



STAFF REPORT ACTION REQUIRED

Delegation of Certain Powers in Real Estate Matters

Date:	January 23, 2008
To:	Executive Committee
From:	Deputy City Manager and Chief Financial Officer and City Solicitor
Wards:	All
Reference Number:	P:\2008\Internal Services\F&re\Ec08006F&re – (AFS 3511)

SUMMARY

To delegate various approving and signing powers in real estate matters.

RECOMMENDATIONS

The Deputy City Manager and Chief Financial Officer and the City Solicitor recommend that:

1. City Council delegate the approving and signing powers in real estate matters as set out in Appendix A.
2. City of Toronto Municipal Code Chapter 27, Council Procedures, be amended as necessary to give effect to the delegation set out in Appendix A.
3. In respect of the exercise of delegated authority to dispose of land, City Council, as the approving authority under the *Expropriations Act*, authorize the Government Management Committee and staff to whom authority to dispose of land is being delegated, to dispose of lands acquired by expropriation without giving the owner from whom the land was expropriated the first chance to repurchase the land on the terms of the best offer received by the expropriating authority.
4. In respect of the acquisition of contaminated lands by means other than the development review process, City Council rescind the policy adopted by the former

City of Toronto entitled “Environmental Issues – Real Property Acquisitions” as set out in Clause 46 of Report No. 11 of the Executive Committee at its meeting of June 21, and 22, 1993, and the former City of Etobicoke “Policy and Procedures for Dealing with Contaminated or Potentially Contaminated Sites”, adopted by the former Etobicoke Council meeting on September 15, 1997, together with any other subsisting policies from the legacy municipalities.

5. This authority supercede and replace the delegation of approving authority in real property matters authorized by City Council’s adoption of Appendix A-1 of Clause No. 1 as amended of Report No. 11 of The Corporate Services Committee at its meeting held on July 29, 30 and 31, 1998.
6. Authority be granted to the City Solicitor to submit any bills required to implement the foregoing, including all necessary amendments to City of Toronto Municipal Code Chapter 27, Council Procedures, and other chapters in the Municipal Code and other by-laws, generally in accordance with the report recommendations and Appendix A, and subject to any necessary technical adjustments.

FINANCIAL IMPACT

There is no financial impact as a result of this report. It is a pre-condition to the exercise of any delegated authority that all required funding be available in an approved budget.

DECISION HISTORY

City Council at its meeting on July 29, 30 and 31, 1998 adopted Clause No. 1 as amended of Report No. 11 of the Corporate Services Committee, authorizing the processes to be used for the acquisition and disposal of real property, including the delegation of approving authority in real property matters in accordance with Appendix A-1 of that report.

ISSUE BACKGROUND

The City’s existing delegation of authority in real estate matters was designed at the time of amalgamation in 1998. With new powers and new responsibilities set out in *City of Toronto Act, 2006*, and given staff’s eight years of experience with the current series of delegations, there is an opportunity now to improve the stage on which the City conducts its real estate transactions, leading to more expeditious handling of those transactions while freeing up Committee and Council Agendas from a litany of transactional matters.

COMMENTS

The 1998 Chart of delegated real estate authorities is attached as Appendix A-1.

Pursuant to that delegated authority, the City Manager was given authority to approve acquisitions of property up to \$500,000; expropriation offers up to \$500,000 and

expropriation settlements up to \$250,000 above the statutory offer; various leasing matters where the term is between three and ten years and the total payment is \$500,000 or less; and jurisdictional transfers of real property between Departments. The Chief Corporate Officer was given authority to approve various leasing matters where the term is less than three years and total payment \$500,000 or less; nominal acquisitions; and other miscellaneous transactions.

The underlying principal in 1998 when the existing delegation of authority was approved, as it is today, is that various types of real estate/property matters, often routine in nature and/or relatively minor in dollar amounts, can unduly and unnecessarily lengthen Committee and Council agendas. This can result in delays in implementing the necessary transactions and documentation, thereby placing the City at a disadvantage when competing in the real estate market, all of which translates into missed opportunities for the City.

The proposed updated delegation of authorities in real estate matters is reflected by the placement of bullets on the chart in Appendix A.

General real estate market values in the City of Toronto have increased approximately 90% since 1998, and as such, matters that could originally proceed by delegated authority, must now be reported through Committee and Council. Accordingly, in order to more accurately reflect today's real estate values, the proposed delegations include increased financial ceilings. In order to increase efficiency, both Government Management Committee, and a broadened list of staff positions are proposed for delegated approving authority (i.e. based on stepped financial ceilings), thereby streamlining the City's real estate practices.

The result will be that the City will be able to react more quickly in the real estate marketplace, and further, once a transaction is approved, staff will be in a position to process all necessary documentation far more expeditiously.

