

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Development and Real Estate Division

Report to: Chair and Members Planning & Economic Development Committee	Submitted by: Lee Ann Coveyduck General Manager Planning and Economic Development Department
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SUBJECT: Policy and Guidelines for the Renting and Demolition of Residential Buildings Owned by the City of Hamilton (PED06077) (City Wide)

RECOMMENDATION:

- (a) That City Council adopt the Policy and Guidelines, as set out in Appendix "A" attached to Report PED06077, under which the City of Hamilton will consider demolition and leasing of residential buildings, on a short term, lease basis.
- (b) That City Council pre-approve the issuance of all demolition permits for residential buildings and structures under the City's Demolition Control By-law Nos. 3160-80; 89-35; and 79-290, without the need for an application, where:
 - (i) the property is owned by the City and the demolition is required for the imminent implementation of a City capital works project, previously approved by City Council, or
 - (ii) the economical life cycle of the asset has come to an end, where the capital costs to retro fit and maintain in a safe, healthy condition for occupants exceeds the benefits/revenue for its continued rental use.
- (c) That Council's pre-approval set out in (b) above shall not apply to properties designated under the Ontario Heritage Act.
- (d) That whenever it is necessary to demolish property pursuant to Clause (b), the Director of Building and Licensing shall issue a demolition permit for such property when the demolition work is ready to proceed, subject to a permit being applied for and in conformance with the Building Code Act.
- (e) That Council agrees to transfer management of the City residential properties deemed suitable for leasing, in the interim, to CityHousing Hamilton Corporation

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with revenue from leasing being retained by the Corporation to cover administrative, inspection and capital costs and funds to assist the Corporation in carrying out affordable housing programs.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The purpose of this report and recommended policy, attached as Appendix “A”, is to provide Council direction and guidance to staff when contemplating lease agreements for specific periods of time and stipulated rental payments with respect to residential properties owned by the City. The policy will ensure that a consistent approach is taken to minimize any risks and liabilities associated with continued ownership of the asset for the purpose of residential occupancy. The guidelines also provide for stricter monitoring for the need of an annual Health and Safety Inspection ensuring that human health and safety are protected. The policy and guidelines further recommend that where it becomes necessary to demolish a residential building or structure associated with a Council approved capital works project for the purpose of the imminent implementation of that project, or where residential building is no longer viable for its intended use, where the life cycle of the asset has come to an end; that the Director of Building and Licensing issue a demolition permit when the demolition work is ready to proceed, subject to compliance with the Building Code Act , but without the requirement of an application or additional approval by Council for demolition under the Demolition Control By-law per the Planning Act.

BACKGROUND:

The Portfolio Management Committee was directed by the Corporate Management Team to develop a policy under which the City should consider leasing property for residential purposes.

The City of Hamilton is owner of substantial property which is used for various municipal purposes. As municipal service needs change, the requirements for these properties may be revised and, on occasion, selected parcels may be surplus to the City’s current needs. The City’s Real Estate Portfolio Management Committee, consisting of Director-level representatives of key Departments, provides corporate-wide integrated analysis and advice to the Corporate Management Team and Council regarding the City’s real estate portfolio. Related to the implementation of the Portfolio Management Strategy, the adopted principles and associated procedures are to be consistently applied across all areas of the City for the sale and lease of property owned by the City of Hamilton. In particular, those properties not used for municipal purposes or needed for public use

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within the foreseeable future may be deemed surplus, subject to City Council's approval, and then made available for sale. Those assets that are needed at some future date may be suitable for lease in the interim before municipal use. Revenues associated with leases on a short term basis, which can be financially self sustaining, can provide a revenue stream to offset the acquisition cost and ongoing maintenance cost and liabilities to the City if the assets are leased rather than sitting idle. Vacant, boarded up buildings can also negatively impact neighbourhoods and property values and be subject to vandalism and illegal trespassing/occupancy creating an unsafe condition.

The Real Estate Portfolio Strategy Plan, as adopted by Council on November 24, 2004, contains criteria and principles surrounding the terms and conditions under which the City will consider leasing of real property assets. In particular, where the City is the Landlord, "properties acquired for municipal use, but not required for some years, should be leased where possible to ensure revenue generation in the interim before municipal use". Criteria to be considered under the plan when leasing, are as follows:

- "Is the lease at fair market value?
- Is the property likely to be required for program use in the next five years? (If so, leasing must occur on a shorter term basis and be oriented to allow required improvements to the property for the program use.)
- Has the tenant passed all required due diligence, including an assessment of :
 - Credit check of the individual/organization.
 - Viability of the organization through the term of the lease.
 - References for individuals."

