



P.O. Box 1749
Halifax, Nova Scotia
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Item No. 9.1.3
Grants Committee
April 9, 2018

TO: Chair and Members of HRM Grants Committee

SUBMITTED BY: Original signed

Jerry Blackwood, Acting Director of Finance and Asses Management/CFO

DATE: March 5, 2017

SUBJECT: Less than Market Value Lease; The North Star Rowing Club,
20 Boathouse Lane and 24 Boathouse Lane, Dartmouth

ORIGIN

This report originates with a request from the tenant to enter a new lease agreement with Halifax Regional Municipality (HRM) for the premises located at 20 Boathouse Lane and 24 Boathouse Lane, Dartmouth, as their lease agreement is in holdover since the current lease expired in 2011.

LEGISLATIVE AUTHORITY

HRM Charter, Section 61 (3): The property vested in Municipality, absolutely or in trust, is under the exclusive management and control of the Council, unless an Act of the Legislature provides otherwise.

HRM Charter Section 63(1): The Municipality may sell or lease property at a price less than market value to a non-profit organisation that the Council considers to be carrying on an activity that is beneficial to the Municipality; and Section 63(2): A resolution to sell or lease property referred to in subsection (1) at less than market value shall be passed by at least two thirds majority of the Council present and voting.

HRM Charter Section 10(3): The Mayor and Clerk . . . may sign a deed or other document to which the Municipality is a party, on behalf of the Municipality.

RECOMMENDATION

It is recommended that the HRM Grants Committee recommend Halifax Regional Council:

1. recognize The North Star Rowing Club to be a non-profit organization that Council considers to be carrying on an activity which is beneficial to the Municipality; and
2. authorize the Mayor and Municipal Clerk to enter into a less than market value lease agreement with The North Star Rowing Club on behalf of the Municipality for the premises at 20 Boathouse Lane and 24 Boathouse Lane, Dartmouth (being a portion of PID 00094573 that includes the Oakwood House and Boathouse) where, in the determination of HRM staff, the lease agreement complies with the Recommended Key Terms & Conditions set out in Table 1 in the Discussion section of this report.

BACKGROUND

The North Star Rowing Club (NSRC) is a members-based organization, which provides opportunities for citizens to participate in rowing activities. The facility operates year-round but most programs and events take place from May to November. The Club's programming includes various membership options, with discounted rates for youth and university students. Learn to row programs, and programs for persons with disabilities, are also offered. NSRC is listed with the Registry of Joint Stocks as a Limited by Guarantee company. The non-profit status of the NSRC is confirmed in the organization's Memorandum of Association and Articles of Incorporation, a copy of which was provided to HRM staff. Section four of the Memorandum of Association states:

No dividends will be paid to members or officers of the said company, but all moneys derived from subscriptions or profits received in carrying on the activities of the said company will be used for furthering the objects for which this company is formed.

Located at Lake Banook in Dartmouth, the NSRC was founded in the late 1800s and originally operated on the Halifax Harbour (near Turtle Grove) until their clubhouse was destroyed by the Halifax Explosion. They relocated and rebuilt the boathouse on a parcel of land leased from Canadian National Railways between Porters Wharf and DND wharf. In the 1960s, NSRC asked the former City of Dartmouth to lease the land known as Governor's Grove on Lake Banook. This request was denied however the NSRC was granted permission to continue occupancy of the Oakwood House and the building formerly known as the "carriage house" which is now used for boat storage. The NSRC has been at this location for over 45 years. On May 1, 2001, Regional Council approved the retention of the Oakwood House heritage property and authorized staff to enter into a five (5) year less than market value lease with the NSRC. The agreement included the carriage house, gardens, and the Oakwood House.

In early 2017, NSRC requested a meeting with staff to review a proposal to construct a permanent extension to the existing boathouse structure. This new structure would provide the Club with additional storage that they required as their ability to store boats was at capacity. As part of the review process, staff were advised by NSRC that their request to build the extension was subject to the approval of an application for funding submitted to the Atlantic Canada Opportunities Agency (ACOA) under the Canada 150 Program. In May 2017, NSRC confirmed that their ACOA funding application had been approved and provided staff with a copy of the ACOA Contribution Agreement. Under the terms of the Agreement, NSRC would receive \$36,400 towards the construction of the boathouse extension.

