

To: Development Services Committee

From: Paul Ralph, BES, MCIP, RPP, Commissioner,  
Development Services Department

Stephanie Sinnott, Executive Director,  
Finance Services/Treasurer,  
Office of the City Manager

Report Number: DS-16-215

Date of Report: December 2, 2016

Date of Meeting: December 8, 2016

Subject: Internal Audit of the Real Estate Function by KPMG

File: D-4600-0015

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## **1.0 Purpose**

The purpose of this report is to present the KPMG Internal Audit Report for the City's Real Estate Function.

Attachment 1 consists of the KPMG internal audit dated November 2016 for the City's real estate function.

## **2.0 Recommendation**

That the Development Services Committee recommend to City Council:

That Report DS-16-215 dated December 2, 2016 and Attachment 1, being the KPMG Internal Audit for the City's Real Estate Function dated November 2016, be received for information and that the recommendations and management responses in the KPMG internal audit be endorsed as the general basis for improving the real estate function.

## **3.0 Executive Summary**

Not applicable.

## **4.0 Input From Other Sources**

The audit of the City's real estate function by KPMG was conducted with the involvement of the appropriate City employees. KPMG also reviewed information from other municipalities related to the real estate function.

## **5.0 Analysis**

The 2016 Council-approved audit plan included an audit of the City's real estate function.

The Internal Audit of the Real Estate Function report (see Attachment 1) includes 12 recommendations. The recommendations relate to the following aspects of the real estate function:

1. The location of the real estate function within the corporation;
2. The resources needed for the real estate function;
3. Roles and responsibilities in relation to the real estate function;
4. Oversight of real estate acquisitions and dispositions;
5. Updating and maintaining the City's land holdings inventory;
6. Updating the acquisition and disposal policy and by-law;
7. Updating the encroachment by-law;
8. Enquiries in relation to the City's land and property;
9. Maintenance of land holdings data within the corporate database;
10. Billing functions in relation to leases and licences;
11. Insurance requirements for leases; and
12. Filing administration.

It has been concluded that the Real Estate function will be managed in the Development Services Department. The implementation of the audit recommendations from KPMG will be used as the basis to improve the real estate function. Staff will consult, as necessary, with KPMG to obtain their input on such matters as draft policies, by-laws and processes.

## **6.0 Financial Implications**

There are no financial implications with the recommendation in this report. Any future financial implications will be addressed during annual budget submissions or in separate reports.

## 7.0 Relationship to the Oshawa Strategic Plan

The audit of the real estate function addresses the Accountable Leadership goal of the Oshawa Strategic Plan.



Warren Munro, Director,  
Planning Services



Paul Ralph, BES, MCIP, RPP, Commissioner,  
Development Services Department



Stephanie Sinnott, Executive Director,  
Finance Services/Treasurer,  
Office of the City Manager



# City of Oshawa

## Internal Audit of the Real Estate Function

KPMG LLP

November 2016

This report contains 30 pages

Appendices comprise 12 pages



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### Appendices

- A. Real Estate Function Structure
- B. Policy and By-law Review
- C. Summary of work and assurances
- D. Summary of testing results
- E. Staff involvement and documents reviewed

### Status of Report

Discussion draft issued	<b>28 September 2016</b>
Management responses received	<b>16 November 2016</b>
Final report issued	<b>17 November 2016</b>
Presented to Standing Committee	<b>8 December 2016</b>

### Distribution

#### To (for action):

- Warren Munro – Director, Planning Services

#### cc (for information):

- Paul Ralph – Commissioner of Development Services

### Sponsor

- Paul Ralph – Commissioner of Development Services

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## Section One

### Executive Summary

#### Conclusion

We have completed the review of the Real Estate function at the City of Oshawa. Oversight of the Real Estate function is a key consideration for the City. Once roles and responsibilities are determined decisions can be made as to where it resides internally, and ensuring effective co-ordination of activities given the decentralized nature of some of the activities such as lease administration and billing in relation to leases. Planning Services took over responsibility for Real Estate in in May 2014 and have put in place processes to improve control over some Real Estate functions.

In line with the scope of this audit we have presented options for where the Real Estate Function could reside within the Corporation as well as suggested improvements to the overall processes in place around Real Estate. With the help of Management, we carried out a survey of 11 municipalities in Ontario and used our own understanding of such a function to present options. From the analysis of the survey we undertook, it showed that the Real Estate function lies in Legal Services for more municipalities from the sample that responded. This may be because there is significant involvement of legal services in drafting contracts, agreements and licences. Given the corporation-wide nature of the services in a Real Estate Function, a more strategic location could be Corporate Services (with close links to Facilities) or Development Services (in Planning where it currently sits where focus is on acquisitions and dispositions).

We noted issues around staff not being aware of the need to invoice for leases and the holdings inventory book not being regularly maintained (although efforts are in place to update this). From our sample testing we noted that various departments have responsibility for billing different leases. The Corporation had leases to the value of \$925K for the year 2015. \$843K was recorded in the general ledger with a shortfall of \$82K which the Corporation may not be billing for. The Accounts Receivable Department would be better suited to co-ordinate all billing activity for leases. We also noted that the City is often required to obtain external appraisals for the disposal of land even when the land is worth less than the cost of the appraisal. The Corporation may consider entering into a contract with specialists to provide valuation services for land to ensure best value. We also noted that responding to acquisition enquiries for parks and recreation properties are time-consuming for staff. The Acquisition and Disposal of Real Property Policy should be updated so only enquiries for land / property identified as surplus would be considered.

A decision was taken in 2014 to eliminate the Real Estate Manager position at the Corporation. The current responsibility for co-ordination of efforts is estimated to be a 0.25 FTE part of the role of the Director, Planning Services within Development Services although efforts are heavily devolved to other departments too without central co-ordination in some areas (for example on leases as noted above). Identifying and documenting the roles and responsibilities involved in the Real Estate function would improve the understanding and inter-relationships between the functions. The role



of the individual responsible for Real Estate should be expanded upon to demonstrate the responsibility for oversight of Real Estate and co-ordination of activities. The Real Estate Disposition By-law and the Delegation By-law have responsibilities with different individuals across the Corporation and a review of these are needed to ensure it is updated to reflect changes.

We believe that increasing the level of resource dedicated to Real Estate should be considered given the role is responsible for a large number of properties, 59 leases (with an annualized value of \$925K), enquiries to purchase land, dealing with encroachments as they arise (including the 48 currently recorded) and disposition of property. This could be achieved through increasing the time dedicated by an internal staff member (with appropriate training). This will help to better co-ordinate activities amongst branches and departments, provide more effective oversight of key areas such as renewal and billing for leases, and co-ordinate the use of external appraisers for valuations where appropriate. Training is also needed to enhance the legal understanding and support around contracts and leasing, as well as engaging with Legal Services as necessary. Following completion of our fieldwork Development Services have dedicated greater resources to Real Estate administration. Further work is needed on co-ordinating real estate activities across the Corporation.

We note that the City of Oshawa currently has a Delegation of Authority, Acquisition and Disposal of Real Property and Encroachment Policies and bylaws in place. The Acquisition and Disposal of Real Property and Encroachment Policies have not been formally approved by Council. We have provided some recommendations and suggestions that will help develop the City's policies and by-laws specifically relating to the Acquisition and Disposal, Encroachments and other related bylaws.

