



STAFF REPORT ACTION REQUIRED

10.

City-Wide Real Estate Program – Revised Authorities

Date:	April 30, 2018
To:	Toronto Public Library Board
From:	City Librarian

SUMMARY

The purpose of this report is to inform the Toronto Public Library (TPL) Board of the impact of the city-wide real estate program that includes: centralized real estate authorities at the City; revised interim Council delegation of authority for leases; and amendments to the Municipal Code regarding authorizations for leases and licenses. This report also includes recommendations regarding the delegation of authorities to the City Librarian for leases and licenses.

At its meeting on October 2, 3 and 4, 2017, City Council considered [EX27.12 City-Wide Real Estate – Delegated Authorities Framework and Transition Plan](#) and adopted recommendations that centralized real estate authorities at the City and delegated new authorities to City staff. Leasing authorities previously delegated by Council to the Library Board were amended and reduced, though the Board will continue to have most of the ability to enter into leases as landlord for 2018, after which time Council will reconsider the delegation.

At its meeting on December 5, 6, 7 and 8, 2017, City Council considered [EX29.5 City-Wide Real Estate - Amendments to Municipal Code Chapters and Shareholder Directions](#) and adopted recommendations that amended the Municipal Code and provide the Library Board with limited authority to enter into short-term leases and licenses as both landlord/licensor and tenant/licensee. Under the limited authorities provided to the Board by the Municipal Code, nearly all lease and license agreements will require City approval.

This report recommends that the Board continues to delegate its authorities for leases and licenses, obtained either through the Municipal Code or Council delegation, to the City Librarian, provided that branch leases continue to receive Board approval. It is also recommended that the Board delegate authority to the City Librarian to seek City approval for leases or licenses that exceed the Board's authority.

The City Librarian will continue to have delegated authority to enter into and seek City approval for intra-city real estate agreements.

RECOMMENDATIONS

The City Librarian recommends that the Toronto Public Library Board:

1. in response to amendments to the **Municipal Code**:
 - 1.1 endorses changes to the Municipal Code that authorizes the Board to negotiate and enter into agreements, provided that funds to cover the associated costs have been approved by Council in the operating budget, in the following situations:
 - 1.1.1 for leases as landlord, provided:
 - 1.1.1.1 the term of the lease, including renewal options, does not exceed one year;
 - 1.1.1.2 rent reflects fair market value;
 - 1.1.1.3 base rent for the entire term does not exceed \$50,000;
 - 1.1.2 for leases as tenant, provided:
 - 1.1.2.1 the term of the lease, including renewal options, does not exceed one year;
 - 1.1.2.2 base rent no greater than fair market value;
 - 1.1.2.3 base rent for the entire term does not exceed \$50,000;
 - 1.1.3 for licenses, as licensor and licensee, provided:
 - 1.1.3.1 the term of the license, including renewal options, does not exceed five years;
 - 1.1.3.2 where the TPL is the licensor, the agreement has a termination clause of one year's notice in favour of the TPL;
 - 1.1.3.3 license fee for the entire term does not exceed \$10,000;
 - 1.2 approves delegation of authority for leases and licenses, provided to the Board under the Municipal Code, to the City Librarian, provided that branch leases continue to receive Board approval;
 2. in response to interim changes to **Council-delegated authorities** to the Board:
 - 2.1 endorses Council's revised delegation of authority to the Board, for the period January 1 to December 31, 2018, for leases of retail and commercial space where TPL is the landlord, provided:
 - 2.1.1 the term of the lease, including renewal options, does not exceed four years;
 - 2.1.2 base rent is negotiated in the range of market value, except for non-profit organizations; and
 - 2.1.3 base rent for the entire term does not exceed \$250,000;
 - 2.2 approves delegation of authority for leases, delegated to the Board by Council, to the City Librarian until Council withdraws or amends its delegation to the Board;
 3. approve delegation of authority to the City Librarian to seek City approval for leases and licenses that are beyond the authority of the Board, provided that branch leases continue to receive Board approval;

4. approves delegation of authority to the City Librarian to enter into and seek City approval for intra-city real estate transactions.

FINANCIAL IMPACT

This report has no financial impact beyond what has been included in the approved 2018 budget.

The Director, Finance & Treasurer has reviewed this financial impact statement and is in agreement with it.

DECISION HISTORY

At its meeting on July 12, 13, 14 and 15, 2016, City Council considered [EX16.4 City Wide Real Estate Review](#) and adopted, in principle, the direction to move to a centralized real estate operating model as described in the report, ensuring the City is effectively positioned to strategically leverage its real estate portfolio and maximize operating efficiencies.

