



Transfer of TTC lands at 546 Lansdowne Avenue to the City of Toronto

Date: April 13, 2018

To: Government Management Committee

From: Director, Real Estate Services

General Manager, Shelter, Support and Housing Administration

Wards: 18 - Davenport

SUMMARY

The purpose of this report is to obtain City Council's authority to accept title of the property municipally known as 546 Lansdowne Avenue (the "Property") from the Toronto Transit Commission ("TTC"), and to assume and amend an existing long-term Air Rights Lease agreement with a tenant of the Property, Tamil Co-operative Homes Inc. ("Tamil Co-op"). The Tamil Co-op is a social housing provider, under the jurisdiction of the City of Toronto as Service Manager, pursuant to the *Housing Services Act, 2011*.

RECOMMENDATIONS

The Director, Real Estate Services and the General Manager, Shelter, Support and Housing Administration recommend that:

1. City Council authorize the assumption by the City for nominal value from the Toronto Transit Commission of title to the property municipally known as 546 Lansdowne Avenue and leases and licenses relating thereto, on terms and conditions acceptable to the Director of Real Estate Services and in a form acceptable to the City Solicitor.
2. City Council authorize the Director of Real Estate Services to assume and amend the existing Air Rights Lease with Tamil Co-operative Homes Inc. (the "Air Rights Lease") substantially on the terms and conditions set out in the attached Appendix "A", and on such other terms and conditions acceptable to the Director of Real Estate Services and in a form acceptable to the City Solicitor.
3. City Council authorize the Director of Real Estate Services to execute such documents as required, referred to in Recommendation No. 1 and Recommendation No. 2.

4. City Council authorize the Director of Real Estate Services or his designate to administer and manage the Property and all agreements relating thereto, including the provision of amendments, consents, approvals, notices, and notices of termination provided that the Director of Real Estate Services may, at any time, refer determination and direction to City Council.
5. City Council authorize the City Solicitor to complete the proposed transactions on behalf of the City, including paying any necessary expenses, amending the closing, due diligence and other dates, and amending and waiving terms and conditions, on such terms as she considers reasonable.
6. City Council grant authority to fund the City's outstanding expenses related to the Property in this report from the Council Approved Operating Budget for Facilities Management and Real Estate, Environment and Energy ("FREEE") and to transfer the funding for these expenses from the Land Acquisition Reserve Fund ("LARF") (XR1012), with appropriate adjustments to FREEE's Council Approved Operating Budget, as necessary, through subsequent Quarterly Variance Reports.
7. City Council forward this report to the Toronto Transit Commission (TTC) Board for information as it responds to the December 16, 2015 TTC Board request for direction from City Council.

FINANCIAL IMPACT

The proposed amendment to the Air Rights Lease with Tamil Co-op includes a provision that the rent for a 10-year period commencing October 19, 2017 be at nominal consideration, and as such, the City will be foregoing revenue that would have been realized from the market rent of the Air Rights Lease. The market rent for the 10-year period is approximately \$685,830 plus HST. At the end of this 10-year period, the rental rate will be renegotiated at fair market value. The term of the Air Rights Lease extends until October 18, 2066. In addition, the proposed amendment to the Air Rights Lease will permit existing encroachments (which include balcony encroachments and minor foundation, fencing, and roof parapet encroachments) into the Property from the adjacent property (20 Wade Avenue) owned by the Tamil Co-op. The estimated value of these existing encroachments is approximately \$8,500 per annum, to be permitted for nominal consideration under the proposed amendment to the Air Rights Lease.

The Tamil Co-op is currently in arrears to the TTC in the amount of \$266,932 under the Air Rights Lease for the period between 2014- 2017. The TTC has not pursued these payments while City and TTC staff have been working on the plan to transfer title of the Property to the City. In order to ensure the current financial viability of the Tamil Co-op, the City's Shelter, Support and Housing Administration Division will make payment to the TTC in the amount of \$266,932 for the Tamil Co-op's rental arrears owed up to October 19, 2017.

