



# The Corporation of the Town of Milton

Report To:	Council
From:	William Roberts, Acting Town Clerk
Date:	June 24, 2019
Report No:	CORS-038-19
Subject:	Property - Town-Owned Land Disposition Update
Recommendation:	<p><b>THAT Council adopt Town Policy 162 respecting Town -Owned Land Disposition, as revised by report CORS-038-19;</b></p> <p><b>AND THAT the draft “Land Disposition Policy” (attached as Appendix A) be incorporated into the Corporate Policy Manual;</b></p> <p><b>AND THAT Council authorize the Town Clerk or designate to bring forward a by-law to delegate authority to the Chief Administrative Officer for lands that are valued less than \$150,000.00;</b></p> <p><b>AND THAT Council authorize the Town Clerk or designate to bring forward by-laws to authorize the Town Clerk or designate to stop up and close roads for land disposition purposes only;</b></p> <p><b>AND THAT Council authorize the Mayor and Clerk to execute any Agreement of Purchase and Sale including any amending agreements and supporting documentation, to complete the disposition of land.</b></p>

## Executive Summary

The purpose for updating of the Town’s current Town - Owned land disposition is twofold - first is to ensure continued compliance by the Town with section 270(1) of the Municipal Act, 2001, S. O. 2001, ch. 25, as amended, which requires municipalities to adopt policies regarding the sale and other disposition of municipally owned land. The second purpose is to establish an efficient, consistent, transparent and accountable procedure to be followed in the disposition of real property assets by the Town in order to achieve maximum value for our taxpayers and/or meet corporate goals.



# The Corporation of the Town of Milton

## REPORT

### Background

The existing Land Disposition Policy was approved in 2012. Staff is continuously looking to improve processes to find more efficient methods of conducting business and as such, staff felt it was time to review this policy. Staff conducted a comparison with other municipal policies, circulated to the Land Team and other staff, and had the Town's solicitor review the draft policy. All comments and suggestions provided have been considered and resulted in the proposed policy (attached as Appendix A).

### Discussion

The proposed policy introduces:

- The inclusion of the Town's Land Team whose purpose is to review all requests for disposition/ land exchanges and provide recommendations to the Leadership Management Team/Strategic Management Team and subsequently to Council.
- The removal of the definitions that pertain to viable and non-viable lands, in an attempt to cause less confusion in determining which category the land fit.
- The refinement and/or addition of other definitions.
- Authority to the C.A.O. for lands that are valued at less than \$150,000 in order to alleviate the need for Council to approve smaller dispositions of land such as small road allowances, easements, etc. many of which facilitate construction projects already approved by Council.
- Refinements to the procedure to dispose of lands that are equal to or exceed \$150,000 with respect to valuing the land and notice provisions to the public. This includes exemptions for a formal appraisal for certain classes of land however they must still obtain a "Letter of Opinion of Value"
- The policy introduces an exemption for lands that are being sold due to tax arrears.

### Financial Impact

The land disposition policy serves an important role in ensuring that the Town achieves best value in the management of its real estate holdings. The net proceeds from dispositions will be recognized in the Operating Fund and transferred to the Property Transaction Reserve, and will therefore be reported to Council through the Town's variance review and year end processes.

Respectfully submitted,

Troy McHarg  
Commissioner, Corporate Services / Town Clerk



# The Corporation of the Town of Milton

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For questions, please  
contact:

Greta Susa, Law Clerk    Phone Number 905-878-  
7252 x 2164

<b>Attachments</b>
Appendix A - No. 162: Property - Town-owned Land Disposition

CAO Approval  
Andrew M. Siltala  
Acting Chief Administrative Officer

**No. 162: PROPERTY - TOWN-OWNED LAND DISPOSITION**

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Reference: Staff Report CORS-038-19 CL June 24/19

**Purpose**

The purposes of this Policy are two fold - first is to ensure compliance by the Town with section 270(1) of the Municipal Act, 2001, S. O. 2001, ch. 25, as amended, which requires municipalities to adopt policies regarding the sale and other disposition of municipally owned land. The second purpose is to establish an efficient, consistent, transparent and accountable procedure to be followed in the disposition of real property assets by the Town in order to achieve maximum value for our taxpayers and/or meet corporate goals.

**1. Definitions and Interpretation**

In this Policy, the following terms shall have the following meanings;

**“Act”** means the Municipal Act, 2001, S.O.2001, ch.25 as amended;

**“Appraisal”** means a written opinion as to the Fair Market Value of the Land prepared by a registered member of the Appraisal Institute of Canada.

