



99-613 Final Report

Audit of the Surplus Property Disposal Process

May 9, 2000



Public Works and
Government Services
Canada

Audit and Review

Travaux publics et
Services gouvernementaux
Canada

Vérification et Examen

Canada

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Executive Summary

Authority for the Project

The project was approved by the Department of Public Works and Government Services Canada (PWGSC)'s Audit and Review Committee as part of the 1999/00 Audit and Review Plan.

Objectives

The overall objective of the audit was to assess compliance to government policies to ensure that the disposal process is transparent, open and fair.

While the objective of the audit was not to evaluate the management control framework, it was agreed that management control issues that came to our attention would also be reported.

Scope

The scope of the audit was property disposals, in the form of completed sales to the public, carried out from 1997/98 to 1999/2000 by Public Works and Government Services Canada (PWGSC). The audit excluded leases, licenses and easements. The activities of Canada Lands Company, a non-agent Crown Corporation mandated to dispose selected federal properties and which also reports to the Minister of Public Works and Government Services, were not part of the scope.

The audit was conducted in the National Capital Area and the Ontario and Atlantic Regions. Over the course of the audit, interviews were carried out with key personnel and relevant documentation was reviewed. The audit also included a file review of 43 (61%) of the approximately 71 completed sales which were clearly identifiable as sales to the public. Eleven different departments were clients for these disposal transactions which varied in value from \$1 to \$2.85 million.

Background

The Federal Real Property Act of 1992 provides the governing legislation for the disposal of federal real property. The PWGSC services relating to the disposition of federal real property are delivered by the Real Estate Services Directorate (RES).

There are three main types of property disposals managed by RES:

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1. ***Divestitures:*** a transfer of administration and control primarily to Crown Corporations and other levels of government. These arise as a result of devolution of programs, usually involve consideration for carrying costs and/or renovations, and rarely involve sale to the public.
2. ***Managed Disposals:*** involve large, sensitive, strategic properties, such as closed military bases. These disposals involve multiple stakeholders and PWGSC is involved in only part of the process. These transactions are complex and include issues such as land claims.
3. ***Routine Disposals through the Real Property Disposition Revolving Fund (RPDRF):*** involve a large volume of small value transactions and include sales or transfers of properties to other levels of government, easements, retrocessions and sales to the public of property which has first been offered for sale to other government departments, Crown corporations, other levels of government. A very small percentage of property transactions involve sale to the public. As the focus of this audit was on PWGSC's compliance to the Treasury Board *Open and Fair Real Property Transactions Policy*, which focuses on real property transactions with the public, the audit focused on these routine sales to the public through the RPDRF.

Key Findings

Compliance to Open and Fair Real Property Transactions Policy

All audited disposals were in compliance with Treasury Board *Open and Fair Real Property Transactions Policy*.

In 39 out of the 43 files audited, the public was provided with a reasonable opportunity to acquire the property. The four exceptions had adequate, documented justification.

The remuneration received for the various transactions reviewed was based on the best value and took into consideration the appraised market value.

Management Control Framework

The Reporting Framework for the disposal of real property, involving sales to the public, is weak. PWGSC does not produce a report that highlights activities on such properties available for sale to the public. A new system under development called "Real Estate On-Line" may provide this capability, but at the time of the audit, the reporting module had not been completed.

There are no definitive criteria relating to service time frames. A number of files had gaps of more than six months of no record of activity and no reason why there was an absence of activity.

Several of the files reviewed were insufficiently documented, for example there was not always evidence of: the listing on "Govlands" internet site; the activity of the realtor or the rationale for the selection of the realtor. As well there was a lack of cross referencing between the general

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files and the appraisal files. In addition, none of the files reviewed had a completed checklist which is in use in PWGSC.

As these management issues were not the primary focus of the audit and were not indicative of fundamental weaknesses in the management control framework. Recommended actions to address these issues were brought to the attention of RES management in the form of a management letter.

