



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Date: April 1, 2004
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TO: Vancouver City Council

FROM: Director of Social Planning, in consultation with the Director of Legal Services and Real Estate Services

SUBJECT: Land Leases for BCBC Portables

RECOMMENDATION

- A. THAT Council approve a five year land lease, for 4 childcare societies, currently in BCBC childcare portables on City land - Boat Day Care Society, 2908 Victoria Drive; Brant Villa Day Care Society, 4103 Brant Street; Kitsilano Montessori Day Care Society, 2091 West 8th Avenue; Sunset Child Care Society, 8064 Buscombe Drive, renewable for two further five-year terms, for the purpose of licensed childcare at a nominal rate, on terms and conditions consistent with the City's policies and practices for childcare and such other terms and conditions recommended by the Director of Legal Services, Social Planning and Real Estate Services, but no rights or obligations shall arise or take effect until, in each case, the lease is signed;
- B. THAT Council instruct City staff to explore terms and conditions of a lease agreement between the City of Vancouver and BC Hydro for the purposes of retaining a 25-space childcare program, currently situated on a BC Hydro land and report back in the summer of 2004;

- C. THAT Council instruct staff to explore the replacement of the Brant Villa Child Care Centre (BCBC portable) and Playhouse Child Care Centre (City-owned portable) located on City land with a new 69-space permanent structure, and report back to Council with a preliminary design and cost estimates (preliminary design cost of up to \$25,000, to be cost-shared between the City-\$15,000, and the two operators-\$ 5,000 each); source of funding, 2003-2005 Social Planning Capital Budget.

GENERAL MANAGER'S COMMENTS

The General Manager of Corporate and Community Services recommends approval of A, B and C.

COUNCIL POLICY

In March, 2003, Council, Park and School Boards adopted the Childcare Protocol to maintain and expand childcare by 5% over the next two years.

In April, 2002, Council approved the child development strategic plan "Moving Forward - Child Care a Cornerstone to Child Development" as the basis for future design of childcare/child development services.

In June, 1993, Council directed that City-owned properties, occupied by non-profit organizations, be held as assets in the Capital Fund and be charged a nominal rental rate. **The lease/sublease/license of City assets below market value constitutes a grant and, as such, requires eight affirmative votes.**

SUMMARY

In the mid 1970's, the City entered into a lease arrangement with the Provincial government for the use of City-owned land, for a nominal rent, on which to build 10 childcare portables. For the past 30 years, the childcare programs have operated in Provincial buildings on City-owned land. The Provincial government covered occupancy costs and annual maintenance and repairs.

The Provincial government has informed the childcare societies operating these programs by Fall, 2004, when portable replacement is completed, that they will transfer ownership of the portables to the societies and no longer cover occupancy costs (approximately \$15,000 per annum). Those societies not taking a portable replacement option but choosing to construct a permanent facility, will also be required to take ownership of their existing portable at this time. The transfer of ownership is contingent on the non-profit society entering into a land lease with the City/Park Board.

The childcare societies are currently in negotiations with the Province on the terms and conditions of the transfer. Of the 10 childcare portables, two have been demolished and replaced with permanent facilities on City land, three are on Park land; four are on City land and one is on a BC Hydro land.

Staff is recommending that Council enter into a land lease between the City and the four childcare societies for a period of five years, with the option for renewal for two further five-year periods, at a nominal rent and on terms and conditions consistent with the City's policies and practices for childcare leases and other such terms satisfactory to the Directors of Legal Services, Real Estate and Social Planning. There is a history of the City providing such arrangements with non-profit societies.

Gingerbread Day Care on Hydro land has been informed by the Province that they will extend their lease until September, 2004. City staff have had an initial discussion with BC Hydro regarding the feasibility of a land lease between the City and Hydro for the short-term, while a permanent site can be located for Gingerbread. Staff would explore terms and conditions of a short-term lease with Hydro, if necessary, to maintain the childcare at its current location until a new site is found. City, School and Park staff are exploring possible sites to relocate Gingerbread in the long term. This report seeks Council's approval to explore a preliminary design and cost estimates on replacing the existing City-owned portable - Playhouse Child Care Centre, and the BCBC-owned portable - Brant Villa Child Care centre, located on adjacent City lots, with a new child development facility for 69 licensed childcare spaces. Playhouse Child Care Centre, in a City-owned building, has approved lease terms with the City.

