



Exhibition Place

11

May 15, 2015

To: The Board of Governors of Exhibition Place

FOR INFORMATION

From: Dianne Young
Chief Executive Officer

Subject: **Lease Extension of Muzik Clubs Inc. – Background Information**

Summary:

This report provides information as requested by the Board on the background related to a lease extension for Muzik Clubs Inc.

Financial Implications:

There are no financial implications to this report.

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 24, 2015, the Board requested that staff bring forward a report to the next meeting on the background and progress related to a possible extension of the Muzik Clubs Inc. lease.

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.

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.

At its meeting of September 10, 2014, the Board considered an information report received the report and adopted the following motion to work towards negotiating the removal and relocation of the Garden of the Greek Gods sculptures from within the Muzik Leased Property:

Issue Background:

The Board approved a (20) twenty-year lease with Muzik Clubs Inc. for the entire Horticulture Building commencing February 16, 2004 and the lands surrounding the Building. The Tenant approached the Board in 2012 to seek an extension of the Lease Term and this 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 as detailed below.

Comments:

The background to this issue from 2012 forward is as follows:

- Appendix A – Report dated December 17, 2012 entitled Muzik Clubs Inc. Lease Amendment. Report recommends approval of a 10-year extension on certain terms and conditions. The report and recommendation states that Board approval is subject to City Council approval and as set out in the terms, the Landlord to the Lease is both the Board and the City of Toronto.
- Appendix B – Letter from Dianne Young to Ms. Luba Tymkewycz, Manager of Portfolio Management, City of Toronto. Any lands owned by the City of Toronto that are leased for a period longer than 21 years are required to be declared surplus through the City's administrative process before the lease can be approved by City Council. This letter requested such approval of the Muzik Clubs Lease Amendment.
- Appendix C – Email from Barbara Cappell to Dianne Young dated January 10, 2013 with an attached email from Ms. Trixy Pugh, City Real Estate Services, indicating that the Muzik Clubs Inc. Leased Property lies within an area designated as Parks and Open Space within the City's Official Plan. The full implications of this message are detailed below in bullet for Appendix F.
- Appendix D – Map E, Central Waterfront Secondary Plan, Land Use Plan. This Plan shows the various OP designations on Exhibition Place and the surrounding areas.
- Appendix E – Email from Dianne Young to Tenant dated January 15, 2013. This letter outlines to the Tenant the serious issue raised because of the OP designation. Following this email to the Tenant, meetings were held by the CEO with the Tenant on June 28, 2013 (Tenant and his consultant, Mr. Joe Pantalone); August 9, 2013 (Tenant and his consultant Mr. Jamie Besner); and September 13, 2013 (Tenant and his consultant, Mr. Bob Millward). At these meetings, some of the questions raised by the Tenant were as follows:
 - Why is the OP designation of this area of Exhibition Place different than most of the site?
 - Does Council not have overriding authority to approve the extension and disposal of lands regardless of the OP designation?
 - Can the present lease be terminated and then a new lease entered with a longer term so the new term of the new lease is then less than 21 years?
 - Isn't City Planning undertaking amendments to the OP and could City Planning add to that process an amendment to this designation?

Advice was sought for all these questions from City Planning and City Legal and provided to the Tenant and his consultants. However, after a review of all questions, the advice received, I communicated to the Tenant in September that the Tenant may want to initiate its own application for an Official Plan Amendment as without it City Council would be precluded from approving the lease extension.

- Appendix F – Report from the City Solicitor dated April 2, 2015. This Board report concluded that "a site specific Official Plan amendment would be required in order to give effect to the proposed Muzik lease extension".
- Motion adopted by the Board at its meeting of September 10, 2014, with the Board directing Exhibition Place staff to negotiate an amendment to the Lease to allow for the removal of all the Garden of the Greek Gods sculptures.

Following the direction from the Board on September 10th, Dianne Young and Barbara Cappell have had meetings with the Tenant and his legal counsel and also with City Planning staff and City Planning lawyers to see if there could be a resolution of the directions set by the Board and the desire of the Tenant to have City Council approve the Lease Amendment.

