



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

**Item No. 12.4.2**  
**Audit & Finance Standing Committee**  
**February 21, 2018**

**TO:** Chair and Members of Audit & Finance Standing Committee

**SUBMITTED BY:** Original Signed  
\_\_\_\_\_  
Jacques Dubé, Chief Administrative Officer

Original Signed  
\_\_\_\_\_  
Jerry Blackwood, Acting Director, Finance and Asset Management

**DATE:** December 11, 2017

**SUBJECT:** Industrial Lot Re-Purchase – Lot 1258A Cutler Avenue, Burnside - McArthur Carrick Properties Limited

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**ORIGIN**

This report originates with:

- A Director's Report dated June 17, 2017 entitled "Sale of Lot 1258A (proposed) – Consolidation of Lot 1258 & Parcel A; A Portion of PID No. 41263971 Cutler Avenue, Burnside Park";
- A Supplementary Director's Report dated August 14, 2013 entitled "Purchaser Name Change – Sale of Lot 1258A Cutler Avenue, Burnside"; and
- The executed Agreement of Purchase and Sale and Buy-back Agreement as registered against title for the property identified in Table 1 of this report.

**LEGISLATIVE AUTHORITY**

The Municipality has the power to acquire and own real property pursuant to s. 61 (1) of the Halifax Charter absolutely or in trust for a public or charitable purpose. Pursuant to s. 61(5)(a) of the Halifax Charter the Municipality may acquire property that the Municipality requires for its purposes or for use of the public.

Halifax Regional Municipality Council approved, December 11, 2012, that all budget increases are to be presented to the Audit and Finance Standing Committee, prior to submission to Council.

Halifax Charter, s. 93(1 ) - The Council shall make estimates of the sums that are required by the Municipality for the fiscal year;

Halifax Charter, s. 79(1) - Specifies areas that the Council may expend money required by the Municipality.

Halifax Charter, s. 35(2)(d)(i) - The CAO can only authorize budgeted expenditures or within the amount determined by Council by policy.

Halifax Charter, s. 120(6) - The Municipality may maintain other reserve funds for such purposes as the Council may determine; Halifax Regional Municipality policy on Changes to Cost Sharing for Capital

Projects - Changes requiring Council approval; and the Halifax Regional Municipality Reserve Policy - No reserve funds will be expended without the CAO's recommendation and Council approval. The Audit and Finance Standing Committee shall review and recommend to the Council for its consideration all impacts to the Reserves.

### **RECOMMENDATION**

It is recommended that the Audit and Finance Standing Committee recommend that Halifax Regional Council:

1. Approve an increase of \$1,801,228.21 to the Capital Budget CQ000011 – Lot Inventory Re-Purchase with funding in the amount of \$1,609,152.48 from Q616, Opportunity Reserve – Business/Industrial Park Reserve, with no net increase to the Capital Budget; and funding in the amount of \$192,075.73 from M500-5508;
2. Authorize the re-purchase of property identified in Table 1 of this report in accordance with the approved Buy-Back Agreement;
3. Authorize the Mayor and Municipal Clerk to enter into an Agreement of Purchase and Sale with McArthur Carrick Properties Limited for the Property as per the terms and conditions outlined in this report; and
4. Approve the minimum unit re-selling price as provided in Table 1 of this report.

### **BACKGROUND**

The sale of land in HRM Industrial Parks requires all purchasers to enter into a Buy-Back Agreement as a condition of the Agreement of Purchase and Sale. The Buy-Back Agreement is registered against title to the property and released once the property owner has met the required conditions under the agreement. The primary condition of the Buy-Back Agreement is that the purchaser is required to commence construction of a building within twelve (12) months of Closing and substantially complete construction within twenty-four (24) months of Closing. Should the property owner not meet its obligations, the Municipality may elect to re-purchase the property under the terms and conditions as contained in the Buy-Back Agreement and place the property in inventory for resale.

