



CITY OF KINGSTON
REPORT TO COUNCIL

Report No.: 12 -188

TO: Mayor and Members of Council

FROM: Denis Leger, Commissioner, Transportation, Properties & Emergency Services

RESOURCE STAFF: Peter Huigenbos, Acting Director, Real Estate & Construction Services

DATE OF MEETING: June 19, 2012

SUBJECT: Ravensview Land Lease - 859 LaSalle Boulevard

EXECUTIVE SUMMARY:

The property located at 859 LaSalle Boulevard was leased to Barbara Smith, now deceased, for a term commencing September 1, 2004 to August 31, 2014. David William Mortley Smith, the son of the deceased, has inherited the cottage on the property is requesting to lease the land for the balance of the term of the lease, ending August 31, 2014, on the same terms and conditions as the original lease.

RECOMMENDATION:

THAT Council authorize the Mayor and Clerk to execute a lease in a form satisfactory to the Director of Legal Services with David William Mortley Smith for the lands described as Lot 2, Plan 525, municipally known as 859 LaSalle Boulevard, in the City of Kingston for a term ending August 31, 2014 at a rental rate of \$2,726 per annum, subject to the Consumer Price Index (CPI) for Ontario adjusted annually on September 1st of each year.

June 19, 2012

- Page 2 -

AUTHORIZING SIGNATURES:

ORIGINAL SIGNED BY COMMISSIONER _____ Denis Leger, Commissioner, Transportation, Properties & Emergency Services
ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER Gerard Hunt, Chief Administrative Officer

CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

Commissioner Beach, <i>Sustainability & Growth</i>	N/R
Lanie Hurdle, <i>Community Services</i>	N/R
Jim Keech, President and CEO, <i>Utilities Kingston</i>	√

(N/R indicates consultation not required)

June 19, 2012

- Page 3 -

OPTIONS/DISCUSSION:

In the 1960's the City acquired land in the former Pittsburgh Township for the purposes of constructing the Ravensview Sewage Treatment Plant. In 1958, the City expropriated the bulk of the land needs for the project known as Block "A". Lots 1-9, Plan 525 along the waterfront were subsequently purchased by negotiation in 1960. The City entered into land leases with individuals for 8 of the lots until such time that the City required the lands for the expansion of the plant. All of the lands including Lots 1-9 are included in the City's Certificate of Approval with the Ministry of the Environment for the operation and future expansion of the plant.

By 2004, all of the leases had expired and all tenants were considered to be operating on month to month tenancies pending review of the future of the plant. Discussions with Utilities Kingston confirmed that the leased lands in Lots 1-9, would be required eventually to accommodate further expansion plans in 15-20 years but that 10-year leases would be appropriate. This would provide tenants with a measure of stability in terms of maintaining the structures for period of time while protecting the City's long needs for eventual use of the property. Council approved 10 year leases which are scheduled to expire in August of 2014 at which time terms and conditions of further renewals would be evaluated.

Many of the tenants are original family members with only a handful of newcomers who purchased the cottages on the lots and entered into new leases with the City. No third party transfers have occurred since Council's review of the situation in 2004.

In the past 10 years, the City has received and approved two requests to amend or transfer the leases. In one case, two additional tenants were added to the lease as joint tenants. The second case was similar to the subject property involving the death of a tenant and the inheritance of the cottage on the property by the son. Both were approved by Council on the same terms and conditions as recommended in this report. All of the leases were kept to a termination date of 2014 with all other terms and conditions of the lease remaining the same.

All of the leases contain a waiver of any right to claim against the City for discomfort due to the proximity of the plant and the requirement of the tenants to remove their buildings at the end of the lease. Any expectation of right of renewal was explicitly denied. Accordingly, the lease rates were set at market rates in 2004 given the unique term and conditions of the lease and have been increased annually by the CPI for Ontario on September 1st of each year. The subject lease is currently set at \$2,726 per annum payable in monthly instalments.

Mrs. Barbara Smith died September 15, 2010. Her estate has been continuing the payments of rent subject to approval of a new lease with her son, David William Mortley Smith, who has inherited the leasehold improvements on the property. It is recommended that a new lease be entered into with Mr. Smith ending August 14, 2014 on the same terms and conditions as all other tenants to maintain consistency in treatment of tenants and ease of administration. Prior to the termination date of August 2014, staff will review a leasing plan with Utilities Kingston and make recommendations to Council regarding terms of renewal and market rates. The new lessee has provided written consent to the limited term and conditions associated with the lease should it be approved by Council.

June 19, 2012

- Page 4 -

EXISTING POLICY/BY LAW:

The Revenue Leasing and Licensing Policy as approved by Council on May 3, 2011, with amendments approved on December 20, 2011.

NOTICE PROVISIONS:

N/A

ACCESSIBILITY CONSIDERATIONS:

This report and related information is available in alternative formats upon request.

FINANCIAL CONSIDERATIONS:

Lease payments, currently set at \$2,726 per annum, to be increased September 1st each year at the CPI rate for Ontario, will continue as per the previous tenant. Tenants also pay property taxes on the improved value of the lot including their buildings.

CONTACTS:

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Ext. 3148

Kathy Gray, Property Specialist, Real Estate & Construction Services

Ext. 2429

OTHER CITY OF KINGSTON STAFF CONSULTED:

Alan McLeod, Senior Legal Counsel, Legal Services

Stephen Dickey, Deputy Treasurer, Finance

Jim Miller, Utilities Kingston

EXHIBITS ATTACHED:

N/A