Montréal

REPORT TO MONTRÉAL'S CITY COUNCIL
ON DISPOSITION OF REAL PROPERTY BY THE
SOCIÉTÉ D'HABITATION ET DE DÉVELOPPEMENT DE MONTRÉAL (SHDM)
FROM JANUARY 1, 2007 TO NOVEMBER 24, 2008

CITY GENERAL AUDITOR
APRIL 27, 2009

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On November 24, 2008, the Montréal City Council asked me to audit all dispositions of real property by the SHDM since January 1, 2007.

BACKGROUND

CREATION OF THE NEW SHDM

The Société d'habitation et de développement de Montréal (SHDM) was created on January 1, 2007 by Letters Patent of Amalgamation under Part III of the *Companies Act*.

The new corporation results from a merger of the activities of the Société de développement de Montréal (SDM) and the Société d'habitation et de développement de Montréal, which was approved in principle by the Montréal Executive Committee during its regular meeting of May 24, 2006.

The SDM and the Société d'habitation et de développement de Montréal had been created under s. 224 (Schedule C) of the *Charter of Ville de Montréal*.

In a press release of November 14, 2008, the city reviewed the steps that had resulted in the merger:

> *[TRANSLATION]*
>
> *On March 22, 2006, the Montréal Executive Committee adopted a resolution directing the SHDM and the SDM to produce a joint business plan to be approved by the Executive Committee (EC). The SHDM then asked Raymond Chabot Grant Thornton (RCGT) to draw up a strategic orientation report that would describe potential synergies between these corporations and make certain recommendations.*
>
> *On May 24, 2006, the Executive Committee endorsed in principle a merger of SDM and the SHDM activities, as recommended by the Raymond Chabot Grant Thornton report. The Executive Committee asked the Senior Director of the Service des affaires corporatives to draw up a detailed integration plan and to submit its recommendations to the EC. KPMG was retained to follow through on this task. KPMG was responsible for preparing the integration plan and for ensuring consultation with the SHDM, the SDM and the Service de mise en valeur du territoire et du patrimoine.*
>
> *On June 28, 2006, the Senior Director of the Service des affaires corporatives submitted the detailed integration plan to the EC. This presentation provides a detailed explanation of the steps involved in integrating the SDM and the SHDM.*

On November 8, 2006, the Senior Director, Service des affaires corporatives presented the EC with the legal procedures to follow in merging the SDM with the SHDM, and explained differences of opinion between the city's legal department and Prof. Jean Hétu, along with the impact of changing the existing legal framework.

Later in this November 8 meeting, the EC approved Martial Fillion's appointment as General Manager of the new SHDM.

On November 24, 2006, the SHDM's Letters Patent of Conversion were issued and on November 27, the SDM's Letters Patent of Conversion were issued. On November 29, 2006, the Executive Committee approved the appointment of members of the Board of Directors of the new SHDM that was to be created. On January 3, 2007, Letters Patent were issued, giving legal status to this new corporation formed from the merger of the former SDM and SHDM.

On June 18, 2007, elected officials from Montréal's City Council unanimously approved the memorandum of understanding between the SHDM and the city and its 2008-2010 Strategic Plan defining strategic directions and the actions it intends to take over this period. The file's executive summary clearly outlined the legal framework that would apply to the SHDM.

It should also be noted that on July 16, 2007 the city had provided the Ministère des Affaires municipales et des Régions (MAMR) with full information on the merger between the SDM and the SHDM and no irregularity was noted. In February 2008, Montréal's General Auditor obtained all of the information on the process that led up to the SHDM-SDM merger. On February 21, 2008, the city's General Auditor unconditionally certified the SHDM's 2007 Financial Statements. On April 30, 2008, the General Auditor confirmed to the Chair of the Executive Committee that he shared the EC Chair's interpretation to the effect that he remained the SHDM's General Auditor.

Under the terms of the memorandum of understanding between the city and the Société d'habitation et de développement de Montréal that were approved by the *Executive Committee* during its meeting of June 13, 2007 and by the City Council during its meeting of June 18, 2007 "*the members and the Chair of the Board of Directors of the SHDM are appointed by that corporation on the recommendation of the Executive Committee*."

APPOINTMENT OF THE AUDITOR

In the course of my audit of the 2007 Financial Statements of the Société d'habitation et de développement de Montréal (SHDM) and in reviewing the minutes of the meetings of the SHDM's Board of Directors, I observed that the SHDM's General Manager had advised the Board of Directors at the meeting of its members on October 25, 2007, that he would proceed with a call for proposals with respect to the selection of an external auditor for fiscal 2008. In my view, such an appointment was in violation of s. 107.7 of the *Cities and Towns Act*.

In the opinion of the SHDM's General Manager, this article did not apply to the SHDM because the city no longer appointed the members of SHDM's Board of Directors. Specifically, the SHDM's Letters Patent and the memorandum of understanding between the city and the SHDM provided that the members and the Chair of its Board of Directors would be recommended by the Montréal Executive Committee.

At my request, Frank Zampino, Chair of the city's Executive Committee, took action to block this attempt to remove the General Auditor from the process of auditing the SHDM's "affairs and accounts." Consequently, on March 26, 2008, the SHDM's Board of Directors appointed Montréal's General Auditor as the external auditor for the SHDM's 2008 Financial Statements.

THE NON-FINANCIAL AUDIT

It is important to emphasize that the scope of the audit of the "affairs and accounts" is defined in s. 107.8, as follows:

> *The audit of the affairs and accounts of the municipality and of any legal person referred to in paragraph 2 of section 107.7 comprises, to the extent considered appropriate by the chief auditor, financial auditing, auditing for compliance of their operations with the Acts, regulations, policies and directives, and auditing for value-for-money.*

On August 7, 2008, I announced an audit on project management at the SHDM.

The on-site audit work began October 20, 2008. The audit was designed to review the SHDM's control mechanisms to ensure the rollout of and follow-up on various projects with respect to planning, financial implications (costs, benefits, funding and cost-effectiveness), scheduling and implementation, as well as the communication of results.

This report takes relevant aspects of this audit into account.

THE INVESTIGATIONS

The reader will note that on October 10, 2008, the SHDM suspended its General Manager with pay, following a report by *La Presse* that he was the subject of an internal investigation.

I met over the next few days with the chair of the SHDM's Audit Committee, who advised me of his concerns regarding the Contrecœur project and actions by the SHDM's General Manager with respect to that case.

We agreed that a specialized firm should be retained to clarify the matter. At the request of the Chair of the Audit Committee, I then suggested the terms of reference that the SHDM could give to such a firm. The proposed text follows:

> [TRANSLATION]
>
> *An analysis of all transactions between the SHDM and the Ville de Montréal, on the one hand, and the SHDM and Construction F. Catania, on the other, with respect to the Contrecœur project. This analysis would be based on executive summaries and other documents that led up to the tender solicitation, including the preparation of specifications, the analysis of bids received, the selection of the successful bidder, the signing of all letters of agreement confirming the parties' intentions, the purchase and sale of land, any temporary and final financial agreements, related correspondence, any invoices and resulting payments, any executive summary warranting endorsement by the SHDM's Board of Directors of any agreement, contract, deed of loan or any other legal document of any kind, any progress or follow-up report on the project's status that was presented to the Board of Directors or to the SHDM's audit or investment committees, in view of determining:*
>
> 1. *Their compliance with the parties' intentions.*
> 2. *Compliance with the SHDM's internal by-laws (i.e., delegation of power policy).*
> 3. *Compliance with all agreements, contracts or other similar commitments concluded between the parties.*
> 4. *Maintenance and protection of the SHDM's interests.*
> 5. *The appropriateness of any payment given and funding provided by the SHDM to Construction F. Catania and the adequacy of services, sureties and other guarantees obtained in return.*
> 6. *The veracity, relevance and comprehensiveness of all information, data or status reports submitted to the SHDM's Board of Directors.*

Instead, the SHDM decided to call upon two external firms. The first firm was "*to review facts and actions that led up to the suspension with pay of the SHDM's GM. These facts and actions that pertained to the Faubourg Contrecœur project included:*

- *Incurring costs and making disbursements without the BD's prior authorization.*
- *Signing and amending agreements without the BD's prior authorization.*
- *Failing to advise the BD of a potential loss to SHDM and of claims by Construction Frank Catania & Associés Inc."*

The KPMG report was released on December 2, 2008.

This document takes relevant aspects of the KPMG report into account.

The second firm, on the other hand, focused its efforts on reviewing the Faubourg Contrecœur case, based on documents available to the SHDM and interviews with SHDM employees, as well as other interviews where necessary.

The SHDM will release the report of Samson Bélair/Deloitte & Touche on April 28, 2009.

Relevant aspects of the Samson Bélair/Deloitte & Touche report were not, accordingly, considered in this report.

We have closely monitored the work of Samson Bélair/Deloitte & Touche and, in view of our respective efforts, I believe that this matter should be turned over to the police for investigation.

Moreover, in conjunction with the work of Samson Bélair/Deloitte & Touche, we have reviewed numerous municipal documents pertaining to the Contrecœur project and have conducted many interviews with civil servants.

This report reflects, as it should, our conclusions with respect to these reviews and interviews.

Finally, we identified certain transactions in which the city was also a stakeholder during our examination of other dispositions of real property by the SHDM since January 1, 2007. Once again, we reviewed city documents pertaining to these transactions and interviewed civil servants.

This report reflects our conclusions with respect to these reviews and interviews.

With the exception of the Faubourg Contrecoeur project, the list of 20 transactions reviewed as part of this assignment appears below in chronological order:

LIST OF TRANSACTIONS	
1	68-80, Prince-Arthur
2	1185-95-97, Montcalm
3	730-780, Brewster
4	The Phoenix project
5	10, King
6	6618-6622, 6632-6654, 6750-6796, Saint-Dominique
7	4896-4900, Saint-Denis
8	5015-23, De Lanaudière

LIST OF TRANSACTIONS	
9	3830-40-60-70, Barclay
10	6969, Papineau
11	7330-46, Casgrain et 63-101, De Castelnau
12	1850, Lincoln
13	1225, Sussex
14	860-890, Charlevoix
15	1401-1501, Saint-Patrick
16	3930-40-60-80, Barclay
17	9335, Pie-IX
18	4870-80, Barclay
19	Maison Bagg (166, King and 682, William)
20	Faubourg Contrecœur project

THE SHDM'S MANDATE

The SHDM'S mandate is to: "*contribute to economic and social development through the enhancement of real-estate assets of a residential, industrial, commercial, and cultural nature on the territory of the agglomeration of Montréal; to acquire, renovate, restore, construct, demolish, sell, rent, or administer buildings located on the territory of the agglomeration of Montréal; and to extend subsidies and administer subsidy programs for the construction, renovation, demolition, and relocation of residential, industrial, commercial or institutional buildings on the territory of the agglomeration of Montréal.*" (Source: SHDM 2007 Annual Report, Note 1 in the Financial Statements)

This very broad mission essentially incorporates the mandates of the two corporations that merged on January 1, 2007 to form the new SHDM.

