

Request to Licence - Parkland Aircraft Noise Monitoring System - Acacia Avenue - North York Humber

(City Council on December 14, 15 and 16, 1999, adopted this Clause, without amendment.)

The North York Community Council recommends the adoption of the recommendations of the Commissioner of Corporate Services, embodied in the communication (June 22, 1999) from the City Clerk; specifically, that, subject to the approval of the Toronto and Region Conservation Authority, that:

- (1) authority be granted to enter into a licence agreement with the Greater Toronto Airports Authority for the premises described and based on the terms and conditions contained herein and in a form acceptable to the City Solicitor; and**
- (2) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.**

The North York Community Council submits the following communication (June 22, 1999) from the City Clerk:

City Council on June 9, 10 and 11, 1999, struck out and referred this Clause back to the North York Community Council for further consideration and the hearing of depositions.

The North York Community Council recommends that the following report (May 13, 1999) from the Commissioner of Corporate Services, be adopted subject to the following additional recommendations, that:

- (1) the present lease be renewed for a period of three years and then be reviewed by the North York Community Council;
- (2) the Greater Toronto Airports Authority establish a funding mechanism to compensate residents who are impacted by aircraft noise; and a report be submitted to City Council by the Greater Toronto Airports Authority on its intentions to implement an innovative compensation model and a time line for its implementation;
- (3) the Greater Toronto Airports Authority expand the membership of the Greater Toronto Airports Authority Noise Advisory Committee to have more direct community membership from neighbourhoods that are impacted by aircraft noise;
- (4) the Greater Toronto Airports Authority senior staff agree to meet with a committee of the Humberlea Ratepayers Association and Councillor Sgro and Councillor Mammoliti and The Honourable Sergio Marchi, M.P., on a monthly basis to work towards finding ways to reduce the impact of aircraft noise on the community and that the results of these meetings be presented to the North York Community Council every three months;

- (5) Transport Canada provide:
 - (a) the names of the airline companies and the specific amounts of the fines that have been levied against each company in 1998 and 1999; and
 - (b) substantially increase the fines for violations that impact communities;
- (6) City Council support the Noise Management Committee recommendation that there be no extension to the deadline of April 1, 2002, to phase out all Chapter 2 aircraft;
- (7) the three City of Toronto representatives on the Greater Toronto Airports Authority appear before the Planning and Transportation Committee to respond to questions and concerns regarding aircraft noise and submit a report respecting noise attenuation measures being taken by the Greater Toronto Airports Authority;
- (8) The Honourable Sergio Marchi, M.P., be requested to hold a public meeting in order to hear the concerns of the community with regard to airport noise.

Purpose:

To obtain authority for entering into a licence agreement with the Greater Toronto Airports Authority for licensed use of the Toronto and Region Conservation Authority parkland in the installation of an aircraft noise monitoring system.

Financial Implications:

The licence will generate a total income of \$1,200.00 for the whole term of three (3) years.

Recommendations:

It is recommended, subject to the approval of the Toronto and Region Conservation Authority, that:

- (1) authority be granted to enter into a licence agreement with the Greater Toronto Airports Authority for the premises described and based on the terms and conditions contained herein and in a form acceptable to the City Solicitor; and
- (2) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Background:

The Metropolitan Toronto and Region Conservation Authority, authorized by Order in Council P.C. 1925-2042 dated August 27, 1975, entered into a licence agreement with the Minister of Transport, representing Her Majesty the Queen in right of Canada for licensed use of the subject parkland property which is located on the west side of Acacia Avenue in the former City of North York, having an area of approximately 1.48 square metres (16 square feet) and being 4

feet by 4 feet in dimension. The licence was for a period from January 1, 1979 to March 31, 1981 at a nominal fee of \$1.00 per annum for the installation of a pole-mounted sound recording equipment to monitor the noise level of the aircraft. The licence was renewed continuously and was changed to a yearly licence as from April 1, 1990.

The former Metropolitan Corporation was managing the subject parkland for the Metropolitan Toronto and Region Conservation Authority under a management agreement. From November 27, 1989, the subject licence renewal was subject to the consent of the Metropolitan Corporation until the licence, effective with the renewal as of April 1, 1994, was transferred to the Metropolitan Corporation. The last licence was for a term of three (3) years, expired March 31, 1999 and included an annual licence fee of \$300.00. Either party could terminate the licence at any time upon giving ninety (90) days' prior written notice to the other.

