



Corporate Policy

Finance-Purchasing

Strategic Real Estate Acquisition Policy

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2024 Report Number: L-XX-24

Effective: March 16, 2024

Reviewed on: MMMM d, yyyy Amended:

MMMM d, yyyy

Next Review: MMMM d, yyyy

Note:

1. Policy Statement:

The Strategic Real Estate Acquisition Policy identifies the various means available to the City to acquire real estate, as well as providing a framework to guide decision-making. The Policy enables the City to proactively pursue land opportunities with transparency while following the objective framework. The City of Burlington, Realty Services and Burlington Land Partnership will undertake the acquisition of real property interests in conformity with this Policy, unless otherwise directed by City Council.

2. Scope:

This policy applies to the strategic acquisition of real estate, which may be desirable to the City to meet department needs and fulfilment of master plans strategies and/or Council directives, including, but not limited to, the Burlington Lands Partnership focus areas and strategic priorities related to future land acquisition.

This policy does not apply to minor or routine purchases of real estate, including, but not limited to, land as required for municipal needs consistent with City-mandated programs, projects and policies which are funded and/or are ready to tender, such as road widenings and rights-of-way.

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3. Objectives:

Natural places that enhance urban lifestyle or support healthy ecosystems, and the vast majority of municipal services, infrastructure and other physical civic amenities all rely on land/real estate, or land rights, for their existence and function. All of these things are integral to a high-quality municipal environment and for providing municipal services. The Strategic Real Estate Acquisition Policy ensures that the City has the capability to acquire the necessary land and land rights for environmental protection, parks, and municipal purposes (such as recreational facilities, libraries, attainable housing, fire stations, etc.) as set out in City developed Master Plans/Strategies and/or as directed by Council. In particular, this Policy will:

- Direct city staff to review long-term planning horizons to connect the City Vision for future service and program demands as it relates to real estate requirements;
- Enable city staff to respond to solicited and unsolicited real estate opportunities that align with city-wide priorities which were or were not foreseen during the annual capital budget process;
- Enable city staff to proactively seek real estate opportunities that align with city-wide priorities; and
- Reduce future project costs associated with acquisitions and limit the need for expropriation while ensuring real estate is delivered to meet project timelines.

4. Definitions:

For the purpose of this policy, unless otherwise stated, the following definitions shall apply:

Bequest: the act of receiving property by will.

Burlington Land Partnership (BLP): a flexible internal structure, multi-dimensional and integrated approach that seeks to address multiple areas of municipal strategic land management including acquisition and development. This strategic forward-looking approach will encompass the leveraging of future municipal land investments to maximize the potential benefits for the City and related partners. For the City, the BLP will deliver results through due diligence and a strategic focus on achieving tangible and measurable community benefits and returns in three areas: supporting economic growth and direct job creation,

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completing “city building” projects and delivering much needed attainable housing

Compatible Use Agreements: voluntary agreements entered into with a fee simple or easement owners of lands where more than one use is possible such as use of utility rights-of-way or station sites for open space, trails or naturalizing, where compatible with the existing utility use. In some cases, legislation such as the National Energy Board Act and regulations may require specific design criteria, or even permitting applications.

Dedications: the transfer, or the requirement to transfer land or interests in land at no cost to the City as a result of a development condition pursuant to the Planning Act or as a voluntary act.

Delegated Authority: means the person who has been delegated by Council an authority and includes any person:

- a. sub-delegated such authority in accordance with City of Burlington By-law 07-2022, as may be amended from time to time; and,
- b. acting temporarily in the delegate’s position due to an absence or vacancy;

Easements: the purchase of limited interests in the land. Easements convey specific rights to use the land, for an agreed term (up to and including perpetuity), price and conditions. Easements may be negotiated voluntarily by the parties, or taken statutorily by expropriation.

Expropriate: the taking of land without the consent of the owner by an expropriating authority in the exercise of its statutory powers;

Fee simple ownership: the acquisition of the full rights associated with a parcel of land. Conveyance may be by a negotiated agreement and deed, expropriation, dedication, tax sale or provided for through a bequest.

Land: for the purposes of the Policy “land” is all defined to be all “real property” that being “land and includes buildings” as defined in the Municipal Act, S.O. 2001 (s1.1) and is further defined as follows:

Land as a physical entity including:

- i) any building or structure on or improvement to land; or
- ii) land covered by water and, in such a case, the overlying water; or,
- iii) air rights; or,
- iv) a strata lot pursuant to relevant strata legislation

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- v) A legal estate or interest in, or right in respect of land (including leases, licenses, easement etc.)