Contact:

Dianne Young, CEO

Tel: 416-263-3611

Fax: 416-263-3640

Email: dyoung@explace.on.ca

Appendix A


Exhibition Place

December 17, 2012

ACTION REQUIRED

To: The Board of Governors of Exhibition Place

From: Dianne Young
Chief Executive Officer

Subject: **Muzik Clubs Inc. Lease Amendment**

Summary:

This report seeks authority to extend and amend the current lease with Muzik Clubs Inc. as per the terms and conditions outlined in this report.

Recommendations:

It is recommended that the Board, subject to approval by City Council, approve:

- 1) The confidential information in Attachment 1 not be released publicly in order to protect the competitive position and the future economic interests of the Board and City; and**
- 2) The amendments to the Lease with Muzik Clubs Inc. substantially on the terms and conditions contained in Appendix A of this report, and the Confidential Attachment, and such other terms and conditions recommended by the City Solicitor and the Exhibition Place CEO.**

Financial Impact:

The financial impact to the Board as a result of approving this recommendation is as set out in the Confidential Attachment.

Issue Background:

The Board approved a (20) twenty-year lease with Muzik Clubs Inc. for the entire Horticulture Building commencing February 16, 2004 and the lands surrounding the Building. Muzik Clubs Inc. has successfully operated a night club for over eight years, however, competition within this sector is very strong and in order to remain current the Tenant has had to improve its property every year and has approached the Board to further enhance the outdoor area at a cost of at least \$5.0M, and to seek an extension of the Lease Term in order to justify this significant investment.

Decision History:

This lease amendment supports the Board's Strategic Plan regarding Business Development to *Integrate each of the business enterprises across Exhibition Place to stimulate local and regional economic growth and promote Exhibition Place as an international centre of business excellence.*

At its meeting of April 23, 2003, the Board approved a Lease with Muzik Clubs Inc. for the

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entire Horticulture Building commencing February 16, 2004 and expiring on February 15, 2024.

Comments:

Muzik Clubs Inc. has successfully operated a night club within the Horticulture Building for over eight years. Currently the night club operates Saturday evenings and on occasional other days has booked parties. The original proposal presented by the tenant and approved by the Board envisioned a night club and outdoor patio. Since 2004 the tenant has seen increased competition in Toronto with many new clubs opening. In order to remain competitive the tenant plans enhance the outdoor area to keep the club at the leading edge.

Prior to tenancy by this tenant the Horticulture Building was rarely used and certainly, the tenancy has been positive and compatible with other operations and events on the grounds. Since the lease commencement date, Muzik Clubs Inc. have paid \$576,000 in rent, \$175,000 net services, contributed \$975,000 to parking revenues, and \$420,000 in property taxes.

Staff were approached by the Tenant in October of this year with a plan that would see the Tenant invest \$5.0M in the Leased Property over a two year period (no later than May 2014 – May 2016) to expand and enhance the outdoor patio area within the existing leased space. The plan modifies and expands the existing outdoor patio by adding three pools, cabanas, permanent washrooms and change rooms. The intent by the Tenant is to add additional activity to the club and enable more days of operation.

In order to finance this enhancement to the Leased Property the Tenant has requested a ten-year extension to the current lease term (to February 15, 2034) and other modifications to the terms and conditions of the existing lease as outlined in appendix A, and the Confidential Attachment. Staff believe this enhancement to the Leased Property will create more activity for the Leased Property and the grounds, and in turn, additional revenues to the Board and is a positive direction for the Board. The extension of the lease term will yield long term revenue to the Board through to February 15, 2034. As this is an amendment to the existing Lease, City Council approval is necessary.

Contact:

Jeff Gay, Director/Event Management Services

Tel: 416-263-3060

Fax: 416-263-3107

Email: jgay@explace.on.ca

Arlene Campbell, GM, Sales & Event Management

Tel: 416-263-3030

Fax: 416-263-3019

Email: acampbell@explace.on.ca

Submitted by:



Dianne Young
Chief Executive Officer

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Appendix 'A'

Substantial Terms and Conditions of a Lease Amending Agreement regarding the Lease dated as of February 16, 2004 between

Muzik Clubs Inc. ("Tenant") and Board of Governors of Exhibition Place ("Board")