Some of the basic concepts of the proposed delegations are:

- The basic threshold premise is that Council should retain decision-making control over real estate transactions exceeding Five Million Dollars. Jurisdiction for decision-making on transactions between \$1 Million and \$5 Million should rest with Government Management Committee. For example, if the proposed delegation is adopted, transactions such as the acquisition of land for the Morningside Avenue/Finch Avenue East/CPR Grade Separation Project for \$1.43 Million and the lease of office space at 235 Danforth Avenue for the public health department for approximately \$2.9 Million, would be decided by Government Management Committee.
- Staff should have decision-making authority, for the types of transactions referred to in Appendix A, within a series of "stepped" financial ceilings, generally following the

pattern of: City Manager \$1Million; Chief Corporate Officer \$500,000; Executive Director \$250,000; Director \$100,000; and Manager \$25,000.

- The following chart very generally reflects the proposed changes to the delegated financial limits in real estate matters (for full detail, together with conditions and limitations, see Appendix A):

Delegation in Real Estate Matters	Existing Approving Authority	Proposed Approving Authority
Transactions exceeding \$5 Million Dollars.	Council	Council
Transactions between \$1 Million and \$5 Million	Council	Government Management Committee
Transactions not Exceeding \$1 Million	Council	City Manager
Transactions not Exceeding \$500,000	City Manager (Chief Corporate Officer for certain leasing transactions)	Chief Corporate Officer
Transactions not Exceeding \$250,000	City Manager (Chief Corporate Officer for certain leasing transactions)	Executive Director
Transactions not Exceeding \$100,000	City Manager (Chief Corporate Officer for certain leasing transactions)	Director
Transactions not Exceeding \$25,000	City Manager (Chief Corporate Officer for certain leasing transactions)	Manager

- Any transactions not within the types referred to in Appendix A or falling outside of the parameters of the General Conditions, will continue to be reported through the appropriate Committee to Council. For example, acquisitions and dispositions that

exceed 5 million dollars, would continue to be reported through the appropriate Committee to Council. Another example would be a proposed parkland acquisition in the amount of \$20,000 where budget approval had not been received.

- The Affordable Housing Committee retains jurisdiction over the acquisition, sale and leasing of property for affordable housing initiatives as set out in the Council Procedural By-law.
- In addition to the series of delegated “approving” authorities, a series of delegated “signing” authorities at Section B of Appendix A provides that the positions having approving authority will also have authority to execute documents on behalf of the City required to implement the approval.
- The delegation to Government Management Committee will be governed by existing provisions in the Council Procedural By-law which provides that when Council delegates any authority to a Council Committee (which includes Government Management Committee), then the Council Committee may exercise the delegated authority, and Council may no longer exercise such authority.
- If, in any particular circumstance, a matter otherwise having been delegated to staff for approval is of such special interest that same should receive the consideration of Government Management Committee and ultimately be decided by Council, a determination may be made by the Chief Corporate Officer, in consultation with the applicable Deputy City Manager or the City Manager, to return such item to the Government Management Committee/Council process for consideration and decision-making by Council.
- Council may revoke any delegation, whether to Committee or to staff, at any time.

Some of the highlights of the proposed delegations are:

A. General Conditions

The “General Conditions” in Appendix A set out the parameters within which the proposed delegated authorities may be exercised, and will, in effect, constitute Rules of Interpretation applicable to all of the delegations. These include:

- the local Councillor will be consulted prior to the exercise of delegated Approving Authority by staff for all acquisitions, disposals, land exchanges and leases;
- authority to approve financial commitments/expenditures is subject to all amounts being available in an approved budget;
- authority to approve transactions at less than market value is subject to statutory anti-bonusing provisions;
- values for property interests are to be based on appraised values; and
- documents are to be in a form satisfactory to the City Solicitor.

B. Highway (Laneways, Streets)

At present, Transportation submits a report to Community Council recommending the road closure, including giving notice of the proposed closure. The proposed delegation will allow the Chief Corporate Officer to initiate the road closure process and to authorize the General Manager of Transportation to give notice of proposed permanent highway closures, conditional upon confirmation by the General Manager of Transportation that it is feasible to close the highway. The road closure by-law will continue to be considered by Committee and enacted by Council.

C. Exchange of Lands Within Green Space in the OP

The City's Official Plan provides that no City-owned land within the Green Space System and Parks and Open Space Areas of the Official Plan may be sold or disposed of except in the case of a land exchange where the land being exchanged is (i) nearby land of equivalent or larger area; and (ii) of comparable or superior green space utility.

