



## BY-LAW 2013-113

### A BY-LAW TO DELEGATE AUTHORITY TO CONDUCT CERTAIN REAL PROPERTY TRANSACTIONS

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**WHEREAS** Section 23.1 (1) of the *Municipal Act* S.O 2001, c, as amended, provides that a municipal council may delegate its powers and duties under the Municipal Act to officers or employees of the municipality;

**AND WHEREAS** the Council for The Corporation of the City of Markham (the "City") has reviewed the provision of real estate approval procedures and considers it desirable for the purposes of efficient service delivery to delegate the authority to approve certain real property transaction and the execution of documents related to transactions to the Chief Administrative Officer or the Manager, Real Property, or their designates;

**AND WHEREAS** the Council for The Corporation of the City of Markham considers it desirable for the purposes of protecting the City's interest to delegate authority to execute documents required to close Real Property transactions and documents and agreements required to preserve the City's interests in litigation and potential litigation matters to the City Solicitor, or his or her designate;

**NOW THEREFORE** the Council for The Corporation of the City of Markham enacts as follows:

#### PART A – GENERAL

1. For the purpose of this By-Law, the following capitalized terms have the following definitions:
  - a) "Appraisal" means either (i) a written opinion, provided by an independent appraiser holding an AACI designation with the Appraisal Institute of Canada that is satisfactory to the Manager; or (ii) the Manager's estimate, as to the Fair Market Value of Real Property;
  - b) "Acquisition" means the purchase of Real Property or an interest in Real Property by way transfers, leases and Easements with a term exceeding 21 years;
  - c) "Chief Administrative Officer" means the Chief Administrative Officer of the City or his or her designate and successor;
  - d) "City Solicitor" means the City Solicitor of the City or his or her designated or successors;
  - e) "Closing Documents" means documents and agreements required to be executed or entered into in order to close a Real Property transaction pursuant to an Agreement of Purchase and Sale properly authorized by Council, the Chief Administrative Officer or the Manager, as applicable, or pursuant to other agreements, including but not limited to, subdivision agreements, site plan agreements, etc. , including, without limitation, certificates of representations and warranties, declaration of possession, transfers and other instruments for registration in Teraview, ancillary agreements, indemnities, directions, document registration agreement, and acknowledgments and directions.
  - f) "Disposition" The sale of Real Property or an interest in Real Property, including disposition by way of leases and easements with a term exceeding 21 years.

- g) “Easement” means an interest in Real Property whereby an owner of Real Property grants to another entity the right to use the owner’s Real Property for a certain purpose subject to the terms contained in the easement;
- h) “Expropriations” means the taking of land and interests in land conducted by the City pursuant to the *Expropriations Act* (Ontario), as amended from time to time;
- i) “Fair Market Value” The purchase price that Real Property might be expected to realize if offered for sale or lease on the open market, by a willing seller/landlord to a willing buyer/tenant;
- j) “Manager” means the City’s Manager, Real Property or his or her designate or successor;
- k) “Nominee Agreement” means an agreement between the City and a third party appointing such third party to act as the City’s agent on the acquisition of Real Property;
- l) “Real Property” means land and any buildings and improvements affixed to the lands.

## PART B – DELEGATION OF AUTHORITY FOR REAL PROPERTY MATTERS

2. Authority to approve certain Real Property transactions and execute documents relating to same is hereby delegated as follows:

