



Exhibition Place

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ACTION REQUIRED

July 19, 2015

To: The Board of Governors of Exhibition Place

From: Dianne Young
Chief Executive Officer

Subject: **Official Plan Amendment for Exhibition Place**

Summary:

This report requests City Council to instruct the Chief Planner and Executive Director, City Planning Division to commence the process for an Official Plan Amendment with respect to all leased buildings within that part of the Exhibition Place site designated as Parks/Open Space to permit the granting of leases of those buildings for terms in excess of 21 years.

This report also directs Exhibition Place staff to enter into further negotiations with the Tenant of the Horticulture Building, Muzik Clubs Inc. ("Muzik") to finalize terms and conditions related to the extension of the Term and any other outstanding matters as listed in this report and to report back to the Board with the aim to having City Council consider such a Lease amendment at the same meeting as Council considers any final approval of the Official Plan Amendment noted above which is likely to be sometime in 2016.

Recommendations:

It is recommended that the Board:

- 1) Request City Council to request the Chief Planner and Executive Director, City Planning Division to determine the appropriate actions and conditions necessary to amend the Official Plan for the buildings within the lands designated Parks/Open Space on the Exhibition Place grounds to permit leases in excess of twenty-one years; and,**
- 2) Direct Exhibition Place staff to negotiate amendments to the existing Lease between the Board and Muzik generally on the issues outlined in this report and any other matters raised by the parties during negotiations and report back to the Board and City Council on recommended amendments to the Lease.**

Financial Impact:

This report is recommending that the Board / City initiate and undertake itself the Official Plan Amendment process. Accordingly, the Muzik tenant will now be relieved of all these costs and the City / Board will absorb these costs.

Decision History:

The Exhibition Place 2004 to 2016 Strategic Plan had a Financial Goal to *seek additional revenue opportunities* and as a strategy to support this Goal *we will seek new and / or expand revenue opportunities within our existing operations and increase revenues from tenants / naming partnerships / third parties.*

At its meeting of April 23, 2003, the Board approved a Lease with Muzik Clubs Inc. for the entire Horticulture Building commencing February 16, 2004 and expiring on February 15, 2024.

At its meeting of December 19, 2012, the Board, subject to approval of City Council, approved of terms and conditions of an amendment to the Lease.

[..\2012 Reports\December 19\Muzik Lease Amendment Dec 2012-1.doc](#)

At its meeting of May 24, 2013, the Board received the City Solicitor report with respect to the Muzik Clubs Inc. Lease Amendment – Disposal of City Property and requested the Chief Executive Officer meet with the Tenant - Muzik Clubs Inc. to discuss the concerns regarding the lease amendment and report back to the Board; and also approved a motion that prior to amending any existing lease agreements that consideration of the future of the Horticultural Building and the Exhibition Place lands be considered as part of the Board's Strategic Planning Session.

[..\2013 Reports\May 24\Muzik Lease-Disposal of Property-AF.pdf](#)

At its meeting of September 10, 2014, the Board directed Exhibition Place staff to negotiate and amendment to the Lease to allow for the removal of all the Garden of the Greek Gods sculptures.

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At its meeting of May 22, 2015, the Board requested that a meeting be held with the Chair of the Board, the local Ward Councillor, the Chief Planner and Executive Director, City Planning Division and City Legal Services to review the appropriate actions and conditions necessary to extend the term of the Muzik lease for a period to be in excess of 21 years and to report back to the Board at its meeting of July 31, 2015 on possible directions, including any recommendations to City Council.

[..\May 22\Muzik Clubs Inc Renewal Final.docx](#)

Issue Background:

The Board and City Council approved a (20) twenty-year lease with Muzik for the Horticulture Building and surrounding landscape area which lease expires on February 15, 2024. In October 2012, Exhibition Place staff were approached by Muzik with a plan that would see the Tenant invest \$5.0M in the Leased Property to expand and enhance the outdoor patio area. This Lease amendment was approved by the Board subject to City Council approval but it did not proceed to City Council because of the issue with the City Official Plan (OP) as detailed below.

Comments:

Lease Term Extension and City of Toronto Official Plan:

In late 2012, the Tenant requested a ten-year extension to the current lease term extending it from February 15, 2024 to February 15, 2034 in order to amortize its proposed \$5.0M investment in the patio for the Leased Property. However, because such an amendment to the lease term extended it past 21 years, the Leased Property had to be declared surplus in accordance with City disposal policies prior to proceeding to City Council for approval of the proposed extended term. Upon receiving the Board's request to declare the Leased Property surplus, City Real Estate Services staff, who administers the disposal process, informed Exhibition Place that the Horticulture Building lies within an area designated as Parks/Open Space within the City's OP. The OP prohibits the disposal of City-owned lands designated as Parks/Open Space without an OP Amendment. A disposal is defined to include the granting of any lease with a term of 21 years or more.

