



STAFF REPORT ACTION REQUIRED

Below-Market Rent Lease Agreements at Yorkdale Shopping Centre and Yonge-Dundas Square

Date:	May 4, 2010
To:	Government Management Committee
From:	Chief Corporate Officer and Executive Director, Social Development Finance and Administration
Wards:	Ward 15 – Eglinton-Lawrence Ward 27 – Toronto Centre-Rosedale
Reference Number:	(AFS#11483)

SUMMARY

The purpose of this report is to obtain City Council authority to enter into new below-market rent lease agreements with Art Starts Neighbourhood Cultural Centre and Toronto Performing Theatre Alliance.

This report also seeks City Council authority to receive funding for youth arts initiatives from Oxford Properties Group, and to disburse these funds to the Art Starts Neighbourhood Cultural Centre organization.

RECOMMENDATIONS

The Chief Corporate Officer and the Acting Executive Director of Social Development, Finance and Administration recommend that:

1. City Council authorize a new Below-Market Rent (BMR) sub-lease agreement with Art Starts Neighbourhood Cultural Centre, for a three (3) year term, based on the terms and conditions set out in Appendix “A”, and such other terms and conditions deemed appropriate by the Chief Corporate Officer, and in a form acceptable to the City Solicitor.
2. City Council authorize the Social Development, Finance and Administration Division (SDF&A) to receive funds on behalf of the City of Toronto from Oxford Properties Group, management company for Yorkdale Shopping Centre amounting to \$156,000 in instalments

of \$52,000 per year over three years, and for SDF&A to disburse this funding to Art Starts Neighbourhood Cultural Centre for youth arts initiatives.

3. City Council increase the Social Development, Finance and Administration (SDF&A) 2010 Operating Budget by \$52,000 gross/ \$0 net, with funding provided by Oxford Properties Group, to provide funding to Art Starts Neighbourhood Cultural Centre for youth arts initiatives.
4. City Council authorize a new Below-Market Rent (BMR) lease agreement with Toronto Performing Theatre Alliance for a five (5) year term, based on the terms and conditions set out in Appendix “B”, and such other terms and conditions deemed appropriate by the Chief Corporate Officer, and in a form acceptable to the City Solicitor.
5. City Council authorize the City Solicitor to complete the lease, deliver any notices, pay expenses and amend the respective commencement and other dates to such earlier or later date(s), on such terms and conditions as the City Solicitor, or his or her designate, may from time to time, determine.
6. City Council authorize the Chief Corporate Officer, or his or her designate, to administer and manage the lease agreements, including the provision of any consents, approvals, notices and notices of termination, provided that the Chief Corporate Officer may, at any time, refer consideration of such matters (including their content) to City Council for its determination and direction.
7. City Council grant an exemption to the Below Market Rent Policy to allow Art Starts Neighbourhood Cultural Centre to become a sub-tenant at Yorkdale Shopping Centre without the need to solicit a request for proposals as required by the Below Market Rent Policy.

Financial Impact

Sub-lease Agreement with Art Starts (Recommendation 1)

The proposed BMR sub-lease agreement with Art Starts assumes a sub-lease of 2,780 square feet of space within a non-City owned facility for a nominal net rent consideration. The current agreement with the City’s Landlord (Yorkdale Shopping Centre Holdings Inc.) stipulates that the Landlord will provide HVAC, water, hydro and lighting to the premises at no cost to the City and shall maintain and repair all base building HVAC, electrical and mechanical equipment and facilities serving the premises so that the same are kept in good repair, order and condition. The Landlord has also agreed to pay any applicable realty taxes and will provide usual janitorial cleaning services for the space. Arts Starts shall be responsible for all other costs, including maintenance, repair and replacement of the premises. Thus, there are no operating costs associated with the space for the City of Toronto.

The current agreement with Yorkdale also stipulates that the space may only be used and operated by the City as a community art centre offering programs and courses for all ages. Thus, the City is unable to sub-lease the space to a third party to generate revenue. Given the use

clause within the existing agreement, there is no opportunity cost associated with the City's sub-lease to Art Starts over the proposed 3-year term.

Receiving Funds from Oxford Properties for Art Starts (Recommendation 2)

The funding provided by Oxford Properties Group totalling \$156,000 (\$52,000 per year over three years) will be received by the SDF&A Division on behalf of the City of Toronto and will be disbursed to Art Starts in full. Although this BMR lease agreement will have no net impact on the 2010-2011 operating budget for both the Division or the City of Toronto, the funding requirement of \$52,000 gross/ \$0 net per year in 2011 and 2012 will be considered as part of the 2011 and 2012 operating budget process.

Lease Agreement with Toronto Performing Theatre Alliance (Recommendation 4)

The proposed BMR lease agreement with Toronto Performing Theatre Alliance assumes a lease of 300 square feet of space located at the Yonge-Dundas Square for a nominal net rent consideration. All operating costs related to the space will be paid by the tenant, resulting in no operating cost to the City of Toronto.

