



STAFF REPORT ACTION REQUIRED

Sale of the Public Lane Extending Southerly from Adelaide Street West Abutting the Westerly Limit of 299 Adelaide Street West

Date:	February 24, 2010
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	Trinity-Spadina – Ward 20
Reference Number:	P:\InternalServices\RE\Gm10019re-(AFS11654)

SUMMARY

The purpose of this report is to recommend and authorize the sale of a stratified portion of the public lane extending southerly from Adelaide Street West and abutting the westerly limit of 299 Adelaide Street West to the adjacent owner, Daniels HR Corporation, for incorporation into their proposed development of a 43 storey mixed use building. The recommended sale price is \$2,170,000.00 and the proceeds of sale would be held in the Land Acquisition Reserve Fund in accordance with the Policy Governing Land Transactions Among City Agencies, Boards, Commissions and Departments and Proceeds from Sale of Surplus City-Owned Property ("Proceeds Policy").

The terms for completing the transaction as set out in Appendix "A" to this report are considered to be fair, reasonable and reflective of market value.

This report also reviews, but does not recommend, a proposal from Daniels HR Corporation, which provides that in exchange for the value of the public lane, Daniels HR Corporation would construct community/performance space in the proposed development, at cost, for freehold conveyance to the City. The community/performance space would be conveyed to the City when construction is completed, and residual monies, if any, from the sale of the lane once the construction costs are deducted would be used to fund the operation and maintenance of the community/performance space.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council, subject to authorizing the permanent closure of the public lane shown as Parts 1 to 3 on Sketch No. PS-2010-024 (the “Lane”), authorize the City to accept an Offer to Purchase in the amount of \$2,170,000.00 from the Daniels HR Corporation (“Daniels”) to purchase the Lane substantially on the terms and conditions outlined in Appendix “A” to this report, and on such other terms and conditions as may be acceptable to the Chief Corporate Officer, and in a form satisfactory to the City Solicitor.
2. City Council authorize each of the Chief Corporate Officer and the Director of Real Estate Services severally to accept the Offer to Purchase on behalf of the City.
3. City Council grant authority to direct a portion of the proceeds of closing to fund the outstanding expenses related to the Lane and the completion of the sale transaction.
4. City Council authorize the City Solicitor to complete the transaction on behalf of the City, including paying any necessary expenses, amending the closing, due diligence and other dates, and amending and waiving terms and conditions, on such terms as she considers reasonable.

Financial Impact

Revenue in the amount of \$2,170,000.00 (net of GST), less closing costs and the usual adjustments, is anticipated from this sale. According to policy, these proceeds will be deposited in the Land Acquisition Reserve Fund.

Should Council elect to accept the proposed community/performance space in exchange for part of the value of the stratified portion of the public laneway, and apply the balance of the value to one-time fit-up costs, other financial implications must be considered. Once the community/performance space is conveyed to the City, the City would be responsible for Land Transfer Tax, as well as all costs arising from an agreement which would be required with the condominium corporation regarding a share of common area and capital costs. These costs cannot be determined at the present time because neither the appraised value of the community/performance space itself, nor the methodology for cost sharing with the condominium corporation is known.

The suggestion for City ownership included a possible occupancy or ownership agreement with Toronto Artscape. While it is assumed that the uses which would arise from Toronto Artscape’s operation of the space would support the ongoing costs, the source for the one-time costs is not specified, other than the undetermined balance of the Lane sale proceeds, once the space is constructed.

If such an agreement with Toronto Artscape were not to be concluded, or was discontinued, the City, as owner of the community/performance space, would have full responsibility for a space which is not currently part of the Service Plan or the Capital and Operating Budget resources of the Economic Development and Culture Division.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

In accordance with the City's Real Estate Disposal By-law, No. 814-2007, the Lane was declared surplus on January 6, 2010 (DAF No. 2010-007), with the intended manner of disposal to be by inviting an offer to purchase the Lane from the adjacent owner at 299 Adelaide Street West.

At its meeting of September 30 and October 1, 2009, City Council adopted Item TE27.14, Final Report – 21-31 Widmer Avenue and 299 Adelaide Street West – Rezoning (“Rezoning Report”). The Lane is incorporated into the proposed development that is the subject of the Rezoning Report.