PURPOSE

This report seeks Council's approval to enter into a land lease with four childcare societies currently in BCBC childcare portables on City land, including Boat Day Care Society, 2908 Victoria Drive; Brant Villa Day Care Society, 4103 Brant Street; Kitsilano Montessori Day Care Society, 2091 West 8th Avenue and Sunset Child Care Society, 8064 Buscombe Drive, for the purpose of licensed childcare. This will maintain 100 licensed childcare spaces. The non-profit societies need to be assured that they have the support of Council in the form of a lease agreement so they can successfully conclude their negotiations with the Province.

Further, it seeks Council's approval to explore terms and conditions of a land lease between BC Hydro and the City, until a permanent site can be established, if necessary. Finally, this report seeks Council's approval to explore a preliminary design and cost estimates on replacing the existing City-owned portable-Playhouse Child Care Centre, and the BCBC portable-Brant Villa Child Care centre, located on adjacent City lots, with a new child development facility for 69 licensed childcare spaces.

BACKGROUND

The City provides nominal land lease as grants for non-profit societies on City land.

In April, 1974, Council approved 10 proposed sites for daycare centres (two portables have since been demolished and replaced with permanent facilities, leaving 8 remaining), including water, sewer and electrical connections and a two-year ground lease at \$1 per year for each site. This included the sites currently housing the eight BCBC childcare portables on City, Park or Hydro lands. The lease agreement for programs on City land was between the City of Vancouver and the Province of British Columbia.

The terms under which day care centre sites were to be leased to the Provincial government included that the lessee pay the cost of \$1.00 per year, provide public liability insurance, be responsible for preparation for the site and all utilities, comply with City by-law requirements and, upon expiry, remove structures including foundations and leave the sites in a neat and tidy condition. Tenancy on expiration of the term granted would be month to month and would be terminated by one month's notice in writing.

The Provincial government has indicated its intention to terminate the lease agreements with the City/Park and Hydro and to turn over the ownership of the eight remaining childcare portables to the childcare societies along with annual occupancy and maintenance costs of approximately \$15,000. In addition, the Province has offered to either replace existing portables with new modular buildings, or provide a capital grant of up to the equivalent cost of construction for the portables for construction of a permanent building or renovation, providing construction commences by April 1, 2005. If any of these options is not exercised, the Province will demolish existing buildings at no cost to the operator.

Of the four programs on City land, two have expressed interest in portable replacement (Boat Day Care and Sunset Day Care), one is exploring the feasibility of a new facility in collaboration with a multi-service organization (e.g. Brant Villa Day Care) and the fourth is exploring a capital renovation (e.g. Montessori Day Care Centre).

The three programs on Park land - Nanook Childcare Centre run by YMCA is exploring the replacement of the portable with a permanent facility on the existing China Creek Park; Kitsilano Area Childcare is planning a portable replacement; and Harbourview Childcare Centre, which appears to be a BCBC portable according to past development permits, would like a portable replacement. The Province, however, is disputing ownership of this portable and has indicated that because it has not been paying occupancy costs for this program, it is ineligible for portable replacement. This issue has not yet been resolved between the operator and the Province and has created significant concerns for the operator.

The last portable, Gingerbread Child Care Centre on Hydro land, would like to replace their portable, if a new site can be found and construction completed by March 31, 2005.

DISCUSSION

In order for the childcare societies to continue service delivery and further their discussions with the Provincial government, land leases must be secured. Given the long-standing relationship between the City and the childcare societies and the critical need to maintain existing childcare spaces, staff are recommending that the City enter into a lease arrangement with the childcare societies, on the terms and conditions consistent with the City's policies and practices for childcare leases and other terms as required by, and satisfactory to the Director of Legal Services, in consultation with the Directors of Social Planning and Real Estate Services.

