



A Natural Attraction

LAND ACQUISITION	PROCEDURE NO: CS-2
DATE OF ISSUE: Oct 2012	REVIEW: Annually
APPROVED BY:	APPLICABLE TO: City Employees, Outside Agencies

1.0 PURPOSE AND BASIS:

- 1.1 The Council for the City of Quinte West has the authority through the *Municipal Act*, 2001, as amended, to acquire land for municipal purposes. The Act also provides that, "the power of a municipality to acquire land under this or any other Act, includes the power to Expropriate in accordance with the *Expropriations Act*.
- 1.2 It is the policy of the City of Quinte West to acquire Real Property as required, for a municipal need consistent with the City mandated programs, projects and policies as well as Provincial Legislation.
- 1.3 The purpose of this Policy is to ensure that a consistent and equitable framework is followed in the Acquisition of Real Property, in support of Council approved projects, programs and policies.

2.0 APPLICATION

- 2.1 It is the policy of the City of Quinte West to acquire Real Property as required, for a municipal need consistent with the City's Strategic Plan, Official Plan, Parks Master Plan, programs, projects and policies.

3.0 SPECIFIC POLICY

- 3.1 The Acquisition Policy applies where Real Property is acquired by the City and includes any right, interest or benefit in land, but is not limited to, fee simple, acquisitions, leases, permanent easements, right-of-way and other limited interests such as joint-use agreements, temporary working easements, consents to enter, and licences.
- 3.2 This Policy will apply to all City Employees, any agents or assigns acting on behalf of the City and consultants authorized to acquire Real Property on behalf of the City. Real Property that is acquired through the planning/subdivision processes will continue to be dealt with as part of that process and in accordance with the *Planning Act* and any regulations therein.
- 3.3 The Clerk's Office shall undertake the Acquisition of Real Property interest unless otherwise directed by the Chief Administrative Officer or Council.



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- 3.4 The following Departments are responsible for acquisition of lands from time to time:
- (i) Public Works & Environmental Services
 - (ii) Economic Development
 - (iii) Planning & Development
 - (iv) Corporate & Financial Services (Clerk's Office)

For the purposes of (but not limited to):

- (i) Roads and road widening, including day lighting triangles
- (ii) Pedestrian and service corridors
- (iii) Easements for services
- (iv) One foot reserves (usually for control of access to streets)
- (v) Parklands
- (vi) Trails
- (vii) Recreation or cultural facilities
- (viii) Environmentally sensitive lands
- (ix) Parking facilities administration
- (x) Municipal facilities
- (xi) Land acquired under the Planning Act
- (xii) Storm Ponds
- (xiii) Other

- 3.5 The Department requiring the purchase of land (whether fee simple or an easement/right-of-way, etc.) shall provide details of the proposed acquisition to the Clerk's Office along with authorization to proceed from Committee/Council. This would not be required where the acquisition is pursuant to a capital works project previously approved by Council or for a minor acquisition that is in keeping with City policy.

Council approval of an acquisition shall include authority for the appropriate person(s) or body, to initiate and undertake legal surveys, appraisals, negotiations, expropriations; legal and other such related activities as may be required.

- 3.6 Where the decision to proceed to outright purchase is confirmed, the Clerk's Office shall manage the process. The Department that initiated the purchase shall provide assistance (technical) to the Clerk's Office, as required.



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3.7 Typically the Clerk's Office will be responsible for:

- (i) Arranging for any surveys that may be required; (1 Month)
- (ii) Arranging for any necessary appraisals as to the value of the land; (1-2 Months)
- (iii) Arranging for any studies or assessments as may be required (i.e. an environmental soils or geo-technical analysis);
- (iv) Obtaining Council's approval of the Terms and Conditions of an agreement in principle to acquire land;
- (v) Arranging for assistance from the City's Solicitor with regard to preparation of an agreement of purchase and sale;
- (vi) Obtaining Council's approval to the agreement of purchase and sale by by-law, prior to closing a transaction;
- (vii) Arranging with the City's Solicitor to implement the agreement of purchase and sale on the City's behalf;
- (viii) Arranging for registration of the transaction by the City's Solicitor, where necessary.

Please note that all timelines referenced above are subject to availability of the professionals. In addition, timelines will vary based on the nature of the transaction.

