

STANDARD OPERATING PROCEDURE

SOP TITLE: DISPOSITION OF REAL PROPERTY

SOP NO.: CS-5.14-S1

Chapter:	Corporate Services		
Section:	5. Property and Risk Management		
Effective Date:	January 29, 2021	Last Review Date:	January 29, 2021
Approval Authority:	Chief Financial and Operating Officer		
Issued to:	Property and Risk Management		
SOP Owner:	Property and Risk Management		

1. PURPOSE

- 1.01. The purpose of this Standard Operating Procedure (SOP) is to guide disposition of all Toronto and Region Conservation Authority (TRCA) Surplus Real Property.

On an on-going basis, the P&RM assesses TRCA accommodation needs, reviews real estate development and value enhancement opportunities, and analyzes acquisition programs to identify Surplus Real Property. The Realty Portfolio Plan (RPP) identifies the pool of Surplus Real Property for a multi-year period and additional properties are added to the pool as they are identified. The RPP also establishes the anticipated revenue and liability reduction targets for a multi-year period. Based on the RPP, an annual sales plan is prepared to ensure sound planning to achieve yearly performance objectives.

2. SCOPE

- 2.01 The SOP guides disposition of all Surplus Real Property under the administration and control of TRCA. It may also be applied to the Disposition of Surplus Real Property not under the administration and control of the TRCA ("non-TRCA assets") and to the Disposition of non-Government real property or interests in real property ("non-Government assets"). To the extent non-TRCA assets and/or non-Government assets are subject to other laws, regulations, policies, orders or directives that deal in whole, or in part, with the subject matter of these procedures, TRCA will comply as applicable. TRCA shall only assist in the Disposition of non-TRCA assets and non-Government assets upon written direction from the Chief Financial and Operating Officer.
- 2.02. The SOP consist of three key steps:
- (a) Establish an annual sales plan, based on the realty portfolio plan (see description below)
 - (b) Prepare the Surplus Real Property for Disposition

- (c) Execute the Disposition approach

Unless otherwise stated, the Property & Risk Management department ("P&RM") at TRCA will project manage the procedures and are responsible for maintaining records with the key documentation noted.

3. DEFINITIONS

- 3.01. **"AACI"** means Accredited Appraiser Canadian Institute designation.
- 3.02. **"Agreement of Purchase and Sale"** means IO's standard agreement for the Disposition of Surplus Real Property.
- 3.03. **"Class Environmental Assessment"** for the purposes of this SOP means the Class Environmental Assessment process, which TRCA is responsible for implementing. Through the Class Environmental Assessment, TRCA takes into account and assesses the potential effects of its realty activities on the environment. This includes consideration of the natural, social, cultural, and economic environments and their interactions.
- 3.04. **"Delegations of Authority"** means the approval structure for all transactions that commit TRCA or its clients to purchase goods, services and Real Property, sell or grant rights to or acquire rights of Real Property, from related or non- related parties..
- 3.05. **"Direct (Non-Competitive) Sales"** mean that Real Property not offered for sale on the open market and which comply with the following cases:
- (a) Is being transferred directly to another level of government, a utility company, a conservation authority, or any entity that has indicated an interest in acquiring the Real Property via the circulation process;
 - (b) Lacks public access or is not separately viable. Under these circumstances the Real Property may be sold to an adjacent property owner;
 - (c) Is needed to restore access or frontage to an adjacent property cut off by realignment or closure of a road;
 - (d) Is being exchanged for another property for provincial program purposes; or
 - (e) Was expropriated and is being offered back to the previous owner.
- 3.06. **"Disposition"** means a transaction that transfers a Real Property by sale, transfer or exchange to a party other than Government. For the purposes of these Procedures, Disposition does not include a transfer of administration and control over a Real Property from TRCA to another ministry or Agency. "Dispose", "Disposal" and similar terms have a corresponding meaning.
- 3.07. **"Easement"** means an interest in land owned by another person, consisting of the right to use or control the lands or an area above or below it, for a specific limited purpose.
- 3.08. **"Expropriation"** means the definition in the *Expropriations Act*. All expropriated land shall be disposed of in accordance with the *Expropriations Act*. In accordance with section 42 of the *Expropriations Act*, IO shall not dispose of lands expropriated by the

Government after December 20, 1968 which are no longer required for its purposes, unless it first obtains the approval of the ministry that authorized the expropriation, without giving the owner(s) from whom the land was taken the first chance to repurchase the lands, and shall comply with any other applicable agreements and policy directives.

