



Report to: General Committee

Date Report Authored: April 30, 2013

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**SUBJECT:** A By-Law to Delegate Authority to Conduct Certain Real Property Transactions  
**PREPARED BY:** David Pearce, Manager, Real Property, Extension 5988 and Jacqueline Chan, Assistant City Solicitor, Extension 4745

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**RECOMMENDATION:**

**THAT** the report entitled “A By-Law to Delegate Authority to Conduct Certain Real Property Transactions” dated April 30, 2013, be received;

**AND THAT** Section 8 of By-law 4-2000, delegating authority under the *Municipal Act* for certain real property transactions to the Chief Administrative Officer, be deleted in its entirety;

**AND THAT** Council adopt a new By-law, entitled “A By-Law to Delegate Authority to Conduct Certain Real Property Transactions, attached as Attachment No. 2 to this Report, delegating authority under the *Municipal Act* for certain real property transactions to the Chief Administrative Officer and the Manager, Real Property or their designate;

**AND THAT** the new By-Law to Delegate Authority to Conduct Certain Real Property Transactions, also delegate authority to execute documents required to complete real property transactions and agreements and documents relating to litigation or potential litigation to the City Solicitor, or his/her designate; and

**AND THAT** Staff be authorized and directed to do all things necessary to give effect to this resolution.

**EXECUTIVE SUMMARY:**

Not applicable.

**PURPOSE:**

To recommend that Council:

- (a) Delete Section 8 of By-law 4-2000, being A By-Law to Appoint a Chief Administrative Officer, delegating authority for certain real property transactions to the Chief Administrative Officer and replace it with a new comprehensive “By-Law to Delegate Authority to Conduct Certain Real Property Transactions” which expands the Chief Administrator’s delegated authority and delegates certain minor transactions to the Manager, Real Property; and
- (b) Delegate authority to execute documents required to complete real property transactions and agreements and documents relating to potential litigation to the City Solicitor.

**BACKGROUND:**

By-law 4-2000, being A By-Law to Appoint a Chief Administrative Officer, was amended on June 26, 2007 to add Section 8, delegating to the Chief Administrative Officer the authority to execute agreements relating to certain real property transactions, subject to certain limitations, including maximum values (sale prices, rents etc).

Section 8 has functioned well for 6 years, significantly reducing the administration of minor day to day real property transactions that often require urgent attention (i.e. permission to enter agreements, easements, licence agreements, short term leases). The number of delegated transactions has risen from 13 in 2007 to 35 in 2012. Prior to the amendments to By-law 4-2000, these transactions would have required the preparation of a staff report to obtain Council approval. During this time period, the City's overall real estate practice has seen rapid growth due to new construction, the number of permit applications and significant price increases.

The demand on internal staff time and resources has mirrored the growth in the real estate market to the point where there is a need to increase the number of real property transactions that can be conducted through delegated authority. The maximum purchase price and rents for real property transactions that can be dealt with through delegated authority should be increased to reflect the growth in market value and the growth and complexity of transactions handled by the Real Property Section of the Legal Services Department. There is a great deal of construction occurring across the City and staff from the Legal Services Department and the Real Property section are required to deal with many minor real property requests on a day-to-day basis on a quicker timeline (i.e. acquisition of small strips of land, easements, licenses, permission to enter). In order to adequately respond to such requests on a timely basis, minor real property transactions should be delegated to the Manager, Real Property.

**OPTIONS/ DISCUSSION:**

Staff have researched comparable GTA municipalities in terms of best practices, including the Town of Richmond Hill and the City of Vaughan. Attachment No.1 compares the existing provisions of Section 8 of By-law 4-2000 (Column 2) to the provisions of the proposed new delegated authority by-law (Column 3) and also provides a comparison to other area municipalities (Column 4).

The Proposed By-Law to Delegate Authority to Conduct Certain Real Property Transactions is attached as **Attachment No. 2**.

**Agreements of Purchase and Sale (Acquisitions and Dispositions):**

The current by-law delegates authority to the Chief Administrative Officer ("CAO") to enter into Agreements of Purchase and Sale for the acquisition of real property provided that the purchase price does not exceed \$50,000. Given the increase in market value for property in Markham and that the purchase of strategic environmental lands (i.e. valleylands) and rear yard acquisitions for trail purposes can now easily exceed this relatively low threshold, and in consideration of the purchasing threshold for the CAO in the Purchasing By-law (By-law 2004-341 as amended) it is recommended that the

maximum value delegated to the Chief Administrative Officer be increased to \$300,000 and that the Manager, Real Property be delegated authority to enter into Agreements of Purchase and Sale provided that the purchase price does not exceed \$50,000.

