

Section I – Items for Board of Directors Action

TO: Chair and Members of the Executive Committee
Friday, January 15, 2021 Meeting

FROM: Michael Tolensky, Chief Financial and Operating Officer

RE: **REQUEST FOR DISPOSAL OF TORONTO AND REGION CONSERVATION AUTHORITY OWNED LAND**
Former Tompion Limited Property, City of Markham, Regional Municipality of York, Rouge River Watershed (CFN 61935)

KEY ISSUE

Update on a request from Remington (Parkview) Lands Inc., for the conveyance of Toronto and Region Conservation Authority (TRCA) owned lands located north of Steeles Avenue East and west of Ninth Line, in the City of Markham, Regional Municipality of York, Rouge River watershed.

RECOMMENDATION

THE EXECUTIVE COMMITTEE RECOMMENDS THAT WHEREAS at Toronto and Region Conservation Authority's (TRCA) Board of Directors meeting held on November 29, 2019, it was resolved to enter into an agreement whereby TRCA is to convey 1.13 hectares (2.78 acres) of the former Tompion Limited lands to Remington (Parkview) Lands Inc. and acquire 20.92 hectares (51.7 acres) of lands owned by Bluecrown Holdings Limited in close proximity to Albion Hills Conservation Area (AHCA), with Remington to pay TRCA the difference in market value, consideration of \$4,282,000, which would be invested in TRCA projects in the Regional Municipality of York within the Rouge River watershed as well as all legal, survey and other costs (Res.#A219/19);

AND WHEREAS the transfer of the majority of the 16.5 hectares of former Tompion Limited lands including the main Rouge River Valley and lands west to Ninth Line to Parks Canada for the Rouge National Urban Park and Regional Municipality of York for road widenings is completed;

AND WHEREAS the Ministry of Natural Resources and Forestry, the Regional Municipality of York and the City of Markham were requested to concur with the exchange of lands and allow TRCA to retain the net proceeds from the land exchange in accordance with an agreement dated December 12, 2002;

AND WHEREAS developments in the waiving of repayment process have led to changes in the negotiation that are not represented by RES #A219/19;

AND WHEREAS TRCA staff recommend that a sale of the former Tompion Limited lands would be in the best interest of TRCA in furthering its objectives as set out in Section 20 of the *Conservation Authorities Act*;

THEREFORE LET IT BE RESOLVED THAT TRCA convey 1.13 hectares (2.78 acres), the former Tompion Limited lands, to Remington (Parkview) Lands Inc. for consideration of \$5,232,000 as well as all legal, survey and other costs to be paid by Remington (Parkview) Lands Inc.;

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THAT TRCA request that, in the alternative to the requirement to repay proceeds pursuant to the original acquisition agreement dated December 12, 2002, the Regional Municipality of York and the City of Markham waive the requirement for repayment and allow TRCA to retain the net proceeds of the sale for TRCA related works within their respective jurisdictions, and that the Ministry of Natural Resources and Forestry waive repayment for acquisitions within the jurisdictions of the Municipality of York and City of Markham;

THAT the firm Gardner Roberts LLP, be instructed to complete the transaction at the earliest possible date. All reasonable expenses incurred incidental to closing for land transfer tax, legal costs, and disbursements are to be paid by Remington (Parkview) Lands Inc.;

AND FURTHER THAT authorized TRCA officials be directed to take the necessary action to finalize the transaction, including obtaining any necessary approvals and the signing and execution of documents.

BACKGROUND

This request was brought to the attention of the Board of Directors at its meeting #10/19, held on November 19, 2019, where Resolution #A219/19 was adopted in part as follows:

WHEREAS at Authority Meeting #7/18 held on September 28, 2018, Resolution #A159/18, Toronto and Region Conservation Authority (TRCA) staff was requested to report back on lands north of Steeles Avenue E. west of Ninth Line and the main Rouge River;

...THEREFORE, LET IT BE RESOLVED THAT TRCA enter into an exchange of land with Remington (Parkview) Lands Inc. and Bluecrown Holdings Limited, on the following basis...

...THAT TRCA receive consideration of \$4,282,000.00 as well as all legal, survey and other costs to be paid by Remington (Parkview) Lands Inc. which would be invested in TRCA projects in York Region within the Rouge River watershed;

...THAT the Ministry of Natural Resources and Forestry, the Regional Municipality of York and the City of Markham be requested to concur with the exchange of lands and allow TRCA to retain the net proceeds from the land exchange in accordance with an agreement dated December 12, 2002; ...

Remington (Parkview) Lands Inc. (Remington) owns a 1-hectare triangular parcel of land located on the north side of Steeles Avenue East, immediately west of and abutting the TRCA's former Tompion Limited lands as well as the lands north of the railway. Remington has approached TRCA inquiring if TRCA would be interested in selling the westerly 1.13 hectares (2.78 acres) of the former Tompion Limited lands as Remington was interested in incorporating said lands into the development they are proposing. Staff support this since the Remington parcel contains the only access to TRCA lands.

The former Tompion Limited lands were acquired by TRCA from Tompion Limited on December 18, 2002. The property is 16.5 hectares, more or less, in size and is traversed by the main Rouge River. The original purchase was funded one-third by City of Markham, one-third by the Regional Municipality of York and one-third by Ministry of Natural Resources through their Ecological Land Acquisition Program.