3.8 The initiating Department shall be responsible for all costs, and further any Capital Expenditures associated with the acquisition of Real Property must be approved by Council.

4.0 METHODS OF ACQUISITION

4.1 Negotiation is the preferred method of obtaining Real Property interest, with compensation provided as though acquisition was pursuant to the *Expropriations Act*. Real Property shall be acquired on the basis of Market Value as defined by the *Expropriations Act* unless other considerations are included in the transaction and approved by Council. Where there is variance between the appraised value and the acquisition price, that variance shall be explained in an approval report.

4.2 Expropriation may be considered when project requirements must be met in a timely manner or where negotiation is unsuccessful. The City of Quinte West has the authority to expropriate land in accordance with the provisions of the *Expropriations Act*. Expropriation will be used as a last resort for acquisition purposes. Where



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expropriation is necessary, Departments shall allow for a minimum of 12 months lead time in their project planning, in anticipation that Real Property Acquisition by expropriation is required.

- 4.3 Charitable Donations, Gifts or Bequeaths are subject to Council approval and are another way that the City may acquire Real Property. Before acceptance or rejection of a gift of Real Property, an analysis to determine the conditions of the gift shall be carried out. A charitable donation receipt may be issued in the amount of the appraised market value of donated Real Property. An independent appraisal shall determine the market value of any donated Real Property. A satisfactory Phase I Environmental Assessment may also be necessary. Any costs associated with the above will be borne by the donor or the benefiting department.
- 4.4 Public Works and Environmental Services, Planning and Development and Economic Development may acquire land through condition of final approval for subdivisions, site plans or other Development Approvals either in fee simple or easements or right-of-ways. Typically, these lands are fully described in the subject agreement.
- (i) Correct legal descriptions for conveyance of these lands are typically required to be provided at the time of execution and registration of the subdivision agreement, and registration of the plan.
 - (ii) All deeds and instruments pertaining to the transfer of lands to the City pursuant to a subdivision agreement are to be provided to the City's Solicitor who shall be responsible for processing the transfers to the City in accordance with the terms of the subdivision agreement. The City's Solicitor shall ensure that the City is obtaining clear title to the property or lands.
 - (iii) The City's Solicitor shall provide the registration details to the Clerk's/Planning Office.
 - (iv) The Clerk's/Planning Office shall ensure the registration of the deeds.
 - (v) From a timing perspective, the owner is typically obligated to accommodate the transfer within a defined period time. In the instance of consents, typically the condition must be met within one year of the date of the decision to approve the consent. In the instance of a site plan agreement, typically the condition must be



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met before the required completion date set out in the agreement (usually one to two years from the date of the agreement).

- (vi) The Clerk's Office in conjunction with the initiating Department involved, shall be responsible for ensuring the condition to transfer the lands is achieved according to the applicable process.
- (vii) The Clerk's Office shall be responsible for ensuring the City's administrative and legal interests are protected.

Certification of Titles Process

- (a) The owner's solicitor prepares the necessary survey and the deed of transfer to the City along with partial discharges (if required) and registers the deed conveying the lands to the City and the discharges as required by the condition.
 - (b) The owner's solicitor provides a copy of the registered deed along with a certification of title to the Clerk's/Planning Office confirming registration of the transfer to the City and that the City has obtained clear and unencumbered title to the lands.
 - (c) The Clerk's/Planning Office shall obtain Council's acceptance of the transfer by by-law and arrange for registration of the by-law as necessary.
- 4.5 Land Exchange of City owned surplus Real Property when deemed in the best interest of the City can be acquired and negotiation shall be initiated based on the Market Value of the respective Real Properties, pursuant to the Disposal of Real Property Policy, and in conjunction with this policy.
- 4.6 Public/Private Partnership to provide infrastructure, community facilities and related services that would benefit the municipality, the private sector and residents allows the city to acquire or dispose of an interest in Real Property.
- 4.7 Other Agencies may transfer Real Property to the City as a result of a transfer of jurisdiction (one level of government to another) i.e. transfer of highways, boat launches etc.



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5.0 LIMITATION

- 5.1 Lands acquired through tax sale proceedings are not covered in this Policy and shall be subject to the administration of the Corporate and Financial Services Department (Finance Division).

6.0 IMPLEMENTATION

- 6.1 This policy shall become effective immediately upon approval by the Council for the City of Quinte West.