

being a by-law to repeal the City's Disposition of Real Property By-law 97-2000, as amended ("Disposition of Real Property By-law 97-2000") and adopt and maintain a policy for the processing and administration of acquisitions and dispositions of municipal real property.

**WHEREAS:**

- (a) On December 19, 2016, Report DS-16-215 dated December 8, 2016 containing recommendations and management responses to the KPMG internal audit of the City's real estate function was endorsed by City Council as the general basis for improving the City's real estate function.
- (b) The KPMG Internal Audit Report for the City's Real Estate Function dated November 2016 included recommendations relating specifically to updating the City's Disposition of Real Property By-law 97-2000 and the unapproved Acquisition and Disposal of Real Property Policy in order to establish a finalized, approved framework for managing the acquisition and disposition of City-owned real property.
- (c) Prior to 2007, dating back to 1995, the manner in which Council could sell and otherwise dispose of municipal real property was prescribed under Section 193 of the now-repealed Municipal Act, which required municipalities to pass procedural by-laws regulating and controlling the disposition of municipal real property.
- (d) The City's Disposition of Real Property By-law 97-2000 was approved on October 16, 2000 and contains the City's procedures pertaining to the disposition of City-owned property, based on Section 193 of the old Municipal Act.
- (e) Section 270(1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended ("Municipal Act, 2001"), requires municipalities to adopt and maintain a policy with respect to the sale and other disposition of their lands and does not set out prescriptive requirements for that policy.
- (f) It is the wish of the Council of The Corporation of the City of Oshawa to revise the City's procedure for the acquisition and disposition of municipal real property from a by-law format to a policy format, to bring the City's real estate procedures regarding acquisitions and dispositions more in line with the requirement in the current Municipal Act, 2001 for a policy as opposed to a by-law.

**NOW THEREFORE** the Council of The Corporation of the Municipality of Oshawa enacts as follows:

**1.0 SHORT TITLE**

- 1.1 This By-law shall be known and may be cited as the "Real Estate Acquisition and Disposition By-law".

**2.0 ACQUISITION AND DISPOSITION OF MUNICIPAL REAL PROPERTY POLICY**

- 2.1 The policy entitled "Acquisition and Disposition of Municipal Real Property", which forms Schedule "A" to this By-law, is approved as the City's procedure for the processing and administration of acquisitions and dispositions of municipal real property.
- 2.2 Schedule "A" attached to this By-law forms an integral part of it.

**3.0 REPEAL OF OTHER BY-LAWS**

3.1 By-law 97-2000, being a by-law to provide for a procedure for the disposition of real property owned by the City, is hereby repealed.

**4.0 FORCE AND EFFECT**

4.1 This by-law shall be effective on the date that it is passed.

By-law passed this twelfth day of December, 2022.

  
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Deputy Mayor  
\_\_\_\_\_  
City Clerk

# **Schedule “A” to By-law 178-2022 of The Corporation of the City of Oshawa**

## **Acquisition and Disposition of Municipal Real Property Policy**

### **1.0 Policy Statement**

#### **1.1 ACQUISITION**

- 1.1.1 In support of the CITY of Oshawa Strategic Plan, the CITY acquires REAL PROPERTY rights through purchasing or otherwise acquiring a variety of interests in land for municipal needs in accordance with the CITY's legislative authority, accepted business practices, the principles of fair, open, transparent and accountable government and the REAL PROPERTY management principles outlined in this policy. The general direction for the ACQUISITION of REAL PROPERTY under this policy is set through Section 9.11, Municipal Land Acquisition, of the Oshawa Official Plan.

#### **1.2 DISPOSITION**

- 1.2.1 In support of the City of Oshawa Strategic Plan, the CITY disposes of surplus REAL PROPERTY in a transparent and accountable manner that maximizes its social, economic, environmental and cultural return to the CITY. Section 270 of the Municipal Act, 2001, S.O. 2001, c. 25 (“Municipal Act, 2001”) affirms that the municipality shall adopt and maintain a policy with respect to the sale and other DISPOSITION of land.

### **2.0 Purpose**

- 2.1 This policy establishes the structure, authorities and accountabilities for decision-making in the assessment, ACQUISITION, DISPOSITION, management and administration of the CITY's REAL PROPERTY.

### **3.0 Scope and Approach**

- 3.1 This policy applies to the ACQUISITION and DISPOSITION of interests in REAL PROPERTY undertaken by the City of Oshawa.

- 3.2 The policy embodies the following general approach to the ACQUISITION and DISPOSITION of REAL PROPERTY by the CITY:

- (a) Long term forecasting of real estate needs for the information and awareness of Council;
- (b) Annual reporting on the status of real estate matters relating to the ACQUISITION or DISPOSITION of REAL PROPERTY;
- (c) Council approval being required prior to investigating an ACQUISITION or DISPOSITION, save and except for matters where authority has been delegated under the CITY's Delegation of Authority By-law 29-2009, as amended;
- (d) Council approval of a specific “ACQUISITION Plan” or “DISPOSITION Strategy” including Council approval of the valuation method; and,
- (e) Council decision to close or not close a potential transaction.

### **4.0 Policy Does Not Apply**

- 4.1. This policy does not apply to the following types of ACQUISITIONS:

- (a) REAL PROPERTY dedicated to the CITY either through development applications or cash-in-lieu/parkland dedications provided such dedications are approved by Council or are consistent with the Official Plan or other Council policy; and,
- (b) REAL PROPERTY acquired by the CITY through vesting by reason of tax arrears remedies available to the CITY pursuant to the Municipal Act, 2001.

**4.2.** This policy does not apply to the following types of DISPOSITIONS:

- (a) Any REAL PROPERTY being disposed of pursuant to the Municipal Tax Sales Act;
- (b) Any REAL PROPERTY being disposed of pursuant to an agreement for the provision of municipal capital facilities entered into by the CITY pursuant to Section 110 of the Municipal Act, 2001;
- (c) Any encroachment on CITY-owned lands or EASEMENTS in favour of the CITY pursuant to the CITY's Encroachment By-law 177-2022, as amended;
- (d) Any transfer of an EASEMENT to a PUBLIC AUTHORITY; and,
- (e) Any release of an EASEMENT held by the CITY.

## **5.0 Administration of Policy**

### **5.1. Administration**

5.1.1 This policy is administered by the Economic and Development Services Department.

5.1.2 In the interpretation of this policy, it is the intent of the Economic and Development Services Department to act at all times in the best interest of the CITY and the general public, with a view to transparency and fairness of process.

### **5.2. Accountability**

#### **5.2.1 Commissioner, Economic and Development Services**

The Commissioner, Economic and Development Services, is responsible for:

- Ensuring that this policy is complied with;
- Rendering decisions where the interpretation of this policy is disputed or where Economic and Development Services staff tasked with administering this policy are unclear as to an interpretation, after consultation with the CITY SOLICITOR for a legal opinion respecting the matter at hand;
- Ensuring, together with the Director, Planning Services, and the CITY SOLICITOR, that all applicable legislative requirements relating to the ACQUISITION or DISPOSITION of REAL PROPERTY have been appropriately met; and,
- Jointly approving the terms and conditions of the debt instrument with the Commissioner, Corporate and Finance Services, if Council has approved issuance to finance the ACQUISITION of REAL PROPERTY.

#### **5.2.2 Commissioner, Corporate and Finance Services**

The Commissioner, Corporate and Finance Services, is jointly responsible for approving the terms and conditions of the debt instrument with the Commissioner, Economic and Development Services, if Council has approved issuance to finance the ACQUISITION of REAL PROPERTY.

#### **5.2.3 CITY SOLICITOR**

The CITY SOLICITOR is responsible for:

- Providing legal advice and opinions to support Economic and Development Services staff tasked with administering this policy;
- Ensuring, together with the COMMISSIONER, Economic and Development Services and the Director, Planning Services, that all applicable legislative requirements relating to the ACQUISITION or DISPOSITION of REAL PROPERTY have been appropriately met;



- Reviewing documents (including agreements) relating to the ACQUISITION or DISPOSITION of REAL PROPERTY to ensure that they are satisfactory in form and content; and,
- Attending, or having a designate attend, all scheduled meetings of the CITY's Corporate Real Estate Strategy Team (C.R.E.S.T.) and addressing/completing all action items tasked to Legal Services.

#### **5.2.4 Director, Planning Services**

The Director, Planning Services, is responsible for:

- Ensuring all applicable managers/supervisors are aware of this policy and of any subsequent revisions;
- Ensuring compliance with this policy;
- Ensuring, together with the Commissioner, Economic and Development Services and the CITY SOLICITOR, that all applicable legislative requirements relating to the ACQUISITION or DISPOSITION of REAL PROPERTY have been appropriately met;
- Overseeing the administration of this policy by PLANNING SERVICES R.E. STAFF; and,
- Attending, or having a designate attend, all scheduled C.R.E.S.T. meetings and addressing/completing all action items tasked to the Director, Planning Services.

#### **5.2.5 Corporate Real Estate Strategy Team (C.R.E.S.T.)**

All key departmental C.R.E.S.T. representatives shall be responsible for:

- Reviewing and discussing all proposed REAL PROPERTY ACQUISITIONS and DISPOSITIONS;
- Recommending appropriate terms and conditions of approval;
- Providing technical support and recommendations to PLANNING SERVICES R.E. STAFF, such as determining if REAL PROPERTY should be subject to an environmental investigation prior to ACQUISITION or DISPOSITION;
- Ensuring all required information that may affect value or use is obtained from appropriate staff and shared with C.R.E.S.T. members;
- Attending, or having a designate attend, all scheduled C.R.E.S.T. meetings; and,
- Completing assigned action items/tasks, including providing updates on the status of action items/tasks while they are in progress.

#### **5.2.6 Manager, Finance Services and Systems Development**

The Manager, Finance Services and Systems Development, is responsible for the billing and/or payment function associated with any agreement relating to REAL PROPERTY ACQUISITION, DISPOSITION or retention, such as LEASE agreements.

