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Mayor Rebecca Alty and Members of Yellowknife City Council
PO Box 580
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February 29, 2024

Re: Draft Land Administration By-law to replace By-law No. 4596

Dear Mayor Alty and Members of Yellowknife City Council,

We thank the City of Yellowknife for the opportunity to provide feedback on the proposed changes to the Land Administration By-law. We have some concerns about specific changes, but we'll start with more general concerns about Council's priorities, as well as concerns about recent public engagement campaigns.

Our members are concerned about perceived changes in how Council conducts business. Two years ago, alongside other changes to the Zoning By-law, Council removed itself from the often-contentious decision-making process regarding the location of Special Care Facilities. In doing so, it also removed the public at large and the business community from having a voice in the process. Now, with this Land Administration By-law Review, Council seems to be removing itself and the public from equally challenging debates and decisions surrounding land purchase applications and disposals. While we applaud Council's eagerness to streamline these processes, we do not support the elimination of Council and public oversight.

The business community is also concerned that the legislation team at the City, which has limited capacity, is being burdened with projects that ought not be priorities. Prior to the lengthy Zoning By-law review in 2021 and 2022, we did not hear from the development community or from Council that it needed updating. We were told that the changes would have a significant impact on development in our community, but two years later we have not seen anything that would seem to justify the workload, nor the setting aside of other priorities. We have similar concerns about this current Land Administration By-law review. As far as we can tell, it does little more than cut Council and the public out of land acquisition and disposal decisions. Why is time and money being spent on this while the creation of a hotel levy by-law – for which territorial legislation was changed six long years ago – seems no closer to becoming a reality?

As far as 'public engagement' we are disappointed in recent efforts. The 2024 Draft Budget was released to the public in January without key information on capital projects. A summary of the missing

information was not provided until we called attention to the matter – and even then, it was very light on details compared to past years. That was troubling. Now, with this current by-law review, the City initially sent out only the old by-law and the new by-law without a description of the differences between the two. It would take a very specialized few to read through a draft of a by-law and provide meaningful input without any sort of context on changes made. Once again, we approached the City for a summary of changes. What was eventually provided, in our opinion, is missing some significant changes while over-simplifying others.

What follows are our specific comments on the Draft Land Administration By-law which we will also provide separately via the engagement channel.

Request for Land Within the Municipal Boundary:

Part 2 - Section 1-3)

"The Government of the Northwest Territories shall not dispose of Territorial or Commissioner's land within the City of Yellowknife Municipal boundaries to the public without the agreement of the City. Public requests to purchase Territorial or Commissioner's land will be transferred through the City of Yellowknife, not directly to a third party."

We are skeptical as to the utility of this paragraph given the GNWT is a senior level of government and is not likely bound by a City by-law. The inclusion of this clause seems to serve only to discourage third parties from approaching the GNWT about land development opportunities, which is a situation that likely only arises at times when the City is not bringing enough land to market to meet demand for new housing. We would prefer to see mechanisms that facilitate the development of land by third parties, even if this requires the fast-tracking of Area Development Plans by the City.

Part 2 - Section 1-4 b)

The old version (Clause 3(b)ii) stated that the Planning Administrator "shall refer the request [for land] to Council", but now it says merely that the PA "may" refer the request to Council.

We understand that completing land disposals via by-law is an annoyance in some cases, but we believe that eliminating Council oversight is a mistake. The by-law process allows the public to weigh in on the disposal. It forces consultation and ultimately leaves the final decision in the hands of elected officials. It also allows Council to choose the form of disposal. From a good governance standpoint, we do not support this change.

Part 2 - Section 1-4 c)

In the new draft by-law it states, "Land disposal must follow relevant policies and regulations." This is a new term to be met for land disposal, and one that is problematic. The Planning Administrator can refuse a land purchase application if it does not align with planning policies, but land purchase applications are expensive and time consuming, and the land-buying public has no way of knowing what

the “policies” are. This is too ambiguous and will cause problems. Additionally, the proposed section as drafted makes no grammatical sense.