The Acting Chief Financial Officer has reviewed this report and agrees with the financial impact of this report.

DECISION HISTORY

Toronto Transit Commission

At its meeting on July 15, 1997, the TTC Board adopted Report No. 20, "Declaration of Surplus TTC Property and TTC Procedural by-Law for the Disposal of Real Property", whereby the Property was declared surplus to the operational requirements of the TTC.

At its meeting on December 16, 2015, the TTC Board considered the report entitled "546 Lansdowne Avenue - Tamil Co-operative Housing Inc. Air Rights Lease" and referred the matter to City Council for direction, requesting that the City Manager and the General Manager of Shelter, Support and Housing Administration be requested to submit appropriate recommendations relating to the Property.

City of Toronto

At its meeting on May 24, 25 and 26, 2017, City Council considered and adopted a new real estate service delivery model for the City government that centralizes all real estate activities City-wide, including all real estate strategy and portfolio planning, major building projects, developments, real estate transactions and facilities management. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX25.9>

City and TTC staff have been engaged in negotiating a long-term resolution for the Property in order to provide a response to the TTC Board's December 2015 request for direction. These negotiations have occurred in light of City Council's July 2016 direction on the City-wide real estate transformation. In order to optimize use of the City's real estate assets, including those under title of various City divisions, agencies, and corporations, this report recommends that City Council assume title from the TTC of the Property. Assuming title on the Property by the City will allow the City to assess its real estate assets in order to achieve desired city-building outcomes.

COMMENTS

The Property and 20 Wade Avenue were acquired by the TTC in 1925 for use as a TTC yard known as Wade Yard. In 1967 the TTC severed and sold the portion of Wade Yard municipally known as 20 Wade Avenue to Farrington Holdings Ltd. ("Farrington"). As a condition of the sale, the TTC entered into the Air Rights Lease with Farrington over a stratified portion of the Property. The Air Rights Lease has a ninety-nine (99) year term, commencing October 19, 1966 and ending October 18, 2066. This Air Rights Lease required Farrington to develop 20 Wade Avenue on plans and specifications approved by the TTC. The approval process permitted certain encroachments (balconies, foundation, roof parapets and fencing) originating from 20 Wade Avenue onto the Property.

In 1981 the City, as planning authority, placed a site-specific zoning by-law on both the Property and 20 Wade Avenue, stripping the Property of its density and transferring that density from the Property to 20 Wade Avenue in order to allow for the construction of an 8-storey rental apartment building. The current estimated value of the density transferred from 546 Lansdowne Avenue to 20 Wade Avenue, as per Site-Specific Zoning By-law 1981-0098, is \$2,610,000. This estimate is provided here for context only, and is not related to the calculation of the figures provided in the Financial Impact section of this Report, as the cost to the City for providing nominal rent for the proposed ten (10) year period is based upon fair market rent calculations.

In 1986 Tamil Co-op became the owner of 20 Wade Avenue and Farrington assigned the Air Rights Lease to the Tamil Co-op. The Tamil Co-op is a social housing provider, under the jurisdiction of the City of Toronto as Service Manager, pursuant to the *Housing Services Act, 2011 (HSA)*. The City's Shelter, Support and Housing Administration Division provides both operating and rent-geared-to-income (RGI) subsidy to the Tamil Co-op. In its role as Service Manager, it is also responsible for oversight of the Tamil Co-op, ensuring compliance with the HSA.

The Tamil Co-op building consists of 129 units (1, 2, 3 and 4 bedrooms) providing mixed/family housing. At any given time, approximately 75 of the households living at the Tamil Co-op are receiving RGI assistance. Access to the RGI units is through the City's Centralized Social Housing Waiting List.

