



Policy No.: 2017- 02

Policy Title: Real Property Disposition Policy for Former Faro Real Estate Properties

Policy Group: Council

1.0 PURPOSE(S):

- 1.1 To set out the Town's policy for the orderly and timely disposition of properties acquired by the Town from Faro Real Estate Limited through the tax lien process in 2016.
- 1.2 To encourage the renovation or redevelopment of these residential properties.

2.0 DEFINITIONS

2.1 In this Policy:

"Administration Fee" means a fee set at the discretion of Council that is payable by a person when filing an application to purchase a property. This Fee is intended to be a security deposit, all or a portion of which fee may be refundable if a sale does not proceed. This Fee may be applied as a deposit towards the purchase of a property for successful applicants.

"Applicant" means the person applying to purchase the property through a process outlined in this policy.

"Application Fee" means a nominal, non-refundable fee set at the discretion of Council. This fee is payable by a person when filing an application to purchase a property.

"Appraisal" means a method of determining Market Value as of a specified date by a qualified Appraiser as designated by the Appraisal Institute of Canada or similar qualifying body.

"Assessed Value" means the value of the land and the improvements of a property as listed on the most recent assessment roll.

"Person" means, individually, a purchaser who is at least 19 years of age, or severally, the joint purchasers of a property, or a body corporate.

"Property" means the land, including improvements if any thereon, as listed on the assessment roll, which are offered for sale.

"Purchaser" means the successful applicant to whom the property is offered.

"Upset Price" means the minimum price the Town will accept for a property.

3.0 OPTIONS FOR THE DISPOSITION OF PROPERTIES

The Town has several options on how to dispose of property at the discretion of Council.

3.1 Lottery Process

- 3.1.1 Properties placed in the Lottery will be offered for sale at the same set price and sale conditions.
- 3.1.2 In advance of the Lottery, the Town will establish the properties to be offered, set the sale price for each property, specify any requirements to be met by applicants, draw date, and the administration fee.
- 3.1.3 Only one application per person will be accepted and must be accompanied by an application fee and an administration fee.
- 3.1.4 Applications to the lottery will be accepted at the Town Office up until 4:00 pm the day before the draw.
- 3.1.5 If more than one property is offered for sale, the first applicant drawn will have first choice of the properties available, the second drawn will have a choice of the remaining properties, and so on until all properties have been awarded.
- 3.1.6 Successful applicants who are offered a property and decline to purchase the offered property will not get the administration fee back.
- 3.1.7 For successful applicants who accept the property being offered, the administration fee will be applied as a deposit towards the purchase price of the property.
- 3.1.8 For unsuccessful applicants, the administration fee will be refunded.
- 3.1.9 Any properties remaining after the lottery process will be available for purchase over the counter until sold or withdrawn by the Town.

3.2 Bid Process

- 3.2.1 A Request for Bids will be issued and properties will be sold to the highest bidder as of the closing time, provided that bid meets or exceeds the upset price.
- 3.2.2 In the request for bids, Council will establish the properties to be offered, set the upset prices, closing time, and any specific requirements to be met by applicants.
- 3.2.3 Each bid must be accompanied by a deposit in the form of cash, money order, bank draft, or e-transfer equalling a minimum of 10% of the bid amount. Any other details of this requirement will be set in the Request for Bids.
- 3.2.4 After the highest bidder has been identified, the Town and the successful bidder will enter into a sale agreement. This agreement will set out the closing date for the sale, at which time full payment for the property will be required or the title will not transfer.
- 3.2.5 A purchaser identified in a sale agreement will have the option to return the property prior to closing and have the 10% deposit refunded, less a \$500 administrative charge retained from the deposit amount.
- 3.2.6 A purchaser may not re-apply for the same property within 30 days of the property being returned to the Town.
- 3.2.7 The Town may agree to a time extension of a sale agreement subject to an increase to the administrative charge, equalling 50% of the deposit amount, which will be retained by the Town if the property is returned at any time during the extended period.
- 3.2.8 Bidders can submit bids on more than one property.
- 3.2.9 In the event of a tie, the first bid received will be successful.
- 3.2.10 Any properties remaining after the bid process will be available over the counter.