Observed Best Practices

During the course of the audit, a number of best practices were observed. Ontario Region uses a Reporting Memorandum which provides rationale for acceptance of an offer together with a succinct history. Atlantic Region uses telephone sheets to record all telephone conversations and does not accept any offer until the property has been made available to the public for a minimum 14-day period.

Conclusion

Based on the results of the audit, the disposal process was transparent open and fair. The public was provided a reasonable opportunity to acquire the property and the remuneration received was based on the best offer and took into consideration the appraised market value. There are no recommended actions as a result of this audit.

1 Introduction

1.1 Authority for the Project

The project was approved by the Department of Public Works and Government Services Canada's (PWGSC) Audit and Review Committee as part of the 1999/00 Audit and Review Plan.

1.2 Objectives

The overall objective of the audit was to assess compliance to government policies to ensure that the disposal process is transparent, open and fair.

While the objective of the audit was not to evaluate the management control framework, it was agreed that management control issues that came to our attention would also be reported.

1.3 Scope

The scope of the audit was property disposals, in the form of completed sales to the public, carried out from 1997/98 to 1999/2000 by Public Works and Government Services Canada (PWGSC). The audit excluded leases, licenses and easements. The activities of Canada Lands Company, a non-agent Crown Corporation mandated to dispose selected federal properties and which also reports to the Minister of Public Works and Government Services, were not part of the scope.

The audit was conducted in the National Capital Area and the Ontario and Atlantic Regions. In each region and the NCA, key personnel involved with the disposal of Federal Real Property were interviewed (Appendix A). Relevant documentation relating to Real Property Disposals was also reviewed (Appendix B). Eleven different departments were clients for these disposal transactions which varied in value from \$1 to \$2.85 million. The types of properties ranged from wharves to vacant land to large buildings. Of the approximately 71 completed, public sales the audit reviewed 43 (61%) of these transactions as follows:

- ♦ National Capital Area - reviewed 10 of 11 (91%) transactions;
- ♦ Atlantic Region - reviewed 19 of 32 (59%) transactions;
- ♦ Ontario Region - reviewed 14 of 28 (50%) transactions involving sales through a broker.

1.4 Background

Authority for the Disposal of Federal Real Property

The Federal Real Property Act of 1992 provides the governing legislation for the disposal of federal real property. The PWGSC service of disposing of federal real property is delivered by the Real Estate Services Directorate (RES) of Office Accommodation and Real Estate Services Sector (OARES) of Real Property Services Branch (RPS) through its regional network and is optional to custodian departments.

Types of Disposals Managed by Real Estate Services

There are three main types of property disposals managed by RES:

1. ***Divestitures:*** a transfer of administration and control primarily to Crown Corporations and other levels of government. These arise as a result of devolution of programs, usually involve consideration for carrying costs and/or renovations, and rarely involve sale to the public.
2. ***Managed Disposals:*** involve large, sensitive, strategic properties, such as closed military bases. These disposals involve multiple stakeholders and PWGSC is involved in only part of the process. These transactions are complex and include issues such as land claims.
3. ***Routine Disposals through the Real Property Disposition Revolving Fund (RPDRF):*** PWGSC is the fund manager for the RPDRF which funds the costs of federal real property disposals through proceeds of sale rather than through appropriation. Most "routine" disposals go through the fund. The majority of these are small value transactions and include sales or transfers of properties to other levels of government, easements, retrocessions and sales to the public of property which has first been offered for sale to other government departments, Crown corporations, other levels of government. A very small percentage of PWGSC property transactions involve sale to the public. A Business Plan for RPDRF prepared in 1995/96 indicated that only 125 properties out of an inventory of some 2,000 property transactions carried by PWGSC property agents represented properties available for sale to the public. As the focus of this audit was on PWGSC's compliance to the Treasury Board *Open and Fair Real Property Transactions Policy*, which focuses on real property transactions with the public, the audit focused on these routine sales to the public through the RPDRF.

Disposal Process

The policy is to offer the property first to other federal custodians, then Crown Corporations, Provincial Governments and Municipal Governments. When these entities have declined interest, then the property is offered to the public.