Currently, the corporate handling of residential leases, maintenance and renewals is through the Fleet and Facilities Division, Public Works Department. The identified sites listed in this report are City assets that are currently leased on an interim basis until the lands are needed for the purpose for which they were acquired, as approved by City Council. At present, when dealing with residential properties, the brokerage firm of Blair Blanchard Stapleton Limited, Commercial Brokers, has been engaged by Fleet and Facilities Division to manage the administrative function, lease and lease renewals on behalf of the City. The City, through Blair Blanchard Stapleton Limited, ensures that lease and lease renewals being considered are obtained at a fair market rate of return, and continue to sustain a fair rate of return through rent review and consumer price index adjustments. It has been the City's practice that if a property is not needed for public use within the foreseeable future and the appropriate analysis has been completed and it is determined suitable for lease again, the property is then leased on a short term basis. Upon vacancy, and prior to leasing, Facility and Real Estate staff re-evaluates the asset to determine if the asset is soon to be required for its intended use and, if not, the asset is re-leased, provided that the dwelling unit is suitable and safe for tenant occupancy.

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As noted in the list on the following pages, most, of the dozen homes that are presently leased were acquired as a result of long term park acquisitions or long term purchases for future road/sewer purposes, with the exception of 656 Garth Street.

ADDRESS	Monthly Rental Fee	COMMENTS
656 Garth Street	\$1,750.00	<p>Agreement between the Ontario Heritage Foundation (OHF) and City where OHF is the owner. The OHF grants to the City the right to administer and manage the premises on behalf of the OHF for a period of 30 years beginning December 11, 1979. All costs and expenses incurred in connection with the premises are at the sole cost of the City.</p> <p>Subsequently, if the City has complied with the terms of this Agreement then the OHF will grant to the City the right to possession and control of the property for further period of 30 years from the expiry of the term granted.</p>
109 Graham Ave. N.	\$650.00	<p>Land Acquisition program in the Crown Point East Neighbourhood in order to create a park. The Crown Point East Neighbourhood was identified in 1996 Park expenditure Policies as a Priority "A" Parkland Acquisition Program.</p>
113 Graham Ave. N.	\$460.00	<p>Land Acquisition program in the Crown Point East Neighbourhood in order to create a park. The Crown Point East Neighbourhood was identified in 1996 Park expenditure Policies as a Priority "A" Parkland Acquisition Program.</p>
2656 King St. E.	\$575.00	<p>Property acquired for King Street East Road Widening.</p>
662 Rymal Rd. E.	\$950.00	<p>Property acquired for the extension of Upper Sherman Avenue south of Rymal Road.</p>
543 Burlington St. E.	\$400.00	<p>Property acquired in the mid 90's for the purpose of the Perimeter Road Project.</p>
547 Burlington St. E.	\$675.00	<p>Property acquired in the mid 90's for the purpose of the Perimeter Road Project.</p>

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288 Fruitland Road	\$750.00	Property acquired for the Fruitland Road By-pass and storm water management facilities.
292 Fruitland Road	\$900.00	Property acquired for the Fruitland Road By-pass and storm water management facilities.
523 Highland Road	\$850.00	Acquired for the Trinity Church Road Extension.
527 Highland Road	\$825.00	Acquired for the Trinity Church Road Extension.
863 Nebo Road	\$800.00	Vacant-to be sold/leased.

Typically, the City may be buying on a willing seller/willing buyer basis and the assembly process for parkland purposes may take years to complete or the road sewer work may be approved, but construction may be awaiting development in the area. Depending on the location, age, building condition, capital improvements etc., the property, if suitable, is leased on a short term basis. Each property is reviewed on its individual merits and if unsustainable for continued use, it is demolished, subject to City Council's approval. It is the City's policy to manage its real estate assets and it is not the City's policy to speculate in real estate. Therefore, if the asset life cycle has come to an end, or is no longer economically feasible to sustain a positive revenue stream, or is required to implement a City Capital works project, it is recommended that the asset be demolished. This is a particularly important principle in light of City Council's adopted principles approving the acquisition of the property in support of a program need.

