

City of Brampton Realty Services - Gap Analysis
Private & Confidential

Audit Name	Gap Analysis (Realty Services)		
Sponsor(s)	Marlon Kallideen, Commissioner, Legislative Services		
Business Unit	Realty Services, Legislative Services	Date Issued:	April 22, 2022

1.0 Executive Summary

The Realty services division is responsible for managing the City's real estate asset portfolio, including acquisitions, disposals, and leasing of City-owned properties. The City holds a significant number of properties, has various leases, and requires strategic considerations for acquisitions and dispositions. The City lease revenue for 2021 was approximately \$3.55M from 101 leases and licenses.

As part of the initial approved 2020 Internal Audit Work-plan, Internal Audit was scheduled to perform a Realty Services audit in Q4 2020. This engagement was deferred to Q3 2021 and then again to 2022 due to resource constraints within the team and changing priorities due to COVID-19. The Audit Committee received the proposed deferral to 2022 at the December 7, 2021 meeting of the Audit Committee.

Realty Services management and Internal Audit (IA) discussed ongoing challenges and agreed to turn this engagement into a gap analysis which allowed IA to review the process framework at the design level and compare it to the desired state.

During our review, we observed the following strengths of the Real Estate function:

- Continuation of critical real estate activities despite the challenges of staff shortages and COVID-19.
- Proper approval process, including council ratification, where necessary, is being followed for all acquisition and disposal transactions.
- All agreements of purchase and sale (APS) and occupancy agreements are properly approved.
- All realty agreements are reviewed and modified as necessary by legal before being finalized.
- Real estate coordinate team (RECT) is consulted regularly for input and guidance on real estate-related transactions.
- Digital copy of each agreement (Acquisition, Lease, License, etc.) is saved in the IWMS system.
- Payment method(s) accepted from tenants has been streamlined to only checks (post-dated) and electronic funds transfers (EFT).
- Daily revenue report package contains all necessary supporting documents and is approved via workflow in AgilePoint.
- Documents to support Cash in Lieu (CIL) calculations are well organized, transparent, and properly approved.
- Ongoing communication and collaboration with other municipal partners (Peel school boards, Region of Peel, Brampton Public library).

Internal Audit discussed the following improvement opportunities with Management:

- Executing a plan to fill all vacant positions, including Senior Manager.
- Updating Policies, Procedures, and Standard Operating Procedures.
- Consistently reporting to Council on real estate transactions and the status of transitional buildings.
- Maintaining a complete and up-to-date Inventory list of all City-owned properties.
- Improving the process for maintaining up-to-date proof of Insurance from tenants.
- Updating the appraisal process to include defined thresholds for requiring external and second appraisals.
- Reviewing data accuracy and completeness in the Integrated Workplace Management System (IWMS) and strengthening controls.
- Implementing a process to obtain signed agreements for all vendors providing appraisal services.
- Updating and maintaining physical and electronic records and files.
- Creating access to Encroachment records by other City departments.
- Consistently applying user fees to all chargeable services.

2.0 Background, Objectives, and Scope

Objectives

The objective of this engagement was to assess the effectiveness and efficiency of the existing control framework at the design level to determine the adequacy of internal controls as well as ensure compliance with policies, procedures, and legislation.

Scope

The scope of this engagement included:

- Governance and oversight controls;
- Controls around budget preparation and monitoring process;
- Controls around the acquisition and disposal process;
- Controls around the billing and lease payment process;
- Controls around Compliance with City By-laws and legislative requirements; and,
- Limited control testing.

Out of scope:

- Review of the operating effectiveness of the existing control environment; and
- Detailed control testing for any of the scope items.

