

HALIFAX

P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 14.1.6
Halifax Regional Council
July 18, 2017

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: May 15, 2017

SUBJECT: **Administrative Order 50 Disposal of Surplus Real Property – PID#40675860**
80 Grono Road, Dutch Settlement

ORIGIN

September 9, 2014 – Regional Council declared 80 Grono Road, Dutch Settlement, as surplus to municipal operational requirements and amended the recommended disposal category from Ordinary to Community Interest.

October 8, 2016 – Call for Submissions was issued for the subject property with a March 27, 2017, submission deadline.

LEGISLATIVE AUTHORITY

HRM Charter:

Section 63(1) The Municipality may sell or lease property at a price less than market value to a non-profit organization that Council considers to be carrying on an activity that is beneficial to the Municipality.

(2) A resolution to sell or lease property referred to in subsection (1) at less than market value shall be passed by a two-thirds majority of the Council present and voting.

(3) Where the Council proposes to sell property referred to in subsection (1) valued at more than ten thousand dollars at less than market value, the Council shall first hold a public hearing respecting the sale.

(4) The Council shall advertise the public hearing at least twice, in a newspaper circulating in the Municipality, the first notice to appear at least fourteen days before the hearing.

(5) Notice of the public hearing shall include the date, time and place of the hearing, the location of the real property or description of the tangible personal property, the estimated value of the property and the purpose of the sale. 2008, c.39, s.63.

Section 120(3) The capital reserve fund includes (a) funds received from the sale of property.

Administrative Order 50, the Disposal of Surplus Real Property Administrative Order.

RECOMMENDATION ON PAGE 2

Administrative Order 2014-015-ADM, the Financial Reserves Administrative Order.

Reserve Business Case Q526, Capital Fund Reserve.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Set a date for a public hearing to consider the sale of PID#40675860 80 Grono Road, Dutch Settlement, to the Riverline Activity Centre Association for the proposed less than market value price of \$1.00 plus closing costs as per the proposed terms and conditions set out in the Discussion section of this report; and
2. Subject to the outcome of the public hearing, approve the sale and authorize the Mayor and Municipal Clerk to enter into an Agreement of Purchase and Sale with Riverline Activity Centre Association for PID#40675860 80 Grono Road, Dutch Settlement, as per the terms and conditions set out in Table 1 of this report.

BACKGROUND

Municipal Policy: Administrative Order 50 is a standardized process for the sale of surplus real property according to the intent of the sale. Section 2(2)(b) defines Community Interest properties as known to have potential for community use, in particular where:

- (i) there has been a prior community or institutional use of the property; or
- (ii) by location or scarcity of available property the consideration would reasonably arise.

Section 4(1)(l) in the event Council rejects any or all non-profit organizations' submissions to purchase at less than market value, Council may direct staff to proceed to sell the property at market value.

In 2014, the subject property was declared surplus by Regional Council and assigned to the Community Interest category of Administrative Order 50. An open Call for Submissions was issued on October 8, 2016. As of the application deadline of Monday, March 27, 2017, one proposal was received. The offer of purchase is from the Riverline Community Centre Association.

Property Description: The subject property is a 43,560 square feet (~1 acre) parcel of land with a two-story building. The first floor of the building is believed to have been constructed in the early 1950's (now referred to as the basement) and subsequently expanded with the addition of a second floor for a total of 6,013 square feet. The property has been used as a community hall. The site is encumbered by a Canada Post Corporation community mailbox.

Zoning: The property is zoned VIL (Village) Zone which permits a broad array of uses including single and multi-unit dwellings, institutional (eg. daycare, community hall, medical clinic), assorted commercial, light industrial, and resource uses.

Property Valuation and Assessment: In 2016, HRM retained Altus Group Limited to provide an appraisal of the subject property. The appraised value is included in a confidential companion In Camera Information Report to Regional Council dated May 15, 2017¹. In 2016, the assessed value of the property was \$97,295.

History of Ownership and Use: In 1961, a privately-owned parcel of land was sub-divided and a portion comprising approximately 1 acre was conveyed to the Dutch Settlement Community Hall and three individuals named in the deed. Anecdotal information suggests that a small building was erected on site and served as a venue for meetings and social activities. A second floor was added in the late 1970's financed by a loan of up to \$30,000 plus interest from the former Municipality of Halifax County to "the Ratepayers of Dutch Settlement". The loan was to be repaid over 20 years subject to title being held by the

¹ Section 5 of AO 50 requires appraisals remain confidential until the sale is completed.

Municipality with the option to levy an area rate to recover any outstanding principal or interest (Minutes, Halifax County Council, April 20, 1976). In 1979 title was conveyed by local residents and the Dutch Settlement Recreational Association (the apparent successor to the Dutch Settlement Community Hall Association) to the Municipality of Halifax County, and in 1996 title ceded to HRM through amalgamation.

Documentation regarding occupancy is incomplete but in 2003, HRM entered into a one (1) year lease agreement with the Riverline Activity Centre Association with the option to renew for an additional year. Thereafter the lease continued on a month-to-month holdover. The annual rent was \$1.00/year and the premises were to be used for "community functions". In error, the property has not been assessed as taxable.