The Montréal Executive Committee announced during the 2006 budget process that it intended to review the mission and operations of each of these paramunicipal corporations.

A preliminary analysis prepared at that time revealed similarities between the missions of the SHDM and the SDM. The related decision summary also stated that [TRANSLATION]: "*following the Executive Committee's approval of the SHDM's action plan to create affordable housing and the various tasks it was assigned to develop residential projects, both corporations, which operate in the real-estate development sector, are involved in joint projects and activities, thus creating redundancy in the management of some of these projects and activities*."

The Executive Committee therefore instructed Senior Management at both corporations to produce a joint business plan aimed at eliminating such redundancies, in view of generating economies of scale in terms of their operating costs and significantly reducing the municipal contributions received by each. This business plan was also to put forward an appropriate corporate model corresponding with their actual areas of activity.

Raymond Chabot Grant Thornton (RCGT) was initially asked to draw up a strategic directions document, the main conclusions of which were that:

- Better efficiency could be achieved in various fields, such as through the creation of a one-stop-shop for developers and customers that would support fast-track performance, integrated urban development and assistance in implementing the city's housing and development policies and goals.
- Reduced management costs would be made possible by sharing the management infrastructure, eliminating redundant management positions, and economies of scale.

KPMG's services were subsequently required to prepare a plan for integrating the activities of both corporations. KPMG concluded that:

- A complete merger of both corporations would definitely reduce operating costs.
- Development projects with residential, commercial and industrial components could benefit from greater cooperation between the two corporations.

KPMG also raised some important issues with respect to the integration strategy. These issues are worth noting because they provide a better idea of how the new SHDM operates:

- The change in the city's approach to real-estate development seems primarily designed to reduce the two corporations' financial dependence on the city.
- The new organization's mission was formulated to ensure that it is in line with the city's expectations.
- The governance review, while considering the following imperatives:
  - Bringing the corporation's actions into line with the city's development goals.
  - Ensuring that the corporation remains responsive to its environment.
  - Fostering its operational independence.
  - Enhancing accountability.

The RCGT report was dated May 11, 2006 and that of the KPMG, June 21, 2006.

On May 23, 2007, the SHDM's Board of Directors approved its 2008-2010 Strategic Plan and on June 18, 2007, the City Council approved the memorandum of understanding between the city and the SHDM, as well as the terms of its 2008-2010 Strategic Plan.

THE 2008-2010 STRATEGIC PLAN

Without going into excessive detail, I believe that it is appropriate to review the corporation's 2008-2010 Strategic Plan briefly and acquire a better understanding of its operational imperatives.

In this plan, the SHDM refers to itself as the city's [TRANSLATION]: "real-estate arm," which operates in areas not served by the private sector because they are too risky.

Furthermore, the corporation condemns [TRANSLATION]: "*a blurring of distinctions between its responsibilities and management framework and those of the city. This blurring stands in the way of the additional flexibility the SHDM would need to eliminate the city's contribution."*

The plan also refers to certain pre-requisites to achieving planned financial results, such as: [TRANSLATION]

- *Adopting a proactive approach to managing its property inventory so that it can gradually build up a replacement reserve and guard against the need for major work or environmental risk.*
- *Setting up an asset transfer plan for the Programme d'acquisition de logements locatifs (PALL) and for commercial, industrial and institutional properties. It would also be possible to perform a review of assets and sell certain buildings falling under s. 95 of the National Housing Act.*
- *The Programme d'acquisition de maisons de chambres (PAMAC) has gradually departed from the SHDM's strategic framework and various possibilities for disposing of this property inventory will be considered.*
- *The SHDM's financial management must earn a profit sufficient to cover the risk of development project valuations.*
- *Agree upon and include in the SHDM's mission the need for it to recover its costs for all activities placed under its responsibility. If the city wishes to assign duties to the corporation that do not comply with this principle, the city must adequately compensate the SHDM.*
- *Relations with the city should be enhanced. Multiple "municipal" stakeholders (i.e., the boroughs) exist and requests should be better coordinated.*

- *Appropriate funding mechanisms must be created to eliminate the city's contribution and to promote the implementation of strategies proposed in the SHDM's strategic plan.*

Conclusion

The January 1, 2007 merger not only gave rise to a new corporation, but to a new approach to real-estate management. A new board of directors was created. Management, however, remained essentially the same, as it consisted of officials from the two amalgamated corporations. This situation clearly gave senior management a strong position with respect to its board of directors.

We have, in short, a new corporation, a new Board of Directors and a new approach to property management. Management, on the other hand, is essentially the same, consisting of senior executives from the two merged corporations.

PROJECT MANAGEMENT AT THE SHDM

Since property development has assumed considerable importance in the SHDM's portfolio, I decided that it would be appropriate to audit the corporation's management process for real-estate development projects. Throughout this audit, we applied the following assessment criteria:

1. The business plan should refer to planned developments and be approved by the SHDM's Board of Directors.
2. Planning should be provided for the SHDM's various activities and this planning should comply with directions of the corporation's Board of Directors.
3. Projects should only be carried out once studies have demonstrated that they are profitable; otherwise, the necessary justifications should be included in the decision summaries.
4. Project budgets and schedules should be approved and met.
    - The SHDM has taken the necessary measures to obtain relevant and appropriate reports on the status of the work.
    - Controls over modifications to project's design and budget are adequate.
5. Characterization studies supporting site decontamination costs (for acquisitions and dispositions) have been performed.
6. A follow-up process must ensure that contractors meet their agreements (in terms of costs, scheduling, decontamination commitments, etc.).
7. Construction contracts should be awarded in line with SHDM policies.
8. A record-keeping system should be in place to keep track of project costs.
9. There must be regular accounting that includes all relevant information.
10. A post-mortem should be conducted following project completion.

We have selected four projects for review: two from the Accès Condos program, (Côté Ouest—Phase I and Square Cartier), one from the Logement abordable Québec program (Côte-Saint-Paul) and one project being produced on a large site (Place des festivals of the Quartier des spectacles).

A summary of our findings and recommendations appears below.

ACCÈS CONDOS PROGRAM

The Accès Condo program was created in 2004 to support the development and marketing of affordable condominiums in Montréal.

A developer interested in proposing a project on land that it owns must submit an application to the SHDM. Based on the information received, all Accès Condos project applications were transmitted to the General Manager in 2007 and 2008. Only those he considered of interest were assigned project directory file numbers. Consequently, the other applications were not recorded for monitoring purposes.

A preliminary analysis was performed on applications that elicited interest, so the SHDM could confirm its intention of getting involved in the project. The results of each analysis were submitted to the General Manager who decided whether to accept or reject the project in question. More detailed or in-depth analysis and research was conducted on selected projects. If a project was shown to be feasible and the different parties concurred on the terms of the development agreement, the project was recommended to the Board of Directors. Based on the information received, 1 out of 10 of the applications “of interest” resulted in an official project.

We found that an assessment committee did not review the project applications.

We also understand that the criteria used in reviewing applications had not been approved by the Board of Directors, or communicated to the developers.

Recommendation

To ensure transparency in the review of project applications, we recommend that the SHDM develop a process in which:

- **All project development applications are recorded in a register.**
- **Results of the application review process are noted to justify their rejection or acceptance.**
- **An assessment committee is created to judge project eligibility.**
- **Assessment criteria are approved to permit the acceptance or rejection of projects on an objective basis.**

During the planning of both projects under consideration, expert reports were obtained for assessing project feasibility and an analysis was performed on their cost-effectiveness. The Board of Directors approved a development agreement and a project budget. Market study results had not always been clearly indicated in the decision summary at the time of this approval.

In the course of producing the projects, addenda were in some cases ratified by the Board of Directors, filed with the Board or authorized solely by the General Manager under the SHDM's delegation of authority policy. In the case of Square Cartier, however, the General Manager failed to comply with the delegation of authority policy when he approved Project Addendum 3, which pertained to additional costs of $648,795 relating to architectural enhancements and the addition of 3,262 square feet of living space, as well as changes to the bank and the mortgage guarantees.

None of the production summaries was updated for any of the addenda.

Recommendations

At the moment the Board of Directors is to approve a project's development agreement and realization budget and, we recommend that Management provide comprehensive and pertinent information for decision-making by clearly including market study results in the decision summary.

We recommend that Management be sure to produce an update of the project production summary for each addendum to the initial development agreement and demonstrate how changes will affect the project's profitability.

We finally recommend that the SHDM review its delegation of authority rules so that members of the SHDM's Board of Directors always have the opportunity to authorize any addenda to development agreements.

During the audit, we found that the phrasing of certain development agreement clauses varied from one project to the next. We observed, for example, differences in the wording of clauses pertaining to bank letters of credit, mortgage guarantees and loans to contractors.

We are also of the opinion that definitions of "work completion," "provisional acceptance" and "final acceptance" should be clearly stated at the start of a project to prevent different interpretations from arising in enforcing the agreement.

We consequently believe that emphasis should be placed on using a framework agreement to facilitate development agreements monitoring and to ensure that all contractors are treated alike.

Recommendation

To facilitate follow-up on development agreements monitoring, we recommend that Management submit a framework agreement to the Board of Directors for approval and subsequently advise the Board of any exceptions.

We found that the SHDM monitored the construction work to ensure its progress. Furthermore, we noted that a work completion certificate dated December 1, 2008 had been received by professionals assigned to Phase 1 of the Côté Ouest project.

In the case of the Square Cartier project, a substantial completion certificate was issued for the architectural work and signed by a professional architect on December 19, 2007. A list of completion, correction and repair work remaining to be completed accompanied the certificate. Engineers signed final acceptance certificates based on mechanical and electrical inspections for earth support, excavation and backfill work and for concrete structure work. These final acceptance certificates, signed by qualified engineers, stated that the work complied with the established plans. Most of these certificates, however, include lists of work to be corrected. Not all of these deficiencies had been resolved and the final acceptance certificate for the work had not always been issued at the time of our report.

Furthermore, although the contractors had agreed to provide an irrevocable bank credit letter to guarantee the full and complete fulfillment of their obligations as set out in the agreement, we conclude that these letters were only issued after the work had already started. Consequently, the SHDM would not have been protected by such a guarantee prior to its issuance if the contractor had entirely or partially failed to meet its obligations under the agreement.

The required mortgage guarantee was also issued late. Consequently, the SHDM would not have been protected by such a guarantee prior to its issuance if the contractor had entirely or partially failed to meet its obligations under the agreement.

The development agreement also provided that the SHDM would lend the contractor a sum bearing annual interest at a rate of 0.01% for a period of 18 months, in the event that a certain number of dwelling units and parking places remained unsold more than 120 days after the provisional or final acceptance of the work for each phase of the project.

