TORONTO

# STAFF REPORT
# ACTION REQUIRED

# Toronto and Region Conservation Authority's (TRCA) Residential Rental Program

| | |
|---|---|
| **Date:** | May 12, 2014 |
| **To:** | Executive Committee |
| **From:** | City Manager |
| **Wards:** | **All** |
| **Reference Number:** | |

## SUMMARY

This report provides an overview of the Toronto and Region Conservation Authority's (TRCA) Residential Rental Program, including the information on TRCA rental homes in the City of Toronto, current rental rates, vacancies and marketing strategies.

The report also provides information on TRCA's structure and funding partners, as well as a review and comparison of TRCA Conflict of Interest provisions with the City's Conflict of Interest provisions.

## RECOMMENDATIONS

**The City Manager recommends that:**

1. City Council request the Toronto and Region Conservation Authority (TRCA) to review and update their Conflict of Interest provisions and address any gaps in their provisions including the inclusion of a perceived conflict of interest in their definition of conflict of interest and provisions respecting special treatment of employees.

### Financial Impact

There are no direct financial implications arising from the recommendations in this report.

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

## DECISION HISTORY

On January 29 and 30, 2014, City Council adopted the 2014 Capital and Operating Budgets for the Toronto and Region Conservation Authority.
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.EX37.1

## ISSUE BACKGROUND

### TRCA Structure and Governance

The Toronto and Region Conservation Authority is established under the *Conservation Authorities Act* of Ontario to further the conservation, restoration, development and management of natural resources, other than gas, oil, coal and minerals for the nine watersheds within its area of jurisdiction.

The Ministry of Natural Resources (MNR) administers the *Conservation Authorities Act* and associated programs. Conservation authorities are watershed-based public sector organizations that implement resource management programs that serve both provincial and municipal interests. MNR's program for all conservation authorities, for which MNR and municipalities share responsibility, is related to public safety and natural hazard prevention and management. MNR provides conservation authorities with leadership, policy direction, and technical advice. There are 36 conservation authorities in Ontario.

TRCA is a body corporate whose administration of policy is determined by its mandate under the *Conservation Authorities Act* and by regulations and rules it has adopted. It is not an agency, board or commission of the City nor is it a corporation which the City controls. Management of the business and affairs of TRCA is performed by its members. The role of the City as a participating municipality in TRCA is to appoint members to the Authority and to raise the funding required by TRCA.

Members of a conservation authority are appointed by the respective councils of the participating municipalities. TRCA consists of 28 members appointed by its six participating municipalities: the City of Toronto, the Regional Municipalities of Durham, Peel and York, the Township of Adjala-Tosorontio and the Town of Mono. The City of Toronto is entitled to appoint 14 members representing half of the Authority's members. Nine members are City Councillors.

To carry out its responsibilities, the Authority elects an Executive Committee and a Budget/Audit Advisory Board to make recommendations on those matters defined in their Terms of Reference. Three City Councillors are elected to an Executive Committee that meets monthly to review day-to-day management decisions of the Authority, including the administration of the TRCA's Fill, Construction and Alteration to Waterways Regulation. One Toronto Councillor sits on the Budget/Audit Advisory Board. The Advisory Board considers matters assigned to them as provided for in the Rules of Conduct for the Authority, and as described in the adopted Terms of Reference.

## Land Transactions

TRCA has the following powers under subsection 21(1) of the *Conservation Authorities Act* regarding land transactions for the purposes of accomplishing its objects:

- acquire by purchase, lease or otherwise and to expropriate any land that it may require;
- sell, lease or otherwise dispose of land;
- lease land it has acquired, for a term of five years or less;
- use lands that are owned or controlled by the TRCA for purposes, not inconsistent with its objects, as it considers proper; and
- use lands owned or controlled by the TRCA for park or other recreational purposes, and to erect, or permit to be erected, buildings, booths and facilities for such purposes and to charge admission.

## TRCA's Funding Partners and Municipal Levy

TRCA's capital and operating budgets include contributions from and are approved by six different municipalities: City of Toronto, Regions of York, Peel and Durham, Town of Mono and the Township of Adjala-Tosorontio.

