



**STAFF REPORT
ACTION REQUIRED**

Below-Market Rent Agreement at 52 Hillcrest Avenue

Date:	February 6, 2012
To:	Government Management Committee
From:	Chief Corporate Officer General Manager, Economic Development and Culture General Manager, Parks, Forestry and Recreation
Wards:	23 - Willowdale
Reference Number:	P:/Gm12011re AFS#15008

SUMMARY

The purpose of this report is to obtain City Council authority to enter into a new Below-Market Rent (BMR) lease agreement with Toronto Arts Foundation for the building located at 52 Hillcrest Avenue in Ward 23. The proposed tenancy is for the standard term of five years. This BMR lease with the Toronto Arts Foundation will facilitate the accommodation and development of Arts North York, a not-for-profit local arts service organization that will support the arts and culture community in North York. There is an identified absence of these services in North York. This is consistent with Action 2.3 of the Creative Capital Gains report, endorsed by Council in May 2011, which recommends the establishment of Local Arts Service Organizations in North York and East York.

RECOMMENDATIONS

The Chief Corporate Officer; the General Manager, Economic Development and Culture (EDC); and the General Manager, Parks, Forestry and Recreation (PRF) recommend that:

1. City Council authorize the City to enter into a Below-Market Rent lease agreement with Toronto Arts Foundation for a five (5) year term, substantially based on the terms and conditions set out in the attached Appendix "A", and any other terms and conditions acceptable to the Chief Corporate Officer, or his or her designate, and in a form acceptable to the City Solicitor.

2. City Council grant an exemption to the Below-Market Rent Policy to allow Toronto Arts Foundation to become a tenant at 52 Hillcrest Avenue without the need to solicit a request for proposals as required by the Below Market Rent Policy.
3. City Council authorize the Chief Corporate Officer to administer and manage the lease 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 authorize the City Solicitor to complete the lease, deliver any notices, pay expenses and amend the commencement and other dates to such earlier or later dates, on such terms and conditions as she may, from time to time, determine.

Financial Impact

The proposed agreement assumes a lease of 4,588 square feet of space for a nominal net rent consideration. Operating costs related to the building occupancy (currently estimated at \$5,000.00 per year based on the past property management experience) will be paid by the tenant, resulting in no cost to the City of Toronto. Occupancy costs include property taxes, liability insurance and all other operating costs noted in Appendix A. Any additional interior improvements to 52 Hillcrest Avenue, during the 5-year term, will also be the responsibility of the tenant at no cost to the City. However, Parks, Forestry and Recreation will continue to be responsible for capital costs incurred to the envelope of the building.

The building located at 52 Hillcrest Avenue is under the operational management of Parks, Forestry and Recreation. The capital budget for the renovations of the building in the amount of \$205,000 originates from Section 42 funding generated from a development at 225 – 239 Finch Avenue East, and is available within Parks, Forestry and Recreation's 2011 Council-approved Capital Budget and will be carried forward to 2012. Once the expiration of the tenancy occurs, the property will revert back to Parks, Forestry and Recreation for parkland usage.

As a result of \$775,000 donation from Minto Limited, the Toronto Arts Foundation has the financial resources to assume full responsibility for carrying the occupancy costs of the building for the term of the lease. \$275,000 is available to be drawn down over 5 years (\$55,000 annually) and \$500,000 will be invested to endow Arts North York on a long-term basis. The Toronto Arts Foundation recognizes that they will assume full responsibility for occupancy costs at 52 Hillcrest Avenue with no net operating costs to the City for the term of the lease.

In accordance with the City's Policy of City-Owned Space Provided at Below-Market Rent, the opportunity costs of entering into this agreement must be determined and reported to City Council. Research indicates that the total opportunity cost of the lease over the five-year term is approximately \$130,336.00.

The Deputy City Manager and 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 adopted by City Council was on November 19-20, 2007 titled “Providing City-Owned Space to Community Organizations at Below-Market Rent”.

<http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-11-19-cc14-dd.pdf>).

The Below-Market Rent Policy establishes a framework for the leasing of City-owned space to non-profit community organizations at below-market rent where these organizations further the delivery of Council priorities. The proposed tenancy is consistent with this framework.

ISSUE BACKGROUND

In May 2011, City Council endorsed the Creative Capital Gains report that included a recommendation to "establish Local Arts Services Organizations (LASOs) in North York and East York." LASOs provide marketing, promotion, information services, networking, professional development and administrative support to arts organizations and individual artists. The City currently funds four LASOs in Scarborough, York and Etobicoke.

The City of Toronto previously identified the need for a local arts service organization and community cultural space for North York. A study on fostering arts engagement in North York by the Toronto Arts Foundation (2011) demonstrates cultural activity in all 11 Wards that comprise the North York Community Council area (Wards 8, 9, 10, 15, 16, 23, 24, 25, 26, 33, 34). Extensive community consultations were held in the spring of 2011 and the demand for a local arts service organization in North York is high.

In 2010, the Toronto Arts Foundation (TAF) was the recipient of a donation of \$775,000. There were no conditions attached to the donation, but it was intended to support the establishment of Arts North York, and the Board of the TAF earmarked the funding for this purpose. In 2011, the TAF hired a new staff person to lead the Arts North York initiative.

The building at 52 Hillcrest Avenue is a two-storey house consisting of 4,588 sq. ft., including the basement. It was acquired by Parks, Forestry and Recreation for parkland purposes. It was subsequently renovated by Toronto Employment and Social Services to provide a temporary training facility. Through Section 42 funding, the amount of \$205,000 has been allocated within the Parks, Forestry and Recreation 2011 Capital budget for renovations to the building. A minor variance application will also be submitted to the Committee of Adjustment by Parks, Forestry and Recreation as part of the permit approvals process for a change of use from residential. The renovations will commence in 2012 and be managed by Parks, Forestry and Recreation in preparation for occupancy by community cultural groups in North York under a Below Market Rent lease to the Toronto Arts Foundation.

This report recommends an exemption to the Below Market Rent policy to allow Toronto Arts Foundation to become a tenant at 52 Hillcrest Avenue without the need to solicit a request for proposals through the Request for Expressions of Interests (REOI) process. The REOI requirement is to ensure that there is fairness, transparency and equity in selecting BMR tenants. The exemption is recommended because no other cultural organization working in the North York community is able to deliver the required cultural services. The TAF has the capacity, skills, relationships, and experience to establish and operate a local arts service organization and a small facility for the benefit of the community.

The Toronto Arts Foundation meets all the eligibility requirements of a Below Market Rent tenant, and has signed the required Service Level Agreement in accordance with the BMR policy.

COMMENTS

Parks, Forestry and Recreation has reviewed the terms and conditions and is in support of the proposed tenancy by the Toronto Arts Foundation as there is no short-term need of the property for parkland purposes at this time.

The proposed BMR tenant use has been deemed compatible with the existing art and community uses in proposed for facility, compatible with City's mandate and priorities, and the proposed tenant meets the eligibility requirements under the Below-Market Rent Policy.

The development of local arts service organization in North York within the PFR space is made possible through the co-development of the site by PFR and the Toronto Arts Foundation. Because the TAF is the recipient of the operating start-up grant, and PFR is the recipient of the Section 42 funding, it allows for space and service provisions benefitting North York residents that neither organization could achieve independently. The City asset is maximized for public community use, using funds gained through private developers.

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SIGNATURE

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ATTACHMENTS

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