## **Background**

The Real Estate Function at the City has resided under various different departments or divisions within the City including Economic Development, Planning (where it currently sits) and Legal Services. The function faces challenges in determining the value of land which is to be acquired or disposed of, dealing with encroachments, as well as keeping track of all of the land and buildings owned by the City. The Oshawa Land Information system (OLI) is primarily used to manage property related information and to track land management processes. There are many small plots of land owned by the City which are difficult to value because of the size (they may be very small) and the location (often not able to develop on them and no readily available market value). Currently an exercise is being undertaken to review all land holdings, and so far over 40 properties have been identified as not required. Appraisals to determine value can also be ordered by the City, and have been used in the past. But these can cost around \$10,000 each, and may not demonstrate value for money if the land is not worth that amount of money. The Real Estate Function also has responsibility for processing requests for encroachment agreements and dealing with enquiries relating to residents wishing to purchase municipal land.

There are various other functions involved in Real Estate at the City. These include Park Services, Tax (for some rental payments), Accounts Receivable (for collecting some rental payments), as well as Planning Services. Given the involvement of the various functions, the City identified the need to



develop and enhance policies and procedures relating to Real Estate. There are a number of policies and by-laws relating to Real Estate and it is important that they are consistent in their requirements and clearly define the roles and responsibilities of all involved.

The City has a number of properties that are leased to other organizations, which requires the City to bill their tenants on a regular basis. It is vital to ensure the City is receiving the proper amount of revenues on these leases, and that all tenants are receiving bills as expected. The City also disposes of surplus land once they have deemed it is no longer required. In order to ensure these processes are run smoothly, these activities are overseen by the Planning team. This team is currently responsible for ensuring the policies and procedures surrounding real estate transactions are followed, and are in the best interests of the City of Oshawa.

### Objectives

Objective	Description of work undertaken
<p><b>Objective one</b></p> <p>Review of the organization and processes of the Real Estate Function</p>	<p>We understood the current level of resources in place and the reporting structure within the Real Estate Function and compare this to other municipalities. This included:</p> <ul style="list-style-type: none"> <li>• Where a Real Estate Function sits within the municipality;</li> <li>• Qualifications and the level of resources in the Function; and</li> <li>• The role of a Real Estate Manager (if applicable).</li> </ul>
<p><b>Objective two</b></p> <p>Review of policies and by laws and make recommendations for improvement</p>	<p>We reviewed the policies and by-laws relevant to the Real Estate Function (comparing to other municipalities where possible). We considered:</p> <ul style="list-style-type: none"> <li>• The consistency of them;</li> <li>• The roles and responsibilities of different functions;</li> <li>• Policies relating to encroachment and sale of surplus City land; and</li> <li>• How consistent policies and by-laws are.</li> </ul>
<p><b>Objective three</b></p> <p>Assess completeness and accuracy of billing for Leases and Licences</p>	<p>We reviewed the following key processes in place around billing for leases and licences (comparing to other municipalities where information is available):</p> <ul style="list-style-type: none"> <li>• The administration around filing and set up of new leases</li> <li>• The ways in which revenues from leases / licences is received; and</li> <li>• The follow up of debts relating to leases and licences.</li> </ul> <p>We undertook testing as appropriate across a sample of leases. We also performed procedures to attempt to identify where leases or licences are not being billed or billed incorrectly.</p>



### Areas of good practice

- ✓ **Corporate Agreements** – There is a formally documented Corporate Agreement Tracking Policy in which the purpose is to ensure all agreements entered by the City of Oshawa are properly identified, reviewed and executed and managed as well as establish procedures and identify those responsible for the entry/maintenance of information in the Agreement Database.
- ✓ **Property Management System** - The Oshawa Land Information system (OLI) is primarily used to manage property related information and to track land management processes. The system consists of several viewers, each supporting a land management process.
- ✓ **Encroachments** - Formal Encroachment Agreements are used to legally bind the agreements between the City and a property owner and permits the property owner to have an encroachment on City property.

### Areas for development

- **Resources for Real Estate** – current oversight for Real Estate could be improved with greater levels of resource available to support it. Activities are decentralized without sufficient oversight and communication. Increasing the level of resource dedicated to Real Estate should be considered through increasing the time dedicated by an internal staff member (with training).
- **Roles and responsibilities for Real Estate** – given the de-centralized nature of current arrangements, once the location of Real Estate and resources are finalized, the roles and responsibilities of all parties involved should be documented to aid understanding across the Corporation.
- **Location of the Real Estate function** – CLT should give consideration to the location of the Real Estate Function, and whether its functions are best overseen from Development Services or Corporate Services.

### Recommendations raised

We have raised a series of recommendations to support the evolution of the Real Estate function. We have reviewed Management's responses to the recommendations and support the actions identified and the timeframes provided.

### Acknowledgement

We thank the staff involved for their help in completing this review.

### Contact Information

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## Section Two

### Recommendations

This section summarizes the recommendations that we have identified from our work:

#	Recommendation	Management response, executive and deadline
1	<p><b>Location of Real Estate Function</b></p> <p>The Real Estate Function currently sits in Development Services. It has resided in various departments over the past 15 years.</p> <p>Based on our analysis of the possible options and the survey of other municipalities (Appendix A) we recommend the following:</p> <ul style="list-style-type: none"> <li>▪ There are currently advantages and disadvantages for the Real Estate function sitting in either Corporate Services or Development Services. CLT should meet to review these options to determine the best location for the Real Estate function; and</li> <li>▪ The objective of the Real Estate function should be to clearly align skills and accountabilities to ensure effective and efficient management of the City's real property interests.</li> </ul>	<p>CLT has determined that at this time the Real Estate function should continue to be located in the Planning Services Branch of the Development Services Department. The Development Services Department has a broad range of experience in economic development, engineering, asset management, parks and open space planning, land use planning and building code matters that contribute to the ongoing management of the real estate function. Planning Services took over the management of the Real Estate function in mid-2014. Since that time the management of the real estate function has significantly improved. Planning Services has put in place a team that can lead, administer and support the real estate function.</p> <p>Commissioner of Development Services – in effect.</p>
2	<p><b>Resources for Real Estate Function</b></p> <p>We note that there is no dedicated individual with full-time responsibility and oversight of Real Estate and resources performing the function do not have a real estate background. The Corporation holds a significant number of</p>	<p>Management agrees with the recommendation. Recently Tom Goodeve, a Principal Planner in the Policy Section of Planning Services has taken over as the team leader of the real estate function. He will</p>



#	Recommendation	Management response, executive and deadline
	<p>assets, has various leases and requires strategic considerations for acquisitions and dispositions.</p> <p>This has led to a number of issues arising around communication on certain assets, staff not being aware of the need to invoice for leases and the holdings inventory book not being regularly maintained. In addition costs are incurred for appraisals which can exceed the value of the land in some cases.</p> <p>We recommend that the Corporation consider dedicating greater resource internally to the role (with the appropriate training). This role should have responsibility for the overall Real Estate function across the Corporation and co-ordinating efforts to ensure all areas operate as necessary.</p>	<p>work to coordinate efforts across the Corporation.</p> <p>The audit process has confirmed at this time that a full time Real Estate Manager is not needed. The workload can be accommodated within the existing staff complement. The Principal Planner will have typical planning policy responsibilities in addition to the real estate function and will be supported by others in the Department in the administration of the function. Staff will rely on real estate professionals to determine market values and to negotiate more complex real estate transactions as necessary.</p> <p>Commissioner of Development Services – in effect.</p>
3	<p><b>Roles and responsibilities in relation to Real Estate</b></p> <p>We noted that there is devolved responsibility and a number of different areas performing similar tasks. Specifically we noted the following:</p> <ul style="list-style-type: none"> <li>▪ Some staff members are unclear where the real estate function lies in Development Services Department (DSD) and that the Director, Planning Services is currently handling this function;</li> <li>▪ Lack of clarity around who performs annual rent increases or maintenance calculations as well as which agreements go through any department and which invoices the City invoices;</li> <li>▪ DSD performs some finance related functions including calculating the monthly/annual collection amounts;</li> </ul>	