Land Exchange Agreements: agreements whereby two or more parties agree to exchange real property.

Land Partnerships: Potential new areas of interest for the City outside of the current department needs. This includes:

- Economic Development
- City Building
- Attainable Housing
- Known or potential partnerships on land
- Municipal Capital Agreements as allowed under the Municipal Act, Section 110

Leases and Licenses: agreements that create a right for one party to use the land of another for a specified term, price and purpose. Payment is generally based on a land return rate, or some other market-based rate. Leases are generally considered a “stronger” right than a licence; however, the specific terms and condition of the contract determine its strength.

Market Value: the most probable price which a property should bring in a competitive and open market as of a specified date under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably and in their own best interests and assuming the price is not affected by undue stimulus.

Option to Purchase: a formal contractual agreement to acquire fee simple or easement rights. The option is negotiated for a price, terms and conditions. Conditions will set out which party has the right to “exercise” the option, by when, what is to be paid for the land or easement and under what conditions. As a private contract, a “notice of agreement” should be registered against the title of the lands affected by the option, in order to protect the rights of the option holder. Options may be useful where additional time is needed to complete a transaction, such as in securing funding or other approvals.

Public Interest: an act or service that Council determines is of direct or indirect benefit to the general public

Public Private Partnerships: Cooperation that may involve community organizations, not-for-profits, private corporations, and the City and Burlington EcDev and a proponent willing to make a significant investment in a project in partnership with City (land, \$). The project has mutual benefits for both the City and the proponent and there is a broad public benefit in the project. The

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proponent must be willing to enter into a Letter of Interest and agreement with City As it related to land acquisition and use of City lands, Public Private Partnership will also be required to meet municipal procurement standards including those outlined in the Council approved City of Burlington Procurement Bylaw.

Restrictive Covenants: created under authority of the Planning Act or the Conservation Land Act (conservation covenants). They place limitations on the use of a property, usually in order to protect some special feature until some other condition or event can occur.

Right of First Refusal: (ROFR) agreements are arrangements that create an obligation from one party to allow a second one the chance to negotiate for land or land rights in priority over all others.

Strategic Land/Real Estate: Land which may be desirable to the City to meet department needs and fulfilment of master plans strategies and/or Council directives, including, but not limited to, the Burlington Lands Partnership strategic focus areas.

Strategic Acquisition: The acquisition of land which provides an opportunity to contribute to economic development and activation of the City immediately or in the future. These acquisitions are not a part of a funded and/or ready to tender project. A strategic acquisition may also involve a partnership with other levels of government or private industry.

Unsolicited Request: a request that is made by landowner or potential partner of the City without any prompting by a Council or City Staff.

5. Principles:

- 5.1. Integrity: The City and its representatives will adhere to the highest standards when acquiring or partnering on real estate.
- 5.2. Public Interest: The City will ensure that all strategic real estate decisions are made in the pursuit of the best interests of the public and in keeping with accepted municipal procurement processes.
- 5.3. Fiscal Accountability: The City will exercise fiscal accountability to get the best value for its money and seek to maximize the value of its real estate assets.

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- 5.4. Statutory and regulatory compliance: The City and its representatives will operate at all times within the framework of applicable statutes and regulations.
- 5.5. Transparency of Process: Processes including land use and development partnerships will be run in an open and transparent manner to ensure the Council is responsibly managing public funds. Protecting the City's interests and maintaining the City's competitive position with respect to real estate acquisitions will often require that certain information be kept confidential as permitted by the Municipal Act and/or the Municipal Freedom of Information and Protection of Privacy Act. Where matters are to be considered in closed session at City Council meetings, City Council will disclose the reasons for confidentiality.

6. Acquisition:

6.1. Service Area Needs

Controlling or owning real estate is fundamental to achieving many of the City's future community development goals and objectives. When there is not an immediate need for real estate to complete a funded and ready to tender project, Realty Services will look to the following Plans to identify and prioritize service area needs and Strategic Real Estate Acquisition opportunities within the City. Since land opportunities often arise without notice, these Plans are one of the tools staff will review and utilize when prioritizing real estate acquisition/partnership opportunities, in addition to Council directives and priorities.

