

Subject: Portion of Lot 4, Block 2, Plan 1323561 Abrahms Land**APPROVALS:****Jamie Doyle**_____
Director_____
Chief Administrative Officer**Recommended Motion:**

THAT Council decline the request by Sultan Management Group for the sale of ten (10) acres of land for a nominal fee for \$1.00 in Abrahms Land being a portion of Lot 4, Block 2, Plan 1323451.

Summary:

The Regional Municipality of Wood Buffalo has received a request from Sultan Management Group (SMG) to transfer a total of ten (10) acres of land for a nominal fee for \$1.00 in Abrahms Land being a portion of Lot 4, Block 2, Plan 1323451 as shown on Attachment 1.

The ten (10) acres form part of a parent parcel, being approximately 31 acres in size, with sections currently developed and occupied by religious organizations. SMG is requesting the ten (10) acres for two (2) separate purposes:

- four (4) acres for an unverified proposed construction project; and
- an additional six (6) acres for a use which remains undetermined but for the developer's future consideration.

In this instance, SMG has advised they are requesting a nominal sale for the ten (10) acres in Abrahms Land both as an assurance of development profitability due to the Region's general economic market conditions and as a demonstration of commitment and support of Council. It has not been the practice of Administration to process nominal, for-profit land sales nor to bring them to Council for consideration.

Background:**Developer Considerations**

At its core, land is traditionally purchased based on its development potential. If market conditions are ripe to allow for the financially feasible development of a piece of land,

the valuation of the land itself becomes relatively straightforward. Financially feasible simply means that a project is potentially profitable - following completion of the development project, inclusion of all soft and hard costs, there is allowance for a normal profit. Soft costs include expenditures that are less obvious, such as planning, holding costs, taxes, or insurance. Generally speaking, hard costs pertain directly to the physical construction of the project for items such as materials and labour. Both soft and hard costs exclude the value of the land.

Depending on market conditions, there may be an entrepreneurial incentive (profit potential) to attract a developer to take on the time, effort, and risk of a new development. This expectation of profitability may include analysis through sales data or surveying market conditions for viability.

The cost of the land ultimately forms a component of the cost of development, so in valuing the land itself, developers will usually work backwards from their projected gross revenues from the project (i.e., sales of units, leasing revenues, etc.) and subtract all other soft and hard costs as well as the required entrepreneurial incentive (profit) to determine the maximum amount one could afford to pay for the land. This can be simplified by the following equation:

Gross Revenues from the Project

Less: Entrepreneurial Incentive

Less: Soft Costs

Less: Hard Costs

Equals the amount a developer could afford to pay for the land.

Abrams Land Development

Abrams Land was originally purchased as raw land from the Government of Alberta and developed jointly by the Municipality and the Abrams Land Development Corporation, which was comprised of the Diocese of St. Paul, the McMurray Gospel Assembly, and the Marka-UI Islam Congregation.

The development plan for the project, as described in the Abrams Land Development Corporation's Outline Plan, noted that

“the majority of the lands within the Outline Plan area whereupon development will take place currently lies within the PS - Public Service District. The purpose of this land use district is to facilitate the development of buildings and land uses intended for the delivery of educational, health, government, and institutional services. The faith centres, continuing care facilities and municipal recreation facility uses envisioned for the plan area are permitted under this land use district.

Lands within the Outline Plan area adjacent to Conn Creek are located within the EP

- Environmental Preservation District. The purpose of this district is to ensure the preservation of natural open space and the protection of environmentally sensitive lands from incompatible development.”

The Abrahms Land property is 31.58 acres in size, zoned Public Service (PS) under the Land Use Bylaw, and is fully serviced. There are five (5) registered non-profit religious organizations which currently own land in Abrahms Land as well as the Municipality.

All religious assemblies and the Municipality paid the developer per acre value for their land as follows:

- Diocese of St Paul (RC) received 8.5 Acres at a cost of approximately \$3.9 million + GST;
- McMurray Gospel Assembly received 8 Acres at a cost of approximately \$3.69 million + GST;
- Markaz-UI Islam Congregation received 9.5 Acres at a cost of approximately \$4.38 million + GST;
- RMWB received this 31.61 acre parcel at a cost of approximately \$14.2 million + GST; and,
- the RMWB also received other lands, which were sold to:
 - the Sanatan Mandir Cultural Society for approximately \$970,000 + GST for 2.1 acres; and
 - the Redeemed Christian Church of God, Daystar Chapel, for approximately \$1.37 million + GST for 2.97 acres.

Disposal of Surplus Municipal Lands - Past Practice

To the best of Administration's knowledge, the Municipality has never disposed of land to a for-profit entity at less than fair market value and has maintained an equitable process in accordance with all applicable, statutes, regulations, and legislation. Allowing one for-profit requester to purchase land from the Municipality at less than fair market value would not be fair, just, or equitable.

Periodically, non-profit organizations express interest in the fee simple acquisition of surplus land from the Municipality for less than fair market value - through purchase, exchange, subsidy, gift, etc. - to support their organizational initiatives. In these instances, prior to Administration considering presenting a report before Council for consideration, Administration requests that the non-profit organization provide information such as:

- Resolutions passed by the board of directors or governing body to confirm its intent to make a request for less than fair market value and designate a

representative.

- A statement of need and a business case articulating why the Municipality should support the request.
- A description of the property, interest to be acquired, and any anticipated conditions of the purchase agreement.
- Audited financial statements (current year and previous five (5) years).
- Disclose whether any funding has been received from the Municipality in the previous five (5) years.
- An operating plan that demonstrates the non-profit organization's ability to operate and maintain the property for a period of five (5) years.
- Confirmation that alternative capital supports were explored and documents to substantiate same.