#### **5.2.7 PLANNING SERVICES R.E. STAFF**

PLANNING SERVICES R.E. STAFF are responsible for:

- The day-to-day administration of this policy;
- Maintaining and updating a REGISTER, including a map, which lists all of the REAL PROPERTY owned by the CITY;
- Chairing all scheduled C.R.E.S.T. meetings;

- Preparing and distributing C.R.E.S.T. meeting agendas and minutes, including identifying and monitoring action items;
- Reviewing, in consultation with Legal Services and the Durham Municipal Insurance Pool, the insurance component for agreements that come up for renewal or any new agreement; and,
- Taking appropriate measures to collect and monitor the status of insurance certificates, and to remove/update the insurance requirements due to a change in status of an agreement.

#### 5.2.8 Legal Services

Legal Services is responsible for providing legal support to PLANNING SERVICES R.E. STAFF tasked with administering the CITY's real estate function.

### 6.0 DEFINITIONS

6.1. For the purposes of this policy, where words or acronyms appear with all letters in upper-case, the words and acronyms are intended to have the meanings set out for them in the lettered clauses of this subsection:

- (a) "ACQUISITION" means the obtaining of interests in REAL PROPERTY through purchase, LEASE, transfer from a PUBLIC AUTHORITY, DONATION, EXPROPRIATION or other means of acquiring REAL PROPERTY interests deemed appropriate by the CITY.
- (b) "APPRAISAL" means a written opinion of MARKET VALUE prepared by an accredited appraiser of the Appraisal Institute of Canada.
- (c) "CITY" means The Corporation of the City of Oshawa, in The Regional Municipality of Durham.
- (d) "CITY SOLICITOR" means the head of the CITY's Legal Services Branch and shall include their designate.
- (e) "COMMISSIONER" means the Commissioner of Economic and Development Services and shall include their designate.
- (f) "C.R.E.S.T." means the CITY's Corporate Real Estate Strategy Team.
- (g) "DIRECTOR" means the Director of Planning Services in the Economic and Development Services Department and shall include their designate.
- (h) "DISPOSITION" means any one or more of the following:
  - (i) An exchange of one piece of REAL PROPERTY for another;
  - (ii) The sale, transfer, grant or conveyance of REAL PROPERTY for cash, or on alternative payment terms; or,
  - (iii) The LEASE of REAL PROPERTY.

For clarification, the granting or releasing of encroachment rights is not a DISPOSITION.

- (i) "DONATION" means a voluntary gift or bequeathment of REAL PROPERTY, given without compensation or consideration other than a tax receipt.
- (j) "EASEMENT" means a right enjoyed by one person over REAL PROPERTY registered to another person, and includes both registered and unregistered rights.
- (k) "EXPROPRIATION" means the ACQUISITION of land in accordance with the Expropriations Act of Ontario.
- (l) "HIGHWAY" means allowances for roads made by the Crown Surveyors, all HIGHWAYS laid out or established under the authority of any statute, all

roads on which public money has been spent for opening them or on which statute labour has been usually performed, all roads dedicated by the owner of the land to public use and all alterations and deviations of and all bridges over any such allowance for roads.

- (m) "LEASE" means the granting of a leasehold interest in land or a portion of a building granted by the landlord to the tenant providing the tenant with exclusive occupancy of the LEASED premises.
- (n) "LETTER OF OPINION OF VALUE" means a written opinion of MARKET VALUE prepared by an accredited appraiser of the Appraisal Institute of Canada or a registered real estate broker accredited under the Real Estate Council of Ontario.
- (o) "LIMITED INTEREST AGREEMENT" means a document relating to REAL PROPERTY that establishes a contractual relationship between two parties including, but not limited to, a licence, management and operating agreements, permission to enter, etc.
- (p) "MARKET VALUE" means the highest price a willing buyer would pay and a willing seller would accept, both parties being fully informed, and the property being marketed for a reasonable period of time.
- (q) "PLANNING SERVICES R.E. STAFF" means those planners in the CITY's Planning Services Branch tasked with administering the CITY's Real Estate function and shall include their designates.
- (r) "PUBLIC AUTHORITY" means the Government of Canada, the Government of Ontario, and municipal corporations, as well as any department or board established thereby, including Hydro One Inc., the Oshawa Power and Utilities Corporation and its subsidiaries, any conservation authority, any Crown Agency, any college, university or other post-secondary institution created by the Province of Ontario and any School Board created by the Province of Ontario.
- (s) "REAL PROPERTY" means land and all buildings and structures constructed thereon.
- (t) "REAL PROPERTY TRANSACTIONS" are transactions including an ACQUISITION or DISPOSITION.
- (u) "REGISTER" means the inventory of CITY real estate holdings.
- (v) "SURPLUS PROPERTY" means municipally-owned REAL PROPERTY that has been declared surplus to the CITY's requirements, by Council resolution.

## **7.0 Legislation, Policy, Principles and Objectives**

### **7.1 Legislation**

- 7.1.1. All REAL PROPERTY TRANSACTIONS are to be conducted in accordance with applicable federal and provincial legislation including, but not limited to, the Municipal Act, 2001, Planning Act, Expropriations Act and Tenant Protection Act.
- 7.1.2. **The Municipal Act, 2001:** The Municipal Act, S.O. 2001, Chapter 25 ("Municipal Act") is the legislated basis and statutorily authority which confers on municipalities the right to acquire lands or land rights for various purposes and by various means. The Municipal Act, 2001 also requires municipalities to adopt and maintain policies with respect to the sale and other DISPOSITION of land.
- 7.1.3. **The Planning Act:** The Planning Act, R.S.O. 1990, Chapter P.13 ("Planning Act") empowers municipalities to acquire and hold land for the purpose of developing any feature of an approved Official Plan. The Planning Act also specifies that land acquired or held may be disposed of when no longer required. Other parts of the Planning Act may also be applicable to a real estate matter.

- 7.1.4. **Other Legislation:** Other legislation might apply to a real estate matter relating to the ACQUISITION or DISPOSITION of land. For instance, the Tenant Protection Act, the Regional Municipality of Durham Act or the Environmental Assessment Act may be pertinent to a particular matter.
- 7.1.5. **Staff Direction:** PLANNING SERVICES R.E. STAFF administering a real estate matter relating to the ACQUISITION or DISPOSITION of land must contact Legal Services to understand any applicable legislation that applies. This will be done by sending an email directly to Legal Services' appointed C.R.E.S.T. representative or submitting a request to Legal Services under a C.R.E.S.T. agenda item, with the particulars of the matter and a request for guidance with respect to legislation.
- 7.1.6. **The Expropriations Act:** The authority to expropriate land is granted to municipalities under various provincial Acts and regulations. The Expropriations Act, R.S.O. 1990, Chapter E.26 sets out the procedures with respect to the EXPROPRIATION of land or the compensation payable for land expropriated.

The COMMISSIONER must pre-approve any mention or discussion of EXPROPRIATION with C.R.E.S.T., another CITY Department or an outside party as part of any real estate matter involving the ACQUISITION (including potential ACQUISITION) of land through EXPROPRIATION.

PLANNING SERVICES R.E. STAFF must work under the strict guidance of Legal Services in respect to any consideration to expropriate or any EXPROPRIATION procedures. This will be done by sending an email to Legal Services' appointed C.R.E.S.T. representative or submitting a request to Legal Services under a C.R.E.S.T. agenda item, after the pre-approval of the COMMISSIONER, with the particulars of the real estate matter and a request for guidance with respect to a potential EXPROPRIATION. The COMMISSIONER and CITY SOLICITOR will determine the process and staff lead/staff responsibilities in respect to any EXPROPRIATION proceeding.

## 7.2 Applicable Policy

- 7.2.1 Provincial Policy: The following Provincial policy initiatives may impact real estate matters and ACQUISITION or DISPOSITION plans.

(a) Provincial Policy Statement, 2020 ("P.P.S.")

The P.P.S. came into effect on May 1, 2020. It provides policy direction on land use and planning matters of provincial interest. As one of the preeminent provincial planning policy documents, certain local actions must "be consistent with" the P.P.S.

(b) Greenbelt Plan (2017)

The Greenbelt Plan (2017) was approved as an amendment to the Greenbelt Plan effective July 1, 2017. The Greenbelt Plan was prepared and approved under the Greenbelt Act, 2005 and took effect on December 16, 2004. The Greenbelt Plan (2017) identifies lands that must be protected from uses that would conflict with the environmental protection, recreation and agricultural goals of the Greenbelt Plan (2017). To the extent that lands within the City of Oshawa are within or abut natural features with the Greenbelt Plan (2017) area, municipal planning policy supports the objectives of the Plan. Where the policy and planning framework is not considered sufficient, strategic land ACQUISITION may be warranted. Further, the Greenbelt Plan (2017) may motivate landowners to approach the CITY to ensure permanent protection of sensitive features.

(c) Other Provincial policy might apply to a real estate matter relating to the ACQUISITION or DISPOSITION of land. For instance, the Growth Plan for the Greater Golden Horseshoe, 2017 ("Provincial Growth Plan"), the Oak Ridges Moraine Conservation Plan, 2017 ("O.R.M.C.P.") or new Provincial policies may be pertinent to a particular real estate matter.



- 7.2.2 **Regional and Local Plans and Policy:** The following Regional and Local policy documents may impact real estate matters and ACQUISITION or DISPOSITION plans:
- (a) The Durham Regional Official Plan.
  - (b) City of Oshawa Strategic Plan: The CITY's strategic plan defines, at a high level, Council's vision, mission and goals. Many of the areas such as preservation of cultural heritage, green spaces and the creation of a strong, livable and sustainable CITY rely, in part, on the availability of land, whether for environmental protection, parks open space or other municipal purposes.
  - (c) City of Oshawa Official Plan, Official Plan of the former Oshawa Planning Area – Secondary Plan for the Samac Community ("Samac Secondary Plan") and Part II Plans: The CITY's Official Plan, Samac Secondary Plan and Part II Plans include many policies that provide a basis for strategic land ACQUISITION or DISPOSITION. These policies range from the protection of the CITY's natural heritage system, housing, amount of parks and open space and municipal infrastructure. Land ACQUISITION is identified as an implementing tool in the Oshawa Official Plan.
  - (d) Local Community Improvement Plans: These plans may provide a basis or direction for land ACQUISITION and DISPOSITION.
  - (e) Other Regional or Local plans or policies.

