

COUNCIL POLICY



REGIONAL MUNICIPALITY
OF WOOD BUFFALO

Document Name: Acquisition and Disposal of Interests in Real Property

Department Name: Planning and Development

Document Number: LDI-030

Effective Date: May 11, 2021

Next Revision Date: May 11, 2024

STRATEGIC PLAN LINKAGE

- Strategic Priority 1 – Responsible Government
- Strategic Priority & Initiative 2B – Establish Municipal Land Inventory

PURPOSE AND OBJECTIVE

The Regional Municipality of Wood Buffalo (the “Municipality”) will administer its authority for the acquisition and disposal of Real Property interests through:

- consistent, transparent, and equitable processes in accordance with all applicable statutes, regulations, or legislation;
- decisions which are in the best interests of the Municipality and citizens;
- alignment with either a current or future municipal need to support Council-approved projects, programs, and services;
- transactions undertaken in an open manner that maximizes social, economic, environmental, and cultural returns to the Municipality; and
- the annual evaluation of reserve and non-reserve Real Property to determine if there are properties that are Surplus to current or future needs.

GENERAL PRINCIPLES

1. Definitions:

The terms in this Policy have the same meaning as given to them in the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended (“MGA”), unless noted otherwise for the purposes of this Acquisition and Disposal of Interests in Real Property Policy (referenced as the “Real Estate Policy” in this document).

- 1.1. “Acquisition” means a transaction that adds Real Property to the Municipal Land Inventory by purchase, lease, licence, exchange, gift, easement, or transfer of administration from the public sector or an agent Crown corporation.
- 1.2. “Annual Budgets” means the operating budget and the capital budget adopted by Council in accordance with the *MGA*.
- 1.3. “Appraisal” means a written analysis and assessment of the Fair Market Value of Real Property, prepared within the last six (6) months, by a qualified and

independent appraiser duly registered in the Province of Alberta and who is familiar with the Municipality's real estate market.

- 1.4. "Disposal" means a transaction that removes Real Property from the Municipal Land Inventory by sale, lease, licence, exchange, gift, easement or other means to a third party, or transfer of administration of Real Property to the public sector or an agent Crown corporation.
- 1.5. "Expropriation" means an Acquisition of Real Property that is initiated by proceedings under the *Expropriation Act*, R.S.A. 2000, c. E-13, as amended.
- 1.6. "Fair Market Value" or "FMV" means an assessment of the market value of Real Property or an interest in Real Property, prepared through an Appraisal.
- 1.7. "Municipal", "Municipality" or "RMWB" means the Regional Municipality of Wood Buffalo.
- 1.8. "Municipal Land Inventory" means the comprehensive inventory of properties or interests in Real Property administered or occupied by the Municipality as administered by the Planning and Development Department's Land Administration Branch.
- 1.9. "Real Property" means any right, interest, or benefit in land, real or equitable, which includes improvements on, above or below the surface of the land. The ownership of such real property entails the right of use, control and Disposal of land and all buildings and structures constructed thereon or any other interest in land.
- 1.10. "Surplus" means Municipal Real Property that has been reviewed by the Municipality for operational needs and identified as no longer required for Municipal purposes.

2. Responsibilities:

2.1. Council to:

- 2.1.1. approve this Acquisition and Disposal of Interests in Real Property Policy;
- 2.1.2. approve any amendments to this Policy;
- 2.1.3. approve Annual Budgets and corporate plans that align with the governance established in this Policy;
- 2.1.4. approve the Acquisition or Disposal of Real Property where the total cost of the Acquisition or Disposal exceeds the threshold of delegated authority of the Chief Administrative Officer; and
- 2.1.5. authorize the Chief Administrative Officer to approve the final terms and conditions of any Acquisition or Disposal of Real Property interests, provided they are consistent with the CAO Bylaw and any other applicable statute, regulation, legislation or this Policy.

2.2. Chief Administrative Officer (CAO) to:

- 2.2.1. make recommendations for amendments to this Policy;

- 2.2.2. support the implementation of the Acquisition and Disposal of Interests in Real Property Policy;
- 2.2.3. where Council authority is required, recommend to Council all Real Property Acquisitions or Disposals for review, consideration, approval or rejection; and
- 2.2.4. ensure the appropriate administrative procedures are in place to achieve compliance with all applicable legislative requirements and this Policy.

3. Governing Legislation:

- 3.1. The Municipality's authority for municipal planning, subdivision, and development control is established in Part 17 "Planning and Development" of the MGA.
- 3.2. The manner in which the Municipality carries out Real Property Acquisitions and Disposals must be consistent with all applicable statutes, regulations, legislation or municipal policies, as applicable, and is not open to review.

4. Applicability:

- 4.1. This Policy is limited to the Municipality's Acquisition and Disposal of Real Property interests, not otherwise governed by the land development process pursuant to the MGA, as described in this Acquisition and Disposal of Interests in Real Property Policy.
- 4.2. This Policy applies to:
 - 4.2.1. the Municipality's interests in Real Property includes, but is not limited to both fee simple and equitable interests in land; consents to enter; permanent or temporary easements; utility or access rights-of-way; restrictions on use (restrictive covenants) and other limited interests such as joint-use agreements or temporary working easements; and
 - 4.2.2. all Municipal employees, any agent or assigns acting on behalf of the Municipality, and consultants authorized to acquire or dispose of Real Property on behalf of the Municipality.
- 4.3. This Policy is does not apply to:
 - 4.3.1. the procurement and sale of any other non-Real Property goods, services or assets;
 - 4.3.2. Real Property lease or license agreements between the Municipality and any third party;
 - 4.3.3. Real Property interests arising from land dedications to the Municipality arising from subdivision or development applications pursuant to the MGA, including but not limited to reserves, road or other dedications and easements which will continue to be dealt with in accordance with the MGA and any regulations under the MGA; and
 - 4.3.4. Real Property acquired by the Municipality through vesting by reason of tax arrears and subsequently sold pursuant to the MGA.

