

Update on the Policy for City-Owned Space Provided at Below-Market Rent

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To:	Executive Committee
From:	Executive Director, Social Development, Finance and Administration
Wards:	All
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SUMMARY

This report provides the findings from the review of the *Policy on City-Owned Space Provided at Below-Market Rent* (BMR Policy). The Policy provides Council and staff with a process for leasing City space at less than market rents to non-profit organizations that deliver community and cultural services to residents and further the City's strategic goals.

The BMR Policy was adopted by Council in 2002 and updated in 2006 and 2007. Over the decade of its development and implementation, the BMR Policy goal of providing a consistent, fair, accountable and transparent approach to the ongoing provision of dedicated community and cultural service space at less than market rates has now been largely achieved.

The Policy review identified a range of strategic issues related to the City's broader community space program that are well beyond the scope of the BMR Policy. These strategic issues are the subject of a forthcoming Community Infrastructure Service Efficiency Study (CIS) that will be launched by the end of 2012. This report recommends that the broader policy issues associated with the City's community space program be referred to the Executive Director, Social Development, Finance and Administration for consideration as a part of the CIS.

This report proposes three improvements to the administration of the BMR program for implementation in advance of the CIS. These changes will improve service to current and prospective tenants (both market-rate and BMR), and allow Council to consider the social, economic and cultural capital that is returned from its investment in BMR space.

RECOMMENDATIONS

The Executive Director, Social Development, Finance and Administration, recommends that:

1. City Council direct the Executive Director, Social Development, Finance and Administration to develop a measure of "Return on Investment" (ROI) for the City Space at Below Market-Rent Program (BMR) that considers the costs of the investment in the BMR program made by the City and the returned value of the programming supported by the investment, and direct the Chief Corporate Officer to include this ROI in all BMR-related reports to Council.
2. The Policy for City-Owned Space Provided at Below-Market Rent be modified so that new spaces made available for community use through the City's surplus property disposal process or negotiated in Section 37 agreements are allocated through a competitive process except where a local development process has already taken place and:
 - a. The preferred tenant identified through the local development process meets all of mandatory eligibility criteria of the standard competitive process; and
 - b. The preferred tenant identified through the local development process achieves a minimum 70% score on the assessment criteria of the standard competitive process.
3. Council direct the Executive Director, Social Development, Finance and Administration to consider the range of community space types and related governance models required to support effective community and cultural service delivery in Toronto as a part of the upcoming Community Infrastructure Service Efficiency Study.

Financial Impact

The adoption of this report's recommendations will have no financial impact beyond what has already been included in the 2012 operating budget.

DECISION HISTORY

On October 1, 2, and 3, 2002, Council adopted the report titled *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>

At its June 27, 28 and 29, 2006 meeting, Council adopted the report from the Community Services Committee titled *Increasing the Supply of Space Available for Community Use*. Council clarified its priorities by endorsing the policy direction of designating community use as the second priority for the allocation of surplus City owned property, after the development of affordable housing.

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060627/cms4rpt/cl010.pdf>

On November 19-20, 2007, Council adopted the report titled *Providing City-Owned Space to Community Organizations at Below-Market Rent*. In adopting this report, Council approved existing lease agreements with 73 non-profit organization tenants, and directed that new space made available for community use through the City's surplus property disposal process or negotiated in Section 37 agreements be allocated through a competitive process.

<http://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-7803.pdf>

On September 26 – 27, 2011, Council adopted the report titled *Core Service Review – Final Report to Executive Committee*. This report requested that the City Manager undertake a study of community infrastructure provided through libraries, community centres, community hubs, related agencies and organizations, and report to the Executive Committee on a plan that maximizes the use of the City's assets and enhances service system coordination.

<http://www.toronto.ca/legdocs/mmis/2011/ex/bgrd/backgroundfile-40702.pdf>

ISSUE BACKGROUND

"Below-Market Rent Space" (BMR) is the term used to describe City-owned space that has been leased to eligible non-profit organizations for dedicated use in the delivery of community and cultural services. There are currently 93 non-profit organizations providing community and cultural services in BMR spaces that range in size from a single room in a larger City-occupied facility to a complete, purpose-built community hub. Twenty-six of these organizations provide services that advance the mandate of the Economic Development and Culture Division; thirteen provide services aligned with the mandate of the Parks, Forestry and Recreation Division (PFR); fifty-three provide services aligned with the mandate of Social Development, Finance and Administration (SDFA); and an additional organization provides services that advance the mandate of both PFR and SDFA. Under the BMR Policy, these service providers typically lease City space for a five year period at a nominal rent and assume responsibility for all of the space's operating costs.