7.2.3 **Staff Direction:** On an as-needed basis, PLANNING SERVICES R.E. STAFF administering a real estate matter relating to the ACQUISITION or DISPOSITION of land must contact the DIRECTOR to understand any applicable policy that applies to the real estate matter. This will be done by sending an email to the DIRECTOR or submitting a request to the DIRECTOR under a C.R.E.S.T. agenda item with the particulars of the matter and a request for guidance with respect to Provincial, Regional and/or Local policy.

### 7.3 By-laws and Council Directives

- 7.3.1 Real estate matters relating to the ACQUISITION or DISPOSITION of land must comply with all applicable procedural by-laws (such as the CITY's Delegation of Authority By-law 29-2009, as amended), must report the permitted uses on a site (using Zoning By-law 60-94, as amended), and must be consistent with any applicable Council by-laws and resolutions (such as FA-11-218 dated September 26, 2011 which relates to when a matter is referred to the Economic and Development Services Department).
- 7.3.2 PLANNING SERVICES R.E. STAFF administering a real estate matter relating to the ACQUISITION or DISPOSITION of land must consult Legal Services, the DIRECTOR and the COMMISSIONER to ensure compliance with by-laws and Council directives and that any applicable by-laws and directives are being referenced accurately in staff reports or resolutions. This will be done by sending a draft copy of all staff reports and resolutions to Legal Services, the DIRECTOR and the COMMISSIONER for review with respect to by-laws and Council directives.

### 7.4 Principles and Objectives

- 7.4.1 The Economic and Development Services Department will base its recommendations with respect to the ACQUISITION, retention and DISPOSITION of REAL PROPERTY on the principles of:
- (a) Fiscal Accountability which means:
    - (i) REAL PROPERTY should be acquired, maintained, retained and disposed of for the maximum long term economic advantage of the CITY.



- (ii) REAL PROPERTY should only be maintained and retained when the REAL PROPERTY INTEREST:
- Has adequate returns in terms of revenue or amenity (including community amenity);
  - Is not easily replaced with a more efficient interest;
  - Can be operated within existing budget parameters;
  - Assists the CITY's efforts to be economically resilient through mitigating the impacts of climate change and maintaining, restoring and enhancing the ecological functions of the CITY's natural heritage system;
  - Adequately fulfills the function for which it was acquired; or,
  - Has been identified as having a "strategic hold" value for future options.
- (iii) Endeavouring to minimize costs while realizing revenue from the leasing or licensing of CITY-owned property.
- (iv) Obtaining the best value (and minimizing costs) when disposing of surplus REAL PROPERTY giving due consideration to MARKET VALUE, except in those circumstances outlined under Subsection 12.10 of this policy where the DISPOSITION of surplus REAL PROPERTY may not be subject to the requirement for an APPRAISAL or LETTER OF OPINION OF VALUE.
- (v) Obtaining the best value (and minimizing costs) when acquiring REAL PROPERTY, giving due consideration to MARKET VALUE, and to entitlements under the Expropriations Act, where applicable.
- (vi) In determining the best value, recommending to Committee and Council:
- That an appraiser or a registered real estate broker provide one (1) LETTER OF OPINION OF VALUE in respect to an ACQUISITION or DISPOSITION to be valued at less than \$25,000;
  - That two appraisers or registered real estate brokers provide two (2) separate LETTER OF OPINION OF VALUES in respect to an ACQUISITION or DISPOSITION to be valued between \$25,000 and \$100,000;
  - That an appraiser or a registered real estate broker provide one (1) LETTER OF OPINION OF VALUE and an appraiser provide one (1) APPRAISAL in respect to an ACQUISITION or DISPOSITION to be valued between \$100,001 and \$200,000;
  - That an appraiser or a registered real estate broker provide one (1) LETTER OF OPINION OF VALUE and two appraisers provide two (2) separate APPRAISALS in respect to an ACQUISITION or DISPOSITION to be valued at more than \$200,000;
  - Where a second LETTER OF OPINION OF VALUE has been obtained and in the event that the two valuations obtained for an ACQUISITION or DISPOSITION differ by more than twenty-five percent of the amount of the higher valuation, a third LETTER OF OPINION OF VALUE shall be obtained by an appraiser or a registered real estate broker;
  - Where an APPRAISAL has been obtained in addition to one (1) LETTER OF OPINION OF VALUE and in the event that the two valuations obtained for an ACQUISITION or DISPOSITION differ by more than twenty-five percent of the amount of the higher valuation, a second APPRAISAL shall be obtained by an appraiser; and,

- Where two (2) APPRAISALS have been obtained in addition to one (1) LETTER OF OPINION OF VALUE and in the event that the two (2) APPRAISAL valuations obtained for an ACQUISITION or DISPOSITION differ by more than twenty-five percent of the amount of the higher valuation, a third APPRAISAL shall be obtained by an appraiser.

Section 12 of this policy provides additional guidance on APPRAISALS/LETTERS OF OPINION OF VALUE.

(vii) REAL PROPERTY interests should be acquired through any of the following methods:

- Negotiated agreements (including LEASE and licence agreements) – Negotiation is the preferred method of acquiring and disposing REAL PROPERTY and will be conducted in consultation with Legal Services. Negotiations shall be initiated based on APPRAISALS, LETTERS OF OPINION OF VALUE and/or peer reviews in which the valuations are most favourable to the CITY.
- Land exchanges – When an ACQUISITION is pursued in support of Council-approved programs, projects and policies and it is determined that an exchange of CITY-owned REAL PROPERTY is in the best interests of the CITY, negotiations shall be initiated based on the MARKET VALUE of the respective REAL PROPERTIES, pursuant to this policy.
- DONATIONS – The CITY may accept a DONATION of REAL PROPERTY if an appropriate municipal purpose has been identified for the property. Subsection 10.4 of this policy provides additional guidance on DONATIONS.
- EXPROPRIATION – The CITY has the authority to expropriate land in accordance with the provisions of the Expropriations Act. EXPROPRIATION may be utilized where project requirements must be met in a timely manner or where negotiation has failed to produce an agreement. Subsection 10.5 of this policy provides additional guidance on EXPROPRIATION.
- Transfers from a PUBLIC AUTHORITY – The CITY may acquire REAL PROPERTY as the result of a transfer of jurisdictional authority from another level of government or a public board or authority. Subsection 10.6 of this policy provides additional guidance on transfers from a PUBLIC AUTHORITY.
- Competitive bid requests (e.g., Request for Expressions of Interest and/or Request for Proposals).

(viii) REAL PROPERTY must be disposed of through any of the following methods:

- Direct sale by the CITY;
- Public tender;
- Competitive bid process (e.g., Request for Expressions of Interest and/or Request for Proposals);
- Public Auction;
- Land exchange; or,
- Listing of REAL PROPERTY with a registered real estate broker or a real estate board.

(b) Consistency with Corporate Objectives which means:

- (i) REAL PROPERTY should be acquired, maintained, retained and disposed only when those properties clearly align with the goals and objectives of the City's Official Plan, the Oshawa Strategic Plan, Growth Related Needs Assessments, Capital Budget, departmental

approved business plans, Council direction and other Corporate Policy.

- (ii) REAL PROPERTY ACQUISITIONS should be restricted to ACQUISITIONS which are required for municipal purposes only and in support of Council-approved programs, projects and policies. For clarity, this includes strategic land ACQUISITION on the part of the CITY to further the goals and objectives of the Oshawa Official Plan and Community Improvement Plans.
- (c) Sustainability which means:
  - (i) REAL PROPERTY should be acquired or retained only when:
    - The REAL PROPERTY will or does fulfill a municipal function;
    - Service need is constant or growing;
    - Returns in terms of revenue/amenity are cost neutral or better or Corporate and Finance Services advises that it is “affordable”; or,
    - The condition of the REAL PROPERTY is such that it can be used and maintained in an affordable manner and with acceptable risk.
- (d) Social Responsibility which means:
  - (i) The CITY has an inherent duty to provide service and support, where there is no other viable service provider, and where there is a clearly articulated CITY desire to fill a need or to foster and promote a program. CITY-mandated programs are services, products or facilities which are owned, operated or purchased in fulfillment of CITY objectives and delivered to the public.
  - (ii) Residents and users should have appropriate access to safe, healthy and accessible REAL PROPERTY.
  - (iii) The CITY will endeavor to protect and preserve environmental and cultural heritage resources.
  - (iv) Parks and open space are critical to the quality of life in the CITY, the effective performance and well-being of ecological functions of the CITY’s natural heritage system, and the CITY’s efforts to mitigate the effects of climate change and maintain and enhance environmental resiliency, and will be needed to support a growing population both within newly developing greenfield areas as well as areas targeted for intensification within built-up areas. Existing parks and open space are to be preserved and protected in CITY ownership for the benefit of existing and future residents.
- (e) Transparency which means:
  - (i) Conducting consistent, transparent and equitable processes in acquiring and disposing of REAL PROPERTY consistent with the Municipal Act, 2001, etc.;
  - (ii) Managing the CITY’s REAL PROPERTY along clearly defined lines of process, delegated authorities and levels of accountability, with annual reporting to Council; and,
  - (iii) Managing risk responsibly and informing Council appropriately.
- (f) Environmental Responsibility which means:
  - (i) The CITY will consider the environmental condition of REAL PROPERTY and any potential remedial costs; and,
  - (ii) The CITY will consider if the environmental condition of REAL PROPERTY presents any potential risk to the CITY.

