

BY-LAW 2008-174

**A BY-LAW OF THE CITY OF GREATER SUDBURY
GOVERNING PROCEDURES FOR THE
ACQUISITION AND SALE OF LAND**

WHEREAS Council wishes to pass a by-law establishing procedures governing the acquisition and sale of land;

**NOW THEREFORE THE COUNCIL OF THE CITY OF GREATER SUDBURY
HEREBY ENACTS AS FOLLOWS:**

Short Title

1. This By-law may be cited as the "Property By-law".

Interpretation

2. In this By-law, the words and phrases listed below when used in this By-law shall have the following meaning ascribed to them:

"Acquire" or "Acquisition" means acquiring Land by grant, lease or purchase;

"Contract" means any agreement, regardless of form or title, for the Acquisition or Sale of Land authorized in accordance with this By-law;

"Council" means the Council of the City of Greater Sudbury;

"Department" means an organizational unit of the City of Greater Sudbury headed by a General Manager, and includes a local board or a corporation wholly owned by the City;

"Designated Appraiser" means a member in good standing of the Appraisal Institute of Canada holding either or both of an Accredited Appraiser Canadian Institute or Canadian Residential Appraiser designation;

"Full Marketability Surplus Land" includes Land which would, in the opinion of the Director of Asset Services, be of interest to potential Purchasers in the open market due to size, shape, location, topography, environmental condition, permitted land uses, or any other factor which the Director of Asset Services considers relevant;

“General Manager” means the person appointed by Council to be responsible for the operation of a Department and his or her designate and includes the Chief Administrative Officer and the Chief of Police;

“Land” includes buildings and an estate or interest in land of any nature including without limitation an easement, restrictive covenant or right of way;

“Limited Marketability Surplus Land” includes Land which would, in the opinion of the Director of Asset Services, be of limited interest to potential Purchasers due to size, shape, location, topography, environmental condition, land use restrictions, or any other factor which the Director of Asset Services considers relevant;

“Property Register” means the statutory public register which list and describes the Land owned or leased by the City;

“Purchaser” includes a lessee or grantee of Land; and

“Sale” includes a grant of Land and a lease of twenty-one years or longer.

General

3. The Director of Asset Services shall process the Acquisition of Land and dispose of all surplus Land.

4. The Director of Asset Services shall establish and maintain a public register listing and describing the Land owned or leased by the City.

5. This By-law does not apply to the acquisition or sale of Land pursuant to the *Municipal Act, 2001*, Sections 107, 108, and 110; the *Planning Act*, R.S.O. 1990, c. P.13, Part IV; or the *Expropriations Act* R.S.O. 1990, c. E .26.

Conflict of Interest

6. (1) Where an employee of the City involved in any proposed Contract relating to Land - either in his or her own behalf or while acting for, by, with or through another person - has any pecuniary interest, direct or indirect, in the proposed Contract, the employee

- (e) shall immediately disclose the interest to the Director of Asset Services and such employee's General Manager and shall describe the general nature of such interest; and
 - (f) shall not take part in the procedure governing the Acquisition or Sale of such Land; and
 - (g) shall not attempt in any way to influence the procedures governing the Acquisition or Sale of such Land.
- (2) Where an employee of the City having a direct or indirect pecuniary interest in any proposed Contract relating to Land is the Director of Asset Services, the Director of Asset Services shall, with necessary modification, comply with the provisions of section 6(1) of this By-law and shall further notify the City Solicitor.
- (3) An employee has an indirect pecuniary interest any Contract in which the City is concerned, if the employee or his or her spouse or opposite-sex partner or same-sex partner
- (i) is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public that has a pecuniary interest in such Acquisition or Sale of Land;
 - (ii) has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public that has a pecuniary interest in such Acquisition or Sale of Land;
 - (iii) is a member of an unincorporated association or partnership, that has a pecuniary interest in such Acquisition or Sale of Land.
- (4) All Council members shall conduct themselves in accordance with the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, as amended.