3.3 Over the Counter

- 3.3.1 Unless otherwise established through a lottery or bid process, Council will establish the properties to be offered for sale over the counter, set the sale price for each property, specify any requirements to be met by applicants, and the first day the properties will be available for sale.
- 3.3.2 If, by the first day, two or more applicants have expressed an interest in the same property, the first expression of interest accompanied by a minimum 10% deposit will be successful.
- 3.3.3 At the direction of Council, the over the counter sale price of a property may be reduced if the property remains unsold after 30 days.
- 3.3.4 Properties will remain available over the counter until sold or withdrawn by the Town.
- 3.3.5 A property may be withdrawn from over the counter sale and then be made available through a lottery, bid, or proposal process, at the direction of Council.

3.4 Proposal

- 3.4.1 This process is similar to the bid process except that prospective purchasers will be required to submit a proposal outlining the planned development for a property or group of properties.
- 3.4.2 A Request for Proposals would be issued outlining the Town's specific development goals, evaluation criteria and upset prices for the properties put up for sale.
- 3.4.3 Proposals may be submitted for more than one property.
- 3.4.4 The proposals will be reviewed and the property may be awarded to the proposal that best satisfies the established development criteria.
- 3.4.5 The Town may accept or reject any or all proposals.
- 3.4.6 The Town and the applicant of an accepted proposal shall enter into a sale agreement.

4.0 GENERAL

- 4.1 The sale process selected for an individual property or group of properties will be as directed by Council resolution.
- 4.2 Properties for sale will be advertised in a territorially distributed newspaper for two successive weeks, posted on public bulletin boards, the Town's social media (Facebook, Twitter and website), and by mail-out or newsletter.
- 4.3 The Town will provide an information package for each property offered for sale. The package will include, but not be limited to:
 - 4.3.1 the sale price;
 - 4.3.2 the administration and application fees payable, if applicable;
 - 4.3.3 a description of the property;
 - 4.3.4 information on incentives or grants offered, if any;
 - 4.3.5 conditions of sale or incentives, including but not limited to, the deadline for the renovations or development to be commenced by the purchaser; and,
 - 4.3.6 if available, a home inspection report and hazardous materials report; or,
 - 4.3.7 if such reports are not available, a general disclaimer on typical building conditions, hazardous materials likely to be present, and guidance on safety, environmental and disposal requirements.
- 4.4 Unless otherwise directed by Council, properties not sold through the Lottery or Bid process will subsequently be offered for sale over the counter.
- 4.5 Council will set a sale price or upset price that allows interested parties a fair opportunity to purchase the property.

- 4.6 Unless otherwise resolved by Council, the upset price for the property shall be set at the assessed value of the land as specified in the assessment roll.
- 4.7 Purchasers will be responsible for obtaining any necessary development, building, or other permits, and to ensure that the proposed development complies with the zoning bylaw and building codes.
- 4.8 Persons are disqualified from purchasing a property if they or their spouse;
 - 4.8.1 have or had a balance owing to the Town that was more than 90 days past due in the previous two years;
 - 4.8.2 own a property that is subject to a tax lien; or,
 - 4.8.3 are subject to a bylaw enforcement order.

5.0 SALE AGREEMENT & SCHEDULE

- 5.1 Once a property sale is awarded, the purchaser will enter into a sale agreement with the Town.
- 5.2 The sale agreement can specify timelines for development and can include an encumbrance for the Town to re-acquire the property at the original purchase price less fees and costs if the purchaser does not comply with the terms of the agreement.
 - 5.2.1 A sample sale agreement is attached hereto as Exhibit A, without prejudice. Council may direct staff to amend or substitute such agreement or terms of agreement when making properties available for sale.
 - 5.2.2 The sale agreement may specify conditional grants offered by the Town to the purchaser as incentive to develop the property within set time limits. Grants may be based on rebates of a portion of the purchase price or property taxes paid by the purchaser to the Town.
- 5.3 Additional terms not covered by this Policy may be added as directed by Council.
- 5.4 Council will approve of sale agreements by resolution or bylaw, and sale agreements must be signed by the Mayor and the CAO.
 - 5.4.1 Council may limit the quantity of sale agreements to the same individual person or a related party.
- 5.5 A Development Agreement or other assurances may also be required to set out further conditions such as servicing standards, residential densities and timelines.

