

Toronto Public Library Board Lease Transactions

Date:	November 22, 2010
To:	Toronto Public Library Board
From:	City Librarian

SUMMARY

The purpose of this report is to request City Council's consent, pursuant to section 19 of the *Public Libraries Act*, to allow the Toronto Public Library Board to enter into certain lease/licence transactions on conditions which will exceed the limits previously imposed by the adoption by Council, at its meeting of October 26 and 27, 1999, of Clause No. 11 of Report No. 6 of the Administration Committee entitled "Toronto Public Library Board Leases".

RECOMMENDATIONS

The City Librarian recommends that that the Toronto Public Library Board requests:

1. Council consent to the Toronto Public Library Board entering into lease/licence transactions subject to the following provisions:
 - (A) in cases where the Toronto Public Library Board is the landlord:
 - (i) the term of the lease/licence, including renewal options, shall be less than 21 years;
 - (ii) the rent to be negotiated shall be in the range of market value except in the case of non-profit organizations; and
 - (iii) the total lease/licence costs to be received, including renewal options, shall not exceed \$2 million.
 - (B) in cases where the Toronto Public Library Board is the tenant:
 - (i) the term of the lease/licence, including renewal options, shall be less than 21 years;
 - (ii) the rent to be negotiated in the range of market value or below;

- (iii) total lease/licence costs, including renewal options, shall not exceed \$5 million; and
 - (iv) funds to cover the lease/licence costs have been approved by Council in the Library Board's operating budget.
2. Council rescind the consent provided by Clause No. 11 of Report No. 6 of the Administration Committee (*Toronto Public for Toronto Library Board Leases*) adopted by Council at its meeting of October 26 and 27, 1999.

FINANCIAL IMPACT

There is no financial impact as a result of this report.

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

DECISION HISTORY

At its meeting on October 26 and 27, 1999, City Council adopted Clause No. 11 of Report No. 6 of the Administration Committee, entitled *Toronto Public Library Board Leases*, which provided consent for the Library Board, in accordance with section 19 of the *Public Libraries Act*, to enter into the following transactions on the following conditions:

- (a) where the Library Board is the landlord:
 - (i) the term of the lease, including renewal options, not to exceed five years;
 - (ii) base rent to be negotiated in the range of market value, except in the case of non-profit organizations; and
 - (iii) base rent for the entire term not to exceed \$250,000.
- (b) where the Library Board is the tenant (lessee):
 - (i) the term of the lease, including renewal options, not to exceed ten years;
 - (ii) base rent to be negotiated in the range of market values or below;
 - (iii) base rent for the term not to exceed \$1 million; and
 - (iv) funds to cover the lease costs have been approved by Council in the Library Board's operating budget.

ISSUE BACKGROUND

The Library Board currently leases space in 12 mall locations that serve as library branches across the City. Often the locations have been occupied by the Library Board for many years, however, before a branch lease is re-negotiated, an analysis is performed in conjunction with the City's Real Estate Services (RES) staff to determine the availability of (i) City-owned properties; (ii) City projects in the development stage that would allow for library space; and (iii) privately-owned property in the catchment area.

The Library Board also leases out space to approximately 20 tenants, including many not-for-profit agencies, at two major locations, namely 40 Orchard View Boulevard (Northern District Branch) and 40 St. Clair Avenue East (Deer Park Branch). Existing tenants, for the most part, are long-term occupants with lease terms of three years.

The terms of all leases and lease renewals are negotiated with the assistance of RES staff and all lease documents are forwarded to the City Solicitor for review and approval prior to being signed by the Library.

The provisions of section 19 of the *Public Libraries Act* requires that the Library Board may acquire and dispose of land by purchase sale, lease, expropriation or otherwise provided that City Council's consent to the transaction has been obtained and, as outlined above, in 1999 City Council, provided the Library Board with blanket consent to enter into certain lease transactions, thereby obviating the need to bring a report to Committee and Council for each transaction.

Since that time, the cost to lease property has increased by over 30%, and the majority of leasing transactions have become recurring and routine transactions.

Recently, Council at its meeting of May 11 and 12, 2010 adopted Item No. EX43.7 of the Executive Committee, being a report from the Deputy City Manager and Chief Financial Officer entitled *Delegation of Authority in Certain Real Estate Matters* in which it was noted that the requirement to obtain Council approval for relatively routine City real estate matters "can unduly and unnecessarily lengthen Committee and Council agendas" and can result "in delays in implementing the necessary transactions and documentation, thereby placing the City at a disadvantage when competing in the real estate market, translating into missed opportunities for the City".

(<http://www.toronto.ca/legdocs/mmis/2010/ex/bgrd/backgroundfile-29031.pdf>)

To address the situation, City Council delegated authority to certain City staff positions to approve various types of real estate matters within set parameters and monetary limits.

COMMENTS

As with the City, many of the Library Board's lease transactions are routine in nature and delays in obtaining approvals may lead to missed opportunities. Additionally, lease costs have increased and will continue to increase.

In consequence, the Library Board is seeking an update of Council's blanket consent so as to allow the Library Board to enter into leases (including licences) where:

- (i) the Library Board is the landlord provided the lease term, including renewal options, is less than 21 years and the total cost (being the aggregate of all types of payment, excepting applicable taxes) does not exceed \$2 million; and

- (ii) the Library Board is the tenant provided the lease term, including renewal options, is less than 21 years, the total cost is less than \$5 million, and funds to cover such cost have been approved by Council in the Library Board's operating budget.

Other Library Board real estate matters, such as purchases and sales of real property, will continue to require Council approval.

The current level of delegated authority refers to a “base rent” amount, while the requested authority refers to a “total lease/licence cost” that includes common area maintenance (CAM) costs. As CAM costs typically amount to 50% to 200% of “base rent”, then “total lease/licence cost” is significantly greater than an equivalent “base rent” amount.

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SIGNATURE

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