6.1.1 Multi-Year Community Investment Plan (MYCIP)

The MYCIP is a multi-year forecast of capital infrastructure requirements and land opportunities that create service through expansion of city operations and creation of community amenities and will be reviewed and updated annually. An important next step in the development of a multi-year financing plan will be the prioritization of the strategic real estate and other community investments by Council. The timing of real estate acquisitions will be one factor dictating the timing of future site/facility development. This sequencing is critical to effectively manage City resources and achieve the best use of the real estate for the City overall.

The MYCIP currently identifies the land requirements outlined within the following current city developed Plans:

- Fire Master Plan
- MTSA Concept Plans

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- Cumberland Campus expansion (RPF/ Transit)
- Integrated Mobility Plan (IMP)
- Parks Provisioning Plan (PPMP)
- Bateman Preliminary Concept Plans and Adaptive Re-Use
- Major Community Recreation and Culture Investments including within and in close proximity to MTSA's.

The MYCIP will review and integrate the approved Council recommendation and directions related to new City developed Master Plans and Strategies on an annual basis. Therefore, the MYCIP will be a vital tool used to prioritize service area real estate needs on a City-wide basis.

6.1.2 The Long-Term Accommodation Plan (LTAP)

The Long-Term Accommodation Plan (LTAP) is an annually reviewed planning tool used by the Halton District School Board (HDSB) that provides enrollment projections and school facility information to guide accommodation planning needs and actions over a 15-year time period. The LTAP is used by the City to identify potential surplus school sites and timing of potential strategic land acquisition/partnership with the school board.

6.1.3 Long-Term Capital Plan (LTCP)

A Long-Term Capital Plan (LTCP) is an annually reviewed document used to guide accommodation planning at the Halton Catholic District School Board (HCDSB). The LTCP provides enrollment projections over a 15-year planning horizon and uses these enrollment projections to identify current and future accommodation pressures that result from new residential development, changing demographics, and program pressures, as well as accommodation strategies to address these pressures. The LTCP is used by the City to identify potential surplus school sites and timing of potential strategic land acquisition/partnership with the school board.

6.2 Overview of Service Areas

6.2.1. Capital projects - roads, firehalls, parks, municipal buildings and facilities, stormwater management.

6.2.2. Greenland – protection of environmental lands, open space, woodlots, creeks, environmentally sensitive areas, heritage properties.

6.2.3. Institutional lands – schools, government buildings and land, hospitals, long term care facilities.

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6.2.4. Downtown improvements – provision of parking, attraction of specific strategic uses to downtown.

6.2.5. Community Improvement Areas and Major Transit Station Areas.

6.2.6. Brownfield redevelopment.

6.2.7. Land Partnerships work under the Burlington Lands Partnership that includes:

6.2.7.1 Economic Development Partnerships to support job and business creating developments.

6.2.7.2 City-Building Partnerships to ensure Burlington's public spaces, amenities, and infrastructure is conducive to growth while maintaining a high quality of life.

6.2.7.3 Attainable Housing partnership to work with public, private, and non-profit sectors to deliver more attainable housing options.

6.3 Methods of Acquisition:

The City has a variety of options available to acquire real estate outright or acquire control of real estate through various means. The type and manner of acquisition is dependent on the intended use, or the level of control that is desired. A non-comprehensive list of options available to the City include:

6.3.1. Dedication

6.3.2. Bequest

6.3.3. Compatible Use Agreement

6.3.4. Lease, License

6.3.5. Restrictive Covenant

6.3.6. Easement

6.3.7. Grants

6.3.8. Direct Purchase/Fee Simple Purchase

6.3.9. Land Assembly/Exchange

6.3.10. Parkland Dedication

6.3.11. Expropriation

6.3.12. Public Private Partnerships through the Burlington Land Partnership

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7. Decision-making Criteria:

Strategic real estate acquisition will be assessed using the following nine criteria:

7.1. **Property Characteristics**

- Parcel Size
- Zoning/Official Plan Designation
- Neighbourhood characteristics
- Site utility

7.2. **Location**

- Ward
- Adjacencies
- Proximity to an identified service area need
- Proximity to capital works project

7.3. **Timing**

- Association with an approved capital project
- Association with a City-developed plan
- Association with a BLP priority
- Associated with other level of government priority
- Availability for purchase

7.4. **Business Strategy**

- Achieves targets in Strategic Plan/V2F/Master Plans
- Partnership opportunity (public/private)
- Public benefit related to improved service

7.5. **Financial cost/benefit**

- Purchase price
- Carrying cost
- Availability of funds
- Investment potential

7.6. **Risk**

- Opportunity cost if not purchased
- Economic factors

7.7. **Community Interest**

- Overriding community interest in the purchase of a site supported
- Council direction

7.8. **Partnerships**

- Known or potential partner on real estate, including not for profits, other levels of government and/or the private sector

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- New areas of interest for the city, including economic development, community facilities, and attainable housing.

