



REPORT FOR ACTION

Community Space Tenancy Lease Agreement and Municipal Capital Facility Designation for Toronto Community & Culture Centre at 1650 Finch Avenue East

Date: May 31, 2019

To: General Government and Licensing Committee

From: Acting Director, Real Estate Services and General Manager, Economic Development and Culture

Wards: Ward 17 – Don Valley North

SUMMARY

The purpose of this report is to obtain City Council authority to enter into a new Community Space Tenancy lease with the Toronto Community & Culture Centre for 2,340 square feet of City-owned space located at 1650 Finch Avenue East in Ward 17 – Don Valley North in the building commonly known as the Zion Church Cultural Centre, and to have the premises designated a Municipal Capital Facility.

RECOMMENDATIONS

The Acting Director, Real Estate Services and the General Manager, Economic Development and Culture, recommend that:

1. City Council authorize the City of Toronto to enter into a Community Space Tenancy Lease (the "Lease") with Toronto Community & Culture Centre, pursuant to the Community Space Tenancy Policy, as a Community Partner Tenant for the lands and premises located at 1650 Finch Avenue East and known as Zion Church Cultural Centre for a five year term substantially on the terms set out in Appendix A, with such revisions as may be acceptable to the Deputy City Manager, Corporate Services in consultation with the General Manager, Economic Development and Culture, and in a form acceptable to the City Solicitor.

2. City Council authorize the Deputy City Manager, Corporate Services, and the Director of Real Estate Services severally to execute the Lease and any related documents on behalf of the City of Toronto, as required.

3. City Council authorize the Deputy City Manager, Corporate Services, or their designate to administer and manage the Lease, including the provision of any amendments, consents, approvals, waivers, notices and notices of termination, provided that the Deputy City Manager, Corporate Services, may, at any time, refer consideration of such matters (including their content) to City Council for its determination and direction.

4. City Council pass a By-law pursuant to Section 252 of the City of Toronto Act, 2006, providing authority to:

a. Enter into a Municipal Capital Facility Agreement with Toronto Community & Culture Centre for the property known as 1650 Finch Avenue East, with respect to approximately 2,340 square feet of community space (the "Leased Premises") for the purposes of providing a municipal capital facility related to the provision of social and health services.

b. Exempt the Leased Premises from taxation for municipal and school purposes, which tax exemption is to be effective from the latest of (1) the commencement date of the Lease, (2) the date the Municipal Capital Facility Agreement is entered into, and (3) the date the Tax Exemption By-law is enacted.

5. City Council direct the City Clerk to give written notice of the amended by-law to the Minister of Finance, the Municipal Property Assessment Corporation, the Toronto District School Board, the Toronto Catholic District School Board, le Conseil scolaire Viamonde, and le Conseil scolaire catholique MonAvenir.

FINANCIAL IMPACT

The Lease will provide Toronto Community & Culture Centre with approximately 2,340 square feet, which represents the entire property of community space for a nominal net rent consideration.

In accordance with the Community Space Tenancy Policy, the terms of the Lease specify the tenant, Toronto Community & Culture Centre, will be responsible for all realty taxes and operating costs related to the lands and premises municipally known as 1650 Finch Avenue East, Toronto (the "Property"). The associated heritage cemetery lands will not be the responsibility of the tenant. While unoccupied during 2018, the facility's operating costs were estimated to be \$8,852, exclusive of realty taxes, or approximately \$3.78 per square foot. Once occupied by the tenant, operating costs will accordingly be higher as cost elements such as utility usage and custodial/disposal services will increase. Under the Tenancy Agreement, the City will have no operating cost responsibility. As per the Community Space Tenancy Policy, capital repairs/upgrades will remain the responsibility of the City.

The total opportunity cost of the Lease over the five year term is estimated to be approximately \$109,597 plus HST. The total opportunity cost of the five year renewal term is approximately \$121,004 plus HST. Accordingly, the total opportunity cost for both the agreement and the renewal term is \$230,601 plus HST, for which the net present value equates to \$185,486 plus HST in today's dollars.

