



## City of Peterborough

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**To:** Members of the General Committee

**From:** Richard Freymond, Commissioner of Corporate and Legislative Services

**Meeting Date:** December 5, 2022

**Subject:** Transfer of Part of 140 Stewart Street, Report CLSRE22-001

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### **Purpose**

A report to recommend that a former rail spur within 140 Stewart Street be transferred to General Electric Canada Property Inc.

### **Recommendations**

That General Committee approve the recommendation outlined in Report CLSRE22-001, dated December 5, 2022 of the Commissioner of Corporate and Legislative Services as follows:

- a) That the lands described as PT LT 10 North of Townsend Street & West of George Street PL 1 Peterborough as in A10044; Peterborough (PIN 28091-0219) (the "Subject Land") be transferred from the City of Peterborough to General Electric Canada Property Inc. for nominal consideration; and
- b) That the Commissioner of Corporate and Legislative Services be authorized to execute documents to give effect to the transfer of the Subject Land on forms acceptable to the City Solicitor.

### **Budget and Financial Implications**

There are no budget or financial implications.

## Background

In 1891, Brooks Manufacturing Company of Peterborough (“Brooks”) transferred a right of way to the predecessor of the City, being The Corporation of the Town of Peterborough (the “Town”), for railway tracks over the Subject Land (outlined in blue on Appendix A). The terms of the right-of-way included, “in the event of the said land being at any time no longer required for the purposes of a Siding from the Midland Railway track then the right of way hereby granted shall immediately cease and determine and the Corporation, their successors or assigns, shall forthwith remove from the said land the Railway track which may then be thereon.”

In 1895, a predecessor of General Electric Canada Property Inc. (“GE”) took title to 140 Stewart Street from Brooks and the Transfer/Deed, for reasons unknown, excluded the Subject Land. What should have happened, but didn’t, was that 140 Stewart Street (including the Subject Land, and the small triangle of land at the southeast corner of 140 Stewart Street) should all have been transferred to GE, subject only to the Town retaining a right-of-way over the Subject Land.

The Subject Land was never intended to be owned by anyone other than the owner of 140 Stewart Street. Rather, the Corporation of the Town of Peterborough (now the City) was only intended to have right-of-way over the Subject Land and only for such time as the Subject Lands was used as a railway siding.

The recommended transfer is the most efficient and expeditious manner of correcting an error in title that had its genesis in 1895 and which was compounded in 1998 when the Province of Ontario converted the Subject Land into land titles conversion qualified.

In 1998, the Government of Ontario (“Ontario”) converted 140 Stewart Street, the Subject Land and the small southeast triangle, to the Land Titles system from the Registry System. The conversion erroneously recorded the Town as having the fee simple in the Subject Land and the conversion compounded the 1895 conveyancing error.

Staff is satisfied that the intent was only to convey a right-of-way interest in the Subject Land to the Town and only for such time as the Subject Land was used as a railway siding.

GE has informed staff that its research indicates that the use of the Midland Railway track was discontinued in approximately 1960 and the railway siding was thereafter removed from the Subject Land. Earlier in 2022, Staff began the process of correcting the error in title by having the ownership of the Subject Land put in the City’s name. The Subject Land has not been used for any public purpose since approximately 1960 and its current and erroneous ownership by the City effectively cuts off the southeast corner of GE’s property from the remainder of GE’s property at 140 Stewart Street. When the railway siding was removed the Town/City’s right-of-way in the Subject Land should have been extinguished.

The tax assessment records show that GE has been continuously paying realty tax on the whole of 140 Stewart Street (including the Subject Land and the small southeast triangle).

Effecting a transfer of the Subject Land to General Electric Canada Property Inc. for nominal consideration is the most efficient and expeditious manner of correcting an historical error in title, will assist GE in conveying the whole of 140 Stewart Street to a purchaser and assist in the re-development of 140 Stewart Street.

Submitted by,

Richard Freymond  
Commissioner of Corporate and Legislative Services

**Contact Name:**

Richard Freymond  
Commissioner of Corporate and Legislative Services  
Phone: 705-742-7777 Ext. 1863  
Toll Free: 1-855-738-3755  
Fax: 705-876-4607  
E-Mail: [rfreymond@peterborough.ca](mailto:rfreymond@peterborough.ca)

Reviewed by:

David J. Potts  
City Solicitor  
Phone: 705-742-7777 Ext. 1603  
Toll Free: 1-855-738-3755  
Fax: 705-742-3947  
E-Mail: [dpotts@peterborough.ca](mailto:dpotts@peterborough.ca)

Alan Barber  
Associate City Solicitor  
Phone: 705-742-7777 Ext. 1897  
Toll Free: 1-855-738-3755  
Fax: 705-742-3947  
E-Mail: [abarber@peterborough.ca](mailto:abarber@peterborough.ca)

Attachments:

Appendix A – Outline of Subject Land

## Appendix A

Note: The Subject Land is outlined in blue.

