

**ADMINISTRATIVE ORDER NUMBER 2018-004-ADM
RESPECTING REAL PROPERTY TRANSACTIONS**

WHEREAS the Municipality may acquire and own property granted or conveyed to the Municipality either absolutely or in trust for a public or charitable purpose;

AND WHEREAS the property vested in the Municipality, absolutely or in trust, is under the exclusive management and control of the Council, unless an Act of the Legislature provides otherwise;

AND WHEREAS the Municipality may acquire property, including property outside the Municipality, that the Municipality requires for its purposes or for the use of the public;

AND WHEREAS the Municipality may sell or lease property owned by the Municipality at market value, unless Council approves a less than market value sale or lease to a non-profit organization Council considers to be carrying on an activity that is beneficial to the Municipality;

AND WHEREAS the Municipality may enter into a lease, lease-purchase or other commitment to pay money over a period extending beyond the end of the current fiscal year if, where the total commitment exceeds five hundred thousand dollars, the proposed commitment has been approved by the Minister.

BE IT RESOLVED as an Administrative Order of the Council of the Halifax Regional Municipality as follows:

SHORT TITLE

1. This Administrative Order may be cited as the *Real Property Transactions Policy*.

PURPOSE

2. The purpose of this Administrative Order is to delegate to the CAO and employees of the Municipality, authorities respecting the acquisition and disposal of interests in Real Property at Market Value.

INTERPRETATION

3. In this Administrative Order,

(a) "Agent" means a person, organization or entity expressly appointed by a written agency agreement entered into by the Municipality authorizing such person, organization or entity to act on behalf of the Municipality with respect to the management and operation of a community or recreational facility, including the leasing and subleasing of Real Property;

(b) "Agreement of Purchase and Sale" means any agreement between a vendor and purchaser for the disposition or acquisition of an interest in Real Property, excluding a Lease;

(c) "CAO" means the Chief Administrative Officer of the Municipality, including their delegate;

(d) "Community Facility Agreement" means an Agreement, Lease, Sublease or a License respecting Real Property negotiated by an occupier or Agent of a community or recreational facility who occupies such facility under an agreement with the Municipality;

(e) "Director" means a director of a department of the Municipality;

(f) "Easement" means a right of use over or under the Real Property of another, and includes a right of way;

(g) "Lease" means any agreement relating to Real Property which gives rise to a relationship of landlord and tenant or lessor and lessee;

(h) "License" means any agreement conferring a personal privilege to do some act or series of acts on Real Property without transferring any estate or interest in the Real Property, and which is ordinarily not assignable, excluding rental of a municipal facility or municipal land for the holding of a recreational event, sporting event, community event, educational event entertainment event or cultural event;

(i) "Manager" means an employee of the Municipality at a M3 or M4 level who directly reports to a Director;

(j) "Market Value" means the most probable price or rent for a Property Transaction that is determined in accordance with section 8;

(k) "Municipality" means the Halifax Regional Municipality;

(l) "Option Agreement" means any agreement, including a right of first refusal, made for consideration conferring a right, which acts as a continuing offer, to purchase or lease Real Property upon certain terms for a specified period;

(m) "Property Transaction" means the acquisition or disposition of an interest in Real Property, such as an Agreement of Purchase and Sale, Option Agreement, Easement, Public Utility Easement, Community Facility Agreement, Lease, and License;

(n) "Public Utility" means a public utility as defined in the *Public Utilities Act*;

(o) "Real Property" means real estate, realty, immovable property, land and all structures affixed to it; and

(p) "Public Utility Easement" means an Easement to a Public Utility.

GENERAL

4. Subject to section 5, this Administrative Order applies to all Property Transactions to be entered into on behalf of the Municipality.

5. This Administrative Order does not apply to:

(a) the disposition of Real Property, or other interests in property, made in accordance with the Policy for the Sale and Lease of Land in HRM Business and Industrial Parks; or

(b) the approval of rental agreements for the use of municipal facilities or municipal land made in accordance with Administrative Order 58.

5A. An individual Member of Council has no authority to approve a Property Transaction under this Administrative Order.

6. Property Transactions made under this Administrative Order are subject to the disposal categorization methods of Administrative Order 50 regarding the disposal of surplus property and any applicable statutory or common law requirements.

RESPONSIBILITIES

7. The business unit responsible for the Real Property of the Municipality shall:

(a) facilitate and negotiate the terms and conditions respecting the acquisitions and disposition of Real Property, or other interests in property, at Market Value; and

(b) provide the Municipality with professional advice respecting Real Property, or other interests in property.

MARKET VALUE

8. (1) Market Value shall be determined by an appraisal or market comparable analysis.

