

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

CORPORATE POLICY AND PROCEDURES

Category	Policy
	LAND MANAGEMENT

Policy No. 032 CAO 005

DEVELOPED BY: The Property Disposition Task Force

APPROVED BY: City Council

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POLICY STATEMENT:

The Corporation of The City of Kawartha Lakes requires policies and procedures for land management. This policy statement sets out the philosophy, principles and procedures for the management of the inventory of property owned, or to be acquired, by the Corporation.

AUTHORITIES:

Section 193 of the *Municipal Act, 2001* S.O. 2001, c. M.25, governs municipalities' obligations with respect to the disposition of real property.

Section 207 of the *Municipal Act, 2001* requires municipalities to adopt policies regarding the sale and other disposition of municipally owned land. To promote consistent, transparent and equitable processed in disposal in a manner consistent with the best interest of the City.

RESEARCH/REFERENCES:

N/A

SCOPE:

This policy covers all real property owned or to be acquired by The Corporation of the City of Kawartha Lakes.

DEFINITIONS:

“City” refers to The Corporation of the City of Kawartha Lakes.

“Committee” refers to the Council sitting in Committee of the Whole, unless the Council has authorized a special ad hoc committee to deal with the issue in question. In those circumstances, the ad hoc committee is intended.

“Council” means the elected council of the City.

“Director” means the Director of Economic Development of the City.

“Land Management Committee” means a staff committee chaired by the Realty Services Manager composed of representatives of each of the departments of Community Services, Public Works, Development Services, Engineering and Corporate Services, as appointed by the Director of each relevant department. Realty Services Law Clerk provides a recording secretary function, and minutes of decisions are recorded for every meeting. The Land Management Committee is the administrative and legal arm for the management of the real estate portfolio owned by the City.

“Portfolio Management Team” means a staff committee co-chaired and project managed by the Office of Strategy Management (which also acts as recording secretary), co-chaired by the Realty Services Manager, and comprised of the Asset Manager and Manager of Building and Property. The Portfolio Management Team is the asset management function for the real estate portfolio owned by the City.

“Land Management System” refers to the policies and procedures outlined in this policy statement.

“Realty Services Manager” refers to a person employed by the City with that title. Where the City has not employed a person with that title, the term refers to the City Solicitor, or his or her delegate.

BACKGROUND:

Inquiries from residential property owners, businesses and public institutions such as school boards regarding acquisition or occupation of City-owned real estate or selling real estate to the City are received by all City departments and by Council. All inquiries should be directed to the Realty Services Manager. Having a comprehensive Land Management System comprised of an up-to-date City-owned property inventory, a list of surplus properties, a comprehensive profile of each property, established real estate procedures to evaluate inquiries, and a revised real estate disposition by-law, will enable the expeditious and prompt consideration of all inquiries.

All leases and licenses, including encroachment agreements, are held in the Clerks’ Office. The Clerks’ Office will notify the Realty Services Division of upcoming renewals 6 months prior to expiry of a tenancy where the City is the landlord. Where the City is the tenant, the Portfolio Management Team will consider the lease in light of long term portfolio planning, and make a recommendation to Council (report authored by the Manager of Building and Property, who shall

have jurisdiction over all City-owned buildings, regardless of their occupancy) with the assistance of the Realty Services Division.

Accounts Receivable manages all the invoicing related to leases and licenses, with the exception of temporary leases issued by Community Services of its buildings pursuant to the CLASS system.

To assist the Realty Services Manager (who is responsible for the management of the City's Land Management System) with recommendations to Council, a City staff Land Management Committee comprised of representatives from the departments of Development Services, Planning, Community Services, Engineering and Corporate Assets and Public Works has been established. This group's role is to undertake the ongoing analysis of each City-owned land parcel to determine present or future municipal need. The Realty Services Manager, after acquiring the Land Management Committee's input, together with that of the appropriate Ward Councillor (or Councillors where the property spans wards), prepares a Report for providing a recommendation to Council. However, with some requests to sell a particular City-owned property, the input provided by the Land Management Committee could indicate the municipal use opportunities require significant analysis before considering selling a property. In these situations, the City department with the identified, specific need (i.e., future road servicing corridor, recreation, etc.) for a particular property would complete an analysis (including acquiring input from the Land Management Committee) and provide a recommendation to Council.

To assist the Land Management Committee, the Portfolio Management Committee will establish a 5 – 10 year plan on a portfolio basis, for each community within the City of Kawartha Lakes. The Portfolio Committee will have regard to Council-approved plans, including but not limited to, asset management, parkland, transit, and affordable housing plans when determining long term planning for each community.

Acquisition of property for municipal staff occupancy is considered by the Portfolio Management Committee at least two years prior to occupation date. If Council agrees to acquire property, the Realty Services Manager (typically) negotiates an acquisition with property profile information provided by the City's Land Management Committee. There are exceptions to whether or not the lead negotiation person is the Real Estate Manager. One example involves public road allowance widenings acquired at little or no cost in conjunction with environmental assessments or agreements about fence maintenance. These, for example, are negotiated by the Director of Engineering & Corporate Assets. The Portfolio Management Team composition ensures that the City is in a position to acquire land in a timely manner with respect to its long term requirements, to maximize the options available to the City and ensure cost reduction. The Land Management Committee composition ensures that staff discuss processes regularly and all are kept informed about discussions in progress. Cross-corporate representation ensures that all relevant and appropriate input is received, such as input as to locations of underground services, potential land contamination, Wilson Estate or other trust implications, etc.

