



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Economic Development Division**

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| <b>TO:</b>                | Mayor and Members<br>General Issues Committee   |
| <b>COMMITTEE DATE:</b>    | September 17, 2014  |
| <b>SUBJECT/REPORT NO:</b> | License Agreement between City of Hamilton (Licensor) and 1224563 Ontario Inc. (DRD Used Cars, as Licensee) - 1572 Barton Street East, Hamilton (PED14215) (Ward 4) |
| <b>WARD(S) AFFECTED:</b>  | Ward 4  |
| <b>PREPARED BY:</b>       | John Hamilton (905) 546-2424 Ext. 7045  |
| <b>SUBMITTED BY:</b>      | Jason Thorne<br>General Manager<br>Planning and Economic Development Department   |
| <b>SIGNATURE:</b>         |   |

**RECOMMENDATION**

- (a) That City Council approve a new License Agreement with 1224563 Ontario Inc., subject to the following terms and conditions:
- (i) **Term:** Five years commencing July 1, 2014, and terminating on June 30, 2019;
  - (ii) **Property:** 1572 Barton Street East, an irregular shaped paved parking area approximately 7,050 square feet in size used to display used cars for sale and customer and employee parking;
  - (iii) **Rental Rate:** From the date of commencement, being July 1, 2014, the Licensee shall pay net rent of \$6,600 per year, plus H.S.T., \$550 monthly payable in advance;
  - (iv) **Operating Costs:** 1224563 Ontario Inc. is responsible for all operating costs, utilities, maintenance, insurance, snow removal and taxes;
  - (v) **Renewal Option:** Upon six months' notice before expiry of the five-year term (June 30, 2019), 1224563 Ontario Inc. will have the option to renew the License for one additional five-year term under the same terms and conditions, save for the rental rate, which will be negotiated at the prevailing market rate;

- (b) That all revenue earned be credited to Account No. 46110-514330;
- (c) That the Mayor and City Clerk be authorized and directed to execute the Licence and all other necessary associated documents to implement Recommendation (a), subsections (i) to (v) of Report PED14215, such Licence and documents to be in a form satisfactory to the City Solicitor, and with content acceptable to the General Manager of Finance and Corporate Services.

## **EXECUTIVE SUMMARY**

The information and recommendations contained in this Report primarily affect Ward 4.

Staff is seeking Council's approval to enter into a new agreement to license approximately 7,050 square feet of paved land in front of a used car sales and service outlet at 1574 Barton Street East known as DRD Used Cars.

Street access to DRD Used Cars is only attainable by crossing the subject parcel which adjoins this enterprise. The Agreement will be in the form of a Licence since the City needs to retain its land in support of underlying watermain infrastructure, and, Trans Canada PipeLines has a gas line running underground.

***Alternatives for Consideration – See Page 4***

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

- Financial: The negotiated net rent will be at market value for the surface rights. The Licensee is responsible for all maintenance, utilities, property taxes and snow removal costs. All revenue earned will be credited to Account No. 46110-514330.
- Staffing: There are no staffing implications arising from this recommendation, other than Real Estate and Legal Services staff working together to complete the Licence.
- Legal: Legal Services Division will be required to assist in the preparation of the necessary License Agreement.

## **HISTORICAL BACKGROUND**

The subject site is a paved, 7,050 square foot parcel which lies at the south-east corner of Barton Street East and Shelby Avenue and is zoned "H – Commercial". It is part of a long, extended utility right-of-way that services two large underground watermains and there is a long standing gas easement in favour of Trans Canada Pipelines crossing this property.

In June 1979, Council approved a one year lease to B & M Motors, and allowed the former adjacent property owner at 1574 Barton Street East, to use the City's parcel for a used car display area. This enterprise also operated an auto service garage at 1574 Barton Street East. The subject lands are situated between the auto service garage and Barton Street East.

Although the Lease was approved by Council, it was never executed and rent never paid, yet B & M Motors did occupy the property until March 31, 2014, when it sold to 1224563 Ontario Inc. Throughout its occupation of the lands and up to the time of sale, B & M Motors did pay municipal property taxes.

The new owner is aware it has no rights to the front parking area and has approached the City for a License Agreement to formalize / legalize its occupation of the City's lands. The lands will continue to be used as a used car sales lot, and this is a permissible use.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Title to the subject land will be retained by the City since the subject property supports two underground watermain. The City's land has not been circulated or posted for lease due to this unique circumstance wherein the property at 1574 Barton Street East has no frontage and is reliant upon securing this Licence to continue its commercial operation.

Accordingly, Council approval is being sought to proceed with this new License Agreement, with an option to renew after five years for a further five year term.

## **RELEVANT CONSULTATION**

- Legal Services Division, City Manager's Office; and,
- Hamilton Water Division, Public Works Department.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The proposed License Agreement will generate revenue for the City and support a business operating as a used car and auto service centre. In essence the License is a housekeeping matter for the new owner of the adjacent business because the previous owner had used the subject property since 1979, operating without a License.

Public Works retains the right to maintain the underlying watermain at any time throughout the License Agreement.

## **ALTERNATIVES FOR CONSIDERATION**

Should Council decide not to approve this License Agreement, the adjacent business, DRD Used Cars will be unable to operate as their property will essentially be landlocked to commercial traffic. Furthermore, the subject would become a liability and an unproductive asset for the City of Hamilton.

## **ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN**

### **Strategic Priority #1**

A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*

#### **Strategic Objective**

- 1.1 Continue to grow the non-residential tax base.
- 1.2 Continue to prioritize capital infrastructure projects to support managed growth and optimize community benefit.
- 1.6 Enhance overall sustainability (financial, economic, social and environmental).

### **Strategic Priority #2**

Valued & Sustainable Services

*WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.*

#### **Strategic Objective**

- 2.1 Implement processes to improve services, leverage technology and validate cost effectiveness and efficiencies across the Corporation.

### **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**

- 3.4 Enhance opportunities for administrative and operational efficiencies.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED14215 – Location Map

JH/sd