

# HALIFAX

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

## Item No. 15.1.1

Halifax Regional Council  
April 12, 2022

**TO:** Mayor Savage and Members of Halifax Regional Council

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

**DATE:** January 31, 2022

**SUBJECT:** Correction to Less Than Market Value Lease Agreement  
Spencer House Seniors Centre, 5596 Morris Street, Halifax, NS

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### **ORIGIN**

June 29, 2021 motion of Halifax Regional Council (Item 11.6.2),

MOVED by Councillor Cleary, seconded by Councillor Deagle Gammon

THAT Halifax Regional Council authorize the Mayor and Municipal Clerk to enter into the Municipality's standard less than market value lease agreement with the Spencer House Seniors Centre for the premises located at 5596 Morris Street, Halifax.

### **MOTION PUT AND PASSED**

### **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
- (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.

### **RECOMMENDATION**

It is recommended that Halifax Regional Council authorize the Mayor and Municipal Clerk to enter into the Municipality's standard less than market value lease agreement with the Spencer House Seniors Centre for the premises located at 5596 Morris Street, Halifax, with the corrected base rent for lease years 4 and 5 as set out in Table 1 of this report.

**BACKGROUND**

The municipally owned facility known as Spencer House is leased by the Spencer House Seniors Centre and is located at 5596 Morris Street, Halifax (PID 40266553). The Spencer House Seniors Centre (SHSC) is a not-for-profit that provides programs and services that contribute to the health and wellbeing of seniors.

Staff recommended to Regional Council at the June 29, 2021 meeting that Regional Council authorize the Mayor and Municipal Clerk to enter into the Municipality’s standard less than market value lease agreement with the Spencer House Seniors Centre for the premises located at 5596 Morris Street. Regional Council approved the recommended terms and conditions set out in the report by way of consent agenda.

**DISCUSSION**

During the preparation of the less than market value lease agreement, staff noticed a clerical error in the Base Rent for lease years 4 and 5 that was contained in the report for the June 29, 2021 Regional Council meeting. The Base Rent for years 4 and 5 in the report was listed as \$2.50 per square foot, when in fact, the report should have listed the Base Rent as \$2.25 per square foot as set out in the accepted and signed offer letter to the Spencer House Seniors Centre dated September 11, 2020 (Attachment 1).

Although, the offer letter signed by both parties is nonbinding pending municipal approvals, the terms and conditions have been negotiated in good faith, and as such staff are seeking Regional Council’s approval for the correction of the clerical error resulting in the base rent discrepancy.

Staff are recommending the corrected base rent as outlined below in Table 1 and all other terms and conditions for this lease previously approved by Regional Council shall remain unchanged.

Table 1:

<b>Corrected Base Rent - Years 4 and 5 October 1, 2023 to September 30, 2025</b>	<b>\$2.25 per square foot, \$7,087.50+HST per annum, payable monthly \$590.63+HST per month</b>
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**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. The table below is a breakdown of the market value rent, the proposed rent and the rent difference, referred to as the operating grant for both the first year of the term and for the entire five-year term.

<b>Duration</b>	<b>Market Value Rent at (\$9.00 per square foot)</b>	<b>Proposed Less than Market Value Rent</b>	<b>Operating Grant</b>
<b>Base Rent - First year</b>	\$28,350	\$6,300	\$22,050
<b>Base Rent - Five (5) Years</b>	\$141,750	\$33,075	\$108,675

The monthly rent of \$525 plus HST for the first year of the term and subsequent years will be deposited into Reserve Account Q526-5102. The rent revenue shall be transferred annually on April 1 into Commercial Leasing operating account cost centre W202.

The value of the operating grant being considered with HRM leasing the space at less than market value is \$108,675 over the term of the lease.

Property taxes are billed initially by the Municipal Government, HRM as Landlord will pay the property taxes through W202-5508 as a clearing account. Should Regional Council approve the inclusion of the South

End Community Day Care 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**

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**

No community engagement was required.

### **ENVIRONMENTAL IMPLICATIONS**

No environmental implications were identified.

### **ALTERNATIVES**

Regional Council could direct the Chief Administrative Officer to negotiate different terms for the lease of the property to Spencer House Seniors Centre.

