

# HALIFAX

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**Item No. 9.1.2**  
**Grants Committee**  
**April 9, 2018**

**TO:** Chair and Members of HRM Grants Committee

**SUBMITTED BY:** Original Signed

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

**DATE:** February 5, 2018

**SUBJECT:** Less than Market Value Lease; Kinap Athletic Club, 181 Greenough Drive, West Porters Lake

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## **ORIGIN**

This report originates with a request from the Tenant to enter a new lease agreement with Halifax Regional Municipality (HRM) for the premises located at 181 Greenough Drive, West Porters Lake, as their lease agreement has renewed annually since the original June 1988 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 the 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 two thirds majority of the Council present and voting.

## **RECOMMENDATION:**

It is recommended that the HRM Grants Committee:

1. Recommend Halifax Regional Council authorize the Mayor and Municipal Clerk to enter into a less than market value lease agreement with the Kinap Athletic Club for the leased premises at 181 Greenough Drive, West Porters Lake, a portion of PID No. 40469884, as per the key terms and conditions set out in Table 1 in the discussion section of this report.

## **BACKGROUND**

The Kinap Athletic Club (KAC), also known as the Kinap Canoe & Kayak Club, is a registered non-profit organization that was founded in 1982. KAC offers residents the opportunity to participate in a range of recreational canoe and kayak programs, as well as swimming lessons, and makes its Clubhouse available for rentals on weekends during July and August.

The property, a 4.28-acre parcel located at 181 Greenough Drive in West Porters Lake, is Parkland owned by HRM. It is enhanced with an HRM lifeguarded public beach, playground equipment, benches, picnic tables, and public docks for boating and swimming.

A land lease between KAC and the former Municipality of the County of Halifax was executed in 1988. The initial lease was for a 5-year term with an automatic renewal clause, and the agreement has not been terminated. KAC and HRM jointly constructed the clubhouse building in 1995 and the lease agreement was not amended to reflect the change.

### **DISCUSSION**

Discussions with KAC and HRM staff regarding a new lease began in the spring of 2017. A meeting followed in early summer to confirm areas of responsibility and identify any concerns or issues regarding the leased premises, including any required building repairs or capital related projects. KAC confirmed funding had been secured for a new roof project which was completed in the fall after the summer recreation programs had concluded. As a result of the roof construction project, it became evident that the ownership of the facility was not clear to both parties.

HRM's legal title to the property and building was confirmed earlier this year. A new lease agreement will include the land and building as the leased premises clearly identifying the tenant and landlord responsibilities. Once the new lease is executed, KAC will be able to pursue grants and property tax relief.

In September, staff met at the site to inspect the park area and equipment to confirm the property maintenance responsibilities for the new lease agreement. HRM will be assuming responsibility for the maintenance and repairs for the public park area which includes HRM owned assets including two (2) docks, playground equipment, park benches, picnic table and the HRM supervised beach, which were previously maintained by KAC. HRM will be responsible for major capital repairs to the building while the tenant shall be responsible to pay for all day-to-day operating costs of the leased premises, including, but not limited to: heating, electric, general maintenance and repairs, lawn care, cleaning, water testing, waste removal and recycling, and seasonal opening and closing procedures. KAC is required to carry \$2M in Commercial Liability versus \$5 M which some groups are required to carry as they do not serve, store or consume alcohol on site.

The property is assessed at \$175,700, and the estimated property taxes are \$5,200 per year. The KAC has applied for tax relief for the 2018-2019 tax year pursuant to Administrative Order 2014-001-ADM.

