



CITY OF HAMILTON
Public Works Department
Environmental Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	June 2, 2014
SUBJECT/REPORT NO:	Delegated Authority for Records of Site Condition (PW14057) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Rob Conley (905) 546-2424, Extension 7298
SUBMITTED BY:	Gary Moore, P.Eng. Acting General Manager Public Works Department
SIGNATURE:	

RECOMMENDATION

- (a) That the General Manager of Public Works, or their designate, be authorized and directed to execute, on behalf of the City of Hamilton, all documents required to be submitted to the Ontario Ministry of the Environment, including but not limited to:
- (i) Risk Assessment Pre-submission Forms; and
 - (ii) Records of Site Condition;
- (b) That the General Manager of Public Works be authorized and directed to amend the City of Hamilton Manual for the Contaminated Sites Management Program to reflect Recommendation (a) of Report PW14057.

EXECUTIVE SUMMARY

The purpose of this report is to obtain authorization for the General Manager of the Public Works Department, or their designate, to execute Risk Assessment Pre-submission Forms and Records of Site Condition for City of Hamilton (City) owned contaminated properties that are a requirement of the Ontario Ministry of Environment (MOE). In addition, should that authorization be given, this report recommends that the City of Hamilton manual for the Contaminated Sites Management Program be amended to reflect this authorization.

Currently, City staff members obtain authorization for the completion and submission of the required documents to the MOE on a case-by-case basis and obtained through Committee and Council project specific reports. This has occasionally led to, unnecessary project delays. This delegated authority will allow for a more efficient process of submitting documentation to the MOE as the signing authority for those documents will be clearly defined.

At this time, it is expected that the authority contained in the recommendations to this report will apply most often to Records of Site Condition and Risk Assessment Pre-submission Forms which are described more fully in the Legal Implications section of this report. Each of these forms contains one signature line for the owner of the property. As such, it is important that there be a clear legal authority as to who may sign such documents on behalf of the City when they are required to be submitted to the MOE as part of the environmental management of City-owned lands.

Alternatives for Consideration - See Page 4

FINANCIAL - STAFFING - LEGAL IMPLICATIONS

Financial: There are no financial implications for this report.

Staffing: There are no staffing implications for this report.

Legal: A Risk Assessment (RA) Pre-submission form is required under Ontario Regulation 153/04 (Brownfields). When the City is managing a contaminated property, one remediation option is to remediate the property through a risk assessment process, as described more fully in the Historical Background section of this report. The Risk Assessment Pre-submission Form allows for early feedback from the Ontario Ministry of the Environment (MOE) on the proposed risk assessment approach.

A Record of Site Condition (RSC) sets out the environmental condition of a property at a particular point in time, based on its intended use and is required under Ontario Regulation 153/04 (Brownfields). An RSC must be filed to the Brownfields Environmental Site Registry when a property use changes from an industrial to a residential or parkland use. Alternatively a RSC may be filed voluntarily by a property owner. Before filing an RSC, the property must be properly assessed and shown to meet the soil, sediment and groundwater standards applicable to the intended use for which the RSC is being filed. Once an RSC is filed, it provides protection to the property owner from certain MOE orders relating to contamination that occurred prior to the RSC.

Both a Risk Assessment Pre-submission form and a RSC require that the property owner sign the document. There is only one authorization signature required on these documents. As such, it is important that there be a clear legal authority as to who may sign such documents on behalf of the City when they are required to be submitted to the MOE as part of the environmental management of City-owned lands.

HISTORICAL BACKGROUND

In its management of environmentally contaminated properties, City of Hamilton staff has been required to submit various documents to the MOE.

An owner of a property who intends on filing a RSC is required to conduct a Phase 1 and Phase 2 environmental site assessment. Once these assessments have been completed, the owner of the property has two options dependent on site use. Remediation of the property to bring all contamination levels within MOE standards is one option. If full site remediation is not feasible; the second option is for an owner to apply a process known as a Risk Assessment (RA). A RA is the process of developing a site specific remediation strategy that will protect the public from health risks as well as the natural environment by a proposed risk management plan. If the property owner is going to apply this solution, then the property owner must submit a Risk Assessment Pre-Submission Form. This form will describe which measures will be implemented to protect public and environmental health. The MOE will review the submission; provide comments and recommendations based on the submitted plan. The MOE once satisfied will approve the proposed measures as identified in the plan. After the measures have been implemented, the property owner may then apply for a RSC that identifies the site conditions, remedial actions undertaken and confirmation that property standards have been met under the RA. Once a RSC has been filed with the MOE, compliance with all terms and conditions of the RSC is mandatory. Failure to comply could result in a MOE order or possible charges under the Environmental Protection Act. Note that a RSC is filed if the property use changes and may not apply to every RA remediation site.

Currently City staff members obtain authorization for the completion and submission of the required documents to the MOE on a case-by-case basis and obtained through Committee and Council project specific reports. This has occasionally led to unnecessary project delays.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Contaminated Sites Management Program
Ontario Regulation 153/04 (Brownfields) - references the risk assessment process and a RSC

RELEVANT CONSULTATION

The City Manager's Office - Legal Service Division was consulted and are in agreement with the recommendations.

ANALYSIS AND RATIONAL FOR RECOMMENDATION

City of Hamilton contaminated properties are managed by staff in various City Departments.

As part of their management, it is necessary to sign documents on behalf of the City of Hamilton as the property owner and submit them to the MOE. Often these documents only contain one signature line for the property owner.

In order to expedite the completion of the City's remediation projects, it is recommended that authority be granted for the signing of such documents on behalf of the City of Hamilton to the General Manager of the Public Works Department, or their designate,

which has responsibility for the management of the Public Works related contaminated property.

It is also recommended that the City's manual for the Contaminated Sites Management Program be amended to reflect this authority.

ALTERNATIVES FOR CONSIDERATION

If the recommendations contained in this report are not approved, City staff will continue to deal with the signing of these documents on a case-by-case basis, obtained through Committee and Council project specific reports.

ALIGNMENT TO THE 2012 - 2015 STRATEGIC PLAN

Strategic Priority #3

Leadership & Governance

WE work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.

Strategic Objective

- 3.2 Build organizational capacity to ensure the City has a skilled workforce that is capable and enabled to deliver its business objectives.
- 3.4 Enhance opportunities for administrative and operational efficiencies.

APPENDICES AND SCHEDULES ATTACHED

None