

TORONTO TRANSIT COMMISSION REPORT NO.

MEETING DATE: March 1, 2011

SUBJECT: TTC CORPORATE POLICY – DISPOSAL OF SURPLUS
PROPERTY, ACQUISITION OF REAL PROPERTY, OFFICE AND
SHORT TERM LEASES – POLICY 12.2.0

ACTION ITEM:

RECOMMENDATION

It is recommended that:

1. The Commission adopt the changes to the existing “Disposal of Surplus Property, Acquisition of Real Property, Office and Short Term Leases” policy; and
2. The appropriate Commission staff and officials be authorized to take the necessary action to give effect to the amendments to the “Disposal of Surplus Property, Acquisition of Real Property, Office and Short Term Leases” policy.

FUNDING

There are no funding implications arising out of this report.

BACKGROUND

The “Disposal of Surplus Property, Acquisition of Real Property, Office and Short Term Leases” policy was approved by the Chief General Manager on January 19, 2004. Since then, the City of Toronto has changed some of its policies with respect to the acquisition and disposition of land by its agencies, boards, commissions and departments and a new City of Toronto Act has come into effect. It is now necessary to amend the Toronto Transit Commission’s (“TTC’s”) policy to bring it into line with these changes and make housekeeping changes to bring the policy into conformance with TTC’s current structures and practices.

DISCUSSION

Attached to this report as Attachment #1 is a copy of the proposed changes to the “Disposal of Surplus Property, Acquisition of Real Property, Office and Short Term Leases” policy tracking the proposed changes against the previously approved version of the policy. For

ease of reading, Attachment #2 shows the proposed revised policy without the tracking.

JUSTIFICATION

The recommended changes to the “Disposal of Surplus Property, Acquisition of Real Property, Office and Short Term Leases” policy will bring it into conformance with the City of Toronto Act, City of Toronto policies on the acquisition and disposal of real property and TTC’s current structures.

February 4, 2011
22-11-10
Attachments

Toronto Transit Commission

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Disposal of Surplus Property, Acquisition of Real Property, Office and Short Term Leases	Property Development	Jan 19/04	12.2.0

1.0 RESPONSIBILITY

~~Manager – Property Development~~ Chief Property Development Officer

2.0 PURPOSE

To ensure that surplus real property assets of the Commission are disposed of in a timely manner and in accordance with TTC by-laws and City of Toronto principles, policies and procedures; ~~and~~ that the acquisition of real properties is at market value and ~~is~~ in accordance with project schedules; ~~and~~ that the Toronto Transit Commission's Public Land Register is maintained.

3.0 DEFINITIONS

3.1 The Commission/TTC refers to the Toronto Transit Commission, excluding its subsidiary companies.

3.2 Property includes real property, air rights, easements, property leases including office and retail leases, or other property instruments which bind the Commission from a property perspective. This includes property owned, operated, leased, or under the operational management jurisdiction of the TTC.

3.3 Short-term leases refers to temporary property leases for a period of less than five years typically for construction purposes, but does not include retail leasing.

3.4 Public Land Register refers to a listing of all real property owned, leased by or under the operational management of the TTC at any given time.

3.5 City refers to the City of Toronto.

3.6 ABCDs refers to the City of Toronto's agencies, boards, commissions and departments.

4.0 GENERAL

4.1. The Chief Property Development Officer (or designate) is responsible for maintaining the Public Property Register and on disposal of a Property,

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providing sufficient information to permit the issuance of a certificate in accordance with TTC By-law #2, if applicable.

- 4.2. The Chief Property Development Officer ~~Manager—Property Development~~ (or delegate) represents the Commission's interests on the City's Technical Working Committee (TWC) and Property Management Committee (PMC).
- 4.3. The mandate of the ~~City—PMC~~ is to be responsible for staff level decision-making respecting the use and disposal of the City's real property portfolio, including management of the process to declare ~~P~~properties surplus and the operational management ~~jurisdictional transfer~~ of ~~P~~properties among ~~City—~~ABCDs. The Committee is chaired by the Chief Corporate Officer~~Commissioner of Corporate Services~~, includes representatives from various ABCDs, and receives advice and recommendations from the TWC.
- 4.4. The Chief Property Development Officer (or designate) ~~Staff~~ will notify local City Councillors concerning the acquisition, disposal, or redevelopment of TTC ~~P~~property in accordance with the notification protocol adopted by the Commission on November 20, 2002. Local City Councillors will not be specifically notified of short term leases with property owners to implement construction projects. City staff will notify local City Councillors prior to the City real estate report reaching the agenda of a standing committee of City Council.
- 4.5. The acquisition, ~~development~~, or disposal of ~~P~~property shall be in accordance with the Service Level Agreement (SLA) between the TTC and the City.
- 4.6. Property utilized by the TTC ~~typically~~ consists of the following ownership arrangements: property leased by the TTC on a short or long term basis, property held on title by the TTC, and property held on title by the City but occupied by or under the operational management of the TTC ~~occupied and/or under the jurisdiction of the TTC, and property held on title by the City but under Licence Agreement with the TTC.~~
- 4.7. Where permanent TTC structures and facilities such as stations, terminals and running structure are located or to be constructed, the TTC shall request that the City retain or acquire the Property housing the structures in fee simple or stratified fee interest. On redevelopment of privately held properties containing

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easements for the use of the TTC, the TTC shall request the City, through the planning approval process, convert these property interests to fee simple or stratified fee interests.