DISCUSSION

Proponent Profile: The Riverline Activity Centre Association (the "Association") incorporated as a non-profit society in 1994. According to the Association's application, the Riverline Activity Centre Association evolved from the Dutch Settlement Recreational Association formerly known as the Dutch Settlement Community Hall Association (Deed dated October 31, 1979). The Association's registration lapsed from 1999 to 2012 but thereafter has been maintained. The facility hosts recurring room rentals (Tae Kwon Do, Air Cadets, and a darts league), non-recurring hourly rentals for meetings, non-profit groups and private parties.

Proponent's Intended Use: The Association proposes continued use of the premises for room rentals and meetings. Use tends to be concentrated on weekday evenings so the Association intends to upgrade the kitchen and heating to attract daytime and evening rentals.

Proponent's Terms and Conditions of Offer: The Association's offer includes a purchase price of \$1.00. The payment of closing costs was not addressed in the submission. The offer is conditional:

- "The Hall must be brought up to electrical code for wiring in the ceiling as it is currently wired with Lumitec and there are old lights which are maretted on the end with a light socket.
- The Hall insulation must be repaired. At this time old insulation is on the ceiling tiles and is only rated at R12. The old insulation needs to be stapled and strapped back in place and covered with vapor barrier, and then new R40 insulation should be sprayed into the attic".
- A closing date no later than 30 September, 2017, is requested.

Administrative Order 50 – Community Interest Category

Consideration under the Community Interest category is a two-step process to determine the feasibility of a proponent's proposal. The first step requires a technical evaluation by a staff team followed by overall consideration by Regional Council using different criteria.

Staff Evaluation Results

An inter-disciplinary team of staff was convened to evaluate submissions. Led by Finance, the team included Grants & Contributions, Real Estate, Parks & Recreation, and Finance. In accordance with Section 4(1)(f) of Administrative Order 50, staff evaluates submissions on four (4) criteria:

- Content compliance
- Viability
- Compensation
- Benefit to the Municipality

Key Findings:

1. **Content Compliance** – The application met most of the requirements as set out in Section 4(1)(e) of Administrative Order 50 and the formal Call for Submissions.
2. **Viability** – The Association is a long-standing operator of the premises. The extent to which the Association can generate additional revenues to cover preventive maintenance, future re-capitalization, building insurance and property tax is unconfirmed.
3. **Compensation** – A proposed purchase price of \$1.00 is below the appraised value but considered fair given that title was held to secure a loan. Arguably, title could have reverted to the Association, or its predecessor, once the terms of the loan were satisfied.
4. **Benefit to the Municipality** – The Municipality has no operational requirement for the subject property given the proximity of municipal recreational facilities in the area. Continued operation by the Association is desirable given the historical development of the subject property and continuity for neighbourhood users primarily for leisure, social activities, and local non-profit groups.

Summary and Recommendation Rationale

In summary, the submission scored 69/100 based on the information provided by the applicant. The review concluded that ownership of the subject property should revert to the Association unencumbered by a Buy-Back Agreement. In the event the Association elect to sell or convey the subject property at some future date the Municipality has no interest in a repurchase. Proceeds from any future sale or conveyance would be to the Association and any liabilities associated therewith.

Buy-Back Agreement

It is recommended that a Buy-Back Agreement not be applied to the proposed conveyance of 80 Grono Road, Dutch Settlement, based on initial development and ownership of the property by a non-profit community group and continued operation/occupancy commencing in 1961.

Proposed Terms and Conditions of Conveyance

It is recommended that the Municipality not fund minor electrical/lighting or insulation upgrades on the basis that (i) HRM spent \$37,979.73 on roof, floor and septic repairs in 2014 despite a rental rate of \$1.00 per annum, and (ii) as stated in the formal Call for Submissions, the subject property is to be sold “as is” and current property expenditures discontinued as of the closing date of the property sale (Call for Submissions, p.14).

The applicant did not include reference to payment of all or any portion of HRM’s closing costs (estimated to total \$6,000). It is recommended that the Association not pay the cost of an independent appraisal. In accordance with Section 5 of Administrative Order 50 the appraisal cannot be shared with applicants until after closing. As such, the Association has derived no benefit from this expenditure in guiding their submission. However, deed migration is a mandatory requirement of the Nova Scotia Land Registry.

Table 1. KEY TERMS AND CONDITIONS (PROPOSED)	
Civic Address	80 Grono Road, Dutch Settlement
Area	43,560 sf (1 acre)
Zoning	VIL (Village) Zone permits assorted residential, institutional and commercial uses
Assessed Value¹	\$97,295
Appraised Value	See: In Camera Information Report dated July 18, 2017
Tax Status	Commercial Exempt
Proposed Purchase Price	\$1.00
Terms of Offer	The Association shall be responsible for all operating and capital costs including

	annual real property tax.
Proposed Use	Continuation of social, recreational and leisure activities by the Association.
Conditions of Sale	Property to be conveyed "as is-as zoned". The Association to provide satisfactory evidence that it is the apparent or defacto successor to the Dutch Settlement Recreational Association and Dutch Settlement Community Hall Association.
Buy-Back Agreement	A Buy-Back Agreement shall not be applied to the conveyance.
Closing Date	Within 3 months of Regional Council's approval.
Cost of Sale Recoveries	The Purchaser shall pay a maximum of \$2,500 for legal/deed migration fees at closing upon receipt of an itemized invoice issued by HRM. Excludes payment for independent appraisal report.