3.0 Finding, Recommendation, Management Response, and Timelines

Ref #	Findings	Recommendations	Management Response and Due Date	Responsible Party
1	<p><u>Vacant positions and high turnover</u></p> <p>Staff shortages over the last two years have led to several challenges such as lease details not being updated in the Integrated Workplace Management System (IWMS), insurance compliance not regularly monitored, infrequent reporting to Council, and incomplete physical and electronic lease files during the pandemic.</p> <p>Our review indicated that Realty Services has been operating without a full-time dedicated lead over the last two years. Also, multiple positions such as Manager, Senior Coordinators, and Coordinators have been vacant for over two years.</p> <p><u>Potential Exposure</u></p> <p>Inefficiencies and execution challenges due to short staff could lead to continued financial, operational, and compliance risks.</p>	<p>Management should hire a dedicated resource to lead Realty Services. This role should have responsibility for the overall Realty Services function.</p> <p>Also, efforts should be made to hire staff for all the vacant positions.</p>	<p>The situation has improved significantly in the last 8 months.</p> <p>Under the leadership of the new Commissioner, Legislative Services and Acting Senior Manager - Realty has recruited three senior coordinators, four coordinators, and one real estate assistant in the past six months. This will address the immediate staffing requirements.</p> <p>Realty Services is in the process of recruiting one more coordinator within the next 3-6 months and recruitment of a permanent Senior Manager will commence in Q3'2022.</p> <p>Management will continue to Focus on the efforts to rebuild the Realty team over the next 8 months.</p> <p>A hybrid working model beginning in April 2022, will provide better opportunities for collaboration and team building.</p>	Commissioner, Legislative Services, and Senior Manager, Realty Services

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			<p>A report to the council on the transactions completed under the delegated authority in 2021 was presented and approved on March 30, 2022.</p> <p>Incomplete physical/ electronic files is a direct result of being short-staffed, changing priorities during the COVID-19 pandemic, and staff working remotely since March 2020 due to City office closures. This along with the IWMS backlog is expected to get completed by Q2'2023.</p>	
2	<p><u>Policies and Standard Operating Procedures</u></p> <p>Processes within Realty Services are guided by a Real Estate Services Policy (14.9.0) and several Standard Operating Procedures (SOPs).</p> <p>The existing Real Estate policy (2002) which outlines the process and objectives for critical Real Estate areas such as acquisitions, disposals, occupancy agreements (i.e. leases), property appraisals, etc. has not been updated since 2008.</p> <p>There are approximately 10 SOPs relating to realty services and most are 8-12 years old and do not reflect current process steps, systems, By-laws, and desired outcomes.</p> <p><u>Potential Exposure</u></p>	<p>The Realty Services team should work with the Corporate Policy team to update policies and procedures.</p> <p>Input for the updates should be obtained by Internal staff, interfacing departments, other municipalities, and external consultants, if necessary, to ensure updated policies and procedures are comprehensive, complete, and reflect best practices.</p>	<p>Under the leadership of the Acting Senior Manager, Realty Services this was identified in August 2021 and staff have already initiated the review and update of Realty's SOPs.</p> <p>Given that the SOPs have not been updated in the past 8-12 years and most of the team is relatively new, Management is targeting to complete the update of the SOPs in the next 12-18 months.</p> <p><i>The anticipated completion timeline is by Q4'2023.</i></p>	Senior Manager, Realty Services

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	Outdated Real Estate Procedures and SOPs are not effective instruments of governance and can result in inconsistent and/or improper execution of processes.			
3	<p><u>Council report on real estate transactions</u></p> <p>Every quarter, Realty Services is required to provide a report to Council on all Real Estate transactions executed the previous quarter. This requirement is documented in the existing Real Estate Procedure.</p> <p>Our discussion with management found that in 2020 and 2021 the Real Estate transaction reports were provided annually due to the pandemic, not quarterly as required.</p> <p><u>Potential Exposure</u></p> <p>Council may not have adequate oversight over real estate transactions executed under delegated authority by the Realty Services team.</p>	The quarterly Council reporting process should be re-initiated and followed consistently as per the Real Estate procedure.	<p>Realty Services was short-staffed during COVID-19 in 2020 and 2021 and as a result, a report wasn't presented on a quarterly basis. Staff time was prioritized on providing rent relief to the non-profit and small business tenants which resulted in additional council reports and workload for the short staffed department.</p> <p>It should be noted that the update on Real Estate Transactions Executed by Administrative Authority for January 1, 2020 to December 31, 2020 was presented and approved in April 2021 by the City Council.</p> <p>On March 30, 2022 the report on Real Estate Transactions Executed by Administrative Authority for January 1, 2021 to December 31, 2021 was presented and approved by the Council.</p> <p>Realty is up to date with the council reports and are of the</p>	Senior Manager, Realty Services