In accordance with the Community Space Tenancy Policy, this report recommends that the Leased Premises be designated a Municipal Capital Facility so as to be exempted from taxation. The Leased Premises located at 1650 Finch Avenue East are owned by the City of Toronto. Although properties owned by the City of Toronto are exempt from taxation, Toronto Community & Culture Centre is a taxable tenant and the Leased Premises are therefore subject to taxation. The annual property taxes on the Leased Premises are estimated at approximately \$11,425 comprised of a municipal portion of \$5,920 and a provincial education portion of \$5,505, based on 2019 Current Value Assessment (CVA) and 2019 tax rates.

Providing a property tax exemption for the Leased Premises will result in a net annual reduction in property tax revenue to the City of approximately \$5,920, representing the municipal portion of taxes that is currently payable that will no longer be collected once the Leased Premises are designated as a Municipal Capital Facility, as shown in Table 1 below. The provincial education portion of property taxes of \$5,505 will not be required to be remitted to the Province once the exemption for the Leased Premises takes effect, with no net impact to the City.

Table 1: Financial Implications of Property Tax Exemption for 1650 Finch Avenue East

	Municipal Taxes	Education Taxes	Total Property Taxes
Amounts Payable if Taxable (annual)	\$5,920	\$5,505	\$11,425
Amounts Payable if Exempt	\$0	\$0	\$0
Reduction in Municipal Tax Revenues			\$5,920
Reduction in Education Taxes Remitted			\$5,505

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

DECISION HISTORY

At its meeting on November 7, 8 and 9, 2017, City Council adopted the Community Space Tenancy Policy. The Community Space Tenancy Policy came into effect on January 1, 2018.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX28.8>

COMMENTS

The City has a long history of supporting the community-based service sector and cultural organizations through the provision of space for administrative and program delivery purposes. On February 8, 2019, Economic Development and Culture, Cultural Partnerships, issued a Request for Expression of Interest seeking a qualified community organization to occupy the Zion Church Cultural Centre. The REOI opportunity was advertised through extensive community outreach including: online advertising, local Councillors newsletters, social media and two open houses. Applications were received from two eligible organizations. On April 26, 2019, the Community Space Tenancy review panel, comprised of four staff from the Economic Development & Culture division and the Social Development Finance and Administration division met to review the applications. Toronto Community & Culture Centre was chosen as the successful applicant based on their financial and organizational capacity to undertake the lease, occupancy costs and to program the space.

Toronto Community & Culture Centre was established in 1995 and registered as a charitable organization in 1998. Toronto Community & Culture Centre delivers social services and culture activities in the community, which are supported from all three levels of government and a private foundation. Toronto Community & Culture Centre's vision is to provide opportunities related to social services, community education and culture activities for immigrants and refugees in the community. Toronto Community & Culture Centre offers a large portion of its services to the Mandarin community but is open to the general public. Toronto Community & Culture Centre will move their cultural activities to their new branch Zion Church Culture Centre.

Each year, Toronto Community & Culture Centre cooperates with a network of organizations to host cultural activities for youth, adults and seniors. In 2018, Toronto Community & Culture Centre hosted 156 events and activities that included music, drama, literature and visual arts. Programs are also intended to make artistic and cultural opportunities more accessible to newcomer professional artists.

Toronto Community & Culture Centre qualifies for the Community Space Tenancy lease with the City as they meet the eligibility criteria (that is: are incorporated as a not-for-profit corporation with charitable status and carry out activities that support City objectives and serve City residents). The proposed Community Space Tenancy lease agreement would allow Toronto Community & Culture Centre to continue to provide their valuable services and programs to the City's residents for the foreseeable future.

Municipal Capital Facility Designation

The Community Space Tenancy Policy provides that when seeking City Council approval for any initial Community Space Tenancy approval of a municipal capital facility designation will also be sought where appropriate. Designating the property leased by Toronto Community & Culture Centre, a community-based service sector and cultural organization providing social and health services as described above, as a municipal capital facility and exempting the property from taxes will assist in providing services to the public which are in line with services provided by the City.