#	Recommendation	Management response, executive and deadline
	<ul style="list-style-type: none"> <li>▪ In reference to Mary Street Parking Garage (Commercial Units), there are times when yearly reconciliation requests are received by the DSD Admin, however, these were not initially being actioned prior to involvement of DSD; and</li> <li>▪ We noted that there does not appear to be a clear understanding around who deals with encroachments.</li> </ul> <p>Unclear roles and responsibilities may lead to a lack of communication, action, processing and follow-up of real estate function transactions and activities.</p> <p>We recommend that a framework for the Real Estate Function is developed and covers the following:</p>	
	<ul style="list-style-type: none"> <li>• Roles and responsibilities involved in the Real Estate function should be clearly identified, with revised job descriptions as appropriate;</li> </ul>	<p>Management agrees with the recommendation. The Principal Planner will undertake a lean process review of the real estate function and engage all relevant staff in the Corporation in that review. A policy and procedure manual will be prepared to clearly identify roles and responsibilities.</p> <p>A draft of the policy and procedure will be reviewed by KPMG.</p> <p>Appropriate staff will work with Human Resources to revise job descriptions as appropriate.</p> <p>Director of Planning Services – December 2017</p>
	<ul style="list-style-type: none"> <li>• Follow-ups during lease renewal periods should be done by Accounts Receivable. This should involve calculating monthly/annual collection amounts (in reference to the agreement in place), confirmation of amounts and amounts should be collected at the time of invoice setup; and</li> </ul>	<p>Agreed. Determination of annual/monthly invoicing amounts should be determined according to the agreement in place at the time of billing by Accounts Receivable staff working in conjunction with Planning staff</p>



#	Recommendation	Management response, executive and deadline
	<ul style="list-style-type: none"> <li>Finance processes should be performed by Finance. For example, all finance related queries and requests (i.e. reconciliation of rents) should be re-directed to someone in Finance for appropriate processing and follow-up as they would have access to client billing information.</li> </ul>	<p>Executive Director of Finance/Treasurer – December 2017</p> <p>Management agrees with this recommendation.</p> <p>Executive Director of Finance/Treasurer – December 2017</p>
4	<p><b>Oversight of acquisitions and dispositions</b></p> <p>We noted that the City is obligated to obtain an appraisal externally even when the value of the land may be worth less than the cost of the appraisal, which is a requirement of the Disposition By-law. In addition acquisitions and dispositions of the City's land and property may not always involve key individuals/areas across the organization meaning communication may not be effective around the decisions made for Real Estate.</p> <p>We recommend the following:</p> <ul style="list-style-type: none"> <li>For smaller properties, the individual responsible for Real Estate should obtain a letter of opinion should be obtained from a third party that is valid for 1-2 years instead of a full appraisal.</li> </ul>	<p>Management agrees with this recommendation. This recommendation has already been implemented with recent decisions by Council on various disposition strategies (e.g. small building lots). Some smaller properties that are general holdings and that are not building lots given their size and configuration should be considered for disposition for nominal value as lot additions (e.g. 1 foot strips). In those cases a letter of opinion is not necessary.</p> <p>Director of Planning Services – in effect</p>
	<ul style="list-style-type: none"> <li>The CREST (Corporate Real Estate Strategy Team) Committee should be re-established and meetings</li> </ul>	<p>Management agrees with this recommendation CREST will be</p>



#	Recommendation	Management response, executive and deadline
	<p>should be held to discuss potential and upcoming acquisitions and/or dispositions;</p>	<p>formally reestablished and regular meetings will be scheduled. It is noted that staff from all departments have always been consulted on any disposition or acquisition, as appropriate, even though formal meetings may not have been held.</p> <p>Director of Planning Services – January 2017</p>
	<ul style="list-style-type: none"> <li>The CREST Committee representatives should include key members from Corporate Services, Planning, Engineering, Finance, Park and Legal Services; and</li> </ul>	<p>Management agrees with this recommendation. CREST will be chaired by the Principal Planner.</p> <p>Director of Planning Services - ongoing</p>
	<ul style="list-style-type: none"> <li>The CREST Committee discussions should include reviewing existing agreements, encroachments/easements, requesting CREST members for their input, reviewing disposition Bylaw guidelines, environmental assessments and City's services.</li> </ul>	<p>Management agrees with this recommendation. This will be identified, as appropriate, on the CREST meeting agendas.</p> <p>Director of Planning Services - ongoing</p>
<p><b>5</b></p>	<p><b>Maintaining up to date holdings inventory list</b></p> <p>We noted that the holdings inventory book and related maps are out of date and have not be updated since early 2000's and the fact sheets for properties on the Inventory of City's Holdings Maps have not been updated to reflect current information.</p> <p>This increases the risk that information may not be updated/maintained for all City's holdings and be readily available for staff.</p> <p>We recommend the following:</p>	
	<p>The holdings inventory book and maps should updated by the department that is responsible for the real estate function.</p>	<p>Management agrees with this recommendation. A map showing all City holdings has been updated.</p>



#	Recommendation	Management response, executive and deadline
	<p>The holdings inventory and updated information should sit in the OLI replacement system where all City's land is being maintained.</p> <p>The holdings inventory listing and maps, once updated, should be maintained and updated periodically as required by the department that is responsible for the real estate function.</p>	<p>Director of Planning Services – December 2017</p> <p>Management agrees with this recommendation. The City is in the process of replacing the OLI system with a new contemporary system. This recommendation will be reviewed as part of this replacement process.</p> <p>Director of ITS – June 2018</p> <p>Management agrees with this recommendation.</p> <p>Director of Planning Services – ongoing after update completed</p>
6	<p><b>Acquisition and Disposal Policy and By-law</b></p> <p>We noted some possible updates to improve the draft Acquisition and Disposition Policy. These included:</p> <ul style="list-style-type: none"> <li>▪ By-law 97-2000 has not been updated;</li> <li>▪ The policy does not specifically outline the management of real property interests after acquisition of property as well as prior to disposal;</li> <li>▪ With regards to principles and objectives, there is no process outlined for real property interests acquired for leases or licenses of terms less than 21 years;</li> <li>▪ The roles/titles involved in the real estate function for acquiring and disposing of properties is not specifically stated in the policy;</li> <li>▪ The policy makes reference to By-law 97-2009 for disposing real property instead of Disposal Bylaw 97-2000;</li> <li>▪ The By-law makes reference to 'Disposition' instead of 'Disposal' as per the policy as well as an unnecessary requirement for advertisements to be placed in the</li> </ul>	