We found that the General Manager granted loans. In view of the existing delegation of authority rules for granting loans, we are of the opinion that the Board of Directors was responsible for approving these loans to developers.

Recommendations

We recommend that Management take appropriate measures to obtain bank letters of credit and mortgage guarantees within the time limits established in the development agreements and keep these guarantees in effect throughout the stipulated period to ensure that the SHDM's interests are adequately protected.

We also recommend that Management obtain the Board of Directors' approval for loans awarded to the developer before providing funding for unsold condominium units, to ensure compliance with existing rules of authority.

The SHDM must conduct advertising and communication campaigns to market Accès Condo units. It subcontracts these tasks to outside firms. After auditing the moneys disbursed to these firms, we found that an amount of almost $134,000 was paid under a contract by agreement to the same supplier to produce and print folders, post cards and banners for the Côté Ouest project. We also found that three transactions for other than professional services in the amounts of $16,184, $14,355 and $11,876 were paid on a contract by agreement basis to the same vendor as part of the Square Cartier project. The SHDM's contract procurement policy requires at least three written quotes before a vendor may be hired to provide other than professional services valued at from $10,000 to $25,000.

Since each project involves similar advertising expenses and in view of the advertising budget set aside for this kind of project, we believe these expenses could have been planned and a contract awarded to cover them after a tender solicitation aimed at obtaining the best price-quality ratio for the services rendered.

Recommendation

We recommend that Management comply with the contract procurement policy adopted by the Board of Directors when it plans the marketing of the Accès Condos projects, in view of obtaining the best price-quality ratio for the services rendered.

We also found that each management report that was produced presented a snapshot of a project at a given date, but failed to compare progress of the construction work with its scheduling, evolution of sales with sales targets and total costs committed with the planned budget allowance. These reports also do not provide for a relationship between total costs committed and status of the construction work or marketing of housing units. Such reports would clearly flag any discrepancies and enable supervisors to provide explanations and assess projects individually, so the necessary remedial measures can be applied.

We also found that none of the reports compared the actual number of housing units under construction and the number put up for sale with the goals set out in the strategic plan. A summary report for all of the projects should also be regularly produced to compare the actual number of units under construction, units put up for sale and objectives of the 2008-2010 Strategic Plan. Such a report would serve to make Senior Management and the Board of Directors aware of results achieved by the Accès Condos program. This report would make it easier to review the strategic plan and facilitate the necessary business decisions.

Recommendation

To acquire an overview of Accès Condos program activities and to ensure that corrections are applied in a timely manner to resolve specified problems, we recommend that Management regularly produce a summary report including:

- **An assessment comparing the status of the construction work to established schedules.**
- **A comparison between actual sales and targets.**
- **A comparison of how total costs committed with the development budget, the status of the construction work and the marketing of the units.**
- **The number of units under construction and the number being marketed, as compared with 2008-2010 Strategic Plan targets.**

LOGEMENT ABORDABLE QUÉBEC PROGRAM

The Logement abordable Québec (LAQ) program was created on February 2002 and is administered by the Société d'habitation du Québec (SHQ). The program is intended to promote the creation of affordable housing for families of low or modest means, for seniors with a slight loss of autonomy and for individuals with special needs. It works with municipal corporations and offices seeking to produce social housing projects requiring minimal contributions from their communities.

The mission of the Office municipal d'habitation de Montréal (OMHM) is to develop and operate apartment buildings under such government of Québec programs as the LAQ. The OMHM has retained the SHDM's professional services to develop social housing projects for the LAQ. A general service contract was concluded between the OMHM and the SHDM for that purpose on March 6, 2006. At that date, all affordable housing projects that are in planning or production were transferred to the SHDM.

Based on information received from the project manager and the projects coordinator and the documents and reviewed, we can conclude that the SHDM has complied with the task it was given by the OMHM.

In the course of our audit, we sought to determine if the SHDM's efforts with respect to this task had been profitable. We learned, however, that no such review had been performed. The people with whom we met told us that the time of employees assigned to these projects had not been compiled. Consequently, it is difficult to compare the fees charged with actual project management costs.

Recommendation

We recommend that Management establish a procedure for assessing profitability of its activities under the Logement abordable Québec program, so that it may adjust its work methods and negotiate new remuneration criteria, if warranted, to ensure the viability of this activity.

We also found that no management report had been produced comparing:

- Status of construction work with established schedules.
- Costs committed with the established budget allowance and with the status of the construction work.

Recommendation

To obtain an overview of affordable housing program activities overseen by the SHDM and to make corrections in a timely manner, we recommend that Management enhance the presently available information and regularly produce a summary report that would in particular permit:

- **Comparison of the status of the construction work with established schedules.**
- **Comparison of costs committed with the budget allowance and with the progress of the construction work.**
- **Comparison of the number of units delivered with the goals set out in the 2008-2010 Strategic Plan.**

PLACE DES FESTIVALS IN THE QUARTIER DES SPECTACLES

The Quartier des spectacles project arose out of the 2002 Montréal Summit in response to proposals put forth by the performance industry.

The first step in this project involved the creation of a public space that would be used for festivals during the warm season but that would remain an important focal point for the sector throughout the year. The project pertains to the development of the Place des festivals. The city's Montréal Agglomeration Council received a recommendation that the city give the SHDM full responsibility for Phase 1A of the project, in accordance with parameters defined by the city with respect to the use of space, serviceability, layout, architecture and design.

The land on which the Place des festivals project was carried out belongs to the city and to the SHDM in the form of an undivided co-ownership, and also to the Société immobilière du Québec (SIQ).

At the August 29, 2007 meeting of the Board of Directors, the SHDM's General Manager reported on developments pertaining to the Place des festivals project and said that the city should award the SHDM a contract to manage and carry out Phase IA of the project and the SHDM should administer a budget awarded by the city. The management structure created for this purpose was then to be presented to the Board of Directors at its next meeting.

This announcement took shape when the SHDM concluded two professional service agreements and an addendum for each with the city. Under these contracts, the SHDM would deliver the Place des festivals in accordance with the Programme particulier d'urbanisme (PPU) concept and would develop rue Balmoral and rue Mayor. The following chart summarizes the monetary arrangements and key dates in both agreements and their two addenda:

	Agreement No. 1	**Addendum 1 of Agreement No. 1**	**Agreement No. 2**	**Addendum 1 of Agreement No. 2**
Nature	**Drawings and Specifications**	**Increased Budget**	**Project Management**	**Increased Budget**
City Budget				
For the SHDM's fees:	$4,037,157	$6,102,047	$1,160,990	$1,236,253
For payments made by the SHDM to contractors, suppliers and consultants:			$16,728,002	$22,893,574
Total:	$4,037,157	$6,102,047	$17,888,992	$24,129,827
Authorization by the City				
Approval by city legal services	2007-11-12	2008-05-13	2008-01-23	2008-05-13
Approval by the Executive Committee (EC)	2007-11-21	2008-05-14	2008-01-23	2008-05-14
Approval by the City Council (CM)	2007-11-27	2008-05-26	2008-01-28	2008-05-26
Approval by the Montréal Agglomeration Council	2007-11-29	2008-05-28	2008-01-31	2008-05-28
Signature by the assistant city clerk	2007-12-20	2008-06-10	2008-03-28	2008-06-10
Authorization by the SHDM				
Signature by the SHDM's General Manager	2007-11-15	2008-06-10	2008-01-31	2008-06-10
Authorization by the SHDM's Board of Directors	2007-12-12	2008-06-19	2008-06-19	2008-06-19

A review of the SHDM's approval of agreement Nos. 1 and 2 and their addenda reveals that, in every case, the SHDM's General Manager signed these documents before the Board of Directors saw them.

Addendum 1 of Agreement No. 1, Professional Services Agreement No. 2 and Addendum 1 of Agreement No. 2 all state on page 1 that the SHDM's General Manager is duly authorized to sign the professional services agreement under the delegation of authority policy adopted by the Board of Directors on March 21, 2007.

In our view, only the Board of Directors had the authority to conclude these professional services agreements with the city. The General Manager was only empowered to sign these agreements if they had been previously approved by the Board of Directors.

Recommendation

We recommend that SHDM Management obtain prior authorization from the Board of Directors before signing professional service agreements and addenda to comply with existing rules of authority.

As Professional Services Agreement No. 1 (drawings and specifications), was a “professional services contract,” it gave the SHDM the right to award contracts to professional firms on its behalf and in accordance with its own contract procurement rules (adopted March 21, 2007).

We reviewed the minutes of SHDM Board of Directors meetings for August 2007 to December 2007 and we found three professional services contracts that the Board approved during that period:

- Architect and designer.
- Project management.
- Mechanical, structural and civil engineering.

These three professional services contracts were supposed to have been concluded according to the SHDM’s contract procurement rules. However:

- Contracts for professional services of the architect and designer and for project management were concluded by the General Manager and approved by Board of Directors, even before Professional Services Agreement No. 1 (drawings and specifications) was concluded with the city.
- The three professional services contracts were signed by the SHDM’s General Manager before they were approved by the SHDM’s Board of Directors, and signature of the Professional Services Agreement No. 1 with the city.
- The SHDM did not comply with its contract procurement policy when it concluded a professional services contract with an architect and designer. In fact, the SHDM’s Board of Directors resolved during its October 25, 2007 meeting to retain that firm under a contract by agreement.
- The SHDM did not comply with its contract procurement policy when it concluded the professional services contract for mechanical, structural and civil engineering.

Recommendation

We recommend that the SHDM conclude contracts pertaining to tasks assigned by the city only if the professional services agreement between the parties has been approved by the appropriate authorities.

Under Professional Services Agreement No. 2 (project management), which made the SHDM the city's project manager, the SHDM must award contracts to carry out the work in accordance with the contract procurement rules set out in the *Cities and Towns Act*.

With respect to the screening of contractors, our review showed that the public call for bids process was observed and that an assessment grid was employed.

Based on the detailed project transaction report as at October 31, 2008, we randomly selected 13 transactions of different types, totalling $14,446,245. The details of these selected transactions are:

- Pre-purchase of work and materials valued at less than $500,000 (five contracts: $709,773):
  - Four contracts concluded following public calls for tenders (two to purchase goods and two to carry out the work).
  - One contract without tendering for an amount greater than $100,000.
- Pre-purchase of work and materials valued at more than $500,000 (eight contracts: $13,736,421):
  - Four suppliers initially selected during the screening process and, subsequently, through invitations to tender (to do work).
  - Three contracts concluded following public calls for tenders (to purchase goods).
  - One private contract (to do work).

We found that four of the five pre-purchase contracts for materials and work valued at less than $500,000 were granted following public calls for tenders under the city's contract procurement rules.

However, in the case of one communications firm, a purchase order totalling $150,000 was created on April 1, 2009, but we found that this firm was not selected as the result of a public call for tender as required in the relevant municipal legislation. In our view, contract procurement rules were not observed with respect to this communications firm.