Comments:

Upon being advised by the staff of the Parks and Recreation Division of the Economic Development, Culture & Tourism Department that it has no objection in licensing the property for a further period, negotiations have been conducted with Francine Donaldson of the Greater Toronto Airports Authority. It is agreed that, subject to the approval of City Council and the Toronto and Region Conservation Authority, the City of Toronto will enter into a licence agreement with the Greater Toronto Airports Authority based on the following terms and conditions:

1. Location:

vacant land on the west side of Acacia Avenue;

2. Licensed Area:

approximately 1.49 square metres (16 square feet), with approximately 4 feet by 4 feet in dimension;

3. Term:

three (3) years commencing April 1, 1999 and expiring March 31, 2002;

4. Licence Fee:

April 1, 1999 - March 31, 2000

- \$350.00 per annum, net, payable annually in advance;

April 1, 2000 - March 31, 2001

- \$400.00 per annum, net, payable annually in advance;

April 1, 2001 - March 31, 2002

- \$450.00 per annum, net, payable annually in advance;

plus all applicable taxes and assessments of every kind whatsoever of any amounts in lieu thereof and any cost related to the licensed area;

5. Termination:

either party shall have the right to terminate the licence at any time upon giving at least ninety (90) days' prior written notice to the other;

6. the Licensee shall use the licensed area for the pole mounted sound recording equipment for monitoring aircraft noise only;

7. the Licensee shall not assign or sublet without the prior written consent of the City of Toronto, subject to the approval of the Toronto and Region Conservation Authority;

8. the Licensee shall, at its own expense, connect Bell Cable and Hydro electric power to the pole;

9. the Licensee shall pay all charges (including penalties) for utilities supplied to the licensed area directly to the supplier thereof;

10. if the Licensee holds over after the expiration of the Term, prior written consent has to be obtained from the City of Toronto, subject to the approval of the Toronto and Region Conservation Authority, and the Licensee shall be a monthly licensee only;

11. if the Licensee holds over after the expiry of the Term without the prior written consent of the City of Toronto, subject to the approval of the Toronto and Region Conservation Authority, the Licensee shall pay double the amount of the licence fee set out in paragraph (4) hereto;

12. the Licensee shall, at its own expense and in the names of the Licensee, the City of Toronto and the Toronto and Region Conservation Authority, maintain in force insurance coverage with respect to the licensed area and its use and occupation and shall provide the City of Toronto with certificate(s) of policy of an insurance company for:

(i) inclusive coverage for legal liability for bodily injury, death, property damage in the amount of not less than \$3,000,000.00 per occurrence; and

(ii) insurance against loss by such insurable hazards;

every policy of insurance shall provide cross-liability coverage together with a waiver of subrogation in favour of the City of Toronto and the Toronto and Region Conservation Authority;

13. (i) the Licensee shall at all times indemnify and save harmless the City of Toronto and the Toronto and Region Conservation Authority from and against any and all manner of claims, demands, losses, costs, charges, actions and other proceedings

whatsoever, including those under or in connection with the Workplace Safety and Insurance Act, made or brought against, suffered by or imposed on the City of Toronto and the Toronto and Region Conservation Authority or its property in respect of any loss, damage or injury to any person or property (including, without restriction, employees, agents and property of the Licensee, the City of Toronto and the Toronto and Region Conservation Authority) directly or indirectly arising out of, resulting from or sustained as a result of the Licensee's occupation or use of, or any operation in connection with the licensed area or any fixtures or chattels thereon; and

- (ii) the Licensee shall at all times indemnify and save harmless the City of Toronto and the Toronto and Region Conservation Authority from and against any and all claims, demands, losses, costs, charges, actions and other proceedings whatsoever under the Construction Lien Act in connection with any work done for the Licensee at or on the licensed area and shall promptly see to the removal from the registered title to the licensed area of every claim for lien and certificate of action having to do with such work;
14. the Licensee shall, at its own expense, be responsible for compliance with all Municipal, Provincial and Federal laws, including, without limitation, the Environmental Protection Act and other environmental legislations, permits, rules and regulations and shall obtain all the necessary permits and licences that may be required for the use of the licensed area and shall save the City of Toronto and the Toronto and Region Conservation Authority harmless from any Licensee's failure to so comply;
 15. the Licensee shall accept the licensed area in its existing condition and shall be responsible, at its own expense, for all repairs and maintenance;
 16. the Licensee shall, at its own expense, cut the grass on and surrounding the licensed area to the satisfaction of the Commissioner of Economic Development, Culture and Tourism Department, Parks and Recreation Division;
 17. the Licensee shall, at its own expense, ensure that no ashes, refuse, garbages or other loose objectionable materials will accumulate on the licensed area and to keep the licensed area clean and tidy;
 18. the Licensee shall not make addition and alteration to the licensed area including surfacing, grading or landscaping to the licensed area without the prior written consent of the Commissioner of Economic Development, Culture and Tourism Department, Parks and Recreation Division and the approval of the Toronto and Region Conservation Authority;
 19. the Licensee shall not install, erect or remove any structure(s) and fixture(s) on the licensed area without the prior written consent of the Commissioner of Economic Development, Culture and Tourism Department, Parks and Recreation Division and the approval of the Toronto and Region Conservation Authority;

