

**Schedule 'A' to the Agreement between
The Corporation of the Town of Deep River
and
The Corporation of the Town of Laurentian Hills**

LANDFILL COMPENSATION POLICY

August, 1995

NORTH RENFREW WASTE MANAGEMENT BOARD

A. INTRODUCTION

1. Purpose

The purpose of this Compensation Policy ("Policy") is to set out the policies that will be followed by the Town of Deep River, Village of Chalk River and the Townships of Rolph, Buchanan, Wylie & McKay (collectively referred to as the North Renfrew Waste Management Board) to ensure fair compensation for those affected by the establishment and operation of a new landfill. The Policy does not apply to existing landfills or to any other type of waste management facility. Reference to the "Board" is intended to include the North Renfrew Waste Management Board or whatever waste management authority assumes responsibility for establishing a landfill site pursuant to the North Renfrew Waste Management Study ("Study").

2. Background

This Policy has been developed with reference to the statutory powers available to the Board under various legislation. In some instances, there will be limitations on the statutory authority of the Board to implement some suggestions.

The Board recognizes that it has a special responsibility to those who may be directly affected by the location of a new landfill however, there is also a responsibility to the other taxpayers of the municipalities to be financially responsible in developing this Policy.

This Policy cannot account for every situation involving compensation which may arise in the course of siting a new landfill. If circumstances arise which are not anticipated and are not covered by or which may warrant a departure from this Policy, the Board will examine those situations on a case-by-case basis. Any form of compensation not specifically identified in this policy will require unanimous approval of the participating municipalities.

B. DEFINITIONS

The following definitions are intended to be used in understanding this Policy:

- a) "buffer" means the land between the approved waste fill area and the outer boundary of the landfill site;
- b) "business" means any person (i) assessed for business assessment pursuant to subsection 7(1) of the Assessment Act, and (ii) in compliance with applicable municipal zoning by-laws;
- c) "business loss" means the loss of net profits of business due to the relocation of the business, both during the move and at the new location. For example, it could include costs relating directly to the move, such as advertising expenses;
- d) "contiguous" means touching or in contact with;
- e) "enhanced by unified ownership" means a situation where two or more parcels of land, owned by the same person, are so near to each other that the possession and control of each property gives an enhanced value to all of the properties;
- f) "fair market value" means the amount that the property might be expected to be sold for by a willing seller to an unrelated willing buyer;

- g) "injurious affection" means
 - i) where the Board acquires part of the land of an owner the reduction in fair market value caused by the acquisition to the remaining land of the owner, and by the construction and use of the landfill, and the personal and business damages of the owner relating from the construction and use of the landfill, and
 - ii) where the Board does not acquire any land of the owner the reduction in the fair market value of the land caused by the construction and use of the landfill, and the business and personal damages of the owner resulting from the construction but not the use of the landfill;
- h) "landfill impact zone" means off-site land falling substantially within an approximate 500 m distance from the periphery of the waste fill area of any new landfill site established by the Board;
- i) "municipalities" means the Town of Deep River, the Village of Chalk River, and the Townships of Rolph, Buchanan, Wylie & Mckay;
- j) "off-site" means land which is not on-site;
- k) "on-site" means the land comprising the waste fill area and the immediately adjacent buffer which will form part of the approved landfill;
- l) "Owner" means any person(s) who is the registered owner of any real property;
- m) "qualified land appraiser" means any person accredited with the "A.A.C.I." designated by the Appraisal Institute of Canada;
- n) "rolling stock" means the moveable equipment used in business operations;
- o) "waste fill area" means that area within the approved landfill which is approved under the *Environmental Protection Act* for the permanent disposal of waste.

C. GENERAL PRINCIPLES

1. The basic principle to be employed by the Board pursuant to this Policy is that of compensation to the owner for loss resulting from the establishment of a new landfill. This includes compensation for loss of property or loss of property value and reimbursement of reasonable costs. Notwithstanding that the Board believes that a properly sited, constructed and operated landfill site will have few, if any, impacts which cannot be successfully mitigated, operational and monitoring measures will also be implemented to minimize or eliminate adverse impacts on neighbouring properties.
2. The primary means by which landowners will be compensated pursuant to this Policy will be the purchase of on-site land directly required for the actual landfill, and, if requested, the purchase of land within the landfill impact zone.
3. The provisions of this Policy, dealing with the acquisition of land by the Board, are intended to apply only to agreements voluntarily entered into between the Board and the property owner. Accordingly, expropriation will only be used where, in the judgement of the Board, voluntary agreement is not possible within a reasonable time-frame. If the Board is required to proceed by way of expropriation in the absence of a voluntary agreement, the provisions of the *Expropriations Act* rather than this Policy will apply.
4. Any matter not expressly covered in this policy will be dealt with in the manner provided

by the *Expropriations Act*, unless otherwise agreed on by the Board.

