

COMMITTEE OF THE WHOLE JUNE 18, 2001

ELECTRONIC REGISTRATION

Recommendation

The Director of Legal Services recommends that Council enact the necessary By-law to authorize the Deputy City Manager and City Solicitor, and the Solicitors in the Legal Services Department to execute

1. by electronic means any real property document requiring registration that has been authorized by the Municipality, and
2. to authorize release of funds necessary for the payment of Land Transfer Tax and registration fees from an authorized Electronic Registration Bank Account, set up in accordance with the requirements of the Land Registration Reform Act ("LRRRA").

Purpose

The purpose of this report is to seek authority for the electronic execution of real property related documents and the release of funds from an Electronic Registration Bank Account, set up in accordance with the LRRRA, for the payment of Land Transfer Tax and Registration fees.

Background - Analysis and Options

The Land Registry Reform Act was amended in 1994 to allow for the electronic registration of all real property related documents. Currently, the Legal Department is responsible for registration of various documents in paper form, including subdivision, site plan, development, and development charge agreements, leases, licences and part lot control and road closure, dedication and name change by-laws, in addition to all necessary documents to facilitate real estate transactions (both sales and purchases). On May 23, 2001, electronic registration was introduced in York Region on an optional basis pursuant to Ontario Regulation 16/99. During the optional period, documents can be registered either electronically or in paper form. The expectation is that electronic registration will become mandatory by the fall of 2001, although a firm date has not yet been set.

The key features of the electronic registration system are as follows:

1. The electronic registration system is an all-electronic, paperless land registration system. Documents are created, submitted, and maintained in electronic form "on-line" through the use of licensed software. Electronic documents do not have to be produced or printed in paper to have legal effect. Registration occurs electronically which eliminates the need for personal attendance at the Land Registry Office.
2. The Land Registry Reform Act provides that electronic documents are not required to be in writing or to be signed, therefore there are no written signatures, rather, electronic documents rely on encrypted electronic signatures identifying the party submitting the document for registration. Documents are prepared and submitted by authorized users on behalf of a party.

3. The electronic document registration system allows for the use of law statements which replace the need for the registrant to provide evidence of the matter dealt with by the statement. Law statements may only be made by lawyers.
4. Payment of Land Transfer Tax, and Registration fees are debited electronically from an Electronic Registration Bank Account.
5. Security of the system is maintained through controlled access to the registration system, and the use of encrypted electronic signatures identifying the party authorizing the document for registration.

Upon electronic registration becoming mandatory, the traditional paper registration of real estate documents will no longer be permitted. The optional registration period was designed as a transition stage within which users of the traditional paper system could learn and develop new procedures to effect the transition to electronic registration, prior to the mandatory date taking effect. It should be noted that electronic registration was made optional in Hamilton, Halton, Peel and Dufferin, in 2000. Various problems have arisen during the optional period in Peel related to the mass registration of documents pertaining to new subdivisions and developments. The optional period is being utilized in Peel to work out the existing glitches in the system. It is expected that York Region will experience the same problems as faced in Peel, with the result that the processes to permit and authorize electronic registration should be in place well before the optional period ends, in order to work out any existing glitches and avoid potential problems.

The Legal Department is currently responsible for all real property title searches and opinions required by the Municipality, and is further responsible for the registration of all real property related documents being registered by or on behalf of the Municipality, including by-laws, agreements, transfers, easements etc. This function will be further mandated by the required use of law statements in selected documents.

Conclusion

It is now in order to pass the necessary By-law to authorize the Deputy City Manager and City Solicitor and the Solicitors in the Legal Services Department to execute by electronic means any real property document requiring registration that has been authorized by the Municipality, and to release all funds necessary for the payment of Land Transfer Tax and registration fees from an authorized Electronic Registration Bank Account, in accordance with the requirements of the LRRRA.

Attachments

None

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Respectfully submitted,

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