



**City of Kingston
Report to Council
Report Number 18-005**

To: Mayor and Members of Council
From: Denis Leger, Commissioner, Corporate & Emergency Services
Resource Staff: Susan Nicholson, Director of Legal Services and City Solicitor
Date of Meeting: December 5, 2017
Subject: Amendment to By-law Number 2010-179 – A By-law of the City of Kingston Respecting the Delegation of Authority for Various Administrative Matters to the Director of Legal Services and City Solicitor

Executive Summary:

The Council of The Corporation of the City of Kingston is directly accountable to its constituents for its legislative decision-making, policies, and administrative functions. Council's decisions are generally expressed through By-laws or resolutions, which are carried by a majority vote. In an effort to develop community engagement on local issues, maintain accountability and transparency, and allow for Council to create a consolidated approach to its decision-making process, Council has exercised its authority to delegate certain powers and duties to Committees and municipal staff. On September 7, 2010, Council approved By-law Number 2010-179 which delegates authority to the Director of Legal Services and City Solicitor for various administrative matters including legal proceedings before the courts and administrative tribunals involving the municipality, the retention and instruction of external legal counsel and the release one-foot reserves, restrictive covenants and various agreements in favour of the City when no longer required by the municipality.

In order to ensure efficiency in regular operations, staff is seeking approval to amend the by-law to delegate authority to the Director of Legal Services and City Solicitor to execute routine documents required for the completion of land transactions and routine documents required for the administration of lease agreements. By-law Number 2010-179 also delegates authority to the Director of Legal Services and City Solicitor, jointly with the President and Chief Executive Officer of Utilities Kingston, to approve the release of easements for waterworks, sewage works and gas works where the easements are no longer required. In order to create a consistent process for the release of easements, the proposed amending by-law would delegate authority

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to the Director of Legal Services and City Solicitor, jointly with the Director of Engineering, to approve the release of easements for storm water works.

Presently closing documents for land transactions or releasing easements from title are often not finalized until near the actual date for closing, leaving tight timelines to get the documents executed on behalf of the City and therefore all three readings and passing of the by-law are being requested.

Recommendation:

That Council approve amendments to the City's By-law Number 2010-179, "A By-law of the City of Kingston Respecting the Delegation of Authority for Various Administrative Matters to the Director of Legal Services and City Solicitor" to add the delegations in accordance with the draft by-law attached as Exhibit "A" to Report Number 18-005;

That this by-law be given all three readings and passed by Council at the same meeting.

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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

**Denis Leger, Commissioner,
Corporate & Emergency
Services**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Gerard Hunt, Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Lanie Hurdle, Commissioner, Community Services	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required
Mark VanBuren, Acting Commissioner of Transportation & Infrastructure Services	√

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Options/Discussion:

The Municipal Act, 2001, provides the Council of The Corporation of the City of Kingston (the "City") with the authority to delegate its powers to a person or body, subject to some noted restrictions. Over the years, City Council has delegated their authority, either by way of a resolution of Council or through a specific By-law, which allows and/or authorizes the execution of actions, specific agreements, the approval of invoices, and other administrative matters. The delegation of authority from City Council contributes to the efficient management of the City, while still adhering to the principles of accountability and transparency. Section 23.1 of the *Municipal Act, 2001* authorizes a municipality to delegate its powers and duties under that or any other Act to an individual who is an officer or employee of the municipality, subject to limitations set out in the *Municipal Act, 2001*.

On September 7, 2010, Council approved By-law Number 2010-179 to delegate authority to the Director of Legal Services and City Solicitor for various administrative matters summarized as: (1) the conduct of all litigation before courts and administrative tribunals involving the municipality; (2) the retention and instruction of external lawyers as may be required by the City; and (3) the release one-foot reserves, restrictive covenants and various agreements in favour of the City when no longer required by the municipality.

In order to ensure efficiency on regular and customary operations, staff is seeking approval to delegate authority to the Director of Legal Services and City Solicitor to execute routine documents required for the completion of land transactions and routine documents required for the administration of lease agreements.

Closing documents for land transactions are often not finalized until near the actual date for closing, leaving tight timelines to get the documents executed on behalf of the City. The proposed amending by-law, attached to this report as Exhibit "A", would delegate authority to the Director of Legal Services and City Solicitor to execute undertakings, certificates, statements, declarations, and such other customary documents required for the completion of any transaction involving the purchase, sale or exchange of any interest in land and waivers of conditions contained within agreements of purchase of sale, where the transaction has otherwise been authorized.

