



Status: Draft

## Sale and Other Disposition of Regional Lands

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Approved By:

Approved On:

Last Reviewed:

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### Policy Statement

The Region shall sell or otherwise dispose of Regional lands in a manner that is fair, open, and transparent and that maximizes value and minimizes risk.

### Application

This policy applies to transactions involving the sale or other disposition of land by the Region.

The following interests are not subject to procedures set out in this policy as they are governed by other Council approved processes:

- leases;
- licences to enter and occupy Regional Lands, including:
  - consents to install utilities and telecommunications systems;
  - permissions requested by a third party to perform its works on Regional Lands; and
  - permits, including encroachment permits and road occupancy permits;
- existing widenings or reserves to be conveyed to the entity having jurisdiction over the adjoining highway;
- conveyance of easements to utilities and municipalities over closed highways and reserves;

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- reversion of highways and infrastructure to local municipalities; and
- conveyance of rights, including easements, necessary for a third party to provide services to Regional Lands and facilities.

Further excepted from this policy is:

- conveyance of Lands pursuant to: (i) pre-existing contractual obligations to which the Region is a party; and (ii) agreements and settlements reached under the *Planning Act*, the *Expropriations Act*, or other litigation settlements.

Procedures in this policy may be adapted as required to comply with pre-existing contractual obligations to which the Region is a party, including funding agreements, licences, and joint-use agreements.

The Director of Property Services shall ensure that this policy is reviewed and updated if necessary every five years.

## Purpose

Section 270 of the *Municipal Act, 2001*, requires that the Region adopt and maintain a policy governing the sale and other disposition of Regional Lands.

This policy establishes a comprehensive framework of procedures governing the sale or other disposition of Lands which are no longer required by the Region for its current or future program or operational requirements.

This policy is intended to ensure that when conducting the sale or other disposition of Regional Lands:

- the process is fair, open, and transparent;
- the Region's interests are protected;
- the Region realizes maximum value for the Lands;
- the risks to the Region, the public, and the environment are minimized; and
- where appropriate, other levels of government and public authorities are offered the opportunity to acquire the Lands in furtherance of their public purposes.

## Definitions *(Item 1)*

### Adjoining Land Owner

An owner whose Lands are immediately adjacent to the Region's Lands.

### **Administration Fee**

The administration fee applicable to the sale of Lands as set out in Schedule A to Bylaw 2020-24, as amended.

### **Appraisal**

A written opinion of value of Lands prepared by an independent qualified appraiser who is accredited or certified with the Appraisal Institute of Canada.

### **Disposition**

Any disposal of Regional Lands, including: any sale, exchange or donation of Lands; or the release of any interest in Lands.

### **Lands**

Lands and interests in lands, including easements, together with any structures affixed to the lands.

### **Limited Market Lands**

Lands that, in the opinion of the Director of Property Services, would achieve greater benefit to the Region by disposing of the Lands to one or more specific purchasers. Examples may include Lands that can only be sold to one or more adjoining owners due to site configuration, size, topography, limited access, restrictive zoning, or other physical, functional or legal constraint.

### **Net Proceeds**

Proceeds from Disposition less costs incurred by the Region to dispose of the Lands, including legal fees and disbursements, appraisal and survey costs, except for any due diligence costs which will remain the responsibility of the Region unless otherwise determined by the Director of Property Services.

### **Surplus**

Lands that have been identified as not required for a Regional purpose and are available for Disposition. Also referred to as "**Surplus Lands**".

### **Valuation**

A written opinion of value of Lands prepared by Regional staff.

