

HALIFAX

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Item No. 9.1.1
Grants Committee
April 11, 2022

TO: Chair and Members of the Halifax Regional Municipality Grants Committee

SUBMITTED BY:

 (Original Signed)

Jacques Dubé, Chief Administrative Officer

DATE: February 22, 2022

SUBJECT: **Less than Market Value Lease: Needham Preschool and Daycare, 3372
Devonshire Avenue, Halifax**

ORIGIN

This report originates with the accepted letter of Offer to Lease, Needham Preschool and Daycare located at 3372 Devonshire Avenue, 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.

Administrative Order 2020-013-OP, the Child Care Administrative Order

(8) When leasing spaces to Non-Profit Child Care Centres in Facilities, the Municipality shall, subject to the approval of Halifax Regional Council in accordance with the requirements of the Halifax Regional Municipality Charter, lease the space to the Non-Profit Child Care Centre at less-than-market-value.

Administrative Order 58 - Delegation of Certain Authorities

The provisions of Section 13 (Delegation - Less than Market Value Rent) do not apply as the term of the proposed lease agreement is greater than one year.

RECOMMENDATION ON PAGE 2

RECOMMENDATION

It is recommended that the Grants Committee recommend that Halifax Regional Council authorize the Mayor and Municipal Clerk to negotiate and enter into a less than market value lease agreement with Needham Preschool and Daycare for the premises located at Needham Community Center, 3372 Devonshire Avenue, Halifax and such lease agreement shall contain key terms and conditions substantially similar to those set out in Table 1 in the discussion section of this report.

BACKGROUND

The former City of Halifax and the Halifax Regional Municipality upon amalgamation provided preschool/daycare services at the Needham Pool & Community Recreation Centre through its Parks and Recreation Services department until 1999 as their mandate had changed, and they ceased to provide daycare services. In efforts to keep the preschool/daycare open at this location, a group of citizens formed a society in February 1999 called Needham Preschool and Daycare and have been operating a preschool and daycare from this location since April 1999.

Since 1999, the Needham Preschool and Daycare have taken the opportunity to sign several less than market value lease agreements with the gross rent ranging from \$1 per annum to \$5 dollars per square foot. In early 2013, staff discussed with the Needham Preschool and Daycare that they would be moved to a market value lease and that the market rate would be in the range of \$17-\$22 dollars per square foot. The market value range was confirmed through a third-party market research survey to be between \$16-\$23 dollars per square foot for comparable properties, HRM determined \$14 dollars per square foot to be the fair market value for this space due to limitations regarding accessibility, parking, operating hours and the mandatory closure of the preschool and daycare if HRM cancels their programs due to weather conditions.

In 2014, HRM made the change to offer them a market value lease agreement for a term of 1 year at a gross rent of \$14 dollars per square foot. This shift was to provide a more equitable gross rent between non-profits located in HRM owned facilities and those which are not. Subsequently in April 2015, the Needham Preschool and Daycare entered into a 5-year term with the gross rent starting at \$14 dollars per square foot and increased annually with year five at \$16 dollars per square foot. The current 2-year lease extension continued their gross rent of sixteen \$16 dollars per square foot and was signed in advance on August 17, 2018. The Needham Preschool and Daycare requested their extension be completed early to provide proof of the requirement of a minimum of a 2 years remaining on their lease for the Space Conversion Grant which they applied for through the Department of Education and Early Childhood Development. This grant was to assist with the costs associated with the small renovations required to have their license revised to change the capacity from 55 to 56 children and the age range from 3 years to 18 months.

The Needham Pool & Community Recreation Centre is scheduled to be replaced with a new facility and is anticipated to be ready for occupancy in April 2028, as outlined in the 2022-2023 draft Capital Plan. The current facility will remain operational until the new facility is complete on the site across the street which will eliminate the need for swing space during construction. With the above noted timeline, staff are confident that a 5-year lease agreement with the Needham Preschool and Daycare will not have an impact on the closure of the Needham Pool & Community Recreation Centre when the new facility is completed.

The purpose of *Administrative Order 2020-013-OP, the Child Care Administrative Order* on November 17, 2020, is to outline a process to prioritize the inclusion of child care centres within facilities owned by the Municipality when excess space is available and, further, when leasing spaces to non-profit child care centres in HRM-owned facilities, the Municipality shall, subject to the approval of Halifax Regional Council

in accordance with the requirements of the Halifax Regional Municipality Charter, lease the space to the Non-Profit Child Care Centre at less-than-market-value. Given this, staff are negotiating a less than market value lease with the Needham Preschool and Daycare as the current lease expires on March 31, 2022.