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At the time of the Tompion Limited lands acquisition, TRCA entered into two agreements. The first was an option agreement with the Regional Municipality of York for the following portions of the property:

- a) Land required for the Markham By-Pass including any portions required for road, rail and water crossings as determined in accordance with any Environmental Assessment;
- b) 8 meters along the east limit of the property with such additional widths at road, rail and water crossings and grade separations and any other locations that require additional physical structure or grading, along the east limit;
- c) 8 meters along the south limit of the property with such additional widths at road, rail and water crossings and grade separations and any other locations that require additional physical structure or grading, along the south limit.

Staff have completed the Regional Municipality of York's requests in conveying lands for the Steeles Avenue E and Ninth Line road widenings.

The second agreement was a five-party agreement between City of Markham, Regional Municipality of York, Ministry of Natural Resources (MNR), Rouge Park Alliance (the Rouge Park Alliance was dissolved effective July 31, 2012) and TRCA. A clause in this agreement provided that TRCA may dispose of the following part of the property:

- a) referred to in the Option Agreement to the Region;
- b) west of 30 metres from the top of the bank on the west side of the Rouge River, provided the proceeds, after deducting TRCA's reasonable costs, are paid equally to MNR, Markham and the Region.

TRCA staff approached the Ministry of Natural Resources and Forestry (MNR), Regional Municipality of York and the City of Markham to discuss whether they would waive the requirement for re-payment of the net proceeds. In the initial discussions with Regional Municipality of York and City of Markham officials, they had indicated they would look favourably on waiving the requirement if the difference in market value was invested in TRCA projects nearby subject to receiving Board direction.

Formal letters were sent to staff of the Regional Municipality of York, City of Markham and MNR requesting to concur with the exchange of lands and resolve to allow TRCA to retain the net proceeds from the land sale in accordance with an agreement dated December 12, 2002. While no formal determination has been made by any party, during our discussions, York staff indicated that they will require TRCA repay its third, with a possibility TRCA will have access to the funds through regular budgetary processes. City of Markham staff suggested that TRCA repay the third and the City hold the funds for TRCA projects that will require the City's approval, while the Province through MNR has stated they are awaiting the Region's and City's position before deciding on the request to waive the one third repayment. Once determinations have been made, staff will work with all parties to ensure TRCA obligations are fulfilled.

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Further developments in the waiving of repayment process has led to changes in the negotiation that are not represented by RES #A219/19. Regional Municipality of York and City of Markham staff have indicated that they will not support a land swap as the Bluecrown Holdings Limited as the lands to be acquired are outside of York Region. Based on the original appraisal, staff have negotiated the purchase of these lands, separately from the sale of the Tompion Limited lands. The acquisition of the Bluecrown Holdings Limited lands is now proposed to be a separate transaction, rather than tied to a land swap.

Through the repayment waiver discussions with Regional Municipality of York and City of Markham staff, a discussion on the appraised value of the Tompion Limited lands was held which led to both Regional Municipality of York and TRCA commissioning an additional appraisal each. Through multiple meetings with staff and the proponent regarding the value of the buffer lands, an additional \$250,000 was negotiated bringing the compensation for the Tompion Limited lands from \$4,982,000 to \$5,232,000.

Attachments 1-2 are sketch and orthophoto illustrating the location of the former Tompion lands.

RATIONALE

When TRCA originally acquired the subject the Tompion lands, it was contemplated that TRCA may consider disposing of the non-ecologically significant westerly portion of the site sometime in the future.

The three external vested parties (Regional Municipality of York, City of Markham and MNRF) are aware of the land disposal and have made no objections. As per section 4.5.3 of the Conservation Authorities Policy and Procedure Manual (Policies and Procedures for the Disposition of Conservation Authority Property) this disposal did not follow an open process with public notification as the property is landlocked or not separately viable and is being sold to the adjacent owner.

Relationship to Building the Living City, the TRCA 2013-2022 Strategic Plan

This report supports the following strategies set forth in the TRCA 2013-2022 Strategic Plan:

Strategy 3 – Rethink greenspace to maximize its value

Strategy 7 – Build partnerships and new business models

Strategy 12 – Facilitate a region-wide approach to sustainability

FINANCIAL DETAILS

Funds related to the negotiation for the sale of the Tompion Limited lands will be deducted from the proceeds of the sale, with TRCA holding the funds until the repayment waiver has been resolved with Regional Municipality of York, City of Markham and MNRF officials

DETAILS OF WORK TO BE DONE

The following work will be completed

- Execute APSs with Remington (Parkview) Lands Inc.
- Close on transaction.
- Resolve waiving of one third repayment to York Region, City of Markham, and Ministry of Natural Resources and Forestry.

Report prepared by: Brandon Hester, extension 5767, Daniel Byskal, extension 6452

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Emails: Brandon.hester@trca.ca, Daniel.byskal@trca.ca

For Information contact: Brandon Hester, extension 5767, Daniel Byskal, extension 6452

Emails: Brandon.hester@trca.ca, Daniel.byskal@trca.ca

Date: December 1, 2020

Attachments: 2

Attachment 1: Site Plan - Former Tompion Lands

Attachment 2: Orthophoto - Former Tompion Lands