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ADVANCED COMPENSATION FOR RAPID TRANSIT PROJECTS

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report dated October 23, 2009, from the Commissioner of Corporate Services.

1. RECOMMENDATIONS

It is recommended that:

Regional Council approve the following policy relating to tenants whose premises have been expropriated by the Region for Rapid Transit projects:

1. The Region may provide tenants with partial advanced compensation up to fifty per cent (50%) of their relocation costs;
2. The Commissioner of Corporate Services be authorized to approve final settlements for relocation costs within the authorized limits of the Commissioner;
3. The Commissioner of Corporate Services be authorized to execute all necessary documents to effect these recommendations.

2. PURPOSE

The purpose of this report is to seek authorization to provide partial compensation in advance to tenants whose premises have been expropriated by the Region for Rapid Transit projects. This report also recommends that the Commissioner of Corporate Services be authorized to approve final settlements within his limits.

3. BACKGROUND

Tenants Require Compensation to Arrange for New Premises

In accordance with the *Expropriations Act*, offers have been served on owners of properties on Highway 7 and Davis Drive, offering full market value for the lands expropriated. Unlike owners, tenants are not entitled to an offer under Section 25 of the Act. The Act provides for relocation costs to tenants whose premises have been expropriated but is silent on when these costs are to be paid.

Tenants whose premises have been expropriated require funding for new premises and related leasehold improvements. Some tenants have expressed concerns in being required to vacate properties but having limited cash flow to secure alternate premises. In cases where bridge financing has been obtained, the Region will ultimately be liable for the associated costs. The Rapid Transit projects along Highway 7 and Davis Drive are unique in the number of leased premises that have been impacted by the expropriation.

4. ANALYSIS AND OPTIONS

The Region retains independent consultants such as appraisers, business valuers and quantity surveyors to provide expertise in determining costs with respect to tenant relocations. Appraisers provide the estimated market value of the lease. Business valuers examine the financial records providing an analysis and recommendation of the business viability which is utilized in the decision by the Region as to whether it is economically reasonable for the tenant to relocate, or whether a buy-out of the business is more appropriate. Quantity surveyors provide an analysis of the tenants' existing improvements compared to the proposed improvements at the new location ensuring they are comparable.

Based on the consultants' reports, the Region calculates settlement offers with respect to each lease. It is proposed that the Region offer advance payment of relocation costs based on a quantity surveyors evaluation of costs up to 50% of the final settlement. The payment is made providing there is a written commitment from the tenant to a specific date for delivering vacant possession to the Region.

When partial compensation is made in advance to a tenant, a subsequent report will be made to Council at a later date if the total compensation exceeds the Commissioner's authority.

Staff recommend that providing partial compensation in advance will facilitate the transition from the existing premises to the new premises and will ensure timely acquisition of the properties.

5. FINANCIAL IMPLICATIONS

Compensation to the tenants will be payable ultimately under the *Expropriations Act*. Offering advance payment will not result in any increase in costs and may in fact assist in avoiding further claims. These costs are covered under the funding commitments for land acquisition by the Province.

6. LOCAL MUNICIPAL IMPACT

The advanced compensation to tenants will result in a smoother relocation to new premises.

7. CONCLUSION

Providing partial compensation to tenants whose premises have been expropriated will avert possible claims for continued possession of the premises. When a final settlement is negotiated with a tenant, a subsequent report will be provided to Council for compensation in excess of the Commissioner's signing authority. Providing delegated authority will provide for possession of the premises by the Region in a timely manner.

For more information on this report, please contact Paul J. Roberts, Manager, Realty Services, Property Services Branch, at Ext. 1424.

The Senior Management Group has reviewed this report.