At its meeting on May 24, 25 and 26, 2017, Council considered [EX25.9 City-Wide Real Estate Transformation](#) and adopted a new service delivery model that centralizes all real estate activities city-wide and established the Toronto Realty Agency (recently renamed CreateTO) and addressed board composition, interim board and governance matters. Council also directed the City Manager to report on a delegation of authority framework for real estate matters that aligns with the new city-wide real estate model, including a recommendation to rescind or amend the current delegations of authority for real estate matters, as required.

At its meeting on September 25, 2017, the Board received a presentation from Josie Scioli, Chief Corporate Officer, entitled [Update on the City-Wide Real Estate Transformation](#) that further explained the proposed amendments to the delegated authorities.

ISSUE BACKGROUND

Section 19(1) of the Public Libraries Act allows a library board, with the consent of council, to acquire land required for its purposes by purchase or lease, and to sell, lease or dispose of land or buildings it no longer requires.

At its meeting on June 14, 1999, the Library Board considered a report entitled *Toronto Public Library Board Real Estate Transactions* and adopted a recommendation to request authority from City Council to enter into some real estate transactions. At its meeting on October 26 and 27, 1999, Council considered Report No. 6 of the Administration Committee and adopted recommendations that authorized the Board to enter into leasing agreements as both landlord and tenant under certain conditions, as listed on Attachments 1 and 2, under Previous Delegated Authorities.

At its meeting on May 29, 2000, the Library Board considered a report entitled *Delegation of Certain Leasing/Property Matters* and adopted a recommendation that delegated authority to the City Librarian to enter into leases where the term is five years or less and the total payment is \$250,000 or less. This delegation gave the City Librarian authority to enter into non-branch leasing transactions, both as landlord and tenant. Leases for branches are submitted to the Board for approval.

Recent Council decisions related to the city-wide real estate program revised delegated authorities to the Board.

COMMENTS

Council Delegated Authorities

At its meeting on October 2, 3 and 4 2017, Council considered [EX27.12 City-Wide Real Estate – Delegated Authorities Framework and Transition Plan](#) and adopted a number of recommendations. The delegated authority to City staff for lease/license approval is detailed in the report, with the City Manager able to approve leases/licenses with a total value of up to \$10 million. Beyond this value, Council approval is required. Further, leasing authorities previously delegated by Council to the Library Board were amended and reduced. For leases as landlord, the Board will continue to have most of the ability to enter into leases for 2018, after which time Council will reconsider the delegation. For leases as tenant, the Board's authority is now limited to that provided under revisions to the Municipal Code in December 2017, as explained below.

With the revised Council delegation to the Board, the Board's delegation to the City Librarian regarding leases is being revised accordingly. The authority to enter into leases as landlord is currently delegated by the Board to the City Librarian and this delegation will continue. The Board is also delegating authority to the City Librarian to seek City approval for leases and licenses that exceed the Board's authority under Council delegation, provided that branch leases as tenant continue to receive Board approval;

Details of the revisions to Council's delegated authorities and the revised Board delegation of authority to the City Librarian are shown on Attachments 1 and 2.

Council has also delegated authority to the Deputy City Manager and Chief Financial Officer (now assumed by the Deputy City Manager, Internal Corporate Services) to approve intra-city real estate transactions between City divisions, agencies and corporations. The City Librarian will continue to have the delegated authority to enter into intra-city real estate transactions.

Municipal Code

At its meeting on December 5, 6, 7 and 8, 2017, City Council considered [EX29. City-Wide Real Estate - Amendments to Municipal Code Chapters and Shareholder Directions](#) and adopted recommendations that amended the Municipal Code and provided the Board with new permanent limited authorities to enter into short-term leases and licenses as both landlord/licensor and tenant/licensee, as described in Attachment 3. Attachments 1 and 2

also show details of the revisions to the Municipal Code as well as the proposed delegation of authority from the Board to the City Librarian. Prior to the amendments, there was no provision for Board authority for leases or licenses in the Municipal Code. The proposal is for the Board to delegate this limited authority for leases and licenses to the City Librarian, as well as authority for the City Librarian to seek City approval for leases and licenses that exceed the Board's authority under the Municipal Code, provided that branch leases continue to receive Board approval.

The limited authorities granted under the Municipal Code would result in most leases and licenses needing City approval. If Council approval is required, the report seeking approval should be submitted jointly with the Deputy City Manager, Internal Corporate Services.

Service Support

Discussions continue with City staff regarding service support required to manage changes to TPL's authorities for leases and licenses under the city-wide real estate program, including the new processes for obtaining approvals from the City.