## **8.0 Long Term Forecasting of the City's REAL PROPERTY Needs**

- 8.1 The CITY prepares a Strategic Financial Plan and a Multi-Year Capital Budget Forecast which provides a "look forward" in respect to certain aspects of the CITY's needs.
- 8.2 The preparation of both the Strategic Financial Plan and the Multi-Year Capital Budget Forecast will include an analysis of the CITY's future REAL PROPERTY needs, funding implications and potential DISPOSITIONS.
- 8.3 The COMMISSIONER, DIRECTOR and PLANNING SERVICES R.E. STAFF will assist with the analysis referenced in Subsection 8.2 of this policy by:
- (a) Using C.R.E.S.T. to consult with all departments to define a list of the CITY's proposed future proposed REAL PROPERTY ACQUISITIONS and DISPOSITIONS, including having PLANNING SERVICES R.E. STAFF consider and advise on the policies of the CITY's Official Plan and other plans and policies as part of the exercise (e.g. future parkland needs, real estate matters referenced in master plans, impact/direction of the CITY's Strategic Plan, impact/direction of Provincial policies, future transportation connections, etc.) and having Engineering Services identify future land needs for capital projects (e.g. large storm water facilities, major road widenings, etc.);
  - (b) Taking appropriate action (e.g., retaining an accredited appraiser or registered real estate broker to compile estimates of the cost of proposed ACQUISITIONS and the value of proposed DISPOSITIONS); and,
  - (c) Providing the list of proposed future proposed REAL PROPERTY ACQUISITIONS and DISPOSITIONS, estimated costs and estimated proceeds to Corporate and Finance Services in accordance with the appropriate timelines associated with the Strategic Financial Plan and Multi-Year Capital Budget Forecast. PLANNING SERVICES R.E. STAFF shall also compile and provide Corporate and Finance Services the following information on any property that is referenced as potentially surplus:
    - (i) A description of the land including a legal description and location map, if available;
    - (ii) Date land was acquired, authority for the original ACQUISITION and purchase price, if available;
    - (iii) The use to which the land has been put since the date of ACQUISITION;
    - (iv) The reason for the land becoming surplus and the effective date;
    - (v) The location, dimensions and character of lands;
    - (vi) The existing and permitted uses of the land; and,
    - (vii) Any special characteristics of the land.
- 8.4 The Corporate Leadership Team and other staff will review the list and information mentioned in Subsection 8.3 of this policy and include, as appropriate, any relevant information as part of the Strategic Financial Plan and Multi-Year Capital Budget Forecast.
- 8.5 The Strategic Financial Plan and Multi-Year Capital Budget Forecast inform and provide Council with a long term outlook and will not be used to seek direction on specific real estate matters. Economic and Development Services will "pick up" the items in the Strategic Financial Plan and Multi-Year Capital Budget Forecast and write the applicable report(s) to receive specific direction on a real estate matter. For instance, the real estate information in the Strategic Financial Plan or Multi-Year Capital Budget Forecast will be referred to PLANNING SERVICES R.E. STAFF for inclusion and discussion in the annual report described in Section 9.



## **9.0 Annual Report and the In-House Identification of REAL PROPERTY ACQUISITIONS And DISPOSITIONS**

Note: Some ACQUISITIONS and DISPOSITIONS may not need Council approval and may be delegated by the CITY's By-law 29-2009 as amended from time to time, to the Economic and Development Services Committee or staff. In these instances, the delegation of authority applies and the process set out in the following subsections shall be adjusted accordingly.

### **9.1 REGISTER**

9.1.1 PLANNING SERVICES R.E. STAFF will prepare and maintain a REGISTER, including a map, which lists all of the REAL PROPERTY of the CITY. The REGISTER shall be organized according to the following classes of REAL PROPERTY:

- (a) Cemeteries: The CITY owns and operates Union Cemetery and maintains eight other inactive cemeteries.
- (b) Fire: The CITY owns and operates six fire stations as well as a training site.
- (c) Walkways: The CITY owns various walkway blocks located throughout the municipality, typically acquired to provide active transportation connections between adjacent land uses and the road network.
- (d) Landscape Strips: The CITY owns various landscape strips located throughout the municipality, often acquired to provide a buffer.
- (e) Parks: The CITY owns various parks located throughout the municipality, serving active and/or passive recreational purposes.
- (f) Open Space: The CITY's open space lands are predominantly used for conservation, reforestation and recreation, and form an integral part of the CITY's Natural Heritage System.
- (g) Municipally Programmed: Municipally programmed lands are CITY-owned REAL PROPERTY other than CITY-owned road rights-of-way, reserves of 0.3 metres (1 foot) or less in width and those lands identified in Clauses (a) to (f) directly above containing structures and buildings and providing one or more core CITY services or functions. Such properties include City Hall, libraries, recreation complexes, seniors' centres, works depots, and arts and cultural facilities.
- (h) General Holdings: The CITY's general holdings consist of all CITY-owned REAL PROPERTY other than CITY-owned road rights-of-way and lands categorized under Clauses (a) to (g) directly above which do not serve a municipal need or purpose, and include lands that have been declared potentially surplus or surplus, and lands that are available for DISPOSITION.

The following classes of REAL PROPERTY are generally not listed in the REGISTER, unless they have been declared potentially surplus or surplus and/or classified as a General Holding:

- HIGHWAYS and roads under the CITY's jurisdiction;
- Open road allowances;
- Stopped-up HIGHWAYS and roads;
- Reserves of 0.3 metres (1 foot) or less in width; and,
- EASEMENTS.

9.1.2 The REGISTER shall be reviewed and maintained on an on-going basis to ensure accuracy and completeness and to confirm that the properties in it are required for municipal purposes, or are identified as potentially surplus or surplus to municipal needs.



## **9.2 Annual Report**

- 9.2.1 On an annual basis, before the summer recess of each year, PLANNING SERVICES R.E. STAFF will prepare, in consultation with C.R.E.S.T. and on behalf of the COMMISSIONER, an in-camera report to Council through the Economic and Development Services Committee which generally includes the following:
- (a) A recommendation on any REAL PROPERTY to be declared potentially surplus and disposed of. If any property is recommended to be declared potentially surplus, the information set out in Clause 8.3(c) of this policy shall be included in the staff report. Any Council resolution that identifies properties as potentially surplus shall be passed at a meeting open to the public.
  - (b) Where appropriate, a recommendation on any REAL PROPERTY proposed to be acquired over the next 12 months, outside of the dedication process that forms part of development approvals. Details of the REAL PROPERTY targeted for ACQUISITION shall be included, and departments seeking to acquire REAL PROPERTY through a recommendation in the annual report will be required by the COMMISSIONER to appropriately address the matters identified in Subsection 9.3.1 of this policy.
  - (c) Evidence that any recommended DISPOSITIONS and ACQUISITIONS are consistent with Section 7 of this policy and the Oshawa Strategic Plan, Oshawa Official Plan, Strategic Financial Plan, Multi-Year Capital Budget Forecast, etc.
  - (d) A recommendation on the undertaking of any APPRAISALS/LETTERS OF OPINION OF VALUE (consistent with Subsection 7.4.1 of this policy) that are required to determine the value of any recommended DISPOSITIONS or ACQUISITIONS and a funding source for the APPRAISALS/LETTERS OF OPINION OF VALUE as directed by Corporate and Finance Services, etc.
  - (e) A clear indication of the go forward process for any recommended DISPOSITIONS or ACQUISITIONS including procedures consistent with this policy. It will be made clear that a separate and specific "ACQUISITION Plan" or "DISPOSITION Strategy" will be provided to Council for any properties that Council directs be disposed of or acquired.

## **9.3 Requests to Investigate ACQUISITIONS Outside of the Annual Report**

- 9.3.1 Departments wanting to acquire REAL PROPERTY (other than ACQUISITIONS recommended as part of the annual report) will be required by the COMMISSIONER to:
- (a) Prepare a needs assessment setting out the rationale for the ACQUISITION, including the Council-approved program, project and /or policy to be implemented at the property, and the intended municipal public purpose;
  - (b) Identify the desired long-term use of the property;
  - (c) If necessary, confirm with Facilities Management Services that a systematic review of space available within CITY facilities has been undertaken prior to identifying external facilities that are available for purchase;
  - (d) Provide the following information for inclusion in a staff report:
    - (i) A budget for the program or project, inclusive of the cost estimated to acquire the necessary property and setting out the expected operational budget impacts of the proposed ACQUISITION;
    - (ii) A funding strategy; and,
    - (iii) A recommendation that in the event Council supports a potential ACQUISITION that the matter be referred to PLANNING SERVICES R.E. STAFF for further processing and the preparation of an ACQUISITION Plan.

## **10.0 ACQUISITIONS**

Note: Some ACQUISITIONS may not need Council approval and may be delegated by By-law 29- 2009, as amended from time to time, to the Economic and Development Services Committee or staff. In these instances, the delegation of authority applies and the process set out in the following subsections shall be adjusted accordingly.

### **10.1 Responsibility for ACQUISITIONS**

- 10.1.1 The COMMISSIONER is responsible for REAL PROPERTY ACQUISITIONS and all ACQUISITIONS of REAL PROPERTY INTERESTS are to be led by PLANNING SERVICES R.E. STAFF after receiving authorization to initiate an ACQUISITION pursuant to Subsection 10.3.2 of this policy.
- 10.1.2 The COMMISSIONER is required to sign all staff reports with a REAL PROPERTY component after the COMMISSIONER has vetted these reports for accuracy.
- 10.1.3 PLANNING SERVICES R.E. STAFF will conduct ACQUISITIONS in accordance with this policy.
- 10.1.4 Agreements and approvals for ACQUISITIONS will be processed and executed in accordance with the CITY's Delegation of Authority By-law 29-2009, as amended.

### **10.2 ACQUISITION Considerations**

The ACQUISITION of REAL PROPERTY will be conducted in accordance with the principles and objectives outlined in Subsection 7.4 of this policy and with consideration given to the matters outlined in the following subsections.

#### **10.2.1 Environmental Investigations**

The COMMISSIONER, in consultation with C.R.E.S.T. and the client department that will be responsible for the ACQUISITION, may require that REAL PROPERTY being considered for ACQUISITION, regardless of the method of ACQUISITION, be subject to an environmental investigation, which must be completed prior to completion of the transaction. All such investigations are to be completed in accordance with any applicable standards of the Ministry of the Environment, Conservation and Parks, and undertaken in such manner and of sufficient level so as to meet the requirements of the CITY's insurer.

#### **10.2.2 Heritage Properties**

When REAL PROPERTY that may have cultural heritage value is being considered for ACQUISITION, the department/branch responsible for the ACQUISITION will consult with Planning Services staff to understand the implications of the property's heritage status.

