

Suitability of the Dempsey Store for Use by the Learning Centre for Children with Autism (Ward 10 - North York Centre)

(City Council on August 1, 2, 3 and 4, 2000, adopted this Clause, without amendment.)

The Administration Committee recommends that:

- (1) a lease with the Learning Centre for Children with Autism be approved on a non-profit basis, subject to the terms and conditions set out in the body of the joint report (July 10, 2000) from the Commissioner of Corporate Services, the Commissioner of Urban Development Services, the Commissioner of Economic Development, Culture and Tourism and the Commissioner of Community and Neighbourhood Services; and**
- (2) the City make application to the Committee of Adjustment, on behalf of the Learning Centre for Children with Autism, for a minor variance application forthwith respecting locating the Learning Centre at the Dempsey Store.**

The Administration Committee reports, for the information of Council, having requested the Commissioner of Economic Development, Culture and Tourism to submit a report directly to Council for its meeting scheduled to be held on August 1, 2000, respecting the concerns raised by Councillor Ila Bossons regarding the provisions of the Ontario Heritage Act as it applies to the proposed use by the Learning Centre for Children with Autism.

The Administration Committee submits the following joint report (July 10, 2000) from the Commissioner of Corporate Services, the Commissioner of Urban Development Services, the Commissioner of Economic Development, Culture and Tourism, and the Commissioner of Community and Neighbourhood Services:

Purpose:

To respond to Council's direction to investigate the suitability of the Dempsey Store for use by the Learning Centre for Children with Autism (Learning Centre)

Financial Implications and Impact Statement:

Should City Council decide to lease the Dempsey Store to the Learning Centre, it appears there will be no direct capital or operating costs associated with the lease of the facility. However, the City will be foregoing approximately \$43,200.00 in imputed net rent. In addition, the Learning Centre has indicated they do not wish to pay realty taxes should the facility be assessed as taxable. There may be other financial implications depending upon the Learning Centre's application for and approval of fee subsidies.

Recommendation:

It is recommended that should Council determine that it wishes to confirm the utilization of the Dempsey Store by the Learning Centre on a non-profit lease basis, that a lease be approved with the Learning Centre For Children with Autism subject to the terms and conditions set out in the body of this report.

Background:

At the June 7, 8, and 9, 2000 meeting, City Council considered Clause No. 1 of Report No. 12 of The Administration Committee concerning the future use of Dempsey Store and adopted the following recommendations:

- (1) the Archives Association of Ontario and the North York Historical Society be relocated to an appropriate facility, such as the North York Civic Centre, beginning September 1, 2000;
- (2) the Children's Services Division of the Community Services Department undertake an inspection of the Dempsey Building to determine its suitability vis-a vis existing legislation, e.g., the *Day Nurseries Act*, for its intended use by the Learning Centre;
- (3) the appropriate City of Toronto staff undertake an inspection with respect to the suitability of the building structure for the intended purpose and use by the number of anticipated persons expected to use Dempsey Store under the auspices of the Learning Centre, such inspection to include zoning requirements and any other pertinent information that may be necessary;
- (4) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto; and
- (5) the Learning Centre be requested to provide representation on its Board by a member of the North York Historical Society.

This report provides information on the Dempsey Store, further more detailed information on the Learning Centre's proposed use, information as requested by Council on the suitability of the intended use, information as requested by Council on the suitability of the building structure, clarification of leased terms requested by the Learning Centre and information on the Learning Centre's plan to undertake the capital improvements and to deal with the ongoing operation.