The city's contract procurement rules were observed in choosing suppliers for the eight contracts over $500,000 that were selected. The General Manager then approved these contracts over the March to June 2008 period. At the time these contracts were approved, the Board of Directors held the authority to award contracts for over $500,000 and to allow related expenditures. It was only on June 19, 2008 that the SHDM's Board of Directors retroactively endorsed the contracts for amounts greater than $500,000.

Furthermore, the SHDM's Board of Directors decided to delegate to the General Manager, to the Assistant General Manager or to the Director of Finance and Administration, the power to grant, sign, amend or terminate any contract for $500,000 or more pertaining to the SHDM's agreements with the city to manage Phase 1 of the Quartier des spectacles project and the rue Balmoral and rue Mayor projects, as long as the city's contract procurement rules were observed.

In our view, the SHDM's delegation of powers to its General Manager is broader than that of the city. The city's General Manager, for example, can approve contracts to acquire goods and perform work only for expenditures of less than $100,000. In our view, and in consideration of the relationship between the city and the SHDM under this professional services agreement pertaining to the Quartier des spectacles, we believe that these delegation rules should be submitted to the city's Executive Committee for approval.

Recommendations

We recommend that the SHDM conclude contracts under the city's contract procurement rules in accordance with the *Cities and Towns Act* with respect to Professional Services Agreement No. 2 (project management) that was signed with the city on January 31, 2008.

We recommend that the SHDM transmit its delegation authority policy to the city's Executive Committee for approval, including the delegation of special powers applicable to the Quartier des spectacles project.

We obtained evidence during our audit of a master budget and a master schedule that listed all construction categories and a monthly project status report produced by the outside project authority. Project management reports produced for the Place des Festivals at the Quarter des spectacles are used to monitor compliance with planned schedule and costs. The committees created and the frequency of their meetings help ensure adequate project management and follow-up. Accountability mechanisms also serve in providing reports to SHDM management and to the city.

We did not, however, obtain a periodic summary report pertaining to the actual project status in terms of its budget and anticipated schedule. This report could be used to quickly highlight discrepancies between budgets and actual costs and/or reveal if the project is ahead or behind its production schedule.

Recommendation

We recommend that Management be sure to obtain from the outside project manager a balanced scorecard with management indicators that illustrate the project's actual progress in terms of the planned budget and schedule. This report will quickly highlight any discrepancies, any corrections if needed and advise the Board of Directors at the appropriate time.

Work was completed or goods received before payment was made. Controls pertaining to the authorization of invoices accompanied by supporting documents, the payment of invoices and accounting entries, were applied.

We also found that the SHDM's invoicing process to the city was observed and rules set out in agreements between the two parties concerning payment of fees to the SHDM were respected.

CONCLUSION

Our audit of the project management process revealed certain administrative shortcomings at the SHDM. We have, accordingly, found:

- That the criteria and assessment process used in screening prospective developers for the Accès Condos was poorly supervised.
- There was no framework agreement (agreement with developers) for the Accès Condos projects.
- The tolerance of non-compliance by developers with certain clauses in development agreements, particularly with respect to bank letters of credit and mortgage guarantees.
- Inadequate planning of advertising expenses required to market the Accès Condos units.

- Incomplete management reports because they failed to compare the progress of the work with the planned schedules, the evolution of sales in terms of objectives and cumulative costs with the budget allowance.
- The lack of any profitability studies by the SHDM for its LAQ project management responsibilities.
- Multiple departures from the delegation of authority policy by the SHDM's General Manager, such as:
  - His signing of Addendum 4 of the Square Cartier project.
  - Authorization of loans to developers for unsold condominiums.
  - His signing of agreements and addenda with the city for the Place des festivals project in the Quartier des spectacles.
  - His signing of three professional service contracts.
  - Authorization of eight contracts for materials and work for over $500,000.

REVIEWING THE TRANSACTIONS

As previously mentioned, our study pertained to dispositions of real property performed by the SHDM (the "Transactions") between January 1, 2007 and November 24, 2008 and considered certain business compliance parameters.

By excluding Benny Farm transactions, which pertained to the sale of individual housing units to private parties, we have counted twenty (20) transactions falling into two major categories:

- Properties disposed of under a transfer program to cooperatives or non-profit organizations that already managed these buildings ("Transactions with NPOs"). There were twelve (12) such transactions.
- Other properties that were the subjects of transactions with other parties ("Other Transactions"). There were eight (8) such transactions.

TRANSACTIONS WITH NPOS

The PALL and PAMAC Programs

The Canada Mortgage and Housing Corporation (CMHC) ended its financial assistance program, known as "article LNH 95", in the late 1980s. This program enabled non-profit organizations to provide dwellings to moderate-income households. To make up for the CMHC's withdrawal from this sector and address this group's needs, the city formulated the Programme d'acquisition de logements locatifs (PALL) and the Programme d'acquisition de maisons de chambres (PAMAC). These programs had the following objectives:

- PALL (agreement between the city and the SHDM, December 22, 1989)

  [TRANSLATION]

  - *Increase the supply of high-quality housing at affordable prices to low- and moderate-income households.*
  - *Help households remain in their communities by reducing the adverse impact of renovations on rental prices.*
  - *Encourage households to assume responsibility for their housing conditions.*
  - *Create a municipal inventory of modestly priced and moderate-quality housing units*.
- PAMAC (agreement between the city and the SHDM, June 7, 1991)

  [TRANSLATION]

  - *Create a municipal inventory of modestly priced and moderate-quality rooms.*
  - *Help keep households in their communities by reducing the adverse impact of renovations on rental prices.*

- *Produce 700 rooms through acquisitions, restorations or transformations from 1989 through 1992, with 500 in the central sector of the city and 200 rooms in the peripheral sector*.

Article 7 of each of the two agreements provided for the eventual disposition of the properties:

- *The SHDM may, subject to the approval of the Executive Committee, dispose of property acquired under this program.*
  - *To housing cooperatives or non-profit corporations with missions similar to those of this program,*
  - *To the Office municipal d'habitation de Montréal.*
- Any advance payments with respect to said properties will be reimbursed to the city at that time.

These above-mentioned payments represent the city's contribution to paying off PALL's and PAMAC's operating deficits.

As principal contractor of both programs, the SHDM purchased 3,258 dwelling units distributed among 65 projects and 398 room units in 15 buildings. As at December 31, 2008, the SHDM still had 2,517 dwelling units and 342 room units.

After several years, with the relative weight of mortgage payments having declined in terms of overall operating expenses, rental income has become adequate to cover all of the expenses of several PALL and PAMAC buildings. This situation is described as "maturity," or the time at which an NPO becomes financially capable of owning the building.

In accordance with the initial objectives of both programs, the city asked the SHDM to sell buildings to the NPOs so that community organizations specializing in social housing could ultimately take full charge of them.

PALL and PAMAC properties are generally sold to NPOs that are already managing the buildings in question at a price based on the organization's ability to pay. The SHDM usually derives no significant profit or loss from the transaction.

Sales

On August 28, 2001, the city and the SHDM signed an agreement for the management and transfer of PALL's buildings. Article 14 of that agreement, which the City Council endorsed on May 7, 2001, outlines the terms and conditions for the transfer of these buildings:

[TRANSLATION]

- *14.1 The Executive Committee must give its prior approval to any transfer of a building. The file prepared by the SHDM must include the following information and documents:*
  - *Identification and description of the building.*
  - *Identification of the buyer (charter, Letters Patent, certificate of compliance, etc.).*
  - *The offer to buy signed by the buyer, with details on the sale price, related fees, the building's fair market and book values and financing method.*
  - *Special conditions required for completing the transaction.*
  - *A resolution by the SHDM's Board of Directors with respect to the proposed transfer.*
  - *Opinions from the Service d'habitation (SH) and the Service des finances et du contrôle budgétaire (SFCB).*
- *14.2 Once the transaction has been completed, the SHDM will provide the SH with a copy of the notarial act, bearing the number assigned by the Bureau de la publicité des droits.*
- *14.3 The SHDM may, subject to approval from the Executive Committee, transfer the buildings:*
  - *On a first-refusal basis to COOPs or to NPOs.*
  - *Next, to the Office municipal d'habitation de Montréal.*
  - *Lastly, should it be impossible to transfer a building from any of the above-mentioned agencies to any other buyer.*

Furthermore, article 2.9 of the memorandum of understanding between the city and the SHDM, which the City Council endorsed on June 18, 2007, states that [TRANSLATION]: "*The corporation may not dispose of or mortgage a real-estate asset that it owns without first obtaining the authorization of the Executive Committee.*"

The following table lists the dispositions of PALL AND PAMAC buildings:

DATE OF SALE DESCRIPTION NAME OF BUYER	FINANCIAL INFORMATION IN $		APPROVED BY THE BOARD OF DIRECTORS
March 15, 2007 68-80, rue Prince-Arthur (27 dwelling units) Inter-Loge Centre-Sud	Sale price Net book value[1] Gain on disposition Fair market value Price reduction[2] Unpaid balance of sale price	721,000 521,217 199,783 900,000 179,000 46,000	March 21, 2007 (a) (c)

Legend

[1] Net book value for the SHDM = cost–provision for loss in value–accumulated amortization
[2] Price reduction on which the SHDM holds a second non-interest bearing mortgage redeemable in the event the building is resold—10-year term
[3] Temporary six-month interest-free financing
(a) Disposition scheduled in the SHDM's 2007 strategic plan
(b) Disposition scheduled in the Montréal Executive Committee's October 17, 2007 resolution
(c) Disposition scheduled in the August 28, 2001 transfer and management agreement

DATE OF SALE DESCRIPTION NAME OF BUYER	FINANCIAL INFORMATION IN $		APPROVED BY THE BOARD OF DIRECTORS
March 15, 2007 1185, 1195 and 1197, rue Montcalm (40 dwelling units) Inter-loge Centre-Sud	Sale price Net book value[1] Gain on disposition Fair market value Price reduction[2] Unpaid balance of sale price	640,000 372,324 267,676 800,000 160,000 32,500	March 21, 2007 (a) (c)
December 20, 2007 6618-6622, 6632-6654, 6750-6796, rue St-Dominique (8 buildings with a total of 45 dwelling units) Coopérative d'habitation St-Dominique	Sale price Net book value[1] Gain on disposition Fair market value Price reduction[2] Temporary financing[3]	1,616,500 989,393 627,127 3,500,000 1,883,500 1,616,500	August 29, 2007 (a) (b) (c)
December 20, 2007 4896-4900, rue St-Denis (15 single-room units) Maison L'Échelon Inc.	Sale price Net book value[1] Gain on disposition Fair market value Price reduction[2]	234,500 213,761 20,739 475,000 240,500	August 29, 2007 (a) (b)
December 20, 2007 5015-5023, rue de Lanaudière (27 single-room units) Maison L'Échelon Inc.	Sale price Net book value [1] Loss on disposition Fair market value Price reduction[2]	270,000 400,886 (130,886) 720,000 450,000	August 29, 2007 (a) (b)
December 20, 2007 3830-3840-3860-3870, rue Barclay (40 dwelling units) Coopérative Cactus-Vert	Sale price Net book value[1] Gain on disposition Fair market value Price reduction[2]	1,140,000 996,642 143,358 2,100,000 960,000	August 29, 2007 (a) (b) (c)