- 3.09. **"External Appraisal"** means an adequately supported written opinion of Market Value of the Real Property Asset on a specified date that evaluates the Real Property Asset involved according to accepted appraisal practices and is obtained from and signed by a person who is a real property appraiser accredited by the Appraisal Institute of Canada either as an AACI or CRA, as required.
- 3.10. **"Government"** means the same meaning as in the *Ministry of Infrastructure Act, 2011* as amended from time to time, and was as of June 6, 2012 defined as:
- (a) The Government of Ontario and the Crown in right of Ontario
 - (b) A ministry of the Government of Ontario
 - (c) A Crown Agency
 - (d) Any board, commission, authority or unincorporated body of the Crown; and
 - (e) A TRCA member Municipality
- 3.11. **"Internal Valuation"** means internal review of the available property characteristics for the purposes of developing an estimate of value. May be used for determining Market Value for properties with an estimated value under \$50,000. It is not considered an Appraisal as defined by the Appraisal Standard Rules per CUSPAP.
- 3.12. **"Market Value"** means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming that the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:
- (a) buyer and seller are typically motivated;
 - (b) both parties are well informed or well advised, and acting in what they consider their best interests;
 - (c) a reasonable time is allowed for exposure in the open market;
 - (d) payment is made in terms of cash in Canadian Dollars or in terms of financial arrangements comparable thereto; and
 - (e) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales or concessions granted by anyone associated with the sale.

Market Value shall be determined by the TRCA Valuation Services Group. Criteria considered by TRCA for establishing Market Value may include (but are not limited to): current market conditions; a reasonable exposure period for the specific local market; business cases; latent conditions and unforeseen events impacting the value of a given Real Property; A latent condition is a hidden condition or defect that is not readily ascertained by reasonable inquiries and research.

Disposition of Real Property (both Open Market and Direct Sales) is to be based on Market Value unless a Government-approved program provides an exception

- 3.13. **"Minister"** means the Minister of Infrastructure.
- 3.14. **"Nominal Transfers"** mean Real Property that are Disposed at nominal value based on direction from CFOO. Nominal transfers may be triggered by program transfers, special interest groups, site plan and/or infrastructure requirements, etc.
- 3.15. **"Open Market (Competitive) Sales"** mean Real Property offered for sale and placed on the open market.
- 3.16. **"Profit Participation Clause"** as part of any sale below Market Value, means the Agreement of Purchase and Sale that will include clauses that specify the following:
- (a) If the Real Property is not used within the timeframe set out for the purposes for which it was originally purchased, the Real Property will be returned to TRCA in its original condition at TRCA's option;
 - (b) If, within a specified period of time, the purchaser sells the Real Property, all proceeds in excess of the original purchase price (plus allowable expenses, as specified in the Agreement of Purchase and Sale) will be returned to TRCA.
 - (c) If, within a specified period of time, the purchaser proposes to sell the Real Property, TRCA has the option to repurchase the Real Property at the original purchase price paid by the purchaser to TRCA, plus an amount for capital improvements after the sale, as specified in the Agreement of Purchase and Sale. If this option is exercised, the sales lead will work with TRCA client program delivery and TRCA portfolio planning to determine what to do with the Real Property;
- 3.17. **"Project Information Management System"** means TRCA's system for managing realty projects.
- 3.18. **"Real Property"** means any patented land owned by the TRCA and whatever structures are affixed to it, and any interests, benefits, and rights arising from it.
- 3.19. **"Surplus Real Property"** means any Real Property that is no longer required by a ministry or Agency to support delivery of its operations, programs or services, or is otherwise surplus and not required for TRCA purposes.