**“Chief Administrative Officer”** means the Chief Administrative Officer of The Corporation of the Town of Milton, or his/her designate;

**“Council”** means the municipal Council of The Corporation of the Town of Milton;

**“Disposition” or “Dispose”** means the sale, transfer, conveyance or exchange of the fee simple interest in land or the granting of a lease of 21 years or longer by the Town, but does not include the granting of a lease for less than 21 years, the granting of a license, or the granting or release of an easement or right-of-way by the Town;

**“Fair Market Value”** means the most probable price which the land should bring in a competitive and open market as of a specified date under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably and in their own best interests and assuming the price is not affected by undue stimulus;

**“Land”** means real property owned by the Town and includes a Road and permanent interests in Land;

**“Land Team”** means designated staff of the Town, whose purpose is to review all land Disposition/land exchange requests and to provide approval/recommendation to the Leadership Management Team.

**“Leadership Management Team”** means the designated management group whose purpose is to serve as subject matter experts and decision-makers on the daily operations of the Town of Milton.

**“Letter of Opinion”** means a written opinion as to the Fair market Value of the Land prepared by a Licensed Realtor or an individual with training and/or experience in valuing real property deemed by the Town Clerk to be qualified for this purpose;



**“Licensed Realtor”** means a realtor licensed and in good standing with the Real Estate Council of Ontario and who normally conducts business within the jurisdiction of the Town;

**“Local Board”** means a local board, as identified in the Municipal Act, S.O 2001, ch.25, s 269 (1) as amended;

**“Mayor”** means the Mayor of the Corporation of the Town of Milton, or his/her designate;

**“Roads”** means an original road allowance, street, highway, laneway, access roads, or any other road or highway as defined by the Act or other relevant legislation that is owned by the Town;

**“Town”** means The Corporation of the Town of Milton;

**“Town Costs”** means all costs associated with the Disposition of Land, including but not limited to, legal fees, survey, reference plan, Appraisal, Letter of Opinion, due diligence research, etc.;

**“Town Clerk”** means the Clerk of The Corporation of the Town of Milton, or his/her designate; and

**“Town Solicitor”** means a solicitor or a firm of solicitors which the Town may retain or employ from time to time to perform such legal services on behalf of the Town as may be required for the purposes of representing the Town.

## 2. Disposition of Land

Where Land is not needed by the Town, if the Fair Market Value of the Land, as identified in the Letter of Opinion or appraisal:

- (a) Equals or exceeds \$150,000, Council may authorize the proposed Disposition of lands in accordance with the terms and conditions as set in this policy;
- (b) Is less than \$150,000, the Chief Administrative Officer may authorize the proposed Disposition of lands in accordance with the terms and conditions as set in this policy;

## 3. Disposition to Public Authorities

The Town may, on a case by case basis, adopt such processes and procedures as it in its sole discretion considers appropriate for Dispositions to public authorities, including without restriction other municipalities.

## 4. Approval of Disposition

Notice of Land being considered to be disposed shall be circulated to the Town’s Land Team for comments. Once Land Team comments have been received by the Leadership Management Team, and it is determined the Land is not needed by the Town;

- (a) If Value of property equals or exceeds \$150,000, a report shall be submitted to Council. The staff report shall recommend, whether to Dispose of the lands, the suggested method of Disposition, and may request authority for staff to negotiate the terms and conditions of the proposed Disposition.; or

- (b) If Value of property is less than \$150,000, no report to council is required and the land may be disposed in accordance part 2(b) above.

## 5. Valuation

Prior to the sale of any property, the Town shall have at least one Appraisal of the Fair Market Value of the Land.

Notwithstanding the above, the following classes of Land are exempt from the Appraisal requirement and shall only require a Letter of Opinion;

- a) closed highways, road and road allowances;
- b) land formerly used for railway branch lines, if sold to an owner of land abutting the former railway land;
- c) land that does not have direct access to a highway, if sold to the owner of land abutting that land;
- d) land repurchased by an owner in accordance with Section 42 of the Expropriations Act, R.S.O. 1990, c. E.26;
- e) easements granted to public utilities, telecommunication companies, municipalities, conservation authorities or other public agencies;
- f) Land 0.3 meters or less in width acquired in connection with an approval or decision under the Planning Act, R.S.O. 1990, C P 13;
- g) Cemetery plots owned by the Town;
- h) Land acquired by the Town for temporary road purposes in connection with an approval or decision under the Planning Act;

## 6. Notice

Prior to Disposing of Land, the Town shall provide notice to the public by using at least one (1) of the following methods;

- a) advertisements one or more times in a daily or weekly newspaper or newspapers;
- b) listing of the Land on the Council Agenda and/or the Town's website as Land which is intended for sale;
- c) posting a sign on the property indicating the Town's intent to sell;
- d) any other means of communication acting reasonably and in good faith that is deemed to be appropriate in the circumstances, in order to give notice to the public.