6.0 PAYMENT

- 6.1 Payment for the properties shall occur according to timelines set out in the sales agreement.
- 6.2 Unless otherwise specified in the sale agreement, title to the properties shall be transferred to the purchaser once full payment, plus GST if applicable, has been received and all other conditions of sale are met.

POLICY TITLE: Real Property Disposition Policy for Former Faro Real Estate Properties

POLICY #: 2017-__

ADOPTED BY COUNCIL ON: _____

RESOLUTION #: _____

Originals Signed by

John Bowers, Mayor

Ian Dunlop, CAO

EXHIBIT "A"
SAMPLE SALE AGREEMENT

AGREEMENT OF PURCHASE AND SALE dated the ___ day of _____, 20__.

BETWEEN:

TOWN OF FARO, a municipality duly incorporated under the laws of the Yukon Territory.

(the "Vendor")

AND

NAME(S), of the _____ of _____ in _____ (as joint tenants or tenants-in-common, if applicable).

(the "Purchaser")

WHEREAS:

A. The Vendor is the owner of land legally described as:

Lot XXX
Plan XXX
Faro, Yukon Territory

(the "Land");

B. The Vendor has agreed to sell, and the Purchaser has agreed to purchase the Land on the following terms and conditions (the "Agreement").

IN CONSIDERATION OF the premises, and the covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. SALE AND PURCHASE

1.1 The Vendor hereby agrees to sell and the Purchaser hereby agrees to purchase the Property on an "as is, where is basis" and on the terms and conditions herein contained.

2. TERM

2.1 This Agreement comes into effect at the date of signing (the “Effective Date”).

2.2 The sale shall be completed on _____ or at such other date as may be agreed to in writing by the Vendor and the Purchaser (the “Closing Date”).

3. PURCHASE PRICE

3.1 The purchase price shall be \$XXXXXX plus GST, if applicable (the “Purchase Price”).

4. PAYMENT OF PURCHASE PRICE

4.1 The Purchase Price shall be paid as follows

(a) The Vendor acknowledges the receipt sum of ten percent (10%) of the Purchase Price, being a deposit (the “Deposit”) towards the Purchase Price. The Deposit to be applied in part satisfaction of the Purchase Price. The deposit shall be non-refundable if the transaction does not close on account of the fault of the Purchaser.

(b) The balance of the Purchase Price, as adjusted as herein provided, shall be paid by on the Closing Date by cash, certified cheque, bank draft or electronic transfer.

5. DEMOLITION REQUIREMENT (cross out if not applicable)

5.1 The Purchaser is required to improve the Land by demolishing all buildings and structures on the Land in accordance with the terms of the Agreement within two (2) years of the Closing Date (the “Building Requirement”).

5.2 The removal of any buildings or structures must be in accordance with the Maintenance bylaw and all other municipal, territorial and federal legislation, including without limiting the generality of the foregoing, laws governing the handling of hazardous building materials. All debris must be removed from the Land.

5.3 The Purchaser shall level and clear the Land in accordance with the Town of Faro Zoning Bylaw (the “Zoning Bylaw”) and any other legislation on or before the Closing Date.

5.4 The Vendor is entitled to make inquiries, require the Purchaser to produce evidence, and have access to the Land, as may be reasonably necessary in order to verify that the terms set out in this Agreement are fulfilled.

6. BUILDING REQUIREMENT (cross out if not applicable)

6.1 The Purchaser is required to improve the Land by commencing renovations in the minimum amount of \$_____ on all buildings and structures on the Land in accordance with the terms of the Agreement on within three (3) years of the Closing Date (the “Building Requirement”).

6.2 The renovation or repair of any buildings or structures shall be done in accordance with the Town of Faro’s Official Community Plan, the Zoning Bylaw and all other municipal, territorial and federal legislation, including, without limiting the generality of the foregoing, laws governing the handling of hazardous building materials.

6.3 The removal of any structures must be in accordance with the Maintenance Bylaw and all other municipal, territorial and federal legislation. All debris must be removed from the Land.

6.4 The Purchaser shall obtain development, building, electrical and any other permits necessary to complete the renovations, in accordance with the Zoning Bylaw and all other municipal, territorial and federal legislation prior to commencing the Building Requirement.

6.5 The Vendor is entitled to make inquiries, require the Purchaser to produce evidence, and have access to the Land, as may be reasonably necessary in order to verify that the terms set out in this Agreement are fulfilled.

