

**Report to
Rapport au:**

**Finance and Economic Development Committee
Comité des finances et du développement économique**

**and Council
et au Conseil**

**May 6, 2014
6 mai 2014**

**Submitted by
Soumis par:**

**Nancy Schepers, Deputy City Manager/Directrice municipale adjointe, Planning
and Infrastructure / Urbanisme et Infrastructure**

**Contact Person
Personne ressource:**

**Gordon MacNair, Director, Real Estate Partnerships and Development Office /
Directeur, Bureau de partenaires immobiliers et du développement
613-580-2424 extension 21217, *Gordon.MacNair@ottawa.ca***

Ward: BAY (7) / BAIE (7)

File Number: ACS2014-PAI-REP-0013

SUBJECT: OFFER TO PURCHASE PARKWAY HOUSE, 2475 REGINA STREET

OBJET: OFFRE D'ACHAT DE LA MAISON PARKWAY, 2475, RUE REGINA

REPORT RECOMMENDATIONS

That the Finance and Economic Development Committee recommend Council decline the Right of First Offer to purchase the property known as 2475 Regina Street, described as being part of lot 23, Concession 1 OF, as in NS153639, Nepean/Ottawa, and shown as Parcel 1 on Document "1" from Parkway House.

RECOMMANDATIONS DU RAPPORT

Que le Comité du développement économique et des finances recommande au Conseil de ne pas accepter le Droit de première offre pour l'achat de la propriété

située au 2475, rue Regina, décrite comme faisant partie du lot 23, concession 1 OF, numéro NS153639, Nepean/Ottawa, et indiquée parcelle 1 au document « 1 » provenant de la maison Parkway.

BACKGROUND

According to former City of Ottawa City Council minutes dated May 17, 1978, the City purchased a vacant parcel of land located at 2475 Regina Street (the “land”) from the Separate School Board in 1977 with the intention of selling or leasing it to Participation House Ottawa and District, now known as Parkway House Ottawa & District (“Parkway House”), for the purpose of them “operating housing, workshop, educational and recreational facilities for physically handicapped men and women in Ontario”.

As evidenced in the City Council minutes, since the sale of the land to Parkway House would result in them receiving more Provincial funding than if it was to lease property, the City Council agreed to transfer the land by way of sale subject to the City Solicitor inserting a suitable clause in the transfer of land to ensure that the City has the right of first refusal to purchase the land in the event that the lands are not required or discontinued to be used for the purpose now acquired.

As a result of the City Council recommendations, the resulting transfer agreement contained a restrictive covenant which provided that Parkway House was granted the land for its sole and only use so long as the within lands are used for the purpose of a non-profit corporation which has as its only objects the provision of housing, workshop, educational and recreational facilities for physically handicapped men and women in Ontario. The City’s right of first refusal to purchase the land was set out in a separate agreement which provided that Parkway House shall not dispose by sale or otherwise of the land unless they shall have first offered the City the opportunity of purchasing the same at fair market value.

The City sold the land to Parkway House for \$178,335 in 1978. The sale price represented the City’s cost to purchase the land from the Separate School Board plus an administration fee of 1%. The transfer included the restrictive covenant and the parties entered into the right of first offer agreement both as set out above.

Parkway House has now advised the City of its intention to sell the land to a third party developer. Pursuant to the right of first offer, the City received from Parkway House an offer on March 12, 2014 and the City was required to either accept to purchase the land or decline the offer within 30 days of receipt of the offer. Unless the parties agree otherwise, the purchase price is to be the fair market value as determined by two appraisals, conducted by qualified real estate appraisers acting for the respective party and if necessary, to seek arbitration governed by the *Arbitration Act, 1991*.

DISCUSSION

Parkway House has advised the City that they are experiencing a funding shortfall and they may only be able to continue to operate for another two or three years, unless they are able to generate a significant amount of money. They have also advised that their building is aging and in need of major rehabilitation or replacement. Of note, Parkway House receives operational funding from the Ministry of Health and Long Term Care and does not receive any City funding for their operations.

In order to continue to operate, Parkway House has entered into a conditional agreement of purchase and sale of the land to a local developer. According to Parkway House, the land would be sold to the developer for an undisclosed amount and the developer would provide them with new facilities as part of the redevelopment. The proceeds of sale would be invested and Parkway House plans to fund its operational shortfall from the interest generated on their investment. Parkway House and the Developer did not share the details of the plan with City staff, therefore staff is not in a position to determine the value of the agreement between the two parties and how it may relate to Parkway House's long term financial viability and operations on the site.

City staff had a preliminary meeting with Parkway House and the developer on March 27, 2014 to gain a better understanding of their situation and survival plan (which is described above). The parties agreed to extend the City's 30 day deadline to respond by May 16, 2014 in order to allow the City to consider the offer and obtain the necessary approvals should it wish to accept or decline.