### Capital Projects and Plan

Prior to proceeding with a capital project, TRCA must file plans with the Minister of Natural Resources and obtain written approval. TRCA then determines the proportion of the total benefit of the capital project for the participating municipalities and the funding required from each municipality must be in the same proportion as the benefit derived by the municipality from the capital project.

Once the capital projects are determined, TRCA gives written notice of the amount to be raised by the municipality either through the issuance of debentures or otherwise. The municipal council may apply for a review of the apportionment to the Ontario Municipal Board (OMB). The OMB may confirm or vary the authority's apportionment and may fix and award costs. The OMB's decision is final and cannot be appealed. Ultimately, the payment required by the municipality in respect of the capital costs may be enforced in court by TRCA as a debt due by the municipality.

TRCA's 2014 Capital Budget is $34.383 million. The City of Toronto's contribution is $13.970 million or 40.6%. The table below provides the municipal levy contributions that fund the TRCA's capital budget.

## TRCA Capital Budget: 2009-2014

| Capital | Budget 2014 $ | % | Budget 2013 $ | % | Actual 2012 $ | % | Actual 2011 $ | % | Actual 2010 $ | % | Actual 2009 $ | % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Toronto** | 13,970,000 | **40.6%** | 8,380,000 | **30.5%** | 8,235,000 | **33.1%** | 11,645,000 | **43.1%** | 6,506,000 | **30.4%** | 6,264,305 | **31.8%** |
| **Durham** | 948,000 | **2.8%** | 886,962 | **3.2%** | 871,225 | **3.5%** | 870,762 | **3.2%** | 896,387 | **4.2%** | 878,800 | **4.5%** |
| **Peel** | 14,099,000 | **41.0%** | 13,887,560 | **50.6%** | 12,213,260 | **49.2%** | 11,576,260 | **42.8%** | 10,678,000 | **49.9%** | 10,183,780 | **51.6%** |
| **York** | 5,366,000 | **15.6%** | 4,312,820 | **15.7%** | 3,528,946 | **14.2%** | 2,940,985 | **10.9%** | 3,308,070 | **15.5%** | 2,391,832 | **12.1%** |
| **Other** | 264 | **0.0%** | 258 | **0.0%** | 253 | **0.0%** | 253 | **0.0%** | 303 | **0.0%** | 283 | **0.0%** |
| **Total** | **34,383,264** | **100%** | **27,467,600** | **100%** | **24,848,684** | **100%** | **27,033,260** | **100%** | **21,388,760** | **100%** | **19,719,000** | **100%** |

Other: Town of Mono and the Township of Adjala-Tosorontio

The City of Toronto's contribution of $13.970 million provides $13.650 million for State of Good Repair projects and $0.320 million for Service Improvement projects that include such projects as Tommy Thompson Park and Scarborough Shoreline Access.

The City of Toronto's contribution is partially funded from debt, which accounts for 21.5% or $3.000 million of approved financing. Other Revenues fund $10.970 million or 78.5% of the 2014 Capital Budget expenditures and are comprised of $3.970 million in Toronto Water contribution to partially fund TRCA projects related to water quality and quantity and supplementary funding of $7.000 million from Toronto Water for projects that will address critical erosion control and storm damage issues.

The table below outlines capital funding that will be provided to TRCA by the City of Toronto over the next ten years. The 2014–2023 Capital Budget and Plan totals $106.477 million and provides funding for such projects as Critical Erosion & Control, Waterfront & Valley Erosion Control, Tommy Thompson Park and Scarborough Shoreline Access projects.

## 10-Year Capital Plan (City of Toronto)

(In $000s)

