



**STAFF REPORT  
ACTION REQUIRED**

**Request for City Consent - Assignment and Sub-Lease  
by Tuggs Incorporated to Cara Operations Limited of  
1681 Lake Shore Blvd. East**

<b>Date:</b>	August 18, 2016
<b>To:</b>	Government Management Committee
<b>From:</b>	General Manager of Parks, Forestry and Recreation and Chief Corporate Officer
<b>Wards:</b>	Ward 32 - Beaches – East York
<b>Reference Number:</b>	P:\2016\Cluster A\PFR\GM14-090616-AFS#23302

**SUMMARY**

Parks, Forestry and Recreation ("PFR") has received a request from the City's tenant, Tuggs Incorporated ("Tuggs") for the City's consent to a partial assignment of the agreement between the City and Tuggs dated June 2, 2010, (the "2010 Agreement") to Cara Operations Limited ("Cara") with respect to the premises municipally known as 1675 Lake Shore Boulevard East, commonly known as 1681 Lake Shore Boulevard East, located in Woodbine Beach Park (the "1681 Building"), as well as concessions at Kew Gardens and the Donald D. Summerville Pool (collectively, the "Premises").

This report recommends that City Council consent to the partial assignment of the 2010 Agreement to Cara. Upon City Council approval of the partial assignment, Cara will sublease back to Tuggs the portions of the Premises pertaining to the two concessions at Kew Gardens and the D.D. Summerville Pool, along with both the existing Tim Horton's and Athens Bakery franchises operated by Tuggs (Attachment "A") at the 1681 Building. Tuggs will continue to be the licensee for the exclusive food and beverage and sponsorship rights in Woodbine Beach Park, Ashbridges Bay Park, Beaches Park, and Kew Gardens Park, ("the Parklands").

## **RECOMMENDATIONS**

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### **The General Manager of Parks, Forestry and Recreation and the Chief Corporate Officer recommend that:**

1. City Council, pursuant to the 2010 Agreement, consent to Tuggs Incorporated request for a partial assignment of the 2010 Agreement to Cara Operations Limited with respect to the premises municipally known as 1675 Lake Shore Boulevard East, commonly known as 1681 Lake Shore Boulevard East, located in Woodbine Beach Park, as well as concessions at Kew Gardens and the Donald D. Summerville Pool.
2. City Council authorize the Chief Corporate Officer to sign a consent to the partial assignment, on terms acceptable to the General Manager, Parks, Forestry and Recreation, and in a form satisfactory to the City Solicitor.

### **Financial Impact**

The proposed partial assignment will have no financial impact to the City. All financial requirements under the current Agreement, including base rent and additional rent, will remain in full force and effect. Cara will be responsible for payment of base rent, additional rent and realty taxes for the Premises, including the 1681 Building, directly to the City. Tuggs will remain responsible for all other payments under the Agreement.

Staff have no concerns with the financial viability of Cara or their ability to meet their obligations to the City under the 2010 Agreement.

### **DECISION HISTORY**

City Council, at its meeting of September 25, 26, 27, and 28, 2006, adopted Economic Development and Parks Committee Report 6, Clause 22, directing staff to consider Tuggs proposal and to report back on appropriate terms for a twenty-year extension to the agreement with Tuggs.

(City Council, September 25-28, 2006, Economic Development & Parks Committee Report 6, Clause 22)

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060925/edp6rpt/cl022.pdf>

At its meeting of February 5, 6, 7 and 8, 2007, City Council adopted Parks and Environment Committee Report PE1.3 entitled "Tuggs Incorporated Investment Proposal for Redevelopment of the Eastern Beaches Food Services Facilities", and in so doing, directed staff to accept Tuggs unsolicited proposal to redevelop the Eastern Beaches food services.

(City Council, February 5-8, 2007, Parks & Environment Committee Item PE1.3)

<http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-02-05-cc02-dd.pdf>

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At its meeting on May 11 and 12, 2010, Council considered and adopted Item GM30.20 accepting the revised business plan from Tuggs Incorporated. The City and the Tenant entered into the 2010 Agreement by virtue of and in order to implement Council's decision at its meeting on February 5, 6, 7 and 8, 2007 as amended by its decision at its meeting on May 11 and 12, 2010.

(City Council, May 11-12, 2010, Government Management Committee Item GM30.20)  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.GM30.20>

## **ISSUE BACKGROUND**

Tuggs has operated a restaurant in Woodbine Beach Park and two seasonal concessions in the Eastern Beaches located adjacent to D.D. Summerville Pool and Kew Gardens, since 1986.

Along with the restaurant and two concessions, Tuggs holds exclusive rights for food and beverage catering in the Parklands and exclusive rights to promote or sell non-consumable goods and products related to City approved sponsorship programs and activities in the Parklands. The term of the current agreement with Tuggs will expire on September 14, 2028.

Tuggs has completed the required Capital Improvement of over \$2.15 million to the premises in accordance with plans and designs approved by PFR and has paid \$200,000.00 to the City for capital improvements in Woodbine Beach Park.

Parks, Forestry and Recreation has received a request for the City's consent to a partial assignment of the 2010 Agreement to Cara (the "Assignment"). In accordance with the terms of the Assignment, Cara will operate a restaurant within the portion of the 1681 building previously occupied by the Paralia Restaurant. Cara will be responsible for payment directly to the City for the base rent and realty taxes pertaining to the Premises, including the 1681 Building to be occupied by Cara. Tuggs will remain responsible for all other aspects of the 2010 Agreement and all amounts payable including base sponsorship rent and percentage sponsorship rent.