The proposal is for the Chief Corporate Officer to approve such exchanges, conditional upon confirmation by the Chief Planner and Executive Director, and the General Manager of Parks, Forestry and Recreation that the land being exchanged is (i) nearby land of equivalent or larger area, and (ii) of comparable or superior greenspace utility.

D. Acquisition of Contaminated Property

Since amalgamation, relying on best practices from the legacy municipalities (some of which were embodied in Council policies, others of which were standing staff policies), the practice which has been followed is that the acquisition of any environmental contaminated land required special exemption from Council, on a case-by-case basis (except land acquired through the development process which is the subject of a different series of Council policies).

However, in order to keep current with the reality of the environmental state of real property in many locations throughout the City, it is now being proposed (for lands being acquired other than through the development process) that staff (or, where applicable, Standing Committee) have authority to determine the suitability of potential sites for acquisition, and to exercise their delegated authority to approve the acquisition of same where the total cost (including clean-up) falls within the financial parameters set out in Appendix A, and on the condition that provision is made to bring the property into compliance with applicable MOE or other requirements, such that it will be fit for its intended municipal purpose.

Accordingly, the historical policies of the legacy municipalities should be rescinded, and staff is recommending same in Recommendation No. (4) of this report.

E. Disposing of Land Acquired by Expropriation

There is no proposed delegation of the authority to expropriate land as such decisions should remain with Council. It is only with respect to the compensation within specified financial limits in expropriation matters where delegation is recommended.

Some of the lands which may be sold pursuant to the delegation of authority to approve disposals of lands recommended in this Report may have originally been acquired by expropriation. The *Expropriations Act* provides that when a municipality intends to sell lands which were acquired by expropriation, the former owner is to be given the chance to purchase the land on the terms of the best offer received unless the approving authority authorizes the disposal of such land without giving the former owner such first chance to purchase.

It is recommended that Council, as the approving authority, authorize the Government Management Committee and staff to whom authority to dispose of land is being delegated, to dispose of lands acquired by expropriation without giving the owner from whom the land was expropriated the first chance to repurchase the land on the terms of the best offer received by the expropriating authority.

F. Revisions to Council or Delegated Government Management Committee Decisions in Real Estate Matters

In order to relieve Committee/Council agendas of the burden of numerous reports relating to minor changes/revisions to decisions, it is proposed that authority be delegated to Government Management Committee, and to the senior staff positions of City Manager and Chief Corporate Officer only, to revise Council decisions (including prior decisions) or, where delegated, Government Management Committee approvals, with respect to those types of matters described in column A of the chart in Appendix A, subject to the threshold condition that any amendment(s) must not be materially inconsistent with the original decision. Any such amendment must also meet all of the General Conditions in Appendix A. Further conditions are that any additional proposed amounts may not exceed the amount of the original decision by the lesser of 10 per cent and, in the case of Chief Corporate Officer, \$500,000; in the case of City Manager, \$1 Million, and in the case of Government Management Committee, \$5 Million. Where such proposed additional amount exceeds 10 per cent of the original decision even if otherwise in compliance with all other conditions, then approving authority is transferred upward to the next more senior level of approving authority having the relevant overall financial limit. Revisions may also relate to non-financial matters such as: changing a date, revising the site's configuration or area, changing a party's name, or other terms or conditions. For example, staff originally sought and received Committee/Council approval of a long term lease of the Jolly Miller property at 3885 Yonge Street, providing that rent was to commence based on building permit issuance, and a letter of credit was to be provided in an amount specified in the Council report to secure the tenant's proposed capital expenditures. Upon review of the tenant's construction budget, the amount of the

Letter of Credit had to be reduced, but staff could not accept less than what Council had specifically stipulated. In addition, despite delays with the building permit, the tenant agreed to clarify the rent commencement date. Such changes should be capable of approval, without having to report back through Committee and Council.

G. Encroachments

A variety of delegated authorities exist relating to encroachments on City property (roads, parks, other), the most recent of which delegated to Community Councils the authority to make decisions related to those types of encroachments not already delegated to staff. It is intended that a harmonized approach to the delegation of decision-making relating to encroachments will be the subject of a future report. Accordingly, no delegated authority relating to encroachments is being proposed in this report.

H. Transparency and Accountability

In order to maintain accountability to the public and transparency of process in relation to the exercise of the proposed delegated authorities in real estate matters, in addition to the various notices to the public to be given in certain transactions, both an Office (paper) and Web Register for Delegated Approval Forms (DAFs) will be established and maintained. In addition, a summary of acquisitions and disposals will be included in the quarterly report submitted in normal course to Committee and Council.

CONTACT

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SIGNATURE

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ATTACHMENTS

Appendix “A” – Delegation of Authorities in Real Estate Matters

Appendix “A-1” – 1998 Approving Authority for Real Property Matters