



City Policy & Procedure

**Subject: Development Services Division
Property Administration Section Policy (Policy #1025)**

Covers: Land Transaction Procedure

Effective: September 17, 2012

Policy:

Land sale transactions involving City owned property are to be conducted in a fair and equitable manner whereby potential purchasers shall receive equal consideration once administration has determined, based on the civic need, that there are no further uses for the property and the property is declared surplus to civic need and therefore available for purchase.

The principles guiding the procedure to dispose of City owned lands declared as surplus include:

- **Obtaining the best value for the citizens of Brandon;**
- **Support of orderly development in accordance with the Development Plan and planning regulations;**
- **Support of specific City Council mandates and initiatives;**
and
- **Public access to the policy;**

1.0 DEFINITIONS

“Administration” shall mean a representative from City Departments (at minimum will consists of Planning, Property, Engineering, and Economic Development) that hold a vested interest in City owned lands;

“affordable housing” means land which will be dedicated for the construction of housing to be occupied by an owner or renter whose annual household income does not exceed the current affordable housing definition established by the City of Brandon and defined in the Affordable Housing Strategy;

“appraisal” means a fair market valuation of land prepared by an accredited Appraiser;

“appraiser” means a member in good standing of the Appraisal Institute of Canada, holding an Accredited Appraiser Canadian Institute or Canadian Residential Appraiser designation as appropriate;

“civic need” or “civic purposes” shall mean the use of lands by the City of Brandon such as including but not limited to office facilities; operational facilities and grounds (airport, bus terminal, parking lots); recreational facilities, grounds and parks; affordable housing, drainage ditches, ponds, dikes, infrastructure and fibre corridors; and public reserves.

“comparison of assessed value” means a comparison of approximately four (4) adjacent or within a one (1) block radius property square foot values and the average of those values (Land Gross Value/square feet of land=square foot value);

“fully developed” means land which the City currently uses for its civic purposes and is not available for sale;

“partially developed” means land which the City currently uses and intends to further develop or use for its civic purposes and is not available for sale;

“land(s)” shall mean real property and any improvements thereon owned by the City, including roads, streets, lanes, or walkways which have been or may be stopped up and closed;

“developable lands” means land that is capable of sustaining development and complies with existing development parameters.

“non-developable lands” means land which would, in the opinion of the Property Administrator, or designate, be of limited interest to potential purchasers due to size, shape, location, topography, environmental condition, land use restrictions, or any other factor, however may be of interest to adjoining property owners;

“non-profit organization” means:

- (a) a corporation that is prohibited from paying dividends to its members and distributing the assets to its members on a winding-up, or

(b) any other entity established under a law of Manitoba or Canada for a purpose other than to make a profit,
but does not include a credit union, caisse populaire or co-operative established under a law of Manitoba or Canada;

“real property” means lands and anything permanently affixed to the land, such as buildings, fences and those things attached to the building, such as light fixtures, plumbing and heating fixtures, or other such items which would be personal property is not attached.

“reserved” means land which the City intends to develop or use for its future civic purposes and is not available for sale;

“surplus” means land which the City does not have a future need for its use and would in the opinion of the Property Administrator, or designate, be of interest to potential purchasers in the open market due to size, shape, location, topography, environmental condition, permitted land uses, or any other factor;

“as is” means without regard for 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.

2.0 ADMINISTRATION

This policy shall be administered on behalf of the City of Brandon through the Development Services Division, Property Administration Section.

3.0 INVENTORY OF LANDS

3.1 The Property Section shall maintain an inventory of all city owned lands and provide on said inventory listing an indication of its development status. The development status shall be indicated in two (2) categories: Civic Lands (Fully Developed, Partially Developed, and Reserved); and Surplus Lands (Developable Lands, Affordable Housing Lands and Non-developable Lands).

3.2 The Property Section shall present to City Council, at an in-camera meeting, an inventory of lands and development status every four (4) years for approval. All lands with the development status of Surplus Lands and their listing values will be presented to City Council every two (2) years for re-approval. This will ensure that the inventory

listing is accurate, prices are current, and that City Council is aware of its real property assets.