Consideration was also given to the situation where land is being acquired for land assembly purposes that, upon the acquisition and if the property is occupied by a building that the building be immediately demolished regardless of the asset's potential to generate lease revenues to the City. Depending on the nature of the acquisition program, if there are a number of properties that are to be acquired on a willing buyer/willing seller basis, the demolition of each asset obtained, regardless of the number of property holdings, may be construed as "block busting". The act of "block busting" has been defined, as an example, from the U.S. Fair Housing Act as follows:

- “1. Engaging, for profit, in conduct (including uninvited solicitations for listings) which conveys to a person that a neighborhood is undergoing or is about to undergo a change in the race, color, religion, sex, handicap, familial status, or national origin of persons residing in it, in order to encourage the person to offer a dwelling for sale or rental; and,
2. Encouraging, for profit, any person to sell or rent a dwelling through assertions that the entry or prospective entry of persons of a particular race, color, religion, sex, handicap, familial status, or national origin, can or will result in undesirable consequences for the project, neighborhood, or community such as lowering of

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property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other services or facilities”.

In order to avoid any perception that this type of act is being engaged in, it is recommended that, upon substantial consolidation of land holdings that will implement the program use, or if the dwelling is in need of substantial capital dollars to maintain and continue its use for human habitation, or is required to implement an imminent capital works project approved by City Council, demolition only then occur.

The Ontario Building Code Act requires that all demolitions be done under permit. Where the building is used for residential purposes, the demolition permit cannot be issued without Council’s approval in accordance with Section 33 of the Planning Act, “Demolition Control” per By-law Nos. 3160-80; 89-35; and 79-290. The only exception to receiving Council’s approval on residential buildings is when a building is considered unsafe under the provisions of the Ontario Building Code. In these particular situations, a demolition permit is issued without Council’s approval and a report is presented at a later date advising City Council of the Chief Building Officer’s action that necessitated the need to demolish. Where a dwelling is required to be demolished to implement a capital works project, or the property has been acquired for a public works project approved by Council, or the unit is inhabitable or requires substantial capital dollars to maintain its use, it is being recommended that City Council pre-approve, or give ‘blanket approval’ to the issuance of a demolition permit for those assets in these situations in order to expedite the overall processing of a demolition permit application and to reduce the City’s potential risks and liabilities. Further, to ensure that the Councillors are fully apprised of the proposed demolition works within their Wards, written notification will be provided prior to commencement of demolition.

ANALYSIS/RATIONALE:

It has been the City’s practice that if a property is not needed for public use within the foreseeable future and the appropriate analysis has been completed and it has been determined suitable to be leased, the property is leased on a short term basis. Upon vacancy and prior to leasing again, Facility and Real Estate staff re-evaluates the asset to determine if the asset is required for its intended use and, if not, the asset is re-leased, provided that the dwelling unit is suitable and safe for tenant occupancy.

Looking at potential synergies within the City’s organization, discussions have taken place with staff from the City of Hamilton’s Housing Branch, which manages CityHousing Hamilton as well as providing property management services as part of their portfolio. The intent of these discussions was to explore avenues with CityHousing in forming a partnership arrangement to assist the City in the management of the City’s residential lease portfolio on an interim basis. Due to the low number of residential units held by the City, CityHousing was receptive to the idea and had no objections as this type of service is already being carried out by their corporation. In exchange, the proceeds from the rental payments will be diverted to CityHousing to cover their administrative costs, annual health and fire inspections and, if needed, potential capital repairs. Upon cessation of the

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rental of the dwelling, any funds remaining will be retained by CityHousing Hamilton Corporation to assist it in carrying out its affordable housing program.

For the purpose of land assembly (i.e. park purposes), demolition shall occur if the asset requires substantial capital dollars for human habitation or if substantial land area has been consolidated to implement a portion of the capital works project.

ALTERNATIVES FOR CONSIDERATION:

As part of Real Estate staff's due diligence in managing the City's real estate portfolio, determination must be made on the present value cost of doing nothing (continue to own/operate the property); identify all deficiencies to be remedied and their costs; identify all cost reductions, savings, or quantifiable benefits associated with the property; identify whether the use is a mandated program of the City of Hamilton and if there is a need for the City of Hamilton to maintain the municipal asset.

