

Corporate Policies

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| SECTION: General | | POLICY 14.9.0 |
| SUBJECT: Real Estate - Under Review | | |
| EFFECTIVE: April 9, 2008 | REPLACES: 14.9.0 dated Dec. 18, 2002 | PAGE: 1 of 19 |
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POLICY STATEMENT:

The fundamental objectives of the real estate function are:

- (a) to provide the Corporation of the City of Brampton (the "City") with required property interests, on a timely basis, as efficiently as possible, with the aim of achieving maximum benefit to the City, financially or otherwise; and
- (b) to dispose of property interests surplus to the needs of the City, on a timely basis, as efficiently as possible and at the greatest return, financial and otherwise, to the City; and
- (c) to maintain an inventory of all City-owned real property, which is current, accurate and complete

In the achievement of these objectives, the real estate function seeks to maintain transparency, fairness and openness by ensuring that stakeholders are consulted in connection with, and apprised of, real estate activities; and furthermore, the real estate function seeks to strengthen the City's current strategic plan.

Above all, the real estate function is performed with integrity, so as to maintain the public's trust and reduce the City's exposure to criticism and liability. Integrity is ensured through compliance with all applicable legal and legislative provisions.

PURPOSE:

The purpose of this policy is to provide a clear understanding of the City's real estate processes. With the exception of property interests acquired and disposed of in the development approvals stream, which is the responsibility of the Law Division of the Corporate Services Department, the responsibility for all real estate activities on behalf of the City rests with the Realty Services Section of the Physical Plant and Real Property Services Division and as such this policy governs the real estate function throughout the City.

SCOPE:

This policy guides the acquisition, disposal and inventorying of all real property interests. This policy applies to all staff within the City who has a responsibility for, or involvement in, a real estate function, including staff within and outside of the Physical Plant and Real Property Services Division and the Legal Services Division.

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1.0 DEFINITIONS:

For the purpose of this policy, the following terms have the following definitions:

| | TERM | DEFINITION |
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| 1.1 | Acquisition | The act of purchasing or acquiring property rights. |
| 1.2 | Agreement | A formal legal contract between two or more parties, usually written, with binding legal and moral implications; usually conveying property rights or interests for money or other consideration. |
| 1.3 | Authority | The legal right to conduct tasks outlined in this policy. |
| 1.4 | City | The Corporation of the City of Brampton |
| 1.5 | City Manager | The Manager of the City, or designate |
| 1.6 | City Solicitor | The Solicitor of the City, or designate |
| 1.7 | Confidential | Communicated under circumstances where all or part of the information being communicated relates to any matter of the kind which may be considered by Council under the provisions of the <i>Municipal Act</i> in the absence of the public, or information, the disclosure of which would be denied upon receipt of a request under the Municipal Freedom of Information and Protection of Privacy Act |
| 1.8 | Consultant | A vendor, who by virtue of a particular expertise, is hired by the City to undertake a specific task or assignment that may include, but is not limited to, property appraising, property audits, property rights negotiations, real estate transactions, preparing plans or policies or programs. |

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| 1.9 | Council | The Municipal Council of the Corporation of the City of Brampton |
| 1.10 | Delegated Authority | Authority given to a person designated to act for or represent another for the purposes of carrying out Real Estate Functions, in compliance with the City's Delegated Authority By-law. |
| 1.11 | Delegated Authority Bylaw | A by-law as may be amended from time to time, or repealed and replaced. |
| 1.12 | Department | A department within the City as described in the City's organizational charts |
| 1.13 | Department Head | The individual accountable for departmental operations and a member of the City's Senior Management Team, or designate |
| 1.14 | Designate | The individual authorized by the Department Head to act on his/her behalf for the purposes of this policy |
| 1.15 | Director, Real Property and Commercial Law | The individual responsible, among other things, for the Real Estate Transactions that are conducted as a condition of a development agreement, or designate |
| 1.16 | Disposal | The sale or conveyance of Fee Simple property interest or the sale or conveyance of Limited Interest rights for a term of 21 years or more. |
| 1.17 | Easement | A Limited Interest in land owned by another that entitles the holder of the Easement to a specific limited use or enjoyment (as the right to cross the land). An Easement is considered to be a Permanent Easement if the Easement rights conveyed may endure for more than twenty years. An Easement is considered to be a Temporary Easement if the Easement rights conveyed may endure for twenty years or less. |

