



Audit of the Land Dedication Reserve Fund

May 2002

Audit Department

Leaders in building public trust in civic government

Table of contents

Background	1
Audit objectives	1
Audit scope and approach.....	1
Audit conclusion	2
The Land Dedication Reserve Fund	3
Observations and recommendations	5
Audit objective one	5
Audit objective two	6
Fund governance.....	6
Land Dedication Reserve Fund expenditures	8
Land Dedication Reserve Fund revenues	10

Background

The Manager of Support Services in the Planning, Property and Development Department and the Corporate Controller's Division of Corporate Finance asked the Audit Department to audit the administration of the Land Dedication Reserve Fund (LDRF) including determining whether the fund transactions are in compliance with legislation and Council policies.

Audit objectives

The objectives for this audit were

- To determine whether the Land Dedication Reserve Fund transactions are in compliance with legislation and policy.
- To determine whether adequate controls are in place over the revenues and expenditures of the Land Dedication Reserve Fund.

Audit scope and approach

We selected January 1, 2000 through May 31, 2001 as the period for our audit. In conducting our audit, we employed several methodologies:

- We interviewed management and staff from the Planning, Property and Development Department, Public Works Department, Community Services Department and Corporate Finance.
- We reviewed the legislation and policies that govern the Land Dedication Reserve Fund.

- We consulted Legal Services to obtain a legal interpretation of the legislation and policies governing the LDRF.
- We developed a risk matrix that we used to identify the key risks relating to the administration of this fund. We documented the controls in place to mitigate the key risks to determine whether adequate controls were in place. We then tested the key controls to determine whether the controls were functioning as intended.
- We reviewed Land Dedication Reserve Fund transactions, on a test basis, for the period January 1, 2000 to May 31, 2001. We selected sixteen project files in which more than \$25,000 in expenditures had been made during the period under examination for review. Our sample of LDRF expenditures totaled \$986,515 and accounted for approximately 79% of the expenditures that were incurred during the period under review. We also selected seventeen development agreement files for review. These agreements accounted for \$264,751 or approximately 59% of LDRF revenues for the period under review.

Audit conclusion

The audit has been conducted in accordance with generally accepted auditing standards. In preparing our report, we have relied upon interviews with administrative staff and information, data and other documentary evidence provided to us. The conclusions reached in this report are based upon information available at the time. In the event that significant information is brought to our attention after completion of the audit, we reserve the right to amend the conclusions reached.

In our opinion, for the period of our audit, the Land Dedication Reserve Fund was operated in compliance with the current legislation and policies in place. Two of the projects that had been approved included expenditures that did not comply with the Council approved criteria for Land Dedication Reserve Fund expenditures. However, Council waived the criteria when approving these projects, as permitted under section 627(2) of the City of Winnipeg Act.

In our opinion, the controls over the revenues and expenditures from the Land Dedication Reserve Fund were not functioning at an acceptable level to mitigate the risks associated with the administration of the LDRF. We identified three key areas where controls need to be strengthened. The most critical control weaknesses were the lack of administrative review and reporting by the Fund Manager prior to approval of LDRF funding requests, the unclear responsibilities of administrators involved with the LDRF, and the lack of appropriate supporting documentation for expenditures from the Land Dedication Reserve Fund maintained by the Fund Manager.

The Land Dedication Reserve Fund

Administration of the Fund

The Director of the Property, Planning and Development Department is the Fund Manager and is, therefore, responsible for the administration of this fund. The day-to-day administrative responsibility for this fund has been delegated to the Manager of Support Services in the Planning, Property and Development Department. As at December 31, 2001 the balance of the Land Dedication Reserve Fund was \$1,926,000.

Purpose of Land Dedication Reserve Fund

When a developer wants to develop or subdivide a parcel of land, they are required to put in an application with the City's Property, Planning and Development Department. As a condition of subdivision or rezoning, a developer is required to contribute a portion of the land to be developed to the City for parks purposes. The developer will provide land or cash in lieu of land depending on the current City requirements as determined by the Land Development Branch within the Property, Planning and Development Department. The dedication of cash in lieu of land is generally required to be paid before the City will release the approved subdivision plans that the developer requires for registration in the Land Titles Office.

Additionally, if land is dedicated to the City, the land is required to be landscaped by the developer. If dedication of cash in lieu of land is made

then the developer is required to pay the City its share of the costs of landscaping and services that it would have expended had a dedication of land been made.

Again, this amount is determined by the Land Development Branch within the Property, Planning and Development Department and must be paid to the City prior to the subdivision plans being released.

The use of the Land Dedication Reserve Funds has generally been restricted to the acquisition or improvement of land for parks, recreation, facilities, or open space.