City Council makes all final decisions to purchase real estate and to sell or to retain or lease (above a certain cost and term threshold, established in by-law 2016-009) City-owned real estate.

Typically, real estate activity related to City-owned lands cover 5 areas as follows:

- A- Offers to sell or lease land TO the City;
- B- Offers FROM the City to purchase or lease from private (or other public) interests;
- C- Offers FROM the City to sell land, directly to certain individuals (lot expansions; road allowances) or on the open market (development land; building lots; surplus facilities);
- D- Third party inquiries to purchase, lease or occupy land FROM the City; and

E- Encroachment circumstances, whether or not intentional.

It is helpful to establish guidelines for determining the respective roles and responsibilities of the Departments represented on the Land Management Committee in relation to each of these five types of activity. This policy provides those guidelines and procedures.

The City's property disposition by-law (No. 2010-118) and encroachment authorization by-law (No. ____) are utilized by the Land Management Committee as appropriate.

PHILOSOPHY:

All dispositions of municipal realty shall occur at market value or greater.

PROCEDURES:

Offers to sell or lease land TO the City

Examples include:

- (a) School Boards offering surplus land to the City;
- (b) Conservation Areas offering land to the City;
- (c) CN Rail, Hydro One Inc., etc. offering surplus property corridors to the City; and
- (d) Private individuals who approach the City (i.e. waterfront homeowners; valley land owners, land for fences or road widenings).

Where persons approach the City to dispose of a property interest, the following procedure is followed:

1. All such offers are communicated to the Clerks in the Realty Services Division, regardless of the point of entry to the City (Clerk's office; Development Services; etc.).
2. The Realty Services Clerk contacts the owner (if necessary) to advise of process and timing or liaises with the appropriate departmental staff member (i.e. the Director of Engineering & Corporate Assets in circumstances of land-for-fence negotiations) to contact the owner.
3. The Realty Services Clerk takes the offer to the next regularly scheduled Land Management Committee for review. In cases of extreme urgency, a special Land Management Committee meeting might be required.
4. The Land Management Committee analyzes the offer, considering the City's need (or desire) for the acquisition or lease for municipal purposes and the significance of the land parcel in question, the City's ability to purchase, whether or not an appraisal is required, and appropriate funding sources.
5. Where members of the Land Management Committee agree upon the treatment of the offer, the Realty Services Clerk proceeds to draft a report to Council to obtain direction. Prior to finalization of the report, the content discussed with the appropriate Ward Councillor(s).
6. If the Land Management Committee does not agree on treatment of the matter, then the Realty Services Manager shall determine the direction to be taken.
7. If there is a significant corporate issue involved, then a co-ordinated response may be appropriate. All relevant departmental directors shall have input in determining the lead department for purposes of the report. A joint report may be necessary to Council in committee of the whole.

A- Offers FROM the City to purchase or lease from private (or other public) interests

From time to time, staff may recognize either a need or an opportunity for the City to occupy or acquire land for existing or future municipal purposes.

Examples include:

- (a) Desirable parkland or open space property (waterfront, neighbourhood or community parks);
- (b) Road extensions or widenings; and
- (c) Land required for new/expanded City facilities (new depot site, parking lots; arenas, pools, cemeteries, fire halls, contaminate attenuation zones, etc.).

In the case of road extensions or widenings, the lead department will be the Department of Engineering and Corporate Assets, as the one with responsibility for the subject matter in terms of policy or operations. It will undertake the research, analysis and reporting to Council on the policy context, financing, timing, need, location, etc. The lead department will consult with the Realty Services Division and any other appropriate sources (such as the Wilson Estate representatives or other potential third-party funding sources) prior to reporting regarding matters such as land values, appraisal reports, etc.

In the case of acquisitions for new / expanded City facilities, or for parkland, Portfolio Management Team will consider the need approximately 2 years prior to occupancy date. The Portfolio Management Team will advance a refusal / alternative plan to the requesting department or, in the case of a recommended acquisition, will advance the request to Council via report by the Manager of Building and Property in conjunction with the Manager of Realty Services.

Upon Council approval, the Realty Services Division will implement the resolution.

C- Offers FROM the City to sell or lease land, directly to certain individuals (lot expansions; road allowances) or on the open market (development land; building lots; surplus facilities)

Sometimes there is no clear market for a parcel of land (particularly remnant parcels remaining after implementation of a project) except to a select few interests. In those cases, although the by-laws require the advertisement of the potentially surplus lands, interest in them may not be expressed and may have to be solicited.

Examples include:

- (a) Sales or leases of land to legalize or regularize encroachments;
- (b) Sales of closed road allowances offered to abutting owners pursuant to section 66 of the Municipal Act, 2001; and
- (c) Sales of remnant parcels of land “leftover” after development to abutting owners as lot accretions.