- (1) Landlord: Board of Governors of Exhibition Place and the City of Toronto
- (2) Leased Property: definition unchanged. Approximately 37,820 square feet of leaseable area in the Horticultural Building, together with a basement area of approximately 3,000 square feet, and outdoor patio areas
- (3) Investment and Additional Improvements: The Tenant covenants and agrees to undertake capital improvements (the "Additional Improvements") to the Leased Property having a minimum cost of \$5,000,000.00 (the "Investment"). The Tenant will provide the Landlord with a detailed estimate of the proposed Additional Improvements in a form satisfactory to the Landlord by no later than March 31, 2013 and upon completion of the Additional Improvements shall provide evidence to the Landlord, by way of receipted invoices, of having spent not less than the full amount of the Investment. All of the provisions of Article 6 of the Lease entitled Construction of Leasehold Improvements and Fixtures, other than those specifically related to work done at the commencement of the Term, shall apply to the Additional Improvements.
- (4) Term:
 - (a) Subject to subsections (b) – (d) below, provided that the Tenant undertakes the Additional Improvements, completes not less than \$2,500,000 worth of work in connection therewith by May 31, 2015, and completes Additional Improvements having a total minimum cost equal at least to the Investment by May 31, 2016, and delivers satisfactory evidence to the Landlord of the expenditures on May 31, 2015 and May 31, 2016 respectively, then upon confirmation by the Landlord no later than June 30, 2016 that it is satisfied with such evidence, the Landlord agrees that the Term of the Lease will be extended for a further ten (10) years, to be fully completed on February 15, 2034. Notwithstanding these time frames, the Tenant acknowledges and agrees that no work related to any of the Additional Improvements shall be undertaken during the period from July 1, 2015 to July 31, 2015, which is the time period of the 2015 PanAm Games.
 - (b) Completion timelines are subject to City approvals of plans, project scope and required permit approvals. If the Tenant, having used commercially reasonable efforts to obtain all such approvals and permits in a timely fashion, encounters approval-related delays arising from matters beyond the control of the Tenant, the Landlord acting reasonably may make appropriate adjustments to the time frames stipulated herein.
 - (c) If, for any reason, the City does not grant approvals for the full extent of the proposed Additional Improvements, and as a result the Tenant proceeds with a project reduced in value, so that the total expenditure by the Tenant is less than the Investment, the Term of the Lease will only be extended for that portion of the ten (10) years which is proportionate to the total Investment by the Tenant, to end on the last day of the month in which the extension would be granted pursuant to said calculation.
 - (d) If the Tenant fails to complete the Additional Investments to the extent and in the time frames hereby required, the Tenant acknowledges and agrees that the Term will not be extended beyond its current expiry date. If the Term of the Lease is extended pursuant hereto, Section 3.2 of the Lease will be deleted at the same time that the Term is extended.
- (5) Basic Rent: See Confidential Attachment I.