Prior to 2002, the Air Rights Lease rent was set at a below-market rate of approximately \$3,000. However, effective 2002, as per the terms of the Air Rights Lease, the rental rate was increased to fair market value of \$ 63,050 annually, escalating every five years. At a cost of approximately \$2.5 million over the next twenty four years, the rental rate of the Air Rights Lease, as it currently exists, is unsustainable for the Tamil Co-op. As social housing, the Tamil Co-op's revenue generating potential is limited. The City's operating subsidy cannot address the revenue gap that currently exists to cover the rent expense, which is expected to grow substantially with the ongoing escalations at fair market value. The TTC Board does not have a mandate that allows them to offer below-market rental rates to tenants on their properties.

Assuming title of the Property from the TTC will allow for the City to amend the Air Rights Lease agreement to a nominal value for a fixed period of time and temporarily relieve the Tamil Co-op of a significant operating expense. This will permit the Tamil Co-op to address its operating and capital obligations.

The Tamil Co-op is currently completing urgent capital repairs of a health and safety nature and these repairs are being funded entirely through Provincial grants, administered by the City. The Tamil Co-op's ability to cover the cost of additional required capital work will be improved through the expiration of the 20 Wade Avenue mortgage in 2024, which will enhance the Tamil Co-op's capacity to re-finance for capital repairs. Through the transfer of title of the Property from the TTC to the City, the subsequent assignment of the Air Rights Lease to the City, and temporarily renegotiating reasonable Air Rights Lease terms, the Tamil Co-op will be able to realize improved financial viability and maintain the ongoing provision of valuable affordable

housing. These steps will also provide the City and the Tamil Co-op with the opportunity to explore existing and future plans for the use of 20 Wade Avenue and the Property.

The TTC currently licenses the surface rights of the Property to an adjacent business for use as a parking area until December 31, 2019, with two options to extend for a period of two years each.

Once the proposed title transfer is complete, the Real Estate Services division will assume operational management of the Property. Real Estate Services has circulated the Property to all City divisions, agencies and commissions in order to identify potential additional municipal interest in the site. Any potential additional uses will be assessed for their compatibility with the Air Rights Lease, as amended. Currently, there are no proposed changes to the use of the Property. In the event that there is a proposed change in the use of the Property, provision will be made to bring the Property into compliance with applicable Ministry of the Environment or other requirements such that it will be fit for its intended municipal purpose.

CONTACT

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SIGNATURE

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ATTACHMENTS

Appendix "A" - Major Terms and Conditions - Lease Amendment
Appendix "B" - Location and Site Map

APPENDIX A

Major Terms and Conditions - Lease Amendment

No.	TERM	SUMMARY
1.	Net Rent	The net rent effective for a period commencing October 19, 2017 and ending October 18, 2027 will be \$2.00 per year for a total of \$20.00 payable in advance on the date of execution of the lease amendment. This nominal rate will only remain in effect insofar as Tamil Cooperative Homes Inc. remains the tenant at the Property.
2.	Rent Renegotiation	At the end of the aforementioned 10 year period, the rental rate will be renegotiated at fair market value, as determined by the City. Negotiations will commence 12 months before the end of the aforementioned 10 year period.
3.	Existing Encroachments	Existing encroachments (including balconies, foundation walls, roof parapet and fencing) by the Tenant into the Property are hereby acknowledged and permitted at a nominal rate;
4.	Indemnity	The Tenant will indemnify and save harmless the Landlord from all actions, suits, costs, losses, charges, demands and expense for and in respect of any such non-payment or non-observance or non-performance of the terms, covenants and conditions contained in the Air Rights Lease.
5.	Option to purchase	All options to purchase under the Air Rights Lease in favour of the Tenant are deleted and of no longer force and effect.
6.	Lease Amending Agreement	The Lease dated October 19, 1967, as amended on January 18, 1982, are to continue in full force for the remainder of the term, in a form acceptable to the City Solicitor.

APPENDIX B

Location and Site Map