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- 1.18 Enabling Legislation Any and all municipal, provincial, federal laws enacted that give legal authorization to, and define processes to perform Real Estate Functions. Enabling Legislation includes, but is not limited to: City By-laws and Policies, *Municipal Act*, *Planning Act*, *Conservation Authorities Act*, *Expropriations Act*, *Residential Tenancies Act*, *Commercial Tenancies Act*, *Openness and Transparency Act*, *Ontarians with Disabilities Act*, *Accessibility for Ontarians with Disabilities Act*, *Environmental Assessment Act*, *Indian Act*, which legislation may be amended from time to time, repealed and replaced.
- 1.19 Encroachment The emplacement, advancement or extension of a structure or installation or object onto land owned by the City that may or may not be approved by the City.
- 1.20 Environmental Assessment (EA) A decision-making process used to promote good environmental planning by assessing the potential effects and benefits of certain activities on the environment, said process defined in and authorized by the Environmental Assessment Act.
- 1.21 Environmental Audit An independent assessment of a property to evaluate any environmental risks that may be present and/or determine the current status of a party's compliance with applicable environmental requirements.
- 1.22 Environmental Audit Report An account or statement, written or verbal, of an Environmental Audit. An Environmental Audit Report may or may not be prepared by a Certified Environmental Auditor.
- 1.23 Expropriation The acquisition of Fee Simple or Limited Interest rights by the City in compliance with the *Expropriations Act*.
- 1.24 Fair Market Value The price at which a property or property rights would change hands between willing parties when both parties have

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reasonable knowledge of relevant facts, or as otherwise may be defined in Property Appraisal Reports.

- 1.25 Fee Bylaw The City's User Fee Bylaw No. 380-2003, as may be amended from time to time, or repealed and replaced.
- 1.26 Fee Simple An ownership of real estate in which the owner has the right to control, use, and transfer the property at will.
- 1.27 Lease The conveyance by a property owner of exclusive possession, control, use, or enjoyment of the owner's property for a specified rent and a specified term after which the property reverts to the owner.
- 1.28 Legal Counsel A lawyer in the employ of the City or a lawyer retained by the City.
- 1.29 Legal Survey A survey made to define boundaries of parcels of land suitable for the transfer of rights. A Legal Survey is prepared by an Ontario Land Surveyor and registered.
- 1.30 Licence Revocable authority or permission given solely to one having no possessory rights in a tract of land to do something on that land which would otherwise be unlawful or a trespass.
- 1.31 Limited Interest An ownership of real estate rights that is less than fee simple ownership rights in which the owner of the limited interest has some specific rights to control and use property, said rights typically conveyed by way of Agreement.
- 1.32 Manager, Realty Services The individual responsible for the Real Estate Functions of the City excluding real estate transactions that are conducted as a condition of a development agreement, or designate
- 1.33 Management and Operation The act of managing, handling, supervising controlling and the act of operating or functioning.

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| 1.34 | Mayor | The elected mayor of the City or the Acting Mayor appointed pursuant to the City's Procedure By-law. |
| 1.35 | Municipal Easement Inventory | A database that identifies and describes Permanent Easement rights in favour of the City |
| 1.36 | Municipal Occupancy Agreement Inventory | A database that identifies and describes Occupancy Agreements to which the City is party. |
| 1.37 | Municipal Real Estate Inventory | A database that identifies and describes Real Estate owned in Fee Simple by the City. |
| 1.38 | Occupancy Agreement | An Agreement that authorizes the conveyance of limited interest in real estate on specified terms and conditions with an Agreement term of twenty years or less, including any rights to extend or renew a term. An Occupancy Agreement may or may not be registered on title. An Occupancy Agreement includes, but is not limited to, the following types of agreements: Lease, Licence, Management and Operation, Encroachment, Temporary Easement, Consent to Enter |
| 1.39 | Officer | Any elected official or a member of a Board of the City |
| 1.40 | Official Plan | The current Official Plan of the City |
| 1.41 | Procedures | Internal instructions or guidelines pertaining to Real Estate Functions as approved by the Department Head, which may or may not be documented as standard operating procedures |
| 1.42 | Property Appraisal | An estimate or considered opinion of the value of Real Estate. |
| 1.43 | Property Appraisal Report | An account or statement, written or verbal, of an Appraisal. An Appraisal Report may or may not be prepared by an |

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accredited appraiser of the Appraisal Institute of Canada.