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- (6) Percentage Rent: See Confidential Attachment I.
- (7) Exclusive Use:
- (a) In addition to its current exclusive rights set out in s. 5.2, the Tenant shall be granted exclusivity in respect of its use of the Leased Property for the operation of a permanent seasonal outdoor pool-themed patio. This additional exclusivity will not be in effect against the CNEA, any existing tenants at Exhibition Place including the hotel complex to be constructed by the Princes' Gates LLP, or against any future hotel or casino development as approved by the City of Toronto.
 - (b) Notwithstanding that s. 5.2 prohibits the Tenant from using the Leased Property for the purposes of banquets, among other things, the Landlord agrees that if from time to time during the Term the Tenant has an opportunity that the Tenant would like to pursue to host an event that might fall within the meaning of a "banquet", then the Tenant may present the Landlord with the details of the proposed event and request permission to hold that specific event. The Landlord will give the request due consideration and advise the Tenant on a timely basis whether or not the Landlord consents to the event, but it is understood and agreed that the Landlord shall be under no obligation to act reasonably in making its decision.
 - (c) The parties confirm that the terms "banquet" and "trade and consumer shows" set out in s. 5.2 of the Lease will be interpreted in a manner consistent with the decision of Mr. Justice Belobaba as set out in his Endorsement dated 20070718 re Docket 07-CV-326782PD2, a copy of which will be added as a schedule to the Lease.
- (8) Parking: The Landlord and Tenant agree to create a parking protocol whereby the Landlord will use reasonable best efforts to provide parking for patrons attending the Leased Property. It is understood and agreed that the parking protocol may change from time to time as business and uses come and go from the Lands over the Term, so it will not form part of the Lease, but Section 5.9 of the Lease will be amended to include reference to the creation and existence of, and commitment to, a parking protocol.
- (9) Sponsorship and Naming Rights: The Landlord will retain naming and sponsorship rights as provided in the Lease. Section 7.5 will be amended to acknowledge that the Landlord is willing to consider paying a finder's fee to the Tenant in the event that the Tenant proposes a naming sponsor for the Building acceptable to the Board, and approved by City Council, which leads to a binding sponsorship contract, on terms and conditions to be negotiated should the situation arise, and the Tenant is permitted to market the opportunity accordingly provided however that the Landlord reserves the right to act unreasonably in making its determination. Section 7.5 will be further amended to allow the Tenant's current corporate sponsorship of single events and promotions to occur anywhere within the Leased Property, not just the Building, provided it is not directed towards the exterior of the Leased Property.
- (10) Signage: The Lease will be amended to clarify that the Landlord will not unreasonably withhold its approval of the Tenant's proposed Building name or directional signage, provided that the signage complies with all applicable laws, and is otherwise acceptable to Heritage Toronto.
- (11) Collective Agreements: The Tenant acknowledges having been notified that the Landlord has entered into a new collective agreement affecting the Lands, with Canadian Union of Public Employees Local 5116 (Security) however the Tenant may hire non-unionized security personnel to provide security services directly related to the operation of the Leased Property.
- (12) Assignment, Subletting: Section 15.2 of the Lease will be amended to provide that the Landlord may not arbitrarily and unreasonably withhold its consent to any Assignment, Major Sublease or Change of Control by the Tenant.

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- (13) Closure for CNE: Notwithstanding Section 16.2(2) of the Lease regarding the Landlord's ability to close the grounds during the CNE, the Board agrees to use best efforts to include the following provisions on behalf of the Tenant in the Board's Master Agreement with the CNEA:
- (a) The CNEA shall construct the westerly fence line for the CNE to ensure that the westerly landscaped area and entrance that are part of the Muzik Leased Property are outside the CNE westerly perimeter and for clarity, the CNEA's westerly fence line is outside the limits of the Muzik Leased Property unless otherwise agreed to by Muzik;
 - (b) The CNEA shall work co-operatively with Muzik if Muzik decides to develop special programs that would be offered during the CNE;
 - (c) Muzik, its staff and invitees, shall have continuous and full access to the Muzik Leased Property during the CNE provided that all persons follow the CNEA rules applicable throughout the grounds during the CNE;
 - (d) Any persons attending programs at the Muzik Leased Property during the CNE and arriving after 10 p.m. shall be charged normal Exhibition Place parking rates not CNEA parking rates.

Appendix B



Exhibition Place

December 19, 2012

Via E-Mail–Tpugh@toronto.ca

Hard Copy Delivered

Ms. Luba Tymkewycz
 Manager of Portfolio Management
 City of Toronto, Metro Hall
 55 John Street, 2nd Floor
 Toronto, Ontario M5V 3C6

Dear Ms. Tymkewycz,

Re: Surplus Declaration for Muzik Clubs Inc. – Exhibition Place

This letter is to request a surplus declaration for an existing Exhibition Place Tenant - Muzik Clubs Inc., whose lease amendment was approved by the Board of Governors of Exhibition Place at its meeting held Wednesday, December 19, 2012.

I will be sending this lease amendment for consideration by the City's Executive Committee meeting scheduled for February 5, 2013, wherein the agenda closing is January 22, 2013.

Given the surplus declaration needs to be completed before submission to the Executive Committee, and in order to meet their agenda deadline, I understand this request needs to be considered by the Technical Working Committee at its meeting scheduled for January 10, 2013, and then considered by the Property Management Committee at its meeting scheduled for January 28, 2013.

Enclosed are the following documents that you require:

1. City Council approval of original lease for Muzik Clubs Inc. - 2003;
2. Confidential report considered by City Council – 2003; and
3. Public Report, with Confidential Attachment, considered by the Board of Governors – 2012.

In order to confirm with the Manager/Executive Committee (Frances Pritchard) that the surplus declaration will be submitted after agenda closing, but prior to Executive Committee meeting, can you please confirm with either myself (416-263-3611 DYoung@explace.on.ca), or the Corporate Secretary, Fatima Scagnol (416-263-3620 FScagnol@explace.on.ca), that this request can be completed.