The rationale is to ensure that the consideration for the sale at less than fair market value is not only fair, reasonable, and in the best interest and welfare of the public good but that social, economic, environmental, and cultural returns to the Municipality are taken into consideration.

Relevant Legislation and Supporting Policies

In accordance with section 70(1) of the *Municipal Government Act (MGA)*, if a municipality proposes to transfer or grant an estate or interest in (a) land for less than its fair market value, or (b) a public park or recreation or exhibition grounds, the proposal must be advertised.

In accordance with section 70(2) of the *MGA*, the proposal does not have to be advertised if the estate or interest is

- (a) to be used for the purpose of supplying a public utility,
- (b) transferred or granted under Division 8 of Part 10 before the period of redemption under that Division, or
- (c) to be used by a non-profit organization as defined in section 24(f).

The advertising requirements in section 606 of the *MGA* must be followed and the notice must contain the procedure to be followed by anyone wishing to file a petition pursuant to section 231 of the *MGA*. This notice allows the public an opportunity to review and petition the proposed sale.

In accordance with section 5.1 of Council Policy Acquisition and Disposal of Interests in Real Property LDI-030 (Policy), land disposals will be supported with an appraisal and

may be carried out where land is identified as surplus using leading real estate practices including unsolicited offers, public offerings, restricted offerings, and direct sales.

The Policy mirrors section 70 of the *MGA*; however, it does not give direction on selling land at less than fair market value to entities other than non-profit organizations. This Policy is new, and Administration has not had the opportunity, until now, to utilize it.

The sale of land at a nominal value to a for-profit entity presents unique challenges such as ensuring a consistent and fair approach, competitive advantage, relationships with non-profit organizations, and political sensitivities. If amendments are required, this is an opportunity for consideration of future Policy changes.

Unless prohibited by the *MGA*, Council may authorize the sale of real property for less than the fair market value if, in the opinion of Council, it is in the best interest of the Municipality to do so. Administration acknowledges that Council can bring forward a motion for requests that fall outside the Policy.

Options for Consideration:

Option 1 - Decline the Request

Considerations include:

- This case would set a significant precedent and likely result in other requests to the Municipality for similar for-profit entity nominal land purchases, especially in times of economic uncertainty.
- This avenue maintains Administration's consistent approach regarding the Municipality's past land disposal practice.

Option 2 - Direct Administration to Work with the Requester for a Sale at Fair Market Value with Vendor Conditions

Considerations include:

- The inclusion of vendor conditions provides a form of security to the Municipality, ensuring that the buyer meets the negotiated terms of the transaction. This might include conditions such as, but not limited to, the following:
 - completing the development in accordance with all applicable permits, bylaws, regulations, building and safety codes, and restrictions affecting the lands and the development;
 - commencing construction of the development to the point of excavation and completion of the foundation for the development within twelve (12) months of the closing date, and completing the construction of the development to the point of reaching substantial

performance, within thirty-six (36) months of the closing date;

- if the requester fails to satisfy the requirements as prescribed, the Municipality shall have the option to repurchase the land at a set percentage of the original purchase price; or
- the requester cannot sell, transfer, or lease the lands or assign the agreement to another party.

Option 3 - Direct Administration to Work with the Requester for a Sale at Fair Market Value without Vendor Conditions

Considerations include:

- Selling the land at fair market value creates a risk of the new landowner holding onto land without developing it as assured by the requester at the outset of the agreement.
- The new landowner may take steps to sell the land simply to make a quick profit on the resale.
- Should there be a zoning change or amendment allowing more commercial or mixed-use type developments on these lands, it would not be unreasonable to expect their values to increase by double or triple the estimated values under their current PS zoning given their prime location.

Budget/Financial Implications:

If the Regional Municipality of Wood Buffalo decides to transfer ownership to the requester at fair market value, the sale amount would be between \$3.6 million and \$4.8 million and reflects a market value analysis undertaken by a qualified appraiser. As noted previously, a zoning change or amendment could see values increase by double or triple those estimated under their current PS zoning.

The Abrahms Land property is 31.58 acres in size, and for the 2021 tax year, the assessed value of the property is \$9,295,860. The lands requested by SMG are ten (10) acres, and are assessed at \$2,940,797.22 for the 2021 tax year.

Should Council support SMG's request for a nominal land sale, there are possible financial implications to those existing property owners in Abrahms Land. The nominal land sale amount will affect future valuations and sales as it becomes a comparable in the area. By extension, it could de-value the land in the urban centre of Fort McMurray where much consideration and funding has been given to-date as a part of the Downtown Revitalization initiative.

There is the potential for previous purchasers to request that they be reimbursed their original purchase amounts as a form of equitable consideration by the Municipality, totalling \$14.3 million.

Rationale for Recommendation

In offering a nominal land purchase to one for-profit requester, the Municipality is, in effect, asking all other taxpayers to subsidize the one receiving the land. It is Administration's position that the Municipality should enter this process fully informed and be prepared to justify a nominal land sale decision in favour of a for-profit entity with compelling arguments regarding the public good.

SMG has not provided a sufficient level of information for Administration to fully explore this request so that it may provide Council with an assessment of the financial viability of the proposed project including, but not limited to, business efficacy, return on investment, return on capital employed, and net community benefit. Administration does not have the technical background on development economics to independently evaluate and provide recommendations under such circumstances.

In accordance with the *Municipal Government Act*, Council could not make a decision to dispose of the land for a nominal fee until the matter has been properly advertised in accordance with section 70 and section 606. This supports Council's goal of responsible government as outlined in the 2018-2021 Strategic Plan and section 3.2 of the Acquisition and Disposal of Interests in Real Property Council Policy LDI-030.

Strategic Priorities:

Responsible Government

Attachments:

1. Subject Area Map