5. It is anticipated that affected land owners will and should seek legal advice. The Board will provide for the payment of any reasonable legal costs incurred by the landowner up to \$500, in negotiating with the Board, at the time the agreement is executed. Any amount above that is to be reviewed for approval by the Board.

6. The land required to establish a new landfill site will be acquired as soon as reasonably possible after all necessary or appropriate approvals have been obtained.

7. Where only part of a property falls within the landfill impact zone, the particular circumstances will be reviewed on a case-by-case basis. Where the part of the property falling outside of the landfill impact zone is minor, the Board will offer to purchase the entire property. In cases where the majority of the property falls outside of the landfill impact zone, the Board may obtain only the portion of property within the landfill impact zone. If a severance is required it will be obtained at the cost of the Board. If the prime residence is the minor portion of the property, the Board will consider the purchase of the entire property, if the Board and the landowner agree.

8. No land off-site will be expropriated pursuant to this Policy, unless required for the operation of the landfill, or required as a condition of approval.

9. No minimum period of ownership will be required under this Policy. This provision of the Policy is intended to alleviate any concern that landowners covered by this Policy may have with respect to their ability to market their property before or after a new landfill site is approved.

10. This policy will be reviewed periodically by the Board.

D. PRINCIPLES APPLICABLE TO ON-SITE PROPERTY

1. The Board will offer to acquire options on all land required for a new landfill, once the preferred location has been selected and the necessary applications have been submitted for approval. As payment for the inconvenience and expense of negotiating the option agreements, the Board will pay owners the sum of \$ 1,000 for each option accepted by such owners. This payment will be in addition to the compensation for the property, determined as outlined in section F.

2. Where the owner desires, the Board will attempt to negotiate an acquisition price as of the date the option agreement is signed, with a provision to adjust this acquisition price in accordance with real estate statistics identified in the option agreement, to account for any upward change in price levels between the date the option is acquired and the date the option is exercised.

E. PRINCIPLES APPLICABLE TO OFF-SITE OWNERS

1. Notwithstanding that the Board does not believe that there will be any serious non-mitigatable off-site effects from any new landfill established pursuant to the Study, Ministry of Environment and Energy Policy number D-4 indicates that the most significant environmental effects normally occur within 500 metres of the waste fill area of the site.

2. The distance of 500 metres has been used as an approximate guideline only. Depending on the proposed location and design of any new landfill, and the circumstances of surrounding properties, a lesser landfill impact zone may be appropriate and will be determined by the Board.

3. The Board will offer to purchase off-site land substantially falling within the landfill

impact zone. The exact distance within which the Board will offer to acquire off-site land will be determined based on a number of considerations, including the potential off-site impacts of the landfill, the amount of a particular property falling inside as opposed to outside of the landfill impact zone and the use made and zoning of the property.

4. Upon selection of the preferred site for a new landfill, written offers to purchase will be given by the Board to each of the identified landowners falling within the landfill impact zone. These offers will be open for acceptance by the owners at any time after all the necessary approvals have been obtained for the landfill, and before the expiry of three years after the date that the landfill begins to accept waste. The Board believes that off-site owners will be better able to assess the actual impact of a new landfill site, if any, once they have actual experience with its operation.

5. As a general principle, those off-site property owners (where the property contains a primary residence) whose property falls substantially within the landfill impact zone will be eligible to receive an annual payment of \$1,000 from the Board during the first three years in which the landfill site is receiving waste. The specifics of any such annual payment will be confirmed when the location of the preferred landfill is known. Only those property owners who owned their land prior to the establishment of the landfill site will be eligible for these payments. Furthermore, property owners of vacant land will not be eligible for the payments provided for in this section. As a condition for receiving such a payment, the property owner will be required to provide a release, in a form satisfactory to the Board, in respect of any nuisance-related claims that the owner may have against the Board, concerning the period to which the payment relates. If there is a long-term tenant on the land, the Board will determine in consultation with the owner, the proper apportionment of these payments between the owner and the tenant.

6. Owners of property within the landfill impact zone who do not elect to accept the Board's offer to purchase may instead apply for compensation for any loss of property value. The Board will protect property values against loss in the value of real property below its fair market value as a result of local adverse market conditions resulting specifically and uniquely from the presence of the new landfill.