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

**Table 1**

<b>Recommended Key Lease Terms &amp; Conditions</b>	
<b>Property Address</b>	181 Greenough Drive, West Porters Lake
<b>Landlord</b>	Halifax Regional Municipality
<b>Tenant</b>	Kinap Athletic Club
<b>Premise Area</b>	Clubhouse building and approximately 8,047 square feet of land, actual area may be verified by survey
<b>Base Rent</b>	\$1.00 per annum plus additional charges as applicable
<b>Term</b>	Ten (10) years (December 1, 2017 to November 30, 2027)
<b>Commencement Date</b>	December 1, 2017
<b>Permitted Use</b>	Kinap Athletic Club activities, rentals and other related activities

<b>Property Tax</b>	The Tenant shall be responsible for any applicable property taxes to HRM based on taxable accessed value resulting from their lease, plus applicable HST. HRM shall issue an invoice to KAC.
<b>Specific Conditions</b>	<p>The tenant shall be responsible for:</p> <ul style="list-style-type: none"> <li>• all utilities including heat and power</li> <li>• general repairs/maintenance and other associated operating costs</li> <li>• annual well water testing</li> <li>• alarm system related costs including monitoring and all false alarm charges</li> <li>• lawn and grounds maintenance including mowing, trimming, raking, and litter removal for the leased premises</li> <li>• interior cleaning</li> <li>• regular garbage, recycling, compost, etc. removal from the site</li> <li>• winter closure procedures and spring opening procedures for the building</li> <li>• maintenance and repairs to the KAC's own docks, including fall removal and spring installation costs</li> <li>• maintain registered non-profit status with the Nova Scotia Registry of Joint Stocks</li> <li>• maintain Commercial General Liability insurance in the amount no less than \$2,000,000. 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</li> </ul> <p>The Landlord shall be responsible for:</p> <ul style="list-style-type: none"> <li>• major capital repairs/improvements and in-ground infrastructure</li> <li>• Lawn and grounds maintenance including mowing, trimming, raking, and litter removal for public park area</li> <li>• Maintenance and repairs to the public park benches, picnic tables and playground equipment</li> <li>• Repairs and maintenance to the public use docks, including fall removal and spring installation costs</li> <li>• Seasonal maintenance and repairs to the driveway, parking lot and paths</li> <li>• Delivery of sand to the public beach area when required as determined by Parks Staff.</li> <li>• Monthly building inspections, June to October (inclusive)</li> </ul>
<b>Condition</b>	The Tenant accepts the leased premises on an "as is" basis
<b>Access</b>	HRM grants permission for the Tenant and their invitees to have access to the non-exclusive driveway and parking lot
<b>Notice</b>	Either party shall have the option to terminate this agreement upon providing Six (6) months written notice to the other party at any time and for any reason

**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 finished space of the building is valued at a net rent of approximately \$7.420 per square foot or twelve thousand nine hundred forty dollars (\$12,940) per annum. The leased portion of land is valued at \$246 per annum. The total estimated opportunity cost to the Municipality is \$13,187 per annum. There are additional costs of approximately \$5,000 for annual maintenance related to the floating docks and public picnic and playground areas which can be accommodated within existing Parks & Recreation budget allocation.

The tenant shall be responsible to pay property taxes as they fall due and are invoiced by HRM. Should Regional Council approve the inclusion of the Society to Administrative Order 2014-001-ADM Tax Relief to Non-Profit Organizations, the amount offset will represent additional 'operating grant' from HRM.

### **RISK CONSIDERATION**

Reducing the area of the lease to those items in immediate control of the Kinap Athletic Club provides clear lines of responsibility. The risk associated with the building and activities carried on inside will be the responsibility of the KAC 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 risk.

### **COMMUNITY ENGAGEMENT**

The Board of Directors for the Kinap Athletic Club is made up of members of the community.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

### **ALTERNATIVES**

1. The HRM Grants Committee may recommend that Regional Council lease the premises at market value to the Kinap Athletic Club.
2. The HRM Grants Committee could recommend that Regional Council change the term of the lease with the Kinap Athletic Club.

### **ATTACHMENTS**

Attachment 1: Leased Premises  
Attachment 2: Site Map

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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 "1" LEASED PREMISES



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## ATTACHMENT "2" SITE MAP