- 1.44 Property Request A written submission by a Stakeholder Department or a party external to the City to the Manager, Realty Services, requesting an Acquisition or Occupancy Agreement. The submission includes information requisite to the required Real Estate Transaction and identifies an approved source of funding to initiate negotiations.
- 1.45 Public Notice The giving of notice to the public in connection with Real Estate Functions in compliance with the City's Procedure By-law
- 1.46 Procedure Bylaw Bylaw No. 160-2004, as may be amended from time to time, or repealed and replaced.
- 1.47 Purchasing By-Law The City's Purchasing By-Law No. 193-2007 as may be amended from time to time, or repealed and replaced.
- 1.48 Real Estate Land, including all the natural resources and permanent buildings on it.
- 1.49 Real Estate Functions Real Estate activities performed or managed by the Manager, Realty Services for the purposes of meeting the City's Real Estate needs. Real Estate Functions include, but are not limited to, the following activities:
- Real Estate Acquisitions and Disposals, which typically involves negotiations, Agreement execution, reporting and, if required, public notice.
 - Processing Occupancy Agreements, which typically involves negotiations, Agreement execution, reporting and, if required, public notice.
 - Managing Occupancy Agreements
 - Maintaining the Municipal Easement Inventory, Municipal Occupancy Agreement Inventory and Municipal Real Estate Inventory
 - Determining the amount of cash payment in lieu of

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parkland dedication required as a condition of development application approval.

- Preparing or reviewing Property Appraisal Reports
- Procuring and/or managing Consultant services
- Conducting Real Estate related research and preparing research reports.
- Responding to Real Estate related inquires from the public, members of Council, City staff, other municipalities or governments, such agencies or organizations with which the City conducts business.

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| 1.50 | Real Estate Transactions | Activities conducted to effect the transfer of Fee Simple or Limited Interest rights resulting in an Agreement to which the City is party. |
| 1.51 | Rent | Payment, usually of an amount fixed by contract, made by a tenant or occupant at specified intervals in return for the right to occupy or use the property of another. |
| 1.52 | Stakeholder Department | The Department having the greatest interest in a Real Estate Transaction by virtue of being either the Department for which the Real Estate was or is to be acquired or the Department which was or will be responsible for management of the Real Estate. There may be one or more Stakeholder Departments for any Real Estate parcel. |

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2.0 REAL ESTATE POLICY OBJECTIVES

It is the objective of this Policy to promote real estate activities that are consistent with the strategic objectives of the City, namely:

- the development of a modern transportation system
- managed growth
- community enhancement
- the promotion of a dynamic and prosperous economy
- lifestyle enhancement
- excellence in local government

or, consistent with strategic objectives of the City as may be redefined from time to time.

The principles of real estate activity that the City advocates include:

- 2.1 To be responsible for the Real Estate Functions and ensure compliance with applicable legislation.
- 2.2 To ensure that persons in the employ of the City, as staff or consultants, who are involved in the Real Estate Functions are accountable for their actions and decisions.
- 2.3 To effect real estate transactions in a timely manner and in consideration of monetary and non-monetary benefit to the City.
- 2.4 To delegate the appropriate level of authority to enable the City to meet service requirements.