If you need any further information, please let me know. Thank you.

Sincerely,

Dianne Young
 Chief Executive Officer



THE BOARD OF GOVERNORS OF EXHIBITION PLACE

Exhibition Place, Toronto, Ontario M6K 3C3 Tel: (416)263-3600 www.explace.on.ca

Appendix C

Dianne Young

From: Dianne Young
Sent: Friday, May 08, 2015 8:58 AM
To: Dianne Young
Subject: RE: Horticulture Building - Exhibition Place

From: Barbara Cappell [mailto:bcappell@toronto.ca]
Sent: January 10, 2013 10:49 AM
To: Dianne Young
Cc: Alison Fowles; Ward Earle
Subject: Fwd: Horticulture Building - Exhibition Place

Hi Dianne - further to our discussion, here is the email I received from Real Estate Services indicating that the Horticulture Building lies within an area designated as Parks and Open Space within the City's Official Plan.

There is a City policy which prevents the disposal of lands designated as Parks and Open Space without an Official Plan Amendment. A disposal is defined to include the granting of any lease with a term greater than 21 years. We did declare the hotel lands surplus and didn't encounter any such concerns. It turns out that different parts of Exhibition Place have different OP designations.

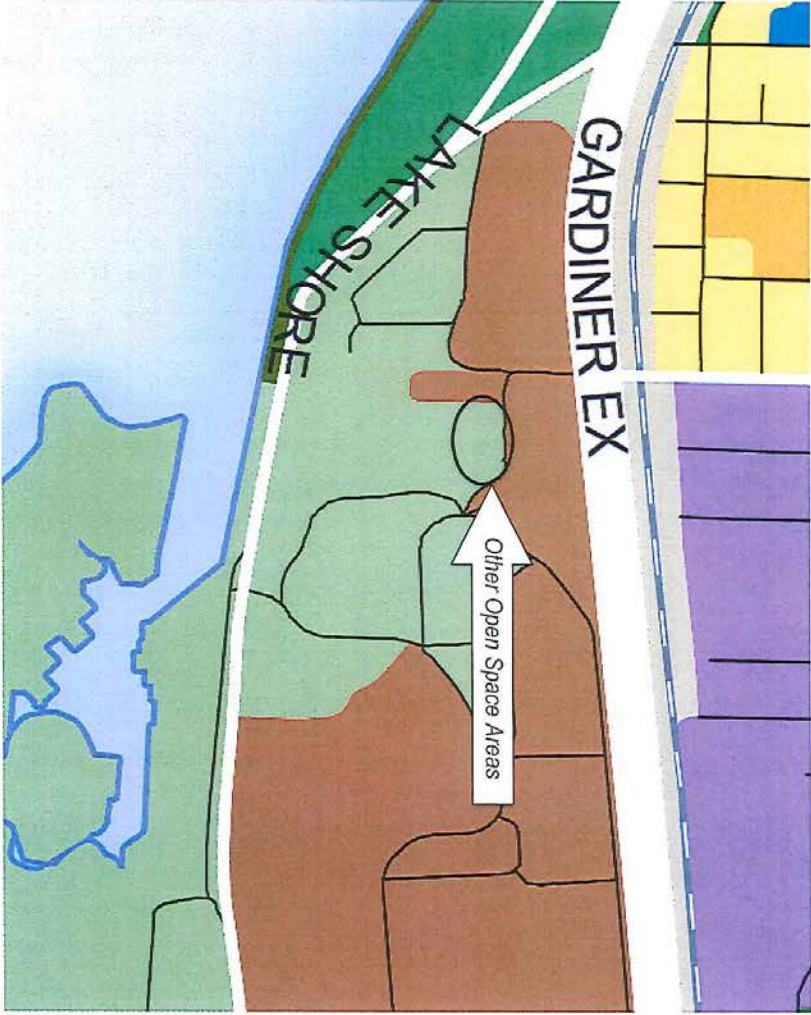
Barbara

Barbara A. Cappell
Solicitor
City of Toronto Legal Services Division
55 John Street, 26th Floor
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Fax 416.397.5624