In accordance with the City's Below Market Rent Policy on City-Owned Space Provided at Below Market Rent, the opportunity costs of entering into the Below Market Rent agreement must be determined and reported to City Council. Research indicates that the total opportunity cost of the lease over the 5-year term is approximately \$31,000.

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

DECISION HISTORY

At its meeting on October 1, 2, and 3, 2002, Council adopted "A Policy for City-Owned Space Provided at Below-Market Rent" as the first step in rationalizing how City-owned space is provided to community and cultural organizations.

(<http://www.toronto.ca/legdocs/2002/agendas/council/cc021001/pof13rpt/cl001.pdf>).

Through subsequent reports, Council has refined the BMR policy framework and has authorized the extension of existing BMR lease agreements. The most recent report was submitted to City Council on November 19-20, 2007 titled "Providing City-Owned Space to Community Organizations at Below-Market Rent".

(<http://www.toronto.ca/legdocs/2006/agendas/council/cc060925/pof7rpt/cl024.pdf>).

ISSUE BACKGROUND

Sub-lease Agreement with Art Starts

Through a November 19, 2007 Notice of Motion (M176), City Council approved the designation of space located within Yorkdale Shopping Mall (provided to the City free of any rental charge) for the purpose of a "community arts centre". Throughout the fall of 2009, City staff worked with the property owner and Art Starts (a charitable organization committed to arts-based community development in the city of Toronto) to develop an agreement that would permit Art

Starts to occupy this mall space at no rent to the organization or to the City. Council authority is required to finalize the BMR sub-lease agreement with the organization.

On behalf of the Yorkdale Shopping Centre, Oxford Properties Group will be providing funding to Art Starts totaling \$156,000 (\$52,000 per year over the next three years) to support art programs for youth in the Neptune and Lawrence Heights communities. These art programs will create an alternative for youth in the neighbourhood who face challenges of isolation, violence and gang-related activities. Council authority is required for SDF&A to receive and disburse the funds to Art Starts on behalf of the City of Toronto.

Lease Agreement with Toronto Performing Theatre Alliance

The Toronto Performing Theatre Alliance was incorporated in 1980 as a without share capital corporation operating on a not-for-profit basis. It is an arts service organization representing nearly 200 professional theatre, dance and opera companies in the City of Toronto, including commercial and not-for-profit companies. Presently, it operates under the name and style of Toronto Alliance for the Performing Arts (“TAPA”).

TAPA has operated “T.O. TIX Booth – Toronto’s One-Stop Ticket Shop” from the leased premises at Yonge-Dundas Square as a central ticketing outlet providing half-priced and discounted tickets on the day of a performance pursuant to a lease from the City which commenced in November, 2002.

This organization was unintentionally omitted in the Council-approved 2007 Inventory of Current Tenants in Below-Market Rent City-Space. The existing lease agreement with this group expired on November 27, 2007. An eligibility review and performance assessment was conducted in March of 2010, and the organization is eligible to continue occupying their City-owned space as a BMR tenant. Council authority is required to enter into a new BMR lease agreement with this organization.

COMMENTS

Sub-lease Agreement with Art Starts

Art Starts engages residents in vulnerable neighbourhoods using arts as an accessible tool for social change in their city-wide programs and in specific neighbourhoods like Glendower and Neptune. The sub-lease agreement would provide Art Starts with a three-year term in a new state-of-the-art gallery and programming space.

City Staff are seeking Council approval to have Art Starts become a BMR sub-tenant at Yorkdale Shopping Centre in the absence of an RFP process given that the organization was specifically identified by the City’s Landlord at the site.

Lease Agreement with Toronto Performing Theatre Alliance

This organization’s mission is to nurture an environment in which theatre, dance and opera may flourish and play a leadership role in the vitality of the City of Toronto. The proposed BMR lease agreement would permit the Toronto Performing Theatre Alliance to continue to provide this valuable service to the City’s residents for the foreseeable future.

CONTACT

Joe Casali
Director, Real Estate Services
Tel: (416) 392-7202
Fax: (416) 392-1880
jcasali@toronto.ca

Denise Andrea Campbell
A/Director, Community Resources
Social Development, Finance & Admin.
Tel: (416) 392-8608
Fax: (416) 392-8492
dcampbe6@toronto.ca

SIGNATURE

Bruce Bowes, P. Eng.
Chief Corporate Officer

Lydia Fitchko
Acting Executive Director
Social Development, Finance &
Administration

ATTACHMENTS

Appendix “A” – Major Terms and Conditions (Art Starts Neighbourhood Cultural Centre)
Appendix “B” – Major Terms and Conditions (Toronto Alliance for the Performing Arts)