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Item No. 9.1.7
Grants Committee
November 18, 2019

TO: Chair and Members of HRM Grants Committee

SUBMITTED BY: Original Signed
Jane Fraser, CFO/Director of Finance, Asset Management & ICT

Original Signed
Jacques Dubé, Chief Administrative Officer

DATE: September 5, 2019

SUBJECT: Less Than Market Value Lease Renewal – 28 Caledonia Road, Dartmouth

ORIGIN

This report originates with a request from the Lessee (Dartmouth Day Care Centre) located at 28 Caledonia Road, Dartmouth, to renew its lease in accordance with the renewal clause in the current lease dated February 6, 1990 (“the Lease”).

LEGISLATIVE AUTHORITY

The recommended action complies with the Halifax Regional Municipality Charter, Chapter 39,

Section 61:

(3) The property vested in the Municipality, absolutely or in trust, is under the exclusive management and control of the Council, unless an Act of the Legislature provides otherwise.

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.

(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 ON PAGE 2

RECOMMENDATION

It is recommended that the HRM Grants Committee recommend that Halifax Regional Council authorize the CAO to direct the Mayor and Clerk to enter into a less than market value Lease Renewal Agreement with the Dartmouth Day Care Centre for the premises located at 28 Caledonia Road, Dartmouth, identified as PID 40542888 as per the key terms and conditions set out in Table 2 in the discussion section of this report.

BACKGROUND

The Dartmouth Day Care Centre is a non-profit society incorporated under the *Societies Act* which provides childcare services to families in East and Central Dartmouth. In 1989, the City of Dartmouth City Council received a memo from the City Administrator regarding the Dartmouth Day Care Centre's urgent need for a new location for their day care facilities. At that time, the daycare was located in a mouldy church basement which was unhealthy for the children. The Church had given the daycare notice to leave because the Church wanted possession its own purposes. The memo indicated that the only suitable location was a parcel of City owned land located at 28 Caledonia Road. At their meeting of May 30th, 1989, it was recommended to Dartmouth City Council that:

- 1) The City retain ownership of the site in question and maintain the current zoning on this site.
- 2) The City enter into a long-term lease with the Dartmouth Day Care Centre for a period of five years longer than the term of the Day Care Centre mortgage **with an option for renewal**, for a one-time payment by the Centre of the cost of soil tests, surveying, and legal work of approximately \$5,500 incurred by the City in making the site available.
- 3) The day care centre building be located on the site as shown in the site plan to maximize the future use of the remainder of this lot to allow planning and development of compatible uses for the remainder of the site.
- 4) The City develop a plan for the best long-term use of the entire site in conjunction with the recreation area adjacent to it and in consultation with groups and individuals in the community.

The motion passed unanimously with an amendment that the cost of the soil testing be waived.

In February 1990 the City of Dartmouth entered into a 30-year lease with the Dartmouth Day Care Centre for the Caledonia Road site, effective September 1st, 1989. The Lessee subsequently improved the site by constructing a day care facility at its cost, as per the terms of the Lease. The Lease provides the following option to renew:

"13. The lessee shall have the option to renew the lease on the same terms and conditions, except for this option, and except for rental, which rental is to be agreed upon between the parties and which shall be based upon the full value of the land included in the demised premises in the open market as an undeveloped site with vacant possession as of the date of termination of this lease. The then current rate of return on Government of Canada long term bonds plus one percent shall be applied to the aforementioned full value of the land, such percentage to be established on the basis of the thirteen-week period immediately preceding the fixing of the rent."

The Dartmouth Day Care Centre has been operating the day care at the Caledonia Road property for the last 30 years. A notice posted on the Nova Scotia Government 'CHILDCARE DIRECTORY' website states that the Dartmouth Day Care Centre (Caledonia) is operating under a Probationary License which will expire November 1, 2019. As a registered Canadian charity and non-profit organization providing day care services in Dartmouth, Regional Council is required to consider whether it is carrying on an activity that is beneficial to the Municipality which is a prerequisite to the Municipality granting a less than market value lease. The Dartmouth Day Care Centre receives property tax relief for this location under *Administrative Order 2014-001-ADM Tax Relief to Non-Profit Organizations*.

