



STAFF REPORT ACTION REQUIRED

Amendment to Below-Market Rent Eligibility Criteria and New Below-Market Rent Lease Agreements at 4040 Lawrence Avenue East and Parkway-Forest

Date:	July 29, 2010
To:	Government Management Committee
From:	Chief Corporate Officer and Executive Director, Social Development Finance and Administration
Wards:	All
Reference Number:	(AFS #12614)

SUMMARY

The purpose of this report is to amend the eligibility criteria in the City's existing policies on City-owned or leased space provided at Below-Market Rent (BMR) to require that tenants and permitted occupants who are approved to use such BMR space throughout the lease term provide services, programs and initiatives that primarily serve and benefit City of Toronto residents.

This report also seeks authority to: (a) enter into new BMR leases with Tides Canada Initiatives Society at 4040 Lawrence Avenue East in the Kingston-Galloway/Orton Park priority neighbourhood; (b) have the City, as tenant, enter into a new lease with the owner/developer of community agency space at 1751 and 1761 Sheppard Avenue East in the Parkway Forest community in order to implement the benefits of an earlier agreement between the Owner and the City under Section 37 of the Planning Act; and (c) have the City enter into new BMR subleases with four local community agencies in this community agency space.

RECOMMENDATIONS

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

1. City Council amend the eligibility criteria in the City's policies, procedures and agreements for making space available in City-owned or leased properties for community use at Below-Market Rents (BMR), as follows:

- a. by removing the requirement that at least 50 per cent of the resources and activities of the qualified tenant or sub-tenants are directed to providing services to City of Toronto residents; and
 - b. by substituting therefore the requirement that qualified tenants or sub-tenants who have been approved to use such space throughout the lease/sublease term, including regional, national or international organizations, provide services, programs and initiatives that, in the opinion of the Executive Director of Social Development, Finance and Administration or the General Manager of the relevant programming division of the City, in consultation with the Chief Corporate Officer, primarily serve and benefit City of Toronto residents.
2. City Council grant an exemption to the City's BMR policies and procedures to allow Tides Canada Initiatives Society ("Tides") to become the tenant at 4040 Lawrence Avenue East on the terms described in Recommendation No. 3 without the need to solicit a request for proposals (RFP) as otherwise required.
 3. City Council authorize a new BMR lease agreement with Tides at 4040 Lawrence Avenue East, for a five (5) year term, with the option to renew for one five-year term, substantially based on the terms and conditions set out in attached Appendix "A", and with such revisions thereto and any other terms and conditions as are acceptable to the Chief Corporate Officer, or his or her designate, and in a form acceptable to the City Solicitor.
 4. In order to implement the community benefits of an earlier agreement under Section 37 of the Planning Act, City Council authorize the City, as tenant, to enter into a new Community Agency Space Lease with 2229845 Ontario Inc., as landlord/owner of 1751 and 1761 Sheppard Avenue East in the Parkway Forest community for a twenty-five (25) year term, with up to three further options to renew, substantially based on the terms and conditions set out in attached Appendix "C", and with such revisions thereto and any other terms and conditions as are acceptable to the Chief Corporate Officer, or his or her designate, and in a form acceptable to the City Solicitor.
 5. City Council authorize new BMR sub-lease agreements with the following community agencies at 1751 and 1761 Sheppard Avenue East for separate five (5) year terms, substantially based on the terms and conditions set out in attached Appendix "D", and with such revisions thereto, including variations in names, and any other terms and conditions as are acceptable to the Chief Corporate Officer, or his or her designate, and in a form acceptable to the City Solicitor:
 - a. Harriet Tubman Community Organization Inc.
 - b. Working Women Community Centre
 - c. AWIC Community and Social Services
 - d. Hong Fook Mental Health Association.

