



CITY OF KINGSTON
REPORT TO COUNCIL

Report No.: 12-253

TO: Mayor and Members of Council
FROM: Cynthia Beach, Commissioner, Sustainability & Growth
RESOURCE STAFF: Paul MacLatchy, Director, Environment & Sustainable Initiatives
DATE OF MEETING: July 17, 2012
SUBJECT: Acceptance of Proposal to Re-Development a Failed Tax Sale
Brownfield Property at 176 Railway Street

EXECUTIVE SUMMARY:

This report provides an update on the results of the City's recent request for proposals to take title and redevelop failed tax sale brownfield properties. Two proposals were received for two different properties. This report recommends that the proposal received from 229136 Ontario Inc. for the former Graves Engineering property at 176 Railway Street be awarded and that staff bring forward a recommendation to Council for the municipality to vest title in the subject property for the purpose of transferring ownership to 229136 Ontario Inc. as per their proposal and as per an agreement of purchase and sale that will be completed to the satisfaction of the City Solicitor as described below.

RECOMMENDATION:

THAT Council accept the proposal provided by 2229136 Ontario Inc. in response to City of Kingston request for Proposals F31-SG-ESI-2012-1 for ownership and redevelopment of the failed tax sale property at 176 Railway Street; and

THAT Council authorize the Mayor and Clerk to execute an Agreement of Purchase, Sale & Redevelopment with 2229136 Ontario Inc. that is satisfactory to the Director of Legal Services and is based on the terms described within Report No. 12-253; and

THAT Council authorize staff to prepare a recommendation for the municipality to vest title in the subject lands (176 Railway Street) in the name of the Corporation of the City of Kingston for the purpose of cancelling unpaid taxes and transferring ownership to 2229136 Ontario Inc. once an acceptable Agreement of Purchase, Sale & Redevelopment has been completed.

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AUTHORIZING SIGNATURES:

ORIGINAL SIGNED BY COMMISSIONER _____ Cynthia Beach, Commissioner, Sustainability and Growth

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER Gerard Hunt, Chief Administrative Officer
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CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

Lanie Hurdle, Community Services	N/R
Denis Leger, Transportation, Properties & Emergency Services	N/R
Jim Keech, President & CEO, <i>Utilities Kingston</i>	N/R

(N/R indicates consultation not required)

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OPTIONS/DISCUSSION:The Failed Tax Sale Process

In May 2004 Kingston City Council approved a process whereby properties, in serious tax arrears that have been unsuccessfully offered for sale in exchange for the outstanding tax amount, can have the outstanding tax amount cancelled and be offered to redevelopers through a "Failed Tax Sale" process that uses a request for proposals model.

As per the *Municipal Act*, municipalities have two years following the conclusion of a failed tax sale to assess environmental conditions on the subject properties and vest title for the purpose of municipal acquisition or for transfer to another party selected through a Failed Tax Sale Request for Proposals process.

In November of 2010 fourteen (14) properties were identified as failed tax sale properties. The Environment and Sustainable Initiatives Department undertook environmental testing of the properties to determine if potential municipal uses might be possible and so that preliminary environmental information could be provided to potential redevelopers through a Failed Tax Sale RFP.

Evaluation of the fourteen failed tax sale properties has resulted in acquisition of three of them (Sutherland Drive, 771 Division Street, 603 Montreal Street) for use in various municipal purposes. One property, Princess Street, was not assessed due to difficulties in acquiring safe access. One property, 661 Montreal Street continues to be evaluated for potential municipal re-use. The remaining nine properties were offered for redevelopment through a request for proposals process.

Request for Proposals

On March 22, 2012 the City of Kingston issued RFP FG-SG-ESI-2012-1 seeking proposals from qualified organizations to purchase and redevelop brownfield properties that were eligible through the failed tax sale process.

Nine parcels comprising four properties were offered for redevelopment through the request for proposals. The City received two proposals; one for the six parcels that compose the former I. Cohen & Sons property on Montreal Street and one for the former Graves Engineering building at 176 Railway Street. The proposal for the property at 176 Railway Street is discussed in more detail below.