7. The property value protection program will insure owners against the loss in the value of real property owned by each of them on the date that the notice of government review ("Value Date") in respect of the proposed landfill is published under *the Environmental Assessment Act*. The property value protection program will ensure the fair market value on such date and will compensate property owners as a result of local adverse market conditions resulting specifically and uniquely from the presence of the new landfill. Such insurance shall not entitle any owner to protection from losses in value resulting from (i) local conditions unrelated to the new landfill, (ii) regional or national conditions, (iii) physical perils to the protected property or (iv) depreciation due to failure to maintain the protected property. Persons acquiring real property after the Value Date shall not be eligible for protection under this program.

8. Owners must apply for Property Value Protection before the Board's offer to purchase expires (three years after the landfill commences operation). Upon application for Property Value Protection the Board shall determine the fair market value of the property (i) without reference to the new landfill, and (ii) with reference to the new landfill. Both values are to be determined in accordance with section(s) F2 and/or F3 of this policy. The difference between the two values will be deemed to be the amount of compensation paid to the owner under the Property Value Protection Program.

9. A condition of payment of compensation under the Property Value Protection Program would be that the owner(s) enter into an agreement with the Board (in a form suitable for registration on title of the property) acknowledging all of the effects of the landfill being nearby, except for those effects caused by contravention of the *Environmental Protection Act*.

F. COMPENSATION FOR ACQUIRED PROPERTY

1. The compensation payable to owners whose land is acquired under this Policy (whether on-site or off-site and subject to the prepayment rights of any mortgage holder) will include:

- a) the fair market value of the property (determined without reference to the proposed landfill);
- b) A ten per cent (10%) addition to the market value of the property acquired for inconvenience and disturbance;
- c) an allowance for improvements, the value of which is not reflected in the fair market value of the land;
- d) the reasonable costs attributable to relocation including moving costs and the costs of fixtures;
- e) expenses associated with the costs of acquiring new property including legal, survey, land transfer tax and other non-recoverable expenses incurred in acquiring substitute property.

2. To determine the fair market value of the land, the Board and the property owner(s) will attempt to establish an agreed value. If an agreement can not be reached then the fair market value will be established as detailed in item F3 below.

3. The Board will obtain an appraisal from a qualified land appraiser, and pay for the reasonable costs incurred by the landowner(s) in obtaining his or her own appraisal from a qualified land appraiser. If the differences are greater than 10%, and in the opinion of the Board there are reasonably good chances for a negotiated settlement, a third qualified land appraiser will be jointly selected by the previously selected appraisers to perform a third appraisal at the expense of the Board. The market value will be determined by, in the case of two appraisals being obtained and the differences being less than 10%, taking the higher value of the two, and in the case of three appraisals being obtained, taking the average of the two closest values obtained in the three appraisals reports. All appraisers will be instructed to conduct the appraisals so as to eliminate any possible impact (positive or negative) of the identification of the site in question as a possible landfill site on the determination of the market value. The valuation date will be the date that the notice of government review in respect of the proposed landfill is published under the *Environmental Assessment Act*.

G. BUSINESSES

1. The Board will consider on a case by case basis, compensation to businesses whose property is acquired under this policy and/or claims for business losses by businesses located within the landfill impact zone.

H. ADDITIONAL COMPENSATION FOR OFF-SITE OWNERS

1. Compensation will also be available to off-site property owners for injurious affection damages suffered by the property owner(s). The compensation available will differ in accordance with the definition of the injurious affection in the Definition section of the Policy, depending on whether the Board acquires part or none of the land of the owner(s). If the person from whom the Board obtains land retains lands contiguous (next) to those acquired by the Board, or retains lands the use of which is enhanced by unified ownership with those acquired by the Board, the owner(s) will be considered to have had part of his or her land acquired for the purpose of injurious affection damages.

2. The Board recognizes that owners of property in the vicinity of the landfill will have concerns with respect to the effects that a landfill may have on their property. These

concerns have been addressed by the Board and a Mitigation Policy has been adopted and is attached to this policy as Schedule A. The Mitigation Policy includes activities to minimize nuisance effects as well as the provision of alternate water supplies should any source of drinking water be adversely affected by the new landfill.

I. COMPENSATION FOR TENANTS

Where on-site or off-site land is acquired under this Policy, the Board will pay to a tenant on such land an allowance of a reasonable amount to ensure that the tenant is not any worse off. This will take into account:

- a) the length of term of the lease;
- b) the proportion of the term remaining;
- c) any rights to renew the tenancy or the reasonable prospects of renewal;
- d) in the case of a business, the nature of the business; and
- e) the extent of the tenant's investment in the land.

J. ON-SITE INVESTIGATIONS

1. In order to determine the preferred location for a new landfill site, it may be necessary to carry out on-site investigations in the course of the Study. Such investigations may be required at two stages: for some or all of the sites on a short list, and in more detail for the preferred site. The agreement for access to be negotiated between the Board and the affected landowner(s) will provide the Board with access for testing of the short list of sites as well as the preferred site if the initial investigations prove suitable.