### **Value**

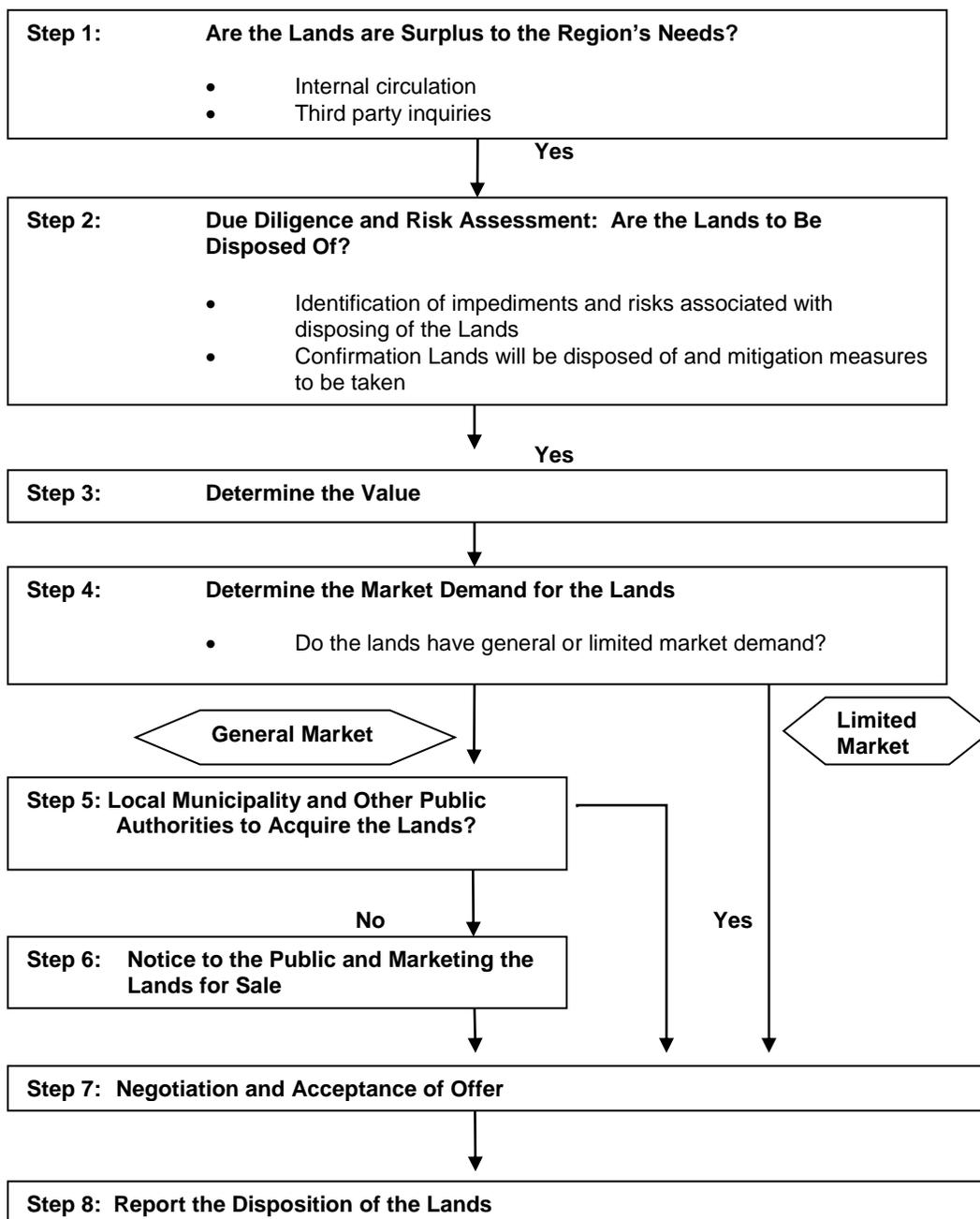
The value of the Lands as determined by either an Appraisal or Valuation.

## Description

Procedures set out in this policy must be followed in the disposition of all Regional Lands except where exempted or adapted to comply with pre-existing contractual obligations.

The following table illustrates steps in the disposal process, as more particularly detailed below:

**Table 1: Process to Dispose of Regional Lands**



## **The Disposal Process:**

### **Step 1: Are the Lands Surplus to the Region's Needs?**

#### ***Review of Existing Real Property Inventory*** (Item 2)

The Director of Property Services maintains an inventory that includes lands not identified as required for a current Regional purpose, and lands not currently required but identified as having a potential future Regional use. The Director of Property Services periodically reviews the inventory to identify potentially Surplus Lands. Upon identifying such Lands, the Director of Property Services will consult with the Commissioner of Corporate Services and the Commissioner of the department for which the Lands were originally acquired to determine if the Lands should be retained for Regional purposes or considered as potentially Surplus.