Property disposals can be conducted through the use of a real estate agent. In December 1996, an Memorandum of Understanding (MOU) for a partnering arrangement was established with the

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Canadian Real Estate Association (CREA), for primarily residential and small commercial properties. The majority of the aforementioned properties are disposed of using a realtor, through the Multiple Listing Services (MLS). Of the 43 transactions reviewed, 29 sales were executed by a Real Estate Broker.

In order that the public is made aware of such properties, a variety of advertising tools are used, such as, newspaper advertisements, information packages distributed to potentially interested buyers, advertising on the "Govlands" Internet site and the use of the 1-888 toll free lines. The marketing of property listed with a Real Estate Broker is handled by the broker himself.

Open and Fair Real Property Transactions Policy

Treasury Board policy relating to the Disposal of Federal Real Property is found in the results based *Open and Fair Real Property Transactions Policy*. The essence of the Treasury Board Policy is that property is to be disposed of and be seen to be disposed of in a fair and open manner that recognizes the need for the public to be given a reasonable opportunity to acquire the property. Policy requirements are:

- ♦ a fair and equitable opportunity is provided by soliciting offers (public advertising, public notice in accordance with trade practices or an appropriate system).
- ♦ a representative number of persons/firms are provided an opportunity to make an offer.
- ♦ the selection of an offer must be reasonable and financially prudent (best value).
- ♦ the consideration payable is justified in relation to market value taking into account the appraised value. The policy provides the requirements for appraisals, as follows:
 - one estimate if the market value is less than \$250,000.
 - one appraisal if the market value is between \$250,000 and \$1,000,000.
 - two appraisals if the market value is over \$1,000,000 (with one from outside of government).

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2 Findings, Conclusions and Recommendations

2.1 Compliance to Open and Fair Real Property Transactions Policy

The audit reviewed 43 federal real property disposal files. Items considered in the file review included:

- ♦ was the public given an opportunity to acquire the property;
- ♦ was the public given a reasonable amount of time to submit a bid;
- ♦ were appropriate methods of advertising the properties used;
- ♦ were the properties disposed of at the best value to the Crown;
- ♦ was an appropriate evaluation process used.

In 39 of 43 files the public was provided with a reasonable opportunity to acquire the property. The four exceptions had adequate, documented justification. These justifications included:

- ♦ a municipality deciding to exercise its priority buying right even though they had earlier declined;
- ♦ sale of a small piece of land for a sewer line to the purchaser's property;
- ♦ sale of adjoining land in order to clear title to property;
- ♦ sale of an inaccessible piece of land where there was only one likely buyer.

The consideration received for the 43 various transactions reviewed was based on the best value and took into consideration the appraised market value.

Based on the files reviewed Real Estate Services is in compliance with the *Open and Fair Real Property Transactions Policy*.

2.2 Management Control Framework Issues

While the objective of the audit was not to evaluate the management framework, it was agreed that any issues pertaining to management control that came to our attention would be reported.

Reporting Framework

The Reporting Framework for the disposal of real property, involving sales to the public, is weak. There are some reports, such as those that report on RPDRF transactions, as well as the quarterly reports to CREA that provides tombstone information on transactions.

There is no single report that includes activities on properties available for sale to the public. These activities could include how long a property was available for sale, comparison of selling price to the appraised value, the level of potential purchaser activity, and a comparison of various properties across the country.

There is a new system under development called "Real Estate On Line" which may provide this capability; however, at the time of the audit, the reporting module had not been completed.

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Service Standards - Operating Activities

There are no definitive criteria relating to service time frames. In 9 out of the 43 files, there were significant gaps (more than 6 months) where there was no activity and no record of why there was no activity. For example, 1 file was inactive for almost 3 years. In another file, a property listed for \$24,900 sold for \$750 after 10 months.

