



P.O. Box 1749  
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**Item No. 9.1.1**  
**Grants Committee**  
**June 12, 2023**

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

**Original Signed**

**SUBMITTED BY:**

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Cathie O'Toole, Chief Administrative Officer

**DATE:** June 5, 2023

**SUBJECT:** **Less than Market Value Lease: Unicorn Theatre, 11 Station Road, Head of St. Margaret's Bay**

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**ORIGIN**

December 13, 2022, motion of Halifax Regional Council (Item 15.1.2):

MOVED by Councillor Mason, seconded by Councillor Russell

THAT Halifax Regional Council authorize the Chief Administrative Officer (CAO) to:

1. Execute a Facility Operating Agreement (FOA) with the Head of St. Margaret's Bay/Boutilliers Point Recreation Association for the Bay Community Centre facility at 11 Station Road, Head of St. Margaret's Bay substantially in the same form as set out in Attachment 1 of the staff report dated November 28, 2022;
2. Direct staff to negotiate a Less than Market Value Lease Agreement with The Unicorn Theatre Society for the existing occupied space at 11 Station Road, and return a staff report to Grants Committee for the approval of the key terms and conditions; and
3. Direct staff to negotiate a Less than Market Value Lease Agreement with the Safety Minded ATV Association for the Bay Community Centre facility at 15 Station Road, and return a staff report to Grants Committee for the approval of the key terms and conditions.

**MOTION PUT AND PASSED UNANIMOUSLY.**

**LEGISLATIVE AUTHORITY**

*Halifax Regional Municipality Charter, S.N.S. 2008, c. 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

**RECOMMENDATION ON PAGE 2**

- 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 a two thirds majority of the Council present and voting.

### **RECOMMENDATION**

It is recommended that the Grants Committee recommend that Halifax Regional Council authorize the Mayor and Municipal Clerk to execute a less than market value lease with The Unicorn Theatre Society for the premises located at 11 Station Road and the lease is to contain terms and conditions that are similar to those set out in Table 1 in the discussion section of this report.

### **BACKGROUND**

The Bay Community Centre (BCC), located in the Head of St. Margaret's Bay, is part of HRM Parks & Recreation Community Partnership portfolio. The site has two distinct buildings, 11 Station Road (Lower Building) and 15 Station Road (Upper Building).

The overall facility and property are managed by the Head of St. Margaret's Bay/Boutilliers Point Recreation Association (HBBPRA) under the authority of a Facility Operating Agreement (FOA) approved by Regional Council on December 13, 2022.

Under the FOA governance model, non-profit partner organizations do not have legal authority to enter into exclusive space subleases on behalf of HRM. Only HRM, as holders of the title to the land, can enter lease agreements with tenants in facilities governed by FOAs. The Unicorn Theatre Society (UTS) has exclusive leased space within the BCC and a formal agreement with HRM is required.

Unicorn Theatre is a volunteer operated program that provides school aged youth the opportunity to perform in annual productions and learn about theatre and other performing arts at a weekly club meeting. Drama day camps are offered throughout the summer. To support their activities, the UTS have exclusive use of an 890 sq. ft room for the storage of supplies and costumes in the Lower Building at 11 Station Road (Attachment 1).

### **DISCUSSION**

In February 2023, The Unicorn Theatre Society (UTS) accepted an Offer to Lease at less than market value for a five (5) year term commencing on or about August 1, 2023.

The base rent for the space has been negotiated at \$1.00 dollar plus HST per annum for the term of the agreement. The UTS will be responsible for all operating costs, such as utilities, for the leased premise and pay these as additional rent. Any revenue HRM receives from the proposed lease with the UTS, net exclusive of taxes, will be paid to the HBBPRA as an additional operating subsidy. This approach ensures all leases are administered similarly and allows HRM oversight of tenants in HRM facilities, while still directing the revenue from leases to FOA groups to offset the operating costs at each facility.