While most of Exhibition Place is designated as Regeneration under the City's OP, the designated heritage pavilion buildings - Horticulture Building (Muzik Clubs Ltd), Ontario Government Building (Liberty Grand), Arts, Crafts & Hobbies Building (Medieval Times) – and the parkland surrounding these buildings are all within the Parks/Open Space designation and therefore, are treated differently than areas / leases with a Regeneration designation.

The Tenant was informed of the City staff advice outlined above in early 2013 and the need for the Tenant to apply and be granted an OP Amendment through the normal City process before the extension of the lease term could be considered by City Council. The Tenant decided not to pursue the OP Amendment; the Tenant proceeded and completed the patio renovations without the lease amendment in 2014; and the Board report was never submitted to City Council.

Information Requested by the Board about City Leases

As a result of questions raised by Board Members regarding other long-term leases in City park/green space settings that may or may not be subject to the OP Prohibition to not allow for a lease term longer than 21 years, City Legal staff undertook a review of recent long-term leases and identified that all fell within the following types of transactions:

- Those properties at Exhibition Place have lease terms greater than 21 years (i.e. Hotel X and Medieval Times). For Hotel X this property is not caught by the OP Prohibition for Parks/Open Space as it falls in lands designated as Regeneration and for Medieval Times this lease was approved in 1993 prior to enactment of the Official Plan;
- Those where the transaction predated the OP Prohibition (e.g. Palais Royale and The Boulevard Club);
- Those where the property in question was not subject to the OP Prohibition as it was not "City-owned land" (e.g. The Brickworks and the Boardwalk Cafe/Tuggs), both of which are owned by the Toronto and Region Conservation Authority;
- Those that were subject to site specific exemptions from the OP Disposal Prohibition by Chapter 7, Section 265 of the OP (e.g. The Guild Inn, John Street Roundhouse); and.
- Two long term leases that are subject to the OP Prohibition but were approved by Council subject to compliance with the City's disposal regime, including the requirement to obtain an Official Plan amendment (e.g. Grenadier Restaurant and The Island Yacht Club).

The Board also requested information about the leases on the Exhibition Place grounds that have lease terms which expire within the next 10 years. This information is part of a separate report.

Meeting with City Planning and Legal

On June 11, 2015, a meeting was held with Councillor Grimes, Chair of the Board, Councillor Layton, Board member, Exhibition Place and City staff to review the legal and planning issues related to the proposed extension of the Lease term for Muzik. The outcome of this meeting was a consensus to recommend to the Board and Council the direction noted in Recommendation #1 which is consistent with the statutory requirements of the City and the treatment of other commercial leases within City-owned Parks/Open Space areas as noted above.

Typically, an Official Plan Amendment process will take about one year to complete and at the end of that process, a report to Council for final approval will be required. Therefore, it is anticipated that any final approval of such an amendment if undertaken now would be late 2016.

Previously, the Tenant had been informed that it would have for to apply and receive approval of an Official Plan Amendment if it wished to pursue the extension of the term of the Lease, consistent with Section 6.5 of the Lease which places responsibility on the Tenant for obtaining all planning approvals associated with its use of the leased property. (The application fee for an OPA is approximately \$17,000. In addition, an applicant typically incurs additional costs, such as legal and other professional fees, to compete the process.) This report is recommending that the Board and the City initiate and complete the Official Plan amendment at its cost, thus relieving the Tenant of this responsibility and cost. One advantage of the City taking carriage of the matter is that the OPA will be in respect of all of the buildings within the lands designated Parks/Open Space at Exhibition Place, leading to a consistent approach for all affected tenants.

Lease with Muzik Clubs Inc.

Muzik Clubs Inc. has operated a night club within the Horticulture Building since 2004. The proposal presented by the tenant in response to a public request for proposals envisioned a night club and outdoor patio. Outside the summer period, the night club operates Saturday evenings and on occasional other days has booked parties. However, in order to remain competitive the tenant completed enhancements to the outdoor area in 2013 and 2014 to keep the club at the leading edge and now in the summer has an active patio program during the week and on the weekends.

The Board's approval of amendments to the Muzik Lease in 2012 was subject to the approval of City Council which never happened as the Tenant chose not to pursue the Official Plan Amendment. Accordingly, the parties did not enter into an amending agreement to the Lease. If approval is given to proceed with the Official Plan Amendment, this report is recommending that Exhibition Place staff be directed to enter fresh negotiations with Muzik on the possible extension of the term of the lease and related amendments. Discussions would review both the earlier proposed terms and conditions and also matters that have arisen since 2012. Generally, the terms and conditions to be discussed are as follows:

- Term
- Rent
- Renovations completed
- Definition of "banquets"
- Use of Leased Premises during CNE Period
- Garden of the Gods Sculptures
- Exclusive Use Clause
- Parking for its Clients
- Sponsorship and Naming Rights
- Signage Rights
- Collective Agreements
- Assignment
- Amendments to address conditions, if any, imposed by the Official Plan Amendment

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