#	Recommendation	Management response, executive and deadline
	<p>newspaper when Council has declared a property to be potentially surplus, or prior to the closing of the transaction involving the disposal.</p> <p>We recommend the following:</p> <p>The By-law and Acquisition and Disposal Policy should be updated, finalized, approved by Council and communicated across the organization and maintained on a periodic basis by the department in which the real estate function sits.</p> <p>Refer to Appendix B for additional recommendations and best practices compared to other Municipalities.</p>	<p>Management agrees with this recommendation. A draft of the updated by-law and policy will be reviewed by KPMG.</p> <p>Commissioner of Development Services – December 2017</p> <p>Management agrees with this recommendation. The best practices of other municipalities will be reviewed.</p> <p>Commissioner of Development Services – December 2017</p>
7	<p><b>Encroachment By-law</b></p> <p>We reviewed the Encroachment By-law and noted some amendments which will provide some clarity to the requirements. These included the following:</p> <p>Amendments to the reference to the Commissioner of Community Services to whichever Commissioner is responsible for Real Estate going forward;</p> <p>The costs of any survey or other costs incurred by the Corporation should be payable by the applicant who has encroached;</p>	<p>Management agrees with this recommendation. The Encroachment By-law needs to be updated to reference the Commissioner of Development Services and Director of Planning Services.</p> <p>Commissioner of Development Services – February 2017</p> <p>Management agrees with this recommendation. The appropriate by-law(s) will be updated to reflect this principle.</p>



#	Recommendation	Management response, executive and deadline
	<p>Expansion of the requirements around removal of the encroachment to include other reasons than just the termination of the agreement (e.g. if property is sold); and</p> <p>Any applicable recourse for the Corporation in relation to the failure to meet the terms of the agreement.</p>	<p>Commissioner of Development Services – February 2017</p> <p>This will be reviewed and the by-law updated as necessary. The best practices of other municipalities will be reviewed. A draft of the updated Encroachment By-law will be reviewed by KPMG.</p> <p>Commissioner of Development Services – December 2017</p> <p>Management agrees with this recommendation. Legal Services should be consulted regarding default of any agreement.</p> <p>Commissioner of Development Services – February 2017</p>
8	<p><b>Enquiries in relation to the City’s land and property</b></p> <p>We were informed that follow-ups required to process acquisition enquiries for parks and open space properties by staff members are time-consuming and there is no policy in place that limits the time and effort involved in follow-ups performed for these inquiries. There have been eight requests (from October 2015 – April 2016) that have come in (for Policy Division) and has been passed onto the Manager of Policy since October 1, 2015 and the staff time to process these requests have taken anywhere from one hour to 12 weeks. This is a burden on staff time when in most cases the City is looking to maintain its asset base.</p> <p>We recommend the following:</p> <p>An insert be placed in the acquisition and disposition policy and By-law that states that all acquisition inquiries received for parks and open space properties be referred to those already identified as surplus and anything other than these surplus properties would be followed up on an exception basis.</p>	<p>Management agrees with this recommendation. Staff should have the authority from Council to indicate to an enquirer that parks and open space properties that are not surplus are not for sale. Staff</p>



#	Recommendation	Management response, executive and deadline
		<p>will undertake a regular review to determine if any lands should be declared surplus. Parks and Open Space properties are important for the residents of this growing City. There are many encroachments on City parks and open space which should be dealt with through encroachment agreements not through a sale.</p> <p>Commissioner of Development Services – December 2017</p>
	<p>Update Section 2.03 in the Disposition By-law to reflect the above recommendation; and</p>	<p>Management agrees with this recommendation.</p> <p>Commissioner of Development Services – February 2017</p>
	<p>Update the Acquisition and Disposition Policy as well as the Delegation of Authority By-law to indicate the person/group that is responsible for responding to such requests.</p>	<p>Management agrees with this recommendation.</p> <p>Commissioner of Development Services – December 2017</p>
<p><b>9</b></p>	<p><b>Maintenance of land and property holdings within the OLI system</b></p> <p>We noted that there is currently no secondary review performed of the Corporate Database system (OLI) to ensure the information captured in the system is accurate and complete. We found:</p> <ul style="list-style-type: none"> <li>▪ There are times when the 'Includes Receivables' box is not checked off on the Agreement Checklist and/or this is not captured in the OLI System;</li> <li>▪ The terms of renewal were not identified, the expiration date was not captured and the location was not identified in all cases; and</li> <li>▪ For one sample file identified there was an amendment change. However, this was not updated in the system</li> </ul>	



#	Recommendation	Management response, executive and deadline
	<p>(i.e. the amended agreement number was not indicated in the system).</p> <p>The above instances could lead to capturing inaccurate and incomplete information in the OLI system and may lead to loss of revenue for the City.</p> <p>We recommend the following:</p> <p>A second individual (other than the staff member inputting the information) should review the information in the system to ensure it has been captured accurately and completely as per the Lease Agreement and Agreement Checklist. This will reduce the number of instances whereby an invoice is not sent to the tenant or is sent on the basis of incomplete/inaccurate information in the system; and</p> <p>Management should review the functionalities of the OLI replacement system to see if reporting can be used to identify incomplete data.</p>	<p>Management agrees with this recommendation. This recommendation has been implemented in Planning Services.</p> <p>Director of Planning Services – in effect</p> <p>Management agrees with this recommendation. Information Technology Services will review this as part of the process to replace the OLI system with a more current and advanced system.</p> <p>Director of Planning Services and Director of Information Technology Services – December 2017</p>
10	<p><b>Different billing functions in relation to leases / licences</b></p> <p>We found that various departments are involved in the billing for leases/licences. This included the following:</p> <ul style="list-style-type: none"> <li>▪ Various methods are used for collecting/receiving payments for real estate transactions with differing levels of controls;</li> <li>▪ A complete listing of clients/tenants could not be generated upon request and we could not determine if this listing was reviewed periodically for completeness;</li> </ul>	



#	Recommendation	Management response, executive and deadline
	<ul style="list-style-type: none"> <li>▪ There does not appear to be a clear understanding of why some encroachments are charged a fee and others are not; and</li> <li>▪ In some cases we noted they were either not billed, incorrectly billed, or we could not determine who handled the billing function and for others we could not perform testing as the agreement did not indicate values to be billed or the agreement number.</li> </ul> <p>We recommend the following:</p>	
	<p>The billing function should lie with Accounts Receivable to ensure there is one area involved in billing transactions which will help reduce errors, inaccurate/incomplete data and accountability issues;</p>	<p>Management agrees with this recommendation.</p> <p>Executive Director of Finance/Treasurer – December 2017</p>
	<p>Management should consider streamlining the method of collecting payments to just one or two forms (i.e. EFT Transfers and Credit Card) and also consider accepting payments online;</p>	<p>Agreed – a number of enhancements will be enabled in Peoplesoft though the A/R and Billing phase of the upgrade which will be closely examined to identify payment alternatives to determine the most appropriate mix of payment options.</p> <p>Executive Director of Finance/Treasurer – December 2017</p>
	<p>A report should be developed that summarizes all billing transactions and outstanding debts which is reviewed periodically (i.e. monthly); and</p>	<p>Agreed, this information is available through the Aged A/R trial balance. A business unit could be created within Peoplesoft to capture all lease related transactions in one report which can be reviewed periodically for completeness and collection issues.</p> <p>Executive Director of Finance/Treasurer – December 2017</p>
	<p>The Corporation should determine whether all encroachments should be charged a fee and any</p>	<p>Management agrees with this recommendation. The fees need to</p>



