



The Corporation of the Municipality of Brockton Sale of Land by Public Tender

Take Notice that tenders are invited for the purchase of land described below and will be received until 12:00 p.m. local time on Wednesday, October 23, 2019 at the Brockton Municipal Office, 100 Scott Street, Walkerton, Ontario.

The tenders will then be opened in public on the same day as soon as possible after 12:00 p.m. at the Brockton Municipal Office, 100 Scott Street, Walkerton, Ontario.

Description of Lands:

Roll No. 41 04 340 008 12500 0000

Municipal Address: 1 Queen Street West, Elmwood, Ontario

Legal Description: PT LT 12 PL 150 AS IN R370573; BROCKTON, bearing parcel identifier number 33187-0088 (LT).

Tender Submissions:

Tenders must be submitted in the prescribed form and must be accompanied by a money order or bank draft or certified cheque by a bank or trust company payable to the Municipality of Brockton for the full tender amount as well as the relevant land transfer tax and applicable HST, or the HST Warranties described in the instructions to tenderers.

The transaction shall be completed by no later than 5:00 p.m. on the 31st day of October, 2019, or as otherwise agreed upon by the parties' lawyers, acting reasonably.

Instruction to Tenderers:

All tenders must be sealed and submitted using the attached form to the Municipality of Brockton Municipal Office located at 100 Scott Street, Walkerton, Ontario at or before **12:00 p.m. local time on Wednesday, October 23, 2019**. The tender must be typewritten or legibly handwritten in ink and submitted care of the Clerk for the Municipality of Brockton, and can be submitted in person, by courier or by mail.

The transaction shall be completed by no later than 5:00 p.m. on the 31st day of October, 2019, or as otherwise agreed upon by the parties' lawyers, acting reasonably.

Tender Requirements:

Tenders must be submitted in the prescribed form and must be accompanied by a money order or bank draft or certified cheque by a bank or trust company payable to the Municipality of Brockton for the full tender amount as well as the relevant land transfer tax and applicable HST, or the Warranties described below.

Warranties:

Alternatively to including applicable HST with the tender, the Buyer may provide a warranty by way of a Statutory Declaration that the Buyer is registered under the *Excise Tax Act, R.S.C., 1985, c. E-15* ("ETA") together with a copy of the Buyer's ETA Registration; a Warranty by way of Statutory Declaration that the Buyer shall self-assess after closing, remit any HST payable and file the prescribed form to the Receiver General of Canada; and a Warranty by way of a Statutory Declaration that the Buyer shall indemnify and save harmless the Seller in respect of any and all HST, interest, costs and penalties payable for the transaction.

The forgoing warranties shall not merge but shall survive the completion of the transaction.

Acknowledgments and Agreements:

The Buyer acknowledges and agrees that they are acquiring the Property without any agreement, representation or warranty from the Municipality of Brockton (hereinafter referred to as "Brockton" or "the Seller"), either expressed or implied, as to the condition of the Property, the subsoil, environmental matters, condition of any structure, if any, or any other matters respecting the Property and without any obligation on the part of the Seller (except as required by law) to inform or advise the Buyer regarding the fitness or suitability of the Property for any use intended by the Buyer.

The Buyer accepts full responsibility for all conditions related to the Property and the Buyer shall comply with all Orders relating to the conditions of the Property issued by any competent governmental authority, court or administrative tribunal, including any order issued against the Seller. In particular, the Buyer hereby acknowledges and agrees that the Property is being sold with an outstanding Order Prohibiting Use or Occupancy of Unsafe Building that will not be vacated prior to the completion of the transaction. The Buyer will be responsible for taking all actions required to vacate the Orders or use the Property in such a way as to comply with the Order. The Vendor and Buyer agree that there is no representation or warranty of any kind that the future intended use of the Property by the Buyer is or will be lawful except as may be specifically provided for in this document.

The Buyer shall be responsible for and hereby indemnifies and saves harmless the Seller from any costs, including legal and witness costs, claims, demands, civil actions, prosecutions, or administrative hearings, fines, judgments, awards including awards of costs, that may arise as a result of the condition of the Property, any order issued in connection with the condition of the Property, or any loss, damage or injury caused either directly or indirectly as a result of the condition of the Property.

The Buyer hereby acknowledges and confirms that they are aware they have the right to obtain and consult an independent lawyer prior to signing this Agreement of Purchase and Sale with the Seller.

By signing this Agreement, the Buyer hereby:

- (a) Expressly confirms they have exercised their right to independent legal review or expressly waives their right to seek independent legal advice; and
- (b) Confirms they fully understand the nature and effect of submitting a tender and are executing the document voluntarily and free of any fear, threat, compulsion or inducement by any other person.

The Buyer hereby acknowledges accepting title to the Property as is, and that by submitting a tender the Buyer shall be conclusively deemed to have accepted the Vendor's title to the Property. It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement or the Property or supported hereby other than as expressed herein in writing.

The Buyer further acknowledged that the lowest, or any, tender may not be accepted by the Municipality of Brockton. The Municipality of Brockton may choose to not dispose of the Property despite any tenders that may be submitted.