As an alternative, a purchaser may preclude the Municipality from repurchasing the property for a maximum period of forty-eight (48) months of Closing by electing to pay an annual Premium Payment option. The option is generally equal to the amount of commercial property taxes that would otherwise have been paid to the Municipality had the Purchaser constructed the Minimum Completed Building Area for the Development as required as a condition of the sale of land. The premium payment option provides the purchaser with flexibility in its project construction time line and to address unforeseen circumstances.

The Buy-Back Agreement requires that lots be sold for immediate development only and not held for speculative purposes. This ensures that there is an immediate supply of land for businesses interested in expanding operations or locating in HRM.

The Site Development and Building Standards for Burnside requires that developments have a Minimum Complete Building Area of no less than 10% of the area of the lot being purchased. Where it's demonstrated that a proposed development will not achieve the Minimum Completed Building Area, a one-time premium payment is paid by the purchaser at the Closing. This premium payment comprises part of the Purchase Price of the property and represents the taxes which would have been otherwise paid on the difference between the completion of the Minimum Building Area required by the Site Development and Building Standards for Burnside and the actual building area constructed.

### **DISCUSSION**

Lot 1258A Cutler Avenue, Burnside is an 8.55 acre property purchased by McArthur Carrick Properties Limited in 2013 for \$2,001,364.68 with the intention of developing the property with a fleet vehicle service facility and head office supporting Miller Paving Limited and Miller Waste Systems operations. The Purchase Price was comprised of the Market/List Value of the property in the amount of \$1,787,947.20 and a one-time Premium Payment in the amount of \$213,417.48 paid by the Purchaser at the Closing as an alternative to constructing the Minimum Completed Building Area, required by the Park Standards.

Subsequent to the property purchase, development plans for the site did not materialize. In lieu of commencing construction within the time lines afforded under the Agreement of Purchase and Sale the purchaser elected to pay nonrefundable premium payment alternative and hold the property for the past forty-eight (48) months, which is the maximum afforded under the agreement. Leading up to the forty-eight (48) month anniversary date of the Closing, staff had discussions with the property owner with respect to its intention for developing the property, and while the owner has not requested that HRM repurchase the property, it has indicated that there are no near-term plans to develop the property.

The Municipality maintains a key role in the stewardship and development of the Region's general light industrial land supply. To maintain a consistent, fair and transparent process for all purchasers and prevent market speculation, the Municipality regularly enforces the terms and conditions of sales of its industrial park lot inventory. Lot 1258A Cutler Avenue is a quality, market-ready property in a preferred location within the Burnside Industrial Park. Staff is recommending that the Audit and Finance Committee in turn recommend that Regional Council approve the funding to enable the re-purchase of the property as per the terms of the Buy-Back Agreement.

**Table 1: Re-purchase Terms and Inventory Addition/Minimum Unit Lot Pricing:**

<b>Property Owner</b>	McArthur Carrick Properties Limited
<b>Property Address</b>	Lot 1258A – 145 Cutler Avenue, Burnside (PID: 41365818)
<b>Date of Original Purchase</b>	October 17, 2013
<b>Lot Area (Total)</b>	8.55 acres
<b>Re-Purchase Price</b>	<b><i>\$1,801,228.21 excluding HST</i></b> (90% of the original purchase price of \$2,001,364.68 comprised of the Market/List Value of the property in the amount of \$1,787,947.20 and a one-time Premium Payment paid by the Purchaser as an alternative to constructing the Minimum Completed Building Area required by the Park Standards in the amount of \$213,417.48). The Purchaser shall self-remit the HST.  A Landscaping Security Deposit of \$177,685.00 collected from the property owner at Closing and held pending completion of the Site Development Proposal will returned with the re-purchase.
<b>Minimum Unit Re-Sale Price</b>	\$6.25 per square foot

**FINANCIAL IMPLICATIONS**

The funds to repurchase the identified property shall come from:

1. The Opportunity Reserve - Business/Industrial Parks Expansion Reserve Q616 in the amount of \$1,609,152.48;
2. M500-5508 in the amount of \$192,075.73;
3. Release of Landscape Security – BUPK 2348 in the amount of \$ 177,685.00; and
4. The Purchaser shall HST self-remit.

