

Library Branch Leases Review Results

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| Date: | June 11, 2007 |
| To: | Toronto Public Library Board |
| From: | City Librarian |

SUMMARY

This report is in response to a request from Councillor Heaps, a member of Budget Committee assigned to review Toronto Public Library's 2007 budgets, who requested that the Toronto Public Library review the possibility of issuing tax receipts to landlords in return for free or a reduced rent.

Based on the attached legal opinion, the Toronto Public Library ("Library" or "TPL") or the Toronto Public Library Foundation ("Foundation") cannot issue a charitable tax receipt to a landlord for the provision of rental space for free or for a reduction in rent below market rates. Accordingly, the issue of a charitable tax receipt will not enter into lease negotiations with landlords.

FINANCIAL IMPACT

The cost of the legal opinion from Miller Thomson is \$1,200.00.

The Director, Finance & Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting of April 16, 2007, the Board approved a report regarding the review of the negotiation process for branch leases in malls, in response to a request from Councillor Heaps, who is a member of Budget Committee assigned to review TPL's 2007 budgets. Councillor Heaps requested that TPL undertake a review of branch leases in malls with a view to reducing costs through lower negotiated lease rates or philanthropic donations, or a combination of below-market lease rates and an accompanying tax receipt. The Board report can be found at <http://www.torontopubliclibrary.ca/pdfs/board/07apr16/11.pdf>.

ISSUE BACKGROUND

TPL has thirteen branches in leased mall locations, and spends approximately \$1.5 million annually on leasing costs. In 2007, six leases come up for renewal, and one lease has already been approved by the Board this year. Since 2002, TPL has employed the services of the City's Real Estate Services Division to help negotiate branch leases to ensure that the most favourable lease terms and rates are obtained. In addition, support is provided by the City's Legal Services Division.

With the assistance of the City's Real Estate Services Division, Library staff has managed to negotiate some favourable lease terms. For example, the Woodside branch lease approved by the Board on May 16, 2006, included relocating and expanding the branch from 4,256 square feet to 9,944 square feet, representing a 134% increase, with a corresponding total annual rent increase of only 26%. The negotiated lease rate of \$12.10 per sq. ft., down 46% from the former lease rate of \$22.50 per sq. ft., is considered very competitive. In addition, the landlord agreed to contribute \$450,000 towards the estimated \$1 million cost of construction. A similar example involving the Cliffcrest Branch is described in a separate report at this Board meeting. The Cliffcrest Branch is being relocated and expanded within the Cliffcrest Plaza, and the landlord has agreed to contribute \$450,000 towards the estimated \$750,000 cost of construction.

COMMENTS

Tax Receipting

TPL employed the services of a corporate tax lawyer from the firm of Miller Thompson to provide an opinion on the feasibility of a landlord receiving a tax receipt in return for providing free rent or for a reduction in rent below market rates. As noted in the legal response attached, because there is no transfer of property involved, then no tax receipt can be issued to a landlord in these situations. Therefore, there is no financial incentive for the landlord to offer free or below market rents. Accordingly, the issue of a charitable tax receipt will not enter into lease negotiations with landlords.

In situations where a new lease involves significant capital expenditures, such as a relocation or expansion of a library in a mall, there is more opportunity for seeking relief from a landlord. In these situations, TPL will continue to ask the landlord for a contribution towards the capital costs.

As noted in the legal response, a landlord can provide a donation at any time to the Library or Foundation, the primary fundraising body for TPL, in return for a tax receipt.

Patron Access

At the end of 2006, TPL became aware of a situation involving a library patron being banned from a mall and who was therefore unable to access library services within that mall. TPL was able to negotiate with the landlord to allow the patron access to the

branch under certain conditions. The issue of patron access is now being addressed with mall leases being negotiated and to the extent possible, TPL will attempt to include language in the lease which states that library patrons will not be unreasonably restricted from accessing the branch within the mall.

The Real Estate Services Division and Legal Services Division has reviewed this report. The Library will continue to work with the City to negotiate the most favourable lease terms.

CONTACT

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SIGNATURE

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ATTACHMENTS

Attachment 1: Miller Thompson Letter – May 28, 2007