
CITY OF KELOWNA

MEMORANDUM

Date: March 31, 2009
To: City Manager
From: Director, Real Estate & Building Services
Subject: **Non-Market Rent Council Policy**

Report Prepared by: *R. Forbes, Manager, Property Management*

RECOMMENDATION:

THAT Council approve the policy on Non Market Rents for Civic Facilities attached to the Report of the Director, Real Estate & Building Services dated march 31, 2009

AND FURTHER THAT Council direct staff to advise all groups with current leases that are paying non-market rent for the use of a Civic Facility that at the time of renewal this policy will be applied.

BACKGROUND:

The Ministry of Community Development's website on "Implementing the Community Charter – Property Disposal" recommends that:

"If lands are going to disposed of to a non-profit organization, council may want to have a consistent policy to guide these decisions to ensure fairness to all groups (e.g. for what purposes will it dispose of land; to which type of non-profit organization; for what consideration"

The attached policy addresses this recommendation.

Currently the City has chosen to either charge market rent for a for-profit lease **or** one dollar per year for a not-for-profit lease. This policy allows staff flexibility in recommending to Council an appropriate lease rate based on the percentage of services readily provided to the public of the City of Kelowna.

The guidelines for less than market rent include:

1. The primary service offered provides a demonstrable public benefit.
2. Participation of membership is available to a broad demographic in the community.
3. The society provides the only opportunity or one of only a few opportunities for the service, activity or benefit in the community.
4. The society does not compete directly with the business community in the service it provides or the Society's services compete with the business community, but are offered in very different ways, or are accessible to persons who do not normally have access to the services or facilities in the private sector.
5. Taxpayers will expect the City to provide the service if the entity declines to.
6. Service will be provided primarily to Kelowna residents as proven by a membership list.



There are a variety of leases currently in place that will be grandfathered in however during the lease renewal process they would be reviewed utilizing these guidelines.

INTERNAL CIRCULATION TO:

City Clerk

LEGAL/STATUTORY AUTHORITY:

Community Charter Part 3 Division 2

Considerations that were not applicable to this report:

LEGAL/STATUTORY PROCEDURAL REQUIREMENTS:

EXISTING POLICY:

FINANCIAL/BUDGETARY CONSIDERATIONS:

PERSONNEL IMPLICATIONS:

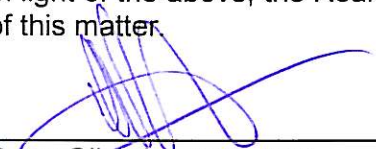
TECHNICAL REQUIREMENTS:

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, Community Services



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COUNCIL POLICY MANUAL

APPROVAL DATE:
RESOLUTION #:
REPLACING #: N/A
DATE OF LAST REVIEW: April 2009

SUBJECT: NON-MARKET LEASING of Civic Land and /or Buildings

The City of Kelowna recognizes the significant value of the services offered by non-profit organizations that enhance the spiritual, educational, social, cultural and physical well-being of the community. A non-market lease is a means for Council to support organizations within the community that further Councils' objective to enhance the quality of life while delivering services economically to the citizens of Kelowna.

Administration

1. The City's Property Manager is to evaluate favorable leases to determine if they meet the following conditions:
 - a. The facility will be operated by a registered non-profit society;
 - b. The non-profit society must provide proof of their non-profit status and be in good standings with the BC registrar of companies;
 - c. The Society must offer programs or services that provide tangible benefits for the citizens of Kelowna as established in the attached guidelines;
 - d. The City need for the subject property for alternate purposes does not conflict with the term of the agreement;
2. The City's Property Manager shall ensure that the lease approvals adhere to Council Policy 81 – Processing of City Lease or Contract Documents.
3. This policy will apply to all new leases as well as existing leases at the time of renewal.

REASON FOR POLICY: To establish a policy for permitting a favourable lease agreement and/or a licenses to use.

LEGISLATIVE AUTHORITY: *Community Charter* Part 3, Division 2

PROCEDURE FOR IMPLEMENTATION: As outlined in this policy.

Guidelines for Establishing the Value of Rent for Lease or License Agreements to non-Profit Societies

Through the use of Civic land and buildings the City of Kelowna leads or facilitates the delivery of a wide variety of services that meets the needs of our community.

These guidelines pertain to the granting of a lease, license or other right or permit to use land or improvements owned, held or otherwise in the possession and control of the City which are longer than a monthly tenancy.

The attached flow chart outlines the review process to be undertaken for each transaction. These guidelines apply to real property, including improvements on real property, and to personal property associated with the use of the real property or improvements. This is not intended to fetter the statutory discretion of Council to grant assistance to any person where Council is authorized to do so by law. Despite anything in these guidelines, the City is prohibited by the *Community Charter* from disposing of real property at less than fair market value in certain circumstances and these guidelines cannot be interpreted to provide authority or any obligation to override or ignore such statutory limitations.

To deliver the services in the most efficient and effective manner, **the City of Kelowna may lease or license the use of City facilities or land at a nominal or reduced rent/fee to non-profit organizations offering community services for public benefit and the City considers it to be in the public interest to do so.** The guidelines listed below will assist in determining if a nominal rent is applicable for the public benefit provided.

Guidelines to Assist with Determining Nominal rent for Non-Profit Societies.

1. The primary service offered provides a demonstrable public benefit.
2. Participation or membership is available to a broad demographic in the community.
3. The society provides the only opportunity or one of only a few opportunities for the service, activity or benefit in the community.
4. The society does not compete directly with the business community in the service it provides or the Society's services compete with the business community, but are offered in very different ways, or are accessible to persons who do not normally have access to the services or facilities in the private sector.
5. Taxpayers will expect the City to provide the service if the entity declines to.
6. Service will be provided primarily to Kelowna residents as proven by a membership list.

City Council may offer the use of City facilities or land at market rent to non-profit organizations that primarily offer a direct service for private benefit. If some of the services offered provide demonstrable public benefit consideration may be given for some rent reduction if a portion of the service provides public benefit and fits well with the stated guidelines.

Amount of Benefit

Nothing in these guidelines shall be interpreted as preventing or obliging the City in determining the value of the disposition, from attempting to relate the value of the assistance to an estimate of the value of the benefit to the community provided by the proposed transferee.

For Profit Corporations

Where the transferee is a business or commercial enterprise, disposition may only be carried out pursuant to a partnering agreement or otherwise in accordance with the *Community Charter* or other statutory power that may be granted by the Province from time to time.

Rental Rate Adjustment Guide

Heading	Rating
1. Primary service to the community.	/ 5
2. Broad membership participation.	/ 5
3. Only or one of few opportunities for the service in the community.	/ 5
4. Competition with the business community.	/ 5
5. Taxpayers expect the City to provide the service	/ 5
6. Service provided primarily to Kelowna residents.	/ 5
	/ 30

LEASE / LICENSE REVIEW PROCESS

