



Report to: General Committee Finance & Administration

Date of Meeting: December 12, 2016

SUBJECT: Transfer of Unclaimed Refundable Security Deposits

PREPARED BY: Kevin Ross, Manager Development Finance (Ext. 2126)

RECOMMENDATION:

- 1) THAT the report titled “Transfer of Unclaimed Refundable Security Deposits” be received;
- 2) AND THAT the Treasurer be authorized to transfer unclaimed security deposits, up to the amount of \$1,739,367.81, representing deposits placed prior to December 31, 2007, to the Corporate Rate Stabilization Reserve;
- 3) AND THAT the cost of \$6,003.84 (exclusive of HST) incurred in placing the Public Notice, be offset against the security deposits to be placed in the City’s reserve;
- 4) AND THAT the Treasurer be authorized to release any of these security deposits from the Corporate Rate Stabilization Reserve in the event of a future, eligible, refund claim;
- 5) AND THAT Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

The purpose of this report is to obtain Council’s approval to transfer unclaimed security deposits placed prior to December 31, 2007, 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 draw on this account in the event of future eligible claims.

BACKGROUND:

Refundable deposits are received from homeowners/developers to secure work that is approved through agreements with the City; examples of these are lot grading, refuse removal and road defouling. This cash is held in designated refundable deposit accounts, 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. Many such requests for inspection, (which initiates the refund process) have not been forthcoming over the years, and has led to an accumulation of refundable deposits being held by the City.

Taking into account the time required to complete a development, and obtain the inspections/documentation required to release the security deposits being held, it was determined that balances being held prior to December 31, 2007 (close to nine years following receipt) would be reviewed and developers/homeowners prompted to apply for a refund of their deposits.

The relevant refundable accounts with balances prior to December 31, 2007 are as follows:

ACCOUNT NO.	ACCOUNT NAME	PRE-DECEMBER 2007 BALANCES	No. of Deposits
027-2140001	LANDSCAPING & TREES	\$ 97,871.00	9
027-2140004	REFUSE REMOVAL	\$ 45,000.00	7
027-2140010	FENCE CONSTRUCTION	\$ 66,950.00	4
027-2140011	ROAD DEFOULING	\$ 13,250.00	53
027-2140014	COMPLETION OF WORKS	\$ 1,378,796.81	111
027-2140020	LOT GRADING	\$ 137,500.00	29
		\$ 1,739,367.81	213

OPTIONS/DISCUSSION:

City staff, consistent with past practice (e.g. Unclaimed Refundable Deposits – Approved on April 24, 2007, Transfer of Holdback Payments – Approved on April 28, 2015), placed advertisements in the Economist & Sun, Thornhill Liberal, Toronto Star and on the City's website, inviting all eligible developers/homeowners to apply for a release of security deposits being held for work included in agreements, prior to December 31, 2007. The advertisements were run twice in the Economist & Sun and Thornhill Liberal on September 15, 2016 and October 20, 2016 and once in the Toronto Star on September 17, 2016; prospective applicants were given until November 16, 2016 to submit a claim. A notice is also posted to the City's website until December 28, 2016.

A second notice was not placed in the Toronto Star as (1) through an informal survey of the respondents to the September notice, the Star was not the medium where the notice was seen and, (2) the cost to place the notice in the Star was multiple times that of the Economist & Sun and Thornhill Liberal; \$4,000 versus \$500.

The City received twelve queries related to the notices, with potential deposit refund claims. Staff reviewed these queries and determined that four were bona fide claims but not related to deposits held prior to December 31, 2007. The four bona fide queries related to a pool deposit, lot grading, sales trailer and road damage deposits. The information was forwarded to the relevant department where staff will confirm whether the required work has been satisfactorily completed and all necessary reports submitted; this will determine whether the homeowner is eligible for a refund of their security deposit. The remaining eight queries were for deposits provided directly to the builder and the residents were provided with information on how to contact their builder to determine the status of their deposit.

The alternative to placing a public notice to invite applications for the refund of deposits for completed works is to attempt to locate each individual, and then contact that developer/homeowner to initiate discussions regarding their eligibility for a refund. Placing a public notice which invites developers/homeowners 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 balances.

It is recommended that the unclaimed deposits (up to the amount of \$1,739,367.81) made prior to December 31, 2007 be transferred to the Corporate Rate Stabilization Reserve after the expiration of the notice on the City's website on December 28, 2016. 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. It is noteworthy to mention that in 2007 the City undertook a similar process, where Council approved the transfer of long-outstanding funds totaling \$505,318 from the refundable deposit accounts to the Corporate Rate Stabilization Reserve. Subsequent to this transfer, the City received only 13 requests for refunds relating to these funds, which totalled \$41,300 (or 8% of the amount transferred).

In order to limit the amount of unclaimed security deposits, and encourage developers/homeowners to expeditiously complete the works for which the funds are being held, staff are currently reviewing the forms/agreements utilized for the collection of these deposits to include the possibility of forfeiture if the security is not claimed within a specified time. The lot grading undertaking has recently been revised to include this provision and staff will be looking to expand its usage to other categories of deposits.

FINANCIAL CONSIDERATIONS:

By placing a public notice, this serves as a means of notifying and prompting action from developers/homeowners who may be eligible for a refund of their security deposit. Security deposits are held to ensure that work in support of 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 developer/homeowner 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 public notice was placed in the Thornhill Liberal and Economist & Sun newspapers as well as the Toronto Star at a cost of \$6,003.84 (exclusive of HST). Posting the notice on the City's website is free of charge.

The amount of \$1,739,367.81 (which represents 213 developers/homeowners) as depicted in the chart above will be reduced by the cost to place the advertisement and any verifiable claim that may be received up to December 28, 2016 from the notice on the City's website.

BUSINESS UNITS CONSULTED AND AFFECTED:

N/A

RECOMMENDED

BY:

12/1/2016

X



Joel Lustig
Treasurer

01/12/2016

X



Trinela Cane
Commissioner, Corporate Services