ISSUE BACKGROUND

Staff of Transportation Services received a request from Daniels to purchase the Lane for incorporation into their proposed development of a 43 storey mixed-use building. The Lane bisects the length of their proposed development site at 21-31 Widmer Street and 299 Adelaide Street West. One of the conditions of site plan approval is for Daniels to obtain City Council's approval for the closure and sale of the Lane.

COMMENTS

Transportation Services has reviewed the feasibility of closing the Lane and are submitting a report to the Toronto and East York Community Council meeting scheduled for March 9, 2010, recommending that the Lane be permanently closed.

Details of the Lane are as follows:

Approximate North/South Measurement:	78.0m (255.9 ft)
Approximate East/West Measurement:	3.1m (10.2 ft)
Approximate Area:	238.5m ² (2,567.2 ft ²)
Other Information:	Save and except for the stratified portion of the Lane, being those air rights above 146 metres from grade

Sale of the Public Lane abutting the westerly limit of 299 Adelaide Street West

All steps necessary to comply with the City's real estate disposal process as set out in Chapter 213 of the City of Toronto Municipal Code have been complied with. A Cost Centre has been put in place to charge costs directly related to the sale of City-owned properties. A recommendation is included in this report to direct a portion of the sale proceeds to fund the outstanding expenses related to the Lane.

Community/Performance Space

A recommendation adopted in the Rezoning Report requires that Daniels execute an Agreement pursuant to Section 37 of the Planning Act and satisfactory to the City which is to include, inter alia,: "The provision of a community/performance space in the building having a minimum gross floor area of 420 square metres, to be provided to the City at cost, subject to funds being secured on or before the passing of Bills. If the City is unable to fund the purchase of the community/performance space, the applicant shall provide an appropriate alternate community benefit to be negotiated with planning staff and the Ward Councillor, acting reasonably".

The Rezoning Report outlines a proposal from the applicant/purchaser whereby community/performance space would be conveyed to the City as a freehold conveyance, upon construction completion, as part of an exchange for the value from the sale of parts of a 3.048 metre wide public laneway that runs north-south through the site. It further proposes that any residual monies from the applicant from the purchase of the Lane, after deducting the cost of constructing the community/performance space, would be used to fund the operating and maintenance of the space.

Application of the City's Real Estate Policies

Based on City's real estate policies including the Proceeds Policy, which was adopted by Council on June 18, 19 and 20, 2002, the proceeds of sale of City real estate are held in the Land Acquisition Reserve Fund ("LARF"), rather than be directed to other initiatives. The LARF was created in 2000 to receive funds generated from the disposal of surplus properties and to provide funding for various capital projects from these proceeds. Committing the proceeds from the sale of the Lane to secure the community/performance space would require that City Council exempt the transaction from this policy and thereby divert the funds from other capital projects, possibly in other areas of the City.

There are numerous unknown financial liabilities, whether imposed through required reciprocal agreements or as a result of tax/utility/maintenance obligations. It is unknown whether any residual monies would be sufficient to fully fund operation of the space for any sustained length of time.

By its adoption of EX32.5 on May 25, 26 and 27, 2009, City Council adopted the Principles of a Real Estate Strategy. The Principles state that City real estate is a “corporate” asset that supports municipal functions and purposes of the ABCDs. Principle 4 states that “ABCDs will be required to budget the cost of additional corporate real estate assets at fair market value in their 10 year Capital Program.” At present, the acquisition of the community/performance space is not reflected in any ABCD’s budget nor is there any stated requirement for the space.

The policy governing the Provision of City-Owned Space to Community Organizations at Below-Market Rent provides that space made available for community use at below-market rent through the City’s surplus property disposal process is to be allocated through a Request for Proposal process. The community/performance space is not a surplus property as it is not in the City’s portfolio and an exemption from this policy would be required in order to enter into a below market lease with a community organization. Accordingly, any lease to Toronto Artscape would require such an exemption, if Toronto Artscape was prepared to accept less than a title transfer of the community space.

Staff therefore recommends that the Lane be sold to Daniels in accordance with the recommendations provided herein and the proceeds of sale be held in the LARF in accordance and compliance with the Proceeds Policy.

CONTACT

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SIGNATURE

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ATTACHMENTS

Appendix “A” – Terms and Conditions of Offer to Purchase
Appendix “B” – Site Map