

Former Public Lane West of 6 Henry Street - Extension and Amendment to Temporary Construction License for Children's Playground

Date: May 14, 2018

To: City Council

From: Deputy City Manager, Internal Corporate Services

Wards: Ward 20 - Trinity-Spadina

SUMMARY

This report seeks authority to extend and amend the nominal sum Temporary Construction License for Children's Playground dated May 18, 2017 with Toronto Community Housing Corporation, for the former public lane located west of 6 Henry Street, Toronto, as more particularly described in Appendix "A" and shown on the location map in Appendix "B" (the "**Property**"), for a further term of two (2) years and to amend the use to permit Toronto Housing Community Corporation's residents access and use of the playground once constructed.

RECOMMENDATIONS

The Deputy City Manager, Internal Corporate Services recommends that:

1. City Council authorize a license extension and amending agreement (the "**Licence Extension Agreement**") to extend and amend the nominal sum Temporary Construction License for Children's Playground dated May 18, 2017 (the "**Licence**") with Toronto Community Housing Corporation ("**TCHC**"), substantially on the terms and conditions set out in Appendix "A", and on such other or amended terms and conditions as deemed appropriate by the Deputy City Manager, Internal Corporate Services or her designate (the "**DCM**"), and in a form satisfactory to the City Solicitor.
2. City Council direct that the Deputy City Manager, Internal Corporate Services shall administer and manage the Licence Extension Agreement, including the provision of any consents, amendments, approvals, waivers, notices and notices of termination, provided that the Deputy City Manager, Internal Corporate Services may, at any time refer consideration of such matters to City Council for its determination and direction.
3. City Council authorize City Officials to take all necessary action to implement the foregoing.

FINANCIAL IMPACT

Entering into the Licence Extension Agreement will extend TCHC right to use approximately 7,800 square feet of park area for nominal consideration, for a further term of 2 years. All operating and maintenance costs related to the Property will be paid by TCHC assuming compliance with the Licence Extension Agreement.

The opportunity cost of entering into the Licence Extension Agreement must be determined and reported to City Council. The opportunity cost of the Licence Extension Agreement is estimated at \$29,100 per year. As the Licence Extension Agreement only permits use of the Property for landscaping, park uses, and open space, the City retains the opportunity to sell the Property if future redevelopment were to occur. This retained value of the Property has been appraised at \$485,000.

The Interim Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

Clause No. 35 of Report No. 30 of the Executive Committee adopted by former City Council at its meeting on July 25 and 27, 1977, as amended by Report No. 3 of the Committee on Public Works adopted in Council on February 27, 1978 (the "**Report**") authorized the Property be closed as a public laneway and leased to the City of Toronto Non-Profit Housing Corporation (the "**City Home**") for use of the former public laneway as an open landscaped area for nominal consideration, subject to easements in favour of Bell Canada and Toronto Hydro for access to their existing infrastructure.

On October 11, 1977, the former City of Toronto Council passed By-Law No.623-77 to stop up and close the Property as a public laneway and authorized the City to enter into a lease agreement with City Home upon the terms set out in the Report.

<http://www.toronto.ca/legdocs/pre1998bylaws/toronto - former city of/1977-0623.pdf>

On February 27, 1978, the former City of Toronto Council passed By-Law No. 126-78 to amend By-Law No. 623-77.

<http://www.toronto.ca/legdocs/pre1998bylaws/toronto - former city of/1978-0126.pdf>

On September 16, 2016, pursuant to Delegated Approval Form, Declare Surplus (Tracking No. 2016-217), the Property was declared surplus with the intended manner of disposal to be by way of a long-term lease to TCHC (not exceeding fifty years less a day), subject to an easement reserved in favour of the City of Toronto for Toronto Water and the granting of easements to Toronto Hydro and Bell Canada.

<https://www.toronto.ca/business-economy/doing-business-with-the-city/real-estate-services-delegated-approval-forms/surplus-property/>

On March 16, 2017, pursuant to Delegated Approval Form (Tracking No. 2017-004), authority was granted to enter into a nominal sum temporary licence agreement with TCHC, to permit TCHC access to the Property for a period of one (1) year, to construct a children's playground, before the long-term lease is finalized.

