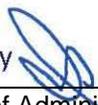


HALIFAX

P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 11.1.20
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: St. Mary's Lawn Bowls Club, 1643 Fairfield Road
Halifax

ORIGIN

This report originates with the accepted letter of Offer to Lease, St. Mary's Lawn Bowls Club located at 1643 Fairfield Road, 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 St. Mary's Lawn Bowls Club for the premises located at 1643 Fairfield Road, Halifax as per the key terms and conditions set out in Table 1 in the discussion section of this report.

BACKGROUND

St. Mary's Lawn Bowls Club (SMLBC) is a membership based non-profit organization promoting a healthy life style through the sport of lawn bowls. SMLBC currently has 50 members and has a season that runs May to October providing the community with active and social opportunities. Located at 1643 Fairfield Road, Halifax, the premises are comprised of a clubhouse and shed, and has access to a 120' by 90' bowling green and washroom facility (Attachment 1). Both the land and infrastructure are owned by HRM.

Lawn bowls were introduced to the site in 1942 by the Roman Catholic Episcopal Corporation (RCEC) when they took over the St. Mary's Amateur Athletic Club on land that is now known as the St. Mary's Boat Club. In 1974 the City of Halifax entered 30-year lease at \$1 per annum with the RCEC for use of the athletic club as a family recreational centre. On September 27, 1990 the City of Halifax Council approved the purchase of the land and facilities from the RCEC and took ownership on December 31, 1990 for \$2.347 million.

Since lawn bowling was added to the site by the RCEC in 1942 the St. Mary's Lawn Bowls Club has been using the space to provide accessible and health promoting activities. It incorporated as a Society with the Nova Scotia Registry of Joint Stocks in 2002. In 2003, HRM entered into a Community Partnership Agreement covering the dates of May 1, 2003 to December 1, 2003 to provide supplementary landscape maintenance to the Club under the condition that SMLBC pay the sum of \$3,333.33 to HRM for that period. SMLBC has been operating in the absence of an agreement since then.

As part of the St. Mary's Boat Club Property the SMLBC's civic address was included as part of 1641 Fairfield Road and previous agreements were listed under this civic address. Over time this proved to be a safety risk to the Club where emergency dispatch was not able to clearly determine location for an emergency call. In January 2020 a request was put into civic addressing and the new address of 1643 Fairfield Road was registered.

DISCUSSION

In the fall of 2019 HRM and the St. Mary's Lawn Bowls Club engaged in discussions on a new agreement to outline current uses and responsibilities for the clubhouse, the shed, washroom facility and the portion of land (PID 41020439), which is included in the proposed premises.

Upon completion of those discussions, in February 2020, an Offer to Lease was sent to the SMLBC 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 St. Mary's Lawn Bowls Club is not guaranteed relief. The St. Mary's Lawn Bowls 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 St. Mary's Lawn Bowls 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, and washroom facility, lawn and grounds maintenance, and the costs for the utility of water. The Society pays for the use of electricity.

The St. Mary's Lawn Bowls Club will be responsible for general repairs to the clubhouse and shed, utilities excluding water, cleaning, garbage removal, and winterizing the clubhouse.

St. Mary's Lawn Bowls Club is one of four Lawn Bowling Clubs in HRM. Wanderers Lawn Bowling Club's 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 recommended by staff are outlined in Table 1.

Table 1 Recommended Key Lease Terms and Conditions	
<i>Property Addresses</i>	1643 Fairfield Road, Halifax
<i>Landlord</i>	Halifax Regional Municipality
<i>Tenant</i>	St. Mary's Lawn Bowls Club
<i>Premises</i>	The lawn bowls clubhouse of approximately 1,200 square feet, the exterior washrooms, and the land (a portion of PID 41020439) of approximately 26,000 square feet which shall include the fenced in area of land containing the clubhouse, the exterior washrooms, a storage shed and the lawn bowls green (may be verified by survey). A Tenant owned storage shed is also present within the confines of the property but is not included in the Premises.
<i>Term</i>	Five (5) years (April 1, 2021 to March 31, 2026).
<i>Commencement Date</i>	April 1, 2021
<i>Use</i>	For programs and activities to promote health and wellness through the sport of lawn bowls.
<i>Base Rent</i>	Nominal \$1.00 + HST per annum
<i>Operating Costs</i>	The tenant is responsible to pay all operating costs and other associated costs related to the Premises, excluding the cost for water.
<i>Property Taxes</i>	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.