Council's Consideration

Upon review of staff's evaluation, Council must review the submissions based on criteria set out in Section 4(2)(i) of the policy, namely:

- (i) the market value of the property as appraised;
- (ii) the Planning Strategies of the area;
- (iii) the benefit of any cost saving to the Municipality;
- (iv) the consequences, beneficial or otherwise, to the community or to the Municipality as a whole;
- (v) the beneficial considerations of any submission against the benefit to the Municipality of selling the property at market value; and
- (vi) whether or not a Buy-Back is a condition of a sale.

The following information is provided for Council's consideration:

- the assessed value of the property is \$97,295.
- the appraised market value "as is/as zoned" is included in a separate In Camera Information Report².
- the proponent's intended use complies with current zoning.

FINANCIAL IMPLICATIONS

If approved, the terms of conveyance recommended by the staff review constitutes a less than market value sale because the solicitation of offers has been restricted to only non-profit proponents. Based on the 2016 assessed value of \$97,295, if approved a conveyance to the Association for \$1.00 represents an in-kind contribution of \$97,295. Acceptance of \$2,500 for legal/deed migration fees represents a further in-kind contribution of \$3,500 for the independent market value appraisal. Conveyance will release HRM from any insurance and future re-capitalization costs.

Note: Prior to 2016 the assessed value was based on land only (\$34,000); in error the building was not assessed. Property Valuation Services Corporation provided a building value of \$63,295 in September, 2016, for a combined total of \$97,295. This value was cited in the formal Call for Submissions. A conveyance of title will trigger a re-assessment as taxable and property use/market conditions.

If Council decides to proceed with disposal, funds received will be directed to the Capital Fund Reserve Q526.

² Section 5 of Administrative Order 50 requires appraisals remain confidential until the sale is completed.

Obligation Reserve – Capital Fund Reserve Q526

The reserve is funded by the sale of land in HRM, other than Business/Industrial Parks or sale of land conveyed to HRM for parks, playgrounds or similar public purposes. Several other large properties are now excluded from deposit to this reserve and are being redirected to the Strategic Capital Reserve Q606. The Capital Reserve Fund is governed by the Halifax Regional Municipality Charter Section 120(1),(3) and (4). Withdrawals from the reserve are for capital expenses for which the Municipality may borrow. The recommendation does not have a negative impact to the reserve balance as this would be a contribution to the reserve.

Budget Summary. Obligation Reserve – Capital Fund Reserve Q526

Balance in reserve March 31, 2017	\$ 12,334,724
Projected revenue to March 31, 2018	\$ 7,445,757
Commitments to March 31, 2018	<u>\$(12,322,406)</u>
Projected net available balance to March 31, 2018	\$ 7,458,075

RISK CONSIDERATION

Low – The Association is experienced in the operation of the subject property but will assume all operating and capital costs. In the event the Association ceases operations or elect to sell or convey the property all proceeds shall be to the Association.

COMMUNITY ENGAGEMENT

A mandatory public information meeting was held on September 27, 2016, at 80 Grono Road, Dutch Settlement. The meeting was publicized in a newspaper advertisement Saturday, September 17, 2016. The purpose of the meeting was to inform members of the public on the legislated process to purchase municipal property and specific details about 80 Grono Road, Dutch Settlement. Approximately 30 people attended the meeting.

A Call for Submissions was issued Saturday, October 8, 2016, with an application deadline of Monday, March 27, 2017. A site visit was conducted Tuesday, November 8, 2016.

ENVIRONMENTAL IMPLICATIONS

No environmental testing has been undertaken at this location.

ALTERNATIVES

1. Regional Council could propose amended terms and conditions of conveyance.
2. Regional Council could decline the offer of \$1.00 and direct staff to proceed to sell the property at market value in accordance with Section 4(1)(l) of Administrative Order 50.

This action is not recommended: title to the property was previously held by local residents and the Dutch Settlement Recreational Association. According to the Council Minutes dated April 20, 1976, the Municipality approved a loan with a 20 year term in favour of the “Ratepayers of Dutch Settlement” and as security for the loan the Municipality took title to the property.

ATTACHMENTS

1. Site Map and Photograph.

Report Prepared by: Peta-Jane Temple, Team Lead Grants & Contributions, Finance & Asset Management
902.490.5469; Tom Crouse, Manager Disposals and Acquisitions, Finance & Asset
Management 902.490.5931

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ATTACHMENT 1 PID 40675860 – 80 Grono Road, Dutch Settlement SITE MAP AND PHOTOGRAPHY



Site Map



Photo