Upon re-sale of the property, the recommended action will increase the Q616 reserve contributions by approximately \$178,794.72 (10% of the Market/List Value).

The net proceeds from the re-sale shall be credited to the Opportunity Reserve - Business/Industrial Parks Expansion Reserve Account Q616. Applicable adjustments to the lot unit pricing include, but are not limited to, environmental impacts, grading deficiencies, irregular lot configuration and wetland management. Vendor adjustments or deficiency allowances following construction or survey, if required, shall be to a maximum of 15 percent of the purchase price. Easements, lot encumbrances, wetland/buffers and remnant parcels shall be priced at market value in accordance with standard market valuation practices.

**RISK CONSIDERATION**

Lot 1258A Cutler Avenue is a quality market-ready property, and the likelihood of resale is high in the short term. There are no significant risks associated with the recommendations in this report.

**COMMUNITY ENGAGEMENT**

Not Applicable

**ENVIRONMENTAL IMPLICATIONS**

Not Applicable

**ALTERNATIVES**

Council could choose not to increase the budget to enable for the property to be re-purchased, however this action is not recommended by staff as the re-purchase complies with the Council approved policies in place as well as the executed Agreement of Purchase and Sale and Buy-Back Agreement.

**ATTACHMENTS**

Attachment 1 - Location Map

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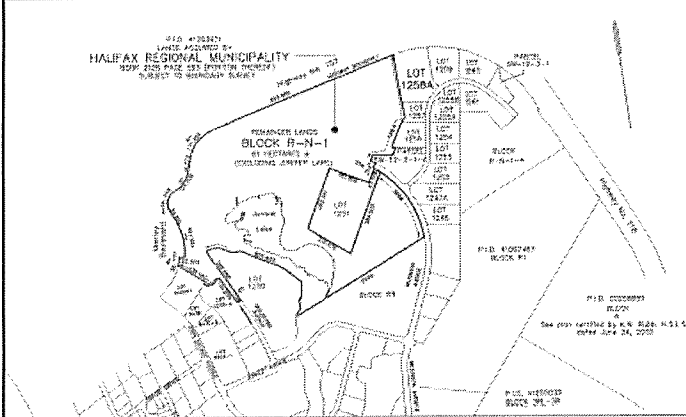
A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: John MacPherson, Senior Real Estate Officer, Corporate Real Estate, Finance & Asset Management 902.490.1582

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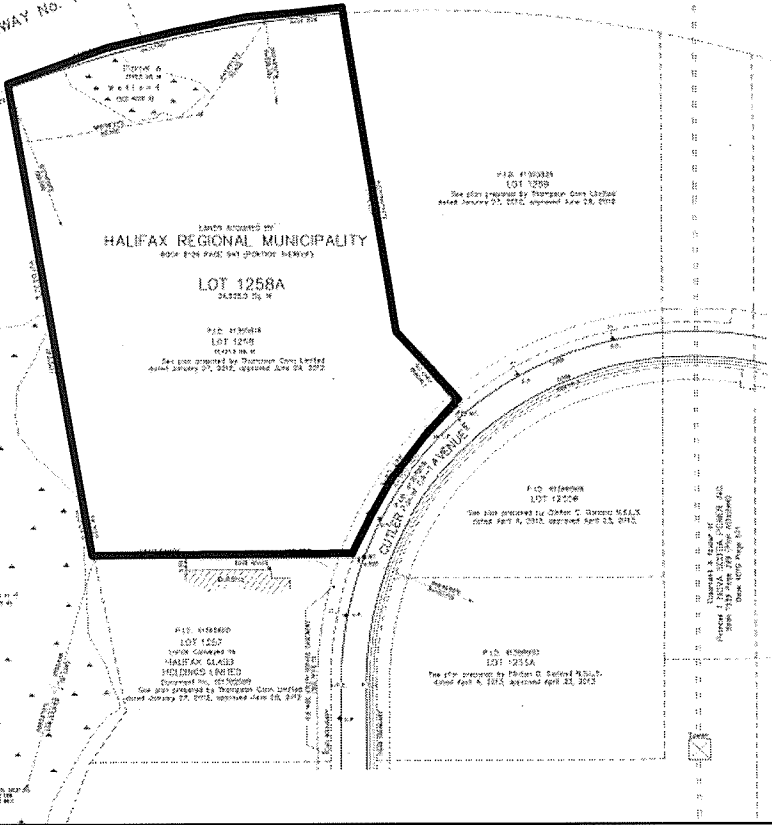
**ATTACHMENT 1 – LOCATION MAP**