### **10.3 ACQUISITION Process and ACQUISITION Plan**

- 10.3.1 PLANNING SERVICES R.E. STAFF will process an offer from a third party to sell REAL PROPERTY to the CITY as follows:
  - (a) Advise the prospective seller that staff must be directed by Council, through the Economic and Development Services Committee, to investigate the ACQUISITION of REAL PROPERTY; and,
  - (b) Advise the prospective seller to write to the Economic and Development Services Committee, through Legislative Services (City Clerks), with the details of its proposed ACQUISITION of land by the CITY. The prospective seller shall also include information on the potential vendor and any relationship of the vendor to the CITY/CITY staff/elected Officials.
- 10.3.2 The COMMISSIONER will not authorize PLANNING SERVICES R.E. STAFF to initiate an ACQUISITION unless and until:
  - (a) The potential ACQUISITION is directed by means of a resolution of Council generally pursuant to the staff reports referenced in Subsections 9.2 or 9.3

of this policy or a referral pursuant to Subsections 10.3.1 or 10.4.2 of this policy; or,

- (b) The ACQUISITION is part of a project or program approved by Council in a current/operating or Capital Budget and is not delegated to staff pursuant to Delegation of Authority By-law 29-2009, as amended.

10.3.3 PLANNING SERVICES R.E. STAFF will initiate an ACQUISITION by preparing an "ACQUISITION Plan" for Council approval through the Economic and Development Services Committee.

10.3.4 The ACQUISITION Plan will form part of a closed Economic and Development Services staff report which seeks specific direction from Council in respect to the details of the ACQUISITION process to be followed.

10.3.5 The ACQUISITION Plan will generally include the following:

- (a) A recommendation on the most appropriate party to undertake the ACQUISITION e.g., CITY Staff, External Real Estate Professional, etc., giving due consideration that every effort should be made to have external Real Estate professionals handle ACQUISITIONS.
- (b) If the identification of a site (e.g. site selection) is an issue, a recommendation on any process to be followed to investigate the market to determine suitable alternatives to meet the end user's needs with the final decision on the site always resting with Council.
- (c) A recommendation on the process to be followed to assess a property's:
  - (i) Legal boundaries;
  - (ii) Physical or geotechnical conditions;
  - (iii) Environmental condition;
  - (iv) Cultural heritage value including archeological resources;
  - (v) Existing restrictions;
  - (vi) Encumbrances;
  - (vii) Liabilities;
  - (viii) Tax implications; and,
  - (ix) Any other important characteristic which may impact on value or use, etc.
- (d) A recommendation on the process to be followed to identify the value of a property in accordance with Clause 7.4.1(a) of this policy;
- (e) The need for any Environmental Assessment;
- (f) Estimated budget for any ACQUISITION process (e.g. fee for use of a third party real estate professional, surveys, APPRAISALS/LETTERS OF OPINION OF VALUE, environmental impact studies, archeological studies, Environmental Assessments, etc.) and funding source approved by Corporate and Finance Services;
- (g) The intended use of conditions and terms in any Purchase and Sale Agreement to protect the CITY and any recommendation to prepare and execute a Purchase and Sale Agreement; if this is the case, a draft Purchase and Sale Agreement should be attached to the staff report;
- (h) The role and participation of Legal Services, other Departments and C.R.E.S.T. in the process of preparing the ACQUISITION Plan, any comments from Legal Services, other Departments and C.R.E.S.T. in respect to the staff report and the role of these parties in future aspects of the ACQUISITION Plan;
- (i) Interim reports that will be prepared on items such as site selection, APPRAISAL/LETTER OF OPINION OF VALUE results, environmental

issues, to advise that a Purchase and Sale Agreement has been executed, status of negotiations, etc.;

- (j) Plans to report back to Council, through the Economic and Development Services Committee, for the clearance of any conditions prior to closing;
- (k) How the CITY will identify and report a relationship of a vendor to the CITY/CITY staff/elected Officials;
- (l) Future Approvals and Signing Authorities; and,
- (m) Any other relevant information.

- 10.3.6 Upon receiving Council direction on an ACQUISITION Plan, the COMMISSIONER, DIRECTOR and PLANNING SERVICES R.E. STAFF will proceed with any potential ACQUISITION in strict compliance with the Council-approved ACQUISITION Plan.
- 10.3.7 In the event that Council approves the execution of a Purchase and Sale Agreement, PLANNING SERVICES R.E. STAFF will provide the applicable staff report and Council Resolution to Legal Services with a request for it to advance the Purchase and Sale Agreement.
- 10.3.8 Any proposed change to the Council-approved ACQUISITION Plan must be approved by Council by means of a staff report from the COMMISSIONER through the Economic and Development Services Committee, unless the change relates to a matter delegated under the CITY'S Delegation of Authority By-law 29-2009, as amended.
- 10.3.9 Once staff has concluded the Council-approved ACQUISITION Plan, PLANNING SERVICES R.E. STAFF will prepare a Closed "Direction to Close/Not Close" report to Council through the Economic and Development Services Committee which shall generally include the following:
- (a) The status of all of the items in the ACQUISITION Plan;
  - (b) The results of any "due diligence" reports/studies (e.g. APPRAISAL/LETTER OF OPINION OF VALUE, geotechnical, environmental, applicable restrictions, encumbrances, title issues, etc.);
  - (c) Potential liabilities and risks association with the ACQUISITION;
  - (d) The status of all conditions in any Purchase and Sale Agreement;
  - (e) Final budget/costs for the ACQUISITION Plan;
  - (f) Funding sources for the ACQUISITION as directed by Corporate and Finance Services;
  - (g) Maintenance costs and obligations associated with the ACQUISITION;
  - (h) Tax obligations associated with the ACQUISITION;
  - (i) Input of the CITY SOLICITOR, other Departments and, where appropriate, C.R.E.S.T.;
  - (j) A recommendation on whether to close or not close;
  - (k) Any relationship between the vendor and the CITY/CITY staff/elected Officials;
  - (l) Any necessary approvals and signing authorities; and,
  - (m) Any other relevant information.
- 10.3.10 Upon approval of an ACQUISITION by Council pursuant to the staff report referenced in Subsection 10.3.9 of this policy, PLANNING SERVICES R.E. STAFF will provide Legal Services with the applicable staff report and Council resolution and shall request Legal Services to conclude the necessary transaction.



## **10.4 DONATIONS**

- 10.4.1 Offers to donate a property are to be set out in writing by the potential donor and placed on the agenda of the Economic and Development Services Committee and Council with a request for direction.
- 10.4.2 The COMMISSIONER will not authorize PLANNING SERVICES R.E. STAFF to initiate work on potential DONATIONS unless and until they are referred to Economic and Development Services staff by Council.
- 10.4.3 If the proposed DONATION is referred to staff, PLANNING SERVICES R.E. STAFF will prepare a closed report to Council through the Economic and Development Services Committee on the pros and cons of accepting the proposed DONATION, with due consideration given as to whether or not an appropriate municipal purpose would be addressed through the proposed DONATION. If, in the opinion of the COMMISSIONER after consultation with C.R.E.S.T., the DONATION is worthy of further consideration on the basis that it addresses an appropriate municipal purpose, then PLANNING SERVICES R.E. STAFF will include an ACQUISITION Plan in the staff report.
- 10.4.4 In the event a potential donor has inquired about the availability of a charitable DONATION tax receipt, the staff report on the potential DONATION will reference the opinion of the Commissioner of Corporate and Finance Services in respect to the availability of a charitable DONATION tax receipt and the value of any such receipt.

## **10.5 EXPROPRIATION**

- 10.5.1 The CITY has the authority to expropriate land in accordance with the provisions of the Expropriations Act. EXPROPRIATION may be used where project requirements must be met in a timely manner or where negotiation has failed.
- 10.5.2 Neither the COMMISSIONER, the DIRECTOR nor PLANNING SERVICES R.E. STAFF will suggest EXPROPRIATION or use the threat of EXPROPRIATION as part of a negotiation process (see Subsection 7.1.6 of this policy).
- 10.5.3 No action may be taken by staff in respect to an EXPROPRIATION unless and until appropriate and specific Council direction on an EXPROPRIATION is received.
- 10.5.4 Staff reports on potential EXPROPRIATIONS shall generally include the following:
- (a) A description of efforts taken to acquire the land outside of the EXPROPRIATION process;
  - (b) A description of EXPROPRIATION legislation, municipal authority, process and timelines;
  - (c) Details with respect to the manner in which the CITY will "protect" itself with respect to acquiring a site that meets its needs (e.g., ensuring geotechnical conditions are acceptable, ensuring environmental conditions are acceptable, etc.);
  - (d) A description of potential risks and liabilities, etc.;
  - (e) An estimate of the total cost of EXPROPRIATION (e.g. process cost, land cost, legal costs, business loss cost, etc.);
  - (f) A discussion regarding funding sources as directed by Corporate and Finance Services;
  - (g) Advice/comments from the CITY SOLICITOR, other Departments and, where appropriate, C.R.E.S.T.; and,
  - (h) Any other relevant information.



## **10.6 Transfers from a PUBLIC AUTHORITY**

- 10.6.1 Offers from a PUBLIC AUTHORITY to transfer a property to the CITY are to be set out in writing by the potential transferor and placed on the agenda of the Economic and Development Services Committee and Council with a request for direction.
- 10.6.2 The COMMISSIONER will not authorize PLANNING SERVICES R.E. STAFF to initiate work on potential transfers from a PUBLIC AUTHORITY unless and until they are referred to Economic and Development Services staff by Council.
- 10.6.3 If the proposed transfer is referred to staff, PLANNING SERVICES R.E. STAFF will prepare a report to Council on the pros and cons of accepting the proposed transfer. If, in the opinion of the COMMISSIONER after consultation with C.R.E.S.T., the transfer is worthy of further consideration then PLANNING SERVICES R.E. STAFF will include a recommendation in the report that staff be authorized to prepare an ACQUISITION Plan.

## **11.0 DISPOSITIONS**

Note: Some DISPOSITIONS may not need Council approval and may be delegated by By-law 29-2009, as amended from time to time, to the Economic and Development Services Committee or staff. In these instances, the delegation of authority applies and the process set out in the following subsections shall be adjusted accordingly.

### **11.1 Responsibility for DISPOSITIONS**

- 11.1.1 The COMMISSIONER is responsible for REAL PROPERTY DISPOSITIONS and all DISPOSITIONS of REAL PROPERTY INTERESTS are to be led by PLANNING SERVICES R.E. STAFF after receiving authorization to initiate a DISPOSITION pursuant to Subsection 11.3.5 of this policy.
- 11.1.2 The COMMISSIONER is required to sign all staff reports with a REAL PROPERTY component after the COMMISSIONER has vetted these reports for accuracy.
- 11.1.3 PLANNING SERVICES R.E. STAFF will conduct DISPOSITIONS in accordance with this policy.
- 11.1.4 Agreements and approvals for DISPOSITIONS will be processed and executed in accordance with the CITY's Delegation of Authority By-law, 29-2009, as amended.

