

**ADMINISTRATIVE ORDER NUMBER 50
RESPECTING THE DISPOSAL OF SURPLUS REAL PROPERTY**

Be it resolved as an Administrative Order of the Council of the Halifax Regional Municipality as follows:

SHORT TITLE

1. The Administrative Order may be cited as Administrative Order Number 50, the Disposal of Surplus Real Property Administrative Order.

INTERPRETATION

1A. In this Administrative Order,

(a) “government” means the Government of Canada, Government of the Province of Nova Scotia, a corporation that is an agent of Her Majesty in Right of Canada or the Province, and a municipal unit;

(aa) “HRM Charter” means the Halifax Regional Municipality Charter, 2008, S.N.S, c. 39 as amended;

(b) “municipal unit” means a regional municipality, town or county or district municipality as set out in the *Municipal Government Act*; and

(c) “non-profit organization” means

(i) a society incorporated pursuant to the Societies Act, R.S.N.S 1989 c.435, as amended;

(ii) a non-profit association incorporated pursuant to the Co-Operative Associations Act, R.S.N.S c.98, as amended;

(iii) a not-for-profit incorporated pursuant to the Canada Not-for-profit Corporations Act, S.C 2009, c.23;

(iv) a non-profit organization otherwise incorporated pursuant to an Act of the Nova Scotia Legislature; or

(v) a registered Canadian charitable organization.

POLICY STATEMENT AND CATEGORIZATION

2. (1) The Municipality can acquire and sell real estate within its legislative provisions. Real estate holdings can be a “corporate” asset necessary for municipal functions and purposes of the business units or may be held for particular use of inhabitants of HRM for example, parks and institutional uses. Corporate assets are subject to corporate review by the Asset Owner Business Unit for continuing requirement. Where the business units of HRM have determined that properties no longer serve an operational requirement of the corporation or otherwise appear to be surplus to the needs of the Municipality, then the policy of disposal to be followed in all cases, excepting municipal property which requires particular process through statute or common law or property available in the Municipal Business Parks, is as directed by this policy of Council.

(2) The Municipality will dispose of real property Council determines is no longer required for the purposes of the Municipality. Staff will identify surplus properties by the following categories:

Economic Development

(a) Strategic properties having Economic Development potential ought be sold to:

- (i) maximize use or value;
- (ii) achieve the attraction of targeted industries and employment or the regeneration of neighborhoods;
- (iii) to advance development opportunities; and
- (iv) to generate financial return to the Municipality.

Community Interest

(b) Properties known to have potential for community use, in particular where:

- (i) there has been a prior community or institutional use of the property; or
- (ii) by location or scarcity of available property the consideration would reasonably arise.

Ordinary Sale

(c) Properties of an:

- (i) ordinary or routine nature;
- (ii) which no longer have a municipal purpose.

Remnant

(d) Properties which are remaining or subdivided lands which:

- (i) by nature of their size or dimensions have limited or no reasonable use;
- (ii) but which may have utility for abutting property owners, and can be disposed under s. 64 of the HRM Charter allowing Council to set a price that is less than market value.

Extraordinary

(e) Properties having a legal distinction which include conditions or extraordinary process with respect to their preservation or disposal including but not limited to:

- (i) the Halifax Commons;
- (ii) the Dartmouth Commons;
- (iii) streets;
- (iv) any municipal properties, including parks, which are held in trust, or upon condition, or with reserving interests, or like constraints;
- (v) and parkland acquired through subdivision process.

Intergovernmental Transfer

(f) Properties requested by another level of government which:

- (i) will be used for a public purpose; and
- (ii) sold for market value.

PROPERTY REVIEW AND DECLARATION OF SURPLUS

3. (1) Repealed

(2) All Business Units, as part of their business planning, will identify any municipal properties that are surplus to operational requirements

(3) Upon completion of Business Unit reviews and identification of operationally surplus property the Corporate Real Estate staff shall undertake a review and will categorize the nature of the inventory of potentially surplus properties and list them by category.

