Property Interests of the Corporation are assets of the City and are not owned by any individual department. Monies arising from the disposition of any Real Property Interests shall

flow to the Corporation, generally, and not to the user or managing Department. The following exemptions from this Section will apply:

3.6.1 the net proceeds from the sale of Industrial Lands shall go to the Industrial Land Reserve; and

3.6.2 where legislation requires otherwise, such as is currently the case for monies arising from the disposition of parkland which shall go to the Parkland Reserve.

3.7 Staff shall take reasonable steps to protect the City from any liability that may arise due to the possibility or understanding that a Surplus Property Interest may be impacted by environmental contaminants.

3.8 In the event that a circumstance arises relating to the sale or other disposition of a Surplus Property Interest that is not covered by this Policy, the City Solicitor and the Chief Administrative Officer shall, jointly, have authority to decide upon a course of action or, otherwise, to bring the matter forward to Council for decision.

4.0 Exemptions

4.1 Sections 1.2, 1.3, and 2.1 do not apply to the sale or disposition of the Real Property Interests described in Schedule "C" to this Policy.

4.2 This Policy shall not apply to the disposition of Industrial Lands as defined herein.

4.3 This Policy shall not apply to encroachment agreements, license agreements, releases, certificates of compliance, or consents to use road allowances.



DEFINITIONS

“Appraisal” means a written opinion of market value prepared by a person having appropriate credentials and experience;

“Generally Marketable” means lands of a size, shape, location, and nature that can be, or hold the potential to be, developed independently and which would likely be attractive to more than one buyer if offered for sale in the open market. Those Real Property Interests, including but not limited to those, identified in Sections 5, 6, 7 on Schedule “C” are not Generally Marketable;

“Industrial Lands” means lands classified as being Generally Marketable that are designated as Corporate Business Park or Business Park in the City’s Official Plan or that are designated for industrial uses in the City’s Zoning By-law.

“Notice” means notice to the public in accordance with this Policy;

“Person” means an individual or a corporation and the successors, assigns, heirs, executors, administrators, or other legal representatives of a person to whom the context may apply according to law;

“Real Property Interests” means land in fee simple, a permanent easement, or a lease, but does not include a license, permission to enter, temporary or construction easements;

“Surplus Property Interest” means a Real Property Interest for which no City department has identified a need or raised objection to the sale or disposition of same;

“Staff” or “staff” means Realty Services staff;

“Utility Companies” means telephone, electricity, cable television, and gas companies, and the like.

Related Policies / Legislation

By-law (2006)-18173 – Delegation of Authority for Real Property Agreements By-law.

Section 270(1)1 of the Municipal Act, SO 2001, C.25, as amended

Delegation of Authority By-law/Policy (Future)

Accountability and Transparency By-law/Policy (Future)

Schedule "A"

**Procedure for Disposition of Real Property interests that are
Classified as being Generally Marketable**

1. Staff shall:

- (a) confirm that no City department has an interest in the Real Property Interest being considered;
- (b) identify any terms or conditions of the sale or other disposition;
- (c) confirm with the Utility Companies the existence or need for utility easements in the Surplus Real Property and resolve any needs or issues;
- (d) obtain at least one independent Appraisal;
- (e) report in-camera to Council with the results of the Appraisal and with recommendations directing staff to proceed to market the Surplus Real Property;
- (f) market the Surplus Real Property and negotiate an appropriate form of agreement in accordance with directions given under Section (d);
- (g) provide Notice to the public of the proposed sale or disposition at least five (5) business days prior to the Council meeting at which a by-law approving the proposed agreement will be considered by Council;
- (h) at a meeting of Council:
 - i. Report in-camera to Council in an information report the results of the process, negotiations, and details of the proposed agreement;
 - ii. Bring forward a by-law for Council's consideration to approve the proposed agreement.

Schedule “B”

**Procedure for Disposition of Real Property Interests that are
Classified as being Not Generally Marketable**

1. Staff shall:

- (a) confirm that no City department has an interest in the Real Property Interest being considered;
- (b) identify any terms or conditions of the sale or other disposition;
- (c) confirm with the Utility Companies the existence or need for utility easements in the Surplus Property Interest and resolve any needs or issues;
- (d) obtain or prepare an Appraisal;
- (e) proceed to negotiate the appropriate form of agreement;
- (f) at a meeting of Council:
 - i. Report in-camera to Council in an information report the results of the negotiations and details of the proposed agreement;
 - ii. Bring forward a by-law for Council’s consideration to approve the proposed agreement.

Schedule “C”

Exemptions from Procedures

1. The sale or other disposition of Real Property Interests under Section 110 of the Municipal Act, 2001 (municipal capital facilities);
2. Classes of Real Property Interests described under Part XI of the Municipal Act, 2001 (tax sales);
3. Real Property Interests being re-conveyed to the Person who originally conveyed it to the City or such other Person designated in writing, where:
 - (a) the Real Property Interest is held by the City in trust or subject to a condition, obligation or legislation that requires a specific conveyance by the City;
 - (b) the Real Property Interest is held by the City as security for the performance of obligations of that entity pursuant to an agreement between the Person and the City; or
 - (c) the Real Property Interest was conveyed to the City for municipal purposes and is not, or is no longer, necessary for the City’s purposes or was intended to be re-conveyed to the transferor;
4. A Real Property Interest that were transferred to, or vested in the City by by-law, operation of law or otherwise which neither the City or the registered owner intended to vest or be transferred;
5. Real Property Interests of 0.3 metres in width or such other size which was acquired as a reserve relating to a road;
6. Permanent easements granted to any municipality, government authority, public utility, electricity distribution company, power generation company, telephone company, or similar entity; and
7. Temporary easements, for a period of 21 years or less, granted to any Person for a specific purpose.