<https://www.toronto.ca/business-economy/doing-business-with-the-city/real-estate-services-delegated-approval-forms/leases-and-licences/>

COMMENTS

The Property is a former public lane which was stopped up and closed on October 11, 1977 by the former City of Toronto Council through By-Law No. 623-77. By a lease dated March 5, 1978 (the "**Laneway Lease**"), the former laneway was leased to City Home for use as a walkway and open area. The Laneway Lease provided that it would automatically terminate upon the termination of the Ontario Housing Corporation lease to City Home of the abutting housing complexes located on either side of the former laneway (the "**Housing Lease**"). In 1999, City Home became Toronto Housing Company Inc. by amalgamation. In 2002, Toronto Housing Company Inc. transferred all of its assets and liabilities to TCHC, including the Laneway Lease. Subsequently, Ontario Housing Corporation transferred title to the abutting housing complexes to TCHC in 2010. By reason of TCHC becoming both the landlord and tenant of the Housing Lease, the Housing Lease simultaneously terminated in 2010. When the Housing Lease terminated, the Laneway Lease automatically terminated at the same time in accordance with the terms of the Laneway Lease. TCHC and its predecessor housing companies have continuously used the Property since 1978 and are currently using the Property for the benefit of the residents in the abutting housing complexes, although the Laneway Lease has automatically terminated.

TCHC's original playground equipment was installed in 2011, partially extending onto the Property without proper authorization. As the Laneway Lease was terminated, and in anticipation of upgrading the playground equipment, TCHC requested a new lease on the Property, along with permission to install updated playground equipment on the Property.

In order to facilitate TCHC's proposed construction schedule and to grant TCHC immediate access to the Property to construct the updated playground, the nominal sum Licence was granted for a term of one (1) year, commencing on May 23, 2017, pending the negotiation of a long-term lease with TCHC

Due to changes in the playground design and other unforeseen delays, TCHC's construction schedule was delayed, and the negotiation of the lease was delayed pending finalization of the playground design and construction schedule.

In October 2017, TCHC finalized its playground design and removed the senior children's playground, as shown on Appendix "C" attached hereto. As TCHC is now in the process of finalizing approvals and has an updated construction schedule with the expectation that the playground can be completed in or around May - June 2018, TCHC requested an extension of the Licence. Without the extension of the Licence, the term would expire on May 22, 2018, and TCHC would not have a legal right to be on the Property.

Since the Licence is for compensation at less than market value, Staff are only delegated approval and signing authority where the term does not exceeding twelve (12) months. Accordingly, authority is requested from Council to extend the term of the Licence for a further period of two (2) years, and to amend the use of the Licence so that TCHC's residents can use the playground and the Property, pending finalization of a long-term lease.

CONTACT

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SIGNATURE

Josie Scioli
Deputy City Manager, Internal Corporate Services

ATTACHMENTS

Appendix "A" – Major Terms and Conditions
Appendix "B" – Location Map
Appendix "C" – Playground Plan

APPENDIX “A” – MAJOR TERMS AND CONDITIONS

Licensors:

City of Toronto

Licensee:

Toronto Community Housing Corporation

Licensed Premises / Legal Description of Licensed Premises:

Approximately 7,800 square feet

All of PIN 21208-0097(LT)

Lane PL D95, Toronto, closed by CT283457, City of Toronto

Term:

Section 4 of the Licence shall be amended such that the licence will expire on the earlier of:

(i) twenty-four (24) months from May 22, 2018; and

(ii) the execution of the long-term lease between the parties for the Property.

Use:

Section 1 of the Licence shall be amended to include the following:

In addition to, and upon completion of the Licensee's Work, the Licensee, its officers, agents, servants, invitees and those authorized by the Licensee shall be permitted access onto the Property for use as an open landscaped area, including use of the playground.