The proposed amending by-law would also delegate authority to the Director of Legal Services and City Solicitor, with the approval of the Director of Real Estate and Environmental Initiatives, to execute, and register as appropriate, routine documents arising from lease agreements, including: notices of lease and releases of notices of lease; acknowledgments of the status, term and conditions of any lease; consents to assignment, notices of termination and other such documents required or permitted under the terms of a lease, where the City is the landlord or the tenant.

By-law 2010-179 also delegates authority to the Director of Legal Services and City Solicitor, jointly with the President and Chief Executive Officer of Utilities Kingston, to approve the release of easements for waterworks, sewage works and gas works where the easements are no longer required. There is no similar authority for the release of easements for storm water works. The

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proposed amending by-law would delegate authority to the Director of Legal Services and City Solicitor, jointly with the Director of Engineering, to approve the release of easements for storm water works.

The delegation of authority is subject to Council's continuing authority to vary the terms or rescind the delegation of authority and requires the Director of Legal Services and City Solicitor, in exercising the delegated authority, to have regard to the consistent and equitable application of all Council policies and guidelines. Semi-annual reporting on the exercise of the delegation would be required.

The proposed delegation of authority contemplated in this report complies with the *Municipal Act, 2001* and the City's delegation policy, including a requirement to report on the exercise of delegated authority to the Administrative Policies Committee on a semi-annual basis.

Existing Policy/By-Law:

By-law Number 2010-179 – A By-law of the City of Kingston Respecting the Delegation of Authority for Various Administrative Matters to the Director of Legal Services and City Solicitor.

The proposed delegation of authority complies with the requirements of section 23.1 (1) of the *Municipal Act, 2001*.

Notice Provisions:

Not applicable

Accessibility Considerations:

Copies of this report are available in alternative formats upon request.

Financial Considerations:

Not applicable

Contacts:

Susan Nicholson, Director of Legal Services and City Solicitor, 613-546-4291, extension 1293

Other City of Kingston Staff Consulted:

Mary C. Rae, Senior Legal Counsel

John Bolognone, City Clerk

Mark Campbell, Director of Engineering (Acting)

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Exhibits Attached:

Exhibit "A" – By-Law 2017-XX, to Amend By-law Number 2010-179 – A By-law of the City of Kingston Respecting the Delegation of Authority for Various Administrative Matters to the Director of Legal Services and City Solicitor.

By-Law Number 2018-XX

A By-Law to Amend By-law Number 2010-179, "A By-law of the City of Kingston Respecting the Delegation of Authority for Various Administrative Matters to the Director of Legal Services and City Solicitor"

Passed: December 5, 2017

Whereas on September 7, 2010, Council passed By-law Number 2010-179 to delegate authority for various administrative matters to the Director of Legal Services and City Solicitor;

And Whereas Council deems it advisable to amend By-law Number 2010-179 to delegate authority for additional administrative matters as set out herein to the Director of Legal Services and City Solicitor;

Therefore be it resolved that the Council of the Corporation of the City of Kingston hereby enacts as follows:

1. By-law Number 2010-179 is hereby amended as follows:

1.1 By adding the following section as a new Section 23 and renumbering the subsequent Sections accordingly:

"EASEMENTS FOR STORM WATER WORKS

23. The Director of Legal Services and City Solicitor shall have the authority, jointly with the Director of Engineering, to approve the release of easements for storm water works where services provided by these works at the location of the easements have been discontinued, to the holder in fee simple of lands subject to the easements, for nominal consideration."

1.2 By adding the following section as a new Section 24 and renumbering the subsequent Sections accordingly:

"REAL ESTATE TRANSACTIONS

24. The Director of Legal Services and City Solicitor shall have the authority to execute undertakings, certificates, statements, declarations,

and such other documents required for the completion of any transaction involving the purchase, sale or exchange of any interest in land and waivers of conditions contained within agreements of purchase of sale, where the transaction has otherwise been authorized.”

- 1.3 By adding the following section as a new Section 25 and renumbering the subsequent Sections accordingly:

“LEASE DOCUMENTS

25. The Director of Legal Services and City Solicitor shall, with the approval of the Director of Real Estate and Environmental Initiatives, have the authority to execute and register as appropriate: notices of lease and releases of notices of lease; acknowledgments of the status, term and conditions of any lease; consents to assignment, notices of termination and other such documents required or permitted under the terms of a lease, where the City is the landlord or the tenant.”

2. This By-Law shall come into force and take effect on the date of its passing.

Given all Three Readings and Passed: December 5, 2017

John Bolognone
City Clerk

Bryan Paterson
Mayor