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# HALDIMAND COUNTY

Report LSS-21-2019 Transfer of County Lands to HML Holdings Ltd.  
For Consideration by Council in Committee on August 27, 2019

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## OBJECTIVE:

To obtain authorization to transfer part of the westerly 1 foot of Lot 21, Plan 91 and part of the easterly 1 foot of Lot 17, Plan 91, adjacent to lands owned by HML Holdings Ltd. in Cayuga.

## RECOMMENDATIONS:

1. THAT Report LSS-21-2019 Transfer of County Lands to HML Holdings Ltd. be received;
2. AND THAT the lands described as Parts of PIN # 38231-0139 (R), being part of the westerly 1 foot of Lot 21, Plan 91 and being part of the easterly 1 foot of Lot 17, Plan 91, Haldimand County, be declared surplus to the needs of the municipality and transferred to HML Holdings Ltd. for \$2.00 plus all associated conveyance costs, subject to an easement for municipal purposes;
3. AND THAT public notice of the proposed conveyance be published in the local newspaper;
4. AND THAT a by-law be presented to authorize the transfer;
5. AND THAT the Mayor and Clerk be authorized to execute all necessary documents.

**Prepared by:** Sandra Marsh, Property Coordinator

**Reviewed by:** Dana McLean, Supervisor, Risk Management & Legal Services

**Respectfully submitted:** Cathy Case, General Manager of Corporate & Social Services

**Approved:** Craig Manley, MCIP, RPP, Chief Administrative Officer

## EXECUTIVE SUMMARY:

Information has been provided to the County from the solicitor for HML Holdings Ltd. regarding conflicts in ownership in the subject lands involving the former Regional Municipality of Haldimand-Norfolk and the former Town of Haldimand. In order to correct these conflicts in ownership, staff are recommending that the subject lands be declared surplus and transferred to HML Holdings Ltd. for \$2.00 plus costs, subject to an easement in favour of Haldimand County.

## BACKGROUND:

The County has received a request from the solicitor for HML Holdings Ltd. (commonly known as Haldimand Motors), regarding ownership of two one-foot parcels of land (approximately 1' X 132' each) which lie in the middle of lands occupied and owned by HML Holdings Ltd. The request to the County is for the transfer of title and release of all interest the County may have in these two small parcels of land to HML Holdings Ltd. HML Holdings Ltd. has used these lands for many years and, in fact, believed they already owned the lands. HML's solicitor provided a detailed history of events and included copies of all correspondence related to the subject parcels of land to assist in staff's investigation. Attachment #1 is a map of the subject properties.

When the province converted lands from the Registry System to the Land Titles System, the subject lands were left in the Registry System due to a perceived conflict in ownership. The Registry Office has advised that the transfers from the County, or one of its predecessors, of these one foot parcels of land were not acknowledged due to the fact that the County's name had changed and there were no recitals included in the transfers in this regard. It appears as though the intent was not for the County to retain these small parcels, however, when the County sold these lands and other surrounding lands, the deeds failed to include recitals about the municipality's name change resulting from former municipal restructuring in the 70's, thereby creating a conflict in ownership.

## **ANALYSIS:**

In reviewing the information provided by HML's solicitor, staff have concluded that a portion of the westerly 1 foot of Lot 21, Plan 91 and a portion of the easterly 1 foot of Lot 17, Plan 91 (identified in yellow on Attachment #1) may have a conflict in ownership due to historical conveyancing errors and/or omissions. These 1 foot parcels were originally reserved by The Regional Municipality of Haldimand-Norfolk by instrument HC146107, registered in 1983, presumably for servicing of a proposed subdivision at the time, being Plan 91, however, this plan was not developed into a subdivision. These parcels were included in subsequent transfers of these and other lands without containing recitals as to the various name changes from County of Haldimand, to Region of Haldimand-Norfolk and its lower tier municipalities, etc. A recital is an introductory statement to a legal contract or deed which outlines facts, in this case facts that preceded the agreement or transfer. A recital assists with interpreting the meaning of the contract or deed, in this case, providing the legislative background on the name change from the previous County of Haldimand and its townships to the former Regional Municipality and its lower tier municipalities, to show that ownership rights did not change, although the names did.

Through Tax Sale proceedings in 1988, Lot 17 was transferred by The Corporation of the Town of Haldimand to Waydell and Associates by Deed HC174926 which included the 1 foot parcel in question. All of Lot 17 was later sold by Waydell and Associates to John and Arda Edelman who then sold the lands to the current owner HML Holdings Ltd.

Later, in 2000, Lot 21 was transferred by The Corporation of the Town of Haldimand to John Paul Edelman (who is also the principal owner of HML Holdings Ltd.) by Deed HC251022 which included the other 1 foot parcel in question. All of Lot 21 was sold by Edelman to the current owner HML Holdings Ltd.

It would appear that the former Town intended to convey these 1 foot parcels when it initially conducted each individual land transaction, but both times the Registry Office did not acknowledge these transfers because the municipality's name had changed and again, no recitals had been included in the transfers. This resulted in the 1 foot parcels technically remaining in municipal ownership.

In order to correct this title issue, the County needs to transfer/release its interest in the subject parcels of land. Due to the fact that HML Holdings Ltd. has been occupying these 1 foot parcels for a period of time that would suggest they could have a valid possessory title claim, it is recommended that the correction in transferring these lands, be done by vesting the two parcels in HML Holdings Ltd. This will result in the entirety of Lot 21 and Lot 17 being registered to HML Holdings Ltd. and it will extinguish the outstanding conflict of ownership issues.

After consultation with all County Divisions, there appears to be no reason to retain these lands. Therefore, staff recommend that both parcels of land be declared surplus to the County's needs, with public notice of the proposed conveyance published in the local newspaper and a by-law passed to authorize the transfer.

Through review of the mapping of these parcels of land, it was determined that the County may have some infrastructure in this area (water line), however a survey of the lands would be required to determine its exact location. Since the cost of performing this survey could be quite high, it was discussed that another option would be to reserve an easement in favour of the County over Part of Lot 17. This would allow the County the right over the subject parcels without having to determine the exact location of its infrastructure.

Since HML Holdings Ltd. has confirmed it would be agreeable to reserving an easement over the portion of Lot 17 being transferred, this would eliminate the need for a costly survey. Staff are recommending that both parcels of land be transferred to HML Holdings Ltd., while reserving an easement in favour of the County for existing infrastructure, for a nominal fee of \$2.00, plus all associated costs of conveyance. Since the subject lands were included in transfers when the County or one of its predecessors sold the lands for value without containing the required name change recitals, which created a conflict in ownership, a nominal fee of \$2.00 to effect the transfer is appropriate.

### **FINANCIAL/LEGAL IMPLICATIONS:**

The proposed property transaction would be at no cost to the County as HML's solicitor will prepare the necessary paperwork to facilitate the transfer and HML Holdings Ltd. will be responsible for all associated costs. The nominal fee of \$2.00 will be contributed to the Land Sales Reserve in accordance with County Policy.

### **STAKEHOLDER IMPACTS:**

In order to confirm that the subject parcels were not required to be retained, staff sought comments from all County divisions. All comments supported the disposal of these properties. The Water & Wastewater Engineering & Compliance Division advised that an easement over one of the parcels is appropriate to address the water infrastructure which is suspected to exist within that property.

### **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

### **ATTACHMENTS:**

1. Map of the Subject Lands