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Item No. 9.1.2
Grants Committee
June 12, 2023

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

Original Signed

SUBMITTED BY:

Cathie O'Toole, Chief Administrative Officer

DATE: June 5, 2023

SUBJECT: Less than Market Value Lease: Safety Minded ATV Association

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/Boutilier's 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

The *Halifax Regional Municipality Charter*, S.N.S. 2008, c. 39, s. 61(3) provides:

Powers of Municipality regarding property

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.

The *Halifax Regional Municipality Charter*, S.N.S. 2008, c. 39, s. 63(1) and s. 63(2) provide:

Sale or lease of municipal property

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 a two thirds majority of the Council present and voting.

The Grants Committee Terms of Reference states:

“The HRM Grants Committee shall review, evaluate and make recommendations to Regional Council regarding annual cash grants, rent subsidies, property tax exemptions, less than market value property sales and leases to registered non-profit organizations and charities managed by a duly appointed Grants Committee.”

RECOMMENDATION

It is recommended that the Grants Committee recommend that Halifax Regional Council approve a less than market value lease with the Safety Minded ATV Association for the premises located at 15 Station Road as per the key terms and conditions set out in Table 1 in the discussion section of this report and authorize the Mayor and Municipal Clerk to execute the finalized document.

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/Boutilier’s 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 Safety Minded ATV Association (SMATVA) operates in exclusive leased space within the BCC and a formal agreement with HRM is required.

The SMATVA is a not-for-profit organization with a mission to preserve, expand and promote ATV ridership as a safe and fun family recreational opportunity. The SMATVA has been the primary user of the 15 Station Road Upper Building since 2001. The 2,020 square foot building has a single multi-purpose room, small kitchenette, and accessible washrooms. In recent years, SMATVA have partnered with HBBPRA to coordinate short-term rentals of the Upper Building to other third parties.

DISCUSSION

In March 2023, the Safety Minded ATV Association accepted an Offer to Lease at less than market value for a five (5) year term commencing on or about August 1, 2023.

Under the proposed lease terms, HRM will permit SMATVA to continue to offer third party short-term rentals of the Upper Building. All rentals must align with HRM’s Charter, Code of Conduct, and interests. This allows community access to the building when it is not being used for SMATVA meetings and activities and relieves demand on the limited spaces for rent in the Lower Building. SMATVA will schedule, set the rates,

and accept payments for any short-term rentals. HRM will not collect any portion of those payments as Additional Rent. The base rent for the space has been negotiated at \$1.00 dollar plus HST per annum for the term of the agreement.

The SMATVA will be responsible for all operating costs such as, but not limited to utilities, services, general repairs, maintenance, and cleaning. As facility owners, HRM will retain responsibility for the building infrastructure, life safety systems, water supply and fifty percent of the overall facility snow removal costs.

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

A less than market value lease for 15 Station Road Building site (shown outlined in red on Attachment 1) empowers the SMATVA to continue their work and partnership with HBBPRA, while bringing HRM additional oversight to the Upper Building. Upon request, SMATVA will provide HRM annual financial statements, lists of rental groups or any other information required to ensure the Upper Building is as accessible as possible and that SMATVA is complying with all rules that govern non-profit organizations.

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

Table 1: Key Lease Terms and Conditions

Property Address	15 Station Road, Head of St. Margaret's Bay, Nova Scotia PID 00612788
Tenant	Safety Minded ATV Association
Landlord	Halifax Regional Municipality
Premises	~2,020 square feet of interior space
Initial Term	Five (5) years commencing on or about August 1, 2023
Renewal Term	One Five (5) year renewal term
Permitted Use	Operation of a community all-terrain vehicle club and associated activities
Termination	Landlord may terminate with one (1) year notice. Tenant may terminate with six (6) months notice.
Base Rent	\$1.00 plus HST per annum
Waived Market Value Rent:	\$6.00 per sq. ft, \$12,120.00 per annum, as per HRM's broker of standing, Cushman Wakefield
Additional Rent:	Tenant is responsible to pay all operating costs associated with the Premises
Property Tax	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.
Utilities & Services	Tenant is responsible for all electrical, HVAC, propane, furnace oil and septic maintenance expenses. Tenant is responsible for telephone, internet, cable, and any other utility expenses brought to Premises for tenant's sole use. Landlord is responsible for water supply to the Premises.
Tenant Responsibilities	Cleaning and general maintenance of the Premises. Maintain active non-profit status with NS Registry of Joint Stocks. Snow removal from entrances of the premises and 50% of annual snow removal costs for the property and driveway to be paid to HBBPRA.

<i>HRM Responsibilities</i>	Repairs and maintenance of building operating systems and Capital and structural repairs to the building and property. Installation, maintenance, and repair of life safety systems.
<i>Insurance</i>	Commercial General Liability in the amount no less than \$5,000,000 including content insurance, liquor liability and Directors & Officers Liability insurance. Halifax Regional Municipality is to be added to the policies as additional named insured.
<i>Special Clauses</i>	Tenant may not assign or sublet premises but may provide short term rentals of the premises and accept payments for such rentals. Alcohol may be consumed during Special Events in the Premises only upon written approval of the Landlord and having obtained necessary permits. Tenant must submit annual financial statements to the Landlord.

FINANCIAL IMPLICATIONS

There is no net financial impact to HRM related to the tenant lease. Operating costs for the Upper Building will be paid by the SMATVA. HRM has not been responsible for these costs.

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 SMATVA would be \$12,120. 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 \$60,600 over the term of the lease.

RISK CONSIDERATION

Risk consideration is Low. The proposed tenant is a well-established organization and provincially registered as a 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 the Regional Council direct the CAO to negotiate different terms for the lease of the property to the Safety Minded ATV Association.

ATTACHMENTS

Attachment 1 – Proposed Premises – The Safety Minded ATV Association

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.

Report Prepared by: Andy Conrad, Community Facility Partnership Coordinator, Parks & Recreation,
902.223.4655.

ATTACHMENT "1"
Proposed Premises – The Safety Minded ATV Association (outlined in Red)