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3.0 RESPONSIBILITY AND DELEGATED AUTHORITY

- 3.1 The Manager, Realty Services, acting on behalf of or in consultation with Department Heads, is responsible for all Real Estate Functions excluding Real Estate Transactions initiated as a condition of development application approval.
- 3.2 Legal Counsel is responsible for processing all Real Estate Transactions initiated as a condition of development application approval.
- 3.3 The Manager, Realty Services, is committed to timely, efficient service delivery while developing and maintaining good client relations through consultation and cooperation.
- 3.4 The Manager, Realty Services promotes standardization, education, industry knowledge sharing and the seeking of innovative practices.
- 3.3 Authority to perform Real Estate Transactions is in accordance with the City's Delegated Authority By-law. Authority to perform Real Estate Functions is delegated by the Manager, Realty Services to the appropriate staff level.

4.0 GIVING OF PUBLIC NOTICE

- 4.1 Giving of Public Notice in connection with Real Estate Transactions is in accordance with the City's Procedure By-law.

5.0 REAL ESTATE TRANSACTIONS

5.1 GENERAL TO ALL REAL ESTATE TRANSACTIONS

- 5.1.1 Section 5 Governance: Section 5 of this Policy does not govern Real Estate Transactions initiated as a condition of development application approval, or Acquisitions through expropriation. All Real Estate Transactions are conducted in compliance with Enabling Legislation and Procedures.

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- 5.1.2 At Fair Market Value: Unless conducted pursuant to Sections 5.1.3, 5.2.1, 5.3.1 and 5.4.1 of this Policy, Real Estate Transactions are conducted at Fair Market Value based on one or more Property Appraisals.
- 5.1.3 Inter-Municipal: Disposals to other municipalities are conducted in compliance with the Procedure on Inter-Municipal Transactions.
- 5.1.4 Obtaining Property Appraisal: Prior to commencing negotiations for a Real Estate Transaction, a Property Appraisal is conducted in compliance with Section 7.0 of this Policy.
- 5.1.5 Negotiations: Real Estate Transaction negotiations are conducted by the Manager, Realty Services or by a Consultant, at the discretion of the Manager, Realty Services. Consultants are hired in compliance with Section 8.0 of this Policy. Negotiations are conducted in compliance with relevant standard operating procedures.
- 5.1.6 Agreement Preparation: The Manager, Realty Services provides, in writing, negotiated terms and conditions of the Real Estate Transaction to Legal Counsel for insertion into a form of Agreement determined by Legal Counsel. The content of the Agreement is approved by the Department Head of the Stakeholder Department. The form of the Agreement is approved by the City Solicitor.
- 5.1.7 Recommendation Report: A written report recommending approval to execute a Real Estate Transaction Agreement is prepared for presentation to Council or the Delegated Authority as required.
- 5.1.8 Agreement Execution: The Real Estate Transaction Agreement is executed by the Mayor and City Clerk or the Delegated Authority as required.
- 5.1.9 Status Report: The Manager, Realty Services presents to Council on a quarterly basis a report on all Real Estate Transaction Agreements executed during the previous quarter.

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5.1.10 Transaction related costs: Subject to a negotiated agreement to the contrary, the City is responsible for all costs attributable to an Real Estate Transaction in instances where the City initiates the Transaction. In instances where the Real Estate Transaction is initiated by the other party to the Transaction, the other party is responsible for all costs attributable to the Transaction, which may include but is not limited to, Public Notice, Property Appraisal, audits, surveys, legal services, landscaping, fence relocation.

5.2 SPECIFIC TO DISPOSALS:

5.2.1 At Less than Fair Market Value: Disposals at less than Fair Market Value are conducted in compliance with the Procedure on Transactions at Less than Fair Market Value.

5.2.2 Surplus Declaration: Prior to commencing negotiations for Disposal, surplus declaration of the Real Estate rights to be disposed of is made in compliance with the Delegated Authority By-law.

5.2.3 Public Notice: Public Notice of intended Disposal is given in compliance with Section 4 of this Policy.

5.3 SPECIFIC TO ACQUISITIONS

5.3.1 At Less than Fair Market Value: Acquisitions may be conducted at less than Fair Market Value in the following circumstances: (a) gratuitous dedications are offered by land owners prior to dedication as a condition of development application approval, (b) conveyances from other levels of government, or (c) gifts.

5.3.2 Property Request: Prior to commencing negotiations for Acquisition, a Property Request submitted by the Stakeholder Department or an external party, as the case may be, is accepted by the Manager, Realty Services.