CONTACT

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SIGNATURE

Vickery Bowles
City Librarian

ATTACHMENTS

- Attachment 1: Revised Real Estate Authorities – TPL as Landlord
- Attachment 2: Revised Real Estate Authorities – TPL as Tenant
- Attachment 3: Revisions to Municipal Code

Toronto Public Library
Revised Real Estate Authorities - TPL as Landlord

Previous Delegated Authorities	Revised Interim Delegated Authorities	Municipal Code Revisions
<i>Council delegated authority for lease transactions (Report no. 6, Administration Committee, Council meeting Oct 26 and 27, 1999)</i>	<i>Temporary Council delegated authority for lease transactions (Jan 1, 2018 – Dec. 31, 2018; to be reviewed by Council after one year):</i>	<i>EX29. City-Wide Real Estate - Amendments to Municipal Code Chapters and Shareholder Directions</i>
<u>TPL Board</u> 1. Term, including renewal options, does not exceed five years. 2. Market base rent, except for non-profit organizations. 3. Base rent for the entire term does not exceed \$250,000.	<u>TPL Board</u> Only with respect to leases of retail or commercial space for which TPL has operational management: 1. Term, including renewal options, does not exceed four years. 2. Market base rent, except for non-profit organizations. 3. Base rent for the entire term does not exceed \$250,000.	Only with respect to spaces for which TPL has operational management: 1. Term, including renewal options, does not exceed one year. 2. Rent reflects fair market value. 3. Base rent for the entire term does not exceed \$50,000.
<u>City Librarian</u> Board had delegated this authority to the City Librarian.	<u>City Librarian⁽¹⁾</u> Board to maintain this delegated authority to the City Librarian, until Council withdraws or amends its delegation to the Board.	<u>City Librarian⁽¹⁾</u> Board to delegate this authority to the City Librarian.

(1) Board to delegate authority to the City Librarian to seek City approvals for leases that are beyond the authority of the Board.

Toronto Public Library
Revised Real Estate Authorities - TPL as Tenant

Previous Delegated Authorities	Revised Interim Delegated Authorities	Municipal Code Revisions
<i>Council delegated authority for lease transactions (Report no. 6, Administration Committee, Council meeting Oct 26 and 27, 1999)</i>	<i>Delegated authority withdrawn (EX27.12, Council meeting Oct 2, 3, and 4, 2017) and replaced with new Real Estate Approval Process and amendments to Municipal Code Chapter 137</i>	<i>EX29. City-Wide Real Estate - Amendments to Municipal Code Chapters and Shareholder Directions</i>
<p>TPL Board</p> <p>1. Term of the lease, including renewal options, not to exceed 10 years.</p> <p>2. Base rent at market value or below.</p> <p>3. Base rent for the term not to exceed \$1,000,000.</p> <p>4. Funds to cover the lease costs have been approved by Council in the Library Board's operating budget.</p>	<p>TPL Board</p> <p>Withdrawn by Council, see Municipal Code Revisions.</p>	<p>1. Term of the lease, including renewal or extension options, does not exceed one year.</p> <p>2. Base rent no greater than fair market value.</p> <p>3. Base rent of the entire term does not exceed \$50,000.</p> <p>4. Funds to cover the associated costs have been approved by Council in the Library Board's operating budget.</p>
<p>City Librarian</p> <p>Non-Branch leases: Board has delegated the following authority to the City Librarian:</p> <p>1. Term, including renewal options, not to exceed five years.</p> <p>2. Market base rent, except for non-profits.</p> <p>3. Base rent for the entire term not to exceed \$250,000.</p> <p>Branch Leases: Board approval required for all branch leases.</p>	<p>City Librarian⁽¹⁾</p> <p>See revised delegation from the Board under Municipal Code Revisions.</p>	<p>City Librarian⁽¹⁾</p> <p>Non-Branch leases: Board to delegate this authority to the City Librarian.</p> <p>Branch Leases: Board approval required for all branch leases.</p>

Board to delegate authority to the City Librarian to seek City approvals for leases that are beyond the authority of the Board, provided that branch leases continue to receive Board approvals.

**Toronto Public Library
Revisions to Municipal Code**

([EX29. City-Wide Real Estate - Amendments to Municipal Code Chapters and Shareholder Directions](#))

Revisions to the Municipal Code give the Library Board the authority to negotiate and enter into agreements, provided that funds to cover the associated costs have been approved by Council in the operating budget, under the following situations:

- for leases as landlord, provided:
 - the term of the lease, including renewal options, does not exceed one year;
 - rent reflects fair market value;
 - base rent for the entire term does not exceed \$50,000;
- for leases as tenant, provided:
 - the term of the lease, including renewal options, does not exceed one year;
 - base rent no greater than fair market value;
 - base rent for the entire term does not exceed \$50,000;
- for licenses as licensor and licensee, provided:
 - the term of the license, including renewal options, does not exceed five years;
 - where the TPL is the licensor, the agreement shall have a termination clause of one year's notice in favour of the TPL;
 - license fee for the entire term does not exceed \$10,000;

Where the proposed agreement exceeds the limits provided under the Municipal Code, approval is required by the City Council or staff through delegated authority. If Council approval is required, there should be a joint report from TPL and the Deputy City Manager, Internal Corporate Services.