6. City Council authorize the City Solicitor to complete the Community Agency Space Lease and BMR Lease and sublease agreements referred to in Recommendations 3, 4, and 5, and related documentation, as required, deliver any notices, 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.
7. City Council authorize the Chief Corporate Officer, or his or her designate, to administer and manage the Community Agency Space Lease and the BMR Lease and sublease agreements, referred to in Recommendations 3, 4, and 5, 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

Financial Impact

Amendment to BMR Eligibility Criteria Pertaining to Service Provision (Recommendation 1)

There are no financial implications for the City resulting from the recommendation to amend the BMR eligibility criteria.

Lease Agreement with Tides Canada Initiatives c.o.b. as East Scarborough Storefront - Tides (Recommendations 2 and 3)

The proposed BMR lease agreement with Tides assumes a lease of the lands and building located at 4040 Lawrence Avenue East containing approximately 7,668 square feet of building space for a nominal net rent consideration. All operating costs related to the building occupancy (currently estimated at \$61,000 per year based on a rate of \$7.96 per square foot) will be paid by the tenant, resulting in no cost to the City of Toronto. The proposed expansion of 4040 Lawrence Avenue East, estimated at \$4.3 million will be done at the expense of this tenant agency at net zero impact to the City based substantially on the terms and conditions described in Appendix "A".

Research indicates that the present value of the total opportunity cost of the lease at 4040 Lawrence Avenue East over the 5-year term is approximately \$432,594. If the lease is renewed for an additional 5-year term, the present value of the opportunity cost for the 5-year lease extension term is approximately \$369,942 for a total present value opportunity cost of \$802,536 over the ten year period.

Community Space Agency Lease with 2229845 Ontario Inc. at 1751 and 1761 Sheppard Avenue East – (Recommendation 4)

The proposed Community Space Agency Lease with 2229845 Ontario Inc. will provide the City of Toronto with approximately 8,600 square feet of community space (4,300 square feet in each of two buildings - 1751 and 1761 Sheppard Avenue East) for a nominal net rent consideration. As per the agreement, the City will be responsible for all operating costs associated with the building space provided by the developer/builder. These costs will be passed along to the subtenant organizations utilizing the space from the City. All operating costs related to such building occupancy (currently estimated at \$172,000 per year based on a rate of \$20.00 per square foot) will be paid by the subtenants, resulting in no cost to the City of Toronto.

Sublease Agreements with the Parkway-Forest Agencies (Recommendation 5)

The proposed BMR sublease with these four (4) agencies will cover a total of approximately 8,600 square feet of community agency space for a nominal net rent consideration. The \$172,000 per year in estimated operating expenses, including costs of all utilities and services, security, maintenance and cleaning services, will be recovered from the four sub-tenant agencies on a proportionate share basis, resulting in no cost to the City of Toronto.

Research indicates that the present value of the total opportunity cost of the respective subleases at 1751 & 1761 Sheppard Avenue East over the 5-year term is approximately \$404,310.

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

DECISION HISTORY

Since adopting the report, “A Policy for City-Owned Space Provided at Below-Market Rent” (October 2002), Council has continued to refine the BMR policy framework in order to increase the policy’s effectiveness and ensure greater access to community agencies that deliver City programs and services, or provide functions that are consistent with Council objectives. The most recent report is “Providing City-Owned Space to Community Agencies at Below-Market Rent” on November 19-20, 2007 (<http://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-7803.pdf>).

This report also references Council’s decision at its December 1, 2 and 3, 2008 meeting to amend the Community Services Partnership guidelines to include the Shared Infrastructure Platform model of agency governance: “CPIP 2008 Community Services Funding Allocations and Program Update” (<http://www.toronto.ca/legdocs/mmis/2008/cd/bgrd/backgroundfile-17261.pdf>).