All four City programs provide licensed childcare for 25 children, ages 3 to 5 years. Three of the four programs are located in areas of the City where there are a significant number of children and limited childcare spaces. They are operated by parent-run non-profit societies and have been in operation for over 30 years in their respective communities.

The three childcare programs located on Park Board land - Nanook Day Care Centre, Kitsilano Child Care Centre and Harbourview Child Care Centre - are seeking leases with conditions similar to those on City land. Park Board staff will be taking forward a report in May, 2004, for these three leases.

The eighth program - Gingerbread Day Care - is located on BC Hydro land. The Provincial government has indicated that it will terminate its lease with BC Hydro as of September, 2004, and, at this point, does not have a contract for a portable replacement. City, Park and School Board staff are looking at possible alternatives for relocating this program in the long-term and are awaiting assurances from the Province that a new portable will be built, once land can be secured. In the interim, staff are seeking Council approval to explore a short-term lease, should it be necessary, with BC Hydro until a new site can be secured. Staff would report back with specific terms and conditions. It is preferable for the City to enter into a lease arrangement with BC Hydro and cover lease costs directly. The City will also explore lease arrangements with the Province. The City would then sub-lease to the childcare, at a nominal rent, as a grant in-lieu of rent.

FINANCIAL IMPLICATIONS

There are potential costs for the lease with BC Hydro which need to be determined. The preliminary design costs of building a new 69-space program to replace Brant Villa and Playhouse Child Care (City-owned) Centres would be up to \$25,000, to be cost-shared between the City (\$15,000), and the two programs (\$5,000 each). Report back to Council on cost considerations and source of funding would be forthcoming in the Fall. The eight non-profit societies will be required to find the additional \$15,000 annual occupancy costs and annual maintenance and repair costs, which may put pressure on City grants.

CONCLUSION

Staff support the lease of City land at 2908 Victoria Drive, 4103 Brant Street, 2091 West 8th Avenue, and 8064 Buscombe Drive, for the purpose of licensed childcare for a five-year term, renewable for two further five-year terms and the exploration of lease terms with BC Hydro for Gingerbread Day Care.

Staff also support a short term lease with BC Hydro, should it be necessary, and the exploration of a preliminary design and costing for a permanent 69 licensed space child development hub on the City lots currently housing the one City owned portable and one BCBC portable.

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Category 4: Social Service, Childcare, Cultural Facilities (Society owns building, City owns or leases land)

Agreement between the City of Vancouver (the "City")
and
_____ (the "Society")

DRAFT TERMS

Term: Five years commencing _____ renewable for two further five-year terms.

Rent: \$10.00 payable in advance

Land: _____

Building: The building(s) situated on the Land.

Lease/sublease/license:

The City to grant:

- a lease/sublease/license of the Land as shown on plans to be appended to the Lease for the purposes set out in the Use section below.
- the Agreement will not be registered in the Land Title Office.

Use:

The permitted use of the Land is restricted to:

- the operation of a _____ facility (the "Facility") within the Mandate and Public Service Objectives established by the Society appended to the Agreement as a schedule and approved by the City (see below); and
- purposes necessarily incidental to the operation of a Facility and permitted within the applicable zoning.

Public Service Objectives:

As part of the Agreement, the Society's Mandate and Public Service Objectives (draft to be provided by the Society for City approval) shall be included and used by the City as annual and periodic performance measures. The Society may amend the Mandate and Public Service Objectives from time to time with prior written City approval.

The Agreement shall identify Public Service Objectives including:

- hours of operation;
- type and range of services;
- process for community input;
- administrative capacity;
- financial accountability;
- financial viability with evidence of diversified revenue sources; and
- quality, accessibility and affordability of programs and services.