(2) Market Value is based on certain assumptions and such assumptions may include one or more of the following:

- (a) that all the conditions requisite for a fair transaction are satisfied;
- (b) that all the parties are acting prudently and knowledgeably;
- (c) that there is an absence of undue stimulus;
- (d) that an acquisition or disposal of title or an interest in Real Property, or other interests in property, will be completed on a specific date and that title or interest will be passed between the parties;
- (e) that all the parties are motivated, are well informed and are well advised;
- (f) that all the parties are acting in what they consider their best interests;
- (g) that a reasonable time has been allowed for exposure of the Real Property, or other interests in property, in the open market;
- (h) that payment is made in Canadian Dollars and in cash or a mutually agreeable alternative; and
- (i) that the price represents the normal consideration for the Real Property, or other interests in property, acquired or disposed of as being unaffected by any special or creative financing or a sales concession promised by anyone associated with the transaction.

PRE-REQUISITES TO AUTHORITIES

9. (1) The following pre-requisites apply to an approval of a Property Transaction under this Administrative Order:

- (a) repealed;
- (aa) the acquisition shall be:
 - (i) budgeted and funded, or
 - (ii) budgeted but not yet funded, providing the Chief Financial Officer is satisfied that the funding will become available;
- (b) the acquisitions and disposition of Real Property is consistent with a municipal purpose;
- (c) the sale of Real Property is at Market Value or greater;
- (d) the purchase of Real Property does not exceed 115% of Market Value; and
- (e) the base rent for leasing Real Property is at Market Value as supported by a market comparable analysis.

(2) Approval of Property Transactions may be subject to other policies or legislative requirements, such as Administrative Order 50 (respecting the Disposal of Real Property), Administrative Order 2016-ADM-005 (the *Procurement Policy*), or section 111(5) of the Halifax Regional Municipality Charter (Ministerial Approval for long term commitments).

(3) All agreements for Property Transactions shall be stamped “Approved as to Form and Authority” by Legal Services or in the form of a template approved by Legal Services prior to execution.

APPROVAL AND SIGNING AUTHORITY

10. (1) Subject to the provisions of this Administrative Order, Council delegates the approval authority and signing authority for Property Transactions as follows:

Property Transaction Type	Maximum Financial Commitment	Maximum Term	Approval Authority	Signing Authority
Agreement of Purchase and Sale, Option Agreement, Assignments and Right of First Refusal	\$25,000	N/A	Manager	Director
	\$500,000	N/A	Director	CAO
	\$1,500,000	N/A	CAO	Mayor and Clerk
Easement, Lease, and License	\$25,000	5 years	Manager	Director
	\$500,000	10 years	Director	CAO
	\$1,500,000	No limit	CAO	Mayor and Clerk
Public Utility Easement	No limit	No limit	Manager	Mayor and Clerk
Community Facility Agreement	\$500,000	10 years	Director(s) responsible for the community or recreational facilities	Mayor and Clerk or Agent, if applicable
	\$1,500,000	No Limit	CAO	Mayor and Clerk or Agent, if applicable

(2) A reference to a maximum term shall include all renewals and extension rights that may be exercised by any party to a Property Transaction.

(3) The Maximum Financial Commitment is the total financial commitment of the Property Transaction, or annual financial commitment in the case of agreements with a term, including operating expenses, realty taxes and additional rent and excluding the harmonized sales tax.

(4) Property Transactions that exceed the limits of authorities delegated in subsection (1) require the approval of Council.

(5) The authorities relative to a Property Transaction assigned under this Administrative Order include the authority to:

- (a) approve and execute an amending agreement;

- (b) consent to an assignment of an agreement or sublease;
- (c) exercise a contractually defined option, including an option to renew an agreement; and
- (d) terminate an agreement prior to expiry.

(6) No right of first refusal with respect to the sale of any municipally owned real property shall be granted by the Municipality without the approval of Council.

SUBDELEGATION

11. The CAO may delegate their approval and signing authority under this Administrative Order to a Director.

12. The Director may delegate their signing authority to a Manager.

Reference to Transaction Policy

13. A reference in an enactment to the former Transaction Policy, or part thereof, is to be read as including a reference to the provisions of this Administrative Order relating to the same subject matter.

Repeal

14. The Transaction Policy adopted by Council on October 8, 2002, and any amendments thereto, is repealed.

Done and passed in Council this 18th day of September 2018.

Mayor

Municipal Clerk

I, Kevin Arjoon, Municipal Clerk of Halifax Regional Municipality, hereby certify that the above-noted Administrative Order was passed at a meeting of Halifax Regional Council held on September 18, 2018.

Kevin Arjoon, Municipal Clerk

Notice of Motion: September 11, 2018
Approval: September 18, 2018

Amendment #1 – Adding Subsection 10(6)
Notice of Motion: February 26, 2019
Approval: March 5, 2019

Amendment #2
 Repealed Clause 9(1)(a)
 Added Clause 9 (1)(aa)
Notice of Motion: February 23, 2021
Approval: March 9, 2021

Amendment #3
 Added Section 5A
Notice of Motion: July 20, 2021
Approval: August 31, 2021