Comments:

In order to provide current and accurate information on the foregoing matters, Sheldon Kosky, lawyer for the Learning Centre, provided a number of communications which are attached to and referenced in this report. This information regarding the use of the Dempsey Store by the Learning Centre was reviewed by the appropriate Divisions who have now submitted their comments and a consolidated response to Council's request are set out below:

(1) Property Information:

Location:	250 Beecroft Avenue (see Appendix A)	
Building Floor Area:	Basement	- 2,245 square feet
	Ground Floor	- 2,245square feet
	Second Floor	- 2,245 square feet
	Total:	- 6,735 square feet
Official Plan:	Local Open Space	
Zoning:	O1 open space zone	

(2) Information on Proposed Use:

In a letter dated June 29, 2000 (Appendix B), Mr. Kosky has provided details on the intended use of the building. In summary, the Learning Centre proposes to use the building as a resource and information centre and for one on one intervention for children with autism over the age of 2 ½. The Commissioner of Community and Neighbourhood Services has advised that, in future, the operator plans to explore a licensed facility under the *Day Nurseries Act*. They do not intend to use the attic nor use the building for residential purposes. They expect to begin operations with five children and grow to accommodate fifteen full time children. For greater detail, please refer to Appendix B.

(3) Suitability of Intended Use:

In response to Council's request that Children's Services assess the use of the Dempsey Store as a day nursery, a site visit was made by Children's Services staff on May 30, 2000 who concluded that playground and kitchen renovations may be necessary to bring the premises into conformity with the provincial *Day Nurseries Act*. In addition, the Ministry of Community and Social Services have since also visited the site and assessed its suitability for licensing as a day nursery. The Ministry's May 30, 2000 correspondence to the Learning Centre confirms that the space could accommodate up to 15 preschool children aged 2 ½ years to 5 years of age. The licensing specialist has indicated that a food preparation area and a fenced outdoor play area are required if a full day program is offered. The Learning Centre's position on the playground is set out in a memo to EDCT staff (Appendix D). The Ministry has also recommended that the operator verify with the City's building inspector whether an additional washroom for staff is required. Children Services has estimated that the renovation costs associated with the kitchen modifications, the addition of a staff washroom and playground costs could be as high as \$120,000.00. In addition, the Ministry will require approvals from Fire, Health and Zoning prior to issuing a license. Other issues concerning the operation of the Learning Centre are contained in a June 28, 2000, draft report from the Commissioner of Community and Neighbourhood Services attached as Appendix F.

(4) Suitability of Building:

Urban Development Services staff have reviewed the building from the perspective of building structure and zoning issues and the comments thereon are set out below.

(a) Building Code:

Building Division has inspected the building and using the Ontario Building Code (O.B.C.) has determined that the previous uses had the same floor load design requirements as the proposed use, and appears adequate for the intended use. Any specific structural concerns would require a review by a Professional Engineer.

No substantial life or building safety measures would be required to be added, a standpipe and fire hose and sprinkler system is not required. A fire alarm system is not required provided the occupant load does not exceed 40; this includes both staff and students, however the existing fire alarm system if retained would have to be evaluated and upgraded to meet the minimum requirements of the Ontario Building Code.

The proposed change in occupancy will require a Building Permit and be subject to review by the Building Division and Fire Prevention Section of the Fire Department. Fire inspection of the day to day operation and a fire safety plan will also be required.

Additional washroom(s) may be required depending on the total number of occupants, and ages of the students. New kitchen and possible additional washroom facilities coupled with the change in use and occupancy will require the existing mechanical ventilation system to be re-evaluated. Any new washrooms or changes to the mechanical and plumbing systems would require a Permit(s) from the Building Division.

(b) Zoning:

The Dempsey House is located in an "01" Open Space Zone and is subject to Site Specific By Law 31237 which restricts the uses in these lands to a public park, a public playground and a play lot. The Dempsey House, a heritage building used as a City archive is permitted as an essential service, and has no parking requirement.

Based on the information supplied by the proponent, the proposed Learning Centre would be classified as a day nursery and would require approximately 11 parking spaces. While a day nursery is permitted use in other "01" Open Spaces Zones, the permission to operate the Learning Centre in the Dempsey House would require a variance through the Committee of Adjustment.

(c) Parking:

The Learning Centre has forwarded a copy of a letter from the Church of St. Edward the Confessor, 74 Churchill Avenue (Appendix C), offering their parking facilities to the staff of the Learning Centre. Parking is also referenced in other Appendices. The provision of off-site parking for this facility could be dealt with through the Committee of Adjustment and it should be noted that if on-site parking were provided, Site Plan Approval would be required. The Commissioner of Economic Development, Culture and Tourism strongly prefers that parking be off site. If suitable, off-site parking can be arranged and minimal on-site modifications are made to the Dempsey House, then Site Plan Approval is not required.