7.9. Investment

- Income generation
- Appreciation potential

Each opportunity will be evaluated based on the criteria presented above. A holistic approach to reviewing and analyzing the above criteria will be used by Realty Services and BLP to determine if the opportunity should be explored further. The lead department on the inquiry, either Realty Services or BLP, will send a memo summarizing the opportunity via e-mail to the Strategic Real Estate Acquisition Circulation Team seeking comments regarding the proposed opportunity.

8. Strategic Real Estate Acquisition Process:

8.1. Inquiry Process:

An inquiry regarding a strategic real estate opportunity can be received by City Staff through:

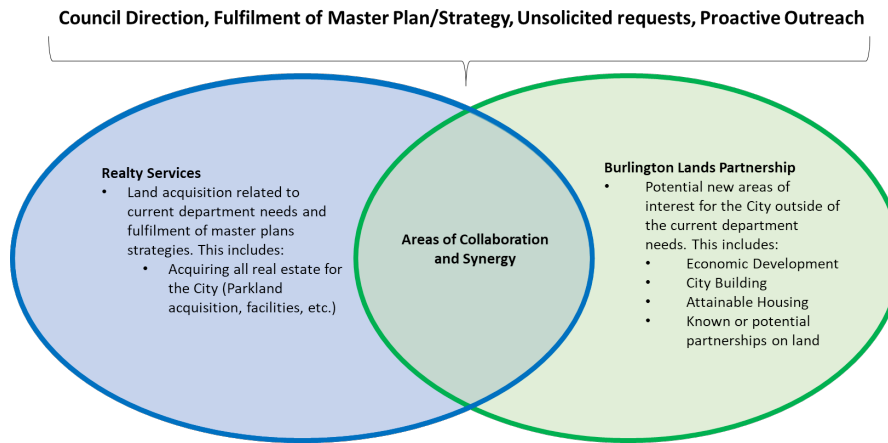
- Unsolicited Request
- Council Direction
- Fulfillment of Master Plan/Strategy
- Proactive Outreach

To ensure a single-window approach to inquiries, both Realty Services and BLP shall be notified of all strategic real estate inquiries. Due to the many areas of collaboration and synergies between Realty Services and BLP, the determination regarding the lead department on the file will occur following review of the initial inquiry. All inquiries and opportunities to acquire land will be managed, recorded and tracked confidentially within Realty Services

As a general rule, summarized by Figure A, all strategic land inquiries involving the City will reside within Realty Services. In addition, any real estate inquiry related to department service area needs and fulfillment of Master Plans/Strategies will reside within Realty Services. An inquiry will reside with BLP if it is related to a potential new area of interest for the City outside of the current department needs, including economic development, city building, attainable housing, and/or known or potential partnerships on land.

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Figure A: Inquiry process for Strategic Lands Projects



8.2. Identify an Opportunity:

Staff will evaluate the opportunity in accordance with the nine decision making criteria and principles of this policy and determine if the opportunity should be investigated further.

8.3. Notify:

Once a strategic real estate opportunity is vetted by Realty Services and BLP, the lead department will be determined and a confidential memo summarizing the opportunity will be sent via e-mail to the following people for comments:

- Strategic Real Estate Circulation Team
- Mayor, Deputy Mayor(s) and Ward Councilor

8.4. Discuss:

Following notification, all memos will be discussed at a quarterly Strategic Real Estate Circulation Team meeting. The meeting will be held to discuss current opportunities and review the decision-making criteria.

If the item is time sensitive a special Strategic Real Estate Circulation Team meeting may be scheduled to meet timelines.

If an identified opportunity is not supported, then the file will be closed by the Lead Department, as identified above under 8.1. If the opportunity is supported by the Team, the Lead Department will engage in any necessary due diligence activities and draft a report seeking the necessary authorizations.