- 3.3 Prior to submitting the inventory listing or any addition of lands to City Council for approval, the Property Section shall coordinate a review of the inventory listing with Administration, to evaluate the potential of any lands being used as Civic Lands, inclusive of affordable housing purposes; and the potential of any lands to be sold as Surplus Lands.

A review of lands by Administration shall include the following evaluation criteria:

- Size of the lands
- Existing structure (if any)
- The value and marketability of the lands
- Correlation to existing City of Brandon master plans
- Availability of infrastructure such as water, sewer, hydro, etc
- Development challenges such as zoning, lot shape, land mass size, drainage, elevation, easements, encumbrances, potential of flooding, etc
- Regulation restrictions such as Manitoba Highways, Methane Gas Policy, heritage status, environmental regulation, secondary plan and/or neighbourhood strategies/plans
- Character of the neighborhood
- Proposed use of the lands within the existing development parameters

- 3.4 On the occasion that a consensus cannot be reached by Administration with respect to the proposed development status of lands, the Property Section will prepare a report noting all options and costs associated for City Council's decision.

4.0 PROCEDURES FOR THE DISPOSAL OF SURPLUS LANDS

- 4.1 The category of Surplus Lands shall include the following development statuses:

- 1) Developable Lands,
- 2) Affordable Housing Lands, and
- 3) Non-developable Lands.

4.2 General Provisions

- 4.2.1 All Surplus Lands shall be disposed of with the best interest of the City of Brandon in mind.
- 4.2.1 The resolution of City Council in declaring Surplus Lands shall clearly state the development status of the lands (Developable Lands, Affordable Housing Lands, and Non-developable Lands).
- 4.2.2 The Property Section will not entertain options for First Right-of-Refusal on any lands. Any existing options will be honoured, however no extensions shall be granted upon their expiry.
- 4.2.3 All sales of Surplus Lands shall be on an “as is/where is” basis and all development related costs are the responsibility of the purchaser.
- 4.2.4 All sales are subject to the addition of the Goods & Service Tax. The Land Transfer Tax, if applicable, is additional to all costs noted in this policy, which will be charged by the Property Registry upon registration of the Transfer of Land, and is the full responsibility of the purchaser.

4.3 Developable Lands

The following procedures shall apply to all lands, as approved by City Council, with the development status of Developable Lands and are capable of sustaining development.

- 4.3.1 The Property Section shall present to City Council, at an in-camera meeting, listing values for all Developable Lands based on a comparison of assessed values or appraised value pursuant to Section 4.3.5 below. The Property Section shall have the authority to negotiate within the criteria established by City Council. Once approved, the listing values will be made public.
- 4.3.2 The resolution of City Council in declaring Developable Lands shall clearly state City Council’s delegation of authority through the City Manager for the Property Section to negotiate, finalize and close land

transactions providing the offer meets the criteria established by City Council.

- 4.3.3 Should the Property Section be aware of any Civic Lands, receive a request to change the development status of lands to Developable Lands, or if the City has taken possession of lands (acquisition of lands through tax sale or the Derelict Building By-law), which in the opinion of the Property Administrator or their designate has potential to become surplus Developable Lands, the Property Section shall coordinate a review with Administration pursuant to Section 3.3 above. Should the lands not be required for civic purposes, the Property Section shall dispose of the lands pursuant to Clause 4.3.4 below.
- 4.3.4 The Property Section shall proceed with a call for proposal for the sale and development of all lands deemed as Developable Lands.
- a) Upon review of the proposal(s) by Administration, the Property Section shall prepare a report summarizing the proposal(s) received and provide a recommendation which best meets the City's objectives for City Council's decision.
 - b) Should no proposal be received, the Property Section will prepare a listing value for presentation to City Council pursuant to Section 4.3.1 above. The Property Section shall then market the lands by placing a sign on the lands and will advertise the lands on the City's website. Offers will be reviewed on a first-come first-serve basis.
 - c) The Property Section reserves the right to re-issue a call for proposal at any time, should prior proposal calls and/or marketing of the land(s) be unsuccessful.
 - d) The Property Section shall erect a sign on all lands affected by a call for proposal giving notice of the proposal call.
- 4.3.5 The Property Section shall obtain appraisals on surplus Developable Lands which are bare land and 10,000 ft² or greater. Appraisals shall be standard on all Developable Lands with a permanent structure to ensure the City obtains the best value for its lands.