DISCUSSION

Discussions with NSRC and HRM regarding a new lease began in the spring of 2017. Staff and NSRC reviewed areas of responsibility for the lease, and confirmed the Club's funding and building plans for an extension being constructed to the existing boathouse, as previously approved by HRM.

The current lease expired in 2011 and is in holdover on a month to month basis. NSRC has requested that a new agreement be prepared by HRM to include the new boathouse structure, along with the Oakwood House and gardens, as shown in Attachment 1.

The market value net rent for reasonably comparable commercial space in the Dartmouth/Westphal area is \$9.00 to \$10.00 per square foot. The estimated opportunity costs for the leased premises are expected to be at a slightly lower rate as the space is not purpose built, was a former residential home and the boathouse is unheated. The rate per square foot represents the potential revenue if HRM was to lease at market value.

The material terms and conditions of the proposed lease agreement are found in a conditional offer to lease dated December 20, 2017 (see Attachment 3), with the Recommended Key Lease Terms & Conditions being outlined below in Table 1.

Table 1

Recommended Key Lease Terms & Conditions	
Property Address	20 Boathouse Lane and 24 Boathouse Lane, Dartmouth
Landlord	Halifax Regional Municipality
Tenant	The North Star Rowing Club
Leased Premises (Area)	A portion of PID 00094573 (the land may be verified by survey), being approximately 17,026 sq. ft., including the buildings known as Oakwood House and the Boathouse and any additions thereto.
Base Rent	Nominal \$1.00 per annum
Term	Ten (10) years (April 1, 2018 to March 31, 2028)
Commencement Date	April 1, 2018
Permitted Use	The North Star Rowing Club activities, Oakwood House rentals, community events and other related activities, or for such other purposes as may be specifically authorized (by the parties) in writing.
Property Tax	The Tenant is responsible to pay the property tax for the leased premises. which will be at the urban commercial rate plus HST. The Landlord shall invoice the Tenant for any property tax levied in respect of the leased premises.
Specific Conditions	*The Tenant shall be responsible for: <ul style="list-style-type: none"> • all utilities including heat, power and water • general repairs/maintenance and other associated operating costs. Maintenance, repairs and replacement (if required) of the Club's docks. Any maintenance, repairs and or replacements for Oakwood House shall be completed in accordance with the guidelines for a Municipal Registered Heritage Property • no leasehold improvements with first receiving the written approval of HRM • alarm system related costs including monitoring and all false alarm charges

	<ul style="list-style-type: none"> • lawn and grounds maintenance including mowing, trimming, raking, litter removal from the grounds within the leased premises • winter maintenance of snow removal and ice control for the driveway, parking lot, walkways, entrances, stairs and emergency exits/entrances • interior janitorial and cleaning • regular garbage, recycling, compost, etc. removal from the site • all costs associated with the Club's docks, including but not limited to the maintenance, repairs, replacement (if required), the seasonal removal, replacement and seasonal storage of the docks, and all required insurance coverages • maintain Commercial General Liability insurance in the amount no less than \$5,000,000, and any other insurance required by the Landlord as set forth in this agreement. The Tenant's Liability coverage shall include Tenant Legal Liability and Sudden and Accidental Pollution Insurance. If alcohol is served, stored or consumed on site then liquor liability must be included in the insurance which coverage must be satisfactory to HRM. HRM is to be on the policies as additional named insured. <p>*The Landlord shall be responsible for:</p> <ul style="list-style-type: none"> • capital repairs/replacements, as required and budgeted • annual furnace/burner maintenance/inspections for Oakwood House • monthly building inspections • maintenance and repairs to the driveway and parking lot, e.g. pot hole repairs, as required and budgeted
Condition	The Tenant accepts the Premises on an "as is" basis
Access	HRM grants permission for the Tenant and their invitees, both pedestrian and vehicular access to the leased premises over the municipally owned property identified as PID 00094573
Notice	Either party shall have the option to terminate this agreement upon providing six (6) months written notice to the other party at any time and for any reason

*Responsibilities are for both 20 and 24 Boathouse Lane properties unless otherwise indicated.