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8.5. Authorize:

Following internal review of the proposed acquisition by the notified parties, if the proposed acquisition is supported, the Lead Department will seek authorization to proceed by either Council and/or Delegated Authority Report. Staff may be required to present a series of reports updating Council and the Strategic Real Estate Circulation Team on negotiations, partnerships, public engagement and/or due diligence requests and results.

- I. Delegated Authority: Following internal review of the proposed acquisition by the notified parties, a delegated authority report will be circulated if the opportunity falls within Realty Services' delegated authority as prescribed within By-law 71-2023 as may be amended from time to time.
- II. Council Report: Following internal review of the proposed acquisition by the notified parties, if the opportunity falls outside of the Realty Services' Delegated Authority, a confidential report will be presented to appropriate Strategic Real Estate Circulation Team for consideration and comments.

To address matters which are timely in manner Council may delegate certain authorities to staff and stipulate the conditions under which such delegated authority is to be used. The Lead Department with support from the Strategic Real Estate Circulation Team may ask Council to:

- a) Delegate to staff the authority to negotiate means necessary to secure opportunity until such time as can be considered by Council.
- b) Delegate staff to perform due diligence such as appraisals, environmental assessment, geotechnical testing, infrastructure assessments, building audits, etc. to evaluate opportunity in more detail.
- c) Agree that urgent matters may be brought to the next available meeting agenda and/or to a special meeting of Council.

9. Implementation:

9.1 Strategic Real Estate Circulation Team

This Team shall meet quarterly to discuss and review land priorities based on the criteria outlined in this policy. This Team will comprise of senior staff and will meet to review and prioritize service area needs, goals and targets as set out in the Multi-Year Capital Investment Plan, School Board Accommodation/Capital Plans and discuss any other

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City developed Plan and partnership opportunities as they relate to future real estate requirements on a city-wide basis.

This Team will be circulated on all vetted opportunities to evaluate the real estate matter in accordance with the criteria and principles of this policy. The support of the Team is essential to proceed with any Strategic Real Estate Acquisition.

9.2 Realty Services Department & Burlington Land Partnership (BLP)

Realty Services will track all surplus City real estate and identify any potential school surplus sites. Through consultation with the Strategic Acquisition Real Estate Circulation Team, Realty Services and BLP will compile and maintain a confidential list identifying land opportunities and areas of interest.

BLP will maintain a confidential list of sites in conjunction with Realty Services that identifies partnership opportunities and partnership sites. BLP will regularly update City Council in closed session on the status of the confidential list including any changes that warrant awareness and/or further direction by Council.

Realty Services and BLP will communicate and foster relationships with other levels of government, school boards, conservation authority, other institutional landowners and the public increasing awareness on strategic real estate that may be acquired. Staff will stay current to changing legislation that may affect land acquisition.

Realty Services and BLP will work together to assess and/or identify potential acquisitions/partnerships in accordance with the criteria outlined in this policy. All inquiries and opportunities to acquire land will be vetted, managed, recorded and tracked confidentially within Realty Services.

Realty Services is responsible for all land acquisitions, including providing land acquisition support for BLP files.

9.3 Finance Department

On a case-by-case basis, Finance staff will continue to evaluate financial capacity to provide appropriate funding to land acquisitions as defined by Council as a priority.

10. Funding Source:

The city currently employs the following sources of funding towards city land acquisitions:

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- The Strategic Land Acquisition Reserve Fund allows the city to act upon strategic real estate acquisitions as per the city's by-law ~~XXX~~.
- Debt Financing, as an appropriate means of financing new assets that have a longer life. Therefore, the benefit of those assets can be shared by current and future taxpayers as well as the financing costs through the city's repayment of debt charges (principal and interest) over time.
- The park dedication reserve fund, for the acquisition of land towards park related requirements.
- Annual community Investment funding, approved by Council for the MYCIP, which can be used towards strategic land opportunities. In addition, new opportunities for financing land acquisition will be explored including Tax Increment Financing Districts and related Bylaws.

Future financing alternatives will continue to be explored as they arise.

11. References:

- The Municipal Act
- The Planning Act
- The Expropriations Act
- Municipal Freedom of Information and Protection of Privacy Act

12. Delegated Authorities

As noted above, Council may delegate certain authorities to staff, and stipulate the conditions under which such delegated authority is to be used.

12.1 Accountable:

Realty Services is responsible for the timely review, updating and dissemination of the policy to the functional areas.

12.2 Responsible:

Realty Services and Burlington Land Partnership staff will perform the work to achieve the tasks outlined in this policy, with support from other departments, as required.