

THOROLD BUSINESS IMPROVEMENT AREA ASSOCIATION
POLICY AND PROCEDURE MANUAL

GOVERNANCE		
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DISPOSITION OF LAND POLICY

POLICY STATEMENT

In the event that the BIA will dispose a surplus real property of the BIA in an open and transparent process to ensure that returns are fair, reasonable and in the best interests of the BIA.

APPLICATION OF POLICY

This policy applies to the disposition of property of the Thorold BIA.

Thorold City Council must approve all dispositions of land being considered.

This policy does NOT apply to any sale of property by the City pursuant to the provisions of Part XIV of the Municipal Act, 2001, as amended (Sale of Land for Tax Arrears) and any regulations thereto.

DEFINITIONS:

“ABUTTING” means land adjoining another parcel having one or more lot lines in common;

“APPRAISAL” means a fair market valuation of land and may include but not be limited to a real estate appraisers’ letter of opinion of value;

“AS IS” means without regard for the state of repair, location of any and all structures, walls, retaining walls or fences (freestanding or otherwise) or encroachment by buildings or fences or otherwise, on the land or adjoining properties or streets, and without warranty or representation as to use, environmental contamination, hazards or risks;

“BIA” means the Business Improvement Area Association;

“DISPOSITION” and “DISPOSAL” means the sale, transfer, conveyance or exchange of real property, or granting of a lease for a term of 21 years or longer. Disposition or disposal does NOT include the granting of an easement or right of way or a quit claim made by the City for the purpose of correcting or clarifying title or boundaries of its land or of land not owned by the City;

“MARKET VALUE” means the most probable price which a property 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;

“NON-VIABLE REAL PROPERTY” means real property for which a building permit cannot be granted because either it is landlocked, or because it is of insufficient size and shape to permit development unless development in conjunction with abutting land;

“REAL PROPERTY” or “PROPERTY” means land and/or buildings and all improvements thereon owned by the Thorold BIA.

“SURPLUS” means property that the BIA no longer requires to meet its current or future needs;

“VIABLE REAL PROPERTY” means real property for which a building permit can be issued.

GENERAL PROVISIONS:

1. Subsearch of Title

- 1.1 Where property has been identified as surplus or potentially surplus, the parcel register shall be obtained from the proper land registry office prior to disposition of the property to determine if there are any legal impediments to the disposition.

2. Internal and External Utility Circulation

- 2.1 Easement requirements shall be identified and protected by registration at the proper land registry office as part of the disposal of real property transaction.

3. Declare Surplus

- 3.1 Prior to the disposition of real property, the BIA shall pass a motion at a meeting, open to all members and the public, declaring the property to be surplus to the BIA's needs.
- 3.2 Where an unsolicited offer to purchase prompts the BIA to consider declaring certain land surplus to the BIA's needs, the City Clerk shall give notice to the public pursuant to the City's Public Notice Policy of the intention of the BIA to dispose of the property.

4. Appraisal

- 4.1 Prior to the disposition of real property, the BIA shall obtain at least one appraisal of the fair market value of the property to be disposed of. Appraisal Reports for viable real property shall remain confidential until the disposition is completed.

EXCEPTION:

Notwithstanding the foregoing, the following classes of real property are exempt from the requirement to obtain at least one appraisal of fair market value prior to

its disposition:

- a) land 0.3 metres or less in width acquired in connection with an approval or decision under the Planning Act;
- b) land repurchased by an owner in accordance with section 42 of the Expropriations Act;
- c) land for which the BIA has obtained an Appraisal within the preceding year.

5. Public Notice

5.1 Prior to the disposition of real property and after the passing of a motion to declare property surplus, the City Clerk shall give notice to the public pursuant to the City's Public Notice Policy of the intention of the BIA to dispose of the property.

EXCEPTION:

Notwithstanding the foregoing, the following classes of real property are exempt from the requirement to give notice to the public pursuant to the City's Public Notice Policy of the intention of the BIA to dispose of the property:

- a) land 0.3 metres or less in width acquired in connection with an approval or decision under the Planning Act;
- b) land repurchased by an owner in accordance with section 42 of the Expropriations Act;

6. Methods of Disposition

6.1 Various methods may be employed for the disposal of real property including:

- a) Listing Agreement with a Licensed Real Estate Broker through Multiple Listing Service;
- b) Direct Sale of Non-Viable Real Property to Abutting Owner(s);
- c) Request for Offers or Proposals;
- d) Sale by Tender;
- e) Direct Advertising;
- f) Public Auction;
- g) Direct Negotiation for Exchange of Real Property.

6.2 The BIA Executives, in consultation with the General Membership, shall be responsible for determining the appropriate method of disposition.

7. Real Property Transactions

7.1 All disposition of real property of the Thorold BIA shall be carried out in a manner consistent with accepted conveyance practices, and in accordance with all applicable federal and provincial legislation and municipal by-laws and policies.

7.2 All real property, with or without improvements, shall be sold on an “as is” basis unless the BIA Executive determines otherwise.

7.3 The BIA is under no obligation by virtue of the disposition of real property to grant any approvals, including approvals for changes to the Official Plan or zoning by-law or with respect to site plan control, minor variances and building permits, or to support approvals required by any other approval authority, which may be necessary for any contemplated use of the land by the purchaser.

8. Public Land Register

8.1 The BIA shall maintain a public register listing and describing the land owned by the municipality.