#	Recommendation	Management response, executive and deadline
	<p>exceptions should be documented with appropriate reasons and approval.</p>	<p>be reviewed and addressed in the General Fees and Charges By-law.  Commissioner of Development Services – June 2017</p>
<p><b>11</b></p>	<p><b>Insurance requirements for leases</b></p> <p>We found that improvements could be made to the process around ensuring appropriate insurance for leased properties. Specifically we noted:</p> <ul style="list-style-type: none"> <li>▪ The Risk Management and Insurance Officer in financial services may not always become aware of property and building status changes.</li> <li>▪ For six samples tested, the insurance box was not checked off and should have gone through insurance.</li> <li>▪ For five samples selected, we could not determine whether the insurance box should have been checked off in the system as the file was not in the system.</li> </ul> <p>If the Risk Management and Insurance Officer is not notified of a status update (i.e. new lease setup, change in disposition), the City may not have appropriate coverage or face increased premiums for claims.</p> <p>We recommend the following:</p> <p>When the agreements (leases or licences) come up for renewal or any new agreements, the insurance component should be reviewed by the Risk Management and Insurance Officer prior to reviewing the renewal terms. For example, the Risk Management and Insurance Officer should be notified of any dispositions (change in use or change in occupancy) or Disposals; and</p> <p>Similarly with the insurance box, a check box for dispositions should be placed on the Agreement Checklist to notify the Risk Management and Insurance Officer to</p>	<p>Management agrees with this recommendation. This recommendation has been implemented in Planning Services. On an as needed basis the Risk Management and Insurance Officer will be invited to CREST meetings</p> <p>Director of Planning Services – In effect and ongoing</p> <p>Management agrees that the Risk Management and Insurance Officer needs to be notified when City</p>



#	Recommendation	Management response, executive and deadline
	take appropriate steps to remove/update the insurance due to the status change.	properties are disposed of to another party.  Director of Planning Services – February 2017
12	<p><b>Filing Administration</b></p> <p>We found some weaknesses with administration around leases, licences and encroachments, including:</p> <ul style="list-style-type: none"> <li>▪ The paper file was not found for two encroachments selected and one sample license selected, there was no contract on file;</li> <li>▪ For five samples, the file was not present in the OLI system and for two of these, the file could not be found either; and</li> <li>▪ For five samples, the agreement/rent was not clearly specified in the system either due to the file not being found in the system or the paper file could not be located.</li> </ul> <p>We recommend the following:</p>	
	Paper files should be replaced with electronic files for all real estate instances/transactions and be maintained in the department location where the real estate function resides; and	<p>Management agrees with this recommendation. To be reviewed as part of electronic document management review and the OLI replacement system review.</p> <p>Director of Planning Services, Director of Information Technology Services and Manager of Records Information System in Clerks Services – June 2018</p>
	Periodic audits be conducted by relevant staff members to ensure files are created and include appropriate and complete documentation.	<p>Management agrees with this recommendation.</p> <p>Director of Planning Services – beginning January 2017</p>



## Appendices

### Appendix A: Real Estate Function structure

Below we have identified the advantages of the real estate function sitting in the four functional areas within the City of Oshawa. We noted there are no staff that presently have a real estate background.

	Development Services	City Manager's Office (Legal Services)	Corporate Services	Community Services
Advantages	<ul style="list-style-type: none"> <li>• Immediate knowledge of current and future land and land development</li> <li>• Currently the keeper of the City's Land Holdings Inventory</li> <li>• Planning staff manage land use within the city</li> <li>• Land related issues are presented to the Development Services Committee prior to Council</li> <li>• Familiarity with regulated Acts and Regulations</li> </ul>	<ul style="list-style-type: none"> <li>• Staff are qualified to undertake purchase and sale agreements and other real estate matters</li> <li>• Ultimately involved in legal transactions and legal reviews agreements</li> <li>• Involved in insurance or indemnity clauses within agreements</li> </ul>	<ul style="list-style-type: none"> <li>• Responsible for Corporation-wide services (which Real Estate is)</li> <li>• Close links to facilities management which sits in Corporate Services</li> <li>• Knowledge of city building structures (and their condition) and parkland development</li> <li>• Key holder of properties</li> </ul>	<ul style="list-style-type: none"> <li>• Parks and Recreation staff have knowledge regarding City parkland, park clubhouses that may or may not be leased.</li> <li>• Knowledgeable around encroachments and its impact on ecology and wildlife</li> </ul>



## Appendix B: Policy and by-law review

Below we have identified the policies reviewed relating to the real estate function and areas other Municipalities have included as part of their policies and by-laws based on our research and benchmarking exercise.

#	Policy and By-law review
<b>Acquisition and disposition Policy and by-law</b>	<p>Other Municipalities have included the following as part of their policies and have been listed below for the City of Oshawa's consideration:</p> <ul style="list-style-type: none"> <li>• Public Lands</li> <li>• Last Review Date</li> <li>• Administration of the Policy</li> <li>• Priority of Offerings for Surplus Properties identified</li> <li>• Multiple Offers</li> <li>• Environmental Audits</li> <li>• Easements</li> <li>• Leases</li> <li>• Licenses</li> <li>• Private Buildings</li> </ul>
<b>Encroachment policy and by-law</b>	<p>Other Municipalities have included the following as part of their Encroachment by-laws/policies and have been listed below for the City of Oshawa's consideration:</p> <ul style="list-style-type: none"> <li>• Executive Summary</li> <li>• Administration of the By-Law</li> <li>• Equipment's</li> <li>• Exemptions/Special Considerations</li> <li>• Financial Implications</li> <li>• Offence and Penalty Provisions</li> <li>• Encroachment Agreement</li> <li>• Applications</li> <li>• Last Updated/Maintenance</li> <li>• Existing Authorized Encroachments</li> <li>• Various related schedules for fees</li> <li>• Legal Considerations</li> <li>• Encroachment Removal/Restoration Process</li> <li>• Regulations around general requirements for encroachments (fences/hedges, canopies, etc.)</li> </ul>



## Appendix C: Summary of work

In line with the objectives of the scope, we have assessed the processes and controls in place around the acquisition and disposal of real property. The following Appendix demonstrates the relevant processes we have identified and the key controls in place to mitigate risks. We have commented on the design of these controls in the right-hand column. Where controls have been deemed to be designed effectively, we have gone on to test their operating effectiveness in Appendix B.

### Acquisition of Real Property

As a part of fieldwork, we walked through the acquisition processes as identified below.

Process	Control	KPMG comments on design
Operating department identifies a need to acquire property/land.	Acquisitions must be consistent with Section 5 of the Acquisition and Disposal Policy and Procedure (Legislation, Policy, Principles and Objectives)	
Development Services prepares needs assessment for departments wanting to acquire Real Property (other than those approved as part of the annual report)	Agreements and approvals for Acquisitions are processed and executed in accordance with the Delegation of Authority By-law	
Development	Development Services does not initiate an Acquisition unless approved by Council.	✓ The Commissioner of Development Services and the City Solicitor are responsible for ensuring all applicable legislative requirements have been met.



