



Amendments to the Community Space Tenancy Policy Renewal Process for Current Below Market Rent Tenants

Date: February 21, 2020

To: General Government and Licensing Committee

From: Executive Director, Social Development, Finance and Administration and
Executive Director, Corporate Real Estate Management

Wards: All

SUMMARY

The provision of accessible community space is a key component of building strong neighbourhoods. Community use of City space at below-market rent is a form of collaboration and investment in community and cultural organizations.

In November 2017, City Council approved the Community Space Tenancy Policy as a replacement for the Below Market Rent Policy moving forward. As a result, existing Below Market Rent tenants (see Appendix 1) whose leases have expired, or will expire, need to renew their leases under the Community Space Tenancy Policy. Currently under the Community Space Tenancy Policy, Council approval is required whenever a Below Market Rent lease requires renewal and entry into the Community Space Tenancy lease.

The purpose of this report is to recommend that Council amend the Community Space Tenancy Policy to allow existing Below Market Rent lease agreements, upon their future expiry, to be approved for renewal under the Community Space Tenancy Policy via Delegated Authority. This is provided that the tenant is in good standing under its lease at the time of renewal, meets all of the Community Space Tenancy eligibility criteria, and the new lease is on substantially the same terms and conditions as the lease previously approved by Council.

This report also recommends amending the Community Space Tenancy Policy so that it includes facilities used as community centres in addition to facilities used for social or health services and cultural or recreation services as facilities that may be made exempt from property tax by means of a Municipal Capital Facility designation. It further recommends correcting the references to the municipal capital facility regulation.

The approval of the recommendations in this report will streamline the approval process and provide stability and security of leases for below market rent tenants, and ensure Council approved eligibility criteria continues to be met.

RECOMMENDATIONS

The Executive Director, Social Development, Finance and Administration and Executive Director, Corporate Real Estate Management recommend that:

1. City Council amend the Community Space Tenancy Policy to delegate authority to the Deputy City Manager, Corporate Services, in consultation with the Executive Director, Social Development, Finance and Administration and/or the Division Head responsible for the tenants' programs to approve initial Community Space Tenancy leases with respect to each of the existing Below Market Rent Policy tenants identified in the attached Appendix 1, provided that at the time of entering into any such lease, the tenant is in good standing under its current lease, meets all criteria of the Community Space Tenancy Policy, and the new lease is on substantially the same terms and conditions as the lease for such tenant previously approved by City Council.
2. City Council authorize each of the Deputy City Manager, Corporate Services, and the Executive Director, Corporate Real Estate Management, or their designate, to execute the Community Space Tenancy leases, and any related documents on behalf of the City of Toronto, as required.
3. City Council authorize the Executive Director, Corporate Real Estate Management, or his/her designate, in consultation with the Executive Director, Social Development, Finance and Administration and/or the Division Head responsible for the tenant's programs to administer and manage the Community Space Tenancy leases including the provision of any amendments, consents, approvals, waivers, notices, and notices of termination, provided that the Executive Director, Corporate Real Estate Management 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 Executive Director, Social Development, Finance and Administration and/or the Division Head responsible for the tenant's programs to enter into, execute and administer service agreements, including the provision of any amendments, eligibility assessment, and annual reporting with the tenants when the Community Space Tenancy leases are entered into.
5. City Council amend the Community Space Tenancy Policy to include facilities used as community centres as facilities that may be made exempt from property tax by means of a municipal capital facility designation and to correct the references to the municipal capital facility regulation.

FINANCIAL IMPACT

There are no direct financial implications regarding the utilization of Delegated Authority for the renewal of the agreements with the tenants as listed in Appendix 1. The leases will fundamentally remain nominal rent leases net and carefree to the City under the terms of Community Space Tenancy Policy.

As with the terms of the Below Market Rent Policy, the tenants will continue to be responsible for all realty taxes and operating costs related to their leased area under the Community Space Tenancy Policy. Capital repairs and improvements to the City's portfolio of real estate assets remains the responsibility of the City as landlord.

While realty taxes remain the responsibility of the tenant, the Community Space Tenancy Policy and the City as landlord, acknowledges that this financial responsibility can put a serious strain on not-for-profit tenant organizations which ultimately effects the delivery of the community services these tenants provide.