2. In order to facilitate the carrying out of such investigations, the Board will undertake the following:

2.1 For the 'short list' of sites:

- a) Payment of \$250 in consideration for being permitted access to the property and for carrying out such testing;
- b) an additional payment of \$500 if one or more boreholes are to be drilled on the property;
- c) all property will be remediated to the reasonable satisfaction of the landowner(s) following completion of such testing; and
- d) information with respect to the characteristics of the land will only be used for the purposes of assessing the ability of the land to operate a landfill site, privacy and confidentiality for the landowner(s) of such property will be maintained as much as reasonably possible.

2.2 For the preferred site (in addition to any amounts paid under item J 2.1):

- a) Payment of \$1500 in consideration for being permitted access for testing to the property, and for the carrying out of such testing;
- b) An additional payment of \$500 if one or more boreholes are to be drilled on the property;
- c) All property will be remediated to the reasonable satisfaction of the landowner(s), following completion of such testing; and
- d) Information with respect to the characteristics of the land will only be used for the purposes of assessing the ability of the land to operate a landfill site, privacy and

confidentiality for the landowner(s) of such property will be maintained as much as reasonably possible.

K. HOST MUNICIPALITY

1. The Board recognizes that the impact of siting a new landfill may be greater in the municipality in which it is situated (host municipality). The host municipality and any other adversely impacted municipalities will be compensated on a basis to be negotiated between the municipalities. Such compensation must be unanimously approved by the municipalities.

SCHEDULE A

BOARD MITIGATION POLICY

A. GENERAL PRINCIPLES

1. The landfill site is required to have a certificate of approval from the Minister of Environment and Energy before it can be established or operated. The certificate of approval will contain specific conditions setting out the legal requirements for the operation and closure of the landfill site. It will also set out specific standards or limitations on the operation of the landfill site to ensure that it is operated in compliance with applicable environmental legislation or as otherwise approved by the Ministry of Environment and Energy. Failure to abide by a term or condition of the landfill site's certificate of approval is an offence.
2. Citizens will have an opportunity to make recommendations on the conditions contained in the landfill site's certificate of approval during the landfill site's approval process. The board will investigate the establishment of a community liaison committee that will be able to monitor and discuss the landfill site's operation on an ongoing basis.
3. The Board will ensure that, at a minimum, the following mitigation measures, where appropriate and required by the approvals under the *Environmental Protection Act* and the *Environmental Assessment Act*, are in place:
 - limits on hours of operation;
 - daily cover of waste;
 - dust control;
 - trees, berms, and other visual screening as appropriate;
 - litter control;
 - odour control;
 - bird and pest control;
 - designated traffic routes
 - mandatory tarping of trucks carrying waste;
 - assistance in attenuating noise impacts on nearby residents where deemed appropriate;
 - leachate control in accordance with final design specifications;
 - local involvement in environmental monitoring.
4. The Ministry of Environment and Energy will be responsible for monitoring the operation and closure of the landfill site. It will regularly inspect the landfill site to ensure that it is being operated in compliance with all applicable environmental legislation and any conditions of approval in the landfill site's certificate of approval. If a community liaison group is established it will be provided with copies of the Ministry of Environment and Energy inspection on a regular basis or as requested.

B. WATER SUPPLY

1. The Board recognizes that concern about security of water supply is often a primary consideration in the siting of a new landfill site. The board believes that any facilities established pursuant to this Policy will be designed, constructed and monitored such that there will be little or no likelihood that surrounding water supplies will be adversely affected.

2. The Board is, however, prepared to ensure that water use in the area surrounding a new landfill site is not detrimentally affected by that facility. Conditions concerning the obligation of the board in this regard will likely be included as part of the Ministry of Environment and Energy conditions of approval of any new landfill site(s). However, at a minimum the Board will undertake the following:
 - a) Benchmark well testing in the buffer area surrounding the landfill area will be carried out prior to the commencement of the operation at the new landfill site.
 - b) Monitoring wells surrounding the landfill site will be regularly sampled to provide early warning of any potential problems. The results of all sampling will be made available to the community liaison committee.
 - c) Contingency plans will be prepared as part of the new landfill site operating plan, to intercept affected groundwater and provide for alternative water supplies to any affected landowners during both operation of the landfill site and following closure.
3. The Board will recommend to each municipality to establish their own reserve which they are to pay into each year that the landfill site is in operation. The purpose of the fund is to ensure that costs associated with the closure phase of the landfill (i.e. groundwater monitoring) are available after the site is no longer accepting waste.