Sale of Land

7. Before Land is declared surplus by Council, the Director of Asset Services shall circulate a notice to
 - (a) the General Managers of the City; and
 - (b) local boards, utilities and any other public bodies identified by the Director of Asset Services as having a potential interest in the Land, which notice shall determine whether or not a Department or such local board, utility or other public body has a potential interest in the Land.
8. The notice shall include a description of the Land and other pertinent information and shall state that if, within a fixed period of time, no expression of interest is received or no easement requirements are necessary, the City or such local board, utility or other public body shall be deemed to have no interest in acquiring such Land.
9. Prior to the Sale of Land which was the subject of the notice contemplated by Sections 7 and 8 of this By-law, Council shall by resolution passed at an open meeting, declare such Land to be surplus.
10. Where Council declares Land to be surplus, the Director of Asset Services shall classify the property as being either:
 - (j) Full Marketability Surplus Land ; or
 - (k) Limited Marketability Surplus Land.

Appraisals

11. When deemed appropriate by the Director of Asset Services, an appraisal of the fair market value of land declared surplus shall be obtained from a Designated Appraiser, which appraisal shall be performed and prepared in accordance with the requirements of the Appraisal Institute of Canada.

12. The Director of Asset Services may, in his or her sole discretion, choose
 - (a) to perform and prepare such appraisal himself or herself; or
 - (b) to retain the services of a Designated Appraiser to perform and prepare such appraisal.

Sale of Full Marketability Surplus Land

13. Subject to Section 14, the Director of Asset Services shall market Full Marketability Surplus Land to the general public in a manner which he or she determines suitable, having regard to the nature of the property and time restrictions, if any, and the marketing strategies may include invitation to tender, request for proposal, public auction, lease or listing with a real estate broker.
14. Full Marketability Surplus Land shall be offered for Sale to the general public by electronic advertising means and by advertising in a local newspaper having general circulation in the City, or, as the Director of Asset Services determines, marketed for Sale through a real estate broker.
15. Any clean-up, upgrading or restructuring deemed necessary for the marketing or Sale of Full Marketability Surplus Land may be authorized by the General Manager having been responsible for such Land.
16. If, after the Full Marketability Surplus Land is offered for Sale to the general public, no person expresses an interest in acquiring the Full Marketability Surplus Land, such Full Marketability Surplus Land shall be identified as "surplus" in the Property Register, the contents of which shall be reviewed annually by the Director of Asset Services for further action.
17. Where any person has expressed an interest in acquiring Full Marketability Surplus Land, the Director of Asset Services shall negotiate with such person with a view to reaching an agreement for the Sale of

such Land, the terms of which shall be in the best interests of the City and which are otherwise satisfactory to the Director of Asset Services. The terms of the agreement negotiated with a prospective Purchaser shall be reduced to writing.

18. A notice of the proposed Sale will be posted for at least seven consecutive days in a place accessible to the general public and designated by the City Clerk and on the City's website. Such notice shall contain the legal description of the Full Marketability Surplus Land, the municipal address if applicable, the identity of the potential Purchaser and the date that the proposed Sale will be considered by Council.
19. A report of the proposed Sale, prepared by the Director of Asset Services, will be presented to Council for approval.
20. Council will consider the proposed Sale and may by By-law authorize the proposed Sale, which will be completed by the City Solicitor.

Sale of Limited Marketability Surplus Land

21. The procedure for the sale of Full Marketability Surplus Land shall apply, with necessary modification, to the sale of Limited Marketability Surplus Land, with the exception that, if none of the City, or any local board, utility or public body expresses an interest in the Limited Marketability Surplus Land, the Limited Marketability Surplus Land shall be offered to any one and/or each of the abutting landowners only, and shall not be marketed to the general public or advertised for Sale.

Leases under 21 years

22. In Sections 22 to 27 and in Sections 30 and 37, Lease shall mean a lease of Land owned by the City where the term of such Lease, and any renewals thereof, is less than twenty-one years.