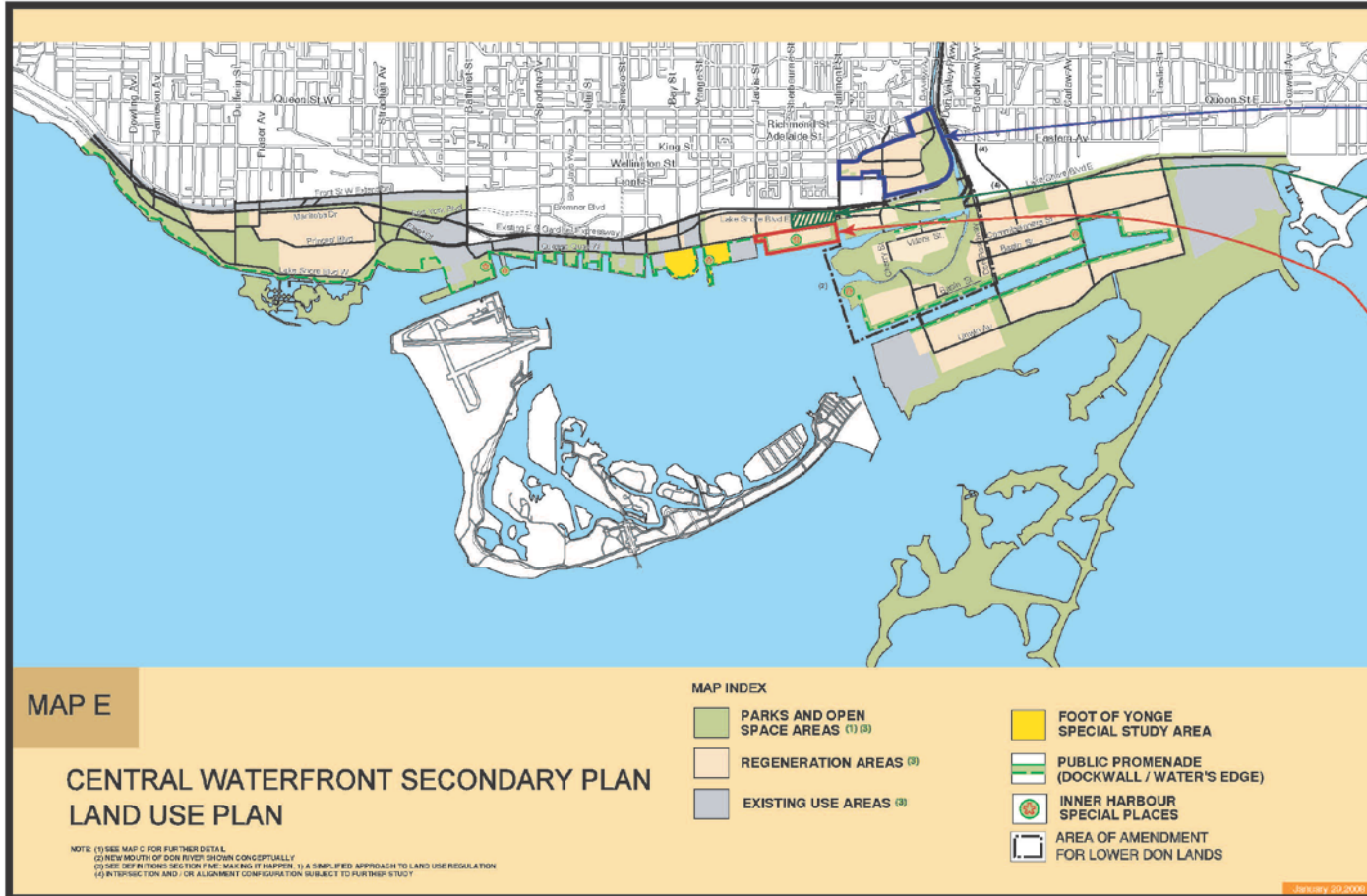
>>> Trixy Pugh 09/01/2013 2:12 PM >>>

Hi Barbara, please see attached the location of the Horticulture Building within the OP map. I've also attached an info sheet for your reference.