5. General Requirements:

5.1. Appraisal:

- 5.1.1. As appropriate to the transaction, Real Property Acquisitions or Disposals of fee simple title will be supported with an Appraisal.
- 5.1.2. An Appraisal may be obtained for interests in Real Property other than the fee simple.

5.2. Assessment:

- 5.2.1. Before acquiring any Real Property, the Planning and Development Department will consult with other municipal departments and, in addition to an Appraisal, may coordinate an assessment by appropriate staff or an external consultant as to the property's physical, structural and environmental condition; cultural heritage; existing restrictions or encumbrances; liabilities; tax implications; or any other important characteristic which may impact value or use.

6. Acquisition:

- 6.1. The Municipality will acquire, retain, maintain, renovate, and improve Municipally owned Real Property when those interests align with the goals and corporate objectives of Council's strategic plan, Annual Budgets, and approved departmental business plans for program and service delivery. Municipally mandated programs are the services, products or facilities which are owned, operated or purchased in fulfillment of Municipal corporate objectives and delivered to the public.

6.2. Methods:

Real Property interests may be acquired through any of the following methods:

6.2.1. Negotiation

- 6.2.1.1. The Municipality's preferred method of acquiring Real Property is through a negotiated Purchase Agreement with the property owner. These agreements endeavor to use leading real estate practices to determine the fair market value of the Real Property interest.

6.2.2. Expropriation

- 6.2.2.1. Expropriation proceedings may be initiated by the Municipality only following the conclusion of reasonable efforts by the Municipality to acquire such land interests by negotiation, based on FMV.
- 6.2.2.2. Where reasonable efforts for an Acquisition through negotiation are unsuccessful or Municipal project requirements must be met in a timely manner which preclude further negotiation, initiation of proceedings under the *Expropriation Act* may be considered by the Municipality.

6.2.3. Transfer from Other Jurisdictions

6.2.3.1. The Municipality may acquire Real Property as the result of a transfer of jurisdiction from one level of government to another (e.g., highways, parks, reserves or other government-owned land interests).

6.2.4. Land Exchange

6.2.4.1. When an Acquisition is contemplated in support of a project or program, and it is deemed that an exchange of Municipally-owned Surplus Real Property is in the best interests of the Municipality, negotiation will be initiated based on the FMV of the respective Real Properties.

6.2.5. Charitable Donations

6.2.5.1. The Municipality may acquire Real Property through gifts or donations, as outlined in the Donation Management Policy FIN-310.

6.2.6. Tax Sales

6.2.6.1. While not included within the application of this Policy per clause 4.3.4., the Municipality may acquire Real Property pursuant to the *MGA* when the property owner has tax debts owing to the Municipality.

6.2.7. Public-Private Partnerships

6.2.7.1. The Municipality may acquire an interest in Real Property as a part of a public-private partnership to provide infrastructure, community facilities, and related services that would benefit the Municipality, the private sector, or municipal residents.

7. Disposal:

7.1. Real Property may be available for Disposal where identified as Surplus.

7.2. Methods:

7.2.1. Disposal methods include:

7.2.1.1. unsolicited offer to purchase;

7.2.1.2. public offering;

7.2.1.3. restricted offering; and

7.2.1.4. direct sale.

7.2.2. Disposal for less than FMV, other than to a non-profit organization, must be advertised and otherwise carried out in accordance with the provisions of section 70 of the *MGA*.

7.2.3. Disposal of a public park, recreation or exhibition grounds must be carried out in accordance with the provisions of section 70 of the *MGA*. Where

Municipal Real Property is designated "reserve" land, Disposal of such Real Property must comply with the requirements of Division 9 of Part 17 of the MGA.

7.3. Non-Profit Organization Requests:

- 7.3.1. To help guide Council's discretionary authority to transfer or grant an estate or interest in Real Property for less than FMV to a non-profit organization pursuant to Section 70 of the MGA, the non-profit organization is required to provide supporting materials to the Planning and Development Department.

SUPPORTING REFERENCES AND POSITION RESPONSIBLE

Legal References:

- *Expropriation Act*, R.S.A., 2000, c. E-13, as amended
- *Income Tax Act*, R.S.C., 1985, c. 1 (5th supplement)
- *Land Titles Act*, R.S.A., 2000, c. L-4, as amended
- *Municipal Government Act*, R.S.A., 2000, c. M-26, as amended
- *Surveys Act*, R.S.A., 2000, c. S-26, as amended

Cross References:

- Chief Administrative Officer Bylaw No. 17/021 (or any successor bylaw or enactment)
- Code of Conduct Administrative Procedure (HRM-600)
- Conflict of Interest Disclosure Administrative Procedure (HRM-610)
- Donation Management Policy (FIN-310)
- Land Use Bylaw No. 99/059 (or any successor bylaw or enactment)
- Real Property Acquisition Administrative Procedure (LDI-030-P01)
- Real Property Disposal Administrative Procedure (LDI-030-P02)

Position Responsible for Procedure: Director, Planning and Development

APPROVAL

This Policy was approved by Council. It will be reviewed not later than its next Revision Date to determine its effectiveness and appropriateness. It may be assessed before that time as necessary.

Don Scott, Mayor

Jade Brown, Chief Legislative Officer

Date