

Feasibility Assessment of Purchasing Public Right-of-Way

The following issues were considered in the feasibility assessment of selling the leased area to the adjacent land owners:

1. Cost: The cost was determined by determining the values of the property and of any City-owned trees. The land value was provided by Real Estate Services and considered recent property sales in the area. The value of the trees was provided by Parks, and specifically the Urban Forestry section.
2. Bylaw compliance: A review of compliance with existing City Bylaws was provided by Planning and Development. Specifically the following bylaw sections were reviewed:
 - a. City Bylaw 6537, The Subdivision Bylaw, Section 15(3), states:

“The side lines of all residential lots are required to be at right angles or radial to the street center line as nearly as possible.”

This provision in the bylaw follows Provincial regulations regarding the subdivision or property. Not creating irregular property lines is best practice, ensuring that property lines can be easily identified, provides for clear and concise application of Zone Bylaw regulations such as setback of buildings, and provides consistent and usable area for easements, placement of boulevard trees and other infrastructure such as mailboxes, sidewalks, etc.

- b. City Bylaw 8770, The Zoning Bylaw, Section 5.14, states:

“On a corner lot in any district, no hedge, planting, tree, fence or other structure not being a building shall be erected, placed, or maintained within the triangular area formed by the intersecting property lines and the straight line joining said property lines at points which are 6.0 metres distant from the point of intersection, measured along said property lines, to a height greater than 1.0 metres.”

This provision in the bylaw enables proper sight lines are available at intersections for vehicle drivers, pedestrians, and cyclists to be able to see each other.

- c. City Bylaw 8770, The Zoning Bylaw, Section 5.13(1), states:

“No wall, fence, or other structure not otherwise permitted shall be erected in a required front yard or on a site line adjacent to a required front yard, to a height of more than 1.0 metres above grade level.”

This provision in the bylaw also supports providing adequate sight distances, and also does not permit the construction of tall fences in front yards, thus maintaining the aesthetics of neighbourhoods.

3. Precedent setting: A review was conducted to determine if the sale of the leased area would create an unfavourable precedence. Two specifics were considered:
 - a. Would the sale dissuade future property owners, who either knowingly or unknowingly construct or purchase a property that includes a private fence on adjacent public right-of-way, from pointing to these six properties and requesting the same treatment?
 - b. Would the sale dissuade future property owners who have made applications for subdivision that include irregular shaped property lines that contravene current bylaws relevant to Planning, from pointing to these six properties and requesting the same treatment?
4. Restricts potential city-building in the future: A review was conducted to determine if the sale of the land would restrict the ability for future city-building in the future. It is not known what will be required in terms of use of the public right-of-way in the future. Potential needs could be transportation uses for all modes, and underground and overhead utilities. Numerous Cities have completed projects that require the purchase of, or the expropriation of, residential land which is a costly, contentious, and time-consuming process. The sale of public right-of-way is governed by the Cities Act, partially for this reason. The defined process for the sale of public right-of-way, ensures the jurisdiction wanting to dispose of the property properly notifies the adjacent property owners, the Province, and all of the various utility entities and companies. In the eventuality that the City would require to purchase back the property for whatever reason, will most likely be a costly, time-consuming, and potentially contentious process.

Table: Feasibility Assessment of Purchasing Public Right-of-Way

Address	Costs	Bylaw Compliance			Precedent Setting	Restricts the potential for city-building?	Assessment
		Bylaw 6537 Section 15(3) (Creates irregular property lines?)	Bylaw 8770 Section 5.14 (Enables sight distances?)	Bylaw 8770 Section 5.13(1) (Fence is taller than 1.0 metre?)			Sale feasible?
102 Braemar Crescent	Land: \$8,820 Trees: \$5,012 Total: \$13,832	Contravenes bylaw			All of these properties would set precedent in terms of selling public right-of-way for the purposes of private use, or for the purposes of contravening bylaws.	Yes.	No.
201 6 th Street E	Land: \$54,250 Trees: \$0 Total: \$54,250	Contravenes bylaw					
383 Pezer Cove	Land: \$6,750 Trees: \$0 Total: \$6,750	Contravenes bylaw					
401 113 th Street W	Land: \$2,660 Trees: \$0 Total: \$2,660	Contravenes bylaw					
427 10 th Street W	Land: \$129,065 Trees: \$108,024 Total: \$237,089						
1304 Avenue D North	Land: \$14,940 Trees: \$2,576 Total: \$17,516		Contravenes bylaw	Contravenes bylaw			