| Project | 2014 Budget | Plan 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2014 - 2023 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Greenspace Land Acquisition | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | **1,000** |
| Public Use Infrastructure | 198 | 198 | 198 | 198 | 198 | 198 | 198 | 198 | 198 | 198 | **1,980** |
| Waterfront & Valley Erosion Control | 1,600 | 1,600 | 1,600 | 1,600 | 1,600 | 1,600 | 1,600 | 1,600 | 1,600 | 3,600 | **18,000** |
| Black Creek Pioneer Village Retrofit | 350 | 350 | 350 | 350 | 350 | 350 | 350 | 350 | 350 | 350 | **3,500** |
| Toronto Remedial Action Plan | 2,425 | 2,674 | 2,776 | 2,880 | 2,987 | 3,097 | 3,209 | 3,324 | 3,442 | 3,563 | **30,377** |
| Major Facilities Retrofit | 460 | 460 | 460 | 460 | 460 | 460 | 460 | 460 | 460 | 460 | **4,600** |
| Waterfront Development | 1,573 | 1,423 | 1,423 | 1,423 | 1,423 | 1,423 | 1,423 | 1,423 | 1,423 | 1,423 | **14,380** |
| TRCA Information Technology | 264 | 264 | 264 | 264 | 264 | 264 | 264 | 264 | 264 | 264 | **2,640** |
| Critical Erosion Control & Floodwork | 7,000 | 7,000 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | **30,000** |
| **Total (Including carry forward funding)** | **13,970** | **14,069** | **9,171** | **9,275** | **9,382** | **9,492** | **9,604** | **9,719** | **9,837** | **11,958** | **106,477** |

The capital funding provided to TRCA by the City of Toronto in 2014 enables TRCA to continue the following major projects:

- *Critical Erosion Control Needs* ($7.000 million): addressing critical erosion control needs and damage caused by July 8, 2013 storm.

- *Waterfront & Valley Erosion Control* ($1.600 million): valley and shoreline erosion protection initiatives.
- *Toronto Remedial Action Plan* ($2.425 million): monitoring and re-naturalization of watercourses, water quality and habitat improvements.
- *Waterfront Development* ($1.573 million): site preparation and monitoring at various waterfront sites.
- *Black Creek Pioneer Village Retrofit* ($0.350 million): addressing the backlog of restoration and major maintenances.
- *Major Facilities Retrofit* ($0.460 million): retrofit of various administrative offices to provide improved energy efficiency and healthier working conditions.

**Operating Budget**

TRCA's maintenance and administrative costs are also apportioned among and levied against the participating municipalities by TRCA.

The method of apportioning administrative and maintenance costs is based on modified assessment. Modified assessment for a municipality is determined by dividing the area of the municipality within the authority's jurisdiction by its total area, and multiplying the result by the modified current value assessment of the municipality. Pursuant to Ontario Regulation 670/00, maintenance costs are apportioned by TRCA among participating municipalities on the benefit derived by the municipality determined either (a) by agreement with the municipality, or (b) by the ratio which each participating municipality's modified assessment bears to the total authority's modified assessment. Administrative costs are apportioned solely on the basis of modified assessment in accordance with (b).

The total amount that is levied against a municipality is certified by the Secretary-Treasurer of the authority to the Municipal Clerk, and the municipality is required to collect the levied amount in the same manner as municipal taxes. The levied amounts may be enforced by TRCA in court as a debt due by the municipality. Municipalities may appeal the authority's levy to the Mining and Lands Commissioner within 30 days of receiving notice of the levy. The Commissioner is required to hold a hearing and may confirm, rescind or vary the amount of the levy. The Commissioner's decision is final and cannot be further appealed.

TRCA's 2014 Operating Budget is $12.850 million. The City of Toronto's contribution represents $7.858 million or 61.2%. The table below details the various municipal levies that fund the TRCA's operating budget.

**TRCA Operating Budget: 2009-2014**

| | Budget 2014 $ | % | Budget 2013 $ | % | Actual 2012 $ | % | Actual 2011 $ | % | Actual 2010 $ | % | Actual 2009 $ | % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Toronto** | 7,858,200 | **61.2%** | 7,666,494 | **61.4%** | 7,476,355 | **61.9%** | 7,476,396 | **62.9%** | 7,476,327 | **63.9%** | 7,297,942 | **63.5%** |
| **Durham** | 521,000 | **4.1%** | 507,365 | **4.1%** | 494,570 | **4.1%** | 484,216 | **4.1%** | 441,599 | **3.8%** | 454,440 | **4.0%** |
| **Peel** | 1,636,000 | **12.7%** | 1,572,950 | **12.6%** | 1,504,946 | **12.5%** | 1,438,940 | **12.1%** | 1,389,732 | **11.9%** | 1,359,486 | **11.8%** |
| **York** | 2,832,000 | **22.0%** | 2,746,333 | **22.0%** | 2,604,045 | **21.6%** | 2,490,356 | **20.9%** | 2,388,355 | **20.4%** | 2,385,888 | **20.7%** |
| **Other** | 2,929 | **0.0%** | 2,858 | **0.0%** | 2,084 | **0.0%** | 2,092 | **0.0%** | 1,987 | **0.0%** | 3,044 | **0.0%** |
| **Total** | **12,850,129** | **100%** | **12,496,000** | **100%** | **12,082,000** | **100%** | **11,892,000** | **100%** | **11,698,000** | **100%** | **11,500,800** | **100%** |