<p><i>Tenant Responsibilities</i></p>	<p>The Tenant shall be responsible for:</p> <ul style="list-style-type: none"> • General building repairs and maintenance for the clubhouse, washroom and the storage shed. • Building operating expenses including electrical and excluding water. • Telephone, internet, and cable. • Interior cleaning of the clubhouse. • Cleaning, the purchasing and stocking of supplies (i.e. toilet paper, paper towel, soap, etc.) for the washrooms. • Regular garbage removal from the Premises to the HRM bins at the bottom of the hill. Compost removal and recycling to be dealt with by the tenant. • Securing the clubhouse in the off season with lumber and winterizing the building, as required. • The tenant shall landscape the premises (inside the fence) including but not limited to mowing, trimming, raking, litter removal, maintaining flower beds/gardens, and general maintenance. • Provide 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 of the Premises.
<p><i>HRM Responsibilities</i></p>	<p>The Landlord shall be responsible for:</p> <ul style="list-style-type: none"> • Basic structural repairs and maintenance of the clubhouse and washroom facility. • Bowling green lawn and, fertilization, topdressing and over seeding • Building utilities (water) from Municipal Facilities Maintenance & Operations budget, confirmed with staff. • Turning on and off water in spring and fall respectively by Parks staff. • Capital repairs to the building as may be required.
<p><i>Insurance</i></p>	<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>
<p><i>Alterations</i></p>	<p>The Tenant shall not make any alterations to the Premises without the prior written consent of the Landlord.</p>
<p><i>Early Termination</i></p>	<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>

<i>Surrender Requirements</i>	<p>The St. Mary's Lawn Bowls Club has improved the property by adding a storage shed.</p> <p>Upon the termination of the lease and at the discretion of the HRM, the St. Mary's Lawn Bowls Club may be required to remove the storage shed and all related materials and return the lands to their natural state. If the St. Mary's Lawn Bowls Club is required to remove the structure and any related materials, they shall be responsible for all related costs. At the termination of the agreement with the St. Mary's Lawn Bowls Club, if HRM chooses to retain the storage shed or any improvements, they shall then be owned by the municipality and there will be no financial compensation to the St. Mary's Lawn Bowls Club for such ownership.</p>
<i>Premises Access Restrictions</i>	<p>The Tenant acknowledges and agrees that the Premises will be "winterized" by the Landlord and the Tenant 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>
<i>Parking</i>	<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>
<i>Condition</i>	<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 \$334,500 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 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. These costs have been estimated using the average of the actual costs for the past two years at \$3,180 per annum, which represents the equivalent of an "operating grant" for the property's use. The costs for this facility will continue to be paid through several operating accounts including W200 managed by Municipal Facilities and Operations.

The first year of the agreement the property and operating grants is a total of \$70,080 and over the five-year term of the agreement an estimated total of \$350,400 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 St. Mary's Lawn Bowls Club 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 by the terms outlined in the lease agreement.

COMMUNITY ENGAGEMENT

The St. Mary's Lawn Bowls 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 St. Mary's Lawn Bowls Club.
- Alternative 2: Regional Council could lease the property to the St. Mary's Lawn Bowls Club for a longer term.
- Alternative 3: Regional Council could choose to not enter into any lease agreement with the St. Mary's Lawn Bowls 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.

Report Prepared by: Sarah Coley, Partnership Coordinator, Parks & Recreation 902.292.8267

HALIFAX

ATTACHMENT '1' SITE MAP

