

HALIFAX

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Item No. 11.1.21
Halifax Regional Council
September 1, 2020

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 
Jacques Dubé, Chief Administrative Officer

DATE: July 6, 2020

SUBJECT: Less than Market Value Lease: Wanderers Lawn Bowling Club, 5759 Sackville Street Halifax

ORIGIN

This report originates with the accepted letter of Offer to Lease, Wanderers Lawn Bowling Club located at 5759 Sackville Street, Halifax.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter.

Section 61 (3): The property vested in 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; and

Section 63(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.

Covid-19 Administrative Order

Section 3(a): Notwithstanding any other policy of Council, a (a) grant may be allocated or awarded by Council without the HRM Grants Committee or HRM Special Events Advisory Committee reviewing, evaluating, or recommending the grant;

RECOMMENDATION

It is recommended that Halifax Regional Council authorize the Mayor and Municipal Clerk to enter into a less than market value lease agreement with Wanderers Lawn Bowling Club for the premises located at 5759 Sackville Street, Halifax as per the key terms and conditions set out in Table 1 in the discussion section of this report.

BACKGROUND

Wanderers Lawn Bowling Club (WLBC) is a membership based non-profit organization promoting a healthy life style through the sport of lawn bowls. WLBC currently has 200 members and has a season that runs from May to October providing the community with active and social opportunities. Located at 5759 Sackville Street, Halifax, the Club is on part of the original Halifax Common commonly referred to as the Wanderers Grounds. The premises are comprised of a lawn bowls clubhouse, a 120" x 120" lawn bowling green, plus other surrounding grass areas within the fence (Attachment 1). Both the land and infrastructure are owned by HRM.

A bowling green was established in 1887 on the Wanderers Grounds by the Wanderers Amateur Athletic Club (WAAC). The club had to give up use during WWI and play resumed in the 1930's. The lease with the WAAC ended in 1959, when the City of Halifax assumed the management of the property. Wanderers Lawn Bowls Club officially incorporated in 1976. Year to year leases were negotiated in 1976 and again in 1985. In 1999 and in 2003, HRM entered into Community Partnership Agreements covering the months of May to December. Under the initial agreement, the WLBC paid a partnership fee. In 2003, the WLBC agreed to provide daily maintenance in exchange for the \$3,333.33 partnership fee to be waived resulting in an amended agreement.

DISCUSSION

In the fall of 2019 HRM and the Wanderers Lawn Bowling Club engaged in discussions on a new agreement to outline current uses and responsibilities for the clubhouse, the shed, and the portion of land (PID 00136416), which is included in the proposed premises.

Upon completion of those discussions, in February 2020, an Offer to Lease was sent to the WLBC for a Less than Market Value Lease Agreement. The proposed key terms and conditions set out in the offer were approved and accepted by the Society. The term of the lease agreement is for five (5) years commencing April 1, 2021 and expiring March 31, 2026, at a nominal rate of one (\$1) dollar per year. A lease will trigger an updated assessment of the property and consequently a property tax bill. The Tenant is responsible for their proportionate share of the property tax plus HST, which will be billed by the Landlord.

The Society may apply under Administrative Order 2014-001-ADM Tax Relief to Non-Profit Organizations once a lease is executed; however, the Wanderers Lawn Bowling Club is not guaranteed relief. The Wanderers Lawn Bowling Club can apply for the 2021-2022 tax relief program and a council report outlining the recommendations for the property tax relief will be submitted to Regional Council for review, decision and approval. The Wanderers Lawn Bowling Club would be responsible for the entire property tax payment until a decision is made by Regional Council on the group's tax relief status which may or may not relieve them from all or a portion of the property taxes due.

HRM will continue to be responsible for repairs and maintenance costs related to basic structural repairs, capital repairs and maintenance of the clubhouse, lawn and grounds maintenance, and the costs for the utilities including water and electric.

The Wanderers Lawn Bowling Club will be responsible for general repairs to the clubhouse and shed, cleaning, garbage removal, and winterizing the clubhouse as needed.

Wanderers Lawn Bowling Club is one of four Lawn Bowling Clubs in HRM. St. Mary's Lawn Bowls Club lease is pending approval by Council, Dartmouth Lawn Bowls Club has an active agreement, and Bedford Lawn Bowls Club is in discussions to enter into a lease agreement.

The proposed terms and conditions are outlined in Table 1.