### **11.2 DISPOSITION Considerations**

The DISPOSITION of REAL PROPERTY will be conducted in accordance with the principles and objectives outlined in Subsection 7.4 of this policy and with consideration given to the matters outlined in the following subsections.

#### **11.2.1 MARKET VALUE**

All DISPOSITIONS of REAL PROPERTY must be at least at 90 per cent of MARKET VALUE, unless an exception to this parameter is approved by Council. Reports to Council recommending DISPOSITIONS at less than 90 per cent of MARKET VALUE must:

- Clearly state the MARKET VALUE of the SURPLUS PROPERTY to be transferred and not realized and the rationale for such a recommendation;
- Identify the prospective purchaser; and,
- In the event of a LEASE of 21 years or more, fully disclose all important or financial terms and conditions therein.

#### **11.2.2 Priority of Offerings**

The CITY shall have the right to convey the SURPLUS PROPERTY to the PUBLIC AUTHORITY having the greatest priority. For the purpose of assigning priorities, the order (starting from the highest priority) shall be as follows:

1. the Government of Canada
2. the Government of Ontario
3. the Regional Municipality of Durham
4. any college, university or other post-secondary institution created by the Province of Ontario
5. any School Board created by the Province of Ontario
6. any PUBLIC AUTHORITY not already prioritized

### **11.2.3 Transfers to a PUBLIC AUTHORITY**

Where an offer is received from a PUBLIC AUTHORITY and the CITY disagrees with the MARKET VALUE determined by the PUBLIC AUTHORITY, the CITY may agree to either:

- Negotiate and amend the offer based on an APPRAISAL and/or LETTER OF OPINION OF VALUE obtained by the CITY pursuant to Clause 7.4.1(a)(vi) of this policy; or,
- Initiate negotiations with the next prospective purchaser, in priority order based on the sequence contained in Subsection 11.2.3 of this policy.

### **11.2.4 Environmental Investigations**

The COMMISSIONER, in consultation with C.R.E.S.T. and staff from the department having authority over a CITY property that is the subject of a DISPOSITION, may require an environmental site investigation prior to property DISPOSITION to assess any potential liability to the CITY in disposing of the property. All such investigations are to be completed in accordance with any applicable standards of the Ministry of the Environment, Conservation and Parks, and undertaken in such manner and of sufficient level so as to meet the requirements of the CITY's insurer.

### **11.2.5 Parkland and Open Space**

Parks and Open Space constitute two classes of property contained in the REGISTER of CITY-owned REAL PROPERTY. Generally, the COMMISSIONER, DIRECTOR or PLANNING SERVICES R.E. STAFF will inform an enquirer seeking to purchase CITY-owned parkland or open space that it is Council policy to retain these lands in public ownership and therefore they are not for sale, and refer enquirers or prospective purchasers to CITY-owned lands already identified as surplus by Council.

Notwithstanding the above noted policy, where refusal in the opinion of the COMMISSIONER, DIRECTOR or PLANNING SERVICES R.E. STAFF is not considered to be in the best interests of the CITY, enquiries or offers to purchase parkland or open space not already declared surplus may be followed up on an exception basis, and PLANNING SERVICES R.E. STAFF will process the request in accordance with Clause 11.3.2(a) and (b) of this policy.

CITY-owned lands (including Parks and Open Space) containing natural heritage and/or hydrologic features identified by the CITY as being worthy of protection (e.g., components of the CITY's Natural Heritage System identified in the Oshawa Official Plan) may be transferred exclusively to appropriate organizations, such as conservation authorities or other levels of government. These lands will be identified by PLANNING SERVICES R.E. STAFF.

### **11.2.6 Public HIGHWAYS**

Any public HIGHWAY under the CITY's jurisdiction that is stopped-up, closed and declared surplus may be offered for sale pursuant to a valuation obtained in accordance with Clause 7.4.1(a)(vi) of this policy. Alternatively, the COMMISSIONER or the DIRECTOR may dispose of a closed HIGHWAY that has been declared surplus without obtaining an APPRAISAL or a LETTER OF OPINION OF VALUE if it is sold to an owner of land abutting the closed HIGHWAY, pursuant to Clause 12.10(a)(ii) of this policy.

It is preferred that the entire portion of the public HIGHWAY be sold at one time so as not to leave the CITY owning portions of the closed public HIGHWAY. Should one of the adjacent owners choose not to purchase the closed public HIGHWAY, it may be offered in whole to the other adjacent owner at the same or higher price. Should neither owner wish to purchase the closed road allowance, the CITY may offer it to any other interested purchaser.

In the event the closed road is of sufficient size to be considered a viable property on its own, the CITY shall have the option, in its sole discretion, of marketing the property as a stand-alone property, with no obligation to offer it to the adjacent owners.

#### **11.2.7 Sale of Property to CITY Staff/Elected Officials**

SURPLUS PROPERTY may be sold to CITY employees or elected officials, or to members of their families, provided the requirements of all by-laws, policies and procedures regarding the sale of SURPLUS PROPERTY are satisfied and provided the sale is approved by Council.

#### **11.2.8 Sale of Heritage Property**

Any agreement of sale for a heritage property must contain any necessary special conditions to preserve its heritage status including, but not limited to, a Heritage EASEMENT.

#### **11.2.9 EASEMENTS**

The CITY may grant an EASEMENT interest:

- If considered appropriate to the relevant CITY department;
- If the granting of the EASEMENT does not render the retained CITY land no longer viable for the use or purpose for which the land was obtained;
- If the granting of the EASEMENT does not render the retained CITY land subservient to the EASEMENT interest, and,
- To utilities for plant and equipment in existence at the time of DISPOSITION.

EASEMENT interests are granted at MARKET VALUE as established through an APPRAISAL or LETTER OF OPINION OF VALUE. However, pursuant to Clause 12.10(a)(v) of this policy, EASEMENTS may be granted gratuitously or at a nominal cost to a PUBLIC AUTHORITY or to a utility for existing plant and equipment at the time of DISPOSITION, if it is determined that the location of the EASEMENT has limited or no impact on the future value or future development of the lands over which the EASEMENT is sought.

### **11.3 DISPOSITION Process and DISPOSITION Strategy**

#### **11.3.1 Declaration from the REGISTER as Potentially Surplus**

In accordance with Subsection 9.2.1 of this policy, PLANNING SERVICES R.E. STAFF shall present an in-camera annual report that includes a list of any CITY-owned properties recommended to be declared potentially surplus. Council shall review this list and subsequently reveal by resolution passed at a meeting open to the public the identity of any property determined by Council to be a candidate for declaration as surplus. These properties will be deemed to have been declared potentially surplus by Council.

#### **11.3.2 Other Declarations as Potentially Surplus**

From time to time, prospective purchasers or developers may approach CITY staff with interest in acquiring CITY-owned property. It is expressly recognized that properties that would not ordinarily have been considered surplus to municipal needs may be considered so on the basis of a particular development or purchase transaction proposal. This includes properties classified in the REGISTER as Parks or Open Space, where in the opinion of the COMMISSIONER, DIRECTOR or PLANNING SERVICES R.E. STAFF the nature of the enquiry or offer to

purchase CITY-owned parkland or open space merits following up on an exception basis, rather than informing the enquirer or prospective purchaser that it is Council policy to retain these lands in public ownership and therefore they are not for sale (in accordance with Subsection 11.2.5 of this policy).

Pursuant to the foregoing, PLANNING SERVICES R.E. STAFF will process a request from a third party that the CITY dispose of CITY-owned REAL PROPERTY (e.g. a third party wants to buy CITY land) as follows:

- (a) Advise the inquirer that staff must be directed by Council, through the Economic and Development Services Committee, to investigate the DISPOSITION of CITY-owned REAL PROPERTY; and
- (b) Advise the inquirer to write to the Economic and Development Services Committee, through Legislative Services (City Clerks), with the details of its proposed DISPOSITION of land by the CITY. The inquirer shall also include information on the potential purchaser and any relationship of the purchaser to the CITY/CITY staff/elected Officials.

### **11.3.3 DISPOSITION of Public HIGHWAYS**

The CITY cannot consider DISPOSITION of any public HIGHWAY unless it has never been opened as a public HIGHWAY, or unless it has been closed as a public HIGHWAY. Where inquiries are made regarding the purchase of these lands and the HIGHWAY has not been closed, a closure procedure is required, in accordance with Section 34 of the Municipal Act, 2001, before DISPOSITION can occur.

In considering whether a HIGHWAY should be closed, Council may also consider whether the land is surplus to municipal needs. Where Council declares the property potentially surplus and surplus, consideration shall be given to the matters raised in Subsection 11.2.6 of this policy in the event of a prospective sale.

A declaration that the lands are potentially surplus or surplus can be revoked by the CITY at any time prior to a DISPOSITION of the same lands and the CITY reserves the right to ultimately decide not to close the HIGHWAY or dispose of the land.

### **11.3.4 Declaration as Potentially Surplus or Surplus Does Not Apply**

The requirement to declare potentially surplus and surplus prior to DISPOSITION does not apply to the following types of DISPOSITION:

- Grant of EASEMENT interests;
- Transfer of an EASEMENT;
- DISPOSITION of reserves of 0.3 metres (1 foot) or less in width;
- Re-conveyance to the owner, or successor in title, who conveyed the land gratuitously by virtue of the terms of a Development and Servicing Agreement (e.g., land held as security or as a reserve), provided all costs to recover the lands are borne by the owner; and,
- LEASE of REAL PROPERTY for less than 21 years.

### **11.3.5 Authorization to Initiate DISPOSITION**

The COMMISSIONER will not authorize PLANNING SERVICES R.E. STAFF to initiate a DISPOSITION unless and until:

- (a) The potential DISPOSITION is directed by means of a Council resolution pursuant to the annual report referenced in Subsection 9.2 of this policy;
- (b) The potential DISPOSITION is directed by means of a referral pursuant to Subsection 11.3.2 of this policy; or,
- (c) The DISPOSITION is part of a project or program approved by Council in a current/operating or Capital Budget and is not delegated to staff pursuant to Delegation of Authority By-law 29-2009, as amended.