**Industrial Lot Re-Purchase – Lot 1258A Cutler Avenue**



Map of Remaining Lots Scale 1:10,000

HIGHWAY No. 107



**HALIFAX REGIONAL MUNICIPALITY**  
 THIS FINAL PLAN OF SUBDIVISION  
 IS APPROVED FOR  
 LOT(S) Consideration of Parcel A to  
 Lot 1258A to create Lot 1258A

DATE: SEP 01, 2012

**Original Signed**

endorsed by Development Officer  
 Andrew Faulkner

**INTERGOVERNMENTAL AGREEMENT & FINANCIAL PERMITS**  
 The owner of the property is responsible for obtaining all necessary permits from the appropriate authorities. The owner is responsible for obtaining all necessary permits from the appropriate authorities. The owner is responsible for obtaining all necessary permits from the appropriate authorities.

**WATER/SEWER/UTILITIES & DEVELOPMENT**  
 The owner is responsible for obtaining all necessary permits from the appropriate authorities. The owner is responsible for obtaining all necessary permits from the appropriate authorities. The owner is responsible for obtaining all necessary permits from the appropriate authorities.

**CENTRAL SERVICES**  
 The owner is responsible for obtaining all necessary permits from the appropriate authorities. The owner is responsible for obtaining all necessary permits from the appropriate authorities. The owner is responsible for obtaining all necessary permits from the appropriate authorities.

WHERE NECESSARY, THE  
 DISTRICT ENGINEER SHALL  
 BE ADVISED BY THE  
 MUNICIPALITY OF THE  
 LOCATION OF THE  
 HIGHWAY 107  
 DISTRICT ENGINEER  
 CUTLER AVENUE  
 BLOCK R-N-1

PLAN #1258A  
 AREA 0  
 THIS PLAN IS IN FULL COMPLIANCE WITH THE  
 REQUIREMENTS OF THE MUNICIPALITY OF  
 HALIFAX AND THE PROVINCE OF NOVA SCOTIA.  
 THE PLAN IS SUBJECT TO THE REQUIREMENTS  
 OF THE MUNICIPALITY OF HALIFAX AND THE  
 PROVINCE OF NOVA SCOTIA.

P.L.D. #1258B  
 LOT 1258B  
 See plan prepared by Thompson Cole Limited  
 dated January 27, 2012, approved June 28, 2012

PLAN #1258A  
 LOT 1258A  
 See plan prepared by Thompson Cole Limited  
 dated January 27, 2012, approved June 28, 2012

P.L.D. #1258C  
 LOT 1258C  
 See plan prepared by Carter C. Gosselin M.E.L.T.  
 dated April 9, 2012, approved April 23, 2012

P.L.D. #1258D  
 LOT 1258A  
 See plan prepared by Wilson D. Bedford M.E.L.T.  
 dated April 9, 2012, approved April 23, 2012

Checked & Approved by  
 District Engineer  
 Date: SEP 01, 2012