20. no storage or use of hazardous materials or environmentally sensitive materials will be permitted;
21. the Licensee shall protect all services of public works and/or utilities easement(s) that may encumber the licensed area and shall be liable for any damage to such by its action(s) or omission(s);
22. the Licensee shall not install any equipment or carry on any operation on the licensed area in such a way as to increase the insurance risk;
23. the Licensee shall ensure that nothing is done or kept at or on the licensed area which is or may be a nuisance, or which will cause disturbance or interfere with the users or occupants of any neighbouring property, or which in the opinion of the Commissioner of Economic Development, Culture and Tourism Department, Parks and Recreation Division may cause damage to the licensed area or any neighbouring property;
24. the City of Toronto and the Toronto and Region Conservation Authority and any of its employees, agents and contractors shall have the right, on at least twenty-four (24) hours' advance notice to the Licensee, or in the case of emergency or pressing urgency without advance notice, provided that the Licensee is notified thereof as soon as may be convenient thereafter, to enter on the licensed area for the purpose of maintenance, repair or construction with or without all the necessary gear and equipment as the Commissioner of Economic Development, Culture and Tourism Department, Parks and Recreation Division deems necessary, and the Licensee hereby authorizes such entry and acknowledges that the Commissioner of Economic Development, Culture and Tourism Department, Parks and Recreation Division shall be the sole judge of any emergency or pressing urgency as aforesaid;
25. at the termination of the licence, the Licensee shall, at its own expense, expeditiously remove the sound recording equipment, the pole and all connections from the licensed Area including any fixtures and chattels belonging to the Licensee, as well as debris, repair all damages caused by such removal and by its use and occupation of the licensed area, and restore the land to its original condition, all to the satisfaction of the Commissioner of Economic Development, Culture and Tourism Department, Parks and Recreation Division;
26. upon acceptance of this proposal, the Licensee shall provide the City of Toronto proof of its proper legal name. If the Licensee is a corporation, such proof shall include a copy of the corporation's Articles of Incorporation and/or Articles of Amendment, if any;
27. notwithstanding any clause contained or not contained in the proposal, the Licence Agreement shall be in a form and content acceptable to the City of Toronto Solicitor; and
28. the proposal shall be subject to the approval of the City of Toronto Administration as well the Toronto and Region Conservation Authority, and the concurrence of the

Commissioner of Economic Development, Culture and Tourism, Parks and Recreation Division; if required.

It is noted that although this matter could normally be dealt with through the delegated authority process, it is being submitted to North York Community Council at the request of the Ward Councillor to permit both the community and the Airport Authority an opportunity to make presentations to Community Council.

Conclusion:

The above terms and conditions are fair and reasonable and are acceptable to the staff of the Parks and Recreation Division of the Economic Development, Culture and Tourism Department. The renewal of this licence should be subject to the Community Council process.

Contact Name:

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The North York Community Council also reports having had before it the following communications:

- (i) (May 21, 1999) from Mr. and Mrs. Vieira, indicating that the community is in agreement with the noise monitoring equipment being maintained in its current location; and
- (ii) (May 25, 1999) from Ms. Lorrie McKee, Executive Manager, Government Relations, Greater Toronto Airports Authority, providing background information with respect to the renewal of the lease for the noise monitor located on Conservation Authority property at Acacia Avenue.

Ms. Anna Kanavins, appeared before the North York Community Council on behalf of her mother, Mrs. Kira Kanavins.

Recorded Votes:

A recorded vote on a motion moved by Councillor Feldman, North York Spadina, that all the recommendations which contain a reference to the Greater Toronto Airports Authority be amended by inserting the words, "be requested" after the words, "the Greater Toronto Airports Authority", was as follows:

FOR: Councillors Feldman, Berger, Flint, Minnan-Wong

AGAINST: Councillors Mammoliti, Sgro, Li Preti, Moscoe, Augimeri

ABSENT: Councillors Gardner, Chong, Filion, Shiner, King

Lost

A recorded vote on Recommendation (2) moved by Councillor Sgro, North York Humber, was as follows:

FOR: Councillors Mammoliti, Sgro, Li Preti, Moscoe, Augimeri, Feldman

AGAINST: Councillors Berger, Flint, Minnan-Wong

ABSENT: Councillors Gardner, Chong, Filion, Shiner, King

Carried

A recorded vote on Recommendation (7) moved by Councillor Moscoe, was as follows:

FOR: Councillors Mammoliti, Sgro, Li Preti, Moscoe, Augimeri, Berger, Flint, Minnan-Wong

AGAINST: NIL

ABSENT: Councillors Feldman, Gardner, Chong, Filion, Shiner, King

Carried

A recorded vote on a the clause, as amended, was as follows:

FOR: Councillors Mammoliti, Sgro, Li Preti, Moscoe, Augimeri, Berger, Flint, Minnan-Wong

AGAINST: NIL

ABSENT: Councillors Feldman, Gardner, Chong, Filion, Shiner, King

Carried”

Ms. Lorrie McKee, Executive Manager, Government Relations, Greater Toronto Airports Authority, appeared before the North York Community Council at its meeting held on December 2, 1999, in connection with the foregoing matter.