Other: Town of Mono and the Township of Adjala-Tosorontio

In September 2006, City Council adopted a report "Toronto and Region Conservation Authority Capital and Operating Budgets Funding from Water Reserves" (Report 7, Clause 65) from Toronto Water and the Financial Planning Division in consultation with TRCA. The report established a policy that 55% of the funding allocated to TRCA will be funded from water reserves. As a result, the City of Toronto contribution of $7.858 million net towards TRCA's 2014 Operating Budget is funded by a rate-supported contribution from Toronto Water of $4.486 million and tax-supported funding of $3.372 million as outlined in the table below.

| (In $000s) | 2013 Budget | 2014 Budget | Change $ | Change % |
|---|---|---|---|---|
| Gross Expenditures | 38,356.0 | 38,906.0 | 550.0 | 1.4% |
| Gross Revenue | 30,689.5 | 31,048.0 | 358.5 | 1.2% |
| **Net Expenditures** | **7,666.5** | **7,858.0** | **191.5** | **2.5%** |
| Less: Toronto Water Contribution | 4,377.0 | 4,486.0 | 109.0 | 2.5% |
| Tax-Supported | 3,289.5 | 3,372.0 | 82.5 | 2.5% |

## COMMENTS

### TRCA's Residential Portfolio

Toronto and Region Conservation Authority's portfolio includes 2,534 acres of land for farming purposes, 8 commercial leases comprising of golf course, yacht club, cross country and garden centre leases, as well as the 118 single family dwellings located as follows:

| Municipality | Rouge Park | Erosion/ Valley Corridor | Parkland/ Conservation Area | TRCA Operations | Near Urban Agriculture | Managed for Others | Life Tenancy | Total |
|---|---|---|---|---|---|---|---|---|
| Toronto | 35 | 2 | 2 | 1 | 1 | | | **41** |
| Markham | 29 | 2 | | | | | | **31** |
| Vaughan | | 9 | 3 | | | 3 | | **15** |
| Caledon | | 6 | 4 | | | | 1 | **11** |
| Pickering | 4 | 2 | 2 | | | | | **8** |
| Brampton | | 3 | 1 | 1 | | | | **5** |
| Uxbridge | | | 3 | | | | | **3** |
| King Township | | 1 | 1 | | | | | **2** |
| Ajax | | | 1 | | | | | **1** |
| Whitchurch/Stouffville | | | 1 | | | | | **1** |
| **Totals** | **68** | **25** | **18** | **2** | **1** | **3** | **1** | **118** |

Generally, these houses are located on properties that were acquired by TRCA for erosion and flood protection and development of the conservation areas.

TRCA's acquisition criteria are set out in greater detail in the Greenlands Acquisition Project for 2011-2015. Many of the properties TRCA has acquired over the years had houses on site and, in the majority of cases, the houses were demolished. However, in some instances, when the houses were in reasonable condition and were in a location that provided a level of security for surrounding lands, the houses were retained and rented, resulting in 118 single family houses in TRCA's possession. This also provides TRCA with revenue which offsets operating costs.

Two homes are required for TRCA operations. Dam operators are required to live in these homes as part of their job duties relating to the operation of the Claireville (Brampton) and G. Ross Lord (Toronto) dams. In addition to these two homes, 4 more are rented to TRCA staff (one in Vaughan, two in Caledon and one in Uxbridge), with a total of 6 of the 118 homes being rented to TRCA staff. 38 of these houses are either listed on the municipal heritage inventory or designated under the Ontario Heritage Act. In general, they are in fair to good condition.