FINANCIAL IMPLICATIONS

The rent for the term of this agreement is a nominal amount of \$1.00 per annum which is less than market value. The potential market value rent for the finished space of Oakwood House is valued slightly lower than commercial space at a net rent of \$8.00 per square foot or \$25,288 per annum. The Boathouse net rent (pre-extension square footage) has been calculated at warehouse space rates valued at a net rent of approximately \$5.25 per square foot or approximately \$11,539.50 per annum. The total estimated opportunity cost is \$36,827.50 per annum. This does not represent a change from current practice.

The tenant shall be responsible to pay property taxes as they fall due and are invoiced by HRM. Should Regional Council approve the inclusion of the Society to Administrative Order 2014-001-ADM Tax Relief to Non-Profit Organizations, the amount offset represents the 'operating grant' from HRM.

RISK CONSIDERATION

Clarifying the area of the lease to those items in immediate control of The North Star Rowing Club provides clear lines of responsibility. The risk associated with the building and activities carried on inside will be the responsibility of The North Star Rowing Club and they will be required to mitigate any risks to public use.

COMMUNITY ENGAGEMENT

The Board of Directors for The North Star Rowing Club is made up of members of the community.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

ALTERNATIVES

1. The Grants Committee could recommend that Regional Council authorize the Municipality to lease the property to The North Star Rowing Club (i) at market value; or, if below market value, then (ii) at a rent other than the recommended rent per the Recommended Key Lease Terms & Conditions.
2. The Grants Committee could recommend that Regional Council authorize the Municipality to lease the property to The North Star Rowing Club for a period of time other than the recommended term per the Recommended Key Lease Terms & Conditions.
3. The Grants Committee could recommend that Regional Council not authorize the Municipality to lease the property to The North Star Rowing Club.

ATTACHMENTS

Attachment 1: Leased Premises
Attachment 2: Site Map
Attachment 3: Conditional Offer to Lease

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Bruce Chisholm, Partnership Coordinator, Community Partnerships, 902 490 1214
Report Reviewed by: David Greener, Senior Solicitor, HRM Legal Services, 902 490 3960

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ATTACHMENT "1" LEASED PREMISES



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ATTACHMENT "2" SITE MAP



December 20, 2017

Delivered via Canada Post & Email

The North Star Rowing Club
Attn: Robert Sawler, Club President
[REDACTED]
Dartmouth, NS [REDACTED]
Via email: north_star@ns.sympatico.ca

RE: Offer to Lease 20 and 24 Boathouse Lane, Dartmouth

Dear Mr. Robert Sawler,

This letter is an Offer Letter for the premises located at 20 Boathouse Lane and 24 Boathouse Lane, Dartmouth. HRM is prepared to recommend for municipal approvals, a lease agreement for the key terms and conditions which are outlined below:

- **Tenant:** The North Star Rowing Club
- **Location:** 20 Boathouse Lane and 24 Boathouse Lane, Dartmouth (known as Oakwood House and the Boathouse)
- **Premises:** A portion of PID 00094573, (the land area may be verified by survey) Land of approximately 17,026 sq. ft. (Oakwood House 12,738 sq. ft. and the Boathouse 4,288 sq. ft.) and the buildings known as Oakwood House and the Boathouse including all additions.

Oakwood House has a net area of 3,161 sq. ft. which includes usable space on the main floor (1,833 sq. ft.) and second floor (1,328 sq. ft.). The Boathouse has a net area of 2,198 sq. ft. plus a proposed permanent building extension of approximately 1,320 sq. ft.

- **Use:** The North Star Rowing Club activities, Oakwood House rentals, community events and other related activities, or for such other purposes as may be specifically authorized in writing.
- **Term:** Ten (10) years (April 1, 2018 to March-31, 2028)
- **Rent:** \$1.00 per annum for the term of the agreement

The market value net rent for comparable commercial space in the Dartmouth/Westphal area is \$9.00 to \$10.00 per square foot. The estimated opportunity cost for the leased premises is expected to be at a slightly lower rate as the space is not purpose built, was a former residential home and the boathouse is unheated. The rate per square foot represents the potential revenue if HRM was to lease at market value.