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			<p>opinion that such reporting should be presented semi-annually instead of quarterly as most transactions are nominal value.</p> <p>Revision to the frequency of reporting will be made to the Real Estate Services Policy by Q4' 2023.</p>	
4	<p><u>Transitional building report to Council</u></p> <p>The City owns certain properties which are considered “transitional” in nature. The future use of these properties/buildings is uncertain as they may be sold, demolished, renovated, held, or put to another use by the City.</p> <p>Every year, a “Transitional properties” report is supposed to be provided to Council, to facilitate discussion and present possible options based on a comprehensive analysis. However, the last such report was provided to Council in 2019 when Realty services was part of Community Services.</p> <p>Our further discussion with management indicated that due to multiple shifts in the placement of Realty Services between Public Works, Community Services, and most recently under Legislative Services, clear ownership has not been defined at the function level to prepare a report on “Transitional buildings”.</p>	<p>Clear ownership of the responsibility to prepare and submit the report on “Transitional buildings” should be defined.</p> <p>The report should be provided to Council annually.</p>	<p>Realty Services does not have access to the transitional properties data or the ability to perform the analytics necessary for the Transitional buildings report.</p> <p>Report will require the Asset Management team in partnership with the building design and construction team to collect information on the current state of the properties, identifying City properties for demolition and adaptive re-use.</p> <p>Realty consults with FOM when requests are received from residents/businesses for space accommodation. Transitional properties are always reviewed when space requests are received.</p>	Commissioner, Legislative Services, and Senior Manager, Realty Services

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	<p><u>Potential Exposure</u></p> <p>Council may not have adequate oversight over some City-owned buildings. These buildings can be utilized to generate revenue through disposition or leasing, minimize liability, or enable effective use of City properties.</p>		<p>Realty services will take the lead in discussions to establish clear ownership of the responsibility to prepare and submit the report on “Transitional buildings” and will contribute to the report on the Surplus declaration/ disposal of properties that get identified by Q4’2022</p>	
5	<p><u>Maintaining up to date Inventory List</u></p> <p>As per the existing Real Estate Procedure, one of the fundamental objectives of the Realty Services function is to maintain an inventory of all City-owned properties, which is current, accurate, and complete.</p> <p>Our discussion with the Realty Services team indicated that the team is only maintaining a list of properties that are leased out by the City, and respective departments are responsible for maintaining the list of properties owned by the City.</p> <p>We reached out to multiple departments and obtained their property list. We noted the information is not updated to reflect current acquisitions, disposals, or leases.</p> <p>For instance, as per the Facility Asset Management tracker, only 12 City-owned properties were leased out, whereas as per the Realty services tracker, Facilities has more than 30 different properties leased out.</p>	<p>Roles and responsibilities for managing the City’s property portfolio should be identified and documented.</p> <p>The inventory list should be updated to reflect the current status post recent acquisitions, disposals, or leases.</p> <p>The inventory list, once updated, should be maintained and updated periodically as required based on a defined frequency.</p>	<p>City-owned properties are part of Recreation, Parks Planning, Transit, Fire Services, and Facilities property list.</p> <p>Over the years, Realty Services has found it to be difficult to maintain a current, accurate and complete inventory since the Recreation team rents spaces in their facilities using the Recreations Facilities Rental system/ agreements known as Perfect Mind.</p> <p>Similarly, the Facilities team also offers space using facility rental agreements. FOM manage their own database.</p> <p>Realty has been engaged for long-term leases/license agreements and accurately maintains a list of such</p>	<p>Commissioner, Legislative Services, and Senior Manager, Realty Services</p>