Notice may also be communicated directly by ordinary prepaid mail, or such other means, to any or all of the following:

- a) The Government of Canada or any of its ministries or agencies;
- b) The Government of Ontario or any of its ministries or agencies;
- c) The Regional Municipality of Halton;
- d) The Halton District School Board;
- e) The Halton Catholic District School Board;
- f) Conservation Halton;
- g) Grand River Conservation Authority;

- h) The adjacent landowners;
- i) Such other persons, authorities and bodies Corporate as Council and/or the Town shall deem appropriate in the circumstances

## 7. Methods of Disposition

The Town may use, but is not limited to, one or more, of the following methods of Disposition:

- a) public auction;
- b) tender process;
- c) direct negotiations with the purchaser(s);
- d) land exchange;
- e) call for proposal (RFP);
- f) call for expression of interest (RFEI);
- g) listing of Land with a real estate broker.

## 8. Exemption

This policy does not apply to the sale of land under Part XI (Sale of Land for Tax Arrears) of the Act and any related Ontario regulation made by the Minister.

## 9. General Terms and Conditions

- a) An Appraisal or Letter of Opinion shall be obtained prior to Disposition of Land and shall determine the value or range of values of highest and best use of the Land;
- b) One or more interested parties may present an offer to purchase the Land to the Town. Notwithstanding, Council shall have the absolute right to retain or dispose of the Land, which may also include the power to sell the Land for nominal consideration (subject to the anti-bonusing provisions of the Act, as it may be amended from time to time), and to whomever it wishes, regardless of whether the Disposition is to the party which has presented the best offer.
- c) All of the Town's costs with respect to the Disposition of Land, save and except Land exchanges for municipal purposes, shall be recovered from the proceeds of the sale unless, in the sole opinion of the Town, it is desirable to waive this requirement;
- d) In addition, the purchaser may be required to enter into an agreement to the satisfaction of the Town Solicitor and pay a deposit toward the expected costs to be incurred by the Town;
- e) The manner in which the Town carries out the Disposition of Land Policy, if consistent with this Policy, is not open to review by any court if the Town may lawfully sell the Land, the purchaser may lawfully buy the Land, and the Town acted in good faith.
- f) The net proceeds from Disposition shall be recognized in the Operating Fund and transferred to the Property Transaction Reserve (as may be amended through the Town's Reserve and Reserve Fund Policy or successor thereto) unless otherwise approved by Council.
- g) Staff shall annually report to Council regarding all Land disposal that occurred using delegation of authority.



**10. Delegation of Authority**

- a) The Chief Administrative Officer, shall authorize the Disposition of Land with a Fair Market Value of highest and best use of less than \$150,000 including the authority to approve the final terms and conditions in the Agreement of Purchase and Sale;
- b) The Mayor and the Town Clerk, are authorized to execute any Agreement of Purchase and Sale including any amending agreements and supporting documentation, to complete the Disposition of Land;
- c) The Town Clerk shall have authority to make administrative changes to this policy, that may be required from time to time, due to legislative changes or if, in his/her opinion, the amendments do not change the intent of the policy;
- d) The Town Clerk shall bring a by law to Council to stop up and close a road, for land disposition purposes only and register the by-law authorizing the stopping up and closure of the road in the proper land registry office;
- e) The Town Solicitor shall have the authority to extend or abridge the closing date or extend or abridge the timeframes on any conditions previously approved by Council or Chief Administrative Officer.

**11. Local Boards**

In the absence of their own land Disposition policy, all local boards under the jurisdiction of the Town of Milton, shall be governed by this Policy.

**12. Policy Management**

- a) This Policy shall be administered by the Town Clerk.
- b) Staff are authorized and directed to take the necessary action to give effect to this Policy.
- c) This Policy may be reviewed and amended as needed.

**13. Retention of Records**

Filing and retention of records related to the Land Disposition shall be in accordance with legislative requirements, and the Town's Record's Retention by-law.



Land Disposition Policy - Flow chart