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5.3.3 Land Acquisition Tracking Matrix: For the purposes of property acquisition tracking and capacity/budget projections, the Manager, Realty Services maintains a database of all projected and historical acquisitions and the actual/projected costs to acquire.

5.4 SPECIFIC TO OCCUPANCY AGREEMENTS

5.4.1 At Less than Fair Market Value: Excluding Occupancy Agreements made pursuant to Section 5.1.3 of this Policy, in instances where the City is owner or landlord in the Occupancy Agreement, Occupancy Agreements with Rent payable at less than Fair Market Value are made only in compliance with the Procedure on Transactions at Less than Fair Market Value. In instances where the City is tenant or occupant in the Occupancy Agreement, the Rent payable may be negotiated at less than Fair Market Value.

5.4.2 Property Request: Prior to commencing negotiations to enter into an Occupancy Agreement, a Property Request submitted by the Stakeholder Department or an external party, as the case may be, is accepted by the Manager, Realty Services.

6.0 ACQUISITION BY EXPROPRIATION

6.1 The process of expropriation of Real Estate by the City is conducted pursuant to the Expropriations Act.

6.2 The City commences expropriation either (a) in parallel with the commencement of negotiations for Acquisition when delivery of property rights is required in a timely manner that, in the opinion of Council, has a high probability of not being achievable through negotiated Acquisition, or (b) when Acquisition is not achievable despite best efforts at negotiation over a reasonable period of time.

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7.0 REAL ESTATE TRANSACTIONS IN THE DEVELOPMENT APPROVALS STREAM

- 7.1 The acquisition and disposal of Real Estate interests within the development approvals stream is the responsibility of the Director of Real Property and Commercial Law. In Section 7 of this policy, development means property development within the City of Brampton pursuant to plans of subdivision, site plans, and Committee of Adjustment consents.
- 7.2 Real Estate Transactions are conducted by the Law Division of the Corporate Services Department in compliance with Enabling Legislation and relevant standard operating procedures for the purpose of satisfying Real Estate requirements identified by Stakeholder Departments as a condition of development approval.
- 7.3 Where a Property Appraisal is required to determine Fair Market Value compensation payable in connection with a Real Estate Transaction conducted within the development approvals stream, the Director of Real Property and Commercial Law will direct the Manager, Realty Services to conduct the Property Appraisal in compliance with Section 8 of this policy.

8.0 PROPERTY APPRAISING

- 8.1 A Property Appraisal is conducted prior to commencing negotiations for any Real Estate Transaction and a written Property Appraisal Report is obtained.
- 8.2 The type of Property Appraisal Report required in connection with any given Real Estate Transaction, i.e. whether an in-house valuation or a Short Narrative Report in accordance with the requirements of the Appraisal Institute of Canada or anything other, is at the discretion of the Manager, Realty Services. In instances where a Consultant is hired to provide a Property Appraisal Report, the Consultant is hired pursuant to Section 9.0 of this Policy.

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9.0 HIRING OF CONSULTANTS

- 9.1 The hiring of professional Consultants and specific service providers in connection with Real Estate matters pertaining to land, buildings, leasehold interest, easements, encroachments and items of a confidential nature are not subject to the City's Purchasing By-Law and procedures and a purchase order is not required.
- 9.2 The Manager, Realty Services maintains a list of names of Consultants (List) that are required for the provision of a variety of specific services related to Real Estate Functions. Generally, hiring rotates through the List, subject, however, to hiring out of rotation in consideration of specific expertise required from a Consultant who has proven to provide competitive, reliable service at a competitive price.
- 9.3 Competition need not be solicited; however the market is surveyed periodically in order to confirm that Consultants are in fact providing competitively priced services.
- 9.4 At the discretion of the Manager, Realty Services, the request for proposal process may be used as a method to acquire a Consultant when the requirements for services cannot be definitely specified.