**Leases**

The current by-law delegates authority to the Chief Administrative Officer to enter into leases provided that the total rent does not exceed \$50,000 over a maximum 10 year term. These restrictions effectively limit residential leases to less than 3 years in most instances and industrial leases (for instance, 75 Clegg Road) to an unrealistically low and unmarketable term (i.e. maximum of 6 months). It is proposed that the rental payment limit for the Chief Administrative Officer be increased to \$300,000 over the term of the lease and that the authority for leases to a maximum of \$50,000 over the term be delegated to the Manager, Real Property.

**Minor Real Property Agreements**

The Chief Administrative Officer currently has delegated authority to execute minor agreements relating to real property, such as permissions to enter, encroachments, licences, easements etc. These transactions are becoming more numerous and time sensitive as they are often connected to development projects. In order to respond to these requests in a timely way and to be more efficient in the use of staff time, it is recommended that authority to execute such agreements be delegated to the Manager, Real Property, subject to the limitations as outlined in Column 3 on Attachment No.1.

**Execution of Other Documents**

It is recommended that the Chief Administrative Officer be delegated authority to enter into confidentiality and non-disclosure agreements whereby the City agrees not to disclose information provided to the City in confidence or where the City is providing information to a third party and wishes the third party to keep such information confidential.

As part of every real property acquisition and disposition transaction, there are also a number of documents and ancillary agreements that the purchaser and vendor need to execute and exchange before closing. In addition, certain documents and agreements are required to be executed to preserve the City's interests in litigation or potential litigation. Examples of such documents include Releases in favour of the City, Indemnity Agreements in favour of the City and Standstill Agreements to preserve applicable limitation periods. Staff recommend that Council delegate authority to the City Solicitor or his/her designate to execute any and all documents and agreements required to complete real property transactions that have been properly authorized by Council, the CAO or the Manager of Real Property and to preserve the City's interests in a potential or active litigation, provided that the City Solicitor is satisfied that the execution of such documents are necessary and in the City's interests.

Staff, as with By-law 4-2000, will continue to provide Council with monthly updates on matters delegated.

FINANCIAL CONSIDERATIONS AND TEMPLATE: (external link)

Not applicable

### **HUMAN RESOURCES CONSIDERATIONS**

Not applicable.

### **ALIGNMENT WITH STRATEGIC PRIORITIES:**

Increasing the number of real property transactions that can be conducted through delegated authority promotes the effective, economical and sustainable delivery of municipal services as it will expedite the delivery of services, the completion of transactions and facilitate the efficient use of staff time.

#### Increasing the CAO's Delegated Authority as Proposed:

Providing the Chief Administrative Officer with delegate authority to approve certain as proposed in the by-law will shorten the timeline and reduce staff time spent on obtaining Council authority for such transactions. In 2012, there were 9 real property transactions with a sale or purchase price up to \$300,000. Obtaining Council authority for each of these transactions took at least 3 to 4 weeks. For each of these transactions, staff from the Legal Services Department, Real Property section and other relevant departments, spent a total of 8 to 15 hours preparing, reviewing and obtaining approval for the staff report and presenting it to General Committee. If these transactions are delegated to the Chief Administrative Officer, the timeline for finalizing agreements for such transactions will be shortened to 1 week. Total staff time spent on each transaction will be reduced to 2 to 4 hours.

#### Delegated Authority to Real Estate Manager as Proposed:

Providing the Manager, Real Property with delegated authority to approve certain minor real estate transactions as proposed in the by-law will shorten the timeline for conducting such transactions and free up staff time otherwise spent on obtaining authority from the Chief Administrative Officer. In 2012, there were 37 minor real property transactions authorized by delegated authority through the Chief Administrative Officer. Obtaining authority from the Chief Administrative Officer for each of these minor transactions takes at least 1 week. For each of these transactions, staff from the Legal Services Department and Real Property section spent approximately 2-4 hours preparing and reviewing the memo to obtain delegated authority through the Chief Administrative Officer. If these transactions are delegated to the Manager, Real Property, there will be no need to obtain authority from the Chief Administrative Officer and the one week timeline can be eliminated. Staff will not be required to spend time preparing a memo to obtain delegated authority from the Chief Administrative Officer as the Manager will have authority to approve minor transactions.

### **BUSINESS UNITS CONSULTED AND AFFECTED:**

Not applicable

**RECOMMENDED BY:**

24/05/2013

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Catherine M. Conrad  
City Solicitor

26/05/2013

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W. Andy Taylor  
Chief Administrative Officer

**ATTACHMENTS:**

- [Attachment No.1: Comparison Chart](#)
- [Attachment No.2: Proposed By-Law](#)