4.3.6 All purchasers shall submit conceptual plans with an Offer to Purchase for the purchase of Developable Lands, illustrating the proposed development or improvements to the property and/or building, including proposed accesses, parking, landscaping, etc. for review by Administration. The conceptual plans need to be of sufficient detail to visually convey how the development may appear when complete.

4.3.7 All purchasers of Developable Lands shall be subject, under an Offer to Purchase Agreement to be registered on the lands, to a two (2) year deadline from the date of possession to apply for a building permit through the Planning Department and proceed promptly with construction upon the lands in accordance with applicable City of Brandon By-laws, including but not limited to The Building By-law and The Zoning By-law, without exception. Prior to possession of the lands, the purchaser shall provide the City with a registerable transfer of land, which would allow the land to revert back to the City, should the purchaser fail to apply for and be in receipt of a building permit for construction on the lands on or before the expiration of a period of two (2) years. It is the expectation of the City, that in conveying the land to the purchaser at the agreed purchase price, that they will promptly proceed with new construction following applicable City by-laws, and therefore adding to the City's tax base.

4.4 Affordable Housing Lands

The following procedures shall apply to all lands, as approved by City Council, with the development status of Affordable Housing Lands. The development status of lands for affordable housing purposes will remain as such unless a change in development status is requested by the Director of Economic Development or their designate.

- 4.4.1 Administration's evaluation of surplus lands for affordable housing purposes shall consider the following criteria:
- Size of lands must be sufficient to at least contain one dwelling unit in compliance with the City Zoning By-Law.

- Foot, bicycle or public transportation access to services such as medical, educational and financial as well as quality of life services such as parks, playgrounds, bicycle and walking paths.
- Walking access to public transportation
- Infill development compatible with the neighbourhood
- Conform with or have the potential through amendment to the City Zoning By-Law and the Brandon and Area Planning Development Plan at the time of being declared surplus for affordable housing purposes
- The value and marketability of the land
- Availability of infrastructure such as water, sewer, hydro, etc
- Neighbourhood character
- Development challenges such as lot shape, land mass size, drainage, elevation, easements, encumbrances, etc
- Regulation restrictions such as Manitoba Highways, Methane Gas Policy, heritage status, environmental regulation, secondary plan and/or neighbourhood strategies/plans
- Percentage of affordable housing already in the neighbourhood
- Public opinion and/or concerns

4.4.2 The Property Section shall present to City Council, at an in-camera meeting, listing values for all Affordable Housing Lands based on a comparison of assessed values or appraised value pursuant to Section 4.3.5 above.

4.4.3 The resolution of City Council in declaring Affordable Housing Lands shall clearly state City Council's delegation of authority through the City Manager for the Property Section to finalize and close land transactions.

4.4.4 Issue a call for expression of interest proposals for the development of affordable housing to Not for Profit Organizations. Should the call not be successful in generating interested parties, the call will be extended to for profit developers for the development of affordable housing. The call for proposal will include at minimum:

- i. A summary of known site details
- ii. City of Brandon's preference for the site

- iii. A clear understanding of all information required to constitute a completed expression of interest
- 4.4.5 Expressions of interest will be evaluated by the Director of Economic Development or their designate using established evaluation criteria. Upon completed evaluation, a short list of affordable housing projects that meet the current demand for affordable housing in Brandon will be established.
- 4.4.6 Short listed organization(s) will then be invited to submit a full proposal.
- 4.4.7 Full proposals will be evaluated by the Director of Economic Development or their designate and the Planning Department, with the successful project being sold the identified lands. All projects will be subject to Section 4.3.7 above. Should the Purchaser discontinue providing affordable housing on the lands at any point in time, then the Purchaser shall forthwith pay to the City of Brandon fair market value for the lands as determined at the time of discontinuance of the affordable housing use. Interest shall be payable to the City of Brandon at the rate of prime + 1% per annum, compounded semi-annually, from the date the aforementioned sum becomes due and payable by the Purchaser to the City of Brandon, until the City of Brandon receives payment in full.
- 4.4.8 The Property Section will prepare and execute all documents required to complete the transaction.

