

HALIFAX

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Item No.
HRM Grants Committee
December 4, 2017

TO: Chair and Members of the HRM Grants Committee

SUBMITTED BY: Original Signed

Jerry Blackwood, Acting Director of Finance and Asset Management/CFO

DATE: November 6, 2017

SUBJECT: **Less than Market Value Lease: Kinsmen Club of Sackville, N.S., 71 First Lake Drive**

ORIGIN

This report originates with a request from the Tenant to enter into a new lease agreement with the Halifax Regional Municipality (HRM) for the premises located at 71 First Lake Drive, Sackville, as their lease agreement has renewed annually since the original August 1, 1992 lease.

LEGISLATIVE AUTHORITY

HRM Charter Section 63(1), the Municipality may sell or lease property at a price less than market value to a non-profit organization that Council considers to be carrying on an activity that is beneficial to the Municipality; and (2) A resolution to sell or lease property referred to in subsection (1) at less than market value shall be passed by at least a two thirds majority of the Council present and voting.

RECOMMENDATION

It is recommended that HRM Grants Committee:

1. Recommend that Halifax Regional Council authorize the Mayor and Municipal Clerk to enter into a less than market value lease agreement with the Kinsmen Club of Sackville, N.S. for the premises located at 71 First Lake Drive, PID No. 00359968 per the key terms and conditions set out in Table 1 in the discussion section of this report.

BACKGROUND

The property is a four (4) acre parcel of land located on First Lake in Lower Sackville. The location is officially known as First Lake Park, however, it is also referred to as Murdoch McKay Memorial Park and the Kinsmen Park. The property has an extensive waterfront with a defined beach area, gazebo, children's playground, splash pad, the Glen Slauenwhite Trail and a public parking lot. HRM maintains, and services the property with garbage removal, grass-cutting, maintenance of the splash pad and schedules the gazebo for private events. The 3.3 km trail extends across the waterfront boundary of the land with stewardship provided by Friends of First Lake. The two-storey building onsite is owned and operated by the Kinsmen Club of Sackville, N.S.

The property was created through a plan of sub-division dated October 2, 1962. The sub-divided land was owned by Maple Ridge Realty Limited and was conveyed to the Municipality of the County of Halifax in March of 1963 for a proposed 'Kinsmen Club Playground' and/or "Recreation Centre" as approved by the County of Halifax's Planning Board on December 17, 1962. The land was developed in cooperation with the County of Halifax to provide recreational amenities for the residents of the Maple Ridge subdivision and surrounding neighborhood. In 1997, the County issued a building permit for construction of a two-storey "recreation centre" of approximately 7,320 square feet. The land lease on file is dated November 25, 1991 for one (1) year term and also indicates that providing the Lessee was not in default of any covenants or provisos of the agreement, and the premises were being used for a recreational purpose in a manner satisfactory to the Lessor, then upon expiry of the initial one (1) year term, the Lease shall automatically renew for a further term of one (1) year upon terms and rate of rental to be agreed upon at the time. Each subsequent term that this lease remains in effect, the provisions for automatic renewal may be exercised. The agreement was set at a rent of \$1.00 per annum.

Presently, the building's upper level is used for Kinsmen Club activities, community events and private rentals. The lower floor accommodates the First Lake Early Learning Centre (formerly the Sackville Bedford Developmental Centre), a non-profit society and registered charity founded in 1978 by the Halifax Association for Community Living and the Kinsmen Club of Sackville, N.S. (KCS). The centre operates five days a week from 6:30am to 6pm and serves children with special needs up to 5 years of age. To accommodate the Centre, there is a fenced playground to the rear of the building and a wheelchair accessible pathway from the parking lot. There are no public washrooms provided at this location. The property is zoned P2 (Park). The current use conforms to the Land Use By-law.

DISCUSSION

Incorporated in 1961, the KCS is a membership-based service club that actively raises funds for a variety of community services. Operations are sustained by fundraising and hall rentals. Documentation indicates that the property was acquired for the purpose of a recreational development in association with the KCS. The Kinsmen have an investment interest in the property as they erected the building on-site. They have provided long-standing stewardship and maintained the premises in a state of good repair.

The initial one (1) year land lease agreement was for the entire property. Over the past fifteen years the Municipality has developed and maintained community recreation assets on the property. The KCS no longer provide alternate service delivery, however, they do continue to support both municipal and non-municipal recreational opportunities at this location. The new lease is proposed for a ten (10) year term to allow the KCS to plan for the future and will more accurately define responsibilities for each party.

The portion of land to be leased to the KCS is a defined area of approximately 7,320 square feet encompassing:

- the clubhouse building;
- the fenced daycare playground; and
- access via a wheelchair accessible pathway.

The area of land to be leased to the Club is shown in the site map in Attachment 1.

Snow and ice removal for the public parking lot shall be scheduled and completed by HRM as per HRM's protocol's/service priorities. The parking lot snow and ice clearing has been included in HRM winter operations budget since 2015/16 and is managed by Municipal Facilities, Maintenance and Operations. The KCS, their occupants, guests and the public will continue to have non-exclusive access to parking lot.

In 2017, the property was valued at \$1,578,100. Based on the non-residential use, the property is assessed as Commercial. The Kinsmen Club of Sackville, N.S. had been added to the tax relief program under the former Municipality of Halifax County, By Law 51, at 100% exempt. The Club has been approved for tax relief by Regional Council and as result is currently on Administrative Order 2014-001-ADM, Schedule 26, 100% Reduction of Residential Rate.