Legislative authority

Section 620(1), Section 627(1) and Section 627(2) of the City of Winnipeg Act set out the legislative requirements that apply to the Land Dedication Reserve Fund.

Section 620(1) sets out the requirements for the contribution to the Land Dedication Reserve Fund. This section deals with the '*Conditions for plan of subdivision*' which establish the amount of land dedication that is required to be paid when a proposed plan of subdivision is requested. This section of the City of Winnipeg Act states:

"Council may by by-law make the approval of a proposed plan of subdivision subject to any of the following conditions:

- (a) that not less than 10% of the land be conveyed to the city for a public purpose other than highways, without consideration or for nominal consideration*

(b) that in lieu of setting the condition under clause (a), money be paid to the city for the purchase of land for public purposes other than highways”

Section 627(1) of the City of Winnipeg Act sets out the requirements for the sale of surplus parkland as follows:

“If council determines that land conveyed under clause 620(1)(a) is not required for a public purpose, the land may be sold or leased, and money received by the city from the sale or lease shall be paid into the reserve fund referred to in subsection (2).”

Section 627(2) of the City of Winnipeg Act limits the use of the fund for the purchase of land for a public purpose other than a highway or, with the approval of Council, used in whole or in part for a public purpose other than the purchase of land.

Council policies

Two City Council policies, *LAND C335* and *FUNDS CO84*, govern the Land Dedication Reserve Fund. City Policy *LAND C335* sets out both the allocation formula for funds collected for the Land Dedication Reserve Fund and the criteria for expending funds from the LDRF. City Policy *FUNDS CO84* sets out the situations in which revenues are to be deposited in the LDRF as well as the allocation formula for funds collected for the LDRF.

LDRF revenue

On January 10, 1973, City Council adopted the policy that cash payments received by the City in lieu of land dedication for open space be deposited in a fund to the credit of each community. On January 17, 1979, Council amended that policy to permit proceeds from the sale of surplus parks and recreation lands to be deposited to the Contributions in Lieu of Land Dedication Reserve Fund account of the respective community. On September 19, 1990, Council adopted the recommendation that revenue would be apportioned among the communities on the basis of 75% to the account of the community in which the revenue was collected and 25% to be divided equally among all communities.

LDRF expenditure

Council last amended the two policies restricting the use of Land Dedication Reserve funds in March, 1993. The current restrictions on the use of funds from the Land Dedication Reserve are listed below:

1. Funds may be utilized for
 - a. The acquisition of land for parks or recreation facilities.
 - b. The development of properties for parks and recreational purposes including such ancillary equipment and structures as may be necessary to that development.
 - c. The construction or renovation of recreation facilities on parks and recreation properties.

2. The expenditure of Reserve funds will be limited by the following exclusions for use. Specifically, funds will not be utilized for
 - a. Salaries related to regular operation of the City's services;
 - b. Operating materials and supplies;
 - c. Regular maintenance of parks and recreation facilities or equipment;
 - d. Acquisition of equipment not directly related to the development or renovation of parks properties;
 - e. Property management costs including utilities, taxes, and other related costs.
3. The use of funds will result in the creation or continuation of a physical legacy of parks or recreation facilities for the City of Winnipeg.
4. The expenditure of funds will be contingent upon the existence of the resources necessary for the ongoing operation, maintenance and support of any parks or recreation facilities which are developed or renovated through the use of the Land Dedication Reserve.

Observations and recommendations

Audit objective one

Our first audit objective was to determine whether the Land Dedication Reserve Fund transactions are in compliance with legislation and policy.

We reviewed sixteen project files in which expenditures had been charged to the LDRF and seventeen land development files in which revenue had been collected and deposited into the LDRF. These files were reviewed to determine if the transactions were in compliance with the policies and the legislation that governs this fund.

Compliance with legislation

All sixteen expenditure related projects reviewed and all seventeen revenue related projects reviewed were in compliance with the legislation that governs the Land Dedication Reserve Fund.

Compliance with policies

We found that, generally, for the period of our audit, the transactions were in compliance with the policies that govern the LDRF. All seventeen land development files we reviewed were in compliance with policy. Fourteen of sixteen projects we reviewed in which expenditures had been charged to the LDRF were in compliance with the policies that govern the LDRF. We found two projects in our sample where the proposed use of the funds was not in compliance with Council policies. For both of these projects, Council approved the projects after waiving City Policy C335, which governs the expenditure of Land Dedication Reserve funds. Council

has the authority to waive the restrictions it has placed on the use of reserve funds.

Audit objective two

Our second audit objective was to determine whether there are adequate controls over the revenues and expenditures of the Land Dedication Reserve Fund.

