TORONTO

REPORT FOR ACTION

Termination of the Offer to Donate Land from Mount Pleasant Group of Cemeteries to the City of Toronto

Date: January 31, 2018
To: Government Management Committee
From: Director, Real Estate Services
Wards: 23 - Willowdale

SUMMARY

The purpose of this report is to seek City Council's approval to terminate the Offer to Donate (the "Offer") between the City and Mount Pleasant Group of Cemeteries ("MPGC") for the property comprising a portion of the lands known as York Cemetery at 101 Senlac Road, Toronto shown as Parts 1, 2 and 3 on Plan 66R-29405 (the "Lands") attached hereto as Appendix "A".

RECOMMENDATIONS

The Director, Real Estate Services recommends that:

1. City Council approve the termination of the Offer to Donate between the City and Mount Pleasant Group of Cemeteries in respect of the lands shown as Parts 1, 2 and 3 on Plan 66R-29405 attached as Appendix A, effective March 30, 2018, unless Mount Pleasant Group of Cemeteries is willing to amend the Offer to Donate to extend the closing date to thirty (30) days following the dismissal or settlement of the legal proceeding between Friends of Toronto Public Cemeteries Inc. and Kristyn Wong-Tam and Her Majesty the Queen in Right of Ontario, the Public Guardian and Trustee and Mount Pleasant Group of Cemeteries.

2. City Council authorize the City Solicitor to amend the Offer to Donate to give effect to the above on such terms and conditions as the City Solicitor may from time to time consider reasonable.

FINANCIAL IMPACT

There is no financial impact with this transaction.

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

DECISION HISTORY

City Council at its meeting on May 24, 25 and 26, 2017 approved the recommendations contained in Member's Motion MM29.24 for the donation of the Lands by MPGC to the City http://www.toronto.ca/legdocs/mmis/2017/mm/bgrd/backgroundfile-104202.pdf).

COMMENTS

MPGC approached the City in 2016 regarding the donation of the Lands for park purposes. The transaction was expected to close prior to Canada Day, with the intention of an announcement pertaining to the donation being made at a local Canada Day celebration.

City Council authorized the donation pursuant to MM29.24, and the City subsequently accepted the Offer on June 21, 2017, with a closing date of June 30, 2017. On June 29, 2017, the City was advised of pending litigation between Friends of Toronto Public Cemeteries Inc. and Kristyn Wong-Tam (collectively, the "Applicants") and Her Majesty the Queen in Right of Ontario, the Public Guardian and Trustee and MPGC. As a result of being so advised, the City determined that it could not accept the Lands on June 30, 2017. As an interim measure, the closing date was extended to July 31, 2017. In the intervening time, it was determined that it was not prudent for the City to accept the donation of the Lands given the uncertainty posed by the litigation and the possible risk of being added as a third party thereto.

The City advised MPGC that it was averse to accepting the donation of the Lands while litigation was pending against MPGC and asked to amend the Offer to provide that the transaction would close upon the earlier of the dismissal or settlement of the pending litigation or receipt by the City of confirmation from the Applicants that the City may accept title to the subject lands without consequence. MPGC advised that there was no court date set for the matter and that it was not interested in extending the closing date on that basis. However, MPGC was agreeable to extending the closing date until August 31, 2017 to assist the City in its continuing consideration of this matter.

Subsequently, MPGC advised that there had been some movement in the discussions between MPGC and the Applicants and agreed to further extend the closing date of the Offer to December 31, 2017, then to January 31, 2018, and subsequently to March 30, 2018, with all other terms and conditions of the Offer to remain the same and time to remain of the essence.

Unless the pending litigation is dismissed or resolved prior to March 30, 2018 or MPGC is willing to amend the Offer to provide that the transaction will close thirty (30) days following the dismissal or settlement of the litigation, then it is deemed reasonable for the parties to agree to terminate the Offer on March 30, 2018.

In the event the Offer is terminated in accordance with the foregoing and the pending litigation is subsequently dismissed or resolved and MPGC is amenable to donating the Lands at such time, the City will once again seek authority to accept such donation.

CONTACT

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SIGNATURE

David Jollimore
Director, Real Estate Services

ATTACHMENTS

Appendix "A" - Plan 66R-29405

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