#### ***Third Party Inquiries***

All third-party inquiries concerning whether Lands are available for disposition must be directed to the Director of Property Services.

Upon receiving a third party's inquiry, the Director of Property Services shall ascertain from any department currently using the Lands whether the Lands are required for the department's current or future needs. The Director of Property Services is not required to conduct this inquiry with respect to the same Lands more than once every two years.

If the Lands are required for the department's current or future needs, the Director of Property Services shall advise the third party that the lands are not available.

If the Lands are not required for the department's current or future program or operational requirements, the Director of Property Services shall commence the internal circulation process set out below.

#### ***Internal Circulation***

Where Lands are no longer required by a department for its current or future needs, the Director of Property Services shall prepare and circulate a notice to all other Regional departments, Housing York Inc., the York Region Rapid Transit Corporation, York Regional Police, and YTN Telecom Network Inc., requesting expressions of interest in the Lands. The Director of Property Services shall include in the notice:

- a description of the lands, including a legal description and location map, if available;
- existing and permitted uses of the lands;
- any agreements affecting the lands, for example funding agreements, licences and joint-use agreements;

- any special characteristics of the lands;
- whether any third party has expressed interest in the lands and such third party's intended use of the lands; and
- the date by which expressions of interest are to be received, which is to be 30 days from the date of the notice unless otherwise determined by the Director of Property Services.

Once the internal circulation process is complete, the Director of Property Services shall advise the Commissioner of Corporate Services whether there was any expression of interest in the lands.

If there was no expression of interest in the lands the Commissioner of Corporate Services will determine whether the lands are to be retained to achieve the Region's short or long-term objectives or are Surplus to the Region.

If the Director of Property Services receives one or more than one expression of interest in the Lands, the Chief Administrative Officer, on the recommendation of the Commissioner of Corporate Services, will determine the most appropriate use for the Lands and the Director of Property Services will advise the relevant Regional departments or entities and the Controllership Office so that the Controllership Office can make any accounting entries required to comply with the Region's *Tangible Capital Assets Policy*.

If the Lands will not be retained for Regional purposes, the Director of Property Services will commence and oversee the process to dispose of the Lands as set out in Steps 2 to 8.

If the Director of Property Services determines that the Lands are Limited Market Lands, the Director of Property Services has the discretion to limit or forego the internal circulation after consulting with the Commissioner of Corporate Services.

### **Step 2: Due Diligence and Risk Assessment: Are the Lands to be Disposed Of?**

The Director of Property Services, in consultation with the Regional Solicitor, shall conduct the due diligence reasonably necessary to identify any impediment to or risks associated with disposing of the Lands, including:

- any encumbrances that would affect the lands' appraised value or marketability, restrain their sale, or require the consideration of a third party's rights in the Lands, including any legislative, policy, and title matters;
- any risks to the Region, the environment, or the public (including human health or safety), that may arise as a consequence of disposing of the Lands, including any risks arising from the environmental condition of the Lands.

If a third party inquiry initiated the disposition process, no due diligence will be undertaken until the third party pays the Administration Fee. The Director of Property Services has the discretion to require payment of part or all of the Administration Fee at any time prior to or during the Circulation process, or to waive the Administration Fee.

### ***Encumbrances Affecting the Lands***

Encumbrances that may affect the lands' appraised value or marketability, restrain their sale, or require the consideration of a third party's rights in the lands may include:

- existing statutory or contractual rights to acquire the lands, including rights granted by Section 41 and 42 of the *Expropriations Act* where the Region expropriated the lands after December 20, 1968;
- agreements affecting the lands, for example funding agreements, licences, or joint-use agreements affecting the lands;
- utilities or other municipal infrastructure located within the lands; or
- heritage designations affecting the lands.