In circumstances where Clause (b) directly above applies, PLANNING SERVICES R.E. STAFF shall address the referral by reporting on the proposal to Council, through the Economic and Development Services Committee, with a recommendation as to whether or not the land can be declared potentially surplus in the circumstances.

#### **11.3.6 Notice of Declaration as Potentially Surplus**

When Council has declared a property to be potentially surplus, PLANNING SERVICES R.E. STAFF will initiate a potential DISPOSITION by issuing a notice inviting comment on the declaration. Council shall, in the resolution indicating the CITY's declaration of a property as potentially surplus, direct that notice be given in accordance with this policy.

- (a) The methods of notice may include:
  - (i) Advertisements one or more times in a daily or weekly newspaper or newspapers;
  - (ii) Listing of the REAL PROPERTY on the Council agenda and/or the CITY's website as property which has been declared potentially surplus and may be put up for sale; or,
  - (iii) Any other means of communication acting reasonably and in good faith, that is deemed appropriate in the circumstances, in order to give notice to the public.
- (b) Notice may also be communicated directly by ordinary prepaid mail, or other means of direct written communication, to any or all of the following:
  - (i) The Government of Canada or any of its ministries;
  - (ii) The Government of Ontario or any of its ministries or agencies;
  - (iii) The Regional Municipality of Durham;
  - (iv) Any college, university or other post-secondary institution created by the Province of Ontario and any School Board created by the Province of Ontario;
  - (v) Any conservation authority;
  - (vi) Any utility provider;
  - (vii) Any person who has provided the COMMISSIONER, DIRECTOR or PLANNING SERVICES R.E. STAFF with a written expression of interest with respect to acquiring the property within a 12-month period prior to the date that the property is declared potentially surplus;
  - (viii) The adjacent landowners; and/or,
  - (ix) Such other persons, authorities and bodies as Committee/Council and/or the COMMISSIONER deem appropriate in the circumstances.

The notice shall invite comment and input to Council's consideration of the property in question, providing a minimum of ten days from the date of publication, posting or mailing (including electronic mail), and shall specify that no further notice concerning the DISPOSITION of the subject property will be given unless a written request to be notified concerning the outcome of Council's consideration is submitted to PLANNING SERVICES R.E. STAFF.

The method of notice recommended through a report to Council by the COMMISSIONER shall take into consideration such matters as:

- The size of the subject property;
- The current use of the subject property;



- The manner in which the subject property was acquired by the CITY;
- The manner in which the subject property was created;
- Whether the subject property has no value except as a lot addition, or whether the property on its own would be eligible for a building permit as a stand-alone development site; and,
- Whether the subject property can be assembled with other land to increase the development potential of the whole.

### **11.3.7 Notice Requirements to Close a Public HIGHWAY**

Pursuant to Section 34 of the Municipal Act, 2001, public notice of a by-law to permanently close a HIGHWAY shall be given in accordance with the CITY's Notice to the Public By-law 147-2007, as amended. Notwithstanding this procedure, where Council has first declared a public HIGHWAY to be potentially surplus, the notice issued under Subsection 11.3.6 of this policy shall be deemed to also constitute notice of the CITY's intention to permanently close the HIGHWAY in the event that it is declared surplus, provided that the notice contains a statement to this effect, and in these circumstances the requirements of Notice to the Public By-law 147-2007, as amended, shall not apply.

### **11.3.8 Reporting**

The COMMISSIONER, DIRECTOR and PLANNING SERVICES R.E. STAFF shall review all input received as a result of the notice issued pursuant to Subsection 11.3.6 of this policy and compile a report, for Council approval through the Economic and Development Services Committee, which summarizes the input and makes a recommendation as to whether or not the CITY property in question is surplus to municipal needs. This report shall be considered at a meeting of Council open to the public.

If DISPOSITION of the CITY's REAL PROPERTY is recommended to be completed by way of a public auction or public tender, the requirements of Clause 11.3.10(g)(ii) of this policy shall apply and be addressed in the report.

The COMMISSIONER, after consulting with C.R.E.S.T. and the CITY SOLICITOR, also has discretion to include in the report a recommended "DISPOSITION Strategy" which contains the information outlined under Subsection 11.3.10 of this policy.

The DISPOSITION of CITY property cannot occur unless the land has been formally declared surplus by Council resolution in open session. The resolution passed in this regard authorizes the DISPOSITION of the REAL PROPERTY in question.

Advance notice of the report shall be given by PLANNING SERVICES R.E. STAFF to all persons, bodies and authorities who responded to the notice issued under Subsection 11.3.6 of this policy with a written request to be notified concerning the outcome of Council's consideration.

### **11.3.9 Alternative Approach to Recommending a DISPOSITION STRATEGY**

In the event that Council formally declares a site surplus through a resolution passed pursuant to Subsection 11.3.8 of this policy but said resolution does not include a DISPOSITION STRATEGY, PLANNING SERVICES R.E. STAFF will prepare an in-camera report that sets out a recommended "DISPOSITION Strategy" for the surplus CITY lands, for Council approval through the Economic and Development Services Committee.

### **11.3.10 DISPOSITION Strategy Elements**

The DISPOSITION Strategy shall generally include the following:

- (a) The merits of disposing of the property and evidence that any DISPOSITION would be consistent with Section 7 of this policy and the Oshawa Strategic

Plan, Strategic Financial Plan, Oshawa Official Plan, Capital Budget Forecast, etc.;

- (b) The information set out in Clause 8.3(c) of this policy;
- (c) The results of any public notice issued in respect to REAL PROPERTY that has already been declared potentially surplus (this will typically relate to properties declared potentially surplus through the annual report);
- (d) A recommendation, as appropriate, that the property be declared potentially surplus or surplus. Any Council resolution that identifies a property as potentially surplus or surplus shall be passed at a meeting open to the public;
- (e) The go forward process to be followed pursuant to a direction by Council to declare a property potentially surplus or surplus (e.g. a synopsis of the steps set out in Subsection 11.3 of this policy);
- (f) A recommendation on the most appropriate party to undertake the DISPOSITION e.g., CITY Staff, External Real Estate Professional, etc., giving due consideration that every effort should be made to have external Real Estate professionals handle DISPOSITIONS;
- (g) A recommendation on the most appropriate means of DISPOSITION based upon criteria such as value, competition, property type and market conditions and may include:
  - (i) Direct sale by the CITY;
  - (ii) Public tender or auction - where Council determines that a sale of REAL PROPERTY is to be completed by way of public auction or public tender, the Council resolution pursuant to Subsection 11.3.8 of this policy shall set out the terms and conditions of the sale, and shall specify any reserve amount established;
  - (iii) Request for Proposals – where Council determines that a sale of REAL PROPERTY is to be completed by way of Request for Proposals, the Council resolution pursuant to Subsection 11.3.8 of this policy shall be deemed to grant to the COMMISSIONER the authority to review the proposals and make a final determination, unless this authority is specifically reserved to Council in the resolution;
  - (iv) Land exchange; or,
  - (v) Listing of REAL PROPERTY with a registered real estate broker or a real estate board.
- (h) A recommendation on the process to be followed to assess a property's:
  - (i) Legal boundaries;
  - (ii) Physical or geotechnical conditions;
  - (iii) Environmental condition;
  - (iv) Cultural heritage value including archeological resources;
  - (v) Existing restrictions and any need by utilities for EASEMENTS, etc.;
  - (vi) Encumbrances;
  - (vii) Liabilities;
  - (viii) Tax implications; and,
  - (ix) Any other important characteristic which may impact on value or use.
- (i) A recommendation on the process to be followed to identify the value of a property in accordance with Clause 7.4.1(a) of this policy;
- (j) The need for any Environmental Assessment;

- (k) Estimated budget for any DISPOSITION process (e.g. fee for use of a third party real estate professional, surveys, APPRAISALS/LETTERS OF OPINION OF VALUE, environmental impact studies, archeological studies, Environmental Assessments, etc.) and funding source approved by Corporate and Finance Services;
- (l) The intended use of conditions and terms in any Purchase and Sale Agreement to protect the CITY including indemnities, responsibility for environmental condition, etc.;
- (m) The role and participation of Legal Services, other Departments and C.R.E.S.T. in the process of preparing the DISPOSITION Strategy, any comments from Legal Services, other Departments and C.R.E.S.T. and the role of these parties in future aspects of the DISPOSITION Strategy;
- (n) Interim reports that will be prepared on items such as offers (including relationship of the potential purchaser to CITY/CITY staff/elected officials), APPRAISAL reports, environmental issues, status of negotiations, to advise that a Purchase and Sale Agreement has been executed, etc.;
- (o) Plans to report back to Council, through the Economic and Development Services Committee, for the clearance of any conditions prior to closing;
- (p) Whether the CITY should convey the SURPLUS PROPERTY at MARKET VALUE to another PUBLIC AUTHORITY;
- (q) The ability and process to recover all applicable fees, CITY expenses and charges from the purchaser on or before the closing date, even if the property is sold at a nominal value;
- (r) A recommendation on where the proceeds from the DISPOSITION should be credited, e.g. Civic Property Reserve, Capital Reserve Fund, a departmental account from where the original ACQUISITION of the property was funded, etc.;
- (s) The need for any variances or rezonings and intended process to achieve these;
- (t) Any necessary approvals and signing authorities; and,
- (u) Any other relevant information.

#### **11.3.11 Council Direction Regarding DISPOSITION Strategy**

Upon receiving Council direction on a DISPOSITION Strategy, the COMMISSIONER, DIRECTOR and PLANNING SERVICES R.E. STAFF will proceed with any potential DISPOSITION in strict compliance with the Council-approved DISPOSITION Strategy.

#### **11.3.12 Approval of Changes**

Any proposed change to the Council-approved DISPOSITION Strategy must be approved by Council by means of a staff report from the COMMISSIONER through the Economic and Development Services Committee, unless the change relates to a matter delegated under the CITY'S Delegation of Authority By-law 29-2009, as amended.

#### **11.3.13 Purchase and Sale Agreement**

In the event that Council approves the preparation of a Purchase and Sale Agreement, PLANNING SERVICES R.E. STAFF will provide the applicable staff report and Council resolution to Legal Services with a request for it to advance the Purchase and Sale Agreement.