As the less than market value lease is greater than 1 year in duration, the approval and signing authorities set forth in Administrative Order 58 - Delegation of Certain Authorities do not apply. As a result, the Mayor and Clerk are the appropriate signatories for this lease.

DISCUSSION

In February 2022, an Offer to Lease was sent to the Needham Preschool and Daycare for a less than market value lease agreement for a 5-year term commencing on April 1, 2022 and expiring on March 31, 2027. The proposed gross rent structure is consistent with other less than market agreements HRM has in place for non-profit daycare/preschool/childcare tenants located in HRM-owned facilities. The offer was accepted by the Needham Preschool and Daycare on February 9, 2022.

The new Federal Secretariat on Early Learning and Child Care is to build a Canada-wide, community-based system of childcare with access to high quality, affordable, flexible and inclusive early learning and childcare. The associated federal funding to provinces and territories is intended to achieve many goals including a 50% reduction in average fees for regulated learning and childcare by the end of 2022 and an average of \$10 per day by 2025 to 2026 for all regulated childcare spaces in Canada. The financial impact of this model on the Needham Preschool and Daycare's revenue is yet to be determined.

The Needham Preschool and Daycare is responsible for its proportionate share of the property tax plus HST. The Needham Preschool and Daycare currently receives tax relief through the Administrative Order 2014-001-ADM Tax Relief to Non-Profit Organizations. Each year the Needham Preschool and Daycare is required to submit a confirmation form and must meet the renewal requirements to remain in the tax relief program.

The key terms and conditions that staff will seek to have included in the less than market value lease with the Needham Preschool and Daycare are outlined in Table 1.

Table 1:

Key Lease Terms and Conditions	
<i>Property Addresses</i>	3372 Devonshire Avenue, Halifax (PID 00104554)
<i>Landlord</i>	Halifax Regional Municipality
<i>Tenant</i>	Needham Preschool and Daycare
<i>Premises</i>	Approximately 2,068 square feet of space
<i>Term</i>	Five (5) years (April 1, 2022 to March 31, 2027).
<i>Commencement Date</i>	April 1, 2022
<i>Use</i>	Operation of a preschool and daycare

Gross Rent	<p>Year 1 (April 1, 2022 – March 31, 2023) \$6.00 per square foot, \$12,408.00+HST/per annum, payable monthly \$1,034.00+HST/per month</p> <p>Year 2 (April 1, 2023 – March 31, 2024) \$6.25 per square foot, \$12,925.00+HST/per annum, payable monthly \$1,077.08+HST/per month</p> <p>Year 3 (April 1, 2024 – March 31, 2025) \$6.50 per square foot, \$13,442.00+HST/per annum, payable monthly \$1,120.17+ HST/per month</p> <p>Year 4 (April 1, 2025 – March 31, 2026) \$6.75 per square foot, \$13,959.00+HST/per annum, payable monthly \$1,163.25+ HST/per month</p> <p>Year 5 (April 1, 2026 – March 31, 2027) \$7.00 per square foot, \$14,476.00+HST/per annum, payable monthly \$1,206.33+ HST/per month</p>
Additional Rent	<p>All other amounts payable by the Tenant to the Landlord except Rent whether or not specifically designated as Additional Rent.</p>
Property Taxes	<p>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 will be invoiced to the Tenant as they fall due.</p>
Utilities	<p>The Tenant will be responsible for phone, internet, cable, tenant intrusion alarms for the Premises (if any) and any other utility expenses related to their operations excepting those in which the Landlord is responsible.</p> <p>The Landlord will be responsible for all water, sewer, electrical, HVAC (if any), and heating expenses.</p>
Tenant Responsibilities	<p>The Tenant shall be responsible for all the interior cleaning of the Premises; source separation of garbage, recycling and compost which is to be taken to the outside bins; maintenance/repairs/replacements to Tenant owned appliances, furniture, fixtures and equipment; false alarm charges; monthly inspections of the Premises; and any required upgrades to the Building's or Premises' systems in order to accommodate the Tenant's programming requirements.</p>
HRM Responsibilities	<p>The Landlord is responsible for the operations of the building including capital and structural repairs, general repairs and maintenance to the Building, Property and Common Areas; life and safety system inspections; inspections and replacements of emergency lights and exit lights; garbage and recycling removal from property; pest control; landscaping and ground maintenance; snow and ice control and removal for the property and Building including, entrances/exits, walkways and parking lot; maintenance, repairs and replacement of playground equipment; and general repairs and maintenance to the Premises including the replacement of light bulbs in the Premises.</p>
Insurance	<p>Commercial General Liability in the amount no less than \$5,000,000 including 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>
Early Termination	<p>Either party shall have the option to terminate this agreement upon providing 6 months written notice to the other party at any time and for any reason.</p>
Condition	<p>The Tenant accepts the premises on an "as is" basis.</p>