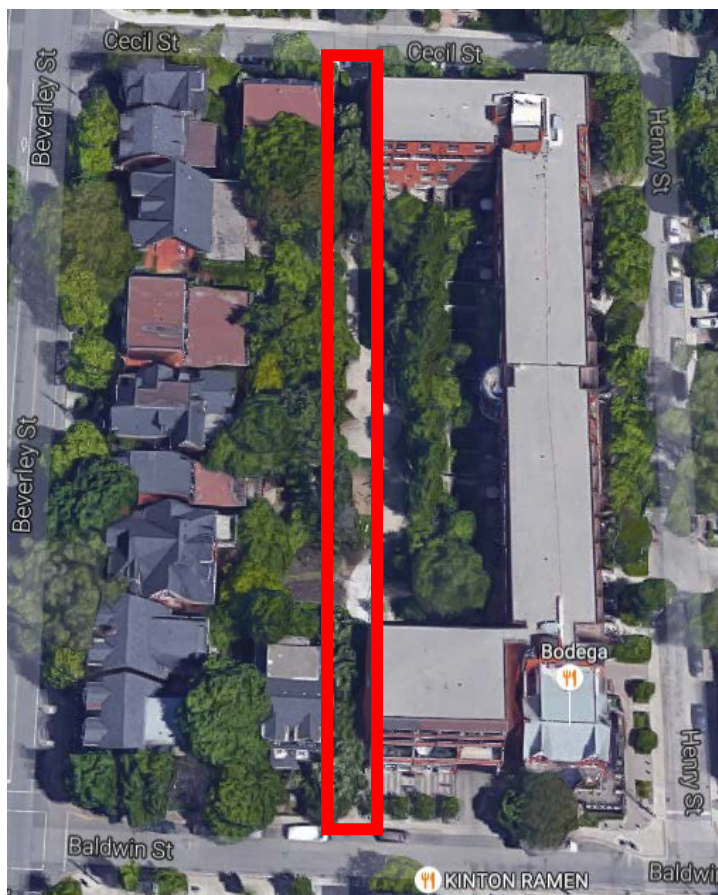
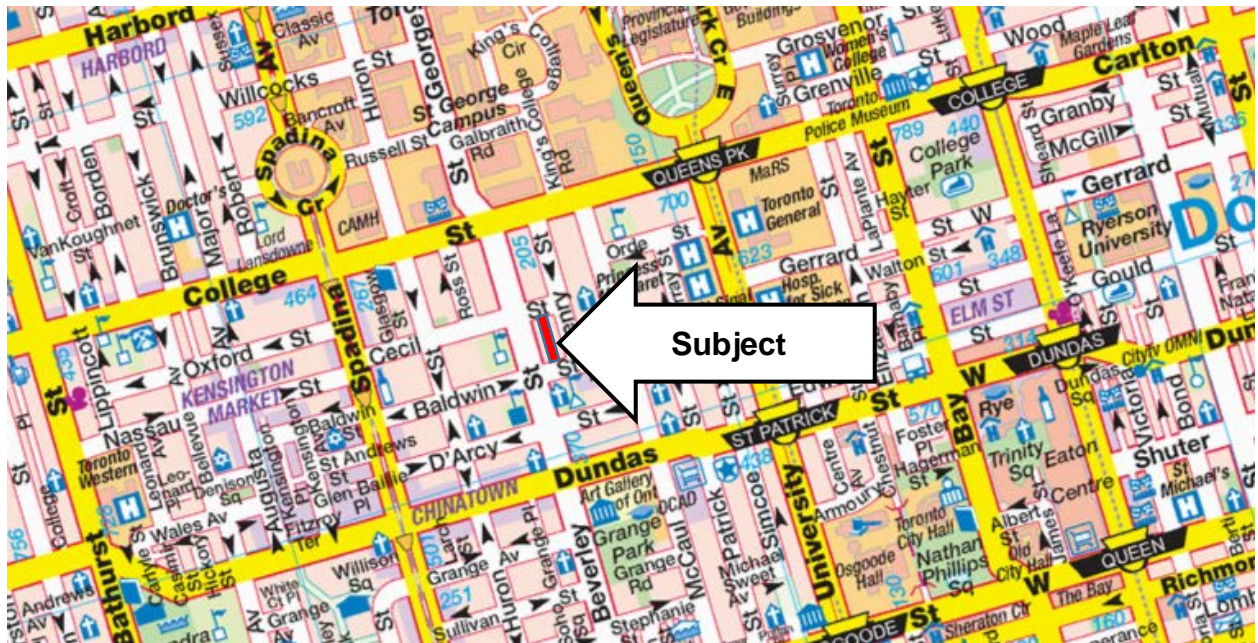
Playground Plan:

Schedule "C" of the Licence shall be replaced with the revised playground plan as shown on Appendix "C" attached hereto.

Hydro Utility Circulation Response:

Schedule "E" of the Licence shall be replaced with the updated Hydro Utility Circulation response dated February 9, 2018.

APPENDIX “B” – LOCATION MAP



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