Fund governance

Roles and responsibilities

We found the administration of the LDRF to be fragmented among three city departments. Planning, Property and Development, Public Works and Community Services each play a role in the administration of the LDRF. This is likely the result of a series of corporate and departmental reorganizations and staff departures. The degree of fragmentation makes it difficult to properly administer the LDRF. The lack of documentation about the administration of the LDRF has contributed to the degree of confusion over the roles and responsibilities of management and staff. When roles and responsibilities are not clearly understood, it increases the risk that important duties may not be performed and this may impact on the quality of fund administration.

Recommendation

We recommend that the Fund Manager ensure that roles and responsibilities and procedures relating to the administration of the LDRF are clarified and documented. A key communication tool for the administration of a reserve fund is the existence of an up-to-date policy and procedures manual. A policy and procedures manual documents and communicates, among other things, the purpose of the fund including the policies and legislative authorities that govern the fund, the roles and responsibilities of management and staff, and the key processes used to administer the fund. The Manager of Support Services should be responsible for ensuring that this manual is revised when required.

Management response

Planning, Property and Development will undertake the preparation of a Land Dedication Reserve Policy and Procedures Manual. The manual will describe the entire process and define the roles and responsibilities of the various jurisdictions involved. It would make sense to create this manual after it has been determined how the policy and procedure recommendations made in this report have been dealt with and resolved. The Department will bring forward the necessary report(s) to have the various issues vetted politically as soon as possible.

Legislation and policy

We found that the current legislative and policy framework that governs the LDRF lacks clarity and consistency, which can lead to confusion or misunderstandings. Two policies govern the LDRF (LAND C335 and Funds C084) and both of these policies deal with many of the same issues, but differences exist in the areas they cover. In addition, some references to the administrative structure contained in these policies are outdated. As well, the sections of the City of Winnipeg Act dealing with the LDRF have been revised since Council has amended these policies making some references to the City of Winnipeg Act no longer relevant.

The Manager of Support Services and the Land Accountant in the Planning, Property and Development Department should have a sound understanding of the legislation and policies that govern this fund. During our review, we discovered that this was not the case. Concerns were expressed to us about projects that were approved by Council that did not comply with relevant policies. It was apparent that this was because of a lack of knowledge about some of the provisions of the sections of the City of Winnipeg Act that govern the Land Dedication Reserve Fund. We advised the Manager of Support Services and the Land Accountant about section 627(2) of the City of Winnipeg Act that allows Council to expend funds from the reserve for a public purpose other than the purchase of land. They were not aware that Council has the authority to waive the requirements of its policies and approve projects and expenditures that do not comply with the policies restricting the use of the reserve funds. In our sample of sixteen projects, Council approved two projects where the

policy restricting the use of funds from the Land Dedication Reserve was waived by Council. It may be an appropriate time for Council to review the restrictions over the use of the Land Dedication Reserve funds, given that Council has recently approved funding from the Land Dedication Reserve for projects that do not comply with the current policy restrictions over the use of funds.

Project approval

We found that Community Committees are approving projects that require funding from the LDRF in the absence of a report from the Fund Manager with respect to the request for funding. As a result, the Manager of Support Services has advised us that adequate due diligence was not taking place prior to the approval of projects funded from the Land Dedication Reserve Fund. The Manager advised us that the Department is responsible for the administration of nine different reserve funds and most of them require administration reports prior to the approval of funding.

Recommendation

We recommend that the Fund Manager request Council approval for a review of the policies governing the LDRF to

- Consolidate the two policies into one. The policy should be updated to reflect the changes in the administration of the Fund and the relevant changes to the City of Winnipeg Act. As well, consideration should be given to determining whether the current spending restrictions on the use of Land Dedication Reserve funds are too restrictive.
- Clarify the process for approval of the funding of projects. The process should include the requirement that all requests for funding from the Land Dedication Reserve Fund be referred to the Director of the Planning, Property and Development Department (the Fund Manager) for an administrative report to be submitted to the Community Committee before final consideration of the project. The report should provide the Community Committee with comments from the Fund Manager regarding the conformance of the proposed project expenditures with the policy, or the need for certain criteria to be waived.

Management response

The Planning and Land Use Division is in the process of reviewing the policies governing the LDRF and will be submitting a revised and consolidated Policy, for Council approval, which includes the requirement for an administrative report from the Fund

Manager to the Community Committee before final consideration of the project. This administrative report will provide the Community Committee with comments regarding the conformance of proposed project expenditures with the policy, or the need for certain criteria to be waived. The policies report to Council, which is at the draft stage, will include consideration of whether current restrictions on the use of the Fund are appropriate and will include this audit report in its entirety as an appendix.

Land Dedication Reserve Fund expenditures

We reviewed the controls in place relating to the process of approving and authorizing transactions for payment and accounting for Land Dedication Reserve expenditures. We also reviewed sixteen expenditure project files in detail.