Playground	The playground is non-exclusive to the Tenant as it is for public use.
Parking	The parking area is non-exclusive to the Tenant as it is for public use. There are no parking spaces designated to the Tenant.
Security	The Needham Recreation Centre doors shall remain locked at all times until appropriate HRM staff are present at the front desk. The Tenant may allow supervised access via a camera and buzzer system. When HRM staff are not present, it is the responsibility of the Tenant to ensure that the building is kept secure at all times. This is for the safety of all individuals as well as to safeguard the assets of HRM.
Special Clauses	<p>If the Landlord cancels its programs and services in the Building or on the Property, or closes the Building during, prior to, or after, inclement weather or other temporary safety measure, the Tenant shall also cease its operations at the Premises until such time as the Landlord advises the Premises may re-open. For such temporary closures of the Building, the Tenant shall not be entitled to an abatement of Rent.</p> <p>If, for a particular time period, the Landlord is required to close, reduce operations, restrict access or chooses to close the Building and/or the Property as a result of any health or safety requirements, then the Tenant shall also be required to close, or restrict access, during that time period, unless otherwise permitted in writing by the Landlord.</p>

FINANCIAL IMPLICATIONS

The market value base rent was established by using the Regional Rental Rates Reference Guide prepared by Cushman & Wakefield, which was further adjusted to compensate for the subject property being considered moderately below a Class “C” building to bring the base rent to \$9 per square foot and the operating cost is estimated at \$7 per square foot. The table below is a breakdown of the market value rent, the proposed rent and the rent difference, referred to as the operating grant, per annum for the entire 5-year term.

Duration	Market Value Base Rent \$9 per sq. ft. & Operating Cost \$7 per sq. ft. (total \$16 per sq. ft.)	Proposed Less than Market Value Rent	Operating Grant
Base Rent - First year (22/23)	\$33,088	\$12,408	\$20,680
Base Rent - Second Year (23/24)	\$33,088	\$12,925	\$20,163
Base Rent – Third Year (24/25)	\$33,088	\$13,442	\$19,646
Base Rent – Fourth Year (25/26)	\$33,088	\$13,959	\$19,129
Base Rent – Fifth Year (26/27)	\$33,088	\$14,476	\$18,612

The annual rent of \$12,408 plus HST for the first year of the term and subsequent years will be deposited into Parks and Recreation Operating Account D510-5102.

The value of the operating grant being considered with HRM leasing the space at less than market value is \$98,230 over the term of the lease.

Given the provisions of the Childcare Administrative Order, which govern Regional Council’s ability to approve less than market value leases for childcare centres, with the approval of the recommendations

contained in this report, there will be an annual reduction of approximately \$20,000 in HRM Parks and Recreation's rental revenue.

Property taxes are billed initially by the Municipal Government, HRM as Landlord will pay the property taxes through D510-5508 as a clearing account. The Landlord shall invoice the Tenant the property taxes plus HST. Should Regional Council continue to approve the inclusion of the Needham Preschool and Daycare to Administrative Order 2014-001-ADM Tax Relief to Non-Profit Organizations, the amount offset will represent an additional 'operating grant' from HRM.

RISK CONSIDERATION

Risk consideration is Low. The Needham Preschool and Daycare is an established, provincially registered non-profit with a valid lease agreement in place. These factors reduce the risk considerations for the Municipality.

COMMUNITY ENGAGEMENT

No community engagement was required.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

1. The Grants Committee could recommend that the Regional Council lease the Premises at market value to the Needham Preschool and Daycare.
2. The Grants Committee could recommend that the Regional Council lease the property to the Needham Preschool and Daycare for a longer term.

ATTACHMENTS

No attachments.

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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