

Acquisition of Small Parcels of Land in their Existing Environmental Condition - Amendment to Delegated Real Estate Authorities

Date: October 16, 2023

To: General Government Committee

From: Executive Director, Corporate Real Estate Management

Wards: All

SUMMARY

The purpose of this report is to obtain Council authority to amend Toronto Municipal Code Chapter 213, Real Property in order to provide staff authority to approve the acquisition of certain small parcels of land that present reduced environmental risk to the City, without carrying out environmental due diligence, consistent with the exemptions from the peer review process that are set out in the City's *Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act*.

As part of the City's modernization efforts, delegating this authority to staff will bring several benefits including reduced reporting burden, property acquisition cost savings and a streamlined property acquisition process. These benefits will ultimately allow City projects requiring property acquisitions that pose a reduced environmental risk to the City, to proceed in more expeditious manner. Staff are still required to satisfy all other General Conditions set out in the Toronto Municipal Code Chapter 213, Real Property, including consultation with the local ward Councillor prior to the exercise of delegated authority and transacting at an amount no less than the appraised market value.

RECOMMENDATIONS

The Executive Director, Corporate Real Estate Management recommends that:

1. City Council amend Toronto Municipal Code Chapter 213, Real Property, by deleting General Condition (H) in Appendix B and replacing it with the following:

(H) Authority to acquire property in fee simple is conditional upon provision being made to bring the property into compliance with applicable environmental laws, regulations and policies, such that it will be fit for its intended municipal purpose,

except in the case of: (i) acquisitions of 50 square metres or less for transit shelter purposes; and (ii) acquisitions which, if the property was instead being conveyed to the City pursuant to a development application approval, would be exempt from the peer review process pursuant to the City's "Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act", as amended from time to time.

2. City Council authorize the City Solicitor to submit the necessary bill(s) to amend Toronto Municipal Code Chapter 213, Real Property, to give effect to City Council's decision.

FINANCIAL IMPACT

There is no direct financial impact resulting from the approval of this report.

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

DECISION HISTORY

At its meeting on May 5 and 6, 2021, City Council referred Item IE21.3, "Amendments to the Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act," to the Chief Engineer and Executive Director, Engineering and Construction Services for further consideration. This report recommended amending the City's Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act.

[Agenda Item History - 2021.IE21.3 \(toronto.ca\)](#)

At its meeting on October 2, 3 and 4, 2017, City Council adopted Item EX27.12, "City-Wide Real Estate – Delegated Authorities Framework and Transition Plan", which delegated certain approval and signing authorities for real estate matters to staff, subject to a number of General Conditions.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX27.12>

At its meeting on February 10 and 11, 2015, City Council adopted Item PW1.6, "Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act," which updated and consolidated the City's procedures and criteria for the acceptance of potentially contaminated lands conveyed to the City as a condition of a Planning Act application approval.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.PW1.6>

COMMENTS

Background

City Council has delegated authority to various staff positions to approve certain real estate matters where specific General Conditions have been complied with, as set out in Toronto Municipal Code Chapter 213, Real Property. Any transaction falling outside of the stipulated terms of the delegated authority must be reported through the appropriate Standing Committee and City Council. General Condition (H) currently provides:

(H) Authority to acquire property is conditional upon provision being made to bring the property into compliance with applicable Ministry of Environment, Conservation and Parks (MECP) regulations or other requirements such that it will be fit for its intended municipal purposes, except for property acquisitions of 50 square metres or less for transit shelter purposes.

Rationale for Amendment to Delegated Real Estate Authority

For certain smaller parcels of land that the City acquires (e.g., for road widening, corner rounding, etc.), undertaking an intrusive Phase Two environmental site assessment ("ESA") to determine whether any environmental mitigation is necessary, as required by the existing General Condition (H), is not practical or feasible. The physical limitations can make testing expensive and unreliable, resulting in additional assessment steps that may not yield results helpful to developing a mitigation plan. Moreover, the City's use of the parcels is unlikely to change in such a way that a Record of Site Condition under Ontario Regulation 153/04 would be required; consequently, the need for and benefit of the ESA and any subsequent mitigation plan are reduced.

The City's existing *Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act* includes exemptions from the peer review process for small parcels of land where the intended use is not changing to a more sensitive use as defined in Ontario Regulation 153/04. This includes former residential land to be used by the City as parkland, or former industrial land to be used by the City for road widening purposes. These exemptions were formulated to ensure that the risk to the City of acquiring lands having unacceptable liabilities associated with known or suspected environmental contamination is minimized.

For the above reasons, it is recommended that General Condition (H) be amended to exempt property acquisitions that would also be exempt from the peer review process under the *Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act*, as it may be amended from time to time, if the property was being conveyed to the City pursuant to this at policy. This will enable staff to exercise their delegated authority to approve acquisitions of these smaller parcels of land without first undertaking environmental due diligence.

Staff are still required to satisfy all other General Conditions set out in the Toronto Municipal Code Chapter 213, Real Property, including consultation with the local ward Councillor prior to the exercise of delegated authority and transacting at an amount no less than the appraised market value.

Benefits of Delegating Authority to Staff

As part of the City's modernization efforts, delegating this authority to staff will bring a number of benefits. These benefits include:

- Reduced reporting burden (i.e. reduced number of small parcels of land that would otherwise have to be reported to Council for approval);
- Property acquisition cost savings (i.e. approximately \$20,000 to \$40,000 per acquisition); and
- Streamlined property acquisition process (i.e. shortened by approximately 90 days);

The above benefits will ultimately allow City projects requiring property acquisitions that pose a reduced environmental risk to the City, to proceed in more expeditious manner.

Amendment to Toronto Municipal Code Chapter 213, Real Property

In order to provide staff the delegated authority to approve the acquisition of small parcels of land that present reduced environmental risk to the City, an amendment is required. It is recommended to delete the existing General Condition (H) as currently set out in Toronto Municipal Code Chapter 213, Real Property, and replace it with the following:

(H) Authority to acquire property in fee simple is conditional upon provision being made to bring the property into compliance with applicable environmental laws, regulations and policies, such that it will be fit for its intended municipal purpose, except in the case of: (i) acquisitions of 50 square metres or less for transit shelter purposes; and (ii) acquisitions which, if the property was instead being conveyed to the City pursuant to a development application approval, would be exempt from the peer review process pursuant to the City's "Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act", as amended from time to time.

Corporate Real Estate Management prepared this report in consultation with Transportation Services, Parks, Forestry and Recreation, and Engineering and Construction Services (Soil and Groundwater Quality Unit).

CONTACT

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SIGNATURE

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