Process	Control	KPMG comments on design
Development Services prepares an Acquisition Plan	Acquisition Plan approved by Council	✓ Recommendations must be based on the best value when acquiring Real Property
↓	↓	↓
Development Services proceeds with Acquisition after receiving Council direction.	Development Services strictly follows the Acquisition Plan	✓ An Acquisition Plan is followed
↓	↓	↓
	Changes to the Council approved Acquisition Plan must be approved by Council through a staff report from the Commissioner of Development Services.	✓ There are good controls around changes requiring approval by Council
↓	↓	↓
Staff conclude the Council approved Acquisition Plan and prepare a Closed 'Direction to Close/Not Close' report to Council		
↓	↓	↓
Development Services provides Legal Services the staff report and conclude the transaction		



## Disposition of Real Property

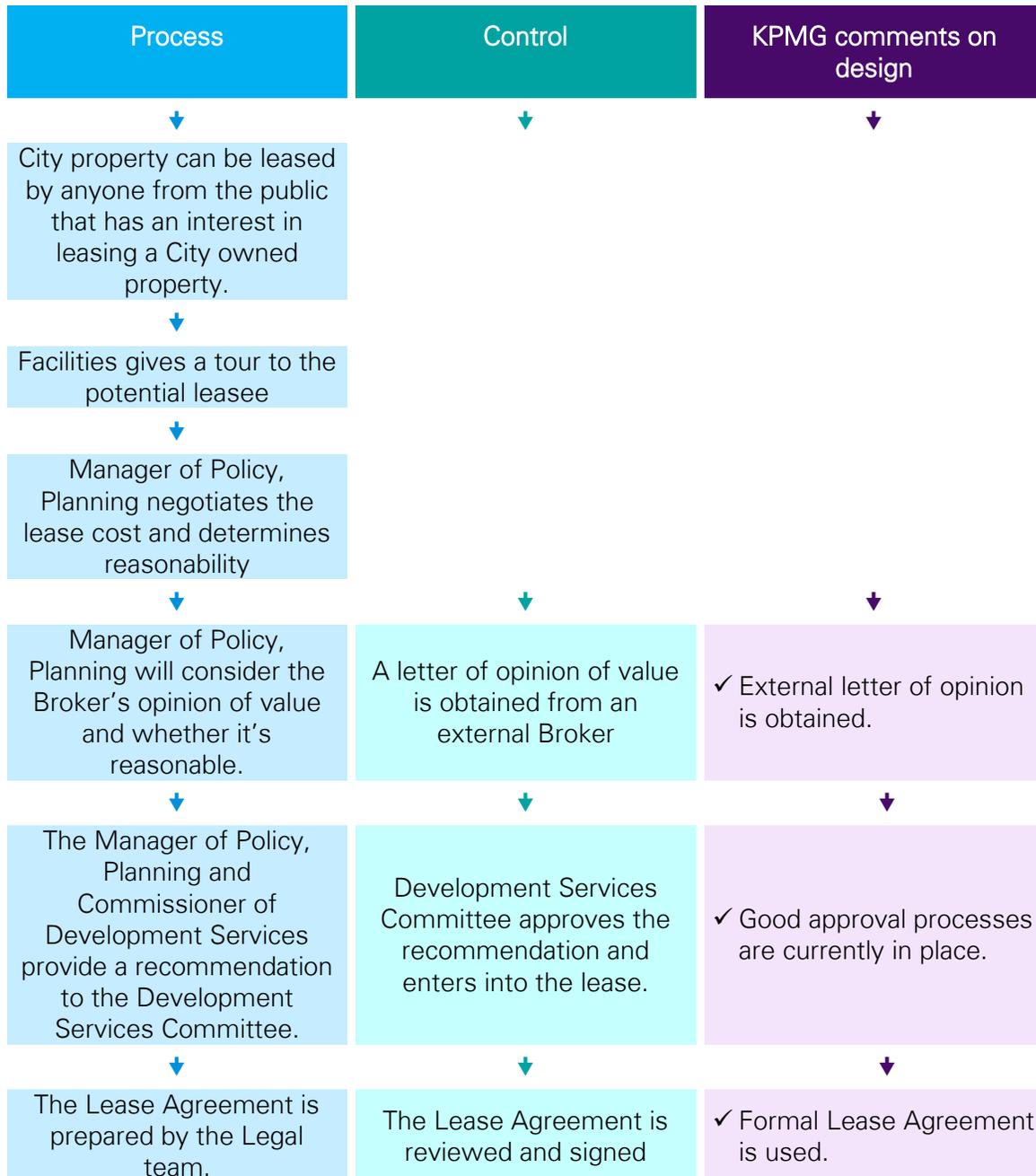
As a part of fieldwork, we walked through the disposition of real property process. A disposition can be categorized as one or more of the following: An exchange of one piece of real property for another, the sale of real property for cash or on alternate payment terms, or the lease of real property for a term of twenty-one (21) years or more.

Process	Control	KPMG comments on design
Development Services staff process request from third party that City dispose of City Real Property	The Development Services Department will not initiate a Disposal unless the potential Disposal is approved by Council.	
Development Services initiates the Disposal by preparing a 'Disposal Plan'.	The Disposal Plan is approved by council.	✓ A Disposal plan is in place.
Development service receive Council direction on the Disposal Plan.	Any changes to the Disposal plan are approved by the Council.	
Development Services Department prepares a closed 'Direction to Close/Not Close' report to Council through the Development Services Committee.	The Council approves the Disposal.	✓ There are good controls in place around the Disposal of real property.



## Leases and Licenses

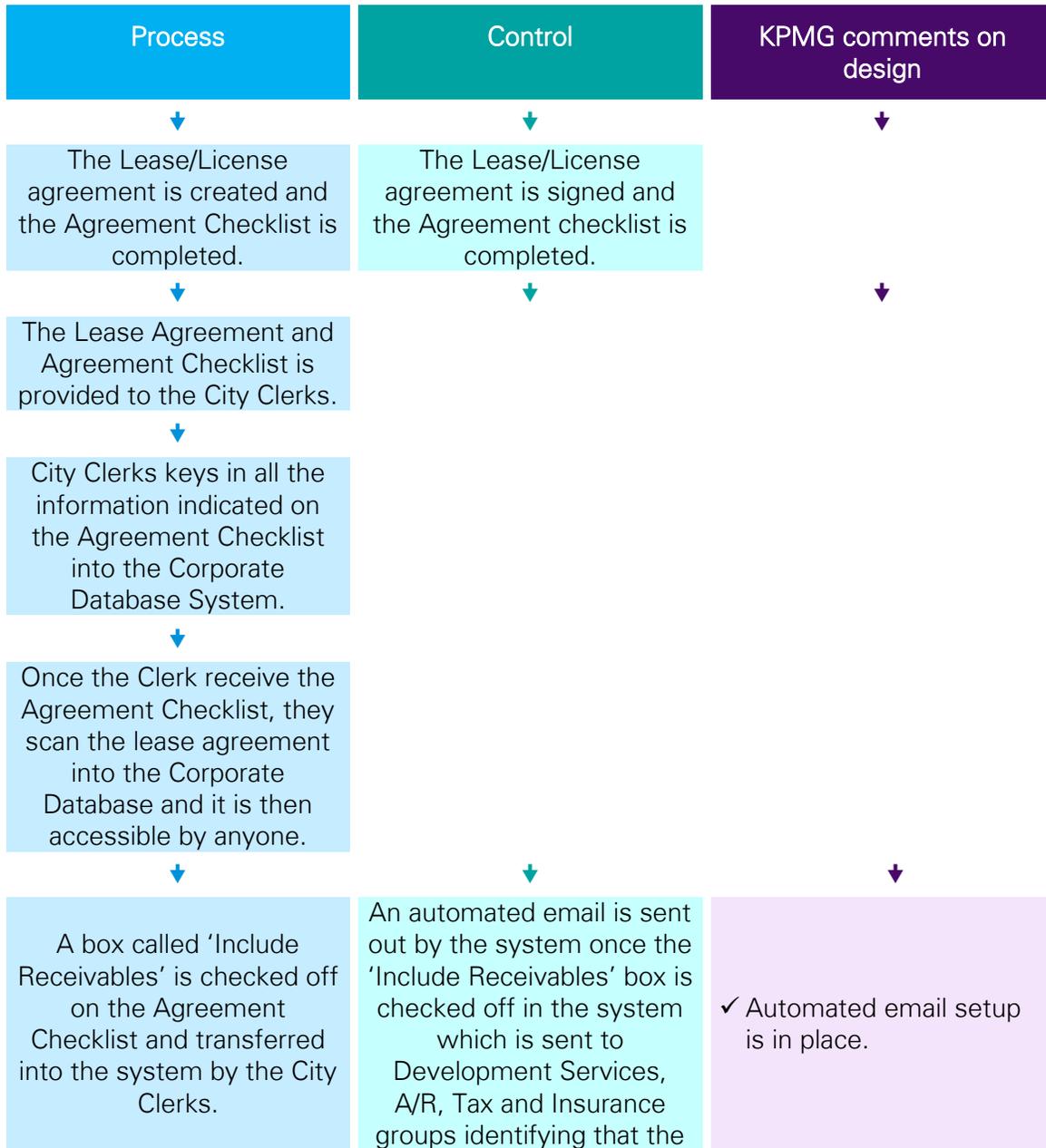
As a part of fieldwork, we walked through the lease process. This process is similar for licenses.