DISCUSSION

When the Lessee gave notice of its intention to renew the Lease pursuant to s. 13 noted above, Corporate Real Estate staff engaged in negotiations with the Lessee to renew the Lease. Staff consider a long-term lease of the site to be a preferable option to a disposition to the tenant given the site’s strategic location adjacent to Beazley Park. An appraisal of the fee simple interest in the land (i.e. the full value of the land stipulated in the renewal clause) was commissioned from Kempton Appraisals Limited which determined the market value of the fee simple interest in the site to be \$70,000. The rent was calculated on April 9th, 2019 based on the rate of return on long-term Government of Canada bonds over the 13-week period preceding the fixing of the rent. The yield on the bonds over this period was as follows, with an average of 2.11%:

Table 1: Rate of Return on Long Term Government of Canada Bonds

Week #	Week of	Yield
1	4/3/2019	1.99%
2	3/27/2019	1.84%
3	3/20/2019	1.99%
4	3/13/2019	2.04%
5	3/6/2019	2.11%
6	2/27/2019	2.16%
7	2/20/2019	2.14%
8	2/13/2019	2.18%
9	2/6/2019	2.17%
10	1/30/2019	2.17%
11	1/23/2019	2.19%
12	1/16/2019	2.22%
13	1/9/2019	2.18%

Staff completed a review of the prevailing market rent in the area and determined the market rent for the site to be approximately \$4,200/annum. Applying the formula as prescribed in the lease’s renewal clause results in a lower rent of \$2,177/annum, and as such this renewal requires the approval of the Grants Committee as it is at less than market value.

Deed transfer tax is applicable for leases over 21 years, unless the Lessee, being a registered Canadian charity qualifies for an exemption from paying deed transfer tax under S. 109(7) of the *Municipal Government Act*. The proposed lease amendment terms and conditions recommended by staff are outlined below in Table 2:

Table 2

KEY BUSINESS TERMS AND CONDITIONS OF TRANSACTION	
Property Address	28 Caledonia Road, Dartmouth.
PID	40542888.
Site Area	19,414 square feet.
Zoning	Institutional Zone.
Lessor	Halifax Regional Municipality.

Lessee	Dartmouth Day Care Centre.
Lease Term	Up to Thirty (30) years.
Commencement	August 31 st , 2019.
Proposed Development or Use	Day care centre.
Appraised Value	\$70,000 (Kempton Appraisals Limited, 2019)
Long Term Government of Canada Bond Yield	2.11%
Minimum Rent	\$2,177*
Additional Rent	The Lessee is responsible for all operating expenses associated with the site.
Early Termination	None.
Premises Condition	As-is, where-is.
Special Conditions	None.
Extension Term	None.

* Based on the formula set-out in the Lease: $[\$70,000 * (2.11\% + 1\%)] = \$2,177$

FINANCIAL IMPLICATIONS

The base rent for the renewal term is \$2,177 per annum, payable on September 1st of each year of the lease term. The potential Market Value Rent for the land is \$4,200, representing an opportunity cost to the Municipality of \$2,023 per annum.

The net proceeds from the Lease Agreement in the amount of \$2,177/annum, exclusive of HST, shall be credited to Cost Centre W400-5151 Acquisitions & Disposals Lease Revenue.

RISK CONSIDERATION

There are no significant risks associated with the recommendations in this Report. The risks considered rate Low. Staff will be updating the lease's insurance clauses and adding environmental protection clauses to the municipality's current standards, as part of the renewal, thereby reducing some of the risk associated with this lease renewal. There is a high probability that the opportunity cost to the municipality identified in the financial implications section of the report will increase by leasing the property for a less than market value rent for the extension term of 30 years.

COMMUNITY ENGAGEMENT

Community engagement is not necessary given the nature of the recommendation made within this report.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with the recommendation in this report.

ALTERNATIVES

The Grants Committee could recommend that Regional Council direct the CAO to pursue a market value lease renewal for this property, decline to renew the Lease, or renew it for a shorter term. These alternatives are not recommended, as the Dartmouth Day Care Centre's current lease specifies a formula to be used in calculating the rent for the lease renewal., the Lease gave the tenant the option to renew and specified it was to be on the same terms and conditions as the original Lease except for rent amount and except for a further option to renew.

ATTACHMENTS

Attachment 'A' – Site Plan

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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HALIFAX

ATTACHMENT 'A' SITE PLAN