23. Before surplus land is Leased, the Director of Asset Services shall circulate a notice to the General Managers of the City which notice shall determine whether or not a Department has a potential interest in the Land.
24. The notice shall include a description of the Land and other pertinent information and shall state that if, within a fixed period of time, no expression of interest is received or no easement requirements are necessary, the City shall be at liberty to lease such surplus lands.
25. Council approval is required for any Lease in which the annual lease payments to the City exceed \$25,000 and/or where the Lease term, including renewals, exceeds 10 years.
26. Where Council approval is required for a proposed Lease, a report of the proposed Lease prepared by the Director of Asset Services will be presented to Council for approval. Council may by By-law authorize the proposed Lease, which will be prepared by the City Solicitor.
- 27.(1) The Director of Asset Services may authorize a Lease of Land without obtaining Council approval where annual lease payments to the City do not exceed \$25,000 and where the Lease term, including renewals, does not exceed 10 years.
- (2) The Director of Asset Services may execute any documents necessary to complete the Lease transaction contemplated by Section 27(1) or approved by Council pursuant to Section 26.

Land in Industrial Parks

28. Land owned by the City in industrial parks will be marketed by the City of Greater Sudbury Community Development Corporation. Procedures for the sale of such Land shall be in accordance with the *Municipal Act 2001*.

Highway and Road Closures

29. The procedures for the closure of highways and roads shall be in accordance with the *Municipal Act, 2001*, or other relevant statutes.
30. Procedures for the Sale or Lease of closed highway, roads and unopened road allowances shall be in accordance with this By-law and with the requirements of the *Municipal Act, 2001*.

Acquisition of Land

31. In this Part "Acquisition Price" includes the purchase price of Land and all lease payments made by the City pursuant to a lease of Land.
32. It will be the responsibility of the Director of Asset Services to Acquire Land for municipal purposes.
33. Council approval is required for any Acquisition of Land in which the Acquisition Price to be paid by the City exceeds \$25,000 and/or where the Lease term, including renewals, exceeds 10 years.
34. (1) The Director of Asset Services may authorize the Acquisition of Land without obtaining Council approval where the purchase price to be paid by the City does not exceed \$25,000 and/or where the Lease term, including renewals, does not exceed 10 years.
(2) The Director of Asset Services may execute any documents necessary to complete the Acquisition of Land approved by Council pursuant to Section 33 or as contemplated by Section 34(1).
35. The Acquisition of Land by expropriation shall be authorized by Council in accordance with the *Expropriations Act*.

Grants

36. Notwithstanding anything in this By-law, the City may by By-law authorize the transfer of Full Marketability Surplus Land or Limited Marketability

Surplus Land by way of grant pursuant to the *Municipal Act, 2001*, section 107, to such person or corporation as it deems appropriate and upon terms satisfactory to Council.

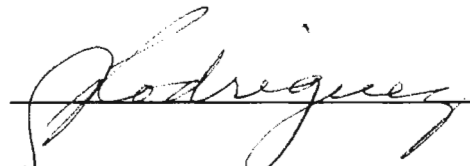
Other

37. The disclosure of information relevant to the Acquisition of Land or Sale of surplus Land, whether by sale, Lease or grant, shall be in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended.
38. Notwithstanding anything contrary to this By-law, Council may, by resolution, provide for procedures other than those provided for in this By-law.

Effective Date

39. This By-law shall come into force and take effect the day of passage.
40. By-Law 2008-156 is hereby repealed.

READ A FIRST AND SECOND TIME IN OPEN COUNCIL this 13th day of August, 2008.

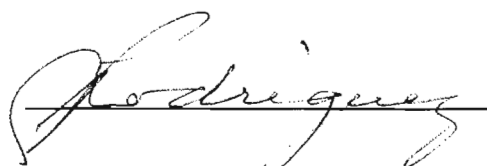


A. Haché

Clerk

Mayor

READ A THIRD TIME AND FINALLY ENACTED AND PASSED IN
OPEN COUNCIL this 13th day of August, 2008.



A. Haché

Clerk

Mayor