Matter	Delegated Authority
(a) Acquisition of Real Property not exceeding \$300,000	<p>The authority to authorize the Acquisition of Real Property or any interest in Real Property, except leases and Expropriations (including but without limitation acquisitions of fee simple or Easement, right-of-way, licence, joint use agreement, reciprocal agreement, land exchange or any offer, notice or application) and to execute all documents required to complete such Acquisitions, is delegated as follows subject to the following conditions:</p> <ul style="list-style-type: none"> <li>(a) If purchase price does not exceed \$50,000, the Manager has the authority;</li> </ul> <p>If purchase price does not exceed \$300,000, Chief Administrative Officer has the authority;</p> <ul style="list-style-type: none"> <li>(b) Purchase price does not exceed Fair Market Purchase price by more than ten percent (10%) as determined by an Appraisal;</li> <li>(c) Agreement is in form and content satisfactory to the City Solicitor and the Chief Administrative Officer;</li> <li>(d) Sufficient funds are available in approved operating or capital budgets; and</li> <li>(e) All applicable Council approved policies are complied with.</li> </ul>
(b) Acquisition of Real Property exceeding \$300,000, conditional on Council approval	<p>The Chief Administrative Officer has authority to submit offers for the Acquisition of Real Property conditional on Council ratification, including the authority to submit deposits, provided that such deposits are no greater than \$300,000.</p>

Matter	Delegated Authority
(c) Leasehold Interest	<p>The authority to authorize the lease of Real Property (including without limitation any renewal of existing or expired leases) is delegated as follows subject to the following conditions:</p> <ul style="list-style-type: none"> <li>(a) If rent does not exceed \$50,000, Manager has authority; If rent does not exceed \$300,000, Chief Administrative Officer has authority;</li> <li>(b) Sufficient funds are available in the approved operating or capital budget;</li> <li>(c) Term, including renewals, does not exceed 10 years; and</li> <li>(d) Agreement is in a form and content satisfactory to the City Solicitor.</li> </ul>
(d) Disposition of Real Property not exceeding \$300,000	<p>The authority to authorize the Disposition of Real Property or any interest in Real Property (including, but without limitation, disposition of fee simple or Easement, right-of-way, licence, joint use agreement, reciprocal agreement, Real Property exchange or any offer, notice or application) is delegated as follows subject to the following conditions:</p> <ul style="list-style-type: none"> <li>(a) If sale price does not exceed \$50,000, Manager has authority; If sale price does not exceed \$300,000, Chief Administrative Officer</li> <li>(b) Sale price is at least 90% of Fair Market Value, as determined by Appraisal;</li> <li>(c) Agreement is in form and content satisfactory to the Chief Administrative Officer and the City Solicitor; and</li> <li>(d) All applicable Council approved policies are complied with.</li> </ul>
(e) Minor Agreements (Any minor agreement pertaining to Real Property that is not already covered by the above sections on Acquisition, Disposition and Leases, and is not related to any development application, or Expropriation (i.e. encroachment, estoppel certificates, landscaping and parking agreements))	<p>Authority to enter into agreements of a minor or routine nature relating to Real Property is delegated to the Manager, provided that:</p> <ul style="list-style-type: none"> <li>(a) The nature of the agreement is minor, as determined and approved by all affected departments;</li> <li>(b) The form, terms and conditions of the agreement is satisfactory to the City Solicitor; and</li> <li>(c) All applicable permits are obtained and all applicable legal fees and other costs, are paid by the applicant.</li> </ul>
(f) Releases of permanent and temporary Easements	<p>Authority to approve and execute releases of permanent and temporary Easements and other registered interests in Real Property that have expired or are no longer required is delegated to the Manager.</p>
(g) Closing Documents	<p>Authority to execute any and all Closing Documents is delegated to the City Solicitor, or his/her designate.</p>
(h) Nominee Agreements	<p>The Chief Administrative Officer shall have the authority to approve and execute Nominee Agreements.</p>


**PART C – DELEGATION OF AUTHORITY FOR OTHER MATTERS**

3. Authority to execute the following agreements and/or documents is hereby delegated as follows:

(a) Confidentiality Agreements	Authority to enter into confidentiality agreements and non-disclosure agreements is delegated to the Chief Administrative Officer
(b) Documents to preserve the City's interests in litigation or potential litigation	Authority to execute any and all documents and agreements required to preserve the City's interests relating to any litigation or potential litigation is delegated to the City Solicitor.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS  
17<sup>TH</sup> DAY OF JUNE, 2013.

  
KIMBERLEY KITTERINGHAM  
CITY CLERK

  
FRANK SCARPITTI  
MAYOR