(3A) Corporate Real Estate will contact Legal and Risk Management Services and request a title report as part of the review for any property categorized as Community Interest Property.

(4) Local Councillor and Community Council will be informed of the inventory of the properties and the proposed categories by staff. Local Councillor will then have the opportunity to contact local community to discuss potential surplus properties to gauge interest in potential disposal methods for the properties with area residents. The result from these potential community consultations will then be included in the surplus property report that comes to Council.

(5) Corporate Real Estate staff will prepare a Surplus Property Report to Council which will attach lists of properties by category. The report will recommend that all lists of properties should be declared by Council to be surplus property, that each category be approved by Council, and that the disposal method recommended for each list under this policy be approved by Council.

(6) Council may approve the recommendations, may remove any property from any list, and may move any property from one list to another list, and may declare the lists, or any of them, surplus to the Municipality's requirements.

(7) Corporate and Customer Services will report the operating costs and the status of surplus properties through the Audit and Finance Standing Committee twice per year.

DISPOSAL METHODS

4. (1) Following Council approvals under Part 2, staff shall proceed to dispose of the properties as determined by category.

Ordinary Properties

(a) These properties shall be placed on the market by Corporate Real Estate. The sale of market properties may be achieved through:

- (i) direct marketing by staff;
- (ii) listing contracts with licensed real estate brokers;
- (iii) public tenders; or
- (iv) proposal call methods.

(b) Determination of the achieving market value will be supported by appraisal or through the receipt of sufficient offers over an appropriate exposure period.

(c) Approval of final conveyances shall be under delegated authority or by approval of Council as required.

Economic Development Properties

(d) These properties viewed by Council to be strategic may be disposed through individually recommended processes contained in the Surplus Properties Report, and may include referral to a special committee or task force of HRM created for the purpose of overseeing the strategic use and disposal of a property.

Properties under this category are required by the HRM Charter to be sold at market value and can include partnership models between private developers and non-profits and municipally defined public use or service delivery components.

Community Interest Properties

- (e) These properties will be considered pursuant to Schedule 1.
- (f) Repealed
- (g) Repealed
- (h) Repealed
- (i) Repealed
- (j) Repealed
- (k) Repealed
- (l) Repealed

Remnant Properties

(2) Staff will negotiate the sale of such parcels with any interested abutter of such lands and at such price as supported by appraisal or set by Council directly or through policy adopted by Council.

Extraordinary Properties

(3) This category of properties will be dealt with as required by legislation, common law, or contract that governs any disposal by the Municipality, and may be omitted from this policy.

Intergovernmental Transfer

(4) This category of properties will be dealt with as directed by Council.

APPRAISALS

5. At least one appraisal of the current market value of any Ordinary property, Economic Development property, or Intergovernmental Transfer property will be obtained as part of the disposal process. Appraisals will remain confidential until the sale is completed.

IMPLEMENTATION

6. This policy shall apply as of the date of approval of Council, excepting properties which are:

- (a) already approved by Council as surplus;
- (b) under agreement of purchase and sale through delegated approval as of the date of Council approval of this policy;
- (c) going to Council for approval by individual report up to and including March 31, 2013.

Done and passed in Council this 9th day of April, 2013.

Mayor

Municipal Clerk

SCHEDULE 1
DISPOSAL OF COMMUNITY INTEREST PROPERTIES

1. A property classified as a Community Interest property will be considered for disposal in accordance with this Schedule.

Interpretation

2. In this Schedule,

(a) “Administrative Order One” means the *Procedures of the Council Administrative Order* adopted by Council on November 10, 2015, and all amendments thereto;

(b) “high value community interest property” means a community interest property with a valuation of over two hundred and fifty thousand dollars (\$250,000);

(c) “moderately valued community interest property” means a community interest property with a valuation of two hundred and fifty thousand dollars (\$250,000) or less;

(d) “realtor valuation” means the market value of the property as determined by an independent, accredited real estate broker real estate company or agent thereof; and

(e) “valuation” means the market value of a community interest property.

