

City of Mississauga

Corporate Report



Date: November 20, 2023	Originator's files:
To: Chair and Members of General Committee	
From: Raj Sheth, P.Eng, Commissioner of Corporate Services	Meeting date: January 10, 2024

Subject

Update to the Real Estate Delegation of Authority By-law, which delegates authority to the approval and execution of real estate agreements (All Wards)

Recommendation

1. That the By-law attached as Appendix 1 to the report titled “Update to the Real Estate Delegation of Authority By-law, which delegates authority to the approval and execution of real estate agreements (All Wards)” dated November 20, 2023 from the Commissioner of Corporate Services, be enacted.
2. That By-law 0136-2022 be rescinded.

Executive Summary

- The Real Estate Acquisition and Disposal of Interests in Real Property Policy (05-04-01) establishes a consistent and equitable framework for the Acquisition and Disposal of Real Property interests that support Council approved projects, programs, policies and strategic plans (including Realty Agreements) (the “Policy”).
- The Policy outlines circumstances where the Commissioner of Corporate Services may agree to a nominal fee or a reduction in the market rent/ fees (Section 14.4).
- This is a housekeeping update to the Real Estate Delegation of Authority By-law to further align with the practice established in the Policy, providing the Commissioner of Corporate Services with authority to execute Leases and Limited Interest Agreements at less than market value under certain circumstances.

Background

The Real Estate Acquisition and Disposal of Interests in Real Property Policy (05-04-01) establishes a consistent and equitable framework for the Acquisition and Disposal of Real Property interests that support Council approved projects, programs, policies and strategic plans (including Realty Agreements). The Policy outlines circumstances where the Commissioner of Corporate Services may agree to a nominal fee or a reduction in the market rent/ fees (Section 14.4). This process provides an efficient experience for prospective tenants, providing access to spaces more quickly and limiting the volume of Realty Agreements that are required to come forward for Council approval. This assists client departments in achieving their mandate to support groups, which supplement City services or are aligned with the City's strategic goals into City spaces.

The Real Estate Delegation of Authority By-law was updated in June of 2022 to reflect housekeeping updates. These included organizational changes where Realty Services reports to the Director of Corporate Business Services and to clarify the approval levels required based on the value of leasing transactions.

The update maintained the delegation of Council's authority to the City Manager, Commissioner and Chief Financial Officer, Director of Corporate Business Services and the Manager of Realty Services or their designee, based upon identified delegation levels to enter into real estate Acquisition, Sale and General Agreements that meet the specified criteria. However, the update did not include all of the circumstances set out in the Policy under which nominal or below Market Value agreements may be approved.

Comments

Currently the Policy indicates that a party entering into a Lease or Limited Interest Agreement with the City shall be required to pay rent/fees. However, in the following circumstances, the Commissioner of Corporate Services may agree to a nominal fee or reduction in the market rent/ fees:

- a) The Lease or Limited Interest Agreement is with another level of government;
- b) The Lease or Limited Interest Agreement is connected to a reciprocal or shared use agreement;
- c) The Lease or Limited Interest Agreement is with a Not-for-Profit Organization or Community Group that actively provides services which supplement City services or are aligned with the City's strategic goals, as determined by the Commissioner or their designate, in consultation with the applicable commissioner;
- d) The Lease or Limited Interest Agreement is with a Not-for-Profit Organization or Community Group for use of City owned Real Property for parking purposes provided that such Not-for-Profit Organization or Community Group occupies property adjoining the City owned Real Property;

- e) The Lease or Limited Interest Agreement is a component of an agreement of purchase and sale wherein the vendor requires that they remain in; or
- f) Where the City acquires Real estate subject to a life estate interest (i.e., an interest in property for the duration of a specific person's life) held by another party.

To align with the established policy, improve definitions and to clarify the established reporting of Delegated Authority to General Committee, the following are the proposed changes to the Real Estate Delegation of Authority By-law:

- (1) Addition of Designated Approval Authority to the Commissioner of Corporate Services respecting Leases and Limited Interest Agreements:

The updated by-law provides that the exercise of delegated authority by the Commissioner of Corporate Services be extended to include the ability to approve and execute Leases and Limited Interest Agreements for City owned Real Property at nominal consideration or below market value in accordance with the criteria established in the Real Estate Acquisition and Disposal of Interests in Real Property Corporate Policy (05-04-01).

For the purpose of these amendments, definitions for Not-for-Profit Organization, Charity, College, Community Group and Religious Organization will be included in the updated bylaw. The Policy will also be updated to reflect these definitions.

In further aligning the By-law to the existing Policy, it ensures an efficient customer experience in expediting the agreement execution.

- (2) General Agreements:

The definition of "General Agreements" has been amended, and means any agreement pertaining to Real Property whereby the City receives or provides the use in Real Property. This change to the definition is proposed to reflect that the agreements do not convey an interest in real property.

- (3) Amendment to the by-law to clarify matters to be reported to General Committee:

The updated by-law also amends the policy to provide that the exercise of delegated authority by the City Manager, in addition to the Manager, Director and Commissioner, shall be reported to General Committee on a semi-annual basis. This is consistent with past practice of reporting all matters, including those exercised by the City Manager, to General Committee on a semi-annual basis.

Financial Impact

Given the limited volume of Lease and Limited Interest Agreements that meet the criteria to necessitate the execution process at less than market value, the impacts of this update would not have substantial financial impact.

Conclusion

The updated by-law, attached as Appendix 1, will align to the established Corporate policy and will provide the Commissioner of Corporate Services with authority to execute Lease and Limited Interest Agreements at less than market value under certain circumstances and clarify that the exercise of delegated authority by the City Manager will be reported to General Committee on a semi-annual basis. At this time, no other changes are contemplated and staff will continue to report to Council for approval of transactions not delegated to staff pursuant to this by-law.

Attachments

Appendix 1: Real Estate Delegation of Authority By-law



Raj Sheth, P.Eng, Commissioner of Corporate Services

Prepared by: Maurice Swaby, Director, Corporate Business Services