Legend

[1] ***Net book value for the SHDM = cost–provision for loss in value–accumulated amortization***

[2] ***Price reduction on which the SHDM holds a second non-interest bearing mortgage redeemable in the event the building is resold—10-year term***

[3] ***Temporary six-month interest-free financing***

(a) Disposition scheduled in the SHDM's 2007 strategic plan

(b) Disposition scheduled in the Montréal Executive Committee's October 17, 2007 resolution

(c) Disposition scheduled in the August 28, 2001 transfer and management agreement

DATE OF SALE DESCRIPTION NAME OF BUYER	FINANCIAL INFORMATION IN $		APPROVED BY THE BOARD OF DIRECTORS
December 20, 2007 3830-3840-3860-3870, rue Barclay (40 dwelling units) Coopérative Cactus-Vert	Sale price Net book value[1] Gain on disposition Fair market value Price reduction[2]	1,140,000 996,642 143,358 2,100,000 960,000	August 29, 2007 (a) (b) (c)
December 20, 2007 6969, rue Papineau (61 dwelling units) Maison L'Échelon inc.	Sale price Net book value[1] Gain on disposition Fair market value Price reduction [2]	1,358,100 1,256,642 101,458 2,194,000 835,900	August 29, 2007 (a) (b) (c)
April 3, 2008 7330-7346 Casgrain 63-101, rue de Castelnau (one commercial premises and 27 dwelling units) Coopérative d'habitation Castelnau-Casgrain	Sale price Net book value [1] Gain on disposition Fair market value Price reduction [2]	1,266,500 739,231 527,269 2,000,000 733,500	August 29, 2007 (a) (b) (c)
May 5, 2008 1850, rue Lincoln (67 dwelling units) 1225, rue Sussex 108 dwelling units) Lieberman Realties	Buildings sold to a private business after having been offered to NPOs. The buildings were not offered to the OMHM.		August 29, 2007
June 2, 2008 860-890, rue Charlevoix (32 dwelling units) Société d'amélioration de Pointe-Saint-Charles Inc.	Sale price Net book value[1] Gain on disposition Fair market value Price reduction[2] Loan guarantee by the SHDM	1,003,100 668,218 334,882 1,455,000 451,900 91,206	August 29, 2007 (a) (b) (c) March 26, 2008

Legend

1 Net book value for the SHDM = cost–provision for loss in value–accumulated amortization

2 Price reduction on which the SHDM holds a second non-interest bearing mortgage redeemable in the event the building is resold– 10-year term

3 Temporary six-month interest-free financing

(a) Disposition scheduled in the SHDM's 2007 strategic plan

(b) Disposition scheduled in the Montréal Executive Committee's October 17, 2007 resolution

(c) Disposition scheduled in the August 28, 2001 transfer and management agreement

DATE OF SALE DESCRIPTION NAME OF BUYER	FINANCIAL INFORMATION IN $		APPROVED BY THE BOARD OF DIRECTORS
June 25, 2008	Sale price	894,300	August 29, 2007
3930-3940-3960-3980, rue Barclay	Net book value[1]	1,020,315	(a) (b) (c)
(28 dwelling units)	Loss on disposition	(126,015)	
Société de gestion Querbes			
	Fair market value	1,470,000	
	Price reduction[2]	575,700	
July 9, 2008	Sale price	442,200	August 29, 2007
9335, boul. Pie-IX	Net book value[1]	467,929	(a) (b) (c)
(16 dwelling units)			
Relais des jeunes familles	Loss on disposition	(25,729)	
	Fair market value	750,000	
	Price reduction[2]	307,800	
	Loan guarantee by the SHDM	37,200	March 26, 2008
August 15, 2008	Sale price	427,300	August 29, 2007
4870-4880, rue Barclay	Net book value[1]	341,115	(a) (b) (c)
(14 dwelling units)			
Coopérative d'habitation Soksay	Gain on disposition	86,185	
	Fair market value	800,000	
	Price reduction[2]	372,700	
	Loan guarantee by the SHDM	130,000	March 26, 2008

Legend

[1] ***Net book value for the SHDM = cost–provision for loss in value–accumulated amortization***
[2] ***Price reduction on which the SHDM holds a second non-interest bearing mortgage redeemable in the event the building is resold– 10-year term***
[3] ***Temporary six-month interest-free financing***
(a) Disposition scheduled in the SHDM's 2007 strategic plan
(b) Disposition scheduled in the Montréal Executive Committee's October 17, 2007 resolution
(c) Disposition scheduled in the August 28, 2001 transfer and management agreement

Sales to NPOs reflect a commitment by the city administration. The PALL building management and transfer agreement signed by Montréal and the SHDM and the SHDM's 2007 strategic plan had provided for the transfer of these buildings.

The transfers of the PAMAC buildings examined (St-Denis et de Lanaudière) were performed in compliance with the program's original objectives.

The Board of Directors authorized each of the transactions considered. In certain cases, it retroactively approved the final conditions for the sale or the actual sale.

On October 17, 2007, the Executive Committee resolved:

[TRANSLATION]

1. *To authorize the Société d'habitation et de développement de Montréal to sell the following buildings to housing cooperatives and to the non-profit organizations listed below, in accordance with the financial conditions stipulated in the documents entitled "Programme de disposition des immeubles PALL—Résultat estimé des ventes joint au sommaire décisionnel*: [. . . list of buildings]".

2. *To authorize the Société d'habitation et de développement de Montréal to sell these buildings to other housing cooperatives or to other non-profit organizations in the event that the above-mentioned cooperatives and non-profit organizations abandon the planned acquisition.*

3. *To authorize the Société d'habitation et de développement de Montréal to employ an invitational tender process to sell the buildings located at 1225, rue Sussex and 1850, Lincoln, as well as its long-term rights in the lease signed with the city on May 30, 1988 for the buildings located at 740-770, rue Lucien L'Allier and 775-785, rue Versailles, to the private sector*.

This resolution was accompanied by a decision summary highlighting the impact of these transfers.

Of the transactions considered, two properties (Prince Arthur and Montcalm) had already been sold, with each sale price comprising an unpaid balance. The Executive Committee received the following information for the other sales:

- Buyer identification.
- Sale price.
- Fair market value.
- Building book value.
- Price reduction.
- Estimated gain or loss.

Conclusion

These transfers were performed in accordance with the announced parameters, except the SHDM made a temporary loan to the Coopérative d'Habitation St-Dominique and guaranteed the loans of three other agencies.

The SHDM had not been authorized to make the loan or to grant the above-mentioned guarantees. The SHDM also had not been empowered to sell the Prince Arthur and Montcalm buildings without the Executive Committee's prior authorization.

Recommendation

We recommend that the SHDM establish the controls necessary for applying the June 2007 memorandum of understanding between the city and the SHDM.

Other Considerations

To protect PALL and PAMAC clients and thus the social function of the buildings sold, the SHDM requires a second mortgage guaranteed on the transferred property. This mortgage does not bear interest. It is equal to the difference between the fair market value on the transaction date and the sale price, or in other words, the price reduction listed in the list of sales. This mortgage is for a 10-year period. In the event the NPO resells the property at a price higher than the one it paid, the SHDM is entitled to an amount that may not exceed the above-mentioned price reduction (not indexed).

After the 10-year term, the NPO may resell the building without the SHDM being entitled to claim the value of the price reduction. The SHDM will, accordingly, abandon its mortgage guarantee.

The above-mentioned 10-year period seems short to us, in view of both programs' social objectives. To prevent any speculation, future sales could set out clauses that are more restrictive.

Recommendation

We recommend that the SHDM revise its model NPO sales contract to extend the 10-year period pertaining to resale of the property or to include more restrictive clauses to prevent speculation and to provide additional protection to clients served.

THE OTHER TRANSACTIONS

730-780, Brewster

This building, which was constructed in about 1910, occupies a gross area of some 137,700 sq. ft. on five floors, plus a rear outdoor parking lot with access through rue Bel-Air. The land is about 67,400 sq. ft. The SDM acquired the property, which was a former textile factory, in September 2005 for $3,000,000, with the intention of converting it to an office building. To develop this building, the SDM approached Services intégrés Lemay et associés Inc. ("Lemay"), which had previously expressed its interest in participating in the project and occupying the premises, as well as the Sud-Ouest borough office, which was seeking new premises.

In June 2006, the SDM and 9167-5207 Québec Inc., a newly created company belonging to Lemay and operating under the name Services intégrés Lemay et associés, agreed to a 50-50 partnership and signed various agreements to that effect. In conjunction with these agreements, the SDM transferred the building to 9169-6260 Québec Inc., a company that had been recently formed by the SDM and 9167-5207 Québec Inc., but did so without monetary consideration. Under the structure established, only half of the SDM's undivided stake in the building was sold to 9167-5207 Québec Inc. for an amount of $1,625,000, with the SDM retaining the other half.

Beginning in June 2006 and until late 2006, the services of a contractor and various professionals were retained and temporary financing of $11.5 million obtained for performing construction work. Suppliers were chosen without a tender process and Lemay selected the construction contractor.

On November 20, 2006, Lemay made an offer to buy the 50% of the undivided rights still held by the SDM. On March 29, 2007, the SHDM sold its undivided rights in Brewster and its shares in 9169-6260 Québec Inc. to 9167-5207 Québec Inc. for $2,000,000 (the SDM's original capital contribution, assessed at $1,625,000, plus other contributions totalling $375,000) plus an amount equivalent to the costs that the SDM had covered in the project.

It may be noted that the final sale was never submitted to the SHDM's Board of Directors or to the Montréal Executive Committee.

The Strategic Plan of May 23, 2007 refers to the sale of 730-780, avenue Brewster. However, this Plan was prepared subsequent to the sale of the SDM's interest in the Brewster building in March 2007. The target sale price indicated in this document was $7,096,578, or an amount equal to the project costs that the SDM assumed under this same Strategic Plan. The plan lists a fair market value of $8,200,000, which represents 50% of the project's fair market value as calculated by an appraisal firm as at September 1, 2006.

We also learned that the new owner of the Brewster building took out a $13.5 million bank loan on March 26, 2007. Since this bank had said in June 2006 that it would make a loan for up to 70% of the property's fair market value, the bank's appraisal of the Brewster project's fair market value at that time was in all likelihood about $19 million. We do not know, however, if the conditions of the June 2006 offer were similar to those of the loan taken out on March 26, 2007.