Disposal Category

3. A community interest property shall be disposed of by either:

(i) a Call for Submissions; or

(ii) a Direct Sale.

Market Value

4. The market value of a community interest property may be determined by a realtor valuation or an independent appraisal.

Disposal

5. A moderately valued or high value community interest property may only be disposed of by a Call for Submissions or a Direct Sale.

6. A Direct Sale may only be considered in accordance with sections 11, 12, 13, and 14 of this Schedule.

Eligible Organization

7. (1) To be eligible for consideration to purchase a community interest property, all the parties on the application must be non-profit organizations.

(2) For greater certainty, an application for the purchase of a community interest property that is a joint application with:

(a) a person other than a non-profit organization; or

(b) the Government of Canada, the Province of Nova Scotia or an agent of them;

is ineligible to purchase a community interest property.

Required Information

8. An application by a non-profit organization to purchase a community interest property must include the following information:

- (a) proof of registered status as non-profit organization;
- (b) a description of the non-profit organization and its programs or services;
- (c) a statement of the non-profit organization's intended use for the subject property;
- (d) complete financial statements for:
 - (i) the prior three (3) fiscal years, or
 - (ii) if the non-profit organization has not been incorporated for the prior three fiscal years, the number of fiscal years the organization has been incorporated,

and the financial statements must include all itemized revenues, expenses, assets and liabilities;

(e) for a moderately valued community interest property, a simplified five year operating and capital budget in the form to be provided by the Municipality;

(f) for a high valued community interest property, a comprehensive five year operating and capital budget in the form to be provided by the Municipality;

(g) a complete copy of the non-profit organization's Articles of Incorporation, Charter, or Constitution and By-laws; and

(h) the terms and conditions of the offer for the purchase, including the purchase price, requested closing date, and any terms and conditions specific to the subject property.

Purchase Price

9. The amount of the purchase price for any community interest property must include the following costs:

(a) the deed transfer tax, in accordance with Section 109 of the *Municipal Government Act*, if applicable; and

(b) subject to sections 2 and 3 of Schedule 2, the transaction fees incurred by the Municipality, as set out in section 1 of Schedule 2.

Call for Submission

10. (1) This section applies to a community-interest property that will be disposed of by a Call for Submission.

(2) A public meeting is required

(a) for a moderately valued community interest property unless Council decides otherwise, and such decision must be made concurrent with Council's classification of the property as a community interest property; and

(b) for a high value community interest property and such meeting must be convened in the area where the subject property is located prior to the Call for Submissions being advertised.

(3) A Call for Submissions must be advertised in a newspaper circulating throughout the Municipality and the advertisement must indicate the deadline for a non-profit organization to submit a response to the Call for Submissions.

(4) A Call for Submission

(a) for a moderately valued community interest property, must provide a deadline of no more than (90) days for a non-profit organization to file a response to the Call for Submissions; and

(b) for a high value community interest property, must provide a minimum of sixty (60) and no more than one hundred and twenty (120) days to file a response to the Call for Submissions.

(5) The valuation and the assessed value of the subject property shall be shared with prospective non-profit organizations.

(6) A non-profit organization is ineligible to purchase a community interest property by a Call for Submission if sections 8, 9 and 10 of this Schedule are not satisfied.

DIRECT SALE CONSIDERATION

Direct Sale - Request

11. (1) A non-profit organization may make a request to purchase, by Direct Sale, a community interest property owned by the Municipality.

(2) If a request to purchase a community interest property by Direct Sale is received by the Municipality and the subject property has not been declared surplus and classified as a community interest property, the request must:

(a) be included in the next review provided to Council pursuant to subsection 3(1) of this Administrative Order; or

(b) be forwarded to Council with a report and recommendation respecting the property.