Of the total, 66 homes were acquired by TRCA from the Ontario Realty Corporation as part of the Rouge Park and Bob Hunter Memorial Park transfers in 2004 and 2007. The agreement for the transfer of the lands to TRCA by the Ontario Realty Corporation was on condition that TRCA cannot sell the lands. At Authority Meeting #11/13 held on January 31, 2014, Resolution #A239/13, approved the transfer of Rouge Park lands to Parks Canada for the development of the Rouge National Urban Park. As a result, a total of 68 of the 118 homes will be transferred to Parks Canada, leaving 50 residential properties to be owned and managed by TRCA.

In the past, TRCA has reviewed its holdings to determine if any lands are surplus. As a result of these reviews, certain properties were declared as surplus and sold. The sale of these properties included residential properties such as 147 Sylvan Avenue, Scarborough, 3203 Mayfield Road, Brampton, 527, 529, 531, 556, Rodd Avenue, Pickering. The remaining houses are located within larger blocks of land. The designations in the Official Plans, Zoning By-Laws, Greenbelt Plan, Niagara Escarpment Plan and the Oak Ridges Moraine Conservation Plan will not allow for a severance of these houses from the larger holding to allow for a sale. There is one property in Vaughan that does not have these constraints although it may have a heritage designation and TRCA is currently reviewing the sale potential of this property.

As part of its rental portfolio management process, TRCA allocates a portion of the property taxes to each rental account. This allocation is based on the Municipal Property Assessment Corporation's (MPAC) valuation for the current tax year. For the 2013 taxation year, the rental portfolio assessment is $34,740,917 for 118 rental homes, reflecting an average value of $294,414 per unit.

**TRCA Residential Rental Properties in Toronto**

TRCA has 41 residential rental properties in the City of Toronto:

- *Rouge Park Transfer (35)*: 35 of the residential properties are located in the Rouge National Urban Park and are in the process of being transferred to Parks Canada. These 35 dwellings along with a few other houses that are no longer rented were transferred to TRCA by the Province of Ontario in 2004 for Rouge Park purposes. Many of the current tenants were in the dwellings at the time of transfer to TRCA, therefore the rent increases have been governed by the Ontario Rental Housing Tribunal.

- *Scarborough Bluffs – Erosion Management: Guildwood Parkway and Kingsbury Crescent Dwellings (2)*: TRCA monitors properties susceptible to erosion across the waterfront and along the river valleys. Houses that will be inevitably affected by erosion are bought when they come on the market. If the risk is not immediate, these homes are rented for a period of time. TRCA staff monitor the erosion of the Scarborough Bluffs for 2 dwellings – one at Guildwood Parkway and another at Kingsbury Crescent.

- *Park Connection (2)*: Wynnview Court: TRCA purchased two dwellings on Wynnview Court in consultation with City of Toronto Parks, Forestry and Recreation Division for a park connection between Rosetta McClain Gardens and Scarborough Heights Park. These houses are threatened by erosion at the Scarborough Bluffs in the long term. The dwellings are being rented on an interim basis until the City has funding for construction of the connection.

- *G. Ross Lord Dam Dwelling (1)*: A TRCA staff member resides in this house as a part of job duties relating to the operation of the dam.

- *Black Creek Pioneer Village Dwelling (1)*: This property is located within TRCA's Black Creek Pioneer Village holdings and has been designated under the Ontario Heritage Act. TRCA has a policy titled "Sustainable Near-urban Agriculture" which is in place to permit and encourage agricultural uses on lands owned and directly managed by TRCA. This dwelling and surrounding property is leased to the Black Creek Community Farm in support of this policy.

The sale of any properties located in the Rouge National Urban Park or receiving provincial funding would be subject to the approval of the Minister of Natural Resources. The Minister approves the sale of the property as well as the use of the proceeds.

**Rental Rates**

The Residential Tenancies Act, 2006 governs the management and rent rates for residential properties in Ontario. Residential rental rate increases are set on an annual basis by the Ontario Rental Housing Tribunal. For 2014, the guideline for increasing rents is 0.8%. For the prior two years the guideline was 2.5% and 3.1% respectively. A rate can be increased beyond the guideline when one of the following occurs:

1. A tenant leaves and a new tenant moves into the unit, or
2. When capital improvements are undertaken on a rental property.

The Act allows the landlord and tenant to agree to a rent increase more than the guideline provided the landlord will or has done capital work to the rental unit. TRCA has applied a rental rate increase beyond the guideline on several occasions when capital improvements were undertaken.

