

## **Transfer of Properties to Build Toronto - Second Quarter 2013**

<b>Date:</b>	June 3, 2013
<b>To:</b>	Government Management Committee
<b>From:</b>	Chief Corporate Officer
<b>Wards:</b>	13, 42
<b>Reference Number:</b>	P:\2013\Internal Services\Re\Gm13015re – (AFS #17723)

### **SUMMARY**

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This report recommends the terms of transfer to Build Toronto of two properties previously declared surplus: Part of 2000 and 2002 Lake Shore Boulevard West and 5131 Sheppard Avenue East.

By its adoption of GM20.6 on April 3 and 4, 2013, Council endorsed the enhanced process for property transfers to Build Toronto to augment the declare surplus and disposal process by, among other things, inclusion of City Planning on staff teams considering property transfers and earlier and ongoing communication between real estate and the local councillor, planning and Build Toronto. This process has been implemented with respect to the properties in this report.

### **RECOMMENDATIONS**

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**The Chief Corporate Officer recommends that:**

1. City Council grant authority to enter into an agreement to transfer a stratified portion of the property municipally known as part of 2000 and 2002 Lake Shore Boulevard West more particularly described in Appendix 2, including any agreements related thereto, to Build Toronto, substantially on the terms and conditions set out in Appendices 1 and 2 attached, and on such other and amended terms and conditions as may be approved by the Chief Corporate Officer, in a form satisfactory to the City Solicitor.

2. City Council grant authority to enter into an agreement to transfer a stratified portion of the property municipally known as 5131 Sheppard Avenue East more particularly described in Appendix 3, including any agreements related thereto, to Build Toronto, substantially on the terms and conditions set out in Appendices 1 and 3 attached, and on such other and amended terms and conditions as may be approved by the Chief Corporate Officer, in a form satisfactory to the City Solicitor.
3. City Council direct that the authority granted in Recommendations 1 and 2 be subject to compliance with Section 12 of Ontario Regulation 609/06.
4. City Council grant authority to the Chief Corporate Officer to permit Build Toronto to engage in licensing and leasing activities in respect of the properties in this report that are or become the subject matter of executed transfer agreements, during the period prior to the closing of the transfer transactions, on terms and conditions as may be approved by the Chief Corporate Officer, in a form satisfactory to the City Solicitor.
5. City Council grant authority to fund the City's outstanding expenses related to the properties in this report from the Approved Operating Budget for Facilities Management and Real Estate (FM&RE), in the year(s) that the expenses are incurred, as necessary, and, once these expenses are known, to transfer the funding for these expenses from the Land Acquisition Reserve Fund (LARF), with appropriate adjustments to FM&RE's Approved Operating Budget, as necessary, through subsequent Quarterly Variance Reports.
6. City Council direct the appropriate City staff to make the requisite budget adjustments for any budgetary impacts arising from the transfer of properties to Build Toronto to be effective at the earliest opportunity following the date of transfer to Build Toronto.
7. City Council approve, as the approving authority under the provisions of the *Expropriations Act*, the transfer to Build Toronto of any property in this report that was acquired by expropriation without giving the original owner from whom the property was expropriated the first chance to repurchase the property.
8. City Council authorize severally each of the Chief Corporate Officer and the Director of Real Estate Services to execute the transaction documents required to implement the Recommendations in this report on behalf of the City, including the execution of any required consents, approvals or permissions.

9. City Council authorize the City Solicitor to complete the transactions provided for in this report on behalf of the City, including making payment of any necessary expenses, amending the closing and other dates to such earlier or later date(s), and amending or waiving the terms and conditions, as she may from time to time consider reasonable.
10. City Council authorize and direct the appropriate City officials to introduce in Council any Bills necessary to give effect to the foregoing.

### **Financial Impact**

As the City transfers properties to Build Toronto at a nominal consideration, the restriction of the transferred property to a defined strata limit has no direct effect on the costs of acquisition to Build Toronto. Rather Build Toronto may be affected by a reduction in potential revenue from the future sale of the property and/or if there is any reduction in the potential development that may be approved on the property.

Recommendations in this report will defer the receipt of proceeds from the disposition of the properties during Build Toronto's development process. However, the transfer will optimize benefits to the City as a whole and achieve potentially greater returns over time.

As the properties to be transferred to Build Toronto are being transferred for nominal consideration, no revenue will be available to cover the expenses of affecting the transfers, such as registration charges that would normally be for the account of the vendor in a transaction of purchase and sale, survey fees, appraisal fees, etc. As the total of the expenses related to these properties is not known at this time, it is recommended that these expenses be accommodated within FM&RE's Approved Operating Budget, in the year(s) that the expenses are incurred, as necessary, and that, once these expenses are known, funds be provided from the LARF. Budget transfers to adjust FM&RE's Approved Operating Budget, as necessary, funded from the LARF through subsequent Quarterly Variance Reports, are also recommended.

