

BY-LAW NUMBER "\Insert By-law Number\""

OF

THE REGIONAL MUNICIPALITY OF WATERLOO

A By-law to provide for the delegation of authority to approve the acquisition of designated classes of, or interests in real property, within the Regional Municipality of Waterloo

WHEREAS the Regional Municipality of Waterloo enters into various standard agreements for the acquisition of rights and interests in real property related to the Region's municipal needs and purposes in support of its approved programs, projects and policies;

AND WHEREAS section 8 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, (hereinafter the "*Municipal Act, 2001*") provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other *Act*;

AND WHEREAS pursuant to Section 102.1 of the *Municipal Act, 2001* Council may, by by-law, delegate to an employee of the Region any powers, duties or functions that are administrative in nature;

AND WHEREAS the Council of The Regional Municipality of Waterloo deems it expedient to authorize the approval and execution of certain real estate agreements by certain officers and employees of the Region subject to certain terms and requirements;

NOW THEREFORE the Council of the Regional Municipality of Waterloo enacts as follows:

SHORT TITLE

1.0 This by-law shall be known and may be cited as the "Regional Real Property Acquisition By-law."

DEFINITIONS

2.0 In this by-law:

- (a) "**acquisition**" shall mean the conveyance of an interest(s) in real property to the Region by way of agreement for purchase, transfer, land exchange, donation or pursuant to Section 30 of the Expropriations Act, R.S.O. 1990, c. E.26, but shall not include the transfer, conveyance, dedication or granting of interests in real property required as a condition of or incidental to an approval pursuant to the *Planning Act*, R.S.O. 1990, c. P.5;
- (b) "**interest in real property**" shall mean fee simple, easement, right-of-way or other limited estate but shall not include leases, licenses or encroachments;
- (c) "**total value of the transaction**" shall mean the value of all consideration being paid or given by the Region to the vendor/transferor of the interest in real property including the market value of the interest in real property and any entitlements as defined under the *Expropriations Act*, R.S.O. 1990, c. E.26, but shall not include applicable taxes, due diligence costs, real estate, legal, surveying or other conveyancing costs; and

- (d) **“transactional costs”** shall mean applicable taxes, due diligence costs, real estate, legal, surveying and other conveyancing costs.

DELEGATION OF AUTHORITY FOR THE ACQUISITION OF INTERESTS IN REAL PROPERTY

- 3.1 The approval for the acquisition of an interest in real property where the total value of the transaction is \$100,000.00 or less, shall be delegated to the Commissioner of the department responsible for the project or programme in respect of which the real property interest is proposed to be acquired, subject to the following conditions:
- 3.1.1 Sufficient funds have been allocated and are available in departmental capital budgets approved by Regional Council for the total value of the transaction and the transactional costs;
- 3.1.2 A current market value appraisal or valuation for the interest in real property has been obtained and approved by the Region’s Manager of Real Estate Services;
- 3.1.3 The acquisition agreement and all ancillary documentation be in a form that is satisfactory to the Regional Solicitor;
- 3.1.4 All applicable Regional policies have been complied with; and
- 3.1.5 The Regional Solicitor approves the acquisition.
- 3.2 All agreements and ancillary documentation necessary to conclude the acquisition of the interest in real property approved pursuant to this By-law shall be executed by the Commissioner responsible for the project or programme in respect of which the real property interest is being acquired and the Regional Solicitor.
- 3.3 The Regional Solicitor, in consultation as appropriate with the Commissioner responsible for the project or programme in respect of which the real property interest is being acquired, is authorized to pay transactional costs pertaining to acquisitions of real property pursuant to this By-law.
- 3.4.1 In the event the Commissioner is temporarily absent for any reason, the Commissioner may designate in writing a Regional Director in such Commissioner’s Department to hold the Commissioner’s position in an acting capacity and such Director is authorized to exercise the approval and signing authority delegated to such Commissioner under this by-law during the time period that such person is so designated and for the authority described in such designation.
- 3.4.2 In the event the Regional Solicitor is temporarily absent for any reason, the Regional Solicitor may designate in writing any other solicitor employed by the Region, as the Acting Regional Solicitor and the Acting Regional Solicitor shall have all of the authority to exercise the approval and signing authority delegated to the Regional Solicitor under this by-law during the time period that such solicitor is so designated and for the authority described in such designation.

APPRAISALS

- 4.1 All acquisitions of an interest in real property shall be supported by a current market value appraisal or valuation as follows:
- 4.1.1 Where the estimated market value, as determined by the Region's Manager of Real Estate Services, is less than \$50,000 the current market value appraisal may be by way of a summary appraisal of value or other short-form written report, in accordance with current industry/professional standards/practices or as prescribed and approved by the Region's Manager of Real Estate Services prepared by either an independent property appraisal professional or qualified Regional staff.
- 4.1.2 Where the estimated market value, as determined by the Region's Manager of Real Estate Services, is greater than \$50,000 a written current market value appraisal shall be prepared by an independent property appraisal professional in accordance with current industry/professional standards/practices or as prescribed and approved by the Region's Manager of Real Estate Services;
- 4.2 Subject to Sections 4.1.1 and 4.1.2, the current market value appraisal or valuation may be obtained by the Region or the owner of the property.

OTHER

- 5.1 Despite anything in this By-law, the Commissioner or Regional Solicitor may refer any specific proposed acquisition to Regional Council through the appropriate Standing Committee for direction, approval, resolution or information at any time and any decision, direction or action of Regional Council in respect of such matter shall supersede and replace the authority delegated under this by-law in respect of such specific matter.
- 5.2 The Manager of Real Estate Services shall provide a quarterly summary report for information purposes to Council concerning all real property acquisitions completed under this By-law.
- 5.3 This By-law shall replace the Regional Property Acquisition Policy approved by Confirmatory By-law 98-92 and the portion of said Confirmatory By-law to the extent that it approved said Policy is hereby repealed as of the date that this By-law comes into force and effect, and the balance of said Confirmatory By-law remains in force and effect.
- 5.4 Section 3.4(a)(i) of By-law Number 06-034 shall be amended by deleting the phrase, "...the Regional Property Acquisition Policy approved by confirmatory By-law 98-92, the Regional Property disposition Policy approved by Confirmatory By-law 95-030 or the Property Disposition Procedure By-law 95-034."

By-law read a first, second and third time and finally passed in the Council Chamber in the Regional Municipality of Waterloo this "\Insert date\" th day of "\Insert Month\" , A.D., 2008.

REGIONAL CLERK

REGIONAL CHAIR