In accordance with the Community Space Tenancy Policy, the leased spaces identified in Appendix 1 may qualify for a Municipal Capital Facility Exemption once moved from Below Market Rent to the Community Space Tenancy. Municipal Capital Facility Exemptions are not retroactive and therefore, in the event that the Municipal Property Assessment Corporation determines that the tenants have been in taxable occupation of these premises, the Municipal Property Assessment Corporation may issue supplementary/omitted assessment notices for the current year and the prior two years. Should the Municipal Property Assessment Corporation issue additional taxable assessments on these properties, this would result in an unfunded estimated potential financial impact of \$3,961,229 for the 2018 and 2019 taxation years combined, and an unfunded amount of \$2,231,596 for the current budget year. If a tax bill is issued to any of the tenants, at that point the City will work with the specific tenants to address the cost.

The Chief Financial Officer and Treasurer has been provided 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>.

At its meeting on December 1, 2008 Council adopted "Amendment of Below Market Rent Lease."

<https://www.toronto.ca/legdocs/mmis/2008/mm/bgrd/backgroundfile-17623.pdf>

At its meeting on September 26 – 27, 2011, Council adopted the report titled Core Service Review – Final Report to Executive Committee. This report authorized Social Development, Finance and Administration to develop a plan that maximized the use of the City's assets and enhanced service system coordination.

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

At its meeting on November 27 - 29th, 2012 City Council authorized "Update on the Policy for City-Owned Space Provided at Below-Market Rent" to 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 Study on Community Infrastructure Service Efficiency.

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

At its meeting on November 7, 8 and 9, 2017, Council adopted the "Community Space Tenancy Policy", replacing the Below-Market Rent Policy.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX28.8>

COMMENTS

The provision of accessible community space is a key component of building strong neighbourhoods. Community use of City space at below-market rent is a form of collaboration and investment in community and cultural organizations. The City depends on a thriving community based non-for-profit sector (also referred to as the for benefit sector) as a key partner in achieving the City's strategic social development and service goals for all residents. The absence of community space directly impacts the availability of programs and services that are responsive to local needs.

In response to the changing space needs of the non-for-profit sector, a review of the Below Market Rent Policy was undertaken and in November 2017 Council approved the Community Space Tenancy Policy. The Community Space Tenancy Policy ensures that the City continues to meet its objectives to provide a consistent, fair, accountable and transparent approach to leasing City spaces to the service sector and cultural organizations at less than market rates, while fostering partnerships that support these organizations to meet resident needs. The Policy includes a regular review process to ensure that it continues to adapt as needed to meet these objectives.

The Community Space Tenancy Policy states that all initial leases entered into pursuant to the Policy require City Council approval. This report addresses 37 tenancies in City spaces leased-out at below market rent under the old Below Market Rent Policy.

The Below Market Rent spaces as set out in Appendix 1 have received prior Council approval for recommended leases and service agreements. This report recommends streamlining the lease renewal process for the existing Below Market Rent tenants by amending the Community Space Tenancy Policy to delegate authority for Below Market Rent tenants, upon the future expiry of their lease, to be approved for renewal under the Community Space Tenancy Policy on the condition that:

- each tenant organization is in good standing under their current Below Market Rent lease,
- each tenant organization meets the eligibility criteria of the Community Space Tenancy Policy, and
- the new lease is on substantially the same terms and conditions as the lease was previously approved by Council.

In each instance the Delegated Authority will also include the Community Space Tenancy Policy requirement that each tenant must also enter into a service agreement with Social Development, Finance and Administration, or the Division responsible for the tenants' programs, which provides greater clarity in respect of the type of programming each tenant will provide, along with other annual reporting responsibilities.

Tenants with Below Market Rent leases have substantially invested in local communities and in the City assets they occupy. Providing Delegated Authority to approve Community Space Tenancy leases as a group on substantially the same terms and conditions as the existing 37 Below Market Rent leases would help to streamline the approval process with Council while providing existing tenants with security of tenancy so they can continue to provide services and secure funding to maintain and enhance service opportunities for vulnerable residents.

This report also recommends amending the Community Space Tenancy Policy so that it includes facilities used as community centres in addition to facilities used for social or health services and cultural or recreation services as facilities that may be made exempt from property tax by means of a Municipal Capital Facility designation. The community centre class of municipal capital facility best describes those tenant organizations providing a wide range of services to the community that may include one or more social, health, cultural or recreation service as well as other types of services.