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

### **DECISION HISTORY**

On April 3 and 4, 2012, City Council adopted GM13.7 and approved terms of transfer for five properties to Build Toronto, declared surplus three properties for transfer to Build Toronto and deferred consideration of the terms of transfer of three properties pending community consultation.

(April 11, 2012) Report from the Chief Corporate Officer on Transfer of Properties to Build Toronto and Declaration as Surplus - Second Quarter 2012  
(<http://www.toronto.ca/legdocs/mmis/2012/gm/bgrd/backgroundfile-46409.pdf>)  
(April 11, 2012) Appendix 1 - Terms and Conditions for All Transfer Agreements  
(<http://www.toronto.ca/legdocs/mmis/2012/gm/bgrd/backgroundfile-46410.pdf>)  
(April 11, 2012) Appendices 2-9 regarding Transfer of Properties to Build Toronto and Declaration as Surplus - Second Quarter 2012  
(<http://www.toronto.ca/legdocs/mmis/2012/gm/bgrd/backgroundfile-46438.pdf>)  
(April 11, 2012) Appendix 10 - Properties to be Declared Surplus for Transfer to Build Toronto  
(<http://www.toronto.ca/legdocs/mmis/2012/gm/bgrd/backgroundfile-46439.pdf>)

On May 8 and 9, 2012, City Council adopted GM20.6 being a report (February 6, 2013) from the Chief Corporate Officer on Property Transfers to Build Toronto - Enhanced Process  
(<http://www.toronto.ca/legdocs/mmis/2013/gm/bgrd/backgroundfile-56133.pdf>)

## **COMMENTS**

To control development on lands transferred to Build Toronto, City Council has the option of establishing stratified title at particular height levels and transferring only strata parcels of City land to Build Toronto for development. At its meeting on May 8 & 9, 2012, City Council by its adoption of GM13.7 directed the Director of Real Estate Services to consult with the Chief Planner and Executive Director and the local Councillor on a property by property basis to consider if the conveyance of a stratified portion of the land is appropriate in the circumstances and consistent with the Official Plan.

By its adoption of GM20.6 on April 3 and 4, 2013, Council endorsed the enhanced process for property transfers to Build Toronto to augment the declare surplus and disposal process by, among other things, inclusion of City Planning on staff teams considering property transfers and earlier and ongoing communication between real estate and the local councillor, planning and Build Toronto. This process has been implemented with respect to the properties in this report.

Build Toronto is not technically bound by City of Toronto policies, but rather by those it adopts in accordance with its Shareholder Direction, which effectively are aligned with policy objectives of the City. This enables it to operate in a business environment and work with the private sector to commercially develop properties and unlock the value of under-utilized real estate holdings (stimulate employment, regenerate neighbourhoods) and enhance the economic competitiveness of Toronto (and further the City's policy objectives). Any property-specific issue may be addressed and made a condition of transfer in the Transfer Agreement for such property.

## **Ontario Regulation 609/06**

Ontario Regulation 609/06 provides that if the City proposes to transfer an asset to a corporation and the province has contributed funds for the purchase or improvement of the asset, the City is required to give notice of the proposed transfer to every Minister that made a contribution on behalf of the Province and obtain a release of any provincial interest in the asset.

## **Transfer Properties**

### **Part of 2000 and 2002 Lake Shore Boulevard West (Appendix 2)**

This property is part of a larger site to the east (1978 and part of 2000 Lake Shore Boulevard West) that Council has previously approved terms for transfer to Build Toronto without strata limitations (GM3.21 in May, 2011). The Ward Councillor has indicated that she would prefer a strata limit be required with respect to 1978 and part of 2000 Lake Shore Boulevard West.

For development purposes, the depth of the overall site is constrained by its location between the Gardiner Expressway to the north and Lake Shore Boulevard West to the south and by public utilities (City and Toronto Hydro infrastructure) that are situated on the western portion of the site. To this end, Build Toronto has requested that additional lands (part of 2000 and 2002 Lake Shore Boulevard West) be made available to form a larger development site, despite the presence of these utilities. The majority of 2000 and 2002 Lake Shore Boulevard West have been declared surplus for transfer to Build Toronto subject to conditions to be included in the terms of transfer requiring Build Toronto to relocate the infrastructure prior to any construction on the property. If this infrastructure is not relocated within 5 years of the title transfer to Build Toronto, the proposed terms of transfer require that the property be transferred back to the City. An existing lay-by, accessed from the Gardiner ramp, and the traffic camera location will be retained in City ownership.

#### Planning Consultation:

Official Plan:	Mixed Use Areas
Zoning:	Mixed Use District (CR T2.0 C2.0 R1.0) with an as-of-right height limit of 14 m

City Planning has advised that development height on this property should be transitional downwards between the approved heights of residential buildings north of the Gardiner Expressway and the CN rail corridor (6-35 storeys) and the waterfront and recommends a strata limit of 65 metres. This height would also accommodate the sightlines and views for the community to the north as illustrated in the Urban Design Guideline for the Windermere Village. Lastly, City Council approved the Western Waterfront Master Plan established to guide future realm improvements within this area, speaks to redeveloping this site as a parking lot, to free up additional parkland south of Lake Shore Boulevard West. This report, however, recommends transfer of the lands to Build Toronto without a requirement to secure any public parking facility on site.

