

THE REGIONAL MUNICIPALITY OF YORK

Housing York Inc.
March 11, 2009
Report of the
General Manager

FAIRY LAKE GARDENS POND DREDGING TOWN OF NEWMARKET

1. RECOMMENDATIONS

It is recommended that:

1. The General Manager be directed to pursue cost recovery from Ontario Mortgage and Housing Corporation for costs of environmental clean up as the previous owner of the property and to report back to the Board as to the status of the claim prior to proceeding with clean-up and restoration activities.
2. York Region's Environmental Services Department be authorized by the Corporation to act as its agent to facilitate Fairy Lake Gardens pond dredging and restoration project including the tendering of the work through the Region's Supplies and Services Branch.

2. PURPOSE

The purpose of this report is to provide information to the Board with respect to environmental issues that have been identified in a small pond on Housing York Inc's Fairy Lake Gardens property located in the Town of Newmarket and to propose a process to resolve those issues.

3. BACKGROUND

Fairy Lake Gardens was transferred to Housing York Inc. as part of Local Services Realignment

Housing York Inc.'s Fairy Lake Gardens has 153 senior citizen apartments, in two buildings, located at 468 and 474 Eagle Street in the Town of Newmarket. The Ontario Housing Corporation (subsequently reconstituted as Ontario Mortgage and Housing Corporation) originally owned the property before transferring it to the Region's housing company as part of the provincial download in 2001. A small storm water retention pond which is connected to Fairy Lake is located on the property. This storm water retention pond has existed for over 40 years.

A storm water retention pond on the site requires remediation

The storm water retention pond is part of the water system that allows town storm water run-off to flow from a creek into Fairy Lake. The pond forms part of the East Holland River system that drains to Lake Simcoe.

Housing York Inc. intended to dredge the pond in 2008 because silt has accumulated over the years to the point that the water depth is typically less than a foot. Dredging will restore the water depth, reinstate water flow, and discourage the growth of algae and mosquitoes. Dredging must be designed and conducted in accordance with the federal and provincial regulations and guidelines.

Lead and other metal contaminants are present

In late 2007 while preparing the dredging scope of work, pond sediment sampling found minor lead, cadmium and zinc contamination that requires the proper care and handling of the sediment. Currently, the source is unknown; however, it appears probable that the metals came from further upstream or is associated with a former business on a nearby site such as a gas station.

Regional staff have consulted with staff from the Town of Newmarket and Lake Simcoe Region Conservation Authority on the pond dredging and sediment contamination. There is support for developing a plan for remediation, dredging and restructuring of the pond.

Province has been put on notice that Housing York Inc. intends to make a financial claim under the *Social Housing Reform Act, 2000* for compensation

Housing York Inc. may have recourse in this matter to the prior owner, Ontario Mortgage and Housing Corporation, as the contamination appears to have existed at the time of transfer. Therefore a letter was immediately sent to the Province notifying them of the environmental contamination and outlining the Region's expectation that the Province meet its obligations under the terms of the *Social Housing Reform Act, 2000*.

The lead contamination is believed to have occurred during the time when Ontario Housing Corporation was the owner of the property. Therefore, the position is held that Ontario Housing Corporation's Environmental Liability Guide, dated August 1, 2001 applies and the guide suggests that the Ontario Housing Corporation continues to retain potential liability for any environmental issues (contamination) that are identified as having existed during the time that Ontario Housing Corporation was the property owner.

A preliminary meeting with senior staff of the Ministry of Municipal Affairs and Housing confirms that Ontario Housing Corporation will consider an application for the costs. We have been encouraged to submit a workplan and consultant's report as soon as possible in order that funding may be considered in stages.

4. ANALYSIS AND OPTIONS

The increased complexity and cost of the project needs leadership from the Region's Environmental Services

With discovery of minor amounts of the three metals in the pond's sediment, the complexity of the project's scope of work has increased such that it will include an environmental assessment. The metal levels in the sediment are low enough that generally the dredged sediment could be reused on site as fill material in areas greater than 30 metres from the pond. However the dredged material will be removed from the site and disposed of using stringent procedures.

The Region's Community and Health Services Department staff contacted Environmental Services Department staff to investigate the possibility of securing their expertise in leading the pond dredging and clean up project. Environmental Services prepared a project charter that outlines the project's purpose, scope, and estimated maximum total project cost of \$1.2 million. The construction and related consulting portion of the project accounts for approximately \$1.0 million, of which \$500,000 is for sediment removal, testing and disposal.

Phase 1—Request for Proposals for consulting services only has been issued

Environmental Services staff issued a Request for Proposal to secure consulting services capable of managing the environmental assessment process, designing the pond restoration and sediment clean-up options, and supervising the construction contract. This report is also necessary to support our claim to the Province for compensation.

The consulting contract is approximately \$360,000 with the work projected to occur in the first half of 2009. A portion of this contract cost forms part of the construction budget. Awarding of the consulting contract cannot occur until the Housing York Inc. Board passes a resolution appointing Environmental Services as their agent, as the contract is to be issued in the Region's name.

The design and approval process will include extensive consultation with the Town and will include a communications strategy for the residents of the Fairy Lake buildings and the community. The specialized engineering consulting firm, in consultation with the Lake Simcoe Region Conservation Authority will also develop the safeguards necessary to protect the surrounding environment, including Fairy Lake Gardens.

Once a workplan is in place and the funding issues are resolved with the Province a further report will be brought forward to provide an update to the Board before the next phase of the project proceeds.

Phase 2—Clean-up and restoration planned for late 2009/early 2010

The pond clean-up and restoration work will not proceed until a plan has met all approvals. A further report will be provided to the Board to outline the project plan and the status of the claim to the Province.

5. FINANCIAL IMPLICATIONS

The 2008 Budget originally included \$100,000 for pond dredging; however, the full extent of the contamination and restoration cost was not fully known at the time.

The estimated cost to hire an environmental consultant to obtain the environmental assessment is \$360,000, which is included in the proposed 2009 Budget. All possible cost recovery options will be pursued to defray some of the project costs. Prior to awarding the construction contract funding, options will be identified.

Table 1 below provides a breakdown of the estimated project costs.

Table 1
Project Cost Estimates (000's)

Project Activity	Estimate
Project Management	\$ 34
Class EA	11
Design & Approvals	129
Construction	1,018
Total Estimated Cost	\$1,192

6. LOCAL MUNICIPAL IMPACT

The Fairy Lake Gardens pond is part of the Town of Newmarket's downtown core and part of the East Holland River system. The process will include ongoing consultation with staff from both the Town of Newmarket and Lake Simcoe Region Conservation Authority.

7. CONCLUSION

It is important to remediate the site and restore the pond to an effective part of the natural water system. All appropriate steps will be taken to ensure that the Province funds the costs of remediation as per the terms of the *Social Housing Reform Act, 2000*.

This report has also been reviewed by Erin Mahoney, Commissioner Environmental Services for York Region as the lead for Environmental Services.

For more information on this report, please contact Sylvia Patterson, Assistant General Manager at Ext. 2091.

The Senior Management Group has reviewed this report.

Recommended by:

Approved for Submission:

Sylvia Patterson
Assistant General Manager

Joann Simmons
General Manager

February 26, 2009

DM/sb

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