Laws, Regulations and Requirements

The Society shall comply with all laws and regulations relating to its operation of a Facility and shall provide evidence with such compliance on request by the City. The Society shall also comply with any requirements imposed on the Society by the City as Landlord in connection with the Society's operation of the Facility on the Land including the obligation to comply with all federal, provincial and municipal laws and by-laws including the British Columbia Human Rights Code which prohibits discrimination in many areas including in publications which are likely to expose a person or a group or class of persons to hatred or contempt because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age of that person or that group or class of persons. If there is a head lease, the Society shall be obliged to observe and comply with the applicable terms of the head lease in order that the City is not in default under the head lease.

No Assignment or Subletting:

The Society may not assign or sublet any portion of the Building(s) and/or Land without the City's prior written permission.

Insurance:

The Society shall also be responsible for insuring the building against fire and vandalism; all equipment, fixtures and furniture and shall be required to maintain comprehensive general liability insurance as well as all risk broad form tenant's legal liability insurance in the amounts and types to the satisfaction of the City's Director of Risk and Emergency Management.

Utilities, Janitorial, Maintenance and Repairs:

A Service Agreement shall form a Schedule to the Agreement and shall itemize both City and Society obligations for utilities, security systems, telephone, janitorial, maintenance and repairs.

In general, the Society shall be responsible for all utilities, security systems, janitorial services, landscaping, snow removal, all maintenance and repairs including major capital repairs such as roof replacement, building envelope repairs, foundations, infrastructure services (water, sewage, power) and building systems.

The Society shall be required to set aside an adequate maintenance reserve within its annual operating budget to meet the obligations in the Agreement.

Improvements:

Prior to the Society making any alterations, erections or modifications (hereinafter collectively referred to as "Improvements") to the Building and/or Land, the Society shall obtain the City's written consent. In giving its consent, the City may as such attach conditions or deadlines as it sees fit and the Society shall be responsible for all cost of Improvements, and claims or liabilities of any kind arising from the Improvements.

Reporting to the City:

On or before December 31 of each year, or at any time requested by the City, the Society will provide to the City the following:

- Board-approved financial statements for the previous year, prepared at the Society's expense by an accounting professional. Such statements shall include all operating,

capital, maintenance reserve and special purpose funds and shall itemize administrative and program costs;

- a balanced annual budget including an estimate of all revenues and expenditures;
- a summary of activities for the past year demonstrating how the Society has fulfilled its Public Service Objectives;
- evidence of a functioning/governing Board of Directors; and
- a summary of planned activities for the coming year. Further, if requested by the City, the Society shall submit to the City minutes of all Board meetings.

Indemnification:

The Society shall indemnify the City for any costs, losses, suits, or expenses incurred by the City arising as a result of the Society's use and occupation of the Land and related City property.

Early Termination:

The City may terminate the Agreement prior to the end of the Term on the happening of any one or more of the following events:

- the Society is in default on any payments owed to the City following 30 days notice;
- termination of the head lease, if any;
- the Society defaults in performing any other provision of the Agreement, including, without limiting the generality of the foregoing, failure to comply with any laws or regulations relating to its operation of a _____ facility;
- the Building and/or Land are not operated as a _____ facility for more than 30 days without the City's prior written consent;
- the Building and/or Land are not used in the operation of a _____ facility to the satisfaction of the City;
- the Society becomes bankrupt, is wound up or dissolved;
- by mutual consent; and/or
- substantial destruction of the Building and/or Land.

Options to Renew:

The Society may only exercise its options to renew if it is in good standing under the Agreement.

Additional Provisions and Qualifications:

The Agreement shall contain such other terms and conditions as may be satisfactory to the City's Directors of Legal Services, Real Estate, Facilities Design & Development, Social Planning and Risk and Emergency Management, it being noted that no rights or obligations hereby arise or take effect until the Agreement has been executed by both the City and the Society. The foregoing represents typical terms and provisions. The City reserves the right to vary such terms and provisions in its sole discretion depending upon the individual tenant as well as the individual building and/or lands that are being leased/subleased/licensed.