

File No.: 04-1000-20-2020-280

July 3, 2020

s.22(1)

Dear s.22(1)

Re: **Request for Access to Records under the Freedom of Information and Protection of Privacy Act (the "Act")**

I am responding to your request of May 21, 2020 for:

**Council Report on this site located at 1660 E Broadway, "The Rio Theatre" that went to Council on July 25, 2018. The Heritage Preservation Covenant registered on title references this date and a one-time conditional grant of \$375,000 to the Vancouver Art House Society (the VAHS) in support of the conservation of the Lands and Rio Theatre use.**

All responsive records are attached. Some information in the records has been severed, (blacked out), under s.12(3)(b) and s.14 of the Act. You can read or download this section here: [http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/96165\\_00](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/96165_00)

Under section 52 of the Act, and within 30 business days of receipt of this letter, you may ask the Information & Privacy Commissioner to review any matter related to the City's response to your FOI request by writing to: Office of the Information & Privacy Commissioner, [info@oipc.bc.ca](mailto:info@oipc.bc.ca) or by phoning 250-387-5629.

If you request a review, please provide the Commissioner's office with: 1) the request number (#04-1000-20-2020-280); 2) a copy of this letter; 3) a copy of your original request; and 4) detailed reasons why you are seeking the review.

Yours truly,

Cobi Falconer, FOI Case Manager, for

[Signature on File]

**Barbara J. Van Fraassen, BA**  
**Director, Access to Information & Privacy**

[Barbara.vanfraassen@vancouver.ca](mailto:Barbara.vanfraassen@vancouver.ca)  
453 W. 12th Avenue Vancouver BC V5Y 1V4

\*If you have any questions, please email us at [foi@vancouver.ca](mailto:foi@vancouver.ca) and we will respond to you as soon as possible. Or you can call the FOI Case Manager at 604.871.6584.

Encl.

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IN CAMERA

## ADMINISTRATIVE REPORT

Report Date: July 23, 2018  
Contact: Sandra Singh  
Contact No.: 604-871-6858  
RTS No.: 12701  
VanRIMS: 08-2000-21  
Meeting: July 24, 2018

TO: Vancouver City Council

FROM: Sandra Singh, General Manager, Arts, Culture and Community Services

SUBJECT: Conditional Grant to Vancouver Art House Society towards the Conservation of 1660 E Broadway (Rio Theatre)

### IN CAMERA RATIONALE

This report is recommended for consideration by Council on the In Camera agenda as it relates to Section 165.2(1) of the *Vancouver Charter*:

(e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure could reasonably be expected to harm the interests of the city;

(k) negotiations and related discussions respecting the proposed provision of an activity, work or facility that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the city if they were held in public.

And as it relates to Section 165.2(2) of the *Vancouver Charter*:

(b) the consideration of information received and held in confidence relating to negotiations between the city and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.

### RECOMMENDATIONS

- A. THAT, subject to Recommendations B through E, Council:
- a. approve the Rio Theatre as having sufficient heritage value or heritage character to justify its conservation by way of a Section 219 covenant pursuant to Section 206(2) of the Vancouver Charter; and
  - b. approve a one-time, conditional grant ("City Grant") of up to \$375,000 to Vancouver Art House Society, incorporated as a registered non-profit society in British Columbia, in support of the conservation of the Rio Theatre; source of funding to be Citywide Community Amenity Contributions, to be added to



the 2015-2018 Capital Plan. Expenditures will be managed within the current overall approved 2018 Annual Capital Expenditure Budget.

- B. THAT the City Grant be conditional on:
  - a. funding from the federal Department of Canadian Heritage through the Canada Cultural Spaces Fund; or
  - b. funding from the other governmental agencies, or private sector investors or lenders;
  - c. or amendments to the purchase agreement with the current owner of the Rio Theatre such that the City Grant achieves its intended purpose of facilitating the purchase and conservation of the Rio Theatre by an entity that is able to satisfy the conditions set out in Recommendation C.
- C. THAT the City Grant be disbursed to the Vancouver Art House Society only if the following terms and conditions can be satisfied:
  - a. The grant agreement terms are legally secured by a Section 219 Covenant registered on title to the Rio Theatre and granted by the corporate entity that acquires title to the Rio Theatre;
  - b. The 219 Covenant is registered on title in priority to all mortgages, leases, and other charges and encumbrances being registered by the purchasers, lenders, investors and tenants of the Rio Theatre at or after closing;
  - c. The 219 Covenant require the current use of the property as the Rio Theatre (or any other similar use if approved by the General Manager of Arts, Culture, and Community Services) for 10 years from the closing of the purchase, failing which the City Grant is to be repaid;
  - d. The repayment terms will ideally require repayment in full and with interest, but at the least will require repayment on a straight-line depreciated basis (e.g., 50% back after 5 years and 0% after 10 years); and
  - e. A Community Use Agreement, as discussed in this Report.
- D. THAT Council authorize the General Manager of Arts, Culture and Community Services to negotiate the necessary grant agreement, Section 219 Covenant, and such other legal agreements as are required to implement and secure the above City Grant conditions and such other terms and conditions as are satisfactory to the General Manager of Arts, Culture and Community Services and the City Solicitor, and that the City Solicitor be authorized to execute all such legal agreements on behalf of the City;
- E. THAT no legal rights or obligations will arise or be created by Council's adoption of Recommendation A unless and until all legal agreements authorized by Recommendation D have been executed and delivered by the respective parties.