4.5 Non-Developable Lands

The following procedures shall apply to all lands, as approved by City Council, with the development status of Non-developable Lands and are not capable of sustaining development.

- 4.5.1 The Property Section shall present to City Council, at an in-camera meeting, listing values for Non-developable Lands on a price per square foot area basis. The price per square foot value of Non-developable Lands shall be listed by ward, recognizing the difference in locations and property values. The values will be based on fair market value in recognition that the size of the land will add value to

the property and, although undevelopable on its own, once consolidated with the adjoining property, may allow for the adjoining property owner to provide in-fill housing or an increased use.

4.5.2 By approving a price per square foot value, City Council also delegates, through the City Manager, the authority for the Property Section to finalize and close the land transactions.

4.5.3 The disposal of Non-developable Lands shall be only to adjoining property owners. The Property Section shall notify, in writing, the adjacent owner(s) of the lands being available for sale.

a) Should only one (1) adjoining property owner be interested in purchasing the lands, the Property Section shall finalize the sale;

b) Should two (2) adjoining property owners be interested in the lands, a general rule shall be to subdivide the lands equally, with all costs associated with the subdivision the full responsibility of the adjoining property owners.

c) Should two (2) adjoining property owners be interested in the lands as a whole, they shall each submit a proposal to the Property Section for Administration's review. Administration will evaluate the proposals and intended use of the lands with specific attention to the existing character of the neighborhood, zoning of the lands and adjoining properties, compliance with existing development parameters, and the existing topography and elevation of the lands. The Property Section shall prepare a report summarizing the proposal(s) received and provide a recommendation which best meets the City's objectives for City Council's decision.

4.5.4 Notwithstanding Section 4.5.3 above, the Property Section may bring forward the disposal of Non-Developable lands at less than the price per square foot value for City Council's consideration if the sale is in conjunction with affordable housing, a not-for-profit organization, an Economic Development initiative, or upon Administration's calculations the benefit of taxes surmounts the maintenance costs.

5.0 PROCEDURE FOR THE DISPOSAL OF PUBLIC RESERVE LANDS

5.1 The City will not normally dispose of public reserve lands. In those rare instances, where it is in the best interest of the City to dispose of public reserve lands, the procedures for disposal shall be as presented in the following priority:

- a. Affordable Housing Lands
- b. Developable Lands
- c. Non-developable Lands

5.2 The City shall, in all respects, abide by The Planning Act in regards to the use and disposal of public reserve land (Sections 138 to 140). The Property Section shall establish a procedure for the closure of public reserve lands.

5.3 In the instance where the City no longer has the civic need for a public reserve (ex. Tot lot) the Property Section shall coordinate a review with Administration pursuant to Section 3.3 above. Should the lands not be required for civic purposes, the Property Section shall commence the closure process for its closure, and dispose of the lands pursuant to Section 4.3.4 above. All costs associated with the closure process will be paid upfront by the City, and reclaimed through the sale.

5.4 In the instance where a request and conceptual plan is received to close a small portion of a public reserve, the Property Section shall coordinate a review with Administration pursuant to Section 3.3 above.

- a) If Administration is in agreement to its disposal, the Property Section shall first advise, in writing, the adjoining property owners directly affected by the proposed closure. Said notice shall advise the residents of the proposed closure, and its purpose will be to solicit concerns.
- b) After notification to the adjoining property owners, if the applicant still wishes to proceed with the closure and conveyance, the Property Section shall commence the closure process to dispose of the land to the adjacent property owner(s) and present a report and by-law for City Council's decision. The land shall be valued at a price per square foot for Non-developable Lands pursuant to Section 4.5.1 above. Should utility services or City infrastructure or services exist in the public reserve, the value of the land shall be decreased by 50%.

In addition to the price per square foot value for the lands, the resident shall pay for all costs associated with the closure process and an administrative fee.