ISSUE BACKGROUND

Amendment of the BMR Policy Eligibility Criteria

One of the four eligibility criteria for community agencies to be considered for BMR lease agreements is their ability to demonstrate that at least 50 per cent of the agency resources are directed to providing services to the City of Toronto. The intent of this criterion is to ensure that Toronto residents are the primary beneficiaries of the services delivered from that City owned/leased BMR space. This ensures that City facilities are contributing to enhancing Toronto-based community service infrastructure. Since Tides is a national agency supporting a variety of leadership development and community organizational capacity-building under its shared-infrastructure platform model, 50 per cent or more of its resources are not spent within Toronto. However, 100 per cent of Tides' resources for this East Scarborough Storefront initiative located at 4040 Lawrence Avenue East is and will be dedicated to primarily serve and benefit City of Toronto residents located within a priority neighbourhood. Accordingly, Council authority is being sought to delete the current 50 per cent agency resource criterion in order to reflect this unique and other similar administrative arrangements where a national or regional organization acts as an administrative house for a local initiative. These unique circumstances tend to provide services, benefits and initiatives that will primarily serve and benefit Toronto residents.

Lease Agreement with Tides Canada Initiatives Society c.o.b. as East Scarborough Storefront - Tides

The East Scarborough Storefront is a unique community hub that includes a partnership of over 40 community service providers that work together to create a thriving community in East Scarborough. Since 2007, the Storefront has been housed in City-owned space at 4040 Lawrence Avenue East as a project of the Boys and Girls Club of East Scarborough. As the Storefront has continued to thrive as a unique local service provider, it has transferred this project to Tides. This organization is a charitable agency that facilitates a shared infrastructure platform to support local projects like the Storefront with administrative, financial, and technical supports. Its continued success will only continue to serve the residents of the Kingston-Galloway/Orton Park priority neighbourhood.

City Council is being asked to grant an exemption to the BMR policies that require a "Request for Proposal (RFP)" to determine the BMR tenant at 4040 Lawrence Avenue East. Authority is also being requested to terminate the existing lease agreement at 4040 Lawrence Avenue with the former project owner, the Boys and Girls Club, and to enter into a new BMR lease agreement with Tides Canada Initiatives Society c.o.b. as East Scarborough Storefront - Tides.

Community Agency Space Lease and Sublease Agreements with the Parkway-Forest Agencies

One of the key elements to be secured in favour of the City of Toronto under the conditions of the March 29, 2006 report from the Director, Community Planning, North York District was the provision of community agency space along Sheppard Avenue East through Section 37 of the Planning Act. This permits the City to increase height and density requirements of new developments through zoning by-laws in exchange for community benefits, such as the creation of community agency space. At its meeting on April 25, 26 and 27, 2006, City Council adopted consolidated clause 29 in North York Community Council Report 3.

(<http://www.toronto.ca/legdocs/2006/agendas/council/cc060425/ny3rpt/cl029.pdf>)

A subsequent report on the matter was adopted by City Council on July 16, 17, 18 and 19, 2007. (<http://www.toronto.ca/legdocs/mmis/2007/ny/bgrd/backgroundfile-4691.pdf>).

The unrelated 2007 Council-approved report “Providing City-Owned Space to Community Agencies at Below-Market Rent” provides that allocation of BMR spaces be done through a Request for Proposal (RFP) process. In this circumstance, it was determined that an RFP process would be more suitable when services are to be purchased by the City of Toronto. Therefore, each of the four organizations recommended in this report for new BMR sublease agreements were selected in accordance with a Request for Expressions of Interest (REOI) document. Within this process, City staff solicit proposals from organizations interested in utilizing community space as a BMR tenant of the City of Toronto. The REOI document was better suited to assess the relevant criteria for space allocation rather than the City's standard RFP document. The REOI process is equivalent to the RFP process in that submissions are solicited, received and evaluated in accordance with the principles of fairness and equity, openness and transparency, and accountability.

The selection process for the community spaces at Parkway Forest was conducted between March 15 and June 7, 2010.

The Parkway Forest BMR City spaces are estimated to be available for occupancy on October 1, 2010.