Pursuant to Section 206(2) of the Vancouver Charter, approval of the City Grant requires a resolution passed by not less than two-thirds of votes cast.



## **REPORT SUMMARY**

The purpose of this report is to seek Council approval to provide a conditional grant of \$375,000 to Vancouver Art House Society towards the purchase of the property at 1660 East Broadway to secure the use of the premises primarily as a multipurpose arts and culture venue, specifically as a cinema and live entertainment venue, for a term of 10 years.

Should there be a change of use of the property, in whole or in part, within 10 years of receiving the grant, staff will negotiate for a full repayment of the grant with interest, but at the least will require that the grant be paid back to the City on a proportionate basis.

## **COUNCIL AUTHORITY/PREVIOUS DECISIONS**

**Grandview-Woodland Community Plan:** This grant aligns with a priority of the Grandview-Woodland Community Plan to preserve and renew existing arts and cultural spaces and the policy outlined in Section 12.1.1 of the plan to stabilize existing key cultural spaces (City-owned or non-City owned) through appropriate (re)investment and (re)capitalization in the physical asset. Furthermore, the Grandview-Woodland Community Plan recognizes the significance of The Rio Theatre in the Commercial-Broadway Station Precinct and specifies in Section 6.7.1 that the City consider any applications for additional height, density and relaxations on The Rio Theatre and sites directly adjacent to it, in order to support renewal and expansion of the cultural facility, under C-3A zoning.

**Making Space for Art: 2018 Cultural Infrastructure Plan:** The recommendations align with key objectives of the *Making Space for Art: 2018 Cultural Infrastructure Plan* approved by Council on July 10, 2018, to secure affordable, accessible cultural spaces in partnership with the arts and cultural sector, government and the private sector and to preserve existing private spaces such as music and film venues.

## **CITY MANAGER'S/GENERAL MANAGER'S COMMENTS**

Approval of this conditional grant is an opportunity to help conserve and protect the significant cultural heritage of The Rio Theatre and retain a valued and valuable neighbourhood cultural space. The City Manager concurs with the recommendations.

## **REPORT**

### **Background/Context**

Built in 1938 and located on the corner of Commercial and Broadway in East Vancouver, The Rio Theatre ("The Rio") is a historical landmark that has become an award-winning hub for independent film and live performance.

The Rio is a beloved cultural institution in the City of Vancouver with strong community roots. Located in the heart of the Grandview-Woodland neighbourhood, it is one of the few remaining multimedia venues for premier independent cinema and live entertainment in the city.

Over the past two decades, most of the city's single screen and independent movie theatres have closed. These include the Ridge, Van East Cinema, Denman Place



Cinema, Collingwood Cinema, and Empire Oakridge Cinemas. As of the writing of this In Camera report, a Council decision is imminent on staff recommendations to approve a Heritage Revitalization Agreement that would allow for restoration and revival of The Hollywood Theatre in Kitsilano.

Unlike The Hollywood Theatre, which has a property owner who plans to maintain the building as a cultural venue, The Rio Theatre is currently under threat of closing its doors permanently with the potential sale of the property to new owners.

The current operator of the Rio, Shameless Lee Productions led by principal Ms. Lea, was notified in January 2018 that the property would be put up for sale. Ms. Lea immediately mobilized a robust community campaign to save The Rio, with the goal of purchasing the property. Ms. Lea has assembled business partners s.12(3)(b) s.12(3)(b) to purchase the property was accepted by the owner. The owner has extended the closing deadline to s.12(3)(b)

### **Strategic Analysis**

The loss of The Rio would have a significant negative impact on the arts, culture and creative community in Vancouver. City staff have been in discussions with Ms. Lea to explore how the City might reasonably contribute.