Measures that may be taken to address any such matters may include:

- obtaining a release of rights under the *Expropriations Act*,
- permitting utilities or municipal infrastructure to remain within the lands, including granting easements; and
- granting or reserving easements under the *Ontario Heritage Act*.

### ***Environmental Condition of the Lands***

Prior to disposing of the Lands, the Director of Property Services, in consultation with the Regional Solicitor, must ensure that all known regulated substances, materials and equipment at, on, in, or under the Lands, meet all applicable regulatory requirements and do not pose a material risk to the Region, the environment or human health. The due diligence reasonably required to confirm whether this standard is met may include:

- reviewing internal records and public environmental databases;
- conducting a phase one environmental site assessment;
- performing a designated substances survey in accordance with O. Reg. 490/09, as amended; and
- such further investigations as appropriate, including a phase two environmental site assessment, particularly where the Region's due diligence indicates the potential for:

- waste, or surface or subsurface environmental impacts, including the current or historical presence of petroleum or other storage tanks;
- substances regulated under environmental and occupational health and safety legislation or that may pose a risk to human health or safety or to the environment; or
- current or historical activities that may pose a risk to human health or safety or to the environment.

All reports prepared to assess and investigate the lands and any measures taken to remediate the lands must be performed in general accordance with the requirements, standards and methods set out in O. Reg. 153/04, as amended, including the use of a Qualified Person as set out in the regulation (except that a Record of Site Condition will not be filed unless legally required and should remediation involve a risk assessment being completed, submission of a pre-submission form and formal approval by the Ministry of the Environment, Conservation and Parks (or successor agency) will not be required).

### ***Confirmation of Disposition***

The Director of Property Services shall consult with the Regional Solicitor to determine what measures may be taken to resolve or mitigate any matters disclosed by the Region's due diligence. After reviewing the results of the due diligence and any proposed mitigation measures, and upon the recommendation of the Director of Property Services, the Commissioner of Corporate Services will determine whether the Region will continue the process for disposing of the Lands and will confirm what risk mitigation measures are to be taken prior to such Disposition.

In respect of the environmental condition of the lands, if environmental impacts are identified that constitute non-compliance with applicable laws or exceed current applicable site condition standards published by the Ministry of the Environment, Conservation and Parks (or successor agency) pursuant to O. Reg. 153/04, as amended, the Lands are to be remediated before Disposition of the Lands is completed. In certain exceptional circumstances staff may recommend disposition of Lands without completing remediation but authority to act in this manner will require written consent of the Chief Administrative Officer or, at the Chief Administrative Officer's direction, the approval of Regional Council.

The Director of Property Services shall ensure that the Region's due diligence and all consequential risk-mitigation measures are performed in accordance with all applicable legislation, regulations, and standards.

**Step 3: Determine the Value of the Lands**

The Value of the Lands will be ascertained at such time as the Director of Property Services determines is appropriate but in any event prior to commencing negotiations or offering the Lands for sale.

If a Valuation determines that the Value of the Lands is \$250,000 or less, a Valuation is sufficient unless the Director of Property Services determines that an Appraisal is required. *(Item 3)*

If a Valuation determines that the Estimated Value of the Lands is more than \$250,000, an Appraisal, in addition to the initial Valuation, is required.

**Step 4: Determine the Market for the Lands**

The Director of Property Services will assess whether there is a general demand for the Lands or if the Lands are Limited Market Lands.

Lands with general market demand will be lands that may be of interest to a broad range of potential purchasers and will be disposed of in accordance with Steps 5-8.

Limited Market Lands will not be offered on the open market and compliance with Steps 5 and 6 is not required.

**Step 5: Local Municipality or Other Public Authority to Acquire the Lands**

If the Director of Property Services determines that the Lands have general market demand, the Director shall prepare a notice advising that the Lands are Surplus, and the notice will include:

- the location and dimensions of the Lands;
- the existing and permitted uses of the Lands;
- any special characteristics of the Lands; and
- the date by which expressions of interest in the Lands are to be received, which is to be 30 days from the date of the notice unless otherwise determined by the Director of Property Services.