COMMENTS

Lease Agreement with Tides Canada Initiatives c.o.b. as East Scarborough Storefront - Tides

The East Scarborough Storefront commenced operation in 2001 from program space inside the Morningside Mall. In 2006, the agency was advised that the mall was scheduled to be demolished shortly thereafter. The City's Neighbourhood Action Partnership in the Kingston-Galloway/Orton Park priority neighbourhood worked diligently to secure a new home for the Storefront. In 2007, the Storefront moved into the City-owned facility located at 4040 Lawrence Avenue East under the trusteeship of the Boys and Girls Club of East Scarborough.

In 2008, Tides agreed to take on the administrative burden of the East Scarborough Storefront under its shared-infrastructure platform as a more cost-effective way for not-for-profit organizations to deliver services to the community. At its meeting on December 1, 2 and 3, 2008, City Council directed that Community Services Partnership guidelines be amended to recognize the Tides-East Scarborough Storefront agency model for funding purposes. As a result, this agency is now receiving funding from the City Community Partnership and Investment Program.

Authority is now being sought to enter into a lease relationship with Tides. The Boys and Girls Club (former Tenant of the City at this location) supports this request. Authority is also sought to terminate the existing lease arrangement at 4040 Lawrence Avenue between the City and the Boys and Girls Club.

Tides is also embarking on a capital campaign to invest approximately \$4.3million into this City facility in a three (3) phase expansion project over the next several years in order to create an additional 4,000 - 5,000 square feet of space at 4040 Lawrence Avenue to better meet local community needs. Phase 1 is scheduled to begin upon approval from City Council for a new BMR lease agreement with a \$260,000 renovation to improve the existing space through funding from Employment Ontario. Through its capital campaign, Tides will significantly invest to improve a City-owned asset without the benefit of long-term ownership. In exchange for this investment, the organization providing the funds for this project requires a lease term longer than five (5) years in order to protect their capital investments in non-owned facilities. To that end, Real Estate Services is seeking an option for an additional five (5) year lease term upon confirmation of Tides' capital investment in the City-owned asset located at 4040 Lawrence Avenue East and Tides' satisfaction of its funding and construction conditions in the attached Appendix "A".

Community Agency Space Lease and Sublease Agreements with the Parkway Forest Agencies

The Parkway Forest focus area has a diverse population whose services needs are highest for settlement/immigration, child care, parent resources, employment training, and youth and children's drop-in and recreation. A Community Space Agency Lease with the City is required to implement some of the community benefit of a previously executed Section 37 Planning Act agreement between the owner/developer of the Community Agency Space (therein described) and the City and in order to give effect to four BMR eligible local community agencies. These four organizations selected through the REOI process provide services consistent with these priority services. One particular organization leads a conglomeration of five relatively small community agencies already delivering many of these services in the area from the Oriole Community Centre. The opportunity that the Parkway Forest BMR City spaces provides will enable this organization to continue to serve community priorities and enable the community centre greater capacity to meet the recreation and information referral demands of surrounding residents. Two other organizations intend to provide a variety of programs for women in the community. The remaining organization will provide mental health support, prevention and advocacy services to the Asian communities of the City of Toronto.

Authority is being sought for the City to enter into a Community Space Agency Lease with the current owner/developer thereof and for the City to enter into four (4) separate sublease agreements with these four agencies selected through the REOI process for the Parkway Forest BMR City spaces.

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SIGNATURE

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ATTACHMENTS

- Appendix “A” – Major Terms and Conditions (4040 Lawrence Avenue East)
- Appendix “B” – Location Map (4040 Lawrence Avenue East)
- Appendix “C” – Major Terms and Conditions - Community Space Agency Lease-Parkway Forest (1751 & 1761 Sheppard Avenue East)
- Appendix “D” – Major Terms and Conditions of Sub-Leases (1751 & 1761 Sheppard Avenue East)
- Appendix “E” – Location Map (1751 & 1761 Sheppard Avenue East)