



# TORONTO STAFF REPORT

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April 2, 2013

To: The Board of Governors of Exhibition Place  
From: City Solicitor  
Subject: Muzik Clubs Inc. Lease Amendment – Disposal of City property

Purpose:

To report on the legal issues respecting the granting of a long-term lease to Muzik Clubs Inc. ("Muzik").

Financial Implications and Impact Statement:

There are no financial implications to this report.

Recommendations:

It is recommended that this report be received for information.

Background:

At its meeting of December 19, 2012, the Board adopted the recommendations in the report from the Chief Executive Officer dated December 17, 2012, titled "Muzik Clubs Inc. Lease Amendment" to amend the existing lease with Muzik of the Horticultural Building and lands, which amendments included the extension of the lease from twenty years for a further term of ten years, for a total term of thirty years.

Comments:

The lands on which the Exhibition Place Grounds are situated are owned by the City of Toronto. Under the City's Municipal Code - Chapter 213, Sale of Real Property ("Chapter 213") a sale of real property is defined as a disposition of land *including a lease of 21 years or longer*. Accordingly, the proposed Muzik lease extension is considered a sale for the purposes of Chapter 213.

Since the proposed extension of the lease term to 30 years would bring the lease within the definition of a "sale" for the purposes of Chapter 213, the Muzik leased lands would have to be disposed of in accordance with the process set out in Chapter 213. The lands must be declared surplus and the intended manner or process by which the sale of the land will be carried out must be approved by the City's Chief Corporate Officer, subject to requirements to consult with the local ward councillor. The process includes obtaining at least one appraisal of the fair market value of the land and notice of the proposed sale is given to the public. It should be noted that the City may specify to whom the lands shall be sold, such that the surplus lands do not have to be offered to the market in general, so that in this instance the sale of the lands can be directed specifically to Muzik.

The granting of the lease extension is further complicated by the fact that the City's Official Plan designates the lands which are the subject of the Muzik lease as "Other Open Space Areas". Section 4.3.8 of the Official Plan provides in part that no City owned lands in Parks and Open Space Areas will be sold or disposed of. Accordingly, the Official Plan designation effectively prohibits the lease of the Horticultural Building lands for a term of 21 years or more, since such lease is considered a sale or disposal of City owned land.

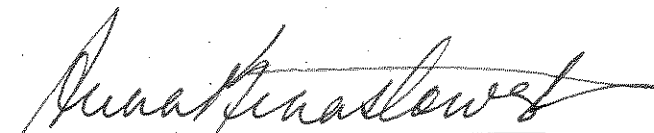
The combined effect of these two policies is that, in order to permit the extension of the Muzik lease, a site specific amendment to the Official Plan would be required. The Board may make such application to the City, and the granting of such amendment would be subject to Council approval and is subject to appeal to the Ontario Municipal Board. The application also includes the payment of an application fee of \$16,041.48, and the Board would have to determine whether to pay such fee or whether to seek to recover such fee from Muzik. City Planning Staff have confirmed that there is no exemption from the payment of such fee by City boards.

Conclusion:

In order to give effect to the Muzik lease extension, the leased lands would have to be disposed of in accordance with the City's real property disposal process. As well, since the Muzik leased lands are designated "Other open space" in accordance with the City's Official Plan, which prohibits the disposal of such designated lands, a site specific Official Plan amendment would be required in order to give effect to proposed Muzik lease extension.

Contact:

Alison Fowles, Solicitor, Legal Services, Tel: (416) 392-8434, Fax: (416) 397-5624  
E-mail: [afowles@toronto.ca](mailto:afowles@toronto.ca)



Anna Kinastowski  
City Solicitor