
CITY OF KELOWNA

MEMORANDUM

Date: January 21, 2009
File No.: 0870-20-032
To: City Manager
From: Manager, Property Management
Subject: **LEASE RENEWAL – 315 LAWRENCE AVENUE (CHAPMAN PARKADE) TO Z DÉCOR, CALLIDUS HOMES LTD. & BEGRAND FAST DESIGN**

Report Prepared by: *Tammy Abrahamson, Property Officer*

RECOMMENDATION:

THAT City Council approve a five (5) year lease in the form attached, with Z Décor, Callidus Homes Ltd. and Begrand Fast Design (the “Tenant”) located at 315 Lawrence Avenue;

AND THAT the Mayor and City Clerk be authorized to execute all documents necessary to complete this transaction;

BACKGROUND:

The City entered into a five (5) year lease with Mac & Klein commencing May 1, 2003. The lease was assigned to the Tenant on January 15, 2007 for the remainder of the initial term. The lease grants one additional five (5) year option to renew under the same terms and conditions, subject to the renegotiation of rental rates and further options to renew. A new rental rate will be determined by an appraisal of market rent. The current lease has been in overholding since April 30, 2008 pending resolution of internal discussions between the parties to the lease.

An appraisal was commissioned indicating market rates for eight (8) recent five (5) year leases in the downtown core range from \$11.78/sq.ft. - \$15.30/sq.ft., or an average of \$13.55/sq.ft. The appraised market rental value for the subject property is estimated at \$15.00/sq.ft. Under the current lease, the rental rate for the initial term was \$13.50/sq.ft plus operating expenses. An increase of \$1.00/sq.ft. has been negotiated for the first renewal term at a rental rate of \$14.50/sq.ft. Staff believe this rate is reasonable considering the instability of the commercial tenancy market in the downtown area and the tenant's good standing with the City. The recommended \$1.00/sq.ft. increase represents an 11.7% overall increase in lease revenue during the term. At the sole option of the City, a further five (5) year renewal option has been included.



Base Terms of the Lease Agreement for the Tenant use of 315 Lawrence Avenue are;

Term: Five (5) Years
Renewal: One option for an additional five (5) years, at the City's sole option
Rate: \$14.50 / sq ft. (current market rates) plus triple net of \$5.00 / sq ft.
Tenant Improvements: By Tenant

INTERNAL CIRCULATION TO:

Financial Services Department

LEGAL/STATUTORY AUTHORITY:

Community Charter, Sec. 26 – Disposal of Municipal Property – Before a Council disposes of land or improvements, it must publish notice of the proposed disposition in accordance with Sec. 94.

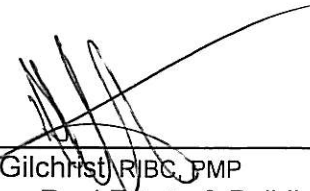
LEGAL/STATUTORY PROCEDURAL REQUIREMENTS:

Community Charter, Sec. 94 – Notice Requirements – The Notice must be posted in the public notice posting places and published for two consecutive weeks in a newspaper that is distributed at least weekly.

Considerations that were not applicable to this report:

- EXISTING POLICY:**
- PERSONNEL IMPLICATIONS:**
- TECHNICAL REQUIREMENTS:**
- EXTERNAL AGENCY/PUBLIC COMMENTS:**
- COMMUNICATIONS CONSIDERATIONS:**
- ALTERNATE RECOMMENDATION:**

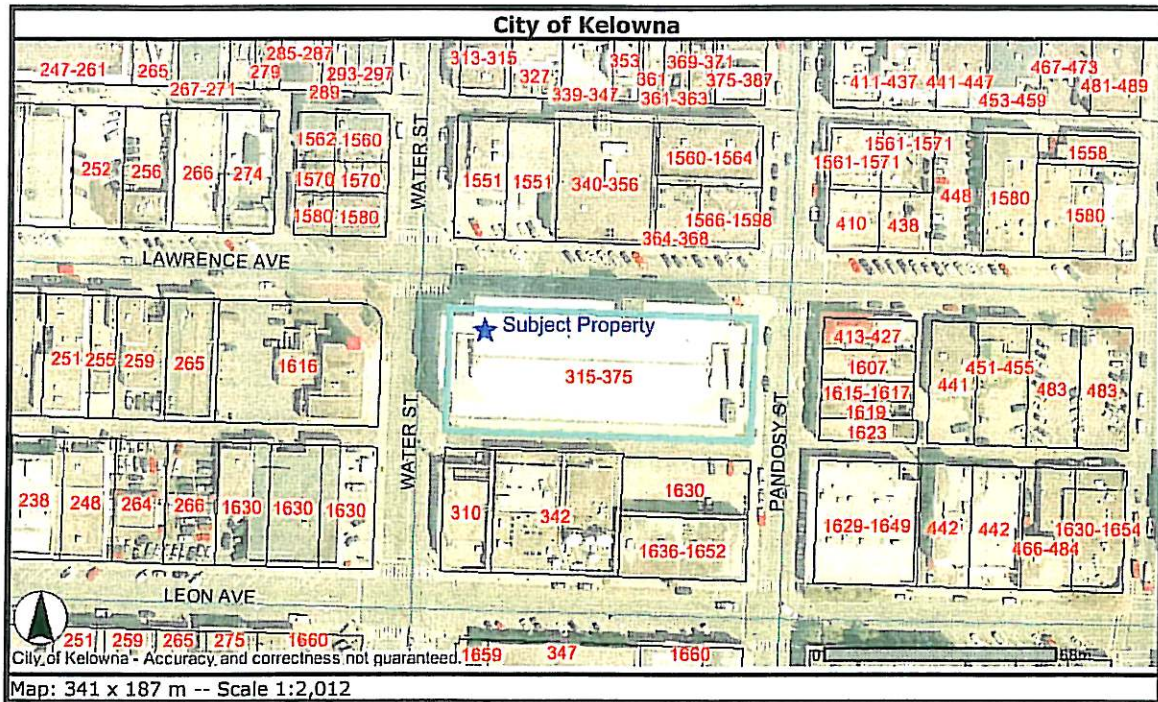
In light of the above, the Real Estate & Building Services Department would request Council's support of this matter.