(5) Clarification of Lease Terms:

It is necessary that should City Council confirm a lease with the Learning Centre, the main lease terms and conditions must be approved by Council. To this end, this matter was discussed with the Learning Centre and certain elements set out below are included in the various Appendices to this report. The terms and conditions set out below have incorporated concerns of the Cultural Division and we believe are acceptable to the Learning Centre.

- (a) lease term of 10 years with 10 year renewal option;
- (b) net rent of \$1.00 per annum (it is noted that staff are of the opinion fair and reasonable market rent for this facility would be \$43,200.00);
- (c) Learning Centre responsible for all maintenance and operating costs (it is noted that the 1999 costs for the Clerks' operation at this facility was \$6,000.00 and as the Learning Centre would be a much more intensive use, they have been advised, the annual costs including taxes, if applicable for this facility would be approximately \$36,000.00 per year);
- (d) premises shall be solely used as a Learning Centre;
- (e) premises be accepted in an "as is" condition and the tenant must satisfy itself that the intended use complies with the existing Zoning By-law, Building Code, *Ontario Fire Code*, *Ontario Heritage Act*, all current municipal, provincial and federal laws, by-laws, rules and regulation and insurance requirements;
- (f) tenant shall not perform any work or repair, renovation or improvement without first submitting detailed plans and specification for the written approval of the City;
- (g) tenant shall indemnify the City and obtain insurance of all types and in amount satisfactory to the City;

- (h) tenant shall enter into such other terms and conditions satisfactory to the City Solicitor;
- (i) City to be responsible for major structural component;
- (j) Learning Centre to agree to a five year maintenance plan;
- (k) Learning Centre to place protective covering on historic wood floors; and
- (l) Archives and Culture requires one month's notice to remove their equipment.

It is noted that the foregoing terms and conditions vary from our typical non-profit leases from the perspective that we would normally not grant a lease in excess of 3 years and the tenants are normally expected to pay all costs including any realty taxes with the City foregoing net rent.

(6) Information on Learning Centre's Plan:

As certain requirements were being clarified as part of this process, the Learning Centre was contacted to provide their position on how they propose to address the renovation requirements and also their position on certain lease terms and conditions. In a letter dated July 6, 2000 (Appendix E), Mr. Kosky states that he believes that the capital improvement costs regarding the additional kitchen, washroom facility and fenced in playground are minimal and will be fully met with the assistance of an in-kind private donations. Please see Appendix E for further details. The Commissioner of Economic Development, Culture and Tourism prefers to see the playground integrated with the play areas proposed for the west portion of the park and that it reflects the heritage theme of the park.

(7) Update – Facilities for Historical Use:

City Council instructed that the Archives Association of Ontario and the North York Historical Society be relocated to an appropriate facility, such as the North York Civic Centre, beginning September 1, 2000. To address this request, we have assigned staff to work with these two groups to determine if there is any suitable space in an appropriate City-owned facility.

Conclusions:

Staff provide the following conclusions with respect to this matter:

- (1) with a minor variance, the building is suitable for the use of a day nursery;
- (2) the building is structurally suitable for the proposed use;

- (3) parking should be off site and the playground should be integrated with play areas proposed for the west portion of the park; and
- (4) the Learning Centre is requesting a tenancy on a non-profit basis.

Contact:

Glen Hamilton, Valuator/Negotiator, Facilities and Real Estate, Corporate Services, Tel. No.: 392-5838, Fax. No. 392-1880;

Brenda Patterson, Director, Children's Services Division, Community and Neighbourhood Services, Tel. No. 392-3319, Fax No. 392-4576;

Mario Angelucci, Manager, North District, Urban Development Services, Tel. No. 395-7535, Fax No. 395-7589;

Gary Baldy, Supervisor of Cultural Assets, Economic Development, Culture and Tourism, Tel. No.: 392-9865, Fax No. 392-3355.