The Director of Property Services shall circulate the notice to the Clerk of the local municipality in which the Lands are located. If an expression of interest is received from the local municipality within the time stipulated in the notice, the Director of Property Services shall commence negotiations with the local municipality for the Disposition of the Lands.

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If no expression of interest in the Lands is received from the local municipality, or if negotiations cannot be concluded, the Director of Property Services shall circulate the notice to:

- the York Region District School Board;
- the York District Catholic School Board;
- the conservation authority having jurisdiction, including Toronto and Region Conservation Authority and the Lake Simcoe Region Conservation Authority;
- Infrastructure Ontario; and
- any other public authority who may have an interest in the Lands as determined by the Director of Property Services.

If an expression of interest is received from any of these public authorities within the time stipulated in the notice, the Director of Property Services shall commence negotiations for the disposition of the Lands with those public authorities expressing an interest.

### **Step 6: Notice to the Public and Marketing the Lands** *(Item 4)*

For Lands having a general market demand, the Director of Property Services may seek Council's approval to proceed with marketing the Lands for Disposition in advance of listing the Lands for sale. *(Item 5)*

Lands that are to be sold on the open market must be openly and widely marketed. The Director of Property Services shall choose a method of marketing the Lands that provides as much notice as possible that the Lands are for sale and which considers the unique characteristics of the Lands, which may include:

- listing the Lands with a marketing service; or
- listing the Lands with a real estate broker.

Except where Lands are listed with a marketing service or licensed real estate broker, the Director of Property Services shall ensure that:

- notice of the Region's intention to sell the Lands is published in a local newspaper on at least one occasion prior to their sale. The notice shall include a map clearly identifying the location of the Lands; and
- a "for sale" sign is posted on the Lands.

The newspaper notice and the sign shall include:

- the proposed date of the sale; and

- the name and contact information of the party handling the sale.

If the Lands are marketed using a marketing service or licensed real estate broker any of the following by the marketing service or broker will constitute sufficient notice for the purposes of this policy:

- the listing of the Lands on the relevant Multiple Listing Service;
- the advertisement of the Lands for sale in a local newspaper at least once; or
- the placement of a “for sale” sign on the Lands.

For the purposes of this Policy, any requirement to publish notice in a local newspaper is satisfied by publishing the notice in the electronic online format of the newspaper.

### **Step 7: Acceptance of Offers**

The Director of Property Services shall receive and consider all offers to purchase the Lands made in compliance with the terms of this policy. The Director of Property Services may negotiate any offer until, in his or her opinion, the offer represents the best offer that can be achieved having regard to all its terms and conditions.

There is no obligation to recommend or accept any offer, even if the offer is made for the Value of the Lands. For clarification, if the highest offer includes one or more conditions that are not acceptable to the Region, the Director may consider other offers that either (i) have no conditions, or (ii) include conditions that are acceptable to the Region, even where such offer is not the highest offer. *(Item 6)*

The Director of Property Services shall notify the Commissioner of Corporate Services when negotiations are complete. If the Commissioner of Corporate Services is satisfied that the offer represents the best offer that can be achieved, the Commissioner of Corporate Services may recommend the offer to the Chief Administrative Officer.

The Chief Administrative Officer may authorize the Disposition provided that the amount offered does not exceed the threshold authorized by Delegation Bylaw 2023-31 and represents at least 90% of the Value of the Lands. For the purposes of the Delegation Bylaw, the term “Value” means the proposed sale price of the Lands, not “Value” as defined by this Policy. *(Item 7)*

All other Dispositions require approval by Council.

The Commissioner of Corporate Services shall report annually to the Committee of the Whole, the Disposition of all Lands authorized based on a delegated authority.

### *Closing the Transaction*

The Director of Property Services shall consult with the Regional Solicitor concerning the terms of all agreements of purchase and sale, including the inclusion of any

covenants where appropriate. Generally, the Region will not make any representations or warranties to a purchaser concerning the suitability of the Lands for the purchaser's purpose, or the condition or quality of the Lands. A purchaser is responsible for completing its own due diligence to ensure that the Lands are suitable for its purposes.