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PO Box 1749, Halifax, Nova Scotia
Canada B3J 3A5

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- **Property Taxes:** Tenant shall be responsible for any applicable property taxes to the Landlord based on taxable assessed value resulting from their lease, plus applicable HST. The Landlord shall issue an invoice to the Tenant.
- **Insurance:** Commercial General Liability in the amount no less than \$5,000,000 and any other insurance required by the Landlord as set forth in the agreement.

The Tenant's Liability coverage shall include Tenant Legal Liability and Sudden and Accidental Pollution Insurance.

The Tenant shall have Business Interruption and Extra Expense insurance in an amount sufficient to sustain the Tenant's expenses and direct payments for a period of at least six (6) months and in such amount, for such risks as would be carried by prudent Tenants.

If alcohol is served, stored or consumed on site then liquor liability must be included in the insurance which coverage must be satisfactory to the Landlord.

The Tenant's policy will contain a waiver of any subrogation rights.

Any other insurance required by HRM which shall be set forth in the Landlord's standard lease agreement.

HRM is to be on the policies as additional named insured.

The Tenant will provide the Landlord with a Certificate of Insurance evidencing proof of all required coverage as outlined above, upon the signing of the Agreement.
- **Notice:** Either party shall have the option to terminate this agreement upon providing six (6) months written notice to the other party at any time and for any reason.
- **Lease:** Tenant agrees to enter into Landlord's standard lease agreement.
- **Resolution** Tenant agrees to provide the Landlord with a written Resolution or a copy of the North Star Rowing Club Boards' meeting minutes which approve the signing of the Offer Letter and shall also be required for the signing of the Lease
- **Subletting or Assignment** Tenant shall not assign this Lease, nor assign, sublet, part with or share possession or occupation of the Premises or any part thereof without the prior written consent of the Landlord, which consent may be arbitrarily withheld at the Landlord's sole discretion.

- **Condition:** Tenant accepts the Premises on an "as is" basis.
- **NSRC Dock** Subject to any required approvals from the Province of Nova Scotia, the Landlord consents that the NSRC may have one (1) complete dock system to extend from HRM land into Lake Banook. Any further docks/floats must have the prior written consent from the Landlord. The Landlord shall have the right to withdraw consent at any time for any reason.

- **Construction and Alterations**

The Tenant will not make changes to, or erect in, or on the Premises, any installation, alterations, additions, partitions or renovations without first submitting drawings and specifications to the Landlord and obtaining the Landlord's prior written consent. The Tenant must further obtain the Landlord's prior written consent to any change or changes in such drawing and specifications. The plans and specifications and any variation or amendment thereof, for which approval is given, is not a substitute for the approval of any relevant statutory authority. Such work shall be performed by certified contractors with the appropriate and current credentials, insurance requirements, OH&S, etc. engaged by the Tenant (and approved by the Landlord), but in each case only under a written contract approved in writing by the Landlord and subject to all reasonable conditions which the Landlord may impose. The Tenant shall comply with the Halifax Regional Municipality Charter, the Builders Lien Act, and the requirements of every applicable law, rule, by-law, regulation, order, direction, ordinance and standard of every competent federal, provincial, municipal, regional and other statutory authority in force. The Tenant shall obtain all necessary permits and or licenses before any installation, alterations, additions, partitions or renovation has commenced. The Tenant hereby conveys and releases, at no cost to the Landlord, any interest in leasehold improvements done on or to the premises. Leasehold Improvements shall become the property of the Landlord upon installation.

The Tenant shall not permit to be created nor to remain undischarged any lien, encumbrance or charge arising out of any work or work claim of any contractor, mechanic, labourer of the Tenant or materials supplied by a supplier to the Tenant which might be, or become, a lien or encumbrance or charge upon the Premises. If any lien or notice of lien on account of an alleged debt of the Tenant or any notice of contract by a party engaged by the Tenant or the Tenant's contract to work on the Premises shall be filed against the Premises, the Tenant shall, within thirty (30) days after notice of filing thereof, cause the same to be discharged or vacated by payment, deposit or bond.