(3) No action may be undertaken by the Municipality in respect of the request to purchase except those actions required to satisfy subsection 2 of this section.

(4) For greater certainty, the property may only be sold by Direct Sale if the property is declared surplus by Council, is categorized as community interest property by Council in accordance with this Administrative Order, and sections 7, 8, 9, 11, 12, 13, and 14 are satisfied.

(5) If Council decides to proceed by Direct Sale, such decision must be made at the same meeting where the property is categorized as community interest property.

(6) An applicant will have up to 90 days to submit to the Municipality the information that would otherwise be required in section 8.

Direct Sale – General Procedure

12. A Direct Sale shall be allowed as determined by Regional Council.

13. Unless Council directs otherwise, a Direct Sale may be considered without

(a) a public advertising; and

(b) a public meeting.

14. (1) If Council directs that a public advertisement be made, such advertisement must be placed in a newspaper circulating throughout the Municipality and must be placed before the required public hearing to consider a less than market value sale, or if a public hearing is not required by the HRM Charter, before the Council meeting where Council will consider whether to proceed with a Direct Sale.

(2) The advertisement in accordance with subsection 1 must include:

- (a) the date the community interest property was declared surplus;
 - (b) the location of the property;
 - (c) the name of all the non-profit organizations that made the request for a Direct Sale;
- and
- (d) the valuation and assessed value of the community interest property.

GENERAL

Evaluation Procedures

15. (1) An inter-departmental staff team shall be established coordinated by staff of the business unit responsible for real property disposals or grants and contributions to evaluate potential sales of community interest properties.

(2) The team must review a response to a Call for Submission or a request for a Direct Sale to assist Council in determining if the non-profit organization is carrying on an activity that is beneficial to the Municipality.

(3) In determining if the non-profit organization is carrying on an activity that is beneficial to the Municipality, the team must consider the following:

(a) the alignment of the non-profit organization's intended use and programming with the Municipality's mandate or priority interests;

(b) the non-profit organization's operational viability;

(c) the completeness of the application;

(d) the amount of compensation arising from the property, including:

(i) the dollar value of any municipal financial discount applied to the purchase price,

(ii) any reduction in the amount of deed transfer tax resulting from a less than market value sale,

(iii) the value of any closing costs not fully recovered by the Municipality, and

(iv) any ancillary agreements associated directly with the conveyance of the subject property, such as an easement for which financial compensation is not received; and

(e) any direct or indirect impact on municipal finances or services including impacts on operating budgets or whether the proceeds for a market value sale of the subject property is included in the capital budget and, if it is so included, any reduction in projected revenue from a less than market value sale;

(f) the benefit to the community of conveying the property to the non-profit organization, including:

(i) the benefit in continuing the provision of any community-based program, service or amenity offered by the non-profit organization, or

(ii) whether the non-profit organization provides a program, service, or amenity that is not offered by the Municipality or another non-profit organization within the local area; or

(iii) the cultural or historical significance of the property.

(4) The staff evaluation team shall prepare a report for Council on the sale of a community interest property, including:

(a) a recommendation with respect to a Buy-Back Agreement;

(b) whether the Buy-Back agreement will enable the Municipality to repurchase the subject property if the non-profit organization changes its use of that property; and

(c) whether the proceeds for a market value sale of the subject property is included in the capital budget and, if it is so included, any reduction in projected revenue from a less than market value sale.

Municipal Grants Funding Eligibility

16. Notwithstanding any other Administrative Order, policy or grants program of the Municipality, a discretionary municipal grant or contribution shall not be awarded for any of the following purposes:

(a) for a feasibility study respecting the potential acquisition of a community interest property;

(b) the preparation of a submission for the potential acquisition of a community interest property;
or

(c) the purchase price, closing costs, or fees associated with a non-profit organization's due diligence respecting the acquisition of a community interest property.

