

**Amendment to Lease Terms – 4804-4812 Yonge Street
Necessitated by the Timing of an Ontario Municipal
Board Hearing**

Date:	March 26, 2007
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	Ward 23 – Willowdale
Reference Number:	P:\2007\Internal Services\F&re\Gm07023F&re – (AFS 4551)

SUMMARY

On July 25, 26, and 27 2006 Council approved a land lease (the Lease) for the City-owned property at the northwest corner of Sheppard Avenue West and Yonge Street with HRDOV Yonge Realty Limited (the Tenant). The Tenant has signed the Lease. The Tenant is permitted to terminate the Lease by April 30, 2007 if it has not satisfied itself with respect to certain due diligence matters, including planning approvals. The Committee of Adjustment approved the Tenant's application for the minor variances required for the development of the property in accordance with the Lease, but the decision of the Committee has been appealed to the Ontario Municipal Board (OMB) by an adjoining landowner, and the appeal process will not be completed by April 30, 2007. In order to provide sufficient time for the required OMB hearing, staff recommends that the Lease be amended to extend the Tenant's right to terminate to October 15, 2007. As contemplated by the previous Council authority, subject to the outcome of the Site Plan process, a driveway area, Part 5 on Sketch PS-2005-064, which was to be licensed to the Tenant, could be included in the leased premises. The planning process indicates that it is appropriate to do so.

RECOMMENDATIONS

The Chief Corporate Officer recommends:

1. The Lease be amended to extend the Tenant's right to terminate from April 30, 2007 to October 15, 2007 to provide for the completion of an OMB hearing and Part 5 be incorporated within the leased premises.

Financial Impact

The extension of the Tenant's right to terminate to October 15, 2007 will reduce the length of the Tenant's abatement period under the Lease and increase the rent revenue to the City during the fixturing period from \$119,166.67 to \$165,000.00.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

On July 25, 26 and 27, 2006, City Council adopted Clause No. 22 of Report No. 5 of the Administration Committee and authorized a lease with 4804/12 HRDOV Yonge Realty Limited for 4804-4812 Yonge Street, at the northwest corner of Yonge Street and Sheppard Avenue West.

COMMENTS

The Tenant satisfied itself during a six month due diligence period as to the environmental condition of the leased property and initiated applications for planning approvals, including an application to the Committee of Adjustment, as was contemplated by Council's approval of the Tenant's offer to lease. The Committee of Adjustment granted the variances sought by the Tenant for the proposed development on January 18, 2007. The Committee's decision was appealed to the OMB on February 7, 2007 by an adjoining landowner.

As the OMB hearing is not yet scheduled, the Tenant requires additional time to satisfy itself with respect to planning matters, and it is appropriate to extend the Tenant's right to terminate the Lease to October 15, 2007.

Through the planning review process, it has been determined that Part 5 on the Sketch, the driveway, could form part of the leased premises rather than be licensed for use by the Tenant, as the proposed retail development will exercise strict control of access over this driveway area and restrict its use to service vehicles. The lease has provided for this description of the leased premises.

CONTACT

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SIGNATURE

Bruce Bowes, P. Eng.,
Chief Corporate Officer

ATTACHMENTS

Attachment 1 – Sketch PS-2005-064