The legal structure of the “Save the Rio” initiative is not straightforward, and it is important for Council to be aware of this structure so as to understand the context for the recommendations set out in this Report:

- Ms. Lea and the investors have incorporated a new company called Rio Theatre Properties Ltd. (“NewCo”)

- s.12(3)(b)

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- One of the investors is to be Vancouver Art House Society

- s.12(3)(b)

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Staff have been advised that NewCo has secured a s.12(3)(b) mortgage from Vancity Credit Union. s.12(3)(b)

To date, NewCo has advised staff that it has raised over \$2.6 million through shareholder investors, a grassroots crowdfunding campaign, private donations, and fundraising events. Ms. Lea and her NewCo group believe they can raise additional funding from private sector investors and have identified a \$1 million gap to City staff.

#### Recommended City Action

Staff are recommending a one-time conditional grant of \$375,000. The recommended grant recipient is Vancouver Art House Society, a registered non-profit B.C. Society with a mandate to help save Arts and Culture spaces in Vancouver. Vancouver Art House Society would utilize the City Grant (and perhaps other funds) to subscribe to be a shareholder in NewCo and thereby help close the \$1 million gap.

The recommended City Grant will require secured use of the property as an arts and culture space, specifically as a cinema and live entertainment venue, for at least 10 years. Under the current operating model, The Rio Theatre's usage is approximately 40 percent of rentals to non-profit community organisations, 30 percent to co-productions with local artists and filmmakers, 20 percent to independent film programming and 10 percent of rentals to large entertainment promoters like Live Nation. The City will also require a formal Community Use Agreement to ensure affordable, continued access to the space for not-for-profit community organizations.

If there is a change of use of the property, in whole or in part, within 10 years of receiving the grant, staff will negotiate for a full repayment of the grant with interest but at the least will require that the grant be paid back to the City on a straight-line depreciated basis in the event that the current use ceases prior to the 10-year anniversary of the closing.

Ms. Lea and the Vancouver Art House Society are also seeking grant funding s.12(3)(b) from the federal Department of Canadian Heritage through the Canada Cultural Spaces Fund (CCSF). City staff have been in conversation with their counterparts at the federal Department of Canadian Heritage CCSF. The City's grant of \$375,000 would satisfy CCSF's requirement of matching funds s.12(3)(b)

Staff have also been in discussions with the Province, raising the possibility of a grant or a waiver of property transfer tax, but have not received an indication of strong interest.

s.12(3)(b)

#### Timing

s.12(3)(b)

The owner has indicated a willingness to extend the deadline provided that there is a signal that Ms. Lea is able to close the \$1 million gap (funds received by



owner) s.12(3)(b)

If the \$375,000 conditional grant funding commitment from the City is not secured by the current deadline of s.12(3)(b) (and other funds are not raised from investors or lenders and the owners do not extend the closing any further) the purchase will not be completed and it is almost certain that the Rio Theatre will face imminent closure. This would be a significant loss of arts and cultural space in Vancouver and have long-lasting negative impacts on the cultural ecology of the city.

***Public/Civic Agency Input (if applicable)***

N/A

***Implications/Related Issues/Risk***

***Financial***

Staff recommend that a conditional grant of up to \$375,000 be provided to Vancouver Art House Society, a registered non-profit society that is to be shareholder in The Rio Theatre Properties Ltd., towards the purchase of the property at 1660 East Broadway; source of funding to be Citywide CAC, to be added to the 2015-2018 Capital Plan. Expenditures will be managed within the current overall approved 2018 Annual Capital Expenditure Budget.

As noted above, the City Grant will require secured use of the property as an arts and culture space, specifically as a cinema and live entertainment venue, for at least 10 years. The City will also require a Community Use Agreement to ensure affordable access to the space for not-for-profit community organizations. If there is a change of use of the property, in whole or in part, within 10 years of receiving the grant, staff will negotiate for a full repayment of the grant with interest but at the least will require that the grant be paid back to the City on a straight-line depreciated basis. Staff anticipate that any federal grant funding would also have similar conditions.

***Human Resources/Labour Relations***

N/A

***Environmental***

N/A

***Legal***

s.14



s.14



## **CONCLUSION**

The Rio Theatre is a valued and valuable cultural institution in the City. Should Council approve the recommendations in this report, the City will have contributed to the preservation one of the few remaining independent cinema and live theatre venues in Vancouver.

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