To be eligible for a Community Space Tenancy lease or sublease, an organization must:

- be incorporated as a not-for-profit corporation, and may not be a subsidiary or related entity of a for-profit corporation or a for-profit social enterprise;
- provide social or health programs and/or services (excluding emergency shelters and housing) or cultural or recreational services to Toronto residents that:
- meet a community need:
 - which are consistent with the strategic directions or objectives of City Council and/or a City Division;
 - that the City may otherwise provide; and
 - that will be the only services and functions provided in the Community Space and will be available to the public.
- satisfy the City that it is in good financial standing and is not in default under any existing lease, service agreement, or other agreement with the City, and has limited risk of insolvency or bankruptcy;

CONTACT

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SIGNATURE

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ATTACHMENTS

Appendix 1 – Current Below Market Rent Leases to be Renewed Under Community Space Tenancy Via Delegated Authority upon Expiry

APPENDIX 1

Current Below Market Rent Leases to be Renewed Under Community Space Tenancy Via Delegated Authority upon Expiry

	STREET #	STREET NAME	TENANT ORGANIZATION	EXPIRY DATE	MARKET TYPE
1	5	Bartonville Avenue East	Urban Arts Community Arts Council	12/31/2019	BMR
2	4169	Bathurst Street	Russian Canadian Cultural Heritage Foundation of Maria Blagoveshchensky	05/31/2020	BMR
3	26	Berkeley Avenue	Canadian Stage Company	08/31/2020	BMR
4	1379	Bloor Street West	Dovercourt Boy's & Girl's Club	11/16/2021	BMR
5	201	Chester Le Boulevard	Agincourt Community Services Association	12/01/2021	BMR
6	3401	Dufferin Street	ArtStarts Neighbourhood Cultural Centre	04/30/2022	BMR
7	666	Eglinton Avenue West	Don Valley Art Club	6/30/2018	BMR
8	165	Front Street	Young People's Theatre	08/31/2020	BMR
9	30	Grand Trunk Crescent	Toronto Art Council	09/30/2017	BMR
10	1859	Kingston Road	Scarborough Arts Council/Mural Routes	03/31/2016	BMR
11	6282	Kingston Road	Scarborough Historical Society - Morrish Store	06/30/2021	BMR
12	3101	Lake Shore Blvd. West	The Gatehouse Child Abuse Investigation and Support Site	11/01/2021	BMR

	STREET #	STREET NAME	TENANT ORGANIZATION	EXPIRY DATE	MARKET TYPE
13	3131	Lake Shore Blvd. West	Jean Tweed Treatment Centre	05/01/2021	BMR
14	4040	Lawrence Avenue East	East Scarborough Storefront - Tides	04/30/2016	BMR
15	730	Military Trail	Tam Heather Curling and Tennis Club	08/31/2020	BMR
16	1321	Neilson Road	Malvern Family Resource Centre	09/30/2020	BMR
17	524	Oakwood Avenue	NIA Centre for the Arts	04/15/2023	BMR
18	585	Queen Street West	Toronto Arts Council	04/30/2017	BMR
19	34	Riverdale Drive	Franklin Carmichael Art Group	11/30/2021	BMR
20	1751	Sheppard Avenue East	Hong Fook Mental Health	07/31/2021	BMR
21	29	St. Dennis Drive	Thornccliffe Neighbourhood Office	04/30/2022	BMR
22	50	Sousa Mendes Rd	Christie Ossington Neighbourhood Centre	11/30/2019	BMR
23	1652	Keele Street	Community Action Resource Centre -CARC	12/31/2020	BMR
24	1652	Keele Street	Women Abuse Council of Toronto	12/31/2020	BMR
25	1652	Keele Street	Hispanic Community Centre for the City of York	12/31/2016	BMR
26	3600	Kingston Road	Playhouse 66 / Scarborough Village Theatre	07/01/2021	BMR
27	3600	Kingston Road	Scarborough Centre for Healthy Communities	12/31/2021	BMR

	STREET #	STREET NAME	TENANT ORGANIZATION	EXPIRY DATE	MARKET TYPE
28	705	Progress Avenue	Canadian Tamil Youth Development Centre	09/30/2020	BMR
29	705	Progress Avenue	Urban Cat Relief	01/01/2020	BMR
30	705	Progress Avenue	South Asian Autism Awareness Centre	06/30/2022	BMR
31	39	Queens Quay East	No. 9 Contemporary Arts and the Environment - ARTS HUB 27 (#9 CAE)	01/02/2020	BMR
32	38-40	Regent Street	Regent Park Community Health Centre	01/12/2020	BMR
33	38-40	Regent Street	Regent Park Focus Youth Media	01/16/2020	BMR
34	2489	Bayview Avenue	Canadian Film Centre (Windfields Farm Estate)	10/31/2025	BMR
35	1029	King Street West	West Neighbourhood House	12/31/2022	BMR
36	800	Lansdowne Avenue	South Asian Women's Centre (ends in 2021)	08/31/2021	BMR
37	158	Spadina Road	Metropolitan Action Committee on Violence Against Women & Children	08/31/2013	BMR