Documentation Improvements

Out of the 43 files reviewed, we found shortcomings in the documentation on the files, namely:

- ◆ 19 out of 39 files which should have been posted on the "Govlands" Internet site, did not have proof on file of such;
- ◆ 16 out of the 29 files handled by a realtor did not have proof of activity of the realtor, such as, advertising, number of showings undertaken;
- ◆ 3 out of the 29 files handled by a realtor did not identify rationale for the realtors selection;
- ◆ 4 out of the 4 files that required cross-referencing did not have such;
- ◆ None of the files had a completed checklist titled *Disposal of Properties - Critical Path*, and for the files that had a checklist, they were generally incomplete.

As these management issues were not the primary focus of the audit and were not indicative of fundamental weaknesses in the management control framework recommended actions to address these issues were brought to the attention of RES management in the form of a management letter.

2.3 Observed Best Practices

During the course of the audit a number of best practices were observed.

The Ontario Region used a Reporting Memorandum which provided rationale for acceptance of a sales offer. The Reporting Memorandum, prepared by the Real Estate Advisor for the Manager, provided a succinct history of the file, as well as providing the rationale for choosing the offer or selecting one amongst several offers.

The Atlantic Region used telephone sheets to record all telephone conversations. Since so many interactions are over the phone, the telephone sheets provided a clear trail, as well as being a permanent record in the file. It was observed that in some other regions, telephone conversations were captured by the use of Post-It notes, which can become unattached over time.

The Atlantic Region had a number of sales transactions where the Listing Agreement had a clause stipulating that the listing must be opened for at least 14 days before an offer is accepted. This practice aids in ensuring the spirit of open and fair transactions to the public. In one case, this resulted in an offer being received and accepted that was higher than the listed price.

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3.0 Conclusions

The audit concludes that PWGSC has adhered to the Treasury Board *Open and Fair Real Property Transactions Policy* with respect to surplus property disposals. Real property disposals were made in a fair and open manner and the public was provided with a reasonable opportunity to acquire such property. Additionally, the consideration received by PWGSC was based on the best value taking into the account the appraised market value. There are no recommended actions as a result of this audit.

Appendix A - List of Interviewees

PUBLIC WORKS AND GOVERNMENT SERVICES CANADA

NATIONAL CAPITAL AREA

Real Estate Services, Real Property Services Branch

- Lawrence Birch, Director
- Yves Boily, Senior Policy Advisor
- Earl Deamond, Manager, Land and Business Geographics
- Paul Gonu, Manager, Policy and Aboriginal Affairs
- Mark Hennessey, Manager, Business Support and RPDRF
- Kathy Magladry, Real Estate Advisor, Policy and Aboriginal Affairs
- Ray Marion, Manager, Special Projects and Divestitures
- Kevin Montgomery, Real Property Disposition Revolving Fund Officer

ATLANTIC REGION

Real Property Services Directorate

- Kerry Malone, A/Regional Manager, Real Estate Advisory Services (period ending week of December 5, 1999).
- Betty Tozer, A/Regional Manager, Real Estate Advisory Services (period commencing week of December 12, 1999).

ONTARIO REGION

Real Property Services, Office Accommodation Services/Real Estate Sector

- Claudia Spera, Manager, Real Property Consulting Group

In all three regions, discussions were held with Real Estate Advisors as appropriate during the file reviews.

TREASURY BOARD SECRETARIAT

Real Property Management

- Ruth Brady, Portfolio Manager

Appendix B - Review of Documentation

- Organization Charts - Headquarters and Regions.
- Treasury Board *Open and Fair Real Property Transactions Policy*.
- Treasury Board Guide to the Monitoring of Real Property Management.
- ~~Real Property Services - Generic Disposal Process Chart.~~
- Real Property Services - Generic Disposal Process Chart.
- PWGSC Divestiture Activity Review and Strategy - 1993.
- Land and Marine Asset Investments Plans - 1996.
- Draft Discussion Paper - Reform of the Disposal System for Federal Real Property.
- File checklist - Disposal of Properties - Critical Path.
- Real Property Disposition Revolving Fund (RPDRF).
 - Annual Report - 1998/1999 including audited statements.
 - Annual Report - 1997/1998.
 - RPDRF Business Plan - dated 1996.

Information has been removed in accordance with
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