Thank you,
Trixy



Appendix D



MAP E

**CENTRAL WATERFRONT SECONDARY PLAN
LAND USE PLAN**

NOTE: (1) SEE MAP C FOR FURTHER DETAIL
(2) NEW BOUNDS OF DON RIVER SHOWN CONCEPTUALLY
(3) SEE DEFINITIONS SECTION F.A.M. MAKING IT HAPPEN 1) & SIMPLIFIED APPROACH TO LAND USE REGULATION
(4) INTERSECTION AND / OR ALIGNMENT CONFIGURATION SUBJECT TO FURTHER STUDY

January 22, 2009

Revised July 2010
Revised Nov. 2011



NOVEMBER 2011

- APPROVED BY ONTARIO MUNICIPAL BOARD FOR WEST DON LANDS
- APPROVED BY ONTARIO MUNICIPAL BOARD FOR EAST BAYFRONT WEST, LANDS ON THE NORTH SIDE OF QUEENS QUAY EAST, EAST OF SHERBOURNE ST
- APPROVED BY ONTARIO MUNICIPAL BOARD FOR FWP LANDS AND LANDS ON SOUTH SIDE OF QUEENS QUAY EAST

OMB NUMBER _____

OMB EXHIBIT NUMBER _____

Appendix E

Dianne Young

From: Dianne Young
Sent: Monday, January 14, 2013 6:11 PM
To: Zlatko Starkovski
Cc: Jeff Gay; Arlene Campbell; Dianne Young; Fatima Scagnol; Barbara Cappell; Alison Fowles (AFowles@toronto.ca)
Subject: Lease Amendment

Dear Zlatko

I wanted to let you know the progress of the report on the Muzik Clubs Lease Amendment that was approved by the Board at its December 15th meeting. Because the amended term of the Muzik Clubs lease would now be over 21 years, in legal terms this would be considered a sale or disposal of the property. Because of this "legal disposal / sale", an approval had to be received by an administrative committee of the City of Toronto. Accordingly, Exhibition Place referred the Board report to that administrative committee and have received a response from the committee that there is a problem proceeding at this time. Apparently, the *Official Plan* for the City of Toronto designates the Bandshell Park area including all of the Muzik Leased Lands as "*Parks and Open Space Areas*" and Section 4.3.8 of the *Official Plan* provides, in part, that no City-owned lands which have been designated *Parks and Open Space Areas* will be sold or disposed of. Again, as noted above, because the proposed amendment to the Muzik Clubs Lease would mean the lease term is greater than 21 years, it is deemed to be a disposal or sale of the lands which then causes section 4.3.8 to be determinative.

I now need to work with the City of Toronto to see how we can resolve this matter, however, at this point I do not see a quick and easy solution and certainly, there will not be a solution in time to have the matter considered by the City Executive Committee of Feb 5, 2013.

To be clear, Muzik Club has a right under its present lease agreement to proceed with the patio / swimming pool upgrades and all you need to do is submit the plans to me for approval and given the response of the Board at its meeting of December 15th it is very likely that these plans will be approved. What cannot be provided at this time is approval by the City of an extension of the lease term by 10 years or approval of any terms relating to that extension.

Call me if you want to discuss this email further and I undertake to advise you about any actions I will take with the City to address the issues noted above with respect to the *Official Plan*.

Regards
Dianne

**Dianne Young | Chief Executive Officer | Exhibition Place
Direct Energy Centre | Allstream Centre**

200 Princes' Blvd. | Exhibition Place | Toronto, ON M6K 3C3 | Phone: (416) 263-3611 | Fax: (416) 263-3640 |
www.directenergycentre.com | www.allstreamcentre.com | www.explace.on.ca | www.theex.com

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Appendix F

The logo for the Toronto Staff Report, featuring a stylized building icon to the left of the word "TORONTO" in a bold, sans-serif font, followed by "STAFF REPORT" in a smaller, all-caps font. A horizontal line is positioned below the text.

TORONTO STAFF REPORT

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.

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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.

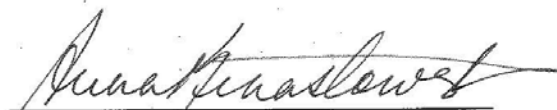
The combined effect of these two policies is that, in order to permit the extension of the Muzik lease, a site specific amendment to the Official Plan would be required. The Board may make such application to the City, and the granting of such amendment would be subject to Council approval and is subject 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



Anna Kinastowski
City Solicitor