The Ward Councillor along with staff met with Parkway House on April 25, 2014 to ask them to consider exploring options they may have with the City which could ensure that those in need of their services continue to receive housing and supports. In order to

conduct these exploratory discussions and possibly come to an agreement, the Ward Councillor requested an additional extension.

Parkway House advised the Ward Councillor that they did not have time to consult their legal counsel with regards to granting an extension to the City and therefore deferred to the City to proceed with the recommendation to Finance and Economic Development Committee (FEDCO) and Council on May 6, 2014 and May 14, 2014 respectively as per previous discussions.

In the event the City was inclined to accept the offer, without having come to an agreement on the terms and price with Parkway House, the acceptance requires the City to pay fair market value for the property, as determined by the parties within 60 days of the City's acceptance of the offer, and failing such agreement, by appraisers appointed by each party, and arbitration if necessary. As this process may result in a purchase price that may be greater than that permitted under the Delegation of Authority By-Law for the acquisition or disposal of an interest in property, this matter is being brought to Committee and Council.

The right of first offer agreement fails to provide sufficient certainty as to the purchase price of the property without first committing the City to purchasing the land.

As the City would be committing itself to an unknown purchase price which may be considerably higher than it would otherwise be prepared or willing to pay, it is recommended that the City decline the offer.

By declining the offer, Parkway House may dispose of the property to the private developer as contemplated in their proposal. Any proposed redevelopment of the property would be subject to all applicable planning and zoning approvals including: addressing the covenant on title; site plan agreements; zoning amendments; Committee of Adjustment applications; and other processes as required.

In the event Parkway House does not dispose of the property to the private developer as contemplated in their proposal, then the provision of the right of first offer shall once again apply in favour of the City.

If in the intervening time between Committee and Council, there should be any new developments to be considered, these will be tabled at that time.

RURAL IMPLICATIONS

There are no rural implications to this report.

CONSULTATION

The Real Estate Partnerships and Development Office circulated the option to purchase to all City Departments to determine whether there was a City requirement to purchase the subject property. In response the Ward Councillor and the Housing Services Branch identified an interest in the property should Parkway House entertain pursuing an agreement with the City to redevelop the site for affordable supportive housing.

Real Estate Partnerships and Development Office and the Community and Social Services Department, and Legal Services Branch had reviewed the implications of the First Right of Offer for the City.

COMMENTS BY THE WARD COUNCILLOR(S)

As Ward Councillor I believe there is the opportunity for further discussion regarding a possible partnership with the City and Parkway House. Unfortunately we have not had the time to conduct these exploratory discussions. Given the complexities in this file, I support the recommendations contained in this report that we cannot proceed not knowing what the exposure to the City may be. It has always been my intention that together with the current owner, we would have worked to explore the complex issues and found a solution that would have mutually benefitted Parkway House, the City and the surrounding community.

Between the date of Committee considering this recommendation and Council's consideration, should positive discussions develop between the City and Parkway House, I would be in support of referring this report back from Council to a future FEDCO meeting.

LEGAL IMPLICATIONS

For the reasons set out hereafter there are no legal impediments to implementing the recommendation in the report and declining to offer to purchase the property. The matter could not be dealt with by staff by way of delegated authority since, although there has not been an agreement reached between the City and Parkway House on the potential current market value of the property subject to the right of first offer to purchase, it is possible that an arbitrator could determine such value to be in excess of \$2M, under certain circumstances. Consequently, this monetary threshold exceeds the

delegated authority provided to staff under Subsection 63(4) (a) of Schedule “C”, as amended, of the City’s Delegation of Authority By-Law.

Further, the right of first offer to purchase provision which is applicable is not one which would be utilized in current agreements as it fails to provide sufficient clarity to the City on the potential range of values of the property, before obligating the City to commit to arbitration to determine the value in the event it exercised the right of first offer to purchase, with no ability for the City to later withdraw from the process. Should the report recommendation be approved by Council the City would not be fettering its discretion as a planning authority. As noted in the report, any proposed redevelopment of the property by Parkway House would be subject to all applicable planning and zoning approvals.

RISK MANAGEMENT IMPLICATIONS

There are no risk implications associated with the report recommendation.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the report recommendation.

ACCESSIBILITY IMPACTS

The outcome of Parkway House’s operations will impact 12 residents who live with disabilities and receive support at 2475 Regina Street.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications resulting from the recommendation in this report.

TECHNOLOGY IMPLICATIONS

There are no technological implications resulting from the recommendations in this report.