Finally, certain clauses of the indivision agreement of October 17, 2006 joint ownership between the SDM and 9167-5207 Québec Inc. were not observed. This agreement contains various clauses pertaining to an eventual sale by each of the joint owners. Clause 5.2, in particular, states that if one of the joint owners wishes to sell its undivided stake before December 31, 2007, it can only do so by offering it solely to the other party and at a price equal to 50% of the project cost on the offering date.

We have not located any document from the SDM that would confirm its intention of selling its stake in the property.

Clause 5.2 also states that if the stake in the Brewster building is sold to a third party within three years of the sale between the joint owners, the fraction of the sale price of such a disposition that is greater than the price of disposition between the two joint owners (after certain adjustments), must be paid to the other joint owner.

We did in fact learn that Lemay sold a portion of its stock in 9167-5207 Québec Inc. in 2008. Based on our understanding of clause 5.5 of the indivision agreement, Lemay was required to disclose this transaction and its details to the SHDM, which it did not do.

Conclusion

The sale would accordingly seem to have been concluded for less than the fair market value. Neither the SHDM's Board of Directors nor the Montréal Executive Committee authorized the sale.

Recommendations

We recommend that the SHDM pursue the steps it has taken to obtain information on Lemay's sale of part of the shares that it held in 9167-5207 Québec Inc. and take the necessary action, if appropriate, to recover any money that it may be owed.

We also recommend that the SHDM include a requirement in its sales contracts that buyers or their representative produce a statement with respect to the share ownership of the offering entity and the source of the funds used to finance the transaction. The decision summary should clearly include this same information.

The Phoenix Project

The project emerged from the conclusion of a development agreement between *Constructions Louisbourg Ltd.* (“Louisbourg” or the “Developer”) and the SHDM on June 8, 2006 pertaining to the construction of a building on land located on the northeast corner of boulevard Henri-Bourassa and boulevard Marcel-Laurin, in Saint-Laurent borough. The project consisted of 208 units and was part of Programme Accès Condos. Construction began in 2008.

Under the development agreement, the building was to be built on two plots to be acquired by the developer. One was a plot belonging to a private company and the other, an adjacent plot belonging to the city, containing a small building. This land (and building) had been acquired by Ville de Saint-Laurent in December 1997, from the Royal Canadian Legion. The Legion was still occupying the premises at that location when the development agreement was signed. The building was to be demolished to carry out the Phoenix project.

The development agreement between the SHDM and the developer referred to the following information:

- The SHDM agrees to purchase the land (consisting of three plots) on the site to be developed from the city, by promptly submitting a promise to buy. The indicated purchase price is $1.00.
- The developer agrees to purchase the land from the SHDM on the site to be developed, by promptly submitting a promise to buy. The indicated purchase price is $1.00.
- The developer agrees to transfer an exclusive portion of some 280 sq. m. and 10 parking spaces from its own project to the SHDM. This area will be used to build the community room, which the SHDM will then allow the Saint-Laurent borough to lease.

At the time the development agreement of June 8, 2006 was signed, the developer was in possession of a purchase agreement for the land belonging to the private company (the plot at the corner of boulevard Marcel-Laurin and rue Henri-Bourassa). This promise to buy expired on June 15, 2006. No agreement or promise had been concluded or made with respect to the city’s land.

Following the rejection of its purchase offer of $1.00, the SHDM finally bought the land from the city for $733,000 on November 30, 2007.

On December 5, 2007, the SHDM resold this same land to Louisbourg for $1, plus other good and valuable considerations, including an amount of $33,000. Louisbourg already owned the adjacent lot.

We are of the opinion that the sale of land sale by the SHDM to Louisbourg was not approved at an adequate level of authority.

The Executive Committee on October 10, 2007 and the City Council on October 22, 2007 clearly approved a draft bill of sale whereby the city sold the SHDM a plot of land for the price of $733,000 to build a residential project as part of the Accès Condos program and provided financial compensation of $300,000 to the SHDM. These resolutions were accompanied by a *Decision Summary* outlining the city's transfer of the land to the SHDM. This document also pertains to the resale by the SHDM of the land to the developer, but stated that [TRANSLATION] "*this summary does not pertain to the potential sale of a portion of the site […] to the developer*".

It should be noted that the above-mentioned summary makes no mention of the fact that the land was to be sold to the developer for the price of $1 plus other good and valuable considerations. The SHDM has not considered it necessary to have the Executive Committee specifically approve the SHDM's sale of the land to the developer.

The Board of Directors on the other hand approved the acquisition of land belonging to the city for $733,000 and its transfer to Louisbourg on October 25. 2007. The minutes do not specifically state the price to be paid by the developer for purchasing the land. We found this information, however, in the draft bill of sale submitted to this board meeting.

Furthermore, according to the decision summary included with the minutes of the Executive Committee meeting of October 10, 2007, the sale price was calculated based on an internal appraisal on October 27, 2005, adjusted to take into account "*estimated contamination costs [sic]*" of $125,000. The summary said that "*the negotiated sale price is $733,000.*"

Information collected to support calculation of the land's sale price of $733,000 fails to demonstrate that this price represents the fair market value on the transaction date, because:

- The first appraisal used to calculate the sale price was produced a bit more than two years prior to the date of the sale contract (appraisal dated October 27, 2005 and sale concluded November 30, 2007).
- Decontamination costs of $125,000 were deducted from the fair market value proposed by the SHDM, with no environmental study having been performed to confirm the actual contamination level of the city's land.

- The developer could purchase the lot adjacent to the one owned by the city for $1.1 million, although it was slightly smaller (40,844 sq. ft.) than that of the city (43,878 sq. ft.). There is a considerable difference between this price and the $733,000 paid for the city's land.

Conclusion

The sale would appear to have been concluded at a lower price than the property's fair market value.

The Montréal Executive Committee did not authorize the sale.

Neither the Executive Committee nor the City Council appear to have been adequately informed of what steps and conditions were involved following the sale of its property to the SHDM.

Recommendations

If a prospective buyer deducts the cost of work to be performed on a property (whether with respect to decontamination, restoration or repair) from its purchase price, we recommend that the SHDM ask another contractor to provide the same type of estimate to obtain an independent opinion of the work involved and the related costs.

The SHDM might also consider doing this work itself, prior to the transaction, to maximize financial performance.

10, King

The property is a semi-detached structure built in 1952. The land takes up about 9,600 sq. ft., with a building footprint of about 8,950 sq. ft. *Le Quartier des Écluses Inc.*, a company owned by the SDM, bought the property in 1994. At the time of the transaction in 2007, the building housed a café, an art gallery and a frame shop. Its tenant held a lease terminating in September 2007 for a net annual rent of about $44,500. The renter also held renewal options (3 × 5 years) at CPI-indexed rental rates. On December 19, 2007, this property was sold to 122922 Canada Inc., a company controlled by the tenant's majority shareholder. This transaction, by private agreement, was for an amount of $575,000, which corresponded to the last appraisal conducted in May 2007.

Because of the tenant's favourable lease conditions, we understand that it would have been difficult to find a buyer at a higher price. However, we understand that the buyer offered the price it did, which was identical to the most recent appraisal, because it had obtained access to the appraisal before submitting its bid, in the course of different exchanges of correspondence with SHDM officials.

Information that was sent to the Board of Directors and to the Montréal Executive Committee for a decision prior to the transaction was correct. However, the transaction was modified a few days before it was signed, since the buyer asked the SHDM to grant it an unpaid balance on the sale price of $450,000, although the purchase offer stipulated that the transaction would be paid in cash on closing. The Board of Directors never approved this portion of the transaction.

The buyer repaid this unpaid balance of the sale price with capital and interest on March 17, 2008.

Conclusion

The Board of Directors did not authorize this $450,000 loan.

Recommendations

We recommend that the SHDM adopt a policy for unsolicited offers. The SHDM could include a formal tender solicitation process to maximize the value of this effort.

When negotiating a transaction, we recommend that the SHDM preserve any property appraisal documents in its possession for use in negotiations.

1850, Lincoln and 1225, Sussex

1850, Lincoln was built in 1952. It is an 8-story structure, plus penthouse and contains 67 apartments and 5 indoor parking spaces. It occupies a gross area of 57,000 sq. ft. and sits on some 7,300 sq. ft. of land. The SHDM bought this building in October 1991 from a trustee in bankruptcy for $1,300,000 and renovated it from 1993-1994 at a cost of $2,200,000. The most recent rental statement reported gross revenue of some $490,000 and total expenses of about $260,000.

1225, Sussex was built in 1964. It has 15 floors, plus a penthouse and contains 108 apartments and 16 indoor parking spots. It occupies a gross space of some 93,300 sq. ft., with about

9,000 sq. ft. of land. The SHDM bought it from a trustee in bankruptcy in October 1991 for $3,100,000 and renovated it from 1993-1994 and 2004 for a total cost of $2,100,000. The most recent rental statement reported gross revenue of some $850,000 and total expenses of some $400,000.

These two buildings had been purchased under PALL.

The SHDM initially planned to sell three properties: 1850, Lincoln, 1225, Sussex and 740/770, Lucien-L'Allier. Several developers were approached about this sale in the summer of 2007. Six expressed interest. After rejecting all of the offers received, the Board of Directors asked SHDM management to start the process again. The Board said the Corporation needed to find a well-established buyer that could ensure the sustainability of these buildings.

On October 17, 2007, the Montréal Executive Committee authorized the SHDM to sell the property to a private sector buyer through an invitational tender process. Consequently, a new process was launched, but it targeted the same six (6) investors as before. The bidding deadline was November 1, 2007, with up to 30 days for due diligence.

The tender solicitation did not refer, however, to the respective weight that the SHDM would place on each criterion used in its assessment process. In order of relative importance, these criteria were: price, other conditions included in the purchase offer and the bidder's quality as expressed in its submission (experience, financial capability and planned investment in the building's sustainability).

We found that the offering price, while listed first among the other criteria, only accounted for 40% of the score assigned to each bid. The selection committee's grid for the "qualitative aspect" of the proposal, which counted for 60% of the decision, was not very precise. Based on the information received, the SHDM's General Manager dictated a weighting of 60% for quality and 40% for the price offered.

Two bids were rejected for noncompliance. Although the bid of one of the bidders, Lieberman Realties, did not provide a breakdown of the prices offered for each building (a requirement of the tender solicitation), it was still considered in the process. This bid was dated November 1, 2007 and totalled $10,200,000. We were unable to examine this bid, as it was destroyed. This is the bid that the selection committee studied and the one that was ultimately accepted. We also understand that on November 8 the SHDM's General Manager submitted a new bid totalling $10,820,000, which replaced the one of November 1.

The SHDM decided on Lieberman Realties, which offered a total of $10,820,000 for both buildings.

