

Below-Market Rent Lease Agreement at 35 Strachan Avenue

Date:	July 27, 2010
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	Ward 19 – Trinity Spadina
Reference Number:	P:\2010\Internal Services\RE\Gm10063re - (AFS 12488)

SUMMARY

The purpose of this report is to obtain City Council authority to enter into a new Below Market Rent lease agreement with Clay & Paper Theatre for approximately 3,000 square feet of City-owned space located at 35 Strachan Avenue (the “Property”).

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council authorize a new Below-Market Rent (BMR) lease agreement (the “Agreement”) with Clay & Paper Theatre for a five (5) year term with a five (5) year renewal option, based on the terms and conditions set out in the attached Appendix “A”, and on such other terms and conditions deemed appropriate by the Chief Corporate Officer, and in a form acceptable to the City Solicitor.
2. City Council authorize the City Solicitor to document the Agreement, deliver any notices, and amend the commencement and other dates to such earlier or later date(s), on such terms and conditions as she may, from time to time, determine.
3. City Council authorize the Chief Corporate Officer to administer and manage the Agreement, 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.

4. City Council grant an exemption to the Below Market Rent Policy to allow Clay & Paper Theatre to become a tenant at 35 Strachan Avenue without the need to solicit a request for proposals as required by the Below Market Rent Policy.

Financial Impact

The proposed Agreement assumes a net lease of 3,000 square feet of space for a nominal consideration. All operating costs related to the building occupancy (currently estimated at \$15,000 per year based on a rate of \$5.00 per square foot) will be paid by the tenant, resulting in no cost to the City of Toronto.

In accordance with the City's Below Market Rent Policy, the opportunity costs of entering into the Below Market Rent agreement must be determined and reported to City Council. Research indicates that the present value of the total opportunity cost of the lease over the 5-year term is approximately \$141,039. 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 \$120,613 for a total present value opportunity cost of \$261,652 over the ten year period.

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

DECISION HISTORY

At its meeting on October 1, 2, and 3, 2002, Council adopted "A Policy for City-Owned Space Provided at Below-Market Rent" as the first step in rationalizing how City-owned space is provided to community and cultural organizations.
(<http://www.toronto.ca/legdocs/2002/agendas/council/cc021001/pof13rpt/cl001.pdf>).

Through subsequent reports, Council has refined the BMR policy framework and has authorized the extension of existing BMR lease agreements. The most recent report was submitted to City Council on November 19-20, 2007 titled "Providing City-Owned Space to Community Organizations at Below-Market Rent".
(<http://www.toronto.ca/legdocs/2006/agendas/council/cc060925/pof7rpt/cl024.pdf>).

Clay & Paper Theatre entered into a 6 month license agreement dated December 1st, 2009 with the City to utilize approximately 450 Sq. Ft. of storage space at the Property. Authority to enter into the license agreement was obtained via DAF #2009-160. The license fee was \$100.00 per month and the term expired in May of 2010. Since that time, the license agreement with this organization has been in an overholding state. Once the Agreement is authorized and executed by both parties, Clay & Paper Theatre will no longer require this storage space.

On May 26th-27th, 2008, City Council authorized a new Below-Market Rent lease agreement with each of 2 organizations (Furniture Bank and Eva's Initiatives) to share the City-owned facility located at the Property.

(<http://www.toronto.ca/legdocs/mmis/2008/gm/bgrd/backgroundfile-12775.pdf>)

Since that time, a lease agreement was finalized between the City and Eva's Initiatives. Notwithstanding Staff attempts to negotiate a lease with Furniture Bank, that organization has declined occupation of the space and execution of the required lease agreement. The lease with Furniture Bank was to have been for approximately 21,500 square feet of space within the building. The lease with Clay & Paper Theatre is for approximately 3,000 square feet of space that was originally allocated to Furniture Bank. Real Estate Services has formally communicated this direction to Furniture Bank.

ISSUE BACKGROUND

Clay & Paper Theatre was incorporated in April of 1995 under the laws of Ontario as a corporation without share capital and is also a registered charity. The goal of this organization is to promote community integrated performing arts and theatre, while ensuring it is accessible to the widest audience possible. To that end, the organization produces annual programming for children, youth, families and at-risk communities in public spaces.

Since 1995, Clay & Paper Theatre has produced an annual season of community-based large scale puppetry theatre in Dufferin Grove Park and throughout public spaces in the City of Toronto.

An eligibility review and performance assessment was conducted in May of 2010 and the organization was deemed eligible to continue occupying their City-owned space as a BMR tenant. Council authority is required to enter into a new BMR lease agreement with this organization.

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.

Clay & Paper Theatre has qualified for below-market rent space from the City as they meet the eligibility criteria (i.e. incorporated as a not-for-profit with charitable status; its activities support City objectives and serve City residents as well as the organization's mandate is not the responsibility of senior levels of government). The organization is a recipient of operating funding from the Toronto Arts Council.

Other cultural organizations such as Buddies in Bad Times Theatre, CanStage, Lorraine Kimsa Theatre for Young People and Toronto Artscape Inc. enjoy similar privileges as per the “Policy for City-Owned Space Provided at Below-Market Rent” report, as adopted by City Council at their meeting held in October 2002.

The proposed BMR lease agreement would allow Clay & Paper Theatre to continue to provide their valuable services and programming to the City’s residents for the foreseeable future.

CONTACT

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SIGNATURE

Bruce Bowes, P. Eng.
Chief Corporate Officer

ATTACHMENTS

Appendix “A” – Major Terms & Conditions
Appendix “B” – Location Map