Table 1 Recommended Key Lease Terms and Conditions

Property Addresses	5759 Sackville Street, Halifax
Landlord	Halifax Regional Municipality
Tenant	Wanderers Lawn Bowling Club
Premises	<p>The lawn bowls clubhouse of approximately 1,100 square feet and the land (a portion of PID 00136416) of approximately 20,000 square feet which shall include the land beneath and directly surrounding the clubhouse and the lawn bowls green (may be verified by survey).</p> <p>The HRM utility shed shall not be included as part of the Premises for exclusive use, however, the tenant may store a small amount of lawn bowls equipment including bowls, launchers, steps, and other associated equipment in the shed with the Landlord's permission. The Landlord may withdraw permission at any time for any reason without prior notice.</p>
Term	Five (5) years (April 1, 2021 to March 31, 2026)
Commencement Date	April 1, 2021
Use	For programs and activities to promote health and wellness through the sport of lawn bowls.
Base Rent	Nominal \$1.00 + HST per annum.
Operational Costs	The tenant is responsible to pay all operating costs and other associated costs related to the Premises excluding the cost for water and electricity.
Property Taxes	The tenant shall be responsible for any applicable property taxes levied upon the property due to this agreement. The Tenants proportionate share of the property taxes plus HST and the tenant will be invoiced as they fall due.
Tenant Responsibilities	<p>The Tenant shall be responsible for:</p> <ul style="list-style-type: none"> • General building repairs/maintenance for the clubhouse • Telephone, internet, and cable • Interior cleaning of the clubhouse and utility shed • Regular garbage, recycling, compost, etc. removal from the property • Securing the clubhouse in the off season with lumber and winterizing the building, as required • Providing an annual report to HRM at the end of each season which shall include membership information, season dates and highlights, and financials for the previous season • Maintaining registered non-profit active status with the Nova Scotia Registry of Joint Stocks • Obtaining HRM's consent for any proposed change of use or alterations to the premises
HRM Responsibilities	<p>The Landlord shall be responsible for:</p> <ul style="list-style-type: none"> • The continued service connections and payments relating to the electrical and water for the Premises as these utilities are directly tied into the onsite HRM owned and operated facilities • Basic structural repairs and maintenance of the property • Bowling green lawn and grounds maintenance including mowing, fertilization, topdressing, and over seeding, as required • Building utilities (electrical and water) from Parks Depot budget • Turning on and off water in spring and fall respectively by Parks staff • Capital repairs to the building as may be required

Insurance	<p>Commercial General Liability in the amount no less than \$5,000,000 including liquor liability, content insurance, and Director's and Officer's Liability Insurance. Halifax Regional Municipality is to be on the policies as additional named insured.</p> <p>The Tenant's policy shall contain a waiver of subrogation rights.</p> <p>The Tenant will provide the Landlord with a Certificate of Insurance evidencing proof of all required coverage upon the signing of the agreement.</p>
Alterations	<p>The Tenant shall not make any alterations to the Premises without the prior written consent of the Landlord.</p>
Early Termination	<p>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.</p>
Premises Access Restrictions	<p>The Tenant acknowledges and agrees that the Premises will be "winterized" by the Landlord no later than November 30 each year and "de-winterized" by April 30 each year and the Tenant shall not have access to the Premises during this period.</p>
Parking	<p>The parking area is non-exclusive and shall be used in common with other users of the property. Parking arrangements are subject to change as per Landlord requirements.</p>
Condition	<p>The Tenant accepts the premises on an "as is" basis.</p>

FINANCIAL IMPLICATIONS

The market value Base Rent for the clubhouse is valued at \$7.00 per square foot and the area of land including the bowling green is valued at \$2.25 per square foot. Over the term of the agreement approximately \$263,500 shall be waived in Base Rent which represents the value of the property grant being considered with HRM leasing at less than market value. The proposed rent for the term of this agreement is a nominal amount of \$1.00 per annum which is considered less than market value.

HRM will remain responsible for the electrical and water costs for the premises, the repairs and other associated costs related to the maintenance and operation of the premises as outlined in Table 1. Because the water and electrical is included in the Parks Depot meters, costs associated specifically with Wanderers Lawn Bowling Club cannot be isolated from the other costs. Costs associated with Wanderers Lawn Bowling Club utilities are presumed to be minimal and will continue to be paid through several operating accounts including W186 managed by HRM Parks.

The first year of the agreement the property and operating grants is a total of \$52,700 plus minimal utility costs and over the five-year term of the agreement an estimated total of \$263,500 shall be waived and represents the estimated value of the property and operating grant being considered with HRM leasing the space at less than market value.

The tenant will be responsible to pay the property taxes as they fall due and are invoiced by HRM and until such time that the Wanderers Lawn Bowling apply to Administrative Order 2014-001-ADM Tax Relief to Non-Profit Organizations, a level of tax relief cannot be determined.

RISK CONSIDERATION

The property taxes associated with the new lease produces a significant risk for the group given their limited funding and revenue sources. The risk to the organization can be mitigated by their application to Administrative Order 2014-001-ADM Tax Relief to Non-Profit Organizations.

The risks to HRM associated with the recommendations in the Report are considered Low and would be mitigated through the terms in the lease agreement.

COMMUNITY ENGAGEMENT

The Wanderers Lawn Bowling Club's Board of Directors is made up of members of the community.

ENVIRONMENTAL IMPLICATIONS

There are no known environmental implications.

ALTERNATIVES

- Alternative 1: Regional Council could lease the premises at market value to the Wanderers Lawn Bowling Club.
- Alternative 2: Regional Council could lease the property to the Wanderers Lawn Bowling Club for a longer term.
- Alternative 3: Regional Council could choose to not enter into any lease agreement with the Wanderers Lawn Bowling Club. This would result in the group no longer having access to the site.

ATTACHMENTS

Attachment 1: Site Map and Lease Area

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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ATTACHMENT '1' SITE MAP