Following price negotiations due to the different kinds of work that the buyer believed was necessary, the SHDM sold both buildings for $10,200,000 on May 5, 2008.

The share of that price allocated for the building at 1225, Sussex was $6,874,480. The most recent appraisal of its fair market value, dated August 2006, was $7,380,000. Its net book value at the time of the disposition was $2,761,119 and reflected accumulated amortization of $686,887 and a provision for loss in value of $1,485,814 that was recorded in 1994-1995.

The share allocated to the building at 1850, Lincoln was $3,325,520. The last appraisal of fair market value dated August 2006 was $3,730,000. Its net book value at the time of the disposition was $2,101,617 and reflected accumulated amortization of $458,474 and a provision for loss in value of $1,103,194 that was recorded in 1994-1995.

Conclusion

The inconsistency in criteria assessment during the candidate selection process and the manner in which these criteria were weighed may have served to reduce sale proceeds for the SHDM.

Furthermore, the SHDM did not hire an independent contractor to validate the amounts that the bidders claimed should be deducted from the purchase price for investment in repairs. It is, accordingly, difficult to determine if these amounts were reasonable.

Recommendations

If a prospective buyer submits a list of work to be performed on a property, along with the associated costs, we recommend that the SHDM ask another contractor to produce the same type of estimate so that it will have an independent opinion of the work and its related costs.

The SHDM could under such circumstances consider undertaking the work itself, prior to the transaction, to maximize its financial return.

If the SHDM decides to proceed with a tender solicitation, we recommend that the SHDM make it public, to attract the greatest possible interest in its properties.

If the SHDM decides to proceed with a tender solicitation and wishes to offer the interested parties a due diligence period, we recommend that it allow the bidders to perform their due diligence before filing their bids. This approach would prevent any negotiations by the buyer prior to closing and the accepted bid would be final, for all useful purposes.

If the SHDM decides to sell a batch of different properties at the same time, we recommend that it require interested parties to submit a bid for each property and specify that it may decide to award different properties to different bidders, so that it can maximize sale values.

Once the tender solicitation has been launched, the SHDM's tender document must clearly outline the assessment criteria that will be applied and weight given to each criterion in the decision-making process.

Lastly, we recommend that the SHDM adopt clear rules on the final acceptance of a transaction's conditions.

1401-1501, St-Patrick

The property is a single-story industrial building that was built in four (4) phases from 1930 to 1997. The building, which has a footprint of some 162,000 sq. ft., occupies about 226,600 sq. ft. of space. The SDM acquired the land in two phases, buying the first part in 1993 and the second in 1994. At the request of its new tenant, the SDM spent $1,908,000 in renovations from 2005 to 2006. Under the "*Memorandum of Agreement*" signed January 24, 2005 between the tenant and the SDM, the SDM was responsible for this work. The tenant's lease, which ends in June 2010, is for a net annual rent of approximately $608,500 and includes a five-year renewal option to June 2015, for a net annual rent of about $683,600.

The tenant also had access to an 87-space parking lot under an agreement with the city. The buyer wished to renew the agreement, which was done for an additional five-year period until August 31, 2013.

On February 20, 2008, the Board of Directors authorized the conclusion of a bill of sale between the SHDM and 9191-1263 Québec Inc. under the terms and conditions set out in the promise to buy submitted during the meeting. In fact, the final bill of sale that was concluded on June 20, 2008 for $7,100,000 was with the *Complexe St-Patrick S.E.C.* limited partnership, a separate entity from the one that had submitted the promise to buy and the one with which the SHDM had been authorized to deal.

The sale of 1401-1501, St-Patrick was part of the SHDM's Strategic Plan of May 23, 2007. This plan targeted a sale price for this property of $7,600,000, which was its book value at the time the Strategic Plan was prepared. The initial purchase offer submitted in January 2008 was for $7,400,000. The most recent appraisal of its fair market value was $7,320,000, although its book value as at December 31, 2007 was $7,157,000. In May 2008, the buyer asked the SHDM to reduce the purchase price by $300,000 due to the amount it claimed that decontamination work would cost. This request for price modification was supported by a specialized firm that had been retained by the buyer. Having requested an expert opinion from another firm and on the basis of the assessment it provided, the SHDM agreed to drop its sale price to $7,100,000.

According to the SHDM, the sale of this property had been planned in the Strategic Plan and there was no needed for the Montréal Executive Committee to approve it.

Conclusion

The SHDM did not attempt to get a better price than the bid it received. The sale was concluded following its receipt of an unsolicited offer from a buyer other than the tenant. This transaction was made on a private agreement basis, without recourse to a tendering process. The mere fact that the buyer went to the trouble of concluding an agreement with the tenant about exercising its first-refusal right would seem to demonstrate that the property's fair market value was greater than the price paid, despite the contamination issues.

Recommendation

We recommend that the SHDM adopt a policy for cases in which it receives unsolicited offers. In such cases, the SHDM could require a formal tender solicitation to maximize the sale value received.

Maison Bagg (166, King / 682, William)

This property, which is listed as a cultural property and is subject to the Cultural Property Act, (R.S.Q. c. 19 and amendments), was built between 1819 and 1845. It consists of three storeys and sits on a gross above-ground area of about 11,200 sq. ft. The site itself occupies about 8,400 sq. ft. The Société Immobilière du Patrimoine Architectural de Montréal bought it in October 1991 for $550,000. It was renovated in 1992. Its tenant held a five-year lease dated June 1, 2003. In the year of the sale, this net lease paid about $120,000 annually. After negotiating an unsolicited offer to buy with the tenant in the summer of 2007, the SHDM sold the building to that tenant for $1,200,000 on August 20, 2008. The most recent fair market value appraisal, dated May 2007, stood at $1,775,000.

During negotiations in June of 2007, the tenant produced a document from a construction firm, which estimated total renovation costs at $385,000. This price was accepted based on that information and a book value of some $1,200,000. Furthermore, as the lease was terminating, the SHDM believed that it would be very difficult to find a buyer for the building, since the tenant threatened to leave at the end of its lease if it could not buy the property.

Conclusion

We believe that a higher sale price could have been obtained through a tender solicitation.

Recommendations

We recommend that the SHDM adopt a policy for cases in which it receives unsolicited offers. In such cases, the SHDM could require a formal tender solicitation to maximize the sale value received.

If a prospective buyer submits a list of work to be performed on a property, along with associated costs, we recommend that the SHDM have another contractor provide the same type of estimate to obtain an independent opinion of the work involved and the associated costs.

The SHDM might also consider doing this work itself, prior to the transaction, to maximize financial performance.

When negotiating a transaction, we recommend that the SHDM preserve any property appraisal documents in its possession for use in negotiations.

Faubourg Contrecœur

This site is located in the Mercier–Hochelaga-Maisonneuve borough, bordering Anjou and Montréal-Est. This 38-hectare parcel is considered to be one of the last large plots of land available in Montréal. It has been almost entirely vacant since the 1950s. Its only uses have been to provide space for a pipeline in its western section, from 1950 to 1980, and as a snow dump in its eastern portion, from 1981 to 1997.

The city has tried to develop this site but the proposals to do so that were received in 1980 and then again in 1994 never took shape. That is why Executive Committee asked the SHDM in August 2004 to formulate a site development strategy in conjunction with the Société de développement de Montréal (SDM).

Following this decision, the SHDM hired an urban planning firm (Groupe Gauthier, Biancamano, Bolduc) in December 2004 to produce a master plan to develop the entire Contrecœur site (Master Plan). More specifically, the SHDM was tasked with formulating a planning framework that would define the social, economic, urban, architectural and financial issues to be addressed in developing this municipal property, while complying with the SHDM's goals and mission of providing affordable and social housing.

In January 2006, the urban planning firm retained by the SHDM produced its Master Plan for the construction of housing units. The plan also provided for the implementation of an employment and service sector that would contain shops and offices, as well as a linear park at the edge of the site near an active quarry.

At its meeting of April 26, 2006, the city's Executive Committee considered the Master Plan and tasked the SHDM with the responsibility for managing and producing the Contrecœur site development project by confirming that it would eventually transfer all plots of land and all site assets for development purposes. The Executive Committee also asked the SHDM to complete the organization of the development program for the site as a whole and to hold information meetings and informal discussions on the Master Plan with various interested groups. This task was to be carried out in conjunction with the city's Service de la mise en valeur du territoire et du patrimoine (SMVTP).

The SMVTP's mission is to stimulate wealth creation in Montréal, while improving the living environment for Montrealers. The SMTVP consequently provides the boroughs and Senior Management with a framework and support in:

- Strategic planning of the city's development and heritage, particularly in terms of its economic, urban, housing and heritage development.
- Real-estate strategies, transactions and management.
- Fast-tracking of major urban and economic projects.

Following the Executive Committee decision of April 26, 2006, the SHDM awarded a new contract to the urban planning firm to refine its studies and make any necessary adjustments to the project. In August 2006, the firm produced a management plan for implementing the Contracoeur site's development project (Business Plan). The firm presented the key elements of this Business Plan to the Executive Committee in September 2006.

In October 30, 2006, the City Council reconfirmed the SHDM's contract for management of the Contecœur site development project and authorized the SHDM to conduct a call for public qualifications to select a pool of developers that could assume the responsibility for developing and marketing the project.

This screening process was followed by an invitational tender process involving two qualified developers.

In December 2006, the selection committee created by the SHDM for that purpose produced an analysis of the invitational tender process used in selecting one developer to develop the Contrecœur site.

The SHDM then offered the city a one-year purchase option on the Contrecœur site for $14.8 million. In the event environmental characterization studies revealed a discrepancy between the property's soil study and its intended uses, this option would have permitted cancellation of the sale or revision of the sale price following negotiations.

Managers of the city's Direction stratégies et transactions immobilières (DSTI) with whom we met said that the $14.8 million offer seemed acceptable to them at the time, given the appraisals of the site's fair market value that had been conducted at the SHDM's request. They added, however that the various costs to be deducted from the sale price remained to be defined and would be the subject of separate negotiations if necessary.

On December 20, 2006, the city's Executive Committee approved the sale by private agreement of the Contrecœur site to the SHDM for $14.8 million in principle and authorized the SHDM to begin decontamination work at the site once its choice of developer had been approved by its Board of Directors. The decision summary supporting this decision stated that monetary conditions for the transfer would eventually be presented in a purchase option document.

In January 2007, various scenarios for having the City Council approve this proposal were considered, but none were realized. That was because the SHDM soon thereafter advised the DSTI that it would buy the Contrecœur site for $19.1 million and that a maximum of $14.7 million in expenses ($11 million for soil rehabilitation, $0.7 million for building a acoustic embankment and $3 million for the buildings' acoustic architecture) would be deducted from this price.