(Appendix "F" - Report dated June 28, 2000, addressed to the
Community Services Committee from the
Commissioner of Community and Neighbourhood Services.)

Purpose:

This report provides a preliminary assessment of the suitability of the Dempsey building for use by the Learning Centre for Children with Autism as a licensed day nursery and outlines outstanding issues to be addressed.

Financial Implications and Impact Statement:

The future financial and funding issues facing the use of the Dempsey building by the Learning Centre for Children with Autism are outlined in this report.

Recommendation:

It is recommended that this report be received for information.

Background:

At the June 7, 8 and 9, 2000 meeting of the City of Toronto Council, the future use of the Dempsey building was considered and the Community Services Department was asked to inspect the premises and report on its suitability for use by the Learning Centre for Children with Autism as a licensed day nursery.

Comments:

While service system management for child care was downloaded from the Province to the City effective July 1, 1999, as part of local service realignment, responsibility for licensing premises under the Day Nurseries Act of Ontario remains a provincial responsibility at this time. However, in response to Council's request that Children's Services assess the use of the Dempsey building as a day nursery, a site visit was made by Children's Services staff on May 30, 2000, who concluded that playground and kitchen renovations may be necessary to bring the premises into conformity with the provincial Day Nurseries Act. In addition, the Ministry of Community and Social Services have since also visited the site and assessed its suitability for licensing as a day nursery. The Ministry's May 30, 2000, correspondence to the Learning Centre for Children with Autism confirms that the space could accommodate up to 15 preschool children age 2 ½ years to 5 years of age. The licensing specialist has indicated that a food preparation area and a fenced outdoor play area are required if a full day program is offered. The Ministry has also recommended that the operator verify with the City's building inspector whether an additional washroom for staff is required. Renovation costs associated with the kitchen modifications, the addition of a staff washroom and playground costs could be as high as \$120,000. In addition, the Ministry will require approvals from Fire, Health and Zoning prior to issuing a license. There are zoning issues to be resolved pertaining to the new intended use of the site by a non-City run service.

While securing provincial licensing for the premises does not appear to be a problem further discussions between the Ministry and the operator will determine whether the program fits the definition of a day nursery and, therefore, requires licensing.

(1) Fee subsidy contract with the City:

The Learning Centre for Children with Autism first provided Children's Services with a preliminary copy of its program proposal in June of 1999. Submission of a formal request for a fee subsidy contract with the City was made June 27, 2000, and the Division has begun a preliminary review to the application. Children's Services reviews applications for fee subsidy against the City's Operating Criteria, a process that includes an assessment of financial viability and assessment to ensure that programs meet the City's operating requirements. Because the Learning Centre's program is intended as an intensive therapeutic intervention for a specialized group of children who meet specific diagnostic requirements it does not conform easily with either the City's Operating Criteria or its guidelines governing special needs resourcing. While future service integration into regular child care or school settings is a declared goal of the program it does not exactly fit within the division's current integrated service philosophy and would not provide a suitable placement for regular community child care referrals. Also, the proposed one to one therapeutic staffing ratio required by the applied behaviour analysis treatment approach the Learning Centre intends to use would significantly exceed the current divisional budget guidelines in effect for contracted services. In order to ensure financial viability the program will need to secure financial support beyond fee subsidy. The therapeutic nature of the program might make it a more suitable candidate for a special needs resourcing contract but that particular funding allocation is fully utilized and no cost shared expansion is anticipated at this time.

(2) Timing:

The Learning Centre for Children with Autism intends to phase in its program effective September 5, 2000, and to be limited to only five or fewer children until a provincial day nurseries license can be granted. Also it will be difficult to complete the necessary rezoning by the intended September start date.