### Billing for Leases and Licenses

As a part of fieldwork, we walked through the disposition of real property process. A disposition can be categorized as one or more of the following: An exchange of one piece of real property for another, the sale of real property for cash or on alternate payment terms, or the lease of real property for a term of twenty-one (21) years or more.



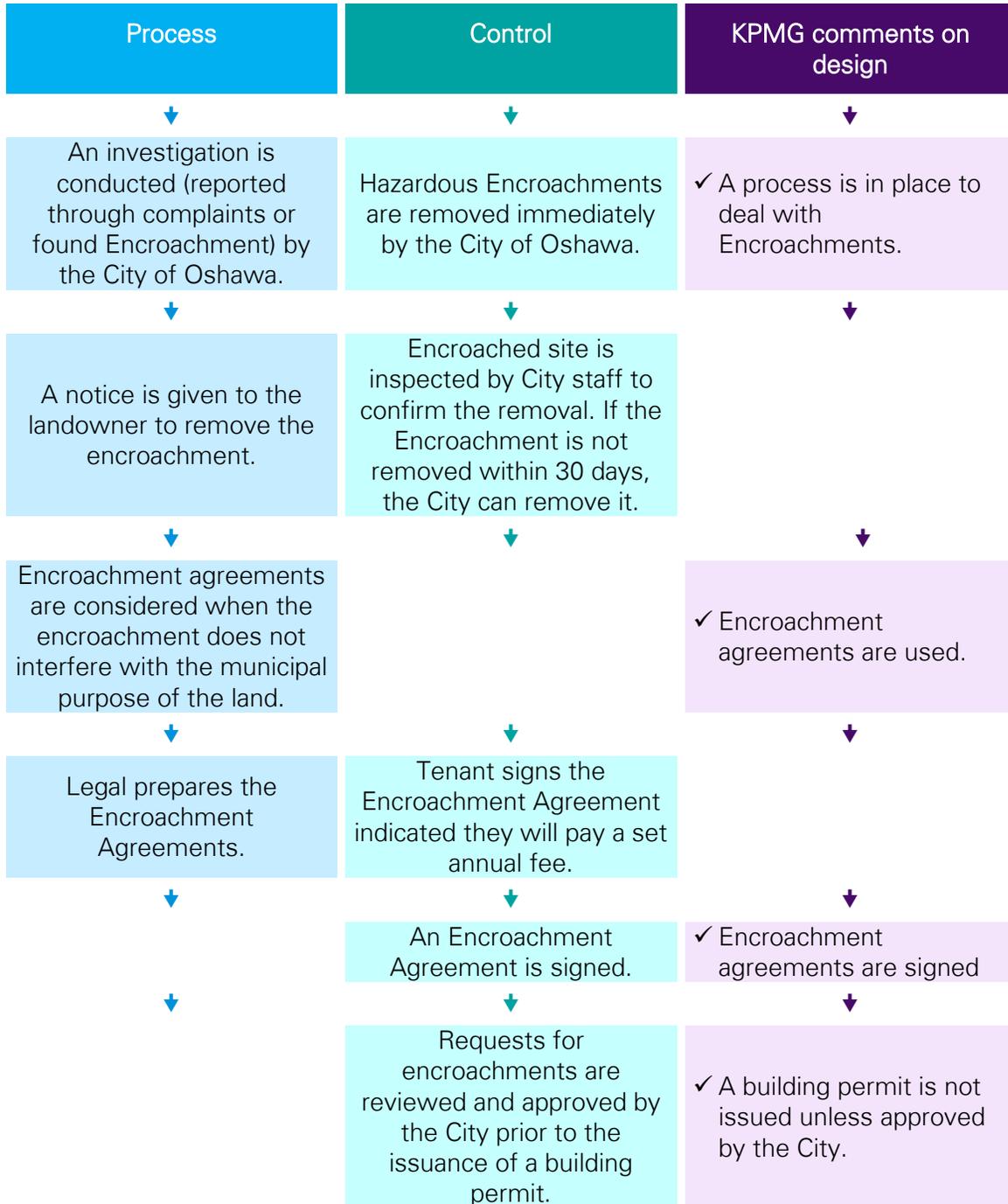


Process	Control	KPMG comments on design
	Lease has been added into the system.	
<p style="text-align: center;">↓</p> <p>The A/R Clerk reviews automated emails to see the department taking care of the billing and files email.</p>	<p style="text-align: center;">↓</p>	<p style="text-align: center;">↓</p>
<p style="text-align: center;">↓</p> <p>The A/R Clerk invoices upon request by the Planning Services using the copy of the agreement and GL numbers.</p>		
<p style="text-align: center;">↓</p> <p>A/R reports are run on the 15<sup>th</sup> of the month and Dunning Letters are sent (reminder notices for any outstanding invoices in the A/R system).</p>	<p style="text-align: center;">↓</p> <p>The Letter to the Tenant is reviewed by the Manager, Policy prior to it being sent to the Tenant. A/R would be cc'd on this email.</p>	<p style="text-align: center;">↓</p> <p>✓ There are good review controls in place.</p>
<p style="text-align: center;">↓</p> <p>There is a gentle first reminder dunning letter 1) after 30 days and the next month a warning of Legal action dunning letter 2).</p>	<p style="text-align: center;">↓</p>	<p style="text-align: center;">↓</p> <p>✓ Reminder emails are sent.</p>
<p style="text-align: center;">↓</p> <p>The following month these outstanding invoices from dunning letter 2) that are not paid either go to our Legal Department or to a collection agency.</p>	<p style="text-align: center;">↓</p>	<p style="text-align: center;">↓</p>



## Encroachments

As a part of fieldwork, we walked through the Encroachment Process.