The Corporation of the Municipality of Brockton Tender to Purchase

Name: Fiona Hamilton, Clerk
Address: Municipality of Brockton 100 Scott Street P.O. Box 68, Walkerton, ON N0G 2V0
Inquiries: Please contact Fiona Hamilton, Clerk by phone at 519-881-2223 Ext. 124, or
email fhamilton@brockton.ca

RE: Sale of Land

Roll Number: 41 04 340 008 12500 000; 1 Queen Street West, Elmwood, ON N0G 1S0; PIN 33187-088 (LT); Part Lot 12 Plan 150 as in R370573; Brockton; File No. 16-01

1. I/we hereby tender to purchase the land described above for the amount of \$_____ (_____ dollars) **plus** HST in accordance with the terms and conditions of the *Municipal Act, 2001* and the Instructions to Tenderers.
2. I/we understand that this tender must be received by the Clerk's Office no later than 12:00 p.m. local time on October 23, 2019, and that in the event of this tender being accepted, I/we shall be notified of its acceptance.
3. I/we enclose a deposit in the form of a certified cheque/bank draft/money order for the sum of \$_____ (_____ dollars) in favour of The Corporation of the Municipality of Brockton representing the tendered amount, and land transfer tax and applicable H.S.T.

This tender is submitted pursuant to the *Municipal Act 2001*.

Dated at _____ this _____ day of _____, 2019.

Name of Tenderer: _____

Address of Tenderer: _____

Email: _____ Phone: _____

Personal information contained on this form, collected pursuant to the *Municipal Act, 2001*, and regulations thereunder will be used for the purposes of that Act. Inquiries should be directed to the Freedom of Information and Privacy Coordinator at the organization responsible for the procedures under that Act.

Property Information

Municipality	Municipality of Brockton
Roll Number	41-04-340-008-12500-0000
Municipal Location	1 Queen Street West, Elmwood, ON N0G 1S0
Property Identification Number	33187-0088 (LT)
Brief Legal Description	Part Lot 12 Plan 150 as in R370573; Brockton
Approximate Property Size	Approximate Values Frontage 47' Depth 70'
Is the property on a lake or bay or a river?	No
Is the property accessible by a public or private road or a right-of-way?	Public Road Access – Corner Lot – Queen Street and County Road 10
Is there a house on the property?	No
Is there some other structure on the property?	Retail Commercial Building with Second Floor Accessory Apartment Above
Zoning	HC – Hamlet Commercial
With the existing zoning, it is possible to obtain a Building Permit?	Please contact the Municipality of Brockton Building/Zoning Department
Is it possible to have the property re-zoned?	Please contact the County of Bruce – Planning Department
For further information regarding zoning, contact:	Terry Tuck, Chief Building Official at 519-881-2223 Ext. 127, or Ray Holliday, Deputy Chief Building Official at 519-881-2223 Ext. 130
Additional Information:	Attached orders RE: Existing failed septic system that is located on adjacent property



Maps and pictures are provided as a courtesy only and the Municipality makes no warranties as to the accuracy of this information. Boundaries on aerial photos may be skewed.



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The Municipality Of Brockton
100 Scott St
PO Box 68
Walkerton, N0G 2V0

(877) 885-8084

**ORDER PROHIBITING USE OR
OCCUPANCY OF UNSAFE BUILDING**

Date: November 24, 2011

Date of Inspection: November 24, 2011

Time: 03:00PM

Bylaw Number:

Permit Number:

Roll Number: 41-04-340-008-12500-0000

Current Owner:

Current Address:

Property Location: PLAN 150 VL12PT
1 QUEEN ST W

Inspector: Holliday, Raymond

PENALTIES ARE PROVIDED FOR VIOLATION OF THE BUILDING CODE ACT AND BUILDING CODE

TAKE NOTICE that whereas the action required in the ORDER TO REMEDY UNSAFE BUILDING issued on
with respect to the above-mentioned building has not been complied with within the
time specified on it, or where no time was specified, within a reasonable time, it is hereby ordered that use or
occupancy immediately cease as specified below.

☒ Prohibit Occupancy or Use

All Occupancy Prohibited

Building shall not be occupied until such time as the

November 24, 2011

Date Order Issued

Signature of Chief Building Official / Property Standards Officer

Phone: (519) 881-2223 Fax: (519) 881-2991

Renovation, repair, demolition -

If an order of an inspector under subsection 15 (3) is not complied with within the time specified in it, or where no time is specified, within a reasonable time, the Chief Building Official may cause the building to be renovated, repaired or demolished to remove the unsafe condition. For this purpose, the Chief Building Official, an inspector and their agents may enter upon the land and into buildings at any reasonable time without a warrant. See subsections 15 (5) (b) and 15 (6).

Municipal Lien -

If the building is in a municipality, the municipality shall have a lien on the land for the amount spent on the renovation, repair or demolition under clause 15 (5) (b) and the amount shall be deemed to be municipal taxes and may be added by the clerk of the municipality to the collector's roll and collected in the same manner and with the same priorities as municipal taxes. See subsection 15 (9).

