

Build Toronto Progress

Date:	May 29, 2014
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	All Wards
Reference Number:	P:\2014\Internal Services\Re\Gm14011re - AFS 19603

SUMMARY

This report is intended to address the request of Government Management Committee, at its meeting held on April 7, 2014, for a report on various matters related to the progress that Build Toronto has achieved.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council direct that the Chief Corporate Officer consider on a case by case basis whether it is appropriate to recommend to Council that Build Toronto pay market value for any additional land requested by Build Toronto that is supplementary to or required to implement the development of a property by Build Toronto after Council initially approved terms for the transfer of the property to Build Toronto.
2. City Council direct Build Toronto to provide a summary of the value created on the sale of each property closed during the year and on each project completed during the year within each Annual Report.

Financial Impact

There is no financial impact arising from this report. The financial implications of property transfers to Build Toronto have been identified previously in the staff report entitled "Principles of a Real Estate Strategy and Declaration of Surplus for Sale/Transfer or Turnover to Build Toronto" adopted, as amended, by City Council on May 25, 26 and 27, 2009 (EX32.5). To date, the City has received \$30 million in dividends from Build Toronto.

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

DECISION HISTORY

On April 7, 2014, in its consideration of Item GM29.4, "Corporately Adopted Guidelines and Policies for Property Transfer to Build Toronto", the Government Management Committee adopted motions requesting further information, as follows:

1. Requested the Chief Corporate Officer, in consultation with the Affordable Housing Office and Build Toronto, to report to Government Management Committee by June 16, 2014 on Build Toronto's affordable housing program including targets and production.
2. Requested the Chief Corporate Officer, in consultation with the Deputy City Manager and Chief Financial Officer, to report to the Government Management Committee by June 16, 2014 on the feasibility of requiring Build Toronto to pay market value for any additional land requested by Build Toronto that is supplementary to or required to implement the development of a property by Build Toronto after Council initially approved terms for the transfer of the property to Build Toronto.
3. Requested the Chief Corporate Officer, in consultation with the Deputy City Manager and Chief Financial Officer and Build Toronto, to report to the Government Management Committee by June 16, 2014 on ways to report to City Council the value created by Build Toronto on individual sites or properties transferred to Build Toronto by the City.

ISSUE BACKGROUND

On October 29 and 30, 2008, City Council adopted EX24.1, being a report from the City Manager entitled "New Model to Enhance Toronto's Economic Competitiveness", and established two new corporations, Build Toronto and Invest Toronto. Build Toronto is the real estate and development corporation created to unlock the value of the City's under-utilized real estate holdings. Invest Toronto is the economic development corporation created to attract business investment in the City and to achieve the City's economic development objectives.

City Council directed the CCO to develop a corporate real estate strategy that incorporates long term plans for the program delivery of all City Agencies, Boards and Commissions ("ABCs"). City Council also authorized the CCO to conduct any real estate audits necessary in order to optimize the use of City and ABC land holdings, and to transfer or turn over to Build Toronto any City or ABC lands with potential for private development.

New Model to Enhance Toronto's Economic Competitiveness (Report)

<http://www.toronto.ca/legdocs/mmis/2008/ex/bgrd/backgroundfile-15926.pdf>

On May 25, 26 and 27, 2009, City Council adopted, as amended, EX32.5, the "Principles of a Real Estate Strategy and Declaration of Surplus for Sale/Transfer or Turnover to Build Toronto". The Principles of a Real Estate Strategy provided the foundation of the new real estate strategy for the City and the integration of Build Toronto into the review, assessment and determination of the optimum potential for the City's land holdings, whether for continued program use, for private redevelopment or a combination of both. In addition, City Council declared surplus 16 properties for transfer to Build Toronto and 5 properties for turnover to Build Toronto.

Principles of a Real Estate Strategy and Declaration of Surplus for Sale/Transfer or Turnover to Build Toronto (Report)

<http://www.toronto.ca/legdocs/mmis/2009/ex/bgrd/backgroundfile-20629.pdf>

Report on Executive Committee Motion Regarding EX32.5a

<http://www.toronto.ca/legdocs/mmis/2009/cc/bgrd/backgroundfile-21424.pdf>

On April 3 and 4, 2013, City Council adopted Item GM20.6, entitled "Property Transfers to Build Toronto – Enhanced Process", which set out an enhanced process of consultation by Real Estate Services with City Planning and the local councillor in order to determine if a recommendation would be made to City Council to transfer a stratified portion of any property to Build Toronto.