### **ATTACHMENTS**

Attachment 1: Signed Offer Letter to SHSC Dated September 11, 2020

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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.

Report Prepared by: Trish Higby, Partnership Coordinator, Community Partnerships, Parks & Recreation  
902.456.7062

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September 11, 2020

Spencer House Seniors Centre  
c/o Colin Whitcomb, Director  
5596 Morris Street  
Halifax, Nova Scotia, B3J 1C2

Email: [cwhitcomb@hardmangroup.ca](mailto:cwhitcomb@hardmangroup.ca)

RE: **Offer to Lease 5596 Morris Street, Halifax**

This is an Offer Letter for the premises located at 5596 Morris Street, Halifax. HRM is prepared to recommend for municipal approvals, a lease agreement based on the key terms and conditions which are outlined below:

- Tenant                      Spencer House Seniors Centre
- Premises                    5596 Morris Street (3,150 square feet)
- Use                            Spencer House Seniors Centre administration and to provide programs, activities and services to seniors.
- Term                         Five (5) years (October 1, 2020 to September 30, 2025)
- Base Rent                    Years 1 - 3 (October 1, 2020 to September 30, 2023) \$2.00 per square foot, \$6,300.00 +HST/annum, payable monthly \$525.00+HST/month  
Years 4 & 5 (October 1, 2023 to September 30, 2025) \$2.25 per square foot, \$7,087.50+HST/annum, payable monthly \$590.63+HST/month
- Additional Rent            The Tenant is responsible to pay the utilities and other associated costs related to the maintenance and operation of the leased premises. The Tenant is responsible for the snow clearing & ice control for their walkways, entrances, stairs and emergency exits and for the grounds maintenance for the area around their leased premises.
- Property Taxes            Tenant shall be responsible for any applicable property taxes levied upon the property as a result of this lease agreement.

**HALIFAX**

Halifax Regional Municipality  
PO Box 1749, Halifax, Nova Scotia  
Canada B3J 3A5

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Offer to Lease 5596 Morris Street, Halifax

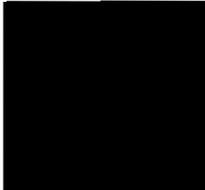
- Insurance Commercial General Liability in the amount no less than Five Million Dollars (\$5,000,000), Director's and Officer's Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence and any other insurance required by the Landlord as set forth in the agreement. If alcohol is served, stored or consumed on site then liquor liability must be included in the insurance coverage which coverage must be satisfactory to the Landlord. HRM is to be in the policies as additional named insured.
- Notice Either party shall have the option to terminate this agreement upon providing six (6) month's written notice to the other party at any time and for any reason.
- Lease Tenant agrees to enter into Landlord's standard lease agreement
- Condition The Tenant accepts the Premises on an "as is" basis.
- Parking The Tenant may use the parking spot at the end of the driveway as an accessible parking spot for their members and guests. This is not a staff parking spot. There are no other parking spaces at this location. Any additional spaces that may be agreed upon between the St. Mary's Elementary School and the tenants would be as a result of negotiations directly between the tenant and the school.

The Landlord and the Tenant agree that the above proposed general terms and conditions as set out this Offer to Lease are non-binding and subject to the required executive municipal approval. If you are in agreement to the above terms and conditions, please sign and return this document by email or fax on or before **noon October 9, 2020**.

Yours truly,



Trish Higby  
Partnership Coordinator, Parks & Recreation  
Email [higbyt@halifax.ca](mailto:higbyt@halifax.ca)

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cc: Marcia Connolly, Manager, Leasing & Tenant Services, Corporate Real Estate, FAM & ICT  
Michael Ryan, Manager Community Partnerships, Parks & Recreation  
Tara Legge, Leasing Officer, Corporate Real Estate, FAM & ICT

Offer to Lease 5596 Morris Street, Halifax

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By signing below, we hereby confirm the offer was presented and is accepted and we have binding signing authority to accept the offer for the Spencer House Seniors Centre.

[Redacted Signature]

Colin Whitecomb, Director

*Oct 21/20*

Date

[Redacted Signature]

Witness

[Redacted Signature]

(Sign and Print Name & Position Title)

*OCT. 28/20*

Date

[Redacted Signature]