Section 252 of the City of Toronto Act, 2006 allows City Council to exempt from taxation for municipal and school purposes land or a portion of land on which a municipal capital facility is or will be located once the City enters into an agreement with the landlord or tenant for the provision of the municipal capital facility.

Ontario Regulation 598/06 prescribes facilities providing social and health services as eligible municipal capital facilities for the purpose of section 252.

Upon the passing of the by-law authorizing the agreement and the tax exemption, the City Clerk must give written notice of the by-law to the Minister of Finance, the Municipal Property Assessment Corporation and the Secretary of any affected school board(s).

CONTACT

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SIGNATURE

Nick Simos
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Mike Williams
General Manager, Economic Development and Culture

ATTACHMENTS

Appendix "A" – Major Terms and Conditions
Appendix "B" – Location Map

APPENDIX "A" – Major Terms and Conditions

Community Space Tenancy Lease at 1650 Finch Avenue East

Tenant:

Toronto Community & Culture Centre

Owner/Landlord:

City of Toronto

Leased Premises:

Lands (exclusive of cemetery) and premises situated at 1650 Finch Avenue East

Gross Floor Area of Building:

2,340 square feet

Proportionate Share:

100 percent (based on full occupancy)

Commencement Date:

September 1, 2019

Term:

Five (5) years commencing on September 1, 2019 and expiring on September 1, 2024, with an option to renew of five (5) years.

Basic Rent:

Basic Rent for the Term is \$2.00 per annum plus all applicable taxes.

Net Lease:

The Lease shall be absolutely net to the Landlord. During the Term or any extension or renewal thereof, the Tenant shall be responsible for all applicable costs, taxes, charges, expenses and outlays of any nature whatsoever arising from or relating to the use and occupancy of the Leased Premises. Any obligation which is not stated to be that of the Landlord shall be the Tenant's responsibility.

Operating Costs:

The Tenant shall pay all realty taxes and operating costs (currently estimated to be \$8,852.00 per year exclusive of realty taxes) related to the Property. "Operating Costs" means the total of all costs and expenses attributable to the maintenance, repair, administration, management and operation of the Property including, without limited the generality of the foregoing: utilities, security, insurance, all taxes including applicable property taxes, supervision, landscaping, window cleaning, eaves trough cleaning, pest management, waste collection, disposal and recycling, snow removal, and other costs of maintenance and operation.

Maintenance Reports:

The City shall have the right to request and review the Tenant's maintenance reports and logs pertaining to building operations and repairs at any time.

Heritage Property Status:

Zion Church was designated under the Ontario Heritage Act on October 11, 1977. The proposed Community Space Tenancy Lease will include language that acknowledges this designation and will subsequently require the Tenant to conduct its business in a manner that respects the property's heritage and at no time shall effect any repairs, modifications or alterations to the property without the prior written consent of the City as Landlord.

Use:

The facility will be utilized for an assortment of community service purposes including general meeting space, consulting office space, rehearsal space and community based workshops.

Early Termination:

The Landlord shall have the right to terminate the Lease if the Tenant is, at any time during the Term, including any renewals and extensions thereof, no longer Community Space Tenancy eligible or financially viable. In each instance as determined by the City acting reasonably, and provided that the City has not waived, or is not willing to waive the relevant Community Space Tenancy eligibility criteria. A termination resulting from a failure to remain Community Space Tenancy eligible shall not result in contractual damages for the Tenant notwithstanding any balance remaining in the Term of the Lease.

The City shall have the right to terminate the Lease for any purpose at any time during the Term and any renewal/extension thereof upon providing the Tenant with sixty (60) day's prior written notice.

Standard Lease:

The Lease shall be drafted on the City's standard Community Space Tenancy form, which shall contain such further revisions and other terms and conditions as may be satisfactory to the Deputy City Manager, and in a form acceptable to the City Solicitor.

Insurance:

The Tenant is to provide prior to the commencement of the Term and on an annual basis, proof of insurance in accordance with the City's insurance requirements outlined in the Lease, including but not limited to comprehensive general liability insurance with limits of not less than Five Million Dollars (\$5,000,000.00) per occurrence.