Part 2 – Section 3-1

The new draft bylaw states:

The City may dispose of land where the land is not required for municipal purposes and where the intended land use conforms to and is not prohibited by the City’s Community Plan, Area Development Plan (where applicable); Zoning By-law, and/or any other relevant by-laws, plans and studies.

We believe that reference should also be made to the *Public Parks and Recreation Facilities* Bylaw No. 4564, such that the City may not dispose of lands listed in the Schedules to that Bylaw. Public Parks and Recreation Facilities are key components of the quality of life in Yellowknife and should not be subject to disposal.

Sections 5 (j) and (k) of the existing Bylaw

In the proposed draft, clauses 5 (j) and (k) of the current bylaw, which require that land disposal be done by by-law, have been deleted. This is not mentioned in the summary table of changes provided to the public. Part 2, section 3 – 13) of the proposed bylaw says, quite confusingly, that “the disposition of land in fee simple or leasehold interest done following sections 4 [sic].” But section 4 relates to the pricing of land, not authorization for land disposal.

To reiterate, we understand that disposal by-laws are a pain, but if this by-law is passed as presented, we believe that it would be in the City’s purview to dispose of any infill land in Yellowknife without the need for Council approval and without the opportunity for public input. We are unsure if our reading is correct, but if so, this would be concerning. If not, we believe some clarification is necessary so that this misreading does not occur.

Establishing the Price of Land

The new version of this section in the draft by-law is clearer than the old version, but there is still some ambiguity that needs to be addressed:

- “The determination shall be based on appraised value...” So, is the price of land the appraised value, or is it just “based on” the appraised value. If the price were set at 125% of the appraised value it could still be argued that it is based on the appraised value.
- What if the appraiser is wrong? What if the property sits unsold for two years? In the private sector we would recognize that in such a case, the appraiser got it wrong, and we would discount the price. This new by-law contains no mechanism to do the same.

- What if the appraisal is a broad, neighbourhood-scale appraisal that does not consider individual lot characteristics? In Niven Phase 7 one of the challenges with selling the lots was that land with very challenging topography was priced the same as flat land that could be developed at a much lower cost. The City would have been better served had it paid for more nuanced appraisals, or had it not been bound by the appraised value.

We believe it is in Council's best interest to allow itself flexibility when it comes to land pricing. Council should have the ability to use the land fund as a stabilization fund - to use the profits from areas that are cheap to develop (like Grace Lake) to subsidize the more expensive areas (like Niven Phase 8). Council's objectives when it comes to land sales should be to make sure we have an ample supply and to recover costs when possible, not to maximize profit on every single sale – which only serves to drive up Yellowknife home prices.

Methods and Terms of Land Disposition by the City

Part 2 - Section 9-1

There are two new methods listed in the by-law (auction and tender) that are not referenced in the summary of changes provided to the public. Also, as a formatting note, it appears the number "1" is missing before the list of methods starting with "a) ballot draw;"

Part 2 - Section 9-4

It seems this section contains a typo, stating "the provisions of section 11..." when we believe it is referring to section 9.

Public Notice of the Disposal of City-owned Land

Part 2 - Section 10-1

In the old by-law the requirement for public advertising used to read that advertisement must be made by "newspaper, newsletter, and website". This was changed in the new draft to just one of either newspaper, newsletter or social media. We are uncertain as to what necessitated this change and scaling back on where advertisements must be placed.

Part 2 - Section 10-3

In the old by-law it stated that "the disposal of any land may be subject to re-advertisement of a notice, at the sole discretion of the City." In the new draft, it now states "After the public notice and the first offering, the Planning Administrator may dispose of the land without further advertisement at the sole discretion of the Planning Administrator." This is quite a significant change and one that is not referenced in the "Summary of Key Updates Reflected in the Draft Administration By-law" document circulated to the public.



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Closing

As one representative of the Yellowknife business community the YK Chamber values transparency and inclusivity in decision-making processes. We urge Council to carefully consider whether genuine community engagement is occurring in recent processes as well as to re-examine the priorities and timelines put forward by administration, making sure they align with Council's desire to enact meaningful change to enhance our city for all residents.

We look forward to hearing from Council on these critical issues.

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