Penalties -

Refer to subsection 36 (3) to (6) of the Act for penalties which apply in event of failure to comply with this order.

Removal of Order/Prohibition -

No person shall remove the copy of any order posted under this Act unless authorized by an inspector or obstruct the visibility of an order. See section 20.

The personal information on this form was collected pursuant to the Building Code Act and forms part of a public record open to inspection by any person upon request at the office of the clerk during normal office hours. See the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1992, c. M56, s. 14 (1) (c).

The Municipality Of Brockton
100 Scott St
PO Box 68
Walkerton, N0G 2V0

(877) 885-8084

**ORDER TO REMEDY
UNSAFE BUILDING**

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Reference:

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Time: 03:00PM

Bylaw Number:
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Current Owner:
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Roll Number: 41-04-340-008-12500-0000

Property Location: PLAN 150 VL12PT
1 QUEEN ST W

Inspector: Holliday, Raymond

PENALTIES ARE PROVIDED FOR VIOLATION OF THE BUILDING CODE ACT AND BUILDING CODE

DESCRIPTION OF UNSAFE CONDITION	LOCATION	REFERENCE
septic system serving subject property is failed and sewage discharges to the surface of the ground on neighbouring property approximately 5 metres NW of the building	failed septic system	BCA 15.9 (3)

YOU ARE HERBY ORDERED TO TAKE THE REMDIAL STEPS
SET OUT ABOVE TO RENDER THE BUILDING SAFE ON OR
BEFORE:

November 24, 2011

- ☐ Emergency - work is to be carried out immediately
☐ Site must be cleared, graded, and levelled
☐ Continued on Schedule 'A' attached

November 24, 2011

Date Order Served

Signature of Chief Building Official or Property Standards Officer
Phone: (519) 881-2223 Fax: (519) 881-2991

Prohibiting Occupancy of Unsafe Building -

If an order of an inspector under subsection 15 (3) is not complied with within the time specified in it, or where no time is specified, within a reasonable time, the Chief Building Official may by order prohibit the use or occupancy of the building and may cause the building to be renovated, repaired or demolished to remove the unsafe condition. See ss. 15 (5) to (8).

Municipal Lien -

If the building is in a municipality, the municipality shall have a lien on the land for the amount spent on the renovation, repair or demolition under clause 15 (5) (b) and the amount shall be deemed to be municipal taxes and may be added by the clerk of the municipality to the collector's roll and collected in the same manner and with the same priorities as municipal taxes. See subsection 15 (9).

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The personal information on this form was collected pursuant to the Building Code Act and forms part of a public record open to inspection by any person upon request at the office of the clerk during normal office hours. See the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1992, c. M.56, s. 14 (1) (c).

Required Remedial Steps

You are hereby ordered to take such remedial steps as is necessary to repair a failing septic system so as to prevent sewage from discharging to the surface of the ground. Prior to commencing work on a septic system a permit shall be obtained from the MOE (if it is located on a different property) or a Permit to Construct from the Municipality of Brockton if it is on the same property as the building served by the system.



CORPORATION OF THE MUNICIPALITY OF BROCKTON

**MUNICIPAL OFFICE
100 Scott Street, Box 68
WALKERTON, Ontario
NOG 2V0
(519) 881-2223**

July 5, 2013

**Re: 1 Queen St, Elmwood
- Roll # 41 04 340 00812500**

We understand that you are, by means of default on a mortgage, the "owner" of the property at 1 Queen St , Elmwood.

Further to our meeting of July 4, 2013 this letter is to clarify the status of the orders on the subject property regarding a failed septic system.

On November 24, 2011 the undersigned posted an order on the subject building on behalf of the Municipality of Brockton requiring that remedial work be undertaken to repair a failed septic system. A second order was posted on the same date prohibiting occupancy of the building until such time as the septic system satisfactorily repaired/replaced. These orders remain in force and occupancy of the building is prohibited.

We discussed the jurisdictional issues involved in this situation. The Building Code Act and the Ontario Building Code provide the Municipality with the authority and the duty to issue the Order Prohibiting Occupancy of an Unsafe Building (specifically due to the failure of the septic system serving that building). The Municipality has the authority to issue permits to repair or construct a replacement septic system only on the same property as the building served by that system. Since the subject property is essentially entirely covered by an existing building and the failed bed is on two adjacent properties, there is no location on the same property for a treatment system or even a holding tank, that would meet the requirements of the Ontario Building Code. Accordingly, we referred you to the Ministry of the Environment for advice since we are of the opinion that this situation is within the jurisdiction of the MOE. You might also wish to investigate the option of appealing to the Building Code Commission for a ruling in this matter (we can supply you with contact information).

I trust that this letter clarifies the situation. If you have any questions, do not hesitate to contact this office.

Yours truly,

MUNICIPALITY OF BROCKTON

Raymond Holliday
Building Inspector/Property Standards Officer

cc - B. Belfour X