Indemnity by Tenant:

The Tenant will fully indemnify and save harmless the City, its respective employees, agents and those for whom it is at law reasonable for of, from and against all claims whatsoever. The Tenant agrees that it will not pursue any claim against a third party which may result in any claim by such third party against the City.

Condition of Leased Premises:

The Tenant will accept the Leased Premises and the Property in an "as is" condition.

Assignment and Subleasing:

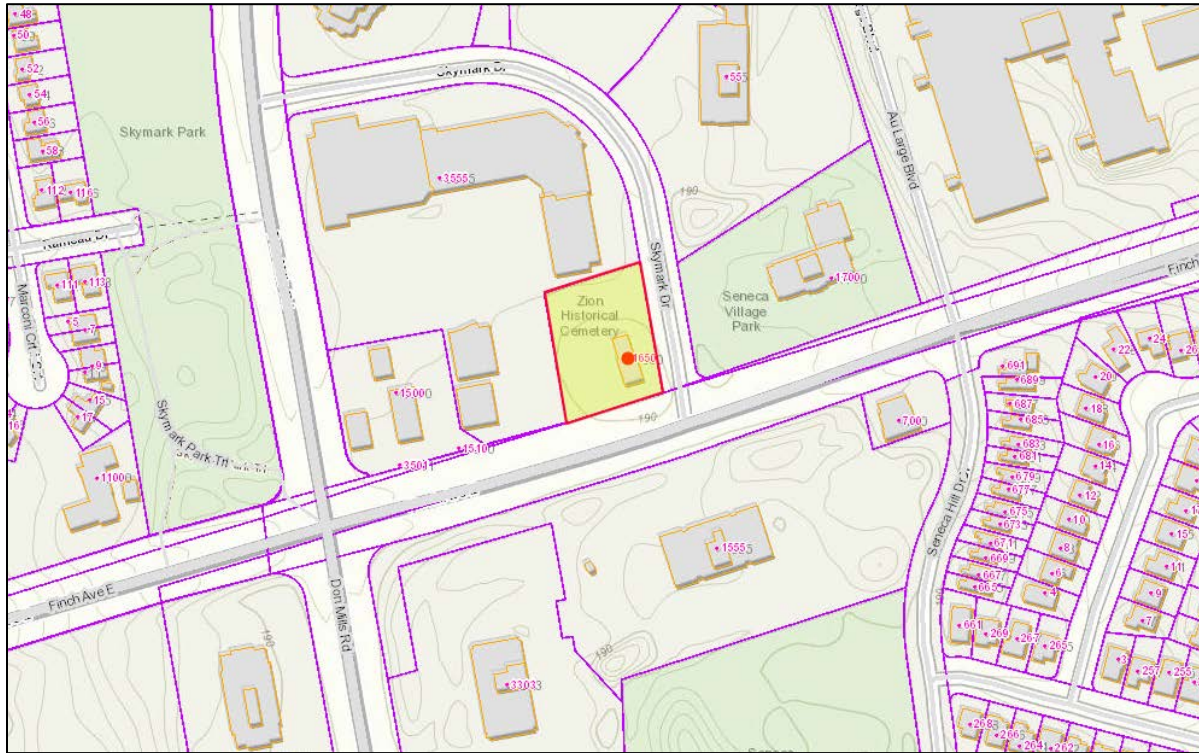
The Tenant shall not sell, assign or otherwise dispose of its rights and obligations under the Lease or permit any other person or organization to occupy or use the Leased Premises, or any part thereof, or sublet the Lease Premises, or any part thereof, to a third party or in any way charge, encumber or pledge the Lease or its interest therein without the prior written consent of the City, which consent may be unreasonably withheld or delayed and need not be based upon any financial considerations whatsoever.

Parking:

Parking is limited to a small parcel at the north end of the property. The parking pad is currently leased to the abutting owner for use as overflow parking to the adjoining commercial centre. The lease still requires the abutting owner to allow visitors and staff of Zion Church to park in the specifically designated area. A parking permit tag system, initiated and monitored by the abutting owner, may need to be followed.

APPENDIX "B"

Location Map: 1650 Finch Avenue East, Toronto



Zion Church Cultural Centre Exterior View

