



Report to: General Committee

Meeting Date: February 18, 2020

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| SUBJECT: | Transfer of Unclaimed Refundable Security Deposits |
| PREPARED BY: | Kevin Ross, Manager Development Finance & Payroll, ext. 2126 Fred Rich, Manager, Strategy & Insurance Risk Management, ext. 3733 |
| REVIEWED BY: | Francesco Santaguida, Assistant City Solicitor, ext. 3583 |

RECOMMENDATION:

1. That the report entitled, “Transfer of Unclaimed Refundable Security Deposits” be received; and,
2. That the Treasurer be authorized to transfer unclaimed security deposits, up to the amount of \$773,000.00, representing deposits placed prior to December 31, 2014 for undertakings, to the Corporate Rate Stabilization Reserve; and,
3. That the cost incurred to place the Public Notice, exclusive of HST, be offset against the refundable security deposits to be transferred to the City’s reserve; and,
4. That the Treasurer be authorized to transfer future unclaimed security deposits to the Corporate Rate Stabilization Reserve; and,
5. That the Treasurer be authorized to release any security deposits, from the Corporate Rate Stabilization Reserve in the event of a future, eligible, refund claim; and further,
6. That staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

Not applicable.

PURPOSE:

The purpose of this report is to obtain Council’s approval to transfer unclaimed security deposits received through Undertakings (prior to December 31, 2014) to the Corporate Rate Stabilization Reserve, where the deposits remain unclaimed after publication of notices. Council approval is also requested to permit the Treasurer to transfer any future unclaimed deposits for undertakings and agreements to the reserve and to draw on this account to issue refunds, in the event of future eligible claims.

BACKGROUND:

Refundable deposits are received from homeowners and developers to provide security for work that is approved through permits or agreements with the City. Security deposits are received through undertakings and development agreements to ensure that required works are completed to the satisfaction of the City.

Undertakings are entered into by homeowners if they wish to install a pool, where they will be required to place a pool deposit to ensure the safety of the pool, or if they would like to construct a new house – where there is a requirement for lot grading and road damage deposits to ensure that adjoining lots are not adversely impacted by water run-off and the sidewalks and curbs are not destroyed. These deposits are received in cash and should be held for less than 5 years as the works secured are short-term in nature.

Development agreements such as site plan control and plans of subdivisions are entered into by homeowners and landowners/developers for the construction and/or expansion of residential and non-residential buildings. Security deposits received through these agreements, are mainly in the form of a letter of credit and secure a wider range of obligations such as, the construction of engineering-related above and below ground works, landscaping and trees, fence construction, lot grading, fire safety and, waste removal facilities. These agreements are for more complex construction than that approved through undertakings, and as such, the security is held for longer periods up to 15 years.

Security deposits for undertakings and development agreements are held over the period of construction, to be returned once the work is complete and certified to the City's satisfaction. The onus for claiming refunds of these deposits rests with the parties who placed the deposit, requiring them to advise the City that their projects are complete, which leads to an inspection process that, if passed, results in a refund of the deposit. While the majority of security deposits are returned to homeowners/developers, many requests for inspection, (which initiates the refund process) have not been forthcoming over the years, and has led to an accumulation of security deposits being held by the City.

In order to manage the unclaimed security deposits being held, staff have over the years received Council approval to place public notices in newspapers and on the City's website, inviting all eligible homeowners/developers to apply for a release of security deposits being held for work included in undertakings and agreements. The last such report, *Transfer of Unclaimed Security Deposits* was approved by Council on December 13, 2016 and authorized the transfer of deposits placed prior to December 31, 2007. Staff are now seeking approval for a similar exercise for security deposits held through undertakings.

Taking into account the time required to complete the construction of approved work, and obtain the inspections/documentation required to release the security deposits being held, it was determined that cash balances being held prior to December 31, 2014 for undertakings would be reviewed and homeowners/developers prompted to apply for a refund of their deposits.

The security deposits being held in cash for undertakings are as follows:

| ACCOUNT NO. | ACCOUNT NAME | PRE-DECEMBER 31 st 2014 BALANCES | NO. OF DEPOSITS |
|-------------|-------------------|--|--------------------|
| 027-2140011 | ROAD DAMAGE | \$ 65,000.00 | 260 |
| 027-2140019 | POOL CONSTRUCTION | \$ 10,000.00 | 2 |
| 027-2140020 | LOT GRADING | \$ 698,000.00 | 157 |
| | | \$ 773,000.00 | 419 |

OPTIONS/ DISCUSSION:

City staff, consistent with past practice, will place advertisements in the Economist & Sun, Thornhill Liberal, and on the City's website, inviting all eligible homeowners/developers to apply for a release of cash security deposits being held for work included in undertakings prior to December 31, 2014. The advertisements will be run twice in each of the Economist & Sun and Thornhill Liberal in the first quarter of 2020 and prospective applicants will be given two months to submit a claim. A notice will also be posted to the City's website during this period to be removed one month after the second notice is published.

The alternative to placing a public notice to invite applications for the refund of cash deposits for completed works is to attempt to locate each individual, and then provide that homeowner/developer with a letter or other form of notice regarding the deposit held by the City. Placing a public notice which invites homeowners/developers to apply for a refund provides a more expeditious method to make contact, and places the onus on the applicant to prove that the works have been satisfactorily completed. This approach of placing a public notice has been used by the City and other municipalities in the past to address similar unclaimed security deposit balances.

It is recommended that the unclaimed security deposits (up to the amount of \$773,000) be transferred to the Corporate Rate Stabilization Reserve after the expiration of the notice on the City's website. This reserve is a contingency reserve which gives the City the flexibility of satisfying claims for refunds in the future. The deposit information will be detailed and retained in the event subsequent claims are received.

It is also recommended that the Treasurer be authorized to withdraw monies from the Corporate Rate Stabilization Reserve to satisfy refund claims, if any, which may be verified after this transfer occurs. In 2016 the City undertook a similar process, where Council approved the transfer of long-outstanding security deposits totaling \$1,739,367.81 to the Corporate Rate Stabilization Reserve; subsequent to this transfer, the City received only 6 requests for refunds relating to these funds, which totaled \$25,985 (or 1.5% of the amount transferred).

In order to limit the amount of unclaimed security deposits, and encourage security deposit owners to expeditiously complete the works, staff will be effecting procedural changes (transfer clause) to undertakings and agreements in 2020.

FINANCIAL CONSIDERATIONS

By placing a public notice, this serves as a means of notifying and prompting action from security deposit owners who may be eligible for a refund of their security deposit. Security deposits are held to ensure that work in support of undertakings and agreements with the City, are completed to the required standard. The security deposits being held relate to works that were either completed, or to be completed, by the landowner/developer within their development. As such, there is no identifiable financial impact to the City beyond the cost to run the notice in the newspapers.

The amount of \$773,000.00 (which represents 419 developers/landowners) as depicted in the chart above, will be reduced by the cost to place the advertisements and, any verifiable claim that may be received from the public notice, prior to the transfer to the Corporate Rate Stabilization Reserve.

HUMAN RESOURCES CONSIDERATIONS

Not applicable.

ALIGNMENT WITH STRATEGIC PRIORITIES:

This is consistent with the City's goal of stewardship of money and resources and demonstrates sound, transparent and responsible financial and resource management to mitigate risks while ensuring efficient and effective service delivery.

BUSINESS UNITS CONSULTED AND AFFECTED:

Comments from the Legal Department are included in this report.

RECOMMENDED BY:

Joel Lustig
Treasurer

Trinela Cane
Commissioner, Corporate Services

ATTACHMENTS:

N/A