2229136 Ontario Inc. Proposal for 176 Railway Street

The proposal submitted by 2229136 Ontario Inc. (the "Railway Street Proposal") offers to take title to the failed tax sale property at 176 Railway Street formerly owned and operated by Graves Engineering Inc. The Railway Street Proposal was reviewed by City staff and was deemed to

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be complete. As no other proposals were received for the subject parcel of land, the Railway Street Proposal is being recommended for award.

A summary of the 2229136 Ontario Inc. proposal includes the following points:

1. Proposed purchase price = \$10,000.
2. Partners: 2229136 Ontario Inc. (jointly owned by Jay Patry Enterprises Inc. and 1311354 Ontario Inc.)
3. Redevelopment proposal: Renovate the existing buildings (2) to provide leasable commercial space with reduced rates during first five years that will allow new small business or newly expanding businesses to locate.
4. Environmental Clean-Up Approach:
 - a. Complete Phase I and II Environmental Site Assessments,
 - b. Removal of contaminated soils in order to obtain a record of Site Condition for commercial/industrial use,
 - c. Abatement of hazardous building materials (asbestos, lead paint, etc.).
5. Estimated Redevelopment costs: Approximately \$1.3 million.
6. Other Potential Funding Sources Identified:
 - a. City of Kingston Brownfields CIP Program
7. Redevelopment Schedule: Occupancy possible within 60 weeks of project commencement.
8. Regulatory Considerations: The project as proposed would likely require the following:
 - a. Official Plan and Zoning bylaw amendments.

Specific elements of this proposal will become subject to Council approval through the normal municipal planning processes required for official plan amendments, zoning bylaw amendments, site plan control, etc.

Completion of Agreements of Purchase, Sale and Redevelopment

With an award being confirmed by City Council, staff will begin the process of negotiating an Agreement of Purchase, Sale and Redevelopment with 2229136 Ontario Inc. The agreement will provide reliable direction for the following elements:

1. Purchase price to be paid by the developer to the City;
2. Date of title transfer;
3. Environmental remediation plan and schedule;
4. Redevelopment plan and schedule;
5. Indemnification of the City of Kingston by 2229136 Ontario Inc.;

- 6. Options for the City to repurchase should the proposed remediation and development not be implemented; and
- 7. Financial assurances in favour of the City to provide for costs to manage liabilities associated with municipal ownership, correction of new defects and to undertake a new request for proposals should the proposed remediation and redevelopment not be implemented.

Vesting of Title for the Purpose of Transfer

Once an agreement of purchase, sale and redevelopment has been successfully completed the City will vest title in the properties and then immediately cancel unpaid property taxes and transfer title to the successful proponents.

The parcel that makes up the property at 176 Railway Street and that is the subject of this recommendation is:

<u>Roll Number</u>	<u>Address</u>
101104010004800	176 Railway Street

Property locations and layouts are shown within Exhibit A of this report.

EXISTING POLICY/BY LAW:

In May 2004 Kingston City Council approved a process whereby properties, in serious tax arrears that have been unsuccessfully offered for sale in exchange for the outstanding tax amount, can have the outstanding tax amount cancelled and be offered to redevelopers through a “Failed Tax Sale” process that uses a request for proposals model.

NOTICE PROVISIONS:

No notice provisions are required.

ACCESSIBILITY CONSIDERATIONS:

There are no accessibility considerations directly related to this report.

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FINANCIAL CONSIDERATIONS:

As part of the failed tax sale process the City will cancel unpaid property taxes in the amount of approximately \$320,000.

A revenue of \$10,000 will be forthcoming to the City as a result of completing an agreement of purchase and sale.

Redeveloped failed tax sale properties will have property taxes paid and thus returned to the municipal revenue stream.

It is expected that the developer will make application to the City's Brownfield Community Improvement Plan for reimbursement of eligible environmental remediation costs.

CONTACTS:

Paul MacLatchy, Director Environment & Sustainable Initiatives 613-546-4291 ext 1226

OTHER CITY OF KINGSTON STAFF CONSULTED:

Grant Bain, Director of Planning & Development
Sheldon Laidman, Director of Housing
Pat Carrol, Manager of Taxation
Alan McLeod, Senior Legal Counsel

EXHIBITS ATTACHED:

Exhibit A - Site Location Plan for 176 Railway Street

LOCATION PLAN FOR 176 RAILWAY STREET