The sale price of the land and the expenses to be deducted that were mentioned in this proposal corresponded with the developer's proposal received in December 2006 and with certain information appearing in the Business Plan of August 2006. It should be noted that the Business Plan reported that decontamination costs were based on preliminary assessments and that the use of measures to reduce vibratory impact should be validated with a more comprehensive study that would also consider the distances of the various buildings from the quarry.

On March 21, 2007, the SHDM's Board of Directors approved the selection of developer Construction Frank Catania & Associés Inc. (Catania).

Also in March 2007, Montréal's City Council approved the draft deed under which Montréal transferred the Contacœur site to the SHDM for an amount equal to 70% of the net profit (estimated at $2.2 million).

Sale price—Contrecœur site	$19.1 million
Fees to be deducted (up to a maximum of)	
• Decontamination expenses	$11.0 million
• Acoustic embankment	$0.7 million
• Acoustic architecture	$3.0 million
Gross proceeds	$4.4 million
Less: SHDM development expenses	$2.2 million
Minimum earnings to be shared	$2.2 million
• SHDM's share (30%)	$0.7 million
• City's share (70%)	$1.5 million

Our review of the relevant decision summary showed that it included several pertinent items of information on the forthcoming transaction between the city and the SHDM. For example, it referred to the SHDM's responsibility for the business processes and optimization of this real-estate asset, of the municipal assessment and site resale conditions (price, items to be deducted from this price, the SHDM's expenses, sharing of profits between the City and the SHDM and the amount the city would receive from any resale of the site).

This decision summary failed, however, to address any of the following issues:

- The possibility that the city or the SHDM might eventually pay the developer a sum of about $15 million, although that had already been provided in the 2007-2008-2009 TYCWP.
  The monetary flow model used in the project's Business Plan (August 2006) provided that the city and the SHDM should be prepared to grant a loan of from $13.3 million to $15 million payable over five years, to interest a prospective developer. This amount would represent the city's share for the construction of infrastructure ($3.0 million annually, as of 2009). Furthermore, the developer's bid of December 2006 stated that the SHDM or the city must grant the developer non-reimbursable financial assistance of $15.8 million to carry out the project. This contribution was to be paid to the developer in equal and consecutive monthly payments over a period not exceeding six years.
- Profitability of the project.
- The fact that the $11 million in decontamination costs were based on preliminary assessments and the use of measures to reduce vibratory impact estimated at a cost of $3.0 million should be validated with a more comprehensive study that would also consider the distance of the various buildings from the quarry.
- Calculation of the Contrecœur site's fair market value and explanations for discrepancies between the different amounts given.

The bill of sale between the city and the SHDM was dated September 20, 2007. It incorporated the conditions stipulated in the decision summary submitted to the City Council in March 2007, which includes the sale price of $19.1 million and amounts that will be deducted from that price:

- Costs relating to rehabilitation of the parcel's soil, construction of an acoustic embankment and acoustic architecture for building up to respective ceilings of $11 million, $0.7 million and $3 million.
- Land development costs paid by the SHDM, excluding property taxes and surveying fees, but including property transfer fees, up to a ceiling of $2.2 million.

The SHDM then sold the site to the selected developer. This bill of sale is dated October 10, 2007, for $19.0 million, less costs involved in restoring the parcel's land, the construction of an acoustic embankment and the building's acoustic architecture to maximum respective ceilings of $11 million, $0.7 million and $3 million.

Under the memorandum of understanding (June 2007) between the city and the SHDM, the SHDM may not dispose of or mortgage a real-estate asset that it owns without previously obtaining the authorization of the Executive Committee. Although the decision summary supporting the decision to sell the city's Contrecœur site to the SHDM referred to its resale, we believe the SHDM was required to seek and obtain specific authorization to sell, including the terms and conditions of the transaction and identification of the eventual buyer. The Executive Committee could then have formally authorized disposition of that asset.

Under the *By-law concerning municipal works agreements for the development of residential projects (*02-193), the developer must assume the cost for work on the site. The city is responsible for the cost of prerequisite and oversized infrastructure work.

The developer's engineer produced drawings and specifications and cost estimates of the planned infrastructure work. In its bid of December 2006, the developer provided an estimate, produced by its engineer, of infrastructure work costs. These costs were subsequently adjusted as the project evolved. Then in October 2007, the developer's engineer sent the SMVTP its final infrastructure cost estimates. These costs were:

- $42.0 million for municipal infrastructure necessary for the development of the site defined in the SHDM's tender solicitation.
- $3.2 million for municipal infrastructure pertaining to specific requests by the city following submission of the developer's bid.
- $0.826 million for infrastructure pertaining to specific requests by the city within the SHDM's tender process.

Total Cost	On-Site Costs	Pre-Requisites	Oversizing	Work Not Selected for the Project
$42,076,270	$40,295,920	$1,780,350	—	—
$3,258,200	—	$236,000	$834,700	$2,187,500
$826,000	—	$315,000	$310,800	$200,200
$46,160,470	$40,295,920	$2,331,350	$1,145,500	$2,387,700
		$3,476,850		

On October 22, 2007, the City Council approved the agreement on infrastructural work and an expense estimated at $3,476,850 for prerequisite and oversized infrastructure to be paid by the city.

At the time this agreement was being prepared, the SHDM advised the SMVTP that the developer's bid provided that the city or the SHDM would grant $15.8 million in non-reimbursable financial assistance. The SHDM gave this assistance because it believed that the city would be responsible for infrastructure work beneath rue De Contrecœur and this work would have made it possible to meet this obligation.

By-law 02-193 was replaced with the *By-law concerning municipal works agreements* (08-013), which the City Council adopted in April 2008.

By-law 08-013 made the following four changes with respect to 02-193:

- Changes in format (text transferred to other sections).
- Clarifications with respect to certain definitions (additions to definitions, such as existing park, land served, oversizing).
- Elimination of the exclusion of social dwelling unit projects (allows the developer of a project that includes social and other dwellings to undertake all of the required municipal work).
- Addition of a new type of project to promote construction of dwelling units designed to families (assistance granted for up to 35% of the total cost of on-site infrastructure for a project comprising at least 1,000 dwelling units, at least 60% of which are social and family units).

In June 2008, the City Council approved the draft agreement amending the agreement of October 2007 and therefore authorized an approximate expenditure of $15.4 million to produce infrastructure for the Contrecœur site's family and social dwelling units, including any related fees. This $15.4 million represents the calculation of financial assistance newly offered under section 8 (5) of By-law 08-013. The agreement provides an additional amount of $2.8 million for on-site infrastructure costs and connection work for the social dwelling units that had always been paid by the city, as well as an amount of $12.6 million for costs pertaining to family units that were now to be covered by the city following the changes in the by-laws. This represented a total of $15.4 million, plus the cost of pre-requisite and oversized infrastructure already provided under the initial agreement.

Despite the city's efforts to ensure development of the Faubourg Contrecœur site, as noted in the KPMG report, the SHDM's General Manager:

1. Advanced $3 million on April 8, 2009 of the $15,800,000 financial contribution payable to Catania, with prior authorization of the board of Directors.
2. On July 14, 2008, paid $2,909,847 on the $15,800,000 financial contribution payable to Catania, with prior authorization from the Board of Directors.
3. On July 14, 2008, signed an infrastructure funding agreement with Catania, which served to amend prior agreements, with prior authorization from the Board of Directors.

Multiple stakeholders were involved in formulating the Faubourg Contrecœur project. Although the SHDM had been assigned to carry out this project, various administrative units of the city were also involved, undertaking such efforts as the sale of the Contrecœur site to the SHDM, modifying the Urban Plan and the borough by-law, concluding agreements on infrastructure and transfer of streets, alleys and parks to the city and issuance of construction permits.

During the work on this project, we found that no official served as coordinator of the overall project or had a knowledge of the overall Contrecœur site development file. In other words, each stakeholder responded to the project in terms of its own mission.

Since the Faubourg Contrecœur project began prior to the creation of a municipal project management process, no official had been appointed to oversee it. When information on the project was required, those stakeholders concerned provided the necessary data upon request. Most of the stakeholders with whom we met, however, said that the project was to be treated as a priority and on a fast-track basis. This situation mobilized substantial resources and challenged the normal treatment process.

The absence of a municipal coordinator for the overall project certainly contributed to the fact that we have found few reports on the management of the Faubourg Contrecœur project. Only certain minutes for the Comité corporatif de gestion des grands projets and the city's Comité Réaliser les grands projets de Montréal 2025 refer to the project.

On December 3, 2008, the Executive Committee appointed members of the SHDM's new Board of Directors, the Chair of the Board of Directors and its General Manager. It also asked to Board of Directors to ensure, for example, the creation of a joint city-SHDM management committee to ensure management of the Contrecœur project. This committee began meeting in February 2009.

Conclusion

Several pieces of important information were not communicated to the City Council. These included a possible contribution by the city or the SHDM of some $15 million and the fact that most of the costs to be deducted from the purchase price (decontamination, acoustic embankment and anti-vibratory measures) had been based on preliminary assessments.

Furthermore, the Executive Committee did not formally approve the sale of the site to Catania.

GENERAL CONCLUSIONS

Our review of 20 SHDM real-estate projects shows that they generally complied with a redeployment of its activities as outlined in its Business Plan.

Some of these transactions did not, however, receive all of the required authorizations. For example:

- The SHDM was not empowered to sell the Prince Arthur and Montcalm buildings without prior authorization from the Montréal Executive Committee.
- The SHDM awarded a temporary loan to the Coopérative d'Habitation St-Dominique and guaranteed loans for three other organizations (Société d'amélioration de Pointe-Saint-Charles inc., Relais des jeunes familles, Coopérative d'habitation Soksay), without having been authorized to do so by the city.
- Neither the SHDM's Board of Directors nor the Montréal Executive Committee authorized the sale of 730/780, Brewster.
- The Montréal Executive Committee did not authorize the resale of the Phoenix parcel.
- The Board of Directors did not authorize a $450,000 loan to the buyer of a building.

Furthermore, some transactions appear to have been concluded at less than their fair market values. This was the case with 730/780, Brewster, the Phoenix parcel, 1850, Lincoln and 1225, Sussex.

In the cases of 1401/1501, St-Patrick and Maison Bagg, the SHDM does not seem to have tried to obtain the best possible sale price.

- The mere fact, in the first case, that the buyer went to the trouble of concluding an agreement with the tenant on exercising its right of first refusal, would seem to indicate the property's fair market value was higher than that paid.
- In the second, the SHDM reduced its sale price based on a document produced for the tenant by a construction firm that estimated total construction costs of $385,000 and a book value of some $1,200,000.

In the case of the Phoenix and the Faubourg Contrecœur project, neither the city's Executive Committee nor its City Council appear to have been adequately informed of all of the steps and subsequent conditions involved in the sale of its property to the SHDM.

Recommendations

I recommend that the SHDM turn the matter over to the police for investigation.

I recommend that the City Council lend its full support to the SHDM, its management and its Board of directors in this process.