The UTS will be responsible for their proportionate share of the property tax plus HST. The UTS would be eligible to apply to the Tax Relief for Non-Profit Organizations Program under Administrative Order 2014-001-ADM Tax Relief to Non-Profit Organizations once a lease is executed.

The recommended proposed terms and conditions are outlined in Table 1.

**Table 1: Key Lease Terms and Conditions**

<b>Property Address</b>	11 Station Road, Head of St. Margaret's Bay, Nova Scotia PID 00612788
<b>Tenant</b>	The Unicorn Theatre Society
<b>Landlord</b>	Halifax Regional Municipality
<b>Premises</b>	~890 square feet of interior space
<b>Initial Term</b>	Five (5) years commencing on or about August 1, 2023
<b>Renewal Term</b>	One Five (5) year renewal term
<b>Permitted Use</b>	Community Theatre programming and storage of supplies and costumes
<b>Termination</b>	Landlord may terminate with one (1) year notice. Tenant may terminate with six (6) months notice.
<b>Base Rent</b>	\$1.00 plus HST per annum
<b>Waived Market Value Rent:</b>	Estimated \$6.00 per sq. ft, \$5,340.00 per annum, as per HRM's broker of standing, Cushman Wakefield
<b>Additional Rent:</b>	\$1.70 per sq. ft, \$1, 513.00 + HST per annum, payable monthly 126.08 + HST. Increase 2% annually.
<b>Property Tax</b>	Tenant is responsible for their proportionate share of property tax levied upon the property. Space is not currently assessed for property tax; property will be assessed as of January 1, 2024.
<b>Utilities</b>	Landlord is responsible for all water, sewer, electrical, HVAC, propane, and furnace oil expenses. Tenant is responsible for telephone, internet, cable, and any other utility expenses brought to Premises for tenant's sole use.
<b>Tenant Responsibilities</b>	Cleaning and general maintenance of the Premises. Maintain active non-profit status with NS Registry of Joint Stocks.
<b>HRM Responsibilities</b>	Cleaning and general maintenance of building common areas and operating systems. Installation, maintenance, and repair of life safety systems.
<b>Insurance</b>	Commercial General Liability in the amount no less than \$2,000,000 including content insurance, and Directors & Officers Liability insurance. Halifax Regional Municipality is to be added to the policies as additional named insured.
<b>Special Clauses</b>	Use of all other spaces within BCC, including theatre, must be booked, and rented from HBBPRA.

## **FINANCIAL IMPLICATIONS**

There is no net financial impact to HRM related to the tenant lease. Account C709 will be used to collect revenues from the tenant and then make corresponding payments to the facility operator.

The market base rent for aging rural multipurpose-use space, similar to the BCC, is \$6.00 per square foot, as determined by HRM's broker of standing, Cushman Wakefield. Therefore, the annual rent difference for the UTS would be \$5,340. This represents the equivalent of an "operating grant" for the tenant's use of space in the facility. The term "operating grant" represents the opportunity costs associated with HRM leasing the space at Less than Market Value rather than full market value. The total value of the operating grant with HRM leasing the space at less than market value is \$26,700 over the term of the lease.

### **RISK CONSIDERATION**

Risk consideration is Low. The proposed tenant is a well-established organization and provincially registered non-profit society. Putting a valid lease agreement in place mitigates risks for the group and the municipality.

### **COMMUNITY ENGAGEMENT**

No community engagement required for the completion of this report.

### **ENVIRONMENTAL IMPLICATIONS**

No environmental implications were identified.

### **ALTERNATIVES**

The Grants Committee could recommend that Regional Council direct the CAO to negotiate different term for the lease of the property to The Unicorn Theatre Society.

### **ATTACHMENTS**

Attachment 1: Proposed Premises – The Unicorn Theatre Society

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

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ATTACHMENT "1"  
Proposed Premises – The Unicorn Theatre Society