Property Transfers to Build Toronto – Enhanced Process (Report)

<http://www.toronto.ca/legdocs/mmis/2013/gm/bgrd/backgroundfile-56133.pdf>

COMMENTS

Build Toronto – Progress From Establishment

The City's expectations of and objectives for Build Toronto and Build Toronto's mandate, scope of responsibility and reporting requirements are set out in the Shareholder Direction. It also sets out the relationship between Build Toronto and the City, its sole shareholder, including matters that require City Council consideration and authorization, reporting on its budget and development activities, paying dividends to the City, etc.

In 2008, the City authorized an amount of \$10 million for the purpose of setting up and commencing the business and operation of Build Toronto, but these funds were not drawn upon by Build Toronto. Start-up costs for Build Toronto included funds to hire staff, secure office space, develop a business plan and begin investigating and advancing a portfolio of 21 properties that the City declared surplus in 2009 for transfer or turnover to Build Toronto for development. City Council approved the transfer of these properties to Build Toronto on a nominal basis, so that its financial resources could be concentrated on the value-adding process in pursuit of the highest and best use of the properties and securing other City objectives.

Build Toronto is intended to be self-financing over the long term. Build Toronto has no dedicated source of financing other than the revenues generated by its development activities and by borrowing against its assets. Development revenues are either used to fund Build Toronto's operations and development projects or to provide a financial return to the City through payment of dividends. These payments depend on the proceeds of sale, development or lease of certain properties in that period. Build Toronto has distributed dividends of \$30 million to the City since start-up.

Build Toronto is working with the City on a dividend policy to clarify conditions and expectations related to payment of dividends to the shareholder. Concurrent with the reporting on the dividend to be provided to the City, Build Toronto should be required to report on the value created on the properties from which the payment was derived. Build Toronto now provides an Annual Report on its development activities and its progress in adding value to the properties. The Annual Report should outline the value created by Build Toronto on each sale undertaken or closed during the year and on each project completed as well.

Legislative changes are being sought by the City to ease financial requirements and timing issues related to the transfer of properties to Build Toronto:

1. to allow the City to provide loan guarantees in favour of Build Toronto subject to limits on the amount and time period in order to assist in accelerating its value-adding process;
2. to exempt Build Toronto holdings from the payment of property taxes until commercial use or ownership transfer triggers a change; and
3. to exempt the City from determining if there has been historic contribution by the Province for the purchase or improvement of the properties intended to be transferred to Build Toronto.

In any consideration of the value creation of Build Toronto, it should be recognized that real estate development takes many years to complete and be able to provide a final accounting of a project, typically 5-7 years. The steps of the real estate development process include securing necessary municipal approvals (official plan, zoning, site plan approval, building permit), environmental remediation, marketing, servicing, constructing of buildings, occupancy and registration of transfer of interests to other parties. If Build Toronto is in a partnership/joint venture arrangement with other parties, for the development of multiple buildings, the completion of the project may be in the order of 10 years. Thus it is difficult in any one year to have a fulsome accounting of the financial value achieved by that project until it is completed.

The financial value created by Build Toronto also includes increased assessments and property tax revenues and revenues generated from its development activities such as development charges, parks contribution fees, planning and building fees, and Section 37 benefits and payments.

Build Toronto makes an important contribution to the City's financial health by transforming tax exempt lands into their highest and best use which augments the City's taxable assessment base and results in significantly higher annual tax revenue at the completion of the development process and continuing indefinitely. Analysis of a sample of 3 properties transferred to Build Toronto has indicated that these properties increased the City's assessment base by \$32,556,000 and would contribute \$350,975 in municipal tax revenue annually.

In addition to generating financial returns to the City, City Council has established other objectives for Build Toronto and future reporting on Build Toronto's value creation should also address contributions in these areas:

- attract targeted industries
- stimulate desirable employment
- regenerate neighbourhoods
- advance development opportunities.

Affordable Housing Targets and Production

By its adoption of Recommendation 7 of EX32.5 on May 25, 26, and 27, 2009, City Council directed that in lieu of the Housing First Policy, the Deputy City Manager responsible for Affordable Housing Office work with Build Toronto on opportunities for the delivery of affordable housing on Build Toronto's residential properties.