Approval by Regional Council

17. Upon receiving a recommendation from the team established pursuant to section 20, Council may consider the overall context of the property disposal, including:

(a) the recommendation from the staff team;

(b) the market value of the property;

(c) the planning documents for the area of the property, including the Municipal Planning Strategy and Land Use By-law;

(d) the benefit of any cost savings to the Municipality;

(e) the consequences or benefit to the community or the Municipality as a whole; and

(f) the beneficial considerations of a less than market value sale against the benefit to the Municipality of selling the property at market value.

18. If Council decides to consider the disposal of the property to a non-profit organization at less than market value, the sale shall be in accordance with section 63 of the HRM Charter, including that:

(a) the non-profit organization shall be carrying on an activity that Council considers is beneficial to the Municipality;

(b) if the property is worth more than ten thousand dollars (\$10,000), a public hearing shall be advertised and held; and

(c) the resolution approving the sale shall be passed by at least a two-thirds majority of the Council present and voting.

Alternative Method of Disposition by Council

19. (1) Upon receiving a recommendation, Council may consider any alternative method of disposing of community interest property if:

(a) there are no applications by eligible non-profit organizations received within the applicable period of time for the disposal method initially selected; or

(b) Council rejects all the complete applications the Municipality received from eligible non-profit organizations.

(2) If subsection 1 applies, notwithstanding Administrative Order One respecting rescission, Council may by majority vote:

(a) direct another method of disposal;

(b) reclassify the property in accordance with this Administrative Order and dispose of the property in accordance with that reclassification; or

(c) subject to subsection 3, take such other action as Council considers appropriate.

(3) A motion to rescind the resolution declaring the property surplus shall be in accordance with Administrative Order One.

Budget Implications

20. If the proceeds of sale for a property owned by the Municipality has been

(a) included in the reserve budget,

(b) specifically tied to a capital project, and,

(c) is subsequently classified as Community Interest category or a decision is made not to sell the property,

staff must report to Council any deficiencies in either the reserve budget or the capital budget along with any appropriate recommendations to offset the reduced proceeds.

SCHEDULE 2

SCHEDULE OF TRANSACTION FEES: COMMUNITY INTEREST REAL PROPERTY DISPOSAL

1. The purchase price shall include the following transaction fees:

Migration and Deed Fess for the Property:	maximum \$2,500 per property transaction, plus HST
Appraisal/Comparative Market Analysis:	lesser of 50% of the cost of the appraisal or \$2,500 per property transaction, plus HST
Plan of Survey for the Subdivision of Land, including Lot Consolidation, legal description and deed:	full cost recovery

2. If Council approves the sale of a community interest property to a non-profit organization in accordance with Schedule 1 of this Administrative Order, the non-profit organization awarded the property may make application to the Treasurer of the Municipality for a payment plan respecting the remittance of the transaction fees required by section 1 of this Schedule.

3. (1) Subject to subsection 2 of this Schedule, Council hereby delegates to the Treasurer of the Municipality the authority to approve and enter into on behalf of the Municipality a payment plan with the non-profit organization that was awarded the property for the payment of the transaction fees required by clause 9(b) of this Administrative Order.

- (2) The Treasurer may only approve and enter into a payment plan if all the parties agree to the following terms and conditions:

- (a) the maximum payment term shall not exceed twenty-four (24) consecutive months;
- (b) subject to clause (f), the amount owed shall is interest free and shall be billed monthly;
- (c) the non-profit organization shall have the option to pay the remaining balance owed at any time during the term of the payment plan without penalty;
- (d) a specified fee shall be set for a non-sufficient funds (NSF) payment;
- (e) the due date for a payment shall be thirty (30) days from the date of billing;
- (f) simple daily interest at a rate set by Administrative 14, *Respecting the Application of Interest Charges on Outstanding Accounts*, shall be applied to any arrears; and
- (g) after ninety (90) a persistently overdue account will be referred to the Revenue Division for collections in accordance with the *Revenue Collections Policy Administrative Order*, including an offset for any amounts that the Municipality might owe the non-profit organization.