

Community Space Rental at Palmerston

Date:	October 22, 2019
To:	Toronto Public Library Board
From:	City Librarian

SUMMARY

The purpose of this report is to provide background and context for communications on the third-party community space rental at the Palmerston Branch, October 29th, 2019 included in the Board package for October 22, 2019.

The third-party rental was made under the Toronto Public Library Board's [Community and Event Space Rental Policy](#). This revised policy was approved by the Board in December 2017 after legal advice from external legal counsel and a peer review by a constitutional lawyer in the context of the Canadian Charter of Rights and Freedoms. Further details on the policy review are provided in this report.

RECOMMENDATIONS

The City Librarian recommends that the Toronto Public Library Board:

1. receives this report for information.

FINANCIAL IMPACT

This report has no financial impact beyond what has already been approved in the current year's budget.

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

DECISION HISTORY

The Community and Event Space Rental Policy was last revised by the Library Board at its December 11, 2017 meeting.

<https://www.torontopubliclibrary.ca/content/about-the-library/pdfs/board/meetings/2017/dec11/04-community-and-event-space-rental-policy-revisions-combined.pdf>

ALIGNMENT WITH STRATEGIC PLAN

The Library's mission underlies the Strategic Plan: Toronto Public Library provides free and equitable access to services that meet the changing needs of Torontonians. The Library preserves and promotes universal access to a broad range of human knowledge, experience information and ideas in a welcoming and supportive environment.

ISSUE BACKGROUND

The Community and Event Rental Space Policy was created to provide equitable access to meeting rooms in local communities when the rooms are not in use for library programs or extended study space. Public libraries in North America have a long history of making community rental space available as part of the suite of services they offer. Both the American Library Association¹ and the Canadian Federation of Library Associations² have position statements on third-party room rentals. TPL's policy aligns with these statements, which include the following elements:

- Libraries have a core responsibility to safeguard and foster free expression and the right to safe and welcoming places and conditions. To this end, libraries make available their public spaces and services to individuals and groups without discrimination;
- Facilities are available regardless of beliefs or affiliations of individuals or groups requesting use;
- Allowing use of facilities does not correlate to the library endorsing the nature of the free expression by any individual or group;
- Controversial expression is supported in the library equally so challenge to controversial expression is supported;

¹ Meeting Rooms: An Interpretation of the Library Bills of Rights

<http://www.ala.org/advocacy/intfreedom/librarybill/interpretations/meetingrooms>

² Position on Third Party Use of Publicly Funded Meeting Rooms and Facilities: And Interpretation of Canadian Federation of Library Associations' Statement on Intellectual Freedom and Libraries. http://cfla-fcab.ca/wp-content/uploads/2019/03/CFLA-FCAB_statement_meeting_rooms.pdf

- These statements do not endorse prior restraint as a means of avoiding controversy; and
- Canadian public libraries are subject to the Charter of Rights and Freedoms, which identifies freedom of expression as one of the four fundamental freedoms in Canada, subject only to reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

COMMENTS

In 2017, TPL undertook a thorough review of the Community and Event Space Rental Policy. Staff considered the Library's legal obligations including requirements of the Canadian Charter of Rights and Freedoms; the position statements of the American Library Association and the Canadian Federation of Library Associations; the Library's mission to preserve and promote universal access to a broad range of human knowledge, experience, information and ideas in a welcoming and supportive environment; and feedback from members of the public and from other stakeholders. Based on the complexity of this policy issue, TPL engaged an external law firm to review the Community and Event Space Rental Policy. Specifically, the following steps were taken:

- A review from external legal counsel was received, which included an additional peer review of the external counsel's legal memorandum by an Osgoode Hall constitutional lawyer in the context of the Canadian Charter of Rights and Freedoms;
- Relevant legislation and pertinent City of Toronto policies were examined;
- The objectives of the Community and Event Space Rental Policy were reviewed;
- Alignment with the relevant position statements of the American Library Association and the Canadian Federation of Library Associations was considered; and
- All feedback received from the public and stakeholders was considered.

As a result of the review the Toronto Public Library Board approved a revised Community and Event Space Rental Policy at its December 11, 2017 meeting. The revisions balanced the Charter provision of freedom of expression with interests of providing a welcoming and supportive environment free from hate activity. The revised language in TPL's Community and Event Space Rental Policy included the addition of language to communicate to those wanting to rent library spaces that hate activity is not permitted on library premises. This has been achieved by strengthening the policy language and including a Denial of Use provision (4.4) that the Library reserves the right to deny or cancel a booking as follows when it reasonably believes:

4.4 i. use by any individual or group will be for a purpose that is likely to promote, or would have the effect of promoting discrimination, contempt or hatred for any group or person on the basis of race, ethnic origin, place of origin, citizenship, colour, ancestry, language, creed (religion), age, sex, gender identity, gender expression, marital status, family status, sexual orientation, disability, political affiliation, membership in a union or staff association, receipt of public assistance, level of literacy or any other similar factor;

4.4 ii. use by any individual or group will be denied for a purpose or action, in the Library's opinion, that is contrary to the law or any of the Library's policies or Rules of Conduct, including violent, threatening, abusive, harassing, disruptive or intrusive language or conduct

The Library's determination of reasonably believing there to be the likely promotion of discrimination, contempt and hatred must be in compliance with the legal interpretation of those concepts.

