



STAFF REPORT ACTION REQUIRED

Below Market Rent Lease Agreement at 4169 Bathurst Street

Date:	March 23, 2015
To:	Government Management Committee
From:	Chief Corporate Officer and General Manager, Economic Development and Culture
Wards:	Ward 10 – York Centre
Reference Number:	P:\2015\Internal Services\RE\Gm15013re (AFS 20902)

SUMMARY

The purpose of this report is to obtain City Council authority to enter into new a Below-Market Rent (BMR) lease with the Russian Canadian Cultural Heritage Foundation of Maria Blagoveshchensky for 4,305 square feet of space located at 4169 Bathurst Street in Ward 10 – York Centre, owned by Toronto Region and Conservation Authority and managed by the City. The property, known as John Bales House, is a historic house and a designated historic property located in Earl Bales Park.

RECOMMENDATIONS

The Chief Corporate Officer and General Manager, Economic Development and Culture, recommend that:

1. City Council authorize a new Below-Market Rent lease agreement between the City as manager of the property and the Russian Canadian Cultural Heritage Foundation of Maria Blagoveshchensky (RCCHF) for a five (5) year term, substantially on the terms and conditions set out in the attached Appendix “A”, and on such other terms and conditions acceptable to the Chief Corporate Officer, or designate, and in a form acceptable to the City Solicitor.
2. City Council authorize an exemption to the Below Market Rent Policy and provide its consent and authority to allow RCCHF to become the tenant at 4169 Bathurst Street without the need to solicit a Request for Proposals, as required by the Below Market Rent Policy.
3. City Council grant an exemption from the Return on Investment (ROI) requirement as the tool is under development with Social Development, Finance and Administration Division.

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 date(s), on such terms and conditions, as she may, from time to time, determine.
5. City Council authorize the Chief Corporate Officer or designate to administer and manage the lease agreement identified in Recommendation 1, 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.

Financial Impact

The proposed BMR lease agreement with RCCHF will provide a lease of approximately 4,305 square feet at nominal consideration. All operating costs, including realty taxes, all maintenance and repair (save and except for structural repairs) related to the building occupancy will be paid by the tenant, resulting in no costs to the City of Toronto except for structural repairs as long as tenant pays on time.

The building condition assessment has been completed and results indicate that the City will need to spend approximately \$200,000 over the next 5 years for structural repairs at 4169 Bathurst Street as part of the State of Good Repair (SOGR). Normally the City will recover capital costs from "at market" tenants through basic rent, where in case of BMR tenants those costs are not recoverable. Funding of \$200,000 for these capital repairs is included in the 2015 Approved Capital Budget for Economic Development & Culture.

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 \$128,000.

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 reviewing the BMR program was approved by City Council on November 27, 2012 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>)

ISSUE BACKGROUND

John Bales House is owned by Toronto Region and Conservation Authority ("TRCA"), and managed by the City pursuant to an Agreement dated June 14, 1961. Prior written approval of TRCA is required for any lease of the property. Staff are in the process of obtaining such consent. The property was previously occupied by Hincks-Dellcrest Centre under a BMR lease and operated as a provincially mandated Early Learning Years centre at the site. On September 11, 2012, the tenant gave the City 6 months notice that they would be terminating their lease as of March 2013. They vacated the property as of March 15, 2013 and John Bales House has been unoccupied since then. Economic Development and Culture, Museum and Heritage services manages this capital asset.

Following City policy, availability of the property was first circulated to City divisions and agencies, but there was no interest. On February 25, 2013, Cultural Partnerships issued a Request for Expression of Interest (REOI) seeking one qualified community organization to occupy John Bales House. Applications were received from four eligible organizations by Friday, April 19, 2013. On Friday, May 5, 2013 the BMR review panel, comprised of staff from the City Divisions of: Economic Development & Culture; Parks, Forestry and Recreation; Finance; and Real Estate, met to review the applications. Only one applicant had the financial capacity to undertake the lease and occupancy costs. After further consideration, that applicant declined the offer to lease because the overall permitted building occupancy (40) was too low for their needs. Since then, the City has been active in seeking an eligible organization to lease the building.

Through the REOI process, a member of the RCCHF became familiar with the property and brought it to the attention of RCCHF. The RCCHF did not submit an application through the first call process, but when the property remained unoccupied, it approached City staff about tenancy. EDC has been actively soliciting tenants for John Bales House because the heritage property is better maintained with tenants in place; the building has been vacant for 2 years. Given that an REOI process was conducted as per City policy and other interests in the space have not been forthcoming, City staff do not believe another REOI process would be productive. Therefore, pursuing the lease with RCCHF is the recommended action.

COMMENTS

The Russian Canadian Cultural Heritage Foundation of Maria Blagoveshchensky (RCCHF) is a charitable organization that is dedicated to the preservation and promotion of Russian Canadian cultural heritage and the advancement of a flourishing Russian Canadian community for the enrichment of Canada. The Foundation's mission is also to help new immigrants integrate into the Canadian way of life. The RCCHF approached Economic Development and Culture after learning of the space through the local Russian community. RCCHF will use the space for administrative purposes, community access, monthly and weekly lectures (music, art, folkdance, craft & literature).

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.

RCCHF qualifies for a BMR lease from the City, as manager of the property for TRCA, as they meet the eligibility criteria (i.e. incorporated as a not-for-profit corporation with charitable status; its activities support City objectives and serve City residents; and the organization's mandate is not the responsibility of senior levels of government).

An eligibility review and performance assessment was conducted in February of 2015. RCCHF was deemed eligible to enter into a City-owned space as a new BMR tenant. The organization was rated to be at low financial risk due to the fact that it holds sufficient financial investments to guarantee the ability to pay the operating costs subject to the tenant not using these financial investments/capital for any other purposes during the tenancy of the lease.

The proposed BMR lease agreement would allow RCCHF to continue to provide their valuable services and programs to the City's residents for the foreseeable future.

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SIGNATURE

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ATTACHMENTS

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