TRCA rental rates range from $471/month plus utilities to $1,924/month plus utilities, with an average of about $1,212 per home. In addition, TRCA was required to assume the current rental leases of the ORC properties at the time of the transfer, and the rental rates in 2004 ranged between $186 per month to over $1,500 per month, plus utilities. One residential property in the TRCA portfolio has a life tenancy which formed part of the negotiations for acquisition, and as a result no rent is collected.

**Vacancies**

When a TRCA rental property becomes vacant, staff research the market to determine rental rates for comparable rental properties in the area. Based on this analysis, rental rates are adjusted accordingly.

Some of the factors that affect TRCA rental rates are as follows:

- Location: While many of TRCA's residential properties are in natural settings, these locations also tend to be isolated with few surrounding amenities.
- Utility Costs: Due to the older age of the residential properties, utility costs tend to be fairly high.

**Marketing**

Over the last few years TRCA has expanded its use of media-based websites together with rental publications to advertise rental property vacancies. In order to reach a diverse audience across the GTA, TRCA uses the services of Kijiji, craigslist, Renters News and 4Rent.ca. These are not solely web-based advertising resources as they also distribute printed copies throughout the GTA.

4Rent.ca is also distributed nationwide. TRCA also advertises internally to staff via email bulletin. Prior to using web-based marketing sites, TRCA advertised in local papers, but found this to be expensive and not effective. From staff's experience, web-based marketing has proven to be the most cost effective form of advertisement, with good results.

**House Inspections**

TRCA undertakes yearly house inspections to determine the condition of their residential properties, to establish a maintenance schedule and to address health and safety concerns. When TRCA has determined that a residential dwelling has reached the end of its useful life and it is no longer financially feasible to rent it, the residential property is flagged. Depending on the condition of the house, TRCA either terminates the lease and demolishes the dwelling or it is demolished when the tenant leaves. During the last two years, two houses were demolished.

**Residential Rental Program Financial Information**

Financial information from the 2014 Budget regarding the Residential Rental Program is provided below:

| | 2014 Budget | | |
|---|---|---|---|
| | **ORC** | **Basic** | **Total** |
| **Revenue** | 980,000 | 905,000 | 1,885,000 |
| **Expenditures** | | | |
| Property Taxes | 290,000 | 187,000 | 477,000 |
| Insurance | 73,000 | 29,000 | 102,000 |
| Wages/Benefits | 103,250 | 117,600 | 220,850 |
| Maintenance | 415,750 | 305,400 | 721,150 |
| Subtotal | 882,000 | 639,000 | 1,521,000 |
| **Net** | **98,000** | **266,000** | **364,000** |
| Allocation of Central Maintenance | 0 | 118,000 | 118,000 |
| **Surplus** | **98,000** | **148,000** | **246,000** |

ORC: Ontario Realty Corporation (properties in Rouge Park)
Basic: TRCA's regular rental properties (properties outside of Rouge Park)

The total property taxes paid in all municipalities is $477,000 which includes taxes on other short term rentals such as farmland. The total amount paid in taxes on the 118 houses only is $297,000.

The budget for the rental program is reported to the board annually as part of TRCA's operating budget, which is contained in the minutes on TRCA's website.

## TRCA – Leasing TRCA Properties to its Employees

When a TRCA rental property becomes vacant, staff research the market to determine rental rates for comparable rental properties in the area. Based on the analysis rental rates are adjusted accordingly. TRCA does not place any restrictions on staff leasing TRCA properties and their practice is to internally circulate available properties to their employees at the same time as the general marketplace.

As previously stated, the TRCA advertises rental vacancies through the use of media based websites together with rental publications. In order to reach a diverse audience across the GTA, TRCA uses the services of Kijiji, craigslist, Renters New and 4Rent.Ca.