7. TITLE TRANSFER

7.1 In the event that Building Requirement is not completed in accordance with this Agreement, the Land shall be transferred to the Vendor at no cost to the Vendor. Any money paid by the Purchaser to the Vendor pursuant to this

Agreement shall be forfeited to the Vendor and kept by the Vendor as liquidated damages and not as a penalty. Any improvements placed upon the Land shall become the property of the Vendor.

- 7.2 If the Land is transferred to the Vendor pursuant to section 7.1 herein, the Purchaser shall forfeit or pay to the Vendor any property taxes or local improvement charges due to any taxing authority for the period during which this Agreement was in effect.
- 7.3 The Purchaser shall grant to the Vendor a registrable first priority encumbrance or caveat charging the Land or noting on title the Vendor's right to have title to the Land transferred to the Vendor in the event that the Building Requirement is not completed within the time specified.
- 7.4 The Purchaser shall pay all fees in connection with the registration of the transfer, and any encumbrance registered in connection therewith.
- 7.5 The issuance of title does not relieve the Purchaser of the Purchaser's obligations to comply with this Agreement.
- 7.6 Once the Vendor is satisfied that the Building Requirement has been satisfied, the Vendor shall remove any encumbrance or caveat that has been registered on title pursuant to this Agreement.

8. BUILDING GRANT

- 8.1 A building rebate of up to ___ percent of the Purchase Price is available to individuals who fulfil or partially fulfil the Building Requirement in accordance with the terms of the Agreement (to be negotiated prior to signing).

9. ASSIGNMENT

- 9.1 This Agreement is not assignable by the Purchaser.

10. NO ENCUMBRANCES

- 10.1 The Purchaser shall keep the Land free and clear of any and all liens, charges, judgements, claims and encumbrances whatsoever that have not been specifically consented to in writing by the Vendor, until the Building

Requirement has been met.

11. POSSESSION

11.1 The Purchaser is to have vacant possession of the Property at 2:00 p.m. on the Effective Date.

12. ADJUSTMENTS

12.1 All adjustments with respect to rents, taxes, utilities, fuel, licenses, insurance and all other items normally adjusted between a vendor and a purchaser on the sale of land in the Yukon shall be made with respect to the Property as of the the Effective Date (the "Adjustment Date").

12.2 From the Adjustment Date, the Purchaser shall pay in full all taxes, local improvement dates and assessments, and all public utility charges respecting the Land.

13. RISK, INDEMNITY AND INSURANCE

13.1 The Land and any improvements thereon will be at the risk of the Purchaser from the Possession Date. The Purchaser shall indemnify the Vendor against any claim for damages of any kind and/or injury (including death) in respect to the Purchaser's possession of the Land from the Possession Date. The Purchaser shall, if required by the Vendor, adequately insure against the risks aforesaid with the Vendor as an additional insured.

14. GOVERNING LAW

14.1 This offer and the Agreement which will result from its acceptance shall be governed by and construed in accordance with the laws of Yukon.

15. TIME OF THE ESSENCE

15.1 Time shall be of the essence of this Agreement.

16. COUNTERPART AND FAX

16.1 This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which shall together

constitute one and the same document. Delivery of a faxed or electronic copy of the Agreement or any amendment thereto shall be deemed to constitute sufficient delivery thereof.

17. NUMBER AND GENDER

17.1 Wherever the singular or the masculine is used in this Agreement, the same shall be construed as meaning the plural or the feminine or the body corporate or politic where the context or the parties so require.

18. FURTHER ASSURANCES

18.1 The parties hereto shall execute such further documents and do such other things as may be necessary or desirable to give effect to the intent of this Agreement.

19. ENTIRE AGREEMENT

19.1 The provisions herein constitute the entire agreement between the parties and there are no representations or warranties, express or implied, statutory or otherwise and no agreements collateral hereto other than as expressly set forth or referred to herein.

20. AMENDMENTS.

20.1 No modification, variation or amendment of any provision of this Agreement shall be made except by a written agreement and no waiver of any provision hereof shall be effective unless in writing.

21. NOTICE:

21.1 Any notice, document or communication required or permitted to be given hereunder to the Purchaser shall be in writing and shall be deemed to have been duly given if delivered by hand to:

Town of Faro
(Address)

Purchaser
(Address)

[signature page to follow]