#### Local Councillor Consultation:

The Ward Councillor has concerns that the height of future development north of Lake Shore Boulevard West, adjacent to Windermere Avenue should be lower than buildings located north of the Gardiner Expressway and the CN rail corridor in order to preserve views of the waterfront. It is her position that a strata limit of 60 metres above grade should apply to the 2000 and 2002 Lake Shore Boulevard West property to be transferred to Build Toronto.

Following consultation with City Planning, the Ward Councillor and Build Toronto, the Director of Real Estate Services recommends that a stratified portion of the property, limited to 65 metres above grade, be transferred to Build Toronto. With regards to the subject property of this report, a building height of 65 metres could generally be interpreted to accommodate approximately 20 storeys of residential/non-residential mixed use development.

Any development proposal for the property will continue to be subject to the City's established planning approvals process for developing property in the City of Toronto.

#### **5131 Sheppard Avenue East (Appendix 3)**

This property was acquired for the purposes of transit development along the Sheppard Avenue East corridor. The TTC considers it premature to release this property, as the alignment and design of the Sheppard Transit Extension into the Scarborough area has not been finalized. Notwithstanding the TTC's position, City Council declared 5131 Sheppard Avenue East surplus for transfer to Build Toronto and this report recommends terms of transfer to Build Toronto, without provision for the above.

#### Community Consultation

By its adoption of GM13.7, City Council in April, 2012 requested the CCO, in consultation with Build Toronto to hold consultations with residents, business and community organizations in order to determine how the needs of the community could be met with the sale of 5131 Sheppard Avenue East.

A community consultation meeting was held on July 6, 2012 with the Ward Councillor, Build Toronto, RES, City Planning and twelve community attendees. Community needs identified for this area included housing for seniors and low income families, expanded cultural facilities, recreational facilities and improved transit. It was a conclusion of this exercise that community consultation would be more meaningful as part of the City's normal planning process with the context of a specific development proposal for the property.

Planning Consultation:

OP designation	Mixed Use Areas
Zoning	Apartment Residential (A) with a Holding provision and Office Uses (OU) with a Holding provision. Maximum height for the property is 12 storeys within 30 metres of Markham Road and 18 storeys on the balance of the lands.

The current planning context has not been formally updated to take into consideration, among other matters, that this property will be located along the future Sheppard LRT line and able to support higher density and built form than was contemplated when the existing zoning was approved. Given the opportunity for intensification and until further study is undertaken regarding this potential, City Planning does not consider the establishment of a strata limit to be appropriate under the circumstances.

Local Councillor Consultation:

Several consultations have been held with the Ward Councillor. He is requesting a strata limit to restrict building height to 18 storeys be applied to the property and a requirement that 30% of any residential development be set-aside as affordable housing for seniors.

Following the consultation noted above, there is no consensus on an appropriate strata limit on this property as further study and assessment would be required to update the planning context and use this as the appropriate basis for determining a strata limit on the property. In order to move this property forward, the Director of Real Estate Services recommends that a stratified portion of the property, limited to 61 metres above grade, be transferred to Build Toronto. This strata height of 61 metres is generally based on the as-of-right zoning height limit provision of 18 storeys for residential or commercial/residential mixed use for the site, inclusive of root-top mechanical equipment.

Any future development proposal for the property will continue to be subject to the City's established planning approvals process for developing property in the City of Toronto.

With respect to the proposal for 30% affordable seniors housing, Build Toronto has under the terms of the Affordable Housing Memorandum of Understanding agreed to secure an agreement, on the disposition of the property, that includes a requirement that 30% of any future residential development of the property, to be developed as affordable housing.

In an effort to prioritize the development of affordable seniors housing, Build Toronto has agreed to work with the City's Affordable Housing Office to identify potential affordable housing partners capable of providing housing targeted at meeting the needs of low and moderate income seniors. Build Toronto has also agreed to work with the City's Affordable Housing Office to prioritize available municipal, provincial and federal affordable housing investments to assist in achieving this 30% affordable housing requirement as part of any future development of this property.

## **Conclusion**

This report recommends the terms of transfer to Build Toronto of the following properties: a stratified portion of parts of 2000 and 2002 Lake Shore Boulevard West and a stratified portion of 5131 Sheppard Avenue East.

Implementation of the recommendations in this report will contribute to Build Toronto's portfolio of development properties and help to enhance and realize the value of the City's real estate holdings.

## **CONTACT**

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## **SIGNATURE**

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Josie Scioli  
Chief Corporate Officer

## **ATTACHMENTS**

Appendix 1– Terms & Conditions for All Transfer Agreements  
Appendix 2 – Part of 2000 and 2002 Lake Shore Boulevard West  
Appendix 3 – 5131 Sheppard Avenue East