4. PROCEDURE

Establish an Annual Surplus Property List

- 4.01. P&RM shall develop an annual sales plan for consideration by TAM by November 1st each year. The following steps are undertaken:
- (a) Review the Surplus Real Property pool to identify properties that are well positioned for Disposition within the following 12 months;
 - (b) Compile the list of Real Property for consideration to designate as surplus by TAM.
 - (c) Review the list, identify and recommend whether the Disposition approach will be Open Market or Direct Sale;
 - (d) For information and planning purposes, identify any potential:
 - Easements;

- Encroachments;
 - Nominal Transfers.
- (e) Share the list with internal stakeholders and MOI for comments, make any required amendments, then distribute final list to all stakeholders.
- 4.02. TAM shall review and analyze the proposed annual sales plan for:
- (a) Confirm that the revenue and liability reduction targets are consistent with those identified in the RPP;
 - (b) Determine whether proposed Disposition will materially affect service levels;
 - (c) Identify budgetary impacts, including the impact of the Disposition of the Asset Management Plan;
 - (d) Recommend whether revenue from Disposition should be apportioned to a specific project.
 - (e) Direct P&RM to distribute the list with external stakeholders for comments.
 - (f) Recommend properties to be declared as surplus and included within the Surplus Real Property list.
- 4.03. A Disposition project is set up in the Project Information Management System.
- 4.04. TAM makes recommendation to the Board of Directors, or designate, regarding Disposition.

Due Diligence Phase

- 4.06. P&RM will undertake and analysis of required due diligence for the parcel, depending on Disposition from private individual or Government, and which may include:
- (a) **Archaeology Study** – Carry out site assessments to identify any significant archaeological features;
 - (b) **Duty to Consult** – Legal review to determine whether a duty to consult is required and proceed in conformance;
 - (c) **Mapping/Survey Review/Title Search** – Prepare property map, review available property boundary information and determine whether survey is required, conduct title search;
 - (d) **Legal** – Title confirmation (legal opinion confirming the ownership of the property including any title encumbrances);
 - (e) **Planning** – Confirmation of land use planning information for the property, prepared by a registered professional planner;
 - (f) **Cultural Heritage** – Identifying and evaluating built heritage and cultural landscapes, as per the Standards and Guidelines for Conservation of Provincial Heritage Properties;
 - (g) **Geotechnical** – Review geotechnical site characteristics (if required);
 - (h) **Environmental** –
 - Carry out environmental site assessments;
 - Conduct the Class Environmental Assessment process;
 - (i) **Environmental Assessment** – Review an Environmental Assessment for a TRCA undertaking, if necessary.
 - (j) **Appraisal** – Ensuring there is data supporting the asking and offering price (e.g. External Appraisal or Internal Valuation derived from the most current TRCA valuation services guidelines, with consideration provided in the definition of

Market Value). The following should be considered for appraisals:

- The Market Value thresholds that would determine number and type of Appraisals required in accordance with the most current TRCA valuation services guidelines;
- Subject to consultation with TRCA valuation Services, an appraisal update may be required in accordance with the most current TRCA valuation services guidelines.

(k) **Designated Substances Survey** – Determination of exposure of Acquisition to designated substances, including asbestos.

Open Market Sales

Marketing Phase

- 4.07. Project initiation form to engage TRCA's brokerage vendor of record (if the vendor of record is not being used, the most current procurement directive and policy will be followed to procure the required services).
- 4.08. Work with broker to determine marketing strategy.
- 4.09. Prepare listing agreement and obtain approval as per TRCA's Board of Directors.
- 4.10. Listing of the property for a minimum of 30 days and posting on TRCA website (any less than 30 days requires EVP approval).