## City of Toronto – Leasing City-Owned Properties to City Employees

In 2001, the City of Toronto adopted the *Policy and Procedures in Leasing City-Owned Properties to City Employees*. This is an administrative Policy that is intended to prevent a real or potential conflict of interest related to renting City-owned properties to City employees. Specifically, the Policy sets out the employees who are prohibited from entering into a lease agreement(s) (e.g. rental agreements) with the City, including all staff from the Facilities and Real Estate Division, and senior employees who may be in a position to influence decisions regarding City properties, including, but not limited to, the Chief Corporate Officer, Deputy City Managers, Division Heads, and Directors. Currently, Real Estate Services, as part of its leasing process, will ask a potential tenant if he or she is an employee of the City to help screen for actual and potential conflicts of interest. To strengthen the City's current procedures, Real Estate Services will on a go forward basis, require prospective tenants to declare if they are a City employee as part of the lease agreement. Failure to disclose will render the lease invalid.

The development of the Policy was grounded in the requirements of the City's *Conflict of Interest Policy* adopted by City Council in August 2000. Specifically, the definition of conflict of interest requires that employees support and advance the interest of the City and avoid placing themselves in situations where their personal interest actually or potentially conflict with the interest of the City. This includes using an employee's *position*, *confidential information* or corporate time, material or *facilities* for private gain or advancement or the expectation of private gain or advancement. A conflict may occur when an interest benefits any member of the employee's family, friends or business associates. The Policy further stipulates that employees are prohibited from using their position to obtain special treatment or priority to advance their own interests or those of family and friends.

While the City's *Policy and Procedures in Leasing City-Owned Properties* prohibits specific City staff from leasing City-owned properties, in practice, and to Real Estate staff's knowledge, the City does not lease City-owned properties to any City employees in order to avoid the perception of a conflict of interest, bias or preferential treatment of City staff over the general public.

From a leasing perspective, both the *Policy and Procedures in Leasing City-Owned Properties to City Employees* and the *City's Conflict of Interest Policy* work to prevent real or perceived conflicts of interests from arising with respect to leasing city-owned property to employees. Through these policies, the City ensures that:

- senior employees who are in a position to influence decisions regarding City properties are prohibited from leasing City-owned property; and
- any public perception that an employee might have an unfair advantage in leasing a City-owned property is prevented.

When an organization is considering leasing its own property to its employees it is in the interest of the both the employer and employees to avoid any public perception of a conflict of interest or preferential treatment as a result of the leasing process.

## Review of TRCA Conflict of Interest Provisions with the City's Policy

TRCA has a comprehensive Code of Conduct for their employees which outlines the TRCA's guiding principles, its commitment to advancing an ethical workplace and commitment in key areas related to ethical conduct including conflict of interest.

The TRCA's conflict of interest provisions were compared with the City's and while they are comprehensive, there are some key gaps that should be addressed in order to strengthen the TRCA's regime for leasing of property to its employees and mitigate against any real or perceived conflict of interest.

The key gaps include:

- The definition of Conflict of Interest does not include perceived conflict of interest; and

- Provisions respecting special treatment of employees are not included.

The definition of conflict of interest in TRCA's Code of Conduct does not include that employees should avoid placing themselves in situations where their personal interest actually or potentially conflicts with the TRCA.

Provisions related to preferential treatment of employees is a standard provision in Conflict of Interest policies to provide that employees may not use their position to give anyone preferential treatment that would advance their own interest of that of friends or family.

Notwithstanding that TRCA indicates that employees who rent from the TRCA do not have input into the rental decision; the perception that they may have influence or an unfair advantage over a non-employee in the process is a concern.

In addition, leasing property to an employee places the organization in the position of both landlord and employer - a potentially undesirable combination of different relationships.

The TRCA's leasing regime needs clear rules to govern the leasing TRCA-owned properties to its employees. The rules need to be underpinned by conflict of interest provisions that direct employees to avoid placing themselves in situations where their personal interest actually or potentially conflict with the TRCA, as well as prevent any perception that TRCA employees or their family and friends have received preferential treatment or an unfair advantage in the leasing process.

## CONTACT

Josie La Vita, Director, Financial Planning, Tel: 416-397-4229, Email: jlavita@toronto.ca

Joe Casali, Director, Real Estate Services, Tel: 416-392-7202, Email: jcasali@toronto.ca

Fiona Murray, Director, Corporate Policy, Tel: 416-397-5214, Email: fmurray@toronto.ca

## SIGNATURE

_______________________________
Joseph P. Pennachetti
City Manager

## ATTACHMENTS

Appendix A – TRCA's Code of Conduct
Appendix B – TRCA's Policies for Surplus Authority Land Sales