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	<p><u>Potential Exposure</u></p> <p>Unclear roles and responsibilities may lead to a lack of clarity in managing the City's Property Portfolio. Also, decision-making will be delayed and inefficient due to inadequate and dated information.</p>		<p>agreements for renewal or termination.</p> <p>Management will explore the feasibility of making the <i>inventory list by Q3'2023</i> as a part of the City's Asset Management function under Facilities, Operations, and Maintenance.</p>	
6	<p><u>Maintaining proof of Insurance from Tenants</u></p> <p>The standard operating procedure for leases (SOP- Procedure for Drafting, Executing, and Administering Occupancy Agreements where City is Landlord) requires a current certificate of insurance (COI) to be provided by all tenants as a condition of Leasing.</p> <p>A review of the process for monitoring the insurance status of tenants indicated the following;</p> <ul style="list-style-type: none"> • Not all leases, licenses, and encroachments have current certificates of insurance on file. Some of the certificates have been expired for more than six months. • Insurance information has not been entered in the IWMS Insurance tracker for all active leases, licenses, and encroachment agreements. <p>We also noted that while both the lease and insurance details are maintained in IWMS, both of these records are not integrated to utilize system capabilities in tracking expiry/renewals.</p>	<p>The insurance certificate tracker should be updated to reflect the current insurance status of all active leases, licenses, and encroachments.</p> <p>The tracker, once updated, should be reviewed regularly and updated certificates of insurance should be requested from tenants at least one month before expiry.</p> <p>Also, Realty Services should explore the possibility of integrating data between lease agreements and the insurance tracker in IWMS. This feature would save time and reduce the risk of manual entry errors.</p>	<p>Many of the tenants have not been able to access their offices/ leased space due to City closures during the COVID 19 pandemic. They also didn't have any revenues during this period. Management was sympathetic during the pandemic and acted reasonably with the tenants.</p> <p>Also, staff was not physically in the office to monitor the leases during the pandemic. They were focusing on more urgent matters and with limited bandwidth, they were trying to complete other urgent matters such as providing rent relief during COVID.</p> <p>All the COI's will be up to date within the next 6 months. Thereafter, COIs will be</p>	Senior Manager, Realty Services

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	<p><u>Potential Exposure</u> The potential of uninsured or underinsured properties increases the liability risk for the City.</p>		<p>tracked and updated on a monthly basis.</p> <p>A revised process has already been implemented by the Acting Senior manager to ensure that the tracker is reviewed regularly by staff.</p> <p>As suggested by the Audit team, Management will contact IT services to explore the possibility of integrating the agreement and insurance tracker in IWMS.</p> <p><i>The anticipated completion timeline is by Q4'2023.</i></p>	
7	<p><u>Oversight over the appraisal process</u> Fair market value determination is one of the key aspects of any real estate transaction. Appraisals under or over fair market value could lead to financial loss to the City.</p> <p>As per the existing Real Estate Procedure, the Manager, Realty Services can use their discretion on the type and number of appraisals for any real estate transaction.</p> <p>Our limited review and discussion indicated the following:</p> <ul style="list-style-type: none"> • No dollar limit threshold to determine if an appraisal will be internal or external. External appraisals are more comprehensive, precise 	<p>As part of the appraisal process, Management should define a threshold for requiring external appraisal reports.</p> <p>The process should also define a threshold for requiring multiple appraisals for high dollar transactions.</p>	<p>Appraisal reports were secured for all acquisitions by Realty Services, and the studies were completed by professionally qualified and experienced Accredited Appraisers of The Canadian Institute (AACI). This is in line with the industry practice.</p> <p>The reports were prepared as per the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP).</p> <p>It is also worth noting that the process of a property</p>	Senior Manager, Realty Services

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	<p>and should be used for all significant transactions.</p> <ul style="list-style-type: none"> • No dollar limit threshold to determine if a transaction requires a second appraisal. For instance, properties over \$10M were acquired based on a single appraisal. Land value estimates can vary between appraisers so all significant transactions should require a second appraisal. <p><u>Potential Exposure</u> The absence of defined thresholds within the appraisal process increases the risk of City properties being over/under valued, which can result in financial loss to the City.</p>		<p>acquisition from offer preparation to closing takes up to 9-10 months.</p> <p>Internal appraisals were done on low-value acquisitions by the Senior Manager who is an accredited appraiser.</p> <p>Management will review the practicality and feasibility of only conducting single external appraisals, except for very high-value acquisitions/ disposals (over \$20 million).</p> <p>Also, management will explore the possibility to document the rationale if appraisals are conducted internally instead of external appraisals by a third party.</p> <p><i>The anticipated completion timeline is by Q4'2023.</i></p> <p>Note that several city departments are included in the acquisition and disposal matters, in addition, decisions are made based on guidance from the senior leadership team and final ratification of the Agreements by the Council.</p>	