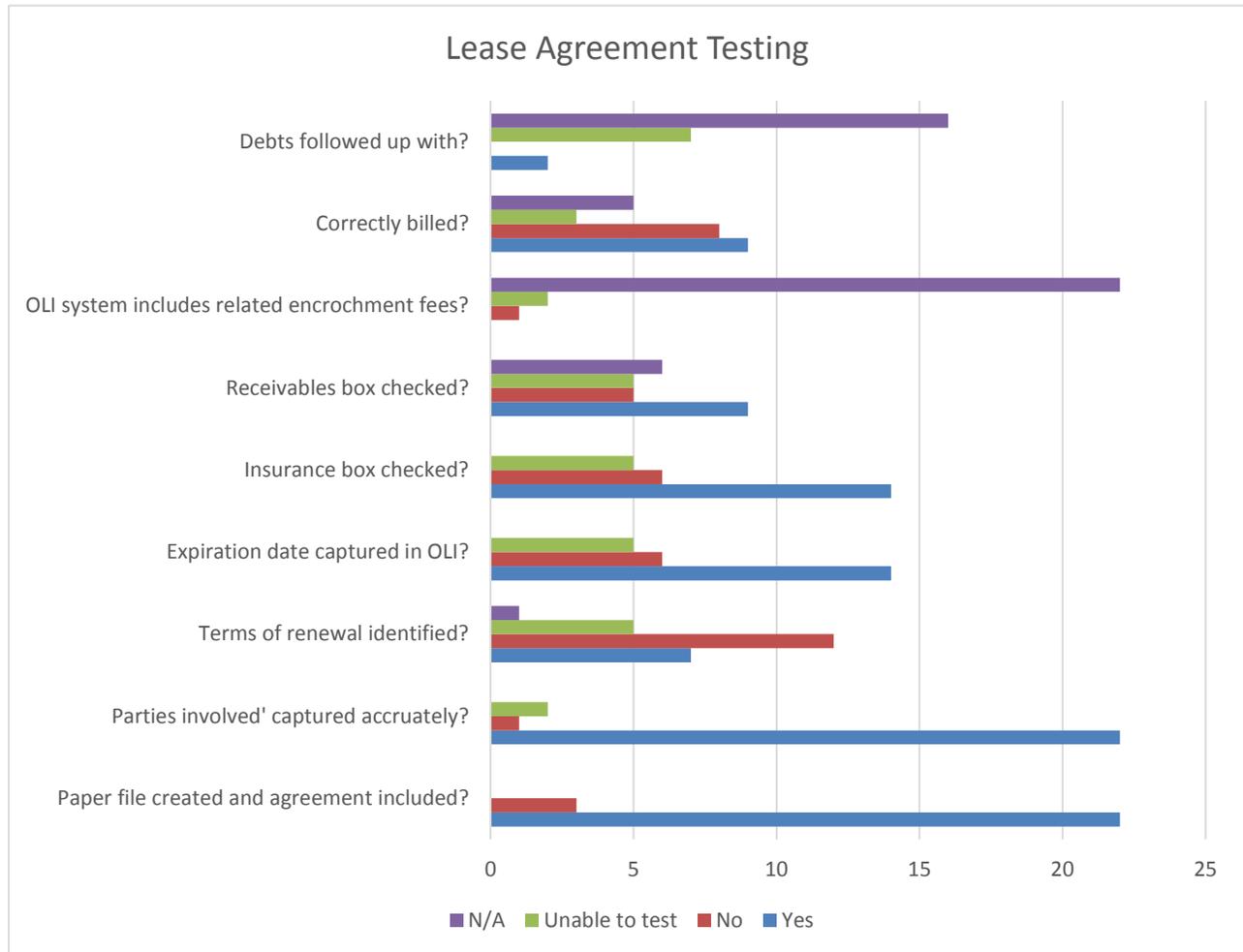




## Appendix D: Summary of testing results

We summarize below the results of the compliance testing we have performed over the controls in place.

### Billing Preparation



### Findings

We obtained a listing of all leases, licenses and encroachments to date from the branch files and conducted detailed testing of 25 samples. The following was noted:

- ✓ The paper file was found for 22/25 samples selected.
- ✓ The 'parties involved' were accurately captured for 22/25 samples selected.
- ✓ For seven out of 25 samples selected, the terms of renewal were identified.



## Findings

- ✓ The expiration date was captured accurately in OLI for 14/25 samples selected.
- ✓ For 14 samples, the insurance box was checked and for 9 samples the receivables box was checked.
- ✓ For 9 samples selected, we noted that the amount was correctly billed, 5 samples were not applicable,
- ✓ For 16 samples, there were no debts or the debts were in the process of being followed up with. For 2 samples, debts were followed up with
- **Paper file:** The paper file was not found for two sample encroachments selected and for 1 sample license selected, there was no paper lease included in the file. **Recommendation 12**
- **Parties Involved:** The accuracy of the entry of 'parties involved' in the OLI system could not be determined for 2 sample encroachments as the file did not include the agreement #. For 1 sample selected, the 'parties involved' was not captured accurately in the system. **Recommendation 4**
- **Terms of Renewal:** For 12/25 samples, the terms of renewal were not identified in OLI. 1 sample was not applicable as no renewal was required. For 5 samples, we could not determine the terms of renewal as these files were not found in the system due to the file agreement # not being identified or the file could not be located. **Recommendation 9**
- **Expiration Date:** This was not captured in the OLI system for six out of 25 samples selected. For five samples, we could not determine whether the expiration date was captured as the file did not contain the relevant agreement # or the file could not be found. **Recommendation 9**
- **Insurance Box:** For 6 samples, the insurance box was not checked off and should have gone through insurance. For 5 samples, we could not determine whether the insurance box should have been checked off in the system as the file was not in the system. **Recommendation 11**
- **Receivables Box:** For 5 samples, the receivables box was not checked off and these should have been checked off. For 5 samples we could not determine whether the boxes were checked off in the system as the files could not be found. 6 samples selected were not applicable. **Recommendation 9**
- **Encroachment Fee:** For 1 encroachment sample selected, there was no indication that a fee had been charged in the system and for the remaining 2 we could not test as the files for these could not be located. 22 samples were N/A. **Recommendation 10**
- **Billing:** For 8 samples we noted they were either not billed, incorrectly billed, or we could not determine who handled the billing function and for 3 samples, we could not test as the agreement did not indicate values to be billed or the file did not include an agreement #. **Recommendation 10**
- **Agreement Number:** For 7 samples we were unable to test as the agreement # was not identified in the file or we could not determine who handled the billing function upon follow-up. **Recommendation 9**



## Appendix E: Staff involvement and documents reviewed

We undertook interviews in April and May 2016 with key stakeholders to inform this work, including:

Name	Title
Paul Ralph	Commissioner of Development Services
David Potts	City Solicitor
Mark Robinson	Director, Facilities Management Services
Garry Carroll	Director of Engineering
Darren Nagy	Risk Management and Insurance Officer
Warren Munro	Director, Policy
Dru Chillingworth	Manager, Parks Maintenance Services
Tim Dwyre	Manager, Taxation and Revenue Services
Mike Sluggett	Manager, Traffic, Streetlighting and Parking
Stephen Wilcox	Airport Manager, Oshawa Executive Airport
Kelly Lowe	Supervisor, Finance and Data Management
Lorraine Fuller	Coordinator, Taxation and Revenue Services
Jane Bell	A/R Clerk
Jennifer Lane	Development Services Admin

We also met with the Corporate Leadership Team to discuss potential options for the location of a Real Estate Function.

We received the following documentation over the course of fieldwork:

- Acquisition and Disposal of Real Property Policy and Procedure (Draft)
- CREST Acquisition and Disposition Checklist
- By-Law 29-2009 – Delegation Authority By-law
- By-Law 97-2000 – Real Estate Disposal
- City owned holdings Map
- City holdings Inventory Book
- Encroachment Procedure Manual (Draft)
- Encroachment By-Law (Draft)
- Versatile Reports (Leases, Licenses, Encroachments/Easements)