The practice of leasing City-owned space to community organizations for dedicated service delivery predates amalgamation. All of the former area municipalities recognized that they benefited from providing these spaces to support the delivery of community and cultural services at little or no cost to the tenant organizations. In return for low cost space, tenant organizations provided services that advanced municipal goals and objectives and in a few cases, eliminated the need for the municipality to provide some directly delivered services.

The administration of community and cultural service space varied across area municipalities. In 2002, Council took a first step in rationalizing its administration practices when it adopted the *Policy for City-Owned Space Provided at Below-Market Rent*. The goal of the Policy was to provide a consistent, fair, accountable and transparent approach to the ongoing provision of dedicated community and cultural service space at less than market rates. The Policy introduced a competitive process for the allocation of new BMR spaces, and established four criteria all organizations had to meet to be eligible for BMR space:

1. Organizations must have non-profit status;
2. The programs and services provided by the organization must be aligned with a City of Toronto divisional mandate;
3. The organization must provide services for Toronto residents; and
4. The mandate of the organization must not be the sole responsibility of a senior order of government.

Following a decade of ongoing development and implementation, staff initiated a full review of the existing BMR Policy to identify changes that would maximize the use of City-owned spaces for community and cultural service delivery. The review process and its recommendations are described in the following sections.

COMMENTS

BMR Policy Review Process

Two distinct bodies were created to support the review process. A Steering Committee comprised of representatives from Children's Services, Economic Development and Culture, Facilities Management, Long Term Care Homes and Services, Parks, Forestry and Recreation, Real Estate Services, Shelter, Support and Housing Administration, and Social Development, Finance and Administration was created to guide the process and identify options for process improvement. All of these divisions play an important role in the administration of City space or in the administration of the BMR program. A Stakeholder Group was also created comprised of organizations with tenancies that pre-date amalgamation, organizations whose tenancies began under the current BMR Policy, and United Way Toronto and the Ontario Trillium Foundation, both funders that have made significant investments in community and cultural service space.

Beyond BMR

As an operational policy, the BMR Policy has provided a useful framework for the allocation of surplus and purpose built community space as it becomes available, and its goal of providing a consistent, fair, accountable and transparent approach to the ongoing provision of dedicated community and cultural service space at less than market rates has now been largely achieved.

The City's BMR program now shows a consistency that did not exist at amalgamation. Fair and equitable eligibility criteria have been established for the assessment of applicant organizations and the allocation of space. An open and transparent process has been created to allocate space, with information about the evaluation process and criteria publicly available. Accountability for the allocation of space has been ensured using a competitive process for the allocation of new BMR spaces and Council approval for all recommended leases and service agreements. Service agreements and leases have been modelled on best practices from the business sector, and organizations that have failed to honour the terms of these agreements have been removed from BMR spaces.

Both the Steering Committee and the Stakeholder Group identified that even though the BMR Policy has been successfully implemented, a series of strategic questions about community and cultural service space remain unanswered. How much dedicated community and cultural service space does Toronto need? Where should the space be located? What should be the City's role in the provision of this space? How will the City know whether it is maximizing the use of these space assets by dedicating them to community and cultural service delivery?

These kinds of strategic questions fall outside of the mandate of the BMR program and cannot be appropriately addressed with modifications to the Policy. The current Policy allows Council to understand its provision of dedicated community and cultural service space primarily as a real estate transaction. Council considers each new tenancy informed by a report from the Chief Corporate Officer and the program division that the proposed tenant's services are aligned with. The use of the space is based on a landlord-tenant model: as landlord, the City enters into a lease agreement with a non-profit community or cultural organization and in return for a reduced rent, the tenant enters into an additional agreement with the City to provide services.

The strategic questions identified in the BMR Policy review process are not questions of real estate, and cannot be addressed with improvements to the BMR program's existing landlord-tenant model. However, they will be an important part of the upcoming Community Infrastructure Service Efficiency Study (CIS).

In considering the City Manager's report on the Core Services Review in September 2011, Council directed the City Manager to "undertake a study of community infrastructure provided through the City's libraries, community centres, community hubs, related agencies, and organizations, and report to Executive Committee on a plan that maximizes the use of the City's assets, and enhances service system coordination." The CIS will be launched by the end of 2012, and will report back to Executive Committee before the end of 2013. With this in mind, the Steering Committee and Stakeholder Group determined that the strategic issues raised in the review would be most appropriately considered as a part of the CIS.

The Steering Committee and Stakeholder Group also identified three key improvements that could be made within the City's existing BMR program model. These changes are

described in the following sections, and will be implemented in January 2013. The final section of this report describes an additional strategic issue for consideration in the CIS.

Improving Service to Prospective and Existing BMR Tenants

More than 99% of City-owned space is occupied by City Agencies, Boards, Commissions and Divisions, and both Real Estate Services (RES) and Facilities Management (FM) have designed their work processes, reporting tools, and communication materials with this in mind. For the tenants of the 1% of City-owned space that is leased, these standardized approaches do not always meet the needs of their governance, management and administrative systems. The mismatch between RES and FM processes and tenant needs is particularly great for smaller organizations that are BMR tenants, many of whom have little previous experience in the commercial real estate market.

Significant process changes within RES and FM to accommodate the needs of market-rate and BMR tenants are not possible within existing resources. However, both divisions are currently developing new communication materials designed to help prospective and existing tenants understand the City's processes and the ways they can engage them.

RES is developing communication materials that will help prospective BMR tenants understand the commercial leasing process and the roles and responsibilities of the City as landlord and the organization as tenant. These materials will help both prospective market-rate and BMR organizations determine in advance whether they have the financial and management capacity to take on leased space (whether through the City or the private market) and better prepare them to become a successful tenant.

FM is developing communication materials that will help prospective BMR tenants understand the operating costs they will be responsible for, the variation in these costs that must be expected, and cost reporting and payment cycles. Non-profit organizations typically have very constrained budgets, and these materials will help prospective tenants determine whether they have enough flexibility to accommodate likely fluctuations in operating costs. FM and RES are also working together to develop a quick reference sheet that helps tenants engage City maintenance processes where appropriate.

The three communication tools being developed by FM and RES for prospective and current BMR tenants are expected to improve accountability and transparency in the BMR program both for tenant organizations and City staff. These tools will be developed and piloted in 2012, with final versions available publicly in January 2013.

The Value of BMR Space

During the review process, both the Steering Committee and Stakeholder Group identified that the contribution the BMR program makes to the City's social and cultural goals needs to be more clearly articulated for Council and for residents of Toronto.

The BMR Policy clearly articulates the rationale for providing community and cultural service space:

Provision of City-owned space at below-market rent is a form of partnership with and investment in community and cultural organizations that helps the City achieve its goals for its residents and complements City programs and services. The provision of such space is a form of support that allows the City to deliver services through community and cultural organizations.

However, the social and cultural return that the City receives from its investment in these spaces has not been quantified – only the fiscal cost of these investments has been quantified in the form of an "Opportunity Cost."

Each BMR tenancy considered by Council includes information on the Opportunity Cost of the arrangement, an approximation of the potential revenue that could be generated if the space were made available for lease on the open market. This measure allows Council to understand the scale of its investment in space within the context of its fiscal goals. Both the Steering Committee and Stakeholder Group identified that Council's decision-making could be assisted with a more complete set of measures that allow Council to understand its investment in fiscal terms and in terms of the social, economic and cultural returns generated from the investment.

To quantifying the social, economic and cultural returns that are generated from its program investments, the City would require new methodologies. Calculations of program returns, whether the investments are in traditional municipal infrastructure or in social, economic, and cultural capital, are extremely complex, and require a dedicated investment of resources over a sustained period of time.

Nonetheless, the Steering Committee and Stakeholder Group identified that a simple "Return on Investment" (ROI) could be developed for the BMR program and provided regularly to Council to assist in its decision-making. At its most basic, an ROI would consider the incremental staffing, operating and lease-hold improvement costs to the City of delivering the BMR program as its "investment." The "return" on this investment is the value of the programming that the tenant provides that it would not be able to provide if it had to pay market rent. Over time, this ROI figure could be enhanced to consider capital investments made by tenants in City-owned spaces, and in the longer term, the broader social, economic and cultural impact of the programs operating from City spaces where this information is available.

To assist Council with its decision-making, this report recommends that a simple ROI measure for the BMR program be developed and included in all reports to Council on the BMR program beginning in 2013.

Ensuring the Efficient Use of Resources in the BMR Program

The BMR Policy specifies that new space made available for community use through the City's surplus property disposal process or negotiated in Section 37 agreements must be allocated through a competitive process. Currently, such spaces are allocated using a Request for Expression of Interest (REOI) under the BMR program.

The BMR REOI process is designed to ensure that there is fairness, transparency and equity in tenant selection and that local service priorities are addressed. The process operates based on the assumption that the best choice of tenant has not been identified by the City or the local community, and that the interests of the City and community are best served with an open, public call for proposals from prospective tenants.

In some situations where new BMR space becomes available, the best possible tenant for the space has already been identified through a local City-community development process before the REOI process has been initiated. For example, when Council ordered the closure of the Mid-Scarborough Rifle Club at the Don Montgomery Community Centre at 2467 Eglinton Ave. East, staff convened a local development process that engaged youth and community partners to explore ways the vacated space could be converted to a much needed youth facility in this priority neighbourhood area. The resulting conversion project was approved by Council as part of the City of Toronto Stimulus Projects under the Recreational Infrastructure Canada and the Ontario REC Programs in 2009, and supported with additional funds raised by local youth from the Youth Challenge Fund and the Ontario Trillium Foundation. The African Canadian Legal Clinic also came forward as a capital investment partner, and offered its Youth Justice Education Program out of this location.

In the report to Council on the resulting BMR space, staff recommended an exemption to the BMR Policy's requirement for a competitive process to determine an appropriate community or cultural service tenant. The local development process had already identified the African Canadian Legal Clinic as an eligible tenant organization with the demonstrated ability and commitment to meeting local service priorities. In such a situation, administering the BMR Policy's required competitive process would have resulted in an inefficient use of City and community resources, and would not have created any additional openness, transparency or equity.

This report recommends that the BMR Policy be modified so that new spaces made available for community use through the City's surplus property disposal process or negotiated in Section 37 agreements are allocated through a competitive process except where a local development process has taken place and:

1. The preferred tenant identified through the local development process meets all of mandatory eligibility criteria of the standard competitive process; and
2. The preferred tenant identified through the local development process achieves a minimum 70% score on the assessment criteria of the standard competitive process.

This change in the BMR Policy will ensure that the goals and standards of the Policy's competitive process are maintained while making efficient use of both City and community resources.

A Wide Range of Tenants, a Single Model of Space

During their review, both the Steering Committee and Stakeholder Group concluded that the single landlord-tenant model offered by the BMR program does not always serve the interests of BMR tenants or the City.

The BMR program is designed and resourced to meet the needs of organizations that have a well-developed governance capacity, can utilize the space on a full time basis, and see themselves primarily as a tenant of the City rather than as a service partner. Because non-profit organizations that are best positioned to meet community needs do not always fit this description, neither these organizations nor their communities are always well-served by the "one-size-fits all" approach of the existing BMR program.

Organizations that have been in City-owned space for many years and who have invested significant time and money in the development of the space and their services generally find their needs are a poor fit with the BMR's leasing model. These organizations have built long-term, sustained relationships with their communities, with other service providers, and with the City, and consequently feel that their relationship with the City goes far beyond that of a landlord and tenant. The current structure of the BMR program cannot recognize the long term investment made by either the City or such organizations in community and cultural service delivery.

Smaller organizations that have developed in response to new community opportunities and needs often find the BMR model cannot offer them the kind of support they require to build their governance and service delivery capacity. To become effective agents of change in their communities, these organizations require capacity building supports that are beyond the scope of the BMR program.

In the opinion of the Steering Committee and Stakeholder Group, the needs of both long term service partners and newer community groups would be more effectively addressed in a broader a review of the City's community space program than through modifications to the existing BMR model. As a result, this report recommends that the CIS consider the range of community space types and related governance models that are required to support effective community and cultural service delivery in Toronto, and the role the City's community space program should play in the provision of these spaces. As a part of the review, the Steering Committee and Stakeholder Group propose that the CIS consider a variety of community space models including:

- the existing BMR landlord-tenant model;

- fixed-term capacity building spaces that allow organizations to build their governance and service delivery capacity over a set number of years before the space is made available to another organization;
- "hub" models that allow a primary organizational tenant to provide space and support to smaller organizations;
- spaces to support the delivery of mandated services such as child care and emergency shelters; and
- long-term, joint-development spaces, such as the ones the City has developed at the Evergreen Brickworks and the Artscape Wychwood Barns.

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