(3) Other Sources of Program Funding:

While a full analysis of the business plan and financial viability is necessary as part of the application for fee subsidy, the Learning Centre for Children with Autism has identified a number of non-City sources of funding for its program including provincial programs such a Special Service at Home (SSAH), Assistance for Children with Severe Disabilities (ACSD), Intensive Behaviour Intervention (IBI) and Applied Behavioural Analysis (ABA). The eligibility of the program and the children it intends to serve for these types of provincial funding is currently under discussion but not as yet confirmed. These provincial funding decisions will profoundly affect the financial viability of the proposed program and the services it can provide to autistic children and their families.

Conclusions :

This report was prepared at the request of Council and discusses the suitability of Dempsey building for use by the Learning Centre for Children with Autism as a licensed day nursery. Future funding issues affecting the program's financial viability and its eligibility for a fee subsidy contract or a special needs resourcing agreement with the City are also discussed. It is recommended that this report be received for information.

(A copy of Appendices A to G attached to the foregoing report was forwarded to all Members of Council with the July 11, 2000, agenda of the Administration Committee and copies thereof are also on file in the office of the City Clerk).

The Administration Committee reports, for the information of Council, having also had before it communications from the following respecting the foregoing matter, which were forwarded to all Members of Council with the July 11, 2000, agenda of the Administration Committee and copies thereof are also on file in the office of the City Clerk:

- (July 10, 2000) from Mr. Geoffrey E. Geduld, President, North York Historical Society;
- (Undated) from Ms. Myrna M. Fox U.E;
- (July 10, 2000) from Mr. Louis Badone P.Eng., Elihu Pease House; and
- (July 10, 2000) from Margaret and Jack Cameron.

The following persons appeared before the Administration Committee in connection with the foregoing matter:

- Ms. Heather McMillan, Executive Director of the Archives Association of Ontario;
- Ms. Mary Iannucci;
- Ms. Dorothy Duncan, Executive Director, Ontario Historical Society;
- Mr. Terry Russell, President, Toronto Historical Association;
- Ms. Deborah Cushing;
- Ms. Edith Geduld, Chair, North York LACAC, and filed a submission in regard thereto;
- Mrs. Donalda Badone, Member of the North York Historical Society;
- Ms. Mary Ann Cross;
- Ms. Colleen Dempsey;
- Ms. Ronda Margolese;
- Ms. Erla Jvravsky;
- Mr. John Turner, and filed a submission, in regard thereto;
- Mr. Neil Smiley;
- Ms. Brenda Deskin;
- Mr. Geoff Geduld, Present, North York Historical Society;
- Mr. James Dempsey;
- Ms. Jane Saunders, Toronto Historical Museum Board;
- Ms. Ann Rowan;
- Mr. John Windisman;
- Councillor Ila Bossons, Midtown;
- Councillor John Fillion, North York Centre;
- Councillor Norm Gardner, North York Centre; and

- Councillor Howard Moscoe, North York Spadina.

(City Council on August 1, 2, 3 and 4, 2000, had before it, during consideration of the foregoing Clause, the following communications expressing opposition to the proposed use of the Dempsey Store by the Learning Centre for Children with Autism:

(a) (July 17, 2000) from Ms. Deborah Cushing;

(b) (July 14, 2000) from Ms. Betty Jesshope;

(c) (undated) from Ms. Myrna M. Fox, U.E.;

(d) (July 25, 2000) from Robin Collyer;

(e) (July 25, 2000) from Ms. Joan Sherman;

(f) (July 24, 2000) from Mr. Earl Allen; and

(g) (July 27, 2000) from Mr. Norman B. Fraser.)

(City Council also had before it, during consideration of the foregoing Clause, a communication (July 28, 2000) from Ms. Brenda Deskin, Co-Founder and President, and Ms. Erla Juravsky, Co-Founder, The Learning Centre for Children with Autism, requesting that Council support the lease of the Dempsey Store to The Learning Centre for Children with Autism, and forwarding communications from various individuals in this regard.)

(City Council also had before it, during consideration of the foregoing Clause, a communication (undated) from Ms. Kiki Bianchi, Chair of Kenton Pre-school Program, Edithvale Community Centre, expressing concerns regarding the potential use of the Edithvale Community Centre by the Learning Centre for Children with Autism.)