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8	<p><u>Integrated Workplace Management System (IWMS)</u></p> <p>All executed lease, license, and encroachment agreements are maintained in IWMS. The system is also utilized to track renewals, lease terms, duration, parties, and locations.</p> <p>Our discussion with management and limited review of IWMS reports highlighted the following anomalies:</p> <ul style="list-style-type: none"> • Only lease start date and end date are mandatory fields. This resulted in other critical details such as lease location, parties, contact information, value, and key terms not being entered or consistently maintained. • Multiple critical fields such as location address, tenant contact point, etc. were left blank in several cases. • Some fields were not updated to reflect the current status. For instance, an expired lease as per date in the system though status is still active. • No documented secondary review in place for details entered in IWMS. • Edit rights available to all staff members with no audit trail to track any edits in the system. • Contracts that have completed their terms are not changed to expired status and are still active in IWMS. <p><u>Potential Exposure</u></p>	<p>One-time clean-up exercises should be conducted for IWMS to update all fields and reflect the current status of active agreements.</p> <p>System controls should be evaluated to mandate certain fields as critical for any new leases entered. Also, a secondary review should be performed for any lease entered or changes to key fields.</p>	<p>IWMS is being primarily utilized by Realty Services for tracking lease end/ renewal dates which is the reason why only lease start and end date were the mandatory fields before.</p> <p>Other information such as lease location, parties, contact information, value, and key terms are recorded in the fully executed leases which are saved in IWMS. This is not being manually keyed into IWMS as historically, the purpose was not to create a database.</p> <p>Fields such as location address, tenant contact point, etc. are available as per the final agreement and aren't tracked as per the IWMS.</p> <p>Realty Services weren't updating the status field in IWMS on a regular basis due to workload and staff shortages. Realty will need 12-15 months to review old agreements and clear the backlog and update the status as this will have to be completed in addition to ongoing work.</p>	Senior Manager, Realty Services

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	Inaccurate or incomplete information could lead to inefficiencies in decision making and potential financial loss to the City.		<p><i>The anticipated completion timeline is by Q3'2023.</i></p> <p>For a secondary review of details placed in IWMS, Acting Senior Manager has already initiated a process requiring one staff to input the details and a senior coordinator to validate the information.</p> <p>Edit rights in IWMS is not available to all realty staff. It's only with specific senior staff.</p> <p>Management will check with IT if they have the ability to add audit trail to IWMS.</p>	
9	<p><u>Agreements with third-party vendors</u></p> <p>The city engages with third-party vendors to obtain appraisal services for acquisitions, disposals, or lease transactions.</p> <p>As per best practices, agreements should be executed with the third-party vendors (appraisers) that will cover confidentiality, mandatory declaration of any possible conflict of interest, and other terms & conditions.</p> <p>Our review indicated that there was no formal agreement with the majority of external appraisers used for real estate transactions during our review period.</p>	Realty Services should identify all active third-party vendors and obtain signed agreements. Also, a process should be put in place to periodically review and renew the agreements.	<p>RFQ is circulated and quotes are received when appraisal services are requested.</p> <p>Realty will consult the Procurement team to prepare RFP for property appraisers and surveyors in Q1' 2023. This will address the potential exposure by including a confidentiality agreement.</p>	Senior Manager, Realty Services

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	<p><u>Potential Exposure</u> In the absence of a signed agreement, the confidentiality of sensitive information cannot be legally enforced or protected. Also, conflict of interest scenarios may not be disclosed by the appraiser.</p>			
10	<p><u>Physical and Electronic records/ files</u></p> <p>As per record retention By-Law 272-2014, agreements and documents related to real estate acquisitions, disposals, leasing, easements, and encroachments should be maintained for a certain specific period and confidentially destroyed subsequently.</p> <p>Our discussion with management and limited review indicated that due to a shortage of manpower and most of the staff working remotely, Realty Services is behind in updating both physical and electronic files for transactions executed in the last few years.</p> <p>Also during this time, no assessment has been done for files that need to be confidentially destroyed or moved to an offsite location.</p> <p><u>Potential Exposure</u> Accuracy and completeness of relevant documents cannot be ensured for all records/files.</p>	<p>Management should set realistic timelines to clear the backlog and the status of records/files should be reviewed with staff periodically.</p> <p>Periodic internal reviews should be conducted by staff members to ensure files are created and include appropriate documentation.</p>	<p>The review period is during 2020 and 2021 when the Realty team was dealing with the staff shortages, working remotely during City office closures, and shifting priorities due to the COVID-19 pandemic which created a backlog.</p> <p>Since August 2021, under the leadership of the Acting Senior Manager, Realty team has completed training for all staff on file management.</p> <p>Recruitment of the Real Estate assistant has helped with the opening of new physical files, which was previously backlogged as the previous assistant left in July 2020 and the position wasn't immediately filled.</p> <p>Management team will focus on getting the files completed in the coming months as staff has returned to the workplace.</p>	Senior Manager, Realty Services