In these circumstances, the Realty Services Manager has carriage of the matter and will report to Council in this regard.

D- Third party inquiries to purchase or lease land FROM the City

Interest is invited from members of the public or other agencies in any land the City currently owns, when it has been declared surplus. However, interest can and is expressed from time to time on land that has not been considered surplus or even potentially surplus – or even land that is under active City use and clearly not surplus. However, if an appropriate land exchange is part of the offer, or if the City facility would be better placed elsewhere (using purchase funds), it may well be appropriate to consider the offer regardless of whether or not the Land Management Committee has historically considered the land potentially surplus.

Examples include:

- (a) Lands owned by the City which are attractive to persons or corporations proposing to invest in the community; and
- (b) Lands owned and operated by the City which are strategically located for private economic interests, and not necessarily optimally located for the municipal operation.

Where persons approach the City with inquiries, the following procedure is followed:

1. All such inquiries are communicated to the Clerks of the Realty Services Division, regardless of the point of entry to the City (Clerk's office; Development Services; etc.).
2. The Realty Services Clerk contacts the person inquiring (if necessary) to advise of process and timing.
3. The Realty Services Clerk takes the inquiry to the next regularly scheduled Land Management Committee for review. In cases of extreme urgency, a special Land Management Committee meeting might be required.
4. The Land Management Committee analyzes the inquiry, considering the City's need (or desire) to retain the land for municipal purposes and the significance of the land parcel in question. At this time, other options for properties or facilities not previously considered surplus can be reviewed.
5. Where members of the Land Management Committee agree upon the treatment of the offer, the Realty Services Clerk proceeds to draft a report to Council for instruction.
6. If the Land Management Committee does not agree on treatment of the matter, then the Realty Services Manager shall determine which decision will be made and, if applicable, which recommendation will be made to Council.
7. In circumstances where property disposition by the City in response to an inquiry would require a significant change of use (Official Plan Amendment, Rezoning application, or plan of subdivision), then a representative from the Planning Department shall be in attendance at the Committee to provide advice.
8. If there is a significant corporate issue involved, then a co-ordinated response may be appropriate. All affected Directors shall have input in determining the lead department for purposes of the report. A joint report may be necessary, reporting to Committee or to Council.
9. If Council approves a course of action to sell or lease property, the Real Estate Manager will negotiate terms, in consultation with the City Solicitor, and prepare the appropriate report on a proposed agreement of purchase and sale to Council.

E- License and Encroachment Circumstances

Requests to occupy City property through an agreement which is less than a lease arise in two circumstances. The first is where City property is being occupied inadvertently. The second is where City property is either being occupied intentionally or is intended to be occupied

intentionally in the near future, and consent of the City is sought. Leases in these circumstances are not practical because the property occupier does not seek exclusive occupation rights or because the occupation of property is not intended to end within a determinable time frame. Examples include circumstances where business awnings, eaves, or signs, or residential eaves or porches, overhang City road allowances, parks, or open spaces where structures are accidentally erected with small portions encroaching on or over City realty, where persons deed land to the City pursuant to the Planning Act, but that land is partially occupied by structures, where businesses seek permission to temporarily occupy boulevard property for sidewalk sales or cafés, etc.

The City's Encroachment By-law, No. ____, governs circumstances where City staff are authorized to grant encroachment agreements.

Requests for encroachment agreements are processed by application to the Land Management Committee, which are received by the Realty Services Division.

F- Short Term Licenced Use of Municipal Premises – Exemptions from this Scheme

It is understood that the City staff person with management authority over each municipal facility may, with the consent of the Chief Administrative Officer, authorize the licencing of space within that facility. These licences will involve non-exclusive possession or shared use for short time periods, terminable at any time on short notice. Extent of occupation, term and consideration are at the discretion of the facility manager, with the consent of the Chief Administrative Officer, and subject to applicable law.

Examples include: short term storage or gathering space for Christmas donations for community groups and the use of municipal space by the Riverfront Festival.

Longer term occupations, even if non-exclusive, are not subject to this process, but to the processes described in Sections "C" or "D" (as applicable) of this policy.

The annual license program to use roadways for patios is separately administered by the Engineering and Corporate Assets Department.

The temporary occupation of roadways for construction, including driveway construction, is separately administered by road occupancy permits issued by the Public Works Department.

G- Financial Considerations: Accounting for Proceeds from Leases, Licences & Sales

In all circumstances, the proceeds from the lease or disposition of municipal property shall be first applied to the expenses associated with the sale or lease (i.e. advertising, surveys, legal and registration fees, appraisals, etc.).

Where municipal property is encumbered with a trust or other legal restriction on the disposition of the net proceeds, those proceeds will be administered in accordance with that legal restriction (for example, Planning Act restriction on use of funds from parkland sales).

As a general rule, the net proceeds from the sale of any municipal property will be deposited in a corporate account for future land acquisition and capital improvements to existing property (including demolition of structures).

Council may direct the net proceeds from the sale of any municipal property in a manner not provided for in this Policy.