If a purchaser is remediating the Lands, the Director of Property Services, in consultation with the Regional Solicitor, shall ensure that the terms of the agreement of purchase and sale require the purchaser to perform the remediation within a reasonable length of time, and to the standards that the Region determines are acceptable. The Director of Property Services will consult with the Regional Solicitor to determine the allocation of costs for the remediation and the form and quantum of security required to secure the purchaser's obligations, if any.

Unless otherwise waived or reduced by the Director of Property Services, the purchaser shall pay to the Region on or prior to the closing of the transaction:

- the Administration Fee; and
- all of the costs incurred by the Region to dispose of the Lands, including legal fees and disbursements, appraisal and survey costs, except for any due diligence costs which will remain the responsibility of the Region unless otherwise determined by the Director of Property Services.

### **Step 8: Report the Disposition of the Lands** *(Item 8)*

The Director of Property Services shall report the proceeds of Disposition to the Controllership Office in a timely manner that complies with the *Tangible Capital Assets Guideline*.

For Dispositions involving Nominal Consideration or the transfer of Lands in lieu of financial consideration, the Director of Property Services shall report the Value of the Lands. For all other Dispositions, the negotiated price of the Lands is to be reported.

Lands are Regional assets and are not assets of individual departments. Unless otherwise authorized by Council or where governed by pre-existing obligations or agreements such as funding agreements and joint-use agreements, the Net Proceeds realized from the Disposition of the Lands above budgeted amounts will be allocated as part of the operating surplus in accordance with the Surplus Management Policy contained within the *Reserve and Reserve Fund Policy* and the same will be recorded in accordance with the *Tangible Capital Assets Guideline* or as directed by Council.

### **Conflict of Interest**

Council members, officers, and Regional staff may purchase Surplus Lands only if:

- the method of purchase is open, public, and transparent; and
- all the requirements of this policy and any other applicable Regional policy are met.

## **Responsibilities**

### **Chief Administrative Officer**

- Determines the use of the Lands when more than one Regional department or entity has expressed an interest in the lands
- Authorizes offers within the threshold set out in Delegation Bylaw 2023-31 made by third parties to purchase Regional Lands

### **Commissioner of Corporate Services**

- Determines whether Lands are surplus
- Recommends offers to purchase Lands to the Chief Administrative Officer where appropriate
- Reports the disposition of Lands authorized by Delegation Bylaw 2023-31 to the Committee of the Whole, annually

### **Director, Property Services Branch**

- Ensures due diligence on the Lands is performed
- Determines the Value of the Lands
- Determines how the Lands are to be marketed
- Negotiates offers to sell/purchase the Surplus Lands with potential purchasers and prepares the agreement of purchase and sale using standard Regional templates
- Recommends offers to purchase the Lands where appropriate
- Evaluates and reports to Council

### **Legal Services**

- Advises on matters relating to the sale of Lands including due diligence
- Approves agreements of purchase and sale
- Completes the transaction after Council, or its delegate, approves the disposition

## Finance, Controllership Office

- Administers the *Tangible Capital Assets Guideline* and provides accounting advice on the disposition of Lands
- Ensures the disposition of Lands is recorded in accordance with the *Tangible Capital Assets Guideline*

## Compliance

Non-compliance with this policy may result in disciplinary action, up to and including termination, or legal action.

## Reference

*Municipal Act, 2001*, s.106 and s.270

[Reserve and Reserve Fund Policy](#)

[Tangible Capital Asset Policy](#)

[Delegation Bylaw 2023-31](#)

Processes for the Stewardship, Circulation and Disposition of Regional Real Property

## Contact

Director Property Services Branch, Corporate Services Department, at ext. 71685

## Approval

Council Date: <input type="text"/>	Committee Date: <input type="text"/>
Council Minute Item: <input type="text"/>	Committee Minute Item: <input type="text"/>

Insert eDOCS # (give "CS RC Policy Manual Team" full access to policy and attachments)

Accessible formats or communication supports are available upon request.