10.0 MAINTENANCE OF MUNICIPAL INVENTORIES

- 10.1 The Manager, Realty Services maintains the following inventories: (a) Municipal Real Estate Inventory, (b) Municipal Easement Inventory, and (c) Municipal Occupancy Agreement Inventory.
- 10.2 The Manager, Realty Services keeps the inventories current, accurate and complete, to the highest degree reasonably possible, in accordance with standard Procedures. The inventories reside in appropriate databases and are manipulated by applications currently available to City staff, which best facilitate inventory maintenance, research and reporting.

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- 10.3 Municipal Real Estate Inventory: identifies Real Estate owned in Fee Simple by the City and provides relevant information.
- 10.4 Municipal Easement Inventory: identifies permanent Easements in favour of the City and provides relevant information.
- 10.5 Municipal Occupancy Agreement Inventory: identifies Occupancy Agreements to which the City is party and provides relevant information.

11.0 MANAGEMENT OF OCCUPANCY AGREEMENTS

- 11.1 All Occupancy Agreements are managed by the Manager, Realty Services in consultation with the Stakeholder Department and/or City staff responsible for City facility maintenance and operations to ensure terms and conditions of Occupancy Agreements are met. The Manager, Realty Services is not responsible for management of room rentals or events permits.

12.0 REAL ESTATE ACTIVITY FEES

- 12.1 Fees charged for Real Estate Functions are in compliance with the City's Fee Bylaw.

13.0 APPLICATION OF POLICY

- 13.1 The Manager, Realty Services, in consultation with Department Heads, is hereby authorized to prescribe Procedures consistent with this Policy and the objectives set out in Clause 2.0 of this Policy regarding methods of performing Real Estate Functions that will most effectively achieve the objectives of this Policy.

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14.0 ADMINISTRATION PROCEDURES

- 14.1 The Manager, Realty Services prepares and maintains the appropriate Procedures to implement this Policy.

15.0 CODE OF CONDUCT

- 15.1 The code of conduct established by the City applies to all City staff involved in performing Real Estate Functions.

16.0 PROHIBITIONS AND COMPLIANCE

- 16.1 All employees of the City comply with the Policy controls meeting the audit requirements of the City to ensure that those responsible for performing Real Estate Functions are held accountable for their actions and decisions.
- 16.2 All employees of the City act in a manner consistent with the objectives of this Policy. Any employee who knowingly contravenes this Policy commits an act of misconduct and is liable to disciplinary action.
- 16.3 No Real Estate Transactions is negotiated by any employee unless:
- (a) the Real Estate Transaction is legitimately required for the purposes of the City or other party on whose behalf the Real Estate Transaction is being undertaken by the City; and
 - (b) in the case of an Acquisition, the funds for the Acquisition are available within an approved budget or the Acquisition is expressly made subject to funding approval by the City, or another party on whose behalf the Acquisition is being made, as the case may be.
- 16.4 No Real Estate Transaction shall be conducted with an Officer, or employee of the City, or member of Council, or with a person where the transaction would create an indirect personal interest, as defined in the Employee Code of

Corporate Policies

| | | |
|-----------------------------------|--------------------------------------|----------------|
| SECTION: General | | POLICY 14.9.0 |
| SUBJECT: Real Estate | | |
| EFFECTIVE: April 9, 2008 | REPLACES: 14.9.0 dated Dec. 18, 2002 | PAGE: 19 of 19 |
| APPROVED BY: C075-2008/CW129-2008 | PROCEDURAL UPDATES: | |

Conduct, for an Officer or employee or member of Council of the City, unless approved by the City Manager.

- 16.5 No Officer or employee knowingly causes or permits anything to be done which will jeopardize the legal validity or fairness of any Real Estate Transaction under this Policy which is likely to subject the City to any claim, demand, action or proceeding as a result of such act or omission.

ACCOUNTABILITY:

Manager, Realty Services, is responsible for ensuring compliance with this policy.

ADMINISTRATION:

Realty Services Section, within Management and Administrative Services Department, or such other department in which the Realty Services Section may come to reside, is responsible for maintaining this policy.

CONTACT:

Questions in connection with this policy should be directed to:

The Corporation of the City of Brampton
Attention: Manager, Realty Services
2 Wellington St. West
Brampton, Ontario L6Y 4R2