5.0 PROCEDURES – DISPOSAL OF SURPLUS PROPERTY

- 5.1 Declaration of Properties identified as surplus rests ~~solely~~ with the Commission.
- 5.2 When real property is determined to be surplus to present and future needs by the department which is the major user of the Property, the Chief Property Development Officer ~~Manager – Property Development~~ is to be notified.
- 5.3 The Chief Property Development Officer ~~Manager – Property Development~~ is responsible for circulating a description of the surplus Property to other interested TTC departments, and resolving any conflicting requirements ~~uses~~ for the continued use ~~utilization~~ of the Property.
- 5.4 Upon confirming no other present or future TTC need for the Property, the Chief Property Development Officer ~~Manager – Property Development~~ is responsible for facilitating the disposal of the surplus Property in accordance with TTC By-law #2 and City policies, bylaws and procedures, as applicable.
- 5.5 After the Commission has determined that a Property is surplus to its operating requirements, the Chief Property Development Officer ~~The TTC, after determining such property is surplus,~~ shall advise the Director of Real Estate, City of Toronto, of the surplus status.
- 5.6 Proceeds arising from the sale or lease of surplus TTC Property will be treated ~~are to be~~ in accordance with the City's policy governing Land Transactions among City Agencies, Boards, Commissions and Departments and Proceeds from the Sale of Surplus City Owned Real Property as amended from time to time and the City's policy Principles of a Real Estate Strategy and Declaration of Surplus for Sale/Transfer or Turnover to Build Toronto.
- 5.7 The PMC shall determine the interest of an ~~City~~ ABCDs in Property declared surplus by the TTC, and resolve competing interests, if necessary, and determine the final disposition.

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5.8 The TTC, upon request from the City, determines if ~~Properties~~, land, or air rights, owned by the TTC or by the City for TTC purposes ~~is~~ are surplus to its operational needs in the manner set out above in paragraph 5.3. The responsibility for the disposal development of such ~~Properties~~ rests with the City, subject to review and approval by the TTC of any ~~developmental~~ impacts on TTC structures or operations, and protection of ~~Property~~ and operational interests.

6.0 ACQUISITION OF PROPERTY

6.1 Responsibility for acquisition of ~~Property~~, {temporary or permanent}, rests with the Chief Property Development Officer unless otherwise agreed as part of an approved property acquisition protocol for a specific project. ~~Manager—Property Development~~. ~~TTC property is acquired utilizing the City Real Estate Department as TTC's agent.~~

6.2 With the exception of leases, TTC ~~Property~~ is generally acquired using the City Real Estate Department as TTC's agent.

6.3 Property may be acquired through the City's PMC process or on the open market.

6.4 In accordance with City policies, all Property is acquired at market value regardless of whether it is transferred from one ABCD to another or purchased on the open market.

6.5 Following identification of a the need to acquire a for the acquisition of ~~Property~~, {including ~~Property~~ leased for operational or construction purposes}, the initiating department is responsible for submitting a Requisition for Property Services, {signed by the project manager and the manager of the initiating department}, to the Chief Property Development Officer ~~Manager—Property Development~~.

6.6 No action to acquire ~~Property~~ will be taken unless a requisition form has been submitted to the Chief Property Development Officer ~~Manager—Property Development~~ and authority for the cost of the acquisition, whether from an ABCD or on the open market, is available in the appropriate budget.

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- 6.7 It is the responsibility of the initiating department to ensure that appropriate ~~property~~ costs have been included in the ~~C~~capital or operating ~~b~~Budgets, as applicable, for the ~~full market~~ value of the ~~P~~property acquisition, including, disturbance damages, damages for injurious affection, City staff time for the negotiation and/or expropriation of the ~~P~~property, ~~property~~ appraisals, surveys/R Plans, legal costs, and land transfer fees. Property Development staff will provide guidance on the development of budget estimates for acquisition upon request.
- 6.8 It is the responsibility of the initiating department to ensure that the requisition form for the acquisition of a ~~P~~property is initiated in sufficient time to acquire the ~~P~~property, recognizing that if a ~~P~~property must be expropriated, a minimum of ~~18 12-14~~ months ~~is are~~ required from the start of the requisition process to obtaining legal possession.
- 6.9 The Property Development Department ~~TTC~~ upon request from the City determines if ~~P~~property, ~~land~~, or ~~air rights~~ owned by the City or its ABCDs, which ~~are is~~ surplus to their requirements ~~the City~~, ~~are is~~ needed required for TTC operational purposes and should be acquired by the TTC.
- 6.10 The Property Development Department, ~~u~~Upon receipt of a circulation of surplus ~~P~~property owned by the City or its ABCDs, the Chief Property Development Officer ~~Manager~~ ~~Property Development~~ is responsible for canvassing TTC departments as to their interest in the ~~P~~property for transit purposes. The Chief Property Development Officer ~~Manager~~ ~~Property Development~~ is responsible for communicating any such interest to the City and, if necessary, preparing the TTC's business case for submission to the TWC and PMC.
- 6.11 The responsibility for determining whether expropriation of ~~P~~property is required to meet the schedule for acquisition rests with the Chief Property Development Officer ~~Manager~~ ~~Property Development~~ in consultation with the initiating department and ~~the City~~ Real Estate staff.