TERM OF COUNCIL PRIORITIES

Strategic Priority: Healthy and Caring Community

Help all residents enjoy a high quality of life and contribute to community well-being through healthy, safe, secure, accessible and inclusive places

HC3 - Improve social and affordable housing

Provide affordable, attractive and accessible supportive and permanent housing for residents in need, and improve the range and quality of housing for people of diverse abilities and incomes to live in a community through various life stages.

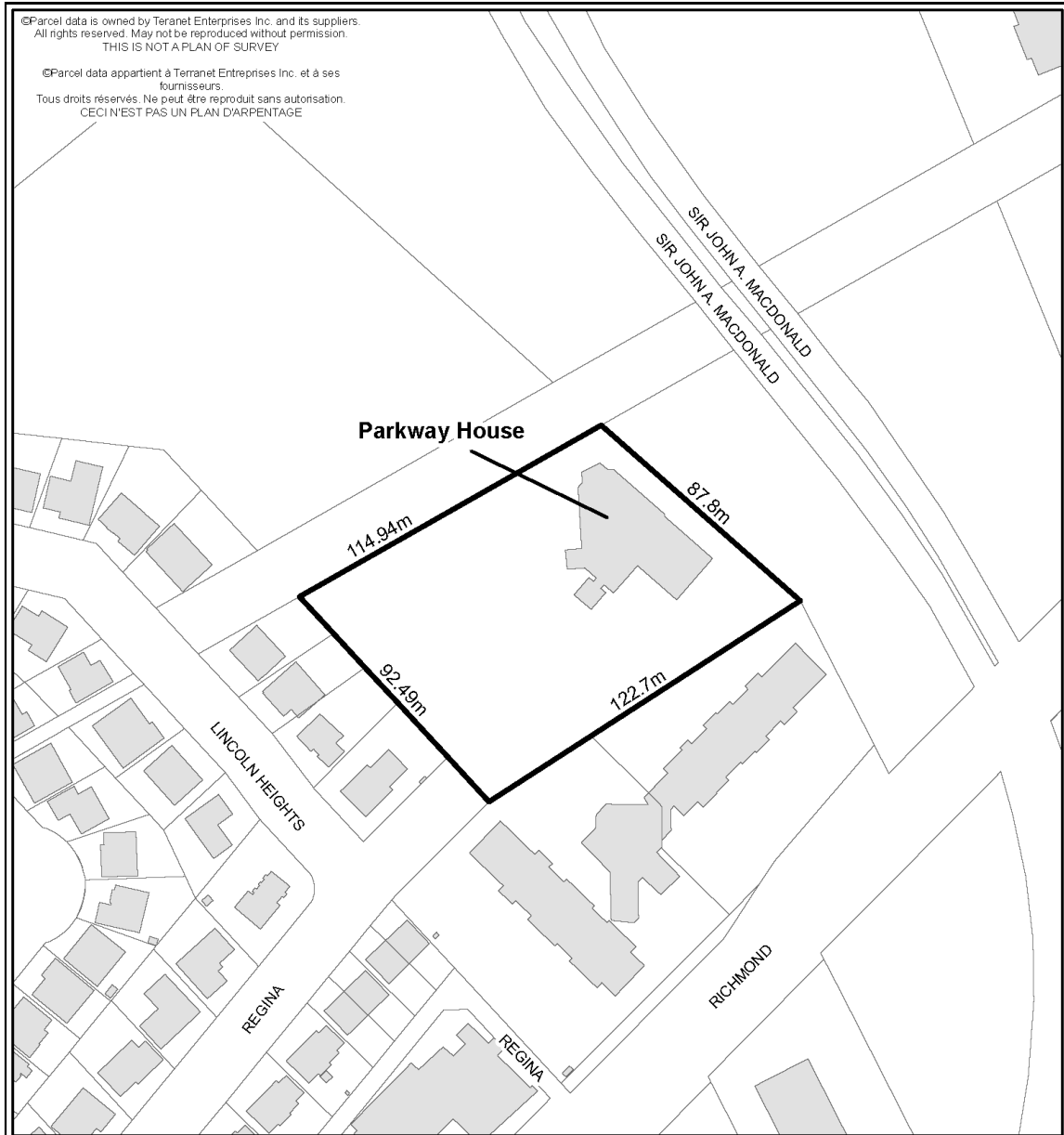
SUPPORTING DOCUMENTATION


Document 1 - Location Map of 2475 Regina Street

DISPOSITION

Legal Services Branch will notify Parkway House of the Council's decision.

Document 1 – Location Map – 2475 Regina Street






Produced by Planning and Infrastructure Portfolio / Produit par le Portefeuille de l'urbanisme et de l'infrastructure

14-0875-Y / 042820673

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2014 / 04 / 28

REVISION DATE DE RÉVISION

 **Location Map / Plan de révision**
2475, rue Regina Street

Échelle
N.T.S.
Mètres



Scale
N.T.S.
Metres