We found that the key controls have been established for the critical processes of approving and authorizing transactions for payment and accounting for the Land Dedication Reserve expenditures. However, we found that several key controls over approving and authorizing expenditures were not functioning as intended.

Documentation supporting LDRF expenditures

In our review of sixteen expenditure project files, we found that eight project files did not contain any supporting documentation for the expenditures charged to the LDRF. In two other cases the project files contained documentation to support a portion of the costs expended but not the entire amount. We were able to obtain supporting documentation from other departments and external organizations

for all the expenditures in our sample of sixteen files. In all cases, the documentation supported the expenditures that were charged to the LDRF. Documentation supporting expenditures should be reviewed prior to the authorization of payment to ensure that the expenditures have been properly approved and are valid expenditures associated with the project. Failing to obtain and review documentation supporting LDRF expenditures increases the risk that expenditures may be processed for payment in error. Some of the reasons given for not obtaining and reviewing adequate supporting documentation included

- Supporting documentation relating to work done by the Public Works Department was not always sent to the Land Accountant.
- When land was purchased, the Legal Department did not always send the required supporting documentation to the Land Accountant.
- The administration of two large projects had been handed off to Community Services and all expenditures files were maintained by them.

The Land Accountant understands that one of the responsibilities of the position is to review documentation on a timely basis and to maintain complete files of all expenditures undertaken with funds from the Land Dedication Reserve Fund. However, the Land Accountant advised us that time was not available to follow-up and track down the supporting documentation for these projects.

Recommendation

We recommend that the Land Accountant in the Property, Planning and Development Department ensure that all expenditures charged to the Land Dedication Reserve be supported by appropriate documentation. This documentation should be obtained and reviewed on a timely basis to ensure that the expenditures are in compliance with policy, have been properly approved and are for valid and reasonable expenditures associated with the approved project. In addition, the project files for which Land Dedication Reserve funds have been used should contain all the supporting documentation for the expenditures charged to the LDRF.

Management response

The need to obtain and keep on file the appropriate supporting documentation will be an item for inclusion in a policy and procedures manual. Obtaining the necessary documentation and approvals in support of expenditures has been extremely difficult, as projects are normally managed in departments other than PP&D. Actually requiring that the expenditure approval process flow through PP&D will likely be part of the recommended solution. In addition, community groups have often been charged with the control of project expenditures. Accordingly, a pamphlet version of those aspects of the manual pertaining to project expenditures should be distributed to community groups once a project is approved.

Land Dedication Reserve Fund revenues

Generally the controls relating to the collection, deposit and allocation of revenues due to the LDRF were adequate and were functioning as intended. We found two controls relating to the collection and allocation of revenues that should be strengthened.

Calculation of fund revenue

Overall, the controls for the calculation of the amount of reserve revenue were adequate except when the land dedication is calculated using the *Development Agreement Parameters Guidelines* (dated July 1989). The Land Development Branch of Property, Planning and Development uses these guidelines to calculate the amount of dedication that the developer must pay in lieu of land dedication. The numbers used are based on information received from the Planning and Land Use Division of Property, Planning and Development. These are the estimated costs to landscape or service a one acre parcel of land. The Land Development Administrator advised us that the justification for these numbers has not been documented. We were further advised that these formulae are reviewed on a regular basis to ensure they are accurate and up-to-date but this review is also not documented.

Management response

The Land Development Branch acknowledges that the rates for landscaping and servicing costs used in the calculation of cash-in-lieu of dedication payments require more documentation as to how they are determined. Generally the rates have been reviewed over the years but not on a regular basis. The Branch is currently carrying out a review of the Development Agreement Parameters with the development industry and the calculation of dedication is one of the issues under discussion. It is envisioned that the results of the review will provide the needed documentation and Council approval for the rates and it is intended that the rates will now be reviewed with the industry on a regular basis.

Recommendation

We recommend that the justification for using the rates to calculate the amount of dedication that the developer must pay in lieu of land dedication based on the *Development Agreement Parameters Guidelines* be documented. These rates should also be reviewed on a regular basis and this review should also be documented.

Allocation of revenues to Community Committee accounts

The Land Accountant in the Property, Planning and Development Department is responsible for preparing a journal entry to allocate the revenues received using the 75/25 split required by policy. The calculations and journal entries that are prepared are not reviewed or approved before they are entered into the general ledger. This increases the risk of errors in the allocation of funds to Community Committee accounts going undetected.

Recommendation

We recommend that the Manager of Support Services in the PP&D department review and approve all journal entries prepared by the Land Accountant relating to the allocation of Land Dedication Reserve Funds.

Management response

The task of generating monthly splits and journal entries has been assigned to a senior Accounting Specialist position. The Journal Entry with supporting data will be approved by either the Coordinator, Financial Services, or the PP&D Controller (Manager of Support Services).