

November 30, 2017

Non-profit leases audit

Background

The City's leases to non-profit organizations take a variety of forms. Leases can involve City-owned land, buildings, or airspace parcels. They are numerous and varied as many have resulted from longer-term relationships with non-profits whose mandates are to provide service in areas such as culture, social facilities, childcare, and non-market housing. In support of these organizations, many of these arrangements involve nominal leases. As such, they are effectively grants and require Council approval.

In general, the majority of leases involve three categories of non-profit organizations: social, cultural, and housing. Other leases include those managed by the Park Board and those that fall under the Property Endowment Fund.

Records from the Real Estate department indicate there are approximately 120 active projects relating to social and cultural leases to non-profits. There are also additional facilities in the planning or construction stage that will ultