



STAFF REPORT ACTION REQUIRED

Below-Market Rent Agreements at 3401 Dufferin Street and at 2975 Don Mills Road West

Date:	June 3, 2013
To:	Government Management Committee
From:	Chief Corporate Officer and Executive Director, Social Development, Finance and Administration
Wards:	Ward 15 - Eglinton - Lawrence Ward 33 - Don Valley East
Reference Number:	P:\2013\Internal Services\RE\Gm13020re (AFS #17751)

SUMMARY

The purpose of this report is to obtain City Council authority for the renewal of a sublease agreement with Art Starts Neighbourhood Cultural Centre (Art Starts) at 3401 Dufferin Street (Lower level of Yorkdale Shopping Centre) under the City's Below-Market Rent (BMR) policy, and to amend an existing BMR lease to include an additional 117 square feet of space with North York Harvest Food Bank at 2975 Don Mills Road West.

RECOMMENDATIONS

The Chief Corporate Officer and the Executive Director of Social Development, Finance and Administration recommend that:

1. City Council authorize the renewal of the BMR sub-lease agreement with Art Starts Neighbourhood Cultural Centre, for a ten (10) year term, based on the terms and conditions of the existing lease, and the terms as set out in Appendix "A", and on such other terms and conditions acceptable to Chief Corporate Officer, or her designate, and in a form acceptable to the City Solicitor.

2. City Council authorize the Social Development, Finance and Administration Division (SDFa) to receive funds on behalf of the City of Toronto from Oxford Properties Group (management company for Yorkdale Shopping Centre) amounting to \$520,000 in instalments of \$52,000 per year over ten years, and for SDFa to disburse this funding to Art Starts Neighbourhood Cultural Centre for youth arts initiatives.
3. City Council increase the 2013 Approved Operating Budget for SDFa by \$52,000 gross/ \$0 net, with funding provided by Oxford Properties Group, to provide funding to Art Starts Neighbourhood Cultural Centre for youth arts initiatives.
4. City Council authorize an amendment to the existing Below-Market Rent (BMR) lease agreement with North York Harvest Food Bank to add approximately 117 square feet of additional space on the first floor of the building located on the property known municipally as 2975 Don Mills Road West, substantially based on the terms set out in the attached Appendix “B”, with such revisions thereto and such other terms and conditions deemed appropriate by the Chief Corporate Officer, or her designate, and in a form acceptable to the City Solicitor.
5. City Council authorize the Chief Corporate Officer, or her designate, to administer and manage the agreements indentified in Recommendations 1 and 4, 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.
6. City Council authorize the City Solicitor to complete the agreements, deliver any notices, pay expenses and amend the commencement and other dates to such earlier or late date(s), on such terms and conditions, as she may, from time to time, determine.

Financial Impact

Renewal of Sub-lease Agreement with Art Starts

The proposed agreement will provide Art Starts Neighbourhood Cultural Centre with 2,780 square feet of space within a non-City owned facility for a nominal net rent consideration. The current agreement with the City’s Landlord (Yorkdale Shopping Centre Holdings Inc.) stipulates that the landlord will pay all operating costs related to the building occupancy such as HVAC, water, hydro and lighting to the premises at no cost to the City. The Landlord has also agreed to pay any applicable realty taxes and will provide usual janitorial cleaning services for the space. Arts Starts shall be responsible for all other costs, including maintenance, repair and replacement of the premises. Thus, there are no operating costs associated with this space for the City of Toronto.

In accordance with the City's Below Market Rent Policy on City-Owned Space Provided at Below Market Rent, the opportunity costs of entering into the Below Market Rent agreement must be determined and reported to City Council. However, the current agreement with Yorkdale also stipulates that the space may only be used and operated by the City as a community arts centre and has provided program funding to the City to disburse to one specific organization, Art Starts, during their tenancy in the space. Consequently, there is no opportunity costs to the City.

The funding provided by the Oxford Properties Group on behalf of Yorkdale Shopping Centre Holdings Inc. totalling \$520,000 (\$52,000 per year over ten years) will be received by S DFA on behalf of the City of Toronto and will be disbursed to Art Starts in full through ten annual instalments. Although this BMR lease agreement will have no net impact on the City's budget, approval of this agreement will require an increase in the 2013 Approved Operating Budget for S DFA of \$52,000 gross/ \$0 net to fund programming provided by Art Starts Neighbourhood Cultural Centre. Funding for the remaining nine-year term of this agreement will be included in future years' operating budget submissions for S DFA.

Lease Amendment for North York Harvest Food Bank

The additional 117 square feet of space for North York Harvest Food Bank will be for a nominal net rent consideration. All operating costs related to North York Harvest Food Bank's occupancy of the additional space, currently estimated at \$10 per square foot or \$1,170 per year, will be paid for by the tenant, resulting in no cost to the City.

Research indicates that the total opportunity cost for additional space over the remainder of the term (four years and four months) expiring on September 30, 2017 is \$8,300.

The Deputy City Manager and Chief Financial Officer have 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 reviewing the BMR program was approved by City Council on November 27, 2013 titled "Update on the Policy for City-Owned Space Provided at Below-Market Rent."

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX25.7>

In accordance with Motion 2003-04-J(6) moved by Councillor Moscoe, adopted by Council on April 14, 15 & 16, 2003, and Motion M176 of Councillor Moscoe, adopted by Council on

November 19 & 20, 2007, the Community Premise Lease dated June 27, 2006 for a term of 25 years with an option to renew for additional 10 years was executed by both parties.
[http://www.toronto.ca/legdocs/2003/agendas/council/cc030414/nomj\(6\).pdf](http://www.toronto.ca/legdocs/2003/agendas/council/cc030414/nomj(6).pdf)
<http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-11-19-cc14-dd.pdf>

At its meeting on May 4 2010 City Council authorized a BMR lease for Art Starts Neighbourhood Cultural Centre at 3401 Dufferin Street for a 3 year term.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.GM31.17>

At its meeting November 29, 30 and December 1, 2011 City Council authorized the BMR lease for North York Harvest Food Bank at 2975 Don Mills Road West for a 5 year term.
<http://app.toronto.ca/tmmis/viewagendaitemhistory.do?item=2011.gm9.9>

ISSUE BACKGROUND

Art Starts Neighbourhood Cultural Centre

City of Toronto entered into a Community Premise Lease Agreement with Yorkdale Shopping Centre Holdings Inc. ("Yorkdale") dated June 27, 2006 for a twenty-five (25) year term, commencing August 1, 2006 and expiring July 31, 2031 with two options to renew for 5 years each. In 2010, City Council authorized Art Starts to become a BMR tenant and to receive a total of \$156,000 of program funding disbursed over three years from Oxford Properties on behalf of Yorkdale. Council authority is required to both renew the sub-lease with Art Starts for an additional 10 year term and for SFA to receive and disburse programming funds to Art Starts over a 10 year period.

Arts Starts Neighbourhood Cultural Centre has been a sub-tenant since May 1, 2010 and has contributed to the increased community develop of Ward 15 through arts based programming. The landlord, encouraged by Art Starts' services, will provide the sub-tenant with additional funding of \$520,000 over the ten year term, beginning in the fall of 2013 to support art programs for youth in the Neptune and Lawrence Heights communities.

North York Harvest Food Bank

North York Harvest Food Bank has been a BMR tenant at 2975 Don Mills Road West since 2012. As the second largest emergency food delivery service in Toronto with the capacity, financial sustainability, and experience to implement a food emergency service in Ward 33, North York Harvest Food Bank was selected by the local Food Securities Network Committee as the appropriate community-delivery agency to seek below-market rent City space to support their delivery of emergency food services for the Don Valley Ward area.

North York Harvest requires additional space to house a storage facility to maintain the food bank at optimal levels to serve area residents. 2975 Don Mills Road West is a City-owned building operated under the Parks, Facilities and Recreation Division. The Division has provided written approval for North York Harvest Food Bank to take over a vacant space of 117 square feet adjacent to their existing BMR space. Council authority is required to amend North York Harvest Food Bank's existing BMR lease to include the additional square footage.

COMMENTS

Art Starts Neighbourhood Cultural Centre

Art Starts engages residents in vulnerable neighbourhoods using arts as an accessible tool for social change in their city-wide programs and in specific neighbourhoods like Neptune and Lawrence Heights communities. The renewal of the sub-lease agreement provides Art Starts with a stable ten-year term in the art gallery and programming space that they have successfully delivered services from 2010. Arts Starts was specifically identified by the City's landlord, Yorkdale Shopping Centre, to continue its occupancy of this space for a ten-year term and to receive ongoing funding to support its work over the same duration.

North York Harvest Food Bank

The North York Harvest Food Bank currently occupies a 504 square foot room, called the Oriole Food Space, which hosts a range of food-related programs and services for residents in the Don Mills and Sheppard area. The site offers free food bank services, community kitchen programming and a meeting space for the local community. They have been fully operational for eight months and their client numbers have more than doubled from their original expectations which has challenged the organization's capacity to store a full week's supply of food. As a result of this larger food demand, they have asked for storage space in the facility in order to establish food reserves and accommodate the growing need. In response, Parks, Forestry and Recreation has approved use of a 117 square foot unused space adjacent to the Oriole Food Space.

Under the BMR policy, selected organization(s) for BMR tenancy must be not-for-profit, provide services primarily to Toronto residents and provide services that further City objectives and priorities. In addition, the services it provides must not be the responsibility of another level of government.

SDEA reviewed and determined Art Starts Neighbourhood Cultural Centre and North York Harvest Food Bank have maintained all eligibility requirements under the BMR Policy as well as significantly contribute to the community through service provision.

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SIGNATURE

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ATTACHMENTS

Appendix “A” – Major Terms and Conditions for Art Starts
Appendix “B” – Location Map for 3401 Dufferin Street
Appendix “C” – Major Terms and Conditions for North York Harvest Food Bank
Appendix “D” – Location Map for 2975 Don Mills Road West