In accordance with the 2010 Agreement, Tuggs cannot assign the Agreement either in whole or in part without the prior written consent of the City. In considering whether to grant such consent due regard may be given by the City to the financial ability, business background and reputation of the proposed assignee. The City's consent cannot be unreasonably or arbitrarily withheld or unduly delayed.

Pending the decision of Council, Tuggs has allowed Cara to operate at the Premises as a third party of the tenant.

## **COMMENTS**

In accordance with the delegated authority for Certain Real Estate Matters, EX43.7 of the Executive Committee adopted by City Council in May 2010, the Director of Real Estate Services and the CCO have delegated authority to consent to assignments under all leases and licenses; however, where a matter has been delegated to staff, the CCO in consultation with the applicable Deputy City Manager or the City Manager, may determine that the matter is of such special interest that it should be returned to the relevant Committee and Council for consideration and determination by Council. In this case the CCO has determined that this is a matter of special interest that should be determined by Council. Notwithstanding that the CCO has determined that this is a matter of special interest, it must be noted that the City's consent cannot be unreasonably or arbitrarily withheld or unduly delayed. Staff recommend that Council consent to the proposed partial assignment.

## **CONTACT**

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Ann Ulusoy, Director, Management Services, Parks, Forestry and  
Recreation,  
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## **SIGNATURE**

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Janie Romoff  
General Manager, Parks, Forestry and Recreation

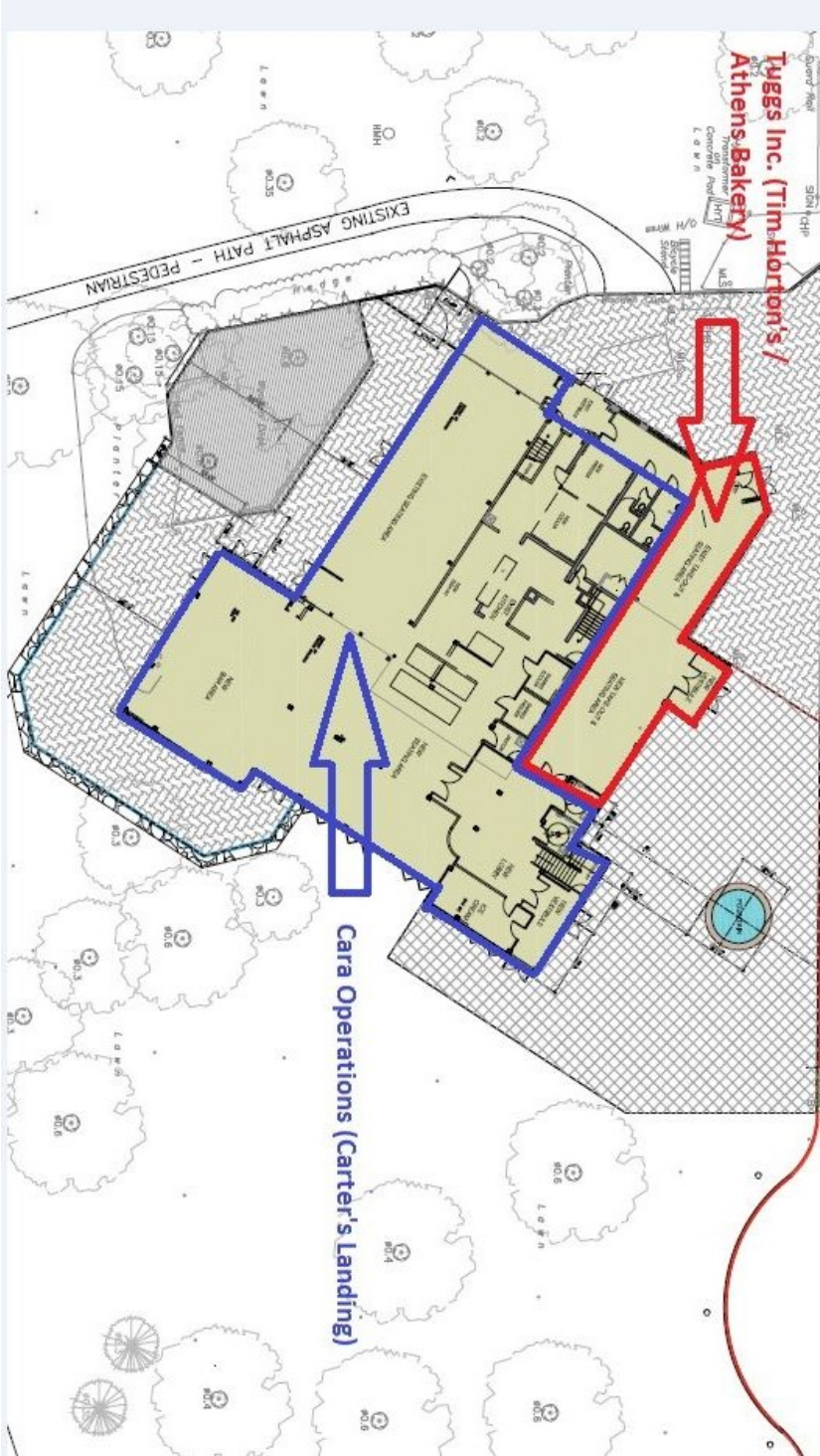
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Josie Scioli  
Chief Corporate Officer

## **ATTACHMENTS**

Attachment "A" – Floor plan of 1681 Lake Shore Boulevard East.

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