- **Access** The Landlord shall permit, during the term of this agreement, the Tenant and their invites, both pedestrian and vehicular access to the Leased Premises over the municipally owned property identified as PID 00094573.

- **Park Area** The Tenant shall book the common park area, lakefront area and the docks through the normal booking procedures and shall clean up after any event that the Tenant books on this site.
- **Parking** The parking area is non-exclusive and shall be used in common with other users of the property.
- **Landlord's Use** The Landlord shall have access to Oakwood House at no cost for a total of five (5) rentals per year during the term of this lease. All uses must be scheduled in advance through the office of the North Star Rowing Club, or appointee. The use of Oakwood House will include access to furniture and equipment assigned to the facility.

Oakwood House may be booked by HRM staff or designate during the day, in the evening and on weekends for events such as but not limited to: HRM Programs, meetings, community/public meetings, workshops, conferences, special community events, seminars, resource lectures, "kitchen table" discussions, project team meetings and any other related municipal requirement. All bookings are subject to the availability of Oakwood House. The Landlord or its designate is responsible for securing the building when their use.
- **Indemnity** The Tenant hereby indemnifies and hold the Landlord harmless from and against any and all claims, demands, liabilities, and expenses, including legal fees, arising from the Tenant's use of the Premises or from any act permitted or any omission to act, in or about the Premises, by the Tenant or its agents, employees, contractors, invitees, or for whom it is responsible in law. Or from any breach or default by the Tenant of this Lease, except to the extent caused by the Landlord's negligence or wilful misconduct.
- *** Tenant Responsibilities:**
 - All utilities including but not limited to heat, power and water (the Boathouse is not currently heated)
 - General repairs/maintenance
 - Alarm system related costs including maintaining and monitoring and all false alarm charges
 - Lawn and grounds maintenance including mowing, trimming, raking, litter removal from the grounds within the Leased Premises
 - Winter maintenance of snow removal and ice control for the driveway, parking lot, walkways, entrances, stairs and emergency exits/entrances
 - Interior janitorial and cleaning
 - Regular garbage, recycling, compost, etc. removal from the site
 - All costs associated with the Club's docks, including but not limited to the maintenance, repairs, replacement (if required), the seasonal removal, replacement and seasonal storage of the docks, and all required insurance coverages

• * HRM Responsibilities:

- o Capital repairs/replacements, as required and budgeted
- o Annual furnace/burner maintenance/inspections for Oakwood House
- o Monthly building inspections
- o Maintenance and repairs to the driveway and parking lot, ex. pot hole repairs, as required and budgeted.

* Responsibilities are for both 20 and 24 Boathouse Lane properties unless otherwise indicated

Any maintenance, repairs and or replacements for Oakwood House shall be completed in accordance with the guidelines for a Municipal Registered Heritage Property.



The Landlord and the Tenant agree that the above proposed general terms and conditions as set out this Offer to Lease are non-binding and subject to the required executive municipal approval. If you agree to the above terms and conditions, please sign and return this document by email or fax on or before noon January 31st, 2018.



Yours truly,

Bruce Chisholm
Partnership Coordinator, Community Partnerships
HRM Parks & Recreation

cc: Michael Ryan, Manager Community Partnerships, Program Support Services
Tara Legge, Leasing Officer, Corporate Real Estate
Marcia Connolly, Leasing & Tenant Services Manager, Corporate Real Estate

By signing below, we hereby confirm the offer was presented and is accepted and we have binding signing authority to accept the offer for The North Star Rowing Club


Jan 25/18

 (Sign and Print Name & Position Title) Date Witness
 ROBERT K. SAWLER
 PRESIDENT


Jan 25, 18

 (Sign and Print Name & Position Title) Date Witness
 JONATHAN DAVIES
 TREASURER - BOARD MEMBER -
 NSRC