6.0 PROCEDURE FOR THE DISPOSAL OF PUBLIC RIGHT-OF-WAYS, STREETS, LANES, WALKWAYS

6.1 In the instance where it is in the best interest of the City to dispose of a public right-of-way, street, lane or walkway, the procedure for disposal shall be as presented in the following priority:

- a. Affordable Housing
- b. Developable Lands
- c. Non-developable Lands

6.2 The City shall, in all respects, abide by The Municipal Act in regards to municipal roads (Sections 288 to 291). The Property Section shall establish a procedure for the closure of public right-of-ways, streets, lanes, and walkways.

6.3 In the instance where a request and conceptual plan is received to close a public road or street, the Property Section shall coordinate a review with Administration pursuant to Section 3.3 above. Administration's review shall include the evaluation of the request at hand.

- a) Should the lands not be required for civic purposes, and Administration is in agreement to the disposal of the public road or street as Developable Lands, the Property Section shall commence the closure process for its closure, and dispose of the lands pursuant to Section 4.3.4 above. All costs associated with the closure process will be paid upfront by the City, and reclaimed through the sale.
- b) If Administration is in agreement to the disposal of the public road or street to the adjacent property owner(s), the Property Section shall first advise, in writing, the adjoining property owners directly affected by the proposed closure.
- c) After notification to the adjoining property owners, if the applicant still wishes to proceed with the closure and conveyance, the Property Section shall commence the closure process to dispose of the land to the adjacent property owner(s) pursuant to Section 4.5.3 above and present a report and by-law for City Council's decision. The land shall be valued at a price per square foot for Non-developable Lands pursuant to Section 4.5.1 above. Should utility services or City infrastructure or

services exist in the public road or street, the price per square foot value of the land shall be decreased by 50%. In addition to the price per square foot value for the lands, the adjoining property owner(s) shall pay for all costs associated with the closure process and an administrative fee.

- 6.4 In the instance where a request is received to close a public lane or walkway, the Property Section shall coordinate a review with Administration pursuant to Section 3.3 above. Administration's review shall include the evaluation of the request at hand.
- a) Should the lands not be required for civic purposes, and Administration is in agreement to its disposal to the adjacent property owner(s), the Property Section shall first advise, in writing, the adjoining property owners directly affected by the proposed closure.
 - b) After notification to the adjoining property owners, if the applicant still wishes to proceed with the closure and conveyance, the Property Section shall commence the closure process to dispose of the land to the adjacent property owner(s) pursuant to Section 4.5.3 above and present a report and by-law for City Council's decision. The land shall be valued at a price per square foot for Non-developable Lands pursuant to Section 4.5.1 above. Should utility services or City infrastructure or services exist in the public lane or walkway, the price per square foot value of the land shall be decreased by 50%. In addition to the price per square foot value for the lands, the adjoining property owner(s) shall pay for all costs associated with the closure process and an administrative fee.
 - c) If the applicant is proposing a lane closure and opening to reconfigure their property, the lands shall be conveyed by way of a Land Exchange whereby its disposal is on a square foot for square foot basis pursuant to Section 8.0 below.
 - d) If the applicant is proposing a closure of an improved public lane and opening a new lane to reconfigure their property, all development costs associated with the closing and decommissioning of the improvements to the existing lane, and construction of the new lane shall be the full responsibility of the applicant. Plans shall be submitted to the Development Services Division for approval prior to commencing construction, and shall comply with City standards, regulations and by-laws.

7.0 TAX SALE ACQUISITIONS

7.1 In the instances where the City obtains land through tax sale, the resale of the land shall be in accordance with Section 4.3.3, and all costs incurred for the resale shall be added to the value of the land, including appraisal or demolition costs if applicable.

8.0 LAND EXCHANGES

8.1 The City, from time to time, may be required to assemble lands for specific projects, which may include land exchanges. Should no concerns or requirements to retain the land for civic purposes be expressed during a review by Administration pursuant to Section 3.3 above, the Property Section shall prepare a report for its disposal on a square foot for square foot basis for City Council's decision.

8.2 Should the difference in square feet for the lands being exchanged be greater than the land being received, or vice versa, the Property Section shall include in its report to City Council, a value for the difference in square feet based on an assessed value comparison pursuant to Section 4.5.1 above.

Related Information

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