REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Proposed Settlement with Mun Suk Jeong o/a Elite Cleaners

Date: February 4, 2022
To: Board of Directors, Toronto Parking Authority
From: President, Toronto Parking Authority
Wards: Ward 13 – Toronto Centre

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects Toronto Parking Authority (TPA).

SUMMARY

The purpose of this report is to obtain instructions regarding a settlement of monies claimed against Mun Suk Jeong, who operates Elite Cleaners (the Tenant), to TPA pertaining to the occupancy of Unit 3, 25 Hayden Street located in Toronto, Ontario.

RECOMMENDATIONS

The President, Toronto Parking Authority recommends that:

1. The Board of Directors, Toronto Parking Authority, approve the proposed settlement between TPA and Mun Suk Jeong, operating as Elite Cleaners (the Tenant), on the terms set out in Confidential Attachment 1;

2. The Board of Directors, Toronto Parking Authority, direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it is about litigation or potential litigation that affects Toronto Parking Authority; and

3. The Board of Directors, Toronto Parking Authority, adopt the confidential recommendations set out in Confidential Attachment 1.

FINANCIAL IMPACT

The financial implications are discussed in the confidential attachment.

DECISION HISTORY

There is no decision history associated with this report.

COMMENTS

BACKGROUND:

In 2007, TPA as landlord entered into a five (5) year lease agreement with Muk Sun Jeong, operating as Elite Cleaners (the Tenant), as tenant, for Unit 3, 25 Hayden Street (the Premises) located at TPA Car Park 1. This lease was extended for a further five (5) years in 2012 through a lease extension agreement.

In early 2016, TPA advised the Tenant that it required the Tenant to vacate its unit while TPA constructed an addition to Car Park 1 as they would not be able to operate due to the extent of the construction. By letter agreement dated January 29, 2016 and accepted by the Tenant on February 4, 2016, TPA and the Tenant agreed to the following:

- The Tenant would be able to re-occupy the unit on February 1, 2017.

- The Tenant and TPA would sign a new five (5) year lease agreement for the Premise at the following rental rates:
    - Year 1: $45.00 per square foot
    - Year 2: $50.00 per square foot
    - Year 3: $50.00 per square foot
    - Year 4: $60.00 per square foot
    - Year 5: $60.00 per square foot

- The Tenant would have one (1) option to extend the lease for a further term of five (5) years upon the expiry of the original term.

The Premises was re-occupied by the tenant on December 6, 2017, but due to inadvertence, a new lease agreement was not entered into by both parties at the time.

In January of 2018, City Council centralized real estate functions across the City under Corporate Real Estate Management (CREM). In so doing, TPA's authorities to approve and enter into licences and leases in relation to areas or facilities under its jurisdiction were limited as the City's interests in lands were now intended to be managed by CREM.

This report addresses a matter that was caught in this transition period, from the old regime where lease agreements were within TPA's delegated authority to approve, and the new regime where City Council expressly removed the authority previously delegated to TPA to lease and licence property otherwise under the TPA's jurisdiction, and retaining that authority to be exercised directly by the City.

From December 6, 2017 until the present, the Tenant has occupied the Premises without a valid lease agreement in place. On March 9, 2021, TPA issued a demand letter to the Tenant requesting payment of $192,782.92 of arrears for rent pertaining to the period from December 6, 2017 until March 31, 2021 in an effort to recover costs for the usage of the unit. This figure represented CREM's assessment of the fair market value of the rent for the period.

Thereafter, negotiations ensued between the Tenant's solicitor and the TPA regarding the amount properly owing to the TPA on account of the Tenant occupying the Premises from December 6, 2017 to March 31, 2021 without paying rent. By letter, dated December 17, 2021, the Tenant through its solicitors offered to pay the TPA the sum set out in paragraph 1 of the Confidential Attachment in full settlement of TPA's claims against the Tenant for having occupied the Premises from December 6, 2017 to June 30, 2022 without paying any monies to the City.

A settlement has been agreed upon by TPA and Muk Sun Jeong, operating as Elite Cleaners, as tenant, for Unit 3, 25 Hayden Street located at TPA Car Park 1. Confirmation of the settlement terms and amount being recovered are being sought through this report, the particulars of which are in the confidential attachment.

Should TPA Board of Directors approve the proposed settlement, CREM will bring forth a separate report to the General Governance and Licencing Committee (GGLC) seeking City Council's approval of the settlement in early 2022, which will also authorize TPA to enter into a settlement agreement on such other terms and conditions as are acceptable to the President, TPA and in a form and substance satisfactory to the City Solicitor. It is anticipated that the report to GGLC will be considered at GGLC's meeting of April 29, 2022.

CONTACT

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SIGNATURE

W. Scott Collier, President
Toronto Parking Authority

ATTACHMENTS

Confidential Attachment 1 - Confidential Information