#### **11.3.14 "Direction to Close/Not Close" Report**

Once staff has concluded the Council-approved DISPOSITION Strategy, PLANNING SERVICES R.E. STAFF shall prepare, on behalf of the

COMMISSIONER, a closed "Direction to Close/Not Close" report to Council through the Economic and Development Services Committee which shall generally address the following:

- (a) The status of all of the items in the DISPOSITION Strategy;
- (b) The results of any "due diligence" reports/studies undertaken by the CITY or provided to the CITY by the potential purchaser (e.g. geotechnical, environmental, applicable restrictions, encumbrances, title issues, etc.);
- (c) Potential liabilities and risks association with the DISPOSITION;
- (d) The status of all conditions in any Purchase and Sale Agreement;
- (e) Final budget costs for the DISPOSITION Strategy;
- (f) Funding sources for the DISPOSITION as directed by Corporate and Finance Services;
- (g) Maintenance costs and obligations associated with the DISPOSITION;
- (h) Tax obligations associated with the DISPOSITION;
- (i) Input of the CITY SOLICITOR, other departments and, where appropriate, C.R.E.S.T.;
- (j) A recommendation on whether to close or not close;
- (k) Any relationship of the purchaser to the CITY/CITY staff/elected Officials;
- (l) Any necessary approvals and signing authorities; and,
- (m) Any other relevant information.

#### **11.3.15 Completion of Transaction by Legal Services**

Upon approval of a DISPOSITION by Council pursuant to the staff report referenced in Subsection 11.3.14 of this policy, PLANNING SERVICES R.E. STAFF will provide Legal Services with the applicable staff report and Council resolution and shall request Legal Services to conclude the necessary transaction.

#### **11.3.16 Transfer/Deed of Land**

The City Clerk and the Mayor are authorized to execute the documents to effect DISPOSITION of any REAL PROPERTY which is disposed of pursuant to this policy.

#### **11.3.17 Cost of DISPOSITION of SURPLUS PROPERTY**

All reasonable fees, costs and expenses incurred by the CITY, even if the property is sold at a nominal value, shall be recovered from the purchaser on or before the closing date, unless the sale was initiated by the CITY and the costs have been waived by the approver of the transaction.

#### **11.3.18 Terms of DISPOSITION**

Notwithstanding any resolution passed by Council under Subsection 11.3.8 of this policy to declare a site surplus, or that one or more interested parties may have presented to Council an offer to purchase, exchange or LEASE property, nothing shall fetter the absolute discretion of Council to retain the land or to dispose of the land on such terms and conditions as may be fixed by Council, which shall include the power to sell or LEASE the REAL PROPERTY for nominal consideration and to whomever it wishes, regardless of whether the DISPOSITION is to the party which has apparently presented the best offer.

### **11.4 Mortgages**

- 11.4.1 Although the CITY may have authority to grant a mortgage under the Municipal Act, 2001, as amended, or under the regulation enacted thereunder, such



mortgages will not be discussed with a potential purchaser or recommended by the COMMISSIONER unless there are extraordinary circumstances and with the agreement of the Chief Administrative Officer, the Commissioner of Corporate and Finance Services and the CITY SOLICITOR. In the event the CITY is purchasing land, all mortgages registered on title of the land must be discharged by the seller.

## **12.0 APPRAISALS/LETTERS OF OPINION OF VALUE**

- 12.1 Clause 7.4.1(a) of this policy discusses APPRAISALS/LETTERS OF OPINION OF VALUE and thresholds that Economic and Development Services staff will recommend to the Economic and Development Services Committee and Council as part of an ACQUISITION Plan or DISPOSITION Strategy.
- 12.2 Appraisers and registered real estate brokers shall be engaged by Purchase Order where the cost of the APPRAISAL or LETTER OF OPINION OF VALUE exceeds the discretionary spending limit of the DIRECTOR.
- 12.3 The Purchase Order shall include the Terms of Reference for the assignment prepared by the APPRAISER or registered real estate broker as part of their proposal/bid.
- 12.4 PLANNING SERVICES R.E. STAFF shall provide any appraiser and/or registered real estate broker engaged by the CITY to undertake an APPRAISAL, LETTER OF OPINION OF VALUE and/or peer review with all relevant background information available which may have bearing on the value or use of a property, such as the following:
- (i) Land use designation in the Oshawa Official Plan;
  - (ii) Current zoning;
  - (iii) Physical or geotechnical conditions;
  - (iv) Environmental condition;
  - (v) Cultural heritage value;
  - (vi) Existing restrictions and any need by utilities for EASEMENTS, etc.;
  - (vii) Encumbrances; and/or,
  - (viii) Liabilities.
- 12.5 Economic and Development Services staff can provide the appraiser/registered real estate broker with any advice or any suggested comparables at the start of an assignment as part of a Purchase Order.
- 12.6 Once the Purchase Order is issued, however, staff will not provide any additional comparables or advice and will not provide an opinion on value or influence the appraiser/registered real estate broker.
- 12.7 Economic and Development Services staff may review a draft of any APPRAISAL/LETTER OF OPINION OF VALUE for accuracy and facts (e.g. location, characteristics of the CITY-owned land, etc.), and may make enquiries of the appraiser/registered real estate broker to ensure staff have a fulsome understanding of the information being presented, but will not provide any additional comparables or advice and will not provide an opinion on value or influence the appraiser/registered real estate broker.
- 12.8 Economic and Development Services staff shall receive the APPRAISAL/LETTER OF OPINION OF VALUE as submitted.
- 12.9 In the event staff does not agree with an APPRAISAL/LETTER OF OPINION OF VALUE, this is to be addressed in the applicable staff report with reasons.
- 12.10 The COMMISSIONER or DIRECTOR may dispose of surplus REAL PROPERTY without obtaining an APPRAISAL or a LETTER OF OPINION OF VALUE if the circumstances of the DISPOSITION meet any of the following criteria:
- (a) The DISPOSITION involves one of the following types of property:

- (i) Reserves of 0.3 metres or less in width acquired in connection with an approval or decision under the Planning Act;
  - (ii) Closed HIGHWAYS, if sold to an owner of land abutting the closed HIGHWAY;
  - (iii) Land that does not have direct access to a HIGHWAY, if sold to the owner of land abutting that land;
  - (iv) Land repurchased by an owner in accordance with Section 42 of the Expropriations Act; or,
  - (v) EASEMENTS granted to a PUBLIC AUTHORITY or to a utility in accordance with Subsection 11.2.9 of this policy;
- (b) The DISPOSITION is to one or more of the following PUBLIC AUTHORITIES:
- (i) The Regional Municipality of Durham;
  - (ii) Any local board, as defined in the Municipal Affairs Act, R.S.O. 1990, c. M. 46;
  - (iii) An authority under the Conservation Authorities Act, R.S.O. 1990, c. C. 27; or,
  - (iv) The Crown in Right of Ontario or of Canada, and their agencies.

## **13.0 LEASES and LIMITED INTEREST AGREEMENTS**

When CITY property is not required for immediate use but may be required to meet the CITY's long term needs, the CITY may enter into a LEASE or other LIMITED INTEREST AGREEMENT allowing the use of the property by another party. Written clearances from all affected CITY departments are required to ensure that there are no municipal needs prior to the lands being used.

The COMMISSIONER is responsible for LEASES or other LIMITED INTEREST AGREEMENTS. All such transactions are to be undertaken by PLANNING SERVICES R.E. STAFF in consultation with C.R.E.S.T. and the CITY SOLICITOR. PLANNING SERVICES R.E. STAFF will conduct their responsibilities in accordance with the REAL PROPERTY management Principles and Objectives outlined in Subsection 7.4.1 of this policy.

### **13.1 Priority**

Available REAL PROPERTY is limited and therefore priority may be given to service clubs or groups affiliated with the CITY, in consultation with the appropriate departments.

In assessing which groups to recommend, consideration may be given to the following:

- Number of years in operation;
- Area in which the group provides services;
- Scope, magnitude and types of services offered;
- Ability of the group to operate without financial assistance from the CITY, both in the short and long term;
- Total costs and benefits to the CITY in assisting the group; and/or,
- The degree to which the group participates in commercially oriented activities.

### **13.2 Method of Securing a Tenant**

The COMMISSIONER and DIRECTOR shall determine the appropriate method of securing a tenant, which may include a public call for bids via tender or proposal, using a realtor or negotiating with a specific tenant.

### **13.3 Agreement**

All tenants or licensees of CITY property will be required to execute an agreement prepared by Legal Services. Any additional licences, permits or approvals which may be required for the facility's operation must be obtained by the tenant or licensee.

### **13.4 LEASE and LIMITED INTEREST AGREEMENTS at Market Rent**

LEASES and LIMITED INTEREST AGREEMENTS are generally entered into at market rent. A nominal rent (\$2.00) or a reduced rent may be applied when:

- The agreement is with a PUBLIC AUTHORITY, or
- The agreement is with a not-for-profit organization that actively provides services which supplement CITY services, as determined by the COMMISSIONER in consultation with the Commissioner, Community and Operations Services, and the Commissioner, Corporate and Finance Services.

PLANNING SERVICES R.E. STAFF will assess, in consultation with C.R.E.S.T., any capital costs to facilitate the occupancy by a group before entering into any agreements at nominal value. Groups which occupy space at nominal rents and which do not fully utilize the space may be required to share the space with another group.

### **13.5 Heritage Properties**

In the event the LEASE or LIMITED INTEREST AGREEMENT involves a REAL PROPERTY that may have cultural heritage value, PLANNING SERVICES R.E. STAFF will consider the potential impact on the heritage nature of the property.

### **14.0 Private Buildings on Public Lands**

The CITY may entertain proposals for public-private partnerships to erect a permanent structure on lands owned or LEASED by the CITY, provided any such proposal received is reviewed and evaluated by the appropriate department with respect to design and construction details, including the provision for ongoing lifecycle maintenance. All such proposals will require the approval of City Council.

### **15.0 Input From Other Sources**

The CITY SOLICITOR and other Departments, as appropriate, shall be provided the opportunity to comment on draft staff reports prepared by PLANNING SERVICES R.E. STAFF. In the event a draft report is revised after those comments have been received and the changes, in the opinion of the COMMISSIONER, are substantive, then each of the others shall be afforded an opportunity to review the revised draft report and provide new comments.