Doug Gilchrist, RIBC, PMP
Director, Real Estate & Building Services

Approved for Inclusion:  John Vos, General Manager, Citizen Services

cc: Director, Financial Services



This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.

LEASE RENEWAL

THIS RENEWAL LEASE dated for reference the 1st day of May, 2008, is

BETWEEN:

CITY OF KELOWNA, a municipal corporation having offices at 1435 Water Street,
Kelowna, British Columbia, V1Y 1J4

(the "City")

AND:

Z DÉCOR HOME FURNISHINGS LTD. (BC In. No. 0702409) at 1615 Water Street,
Kelowna, British Columbia, V1Y 9W5, a body corporate of British Columbia having its
registered records office at 503 – 3320 Richter Street, Kelowna, British Columbia V1W
4V5

CALLIDUS HOMES LTD. (BC In. No. 0718964), at 315 Lawrence Avenue, Kelowna,
British Columbia, V1Y 9W5, a body corporate of British Columbia having its registered
records office at 2nd Floor, 215 Lawrence Avenue, Kelowna, British Columbia V1Y 6L2

NICOLE BEGRAND-FAST doing business as Begrand Fast Design of 315 Lawrence
Avenue, Kelowna, British Columbia, V1Y 9W5

(the "Tenant")

WHEREAS:

- A. The City is the owner in fee simple of that property legally described as:
Lot A, Plan 39412 Osoyoos Division Yale District
(the "Property");
- B. The Property includes commercial premises identified as 315 Lawrence Avenue (the
"Premises");
- C. By a Lease dated May 1, 2003 (the "Lease"), the City leased the Premises to Mac &
Klein for the term April 1, 2003 to March 31, 2008;
- D. By an Assignment of Lease dated January 15, 2007, the Lease was assigned to the Tenant
for the remainder of the initial term;
- E. The Lease grants the Tenant one five-year right to renew the Lease (the "Renewal
Lease"), with the term of the Renewal Lease being from May 1, 2008 to April 30, 2013
(the "Renewal Term");
- F. The City and the Tenant wish to document their agreement as to the rent payable during
the Renewal Lease and one further option to renew.

NOW THEREFORE in consideration of the grants, rents and mutual covenants hereinafter contained (the receipt and sufficiency of which are hereby acknowledged), the parties covenant and agree as follows:

Renewal Lease

1. Under the right of renewal in section 3.3 of the Lease, the City hereby grants the Tenant a lease of the Premises (the "Renewal Lease").

Rent for Renewal Lease

2. The Tenant covenants and agrees to pay to the City, without any set-off, compensation, or deduction whatsoever, in addition to additional rent, occupation costs and other amounts payable under the Lease, rent in the following amounts:

Lease Year	Rent Per Square Foot	Area	Annual Year	Monthly Rent
May 1/08 – Apr 30/09	\$14.50	1,165	16,893	\$1,407.71
May 1/09 – Apr 30/10	\$14.50	1,165	16,893	\$1,407.71
May 1/10 – Apr 30/11	\$14.50	1,165	16,893	\$1,407.71
May 1/11 – Apr 30/12	\$14.50	1,165	16,893	\$1,407.71
May 1/12 – Apr 30/13	\$14.50	1,165	16,893	\$1,407.71

Option to Renew

3. The City, at its sole option, grants to the Tenant, at the Tenant's expense, a renewal lease of the Premises for one further term of five years upon the same terms and conditions as contained in section 3.3 of the Lease, save and except the Annual Base Rent and any further renewal terms.

Lease Applies

4. This Renewal Lease is expressly made a part of the Lease to the same extent as if incorporated therein, *mutatis mutandis*, and the parties agree that all agreements, covenants, conditions, and provisos contained in the Lease, except as amended or altered herein, shall be and remain unaltered and in full force and effect during the First Renewal Term. The City and the Tenant acknowledge and agree to perform and observe, respectively, the obligations of the City and the Tenant under the Lease as renewed and modified hereby. The City and the Tenant hereby confirm and ratify the Lease and renewal thereof as hereby further renewed and amended.

Enurement

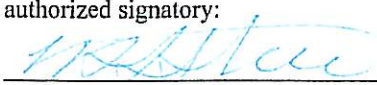
5. This Renewal Lease shall enure to the benefit of and be binding upon the parties and their respective successors and assigns.

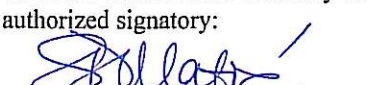
IN WITNESS WHEREOF the City and the Tenant have executed this Agreement as of the dates written below.

DATED the 26 day of November, 2008

CITY OF KELOWNA by its authorized)
signatories:)
) C/S
)
_____)
Mayor:)
)
_____)
City Clerk:)

DATED the ____ day of _____, 2008

Z DÉCOR HOME FURNISHINGS by its)
authorized signatory:)
) C/S
)
Name:)

CALLIDUS HOMES LTD. by its)
authorized signatory:)
) C/S
)
Name)

NICOLE BEGRAND-FAST AND)
BEGRAND FAST DESIGN by its) C/S
authorized signatory:)
)
)
Name)