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			<p>Given the backlog, it will take up to 12-15 months to get up to date.</p> <p><i>The anticipated completion timeline is by Q3' 2023.</i></p>	
11	<p><u>Access to Encroachment records</u></p> <p>For Brampton residents to use any portion of City land for their personal use, they must reach an encroachment agreement with the City. Encroachment infractions are identified by By-law services and reported to Realty Services who manage the Encroachment Agreement process and maintain encroachment records in the IMWS database.</p> <p>By-law enforcement does not have access to encroachment records (IWMS). Whenever enforcement observes a potential encroachment violation, they contact Realty Services to confirm if an active Encroachment agreement is in place for the property in question.</p> <p>A significant amount of time is spent by Realty Services on following up on requests and retrieving information for By-law enforcement.</p> <p><u>Potential Exposure</u></p> <p>By-law enforcement's lack of access to Encroachment records results in Realty Services spending additional time and resources to provide basic Encroachment information.</p>	<p>Realty Services should work with Bylaw enforcement to arrange for adequate access (Read-only) to Encroachment records.</p> <p>A report based on IWMS information can be stored on the shared drive for easy access by other departments as long as the document is properly protected.</p>	<p>In August 2021, the Acting Senior Manager of Realty Services identified the encroachment process required immediate attention and improvement. A Senior Real Estate coordinator was tasked to review the backlog and identify revisions to the process to streamline and improve efficiencies.</p> <p>Management communicated the goal and initiated meetings with Bylaw, Roads, and Legal team to discuss the SOP and has worked with other Cities to benchmark and find improvements. A new Bylaw has been drafted and an SOP is in the development/review stages. <i>The anticipated completion timeline is by Q2' 2023.</i></p> <p>The following are also in development: 1) Regular updating of</p>	Senior Manager, Realty Services

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			<p>approved encroachments and providing a spreadsheet to Bylaw for reference of properties that have authorized encroachments</p> <p>2) New Land Management system will allow staff to input encroachments such that they can be readily identified by other departments such as Bylaw and Public Works & Engineering (PWE)</p> <p>3) Draft bylaw and SOP are with the commissioner's office for review</p> <p>4) Environment has drafted a brochure to be provided to Council for information</p>	
12	<p><u>Charging User Fees</u></p> <p>The User Fee By-law 380-2003 (Amended - 2021), sets out a schedule of charges and fees that each city department is required to charge for specific services.</p> <p>Schedule "D" of the By-law relates to Realty Services and outlines fees for encroachment applications & agreements, administration fees, appraisal reports and property rights requests.</p> <p>Our discussion with the process owners and limited review of compliance to the By-law indicated that user fees are not consistently being charged to external/ internal clients by Realty Services.</p>	<p>User fees should be charged for every chargeable service as defined in the User Fee By-law to both internal (Other COB departments) and external customers.</p> <p>Amendments to the By-law should be made or an exception process should be defined for instances where user fees are not charged.</p>	<p>A process has been put in place since mid-2021 by the Acting Senior Manager and the team is making all possible efforts for charging fees as per the User Fee By-Law.</p> <p>As per Finance, user fees can only be recovered from capital projects. If no capital projects are available, then the cost will need to be borne by the Realty services cost centre in which the staff/ labor costs are already charged.</p>	Senior Manager, Realty Services

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	<p><u>Potential Exposure</u></p> <p>Not charging user fees as required results in inconsistent practices as well as loss of internal/external revenue to realty services.</p>		<p>Finance does not support the recovery of user fees from the operating cost centre of other internal departments. This matter needs further discussion with Finance and other internal departments.</p> <p>Realty is also unable to charge user fees in some cases when there is a nominal value agreement. Further discussions are necessary with Community Services, Transit, Fire Services and PWE to define the process and identify exceptions by Q1' 2023.</p>	

Report Distribution List	
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