With the execution of the new lease to KCS for only a portion of the site, HRM will notify Property Valuation Services Corporation and request an amendment to the current assessment from fully Commercial to a portion Commercial and the balance exempt as it is used for a municipal purpose. The reduction of land that the KCS will be responsible for under the new lease will reduce the amount of tax relief required under Administrative Order 2014-001-ADM.

The proposed Lease terms and conditions recommended by staff are outlined below in Table 1.

Table 1

Recommended Key Lease Terms and Conditions	
Property Addresses	71 First Lake Drive, Lower Sackville
Landlord	Halifax Regional Municipality
Tenant	Kinsmen Club of Sackville, N.S.
Premises	Approximately +/- 7,320 square feet (a portion of PID No. 00359968), actual area to be verified by survey
Term	Ten (10) years, September 1, 2017 to August 31, 2027
Use	Kinsmen Club of Sackville activities, hall rentals, community events and other related activities.
Rent	\$1.00 per annum plus additional charges as applicable.
Tenant Responsibility	<p>The Tenant is responsible to pay all utilities, operating costs and other associated costs related to the premises.</p> <p>The Tenant is responsible for all maintenance and repairs to the building. The tenant shall landscape the premises including but not limited to mowing, trimming, raking, litter removal inside the fenced area; maintaining flower beds/gardens directly outside the fenced area, and other general maintenance.</p> <p>The Tenant is responsible for the snow clearing & ice control for the premises (including the walkways, entrances, stairs, and emergency exits), as well as the areas outside of the premises noted as the concrete pathway leading from the parking lot to the building and as required, the hashed marked areas of the parking lot abutting these areas to ensure safe access to and from the building.</p>

Property Taxes	Tenant shall be responsible for any applicable property taxes levied upon the property as a result of this lease agreement.
Insurance	Commercial General Liability in the amount no less than \$5,000,000 and any other insurance required by HRM as set forth in the agreement. If alcohol is served, stored or consumed on site then liquor liability must be included in the insurance which coverage must be satisfactory to HRM. HRM is to be on the policies as additional named insured.
Notice	Either party shall have the option to terminate this agreement upon providing three (3) months written notice to the other party at any time and for any reason.
Condition	The Tenant accepts the Premises on an "as is" basis.
Subletting or Assignment	<p>The Tenant shall not assign this Lease, nor assign, sublet, part with or share possession or occupation of the Premises or any part thereof without the prior written consent of the Landlord, which consent may be arbitrarily withheld should such assignment, subletting or parting with possession result in a change in the nature of the business carried on from the Premises or a diminution of either the financial resources behind the Tenant's covenant to pay rent or in the business experience of such assignee or sublessee or for any other reason.</p> <p>All tenants, sub-tenants and assignees shall comply with the requirements of every applicable law, rule, by-law, regulation, order, direction, ordinance and standard of every competent federal, provincial, municipal, regional and other statutory authority in force.</p>
Building	<p>The Tenant has improved the property by adding a building.</p> <p>Upon the termination of the lease and at the discretion of the Landlord, the Tenant may be required to remove the building and all related materials and return the lands to their natural state. If the Tenant is required to remove the structure and any related materials, they shall be responsible for all related costs. At the termination of the agreement with the Tenant, if the Landlord chooses to retain the building or any improvements, they shall then be owned by the Landlord and there will be no financial compensation to the Tenant for such ownership.</p>
Parking	The parking area is non-exclusive and shall be used in common with other users of the property.
Access	The Landlord shall permit, during the term of this agreement, the Tenant and their invitees pedestrian access to the Leased Premises over the municipally owned property identified as PID No. 00359968.
Signage	<p>The Tenant will not erect, paint, display, place, affix or maintain or permit any signage or advertising on the exterior of the building, land or Premises, including windows or anywhere visible from outside the Leased Premises without the Landlord's prior written permission.</p> <p>The current permanent sign located next to the Leased Premises shall remain at the discretion of the Landlord. Any changes, repairs or replacements to this sign will be at the sole cost of the Tenant and at the discretion of the Landlord. Any present building signage and advertising may remain in its current location. If the signage needs to be replaced, it must first be approved in writing by the Landlord and conform to every applicable law, rule, by-law, regulation, order, direction, ordinance and standard of every competent federal, provincial, municipal, regional and other statutory authority in force.</p>

FINANCIAL IMPLICATIONS

The rent for the term of this agreement is a nominal amount of \$1.00 per annum which is less than market value. The potential Market Value Rent for the land represents an opportunity cost to the Municipality of \$1,087 per annum.

The tenant will be responsible to pay the property taxes as they fall due and are invoiced by HRM. With Regional Council's approval of the Club to Administrative Order 2014-001-ADM Tax Relief to Non-Profit Organizations, the amount offset represents an 'operating grant' from HRM.

RISK CONSIDERATION

Reducing the area of the lease to those items in immediate control of the Kinsmen Club provides clear lines of responsibility. The risk associated with the building and activities carried on inside will be the responsibility of the Kinsmen Club and they will be required to mitigate any risks to public use. HRM will be solely responsible for the other park infrastructure. HRM Parks and Recreation will continue to provide oversight of the property and proper inspection of the infrastructure to mitigate any risk.

COMMUNITY ENGAGEMENT

The Board of Directors for the Kinsmen Club of Sackville, N.S. is made up of members of the community.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

ALTERNATIVES

1. The Grants Committee could recommend that Regional Council lease the property at market value to the Kinsman Club of Sackville.
2. The Grants Committee could recommend that Regional Council change the term of the lease with the Kinsman Club of Sackville.

ATTACHMENTS

Attachment 1 - Map of Leased Area

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

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ATTACHMENT 'A'