7.0 LEASING OF PROPERTY

The Property Development Department is responsible for the leasing of ~~P~~property,

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including licence agreements, leasing of office space, subleasing of office space, and the leasing of ~~P~~property on a short-term basis for operational or construction purposes (e.g. mobilization sites). The above acquisitions are undertaken entirely by Property Development Department ~~TTC~~ staff.

~~8.0~~ LEGAL AUTHORITY TO ACQUIRE PROPERTY

~~Pursuant to Section 10(1)(e) of the City of Toronto Act ("the Act"), the TTC has the following powers with respect to the acquisition and use of real property:~~

~~To purchase, lease acquire and use any real...property for its purpose, but the Commission shall not acquire any property that is to be paid for by moneys raised on the issue of debentures of the City of Toronto unless the approval of the Toronto Council has first been obtained.~~

~~The Act, in Section 10(2) also provides the City of Toronto the power to acquire land for the purposes of the Commission.~~

~~89.0~~ REFERENCE SOURCES

- City of Toronto Act, 2007
- City of Toronto Property Management Committee - Terms of Reference
- Expropriations Act, RSO, 1990
- City of Toronto Proceeds Policy governing Land Transactions among City Agencies, Boards, Commissions and Departments and Proceeds from the Sale of Surplus City Owned Real Property - City of Toronto, June 2002, as amended policy
- Principles of Real Estate Strategy and Declaration of Surplus for Sale/Transfer or Turnover to Build Toronto – City of Toronto, May 2009
- Notification Protocol – TTC Real Estate Matters - Commission Report November 20, 2002

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~~Process to Declare Properties Surplus and to Facilitate Jurisdictional Transfer –
City process~~

~~Property Development Procedural Manual~~

- Service Level Agreement (SLA)

- TTC By-law #2

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To ensure that surplus real property assets of the Commission are disposed of in a timely manner and in accordance with TTC by-laws and City of Toronto principles, policies and procedures; that the acquisition of real properties is at market value and in accordance with project schedules; and that the Toronto Transit Commission's Public Land Register is maintained.

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4.0 GENERAL

4.1 The Chief Property Development Officer (or designate) is responsible for maintaining the Public Land Register and on disposal of a Property, providing sufficient information to permit the issuance of a certificate in accordance with

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- 4.3 The mandate of the PMC is to be responsible for staff level decision-making respecting the use and disposal of the City's real property portfolio, including management of the process to declare Properties surplus and the transfer of operational management of Properties among ABCDs. The Committee is chaired by the Chief Corporate Officer, includes representatives from various ABCDs, and receives advice and recommendations from the TWC.
- 4.4 The Chief Property Development Officer (or designate) will notify local City Councillors concerning the acquisition, disposal, or redevelopment of TTC Property in accordance with the notification protocol adopted by the Commission on November 20, 2002. Local City Councillors will not be specifically notified of short term leases with property owners to implement construction projects. When City Council reports for TTC acquisitions are prepared, City staff will notify local City Councillors prior to the City real estate report reaching the agenda of a standing committee of City Council.
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- 5.8 The TTC, upon request from the City, determines if Property owned by the TTC or by the City for TTC purposes, is surplus to its operational needs in the manner set out above in paragraph 5.3 . The responsibility for the disposal of such Properties rests with the City, subject to review and approval by the TTC of any impact on TTC structures or operations, and protection of Property and

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- 6.3 Property may be acquired through the City's PMC process or on the open market.
- 6.4 In accordance with City policies, all Property is acquired at market value regardless of whether it is transferred from one ABCD to another or purchased on the open market.
- 6.5 Following identification of a need to acquire a Property, including Property leased for operational or construction purposes, the initiating department is responsible for submitting a Requisition for Property Services, signed by the project manager and the manager of the initiating department, to the Chief Property Development Officer.
- 6.6 No action to acquire Property will be taken unless a requisition form has been submitted to the Chief Property Development Officer and authority for the cost of the acquisition, whether from an ABCD or on the open market, is available in the appropriate budget.
- 6.7 It is the responsibility of the initiating department to ensure that appropriate property costs have been included in capital or operating budgets, as applicable, for the full value of the Property acquisition, including disturbance damages, damages for injurious affection, City staff time for the negotiation and/or expropriation of the property, appraisals, surveys/R Plans, legal costs, and land transfer fees. Property Development staff will provide guidance on the development of budget estimates for acquisition upon request.

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- 6.8 It is the responsibility of the initiating department to ensure that the requisition form for the acquisition of a Property is initiated in sufficient time to acquire the Property, recognizing that if a Property must be expropriated, a minimum of 18 months is required from the start of the requisition process to obtaining legal possession.
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