In applying the Community and Event Space Rental Policy, TPL reviews the stated purpose of each third-party room rental request to determine if it is in compliance with the [Community and Event Space Rental policy](#).

Based on the stated purpose of the October 29th, 2019 third-party room rental, a considered decision was made by the City Librarian to allow the booking based on the facts. These include:

- A third-party group requested a booking for an event they organized, featuring speaker Meghan Murphy.
- The stated purpose of the October 29, 2019 room rental is, "To have an educational and open discussion on the concept of gender identity and its legislation ramifications on women in Canada."
- The stated purpose of this room rental does not violate TPL's Community and Event Space Rental Policy.
- Permission to use a TPL facility as per the Policy does not imply any endorsement of the aims, policies, or activities of any group or individual.
- The speaker for this third-party room rental event has never been charged with or convicted of hate speech as defined in the Criminal Code of Canada.
- In conducting the event, the third-party organizers are obligated not to violate TPL's policies which includes confirming in contract that they will not be conducting any business or activities that are in violation of 4.4(a)(i) of TPL's policy, the Criminal Code of Canada (including hate propaganda laws) or the Ontario Human Rights Code.
- To ensure compliance, the Community and Event Space Rental Policy TPL's policy provides the following Condition of Use 4.3 e):

- That *library staff must have access to facilities at all times and may attend free of charge any event, meeting or course held on Library premises for the purpose of auditing or reviewing compliance with Library policies and terms and conditions.*
- Library senior management will monitor this booking event for compliance with the Community and Event Space Rental Policy's Terms and Conditions.

TPL has received considerable commentary and feedback on the decision to allow the October 29th, 2019 room booking to proceed including emails and letters included in the Board communications as well as phone calls. A summary of commentary and feedback by format is provided here:

Media

There have been 28 media articles and interviews from media across the country, largely representing a balanced presentation of the issue. Of these, three were opinion pieces (Globe and Mail, National Post, Toronto Sun).

Letters

Letters from organizations opposing TPL's decision have been received from:

- Canadian Parents of Trans and Gender Diverse Kids
- PrideTO
- The 519
- Toronto Public Library Workers Union - CUPE Local 4948
- Trans Women's Association

Letters from organizations that are in support of TPL's position have been received from:

- Canadian Civil Liberties Association
- Canadian Federation of Library Associations/Fédération canadienne des associations de bibliothèques
- Canadian Urban Libraries Council
- Centre for Free Expression
- Urban Libraries Council

There are eight letters from individuals in support of TPL's decision and four letters from individuals or groups of individuals without an organizational affiliation opposing TPL's decision.

Email

To date, TPL has received approximately 458 emails about the library's decision to maintain the room booking, 389 were in support and 69 criticized TPL's decision.

Phone calls

Of the 16 phone calls received, eight were in support of the library's position and 8 were critical of the library's decision.

Online Petitions

Three online petitions have been created with two opposed to TPL's decision and one in support:

1. *Stop Hate Speech Being Spread at the Toronto Public Library.* Signed by over 6,300 people.
2. *Toronto Public Library Collaborators Condemn TPL's Decision on Meghan Murphy Talk.* Signed by over 400 people.
3. *Support for Toronto Public Library.* Signed by over 950 people.

Social Media

There has been a great deal of social media commentary on this issue largely playing out on Twitter, but also extending to Facebook.

The commentary began on Twitter, with overwhelmingly critical comments about the planned event. TPL responded to comments and issued two statements on Twitter. The majority of replies were critical, but the second statement received a larger percentage of supportive replies.

On October 17, 2019 Mayor John Tory shared a statement about the Room Rental at Palmerston Branch. This statement was shared on [Twitter](#) and widely retweeted.

Media outlets have shared their stories on Twitter and Facebook and response has been mixed, with hundreds of comments both supportive and critical of TPL's decision to uphold the rental booking.

As further context to communications to the Library Board on the room booking, the following information was included in the City Librarian's *Statement on Upcoming Third-Party Room Rental Event* released October 15, 2019:

As a public library and public institution, we have an obligation to protect free speech. When Toronto Public Library (TPL) makes meeting rooms available to the public we serve, we need to make them available to all on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use. As a public institution, our primary obligation is to uphold the fundamental freedoms of freedom of thought, belief, opinion and expression as enshrined in the [Canadian Charter of Rights and Freedoms](#).

In summary, intellectual freedom and freedom of expression and the social justice values of equity and diversity are mutually reinforcing. Libraries have always been committed to supporting vulnerable communities by welcoming and creating space for different perspectives, rather than through censorship. We are supporters of the LGBTQ2S+ community and will continue to champion this community through our programs, services and collections and offer spaces for dialogue, debate and understanding.

By welcoming and creating space for different perspectives to be shared and debated, public libraries provide vital opportunities for everyone to engage in civic discourse. This is particularly important for marginalized groups, whose voices are too often silenced. More discussion can lead to better understanding and greater acceptance and tolerance in society.

For more than a century, public libraries have been a democratizing force in our world, supporting a civil society and helping people learn about the world in all its complexity. Today, with so many challenges to freedom of speech – in libraries, political and government forums, on university campuses – it is imperative that we continue to have open, uncensored discourse and listen to, respect and learn from each others' perspectives.

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SIGNATURE

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