Build Toronto entered into a Memorandum of Understanding (MOU) with the Deputy City Manager responsible for the Affordable Housing Office, regarding the development of affordable housing by Build Toronto, on May 20, 2010. The MOU sets out a target of Build Toronto contributing 1,250 affordable ownership and rental homes over five years.

Progress on achieving affordable housing on Build Toronto sites has been challenged by the absence of senior government affordable housing funding and Build Toronto's primary focus on returning a financial dividend to the City of Toronto.

However, in recognition of the importance of the role surplus public lands can provide in supporting new affordable housing, Build Toronto and the Affordable Housing Office are developing a 2- to 3-year action plan to identify key sites for affordable housing.

This action plan will focus on aligning relevant housing funding programs and opportunities to provide affordable housing arising from the planning process. At the same time it is also necessary that Build Toronto look to include affordable housing as a requirement when it enters into new residential development partnerships. Likewise, there will also be instances where it would be advisable for Build Toronto to contribute financially to the provision of affordable housing.

To date, of the 19 property locations that have been transferred to Build Toronto from the end of 2010: 4 are intended for employment use; 5 are in development for townhouses or single family dwellings; and 4 have been sold for high rise condominium development. Build Toronto is currently engaged in the development process on 6 properties (some in partnership with other developers). There is potential for the creation of affordable housing on the following properties:

- 2 Bicknell Avenue - 23 units
- 411 Victoria Park Avenue – 25 units
- Strachan/Ordnance - 30 units
- 497 Richmond Street – a 50 bed youth shelter
- 30 Tippet Rd – 35 units
- 120 and 130 Harbour St and 10 York St – 12 units as a Section 37 benefit

Of the properties still to be transferred to Build Toronto, affordable housing is being pursued at:

- 5131 Sheppard Avenue East -100 units
- 383-423 Old Weston Road - 40 units by Habitat for Humanity subject to resolution of environmental issues
- 1035 Sheppard Avenue West - 300 affordable units subject to removal of restrictive covenants, which do not permit residential development.

Feasibility of Market Value for Supplementary Transfers to Build Toronto

In a few instances Build Toronto has requested that lands that the City had not previously considered surplus to municipal requirements be released and made available to it in order to enhance and add to a property previously approved for transfer to Build Toronto. These transfer proposals are considered supplementary to the original City determination of surplus lands intended for transfer to Build Toronto. These supplementary transfers of properties have been reported on to Government Management Committee and City Council in the same manner as other property transfers to Build Toronto, that is, to be transferred "as is" for nominal consideration.

Government Management Committee has requested that staff report on the feasibility of requiring Build Toronto to pay market value for such supplementary transfers.

As discussed in the previous section, City Council has authorized the provision to Build Toronto of an inventory of properties, including supplementary transfers, for nominal consideration, and continues to do so. Each supplementary transfer has to be considered on its own merits. In certain circumstances such as a portion of a road allowance that has to be stopped up and closed and declared surplus, or a portion of the City-retained strata that subsequent to planning review of a development concept may be requested and considered appropriate to be declared surplus, it may be appropriate for the City to require fair market value for such supplementary transfers.

In circumstances where Build Toronto is in a partnership/joint venture with other developers or has signed an agreement for the sale of a property to another developer, private sector interests could potentially benefit from a transfer of additional City lands for nominal consideration. In these circumstances, it may be appropriate that the City seek fair market value for the supplementary transfer. As such, the City would have immediate benefit of the revenue from such a sale rather than awaiting a later dividend payment resulting from Build Toronto's operations. Build Toronto has advised that it is legally prohibited from selling land to any third party at less than fair market value and would obtain fair market value on a supplementary transfer which it received for a nominal consideration.

It is recommended that when Build Toronto seeks additional lands that are supplementary to or required to implement the development of a property after City Council initially approved terms of transfer of the property to Build Toronto, City Council direct the Chief Corporate Officer to consider on a case by case basis whether it is appropriate to recommend to City Council that Build Toronto pay market value, as appraised by Real Estate Services, for such additional land in the report on this sale transaction. In a case where it is appropriate, payment could be required from the final developer of the property.

Conclusion

This report addresses the three matters for which Government Management Committee requested further information relative to the progress that Build Toronto has made with its inventory of properties. The City has mandated Build Toronto to unlock the value of transferred properties while achieving City-building goals and meeting the program requirements of the City.

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SIGNATURE

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