Evaluation & Negotiation Phase

- 4.11. Prepare record of offer form.
- 4.12. Evaluation and negotiation of offers. Select best offer, negotiate, and receive deposit cheque (to be held in escrow in an TRCA trust account) and signed Agreement of Purchase and Sale from purchaser. An offer that is being recommended for acceptance by TRCA can be no less than the established Market Value (if the established Market Value is a range, then no less than the bottom end of the range). During this step apply risk management strategies (e.g. identification of proposed use, any restrictive covenants, safety concerns, Conflict of Interest).

Agreement Phase

- 4.13. Preparation and approval of the sales advice form as per TRCA Board of Director – once the sales advice form is approved by the delegated authority, and provided there are no subsequent changes, the remaining documentation that follows can be signed by TRCA signing officer as per TRCA Policies and Procedures.
- 4.14. Execution and distribution of the Agreement of Purchase and Sale.

Direct Sales and Nominal Transfers

Evaluation & Negotiation Phase

- 4.15. Evaluate and negotiate offer and apply risk management strategies (e.g. identification of proposed use, any restrictive covenants, safety concerns, Conflict of Interest). An offer that is being recommended for acceptance by TRCA can be no less than the established Market Value (if the established Market Value is a range, then no less than the bottom end of the range).
- 4.16. Receive deposit cheque (to be held in escrow in an TRCA trust account) and signed Agreement Purchase and Sale from purchaser.

Agreement Phase

- 4.17. Preparation and approval of the sales advice form as per TRCA Delegations of Authority - once the sales advice form is approved by the delegated authority, and provided there are no subsequent changes, the remaining documentation that follows can be signed by TRCA signing officer under TRCA Policies and Procedures.
- 4.18. Obtain approval from CFOO if modifying the standard Profit Participation Clause or if applying it to a Market Value transaction.
- 4.19. Execution of the Agreement of Purchase and Sale.

Approval Phase

- 4.20. P&RM draft report submission and recommendations to Agenda Review Team for ratification and inclusion on the Executive Committee agenda.
- 4.21. P&RM present the report to the Executive Committee for adoption and recommendation.
- 4.22. P&RM coordinates the report for ratification of the Board of Directors.

Close-out Phase

- 4.23. TRCA legal counsel completes transaction, including:
 - (a) After all conditions are satisfied or waived and other pre-closing requirements are met, TRCA legal prepares closing documents and obtains sign-off from purchaser and sales lead; TRCA legal then receives payment from purchaser (certified cheque) and registers the transfer – payment is forwarded to finance for processing;
 - (b) Notification of completed transaction sent from TRCA legal to all department heads involved in due diligence and to TRCA Asset Manager;
 - (c) The project is closed out in the Project Management Information System and records are also organized as per the TRCA retention schedule.

SOP TITLE: DISPOSITION OF REAL PROPERTY

SOP NO.: CS-5.14-S1

5. RESPONSIBILITY

- 5.01. The **Chief Financial and Operating Officer** is responsible for:
- (a) Approval of Dispositions based on the recommendation of the Tangible Capital Management committee, to be brought forward to the Board of Directors.
- 5.02. The **Associate Director, Property and Risk Management** is responsible for:
- (a) Ensuring compliance to this procedure;
 - (b) Approving Dispositions to TAM;
 - (c) Presenting Dispositions to boards and committees.
- 5.03. **Agent or Senior Property Agent** is responsible for:
- (a) Coordinating property Dispositions on behalf of TRCA in conformance with TRCA policies and these procedures;
 - (b) Ensuring communication is documented for the record;
 - (c) Presenting Dispositions to TAM;
 - (d) Drafting of required reports; and
 - (e) Other duties as assigned.
- 5.04. The **Tangible Capital Management** (TAM) committee is responsible for the analysis and recommendation of deeming property as surplus for pending Disposition.

6. ADMINISTRATION

Review Schedule:	5 Years	Next Review Date:	January 29, 2026
Supersedes:	NEW		
Related Documents:	CS-5.14-P Sale and Disposition of Real Property		
Revision History			
Date	Description		
January 29, 2021	New SOP is approved.		