The dozen or so houses that are presently leased were acquired as a result of long term park acquisition program or short/long term purchases for future road/sewer purposes. A suggested action plan for these properties, in accordance with the new policy and guidelines being recommended, is set out below:

656 Garth Street:

That upon expiration of the term of the agreement, being December 2009, that the Culture and Recreation Division be authorized to notify the Ontario Heritage Foundation that the City of Hamilton shall not exercise its right to a further 30 year period, for the purpose of development, maintenance, preservation, administration and supervision of the property and that the Ontario Heritage Foundation assume all the administration responsibilities regarding this asset owned by OHF. (A separate report to Council at the time of the expiry date will be prepared by staff before any such action.)

109 Graham Avenue N.:

No action required as to the dwelling is to be demolished, as a result of fire. Council approval to demolish granted on December 14, 2005.

113 Graham Avenue N.:

Dwelling is substantially sound and continuation of the lease is recommended. Insufficient land has been consolidated to implement the proposed capital works project for park purposes. Administration of the asset to be transferred to CityHousing Hamilton Corporation on an interim basis until the asset is needed for the purpose for which it was acquired.

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2656 King Street E.: Retain and continue current lease arrangements, until completion of the King Street East road re-alignment. Upon completion of the alignment, notice shall be given to the tenant and the dwelling be demolished. Management of the asset to be transferred to CityHousing Hamilton Corporation in the interim.

662 Rymal Road: Vacant dwelling is in good condition. The City has expended capital dollars (i.e. roof replacement) and the property should be leased at fair market value. Management of the asset to be transferred to CityHousing Hamilton Corporation on an interim basis until the property is needed for the purpose for which it was acquired.

543 & 547 Burlington St. E.: Currently leased, however, in desperate need of major repairs. Notice has been provided to the tenant's to vacate premises by Spring 2006. Upon vacant procession, Fleet and Facilities staff to make the appropriate arrangements to move forward with demolition. Upon completion of the demolition works, the lands be declared surplus to the City's need and placed on the open market for sale. City Council's approval for the demolition of the buildings granted on December 14, 2005.

288 & 292 Fruitland Road: Upon completion of GRIDS, it is likely to be determined that the Fruitland Road by-pass is no longer necessary. The lands to be declared surplus and made available for sale. In the interim, the lands be continued to be leased at fair market rent. Management of the asset to be transferred to CityHousing Hamilton Corporation on an interim basis until the asset is needed for the purpose for which it was acquired.

523 & 527 Highland Road: Acquired in 1992 to facilitate Red Hill Valley requirements, based on an earlier design. As a result design refinements to the Red Hill Expressway, the lands are no longer required and stand surplus to the needs of the Red Hill requirements. However, these properties may be impacted by the Trinity Church Road extension. Therefore, the City should retain these properties until the Environmental Assessment has concluded and the final design is determined. If it is determined that the lands are not required, then the property shall be declared surplus and placed on the open market for sale. Management of the asset to be

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transferred to CityHousing Hamilton Corporation on an interim basis.

863 Nebo Road:

Management of the asset to be transferred to CityHousing Hamilton Corporation on an interim basis until the asset is needed for the purpose for which it was acquired.

As noted earlier, the purpose of this report and policy document attached hereto as Appendix “A” is to provide Council direction and guidance to staff when contemplating demolition or lease agreements for specific periods of time and stipulated rental payments. The recommended policy set out in Appendix “A” will ensure that a consistent approach is taken to minimize any risks and liabilities associated with continued ownership of the asset for the purpose of residential occupancy. The guidelines also provide for stricter monitoring and control for the need of an annual Health and Safety Inspection ensuring that human health and safety are provided.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial: Revenues associated with the lease of those assets identified through the principles and guidelines of the Portfolio Management Plan, and the proposed Policy attached as Appendix “A”, can provide a revenue stream to offset the administrative costs, annual health and fire inspections and, if needed, potential capital repairs for those assets to be managed by CityHousing Hamilton Corporation.

Client departments may incur budget impacts (lost revenue) related to properties being held that are required for future mandated program use, in addition to costs for annual Health and Safety Inspections for those holdings supported by a business case analysis for short term leases.

Staffing: The implementation of the policy will require staff time to be dedicated and prioritize changes to work plans to effectively carry out the recommended guideline and procedures.

Legal: Legal Notice to tenants shall be given in accordance with the terms and conditions of the lease agreement.

POLICIES AFFECTING PROPOSAL:

- Section 33 of the Planning Act as amended and Demolition Control By-law Nos. 3160-80; 89-35; and 79-290.
- Real Estate Portfolio Strategy Plan, adopted by City Council on November 24, 2004.
- Real Property Sale Procedural By-law 04-299.

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- City of Hamilton Lease Financing Policy, adopted by City Council on February 25, 2004.
- Delegation of Authority to staff for routine real estate matters; Item 21 of Report 01-029 as amended by Item 9 of Report 05-091 of the Corporate Administration Committee, on June 29, 2005.

RELEVANT CONSULTATION:

- Real Estate Portfolio Management Committee
- Building and Licensing Division
- CityHousing Hamilton Corporation
- Legal Services Division

CITY STRATEGIC COMMITMENT:

By evaluating the “**Triple Bottom Line**”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. Yes No

To have effective plans that identify, reduce and manage risks.
Partnerships are promoted.

Environmental Well-Being is enhanced. Yes No

Human health and safety are protected.

Economic Well-Being is enhanced. Yes No

Investment in Hamilton is enhanced and supported.

Does the option you are recommending create value across all three bottom lines?

Yes No

Do the options you are recommending make Hamilton a City of choice for high performance public servants?

Yes No

:WF

Attach. (1)

POLICY FOR RENTING AND DEMOLITION OF CITY OWNED RESIDENTIAL PROPERTIES

Policy Statement

This policy constitutes the City of Hamilton's Residential Leasing Policy under which the City will consider demolition or leasing residential buildings, on a short term basis.

Purpose

The purpose of this policy is to provide Council direction and guidance to staff when contemplating lease agreements for specific periods of time and stipulated rental payments, as well as Council approval to proceed to demolition of residential buildings under certain conditions.

Guidelines

1. If a property is not needed for public use within the foreseeable future, it may be made available for lease until such time it shall be needed for the purpose for which it was acquired, subject to a Business Case Analysis being completed, as set out in Section 3 below.
2. Lease terms or any renewal, shall not exceed five (5) years and said lease shall be on the terms and conditions that are satisfactory to the City Solicitor.
3. Lease vs. Demolition: At the time that staff considers whether the property should be leased or demolished, any decision shall be first subject to a business case analysis being complete. The business case analysis shall be the responsibility of the department requiring the property for future use and shall include:
 - a) Program Requirements
 - i) Describe the intended use of the property;
 - ii) Identify Council's mandate for the program intending to use the property including prior reports on this need for the property;
 - iii) Indicate the priority and timing of the proposed use in relation to departmental program needs;
 - iv) Identify project in relation to approved Capital Budget.
 - b) Budget/Costs
 - i) Identify all deficiencies to be remedied and their costs;
 - ii) Identify additional capital costs to retrofit facility for new or continued use;
 - iii) Identify all foreseeable ongoing operating expenses associated with this property;

- iv) Identify future demolition costs.
- c) Financial Analysis
- i) Is the lease at fair market value;
 - ii) Has the tenant passed all required due diligence, including an assessment of:
 - Credit checks;
 - References for individuals.
4. That a written report shall be prepared by the department requiring the property for future use; such report to be submitted to the Portfolio Management Committee for review and consideration on any lease, lease renewal or demolition request.
5. That an annual Health and Safety Inspection shall be conducted on all residential leased properties by Fleet & Facilities Division, Public Works Department or CityHousing Hamilton Corporation on behalf of the City of Hamilton.
6. That City Council through the adoption of this policy pre-approves the issuance of all demolition permits for those residential buildings and structures on City owned property that in the opinion of the City Manager or the General Manager of the relevant department, or their designates, determines that:
- i) the property is required for the imminent implementation of a capital works project, previously approved by City Council, or
 - ii) where the economical life cycle of the asset has come to an end where the capital costs to retro fit and maintain in a safe, healthy condition for occupants exceeds the benefits for its continued rental use.
7. That Council's pre-approval set out in (b) does not apply to properties designated under the Ontario Heritage Act.
8. That whenever it is necessary to demolish property pursuant to Section 6 above, the Director of Building and Licensing shall issue a demolition permit for such property when the demolition work is ready to proceed subject to a permit being applied for and in conformance with the Building Code Act.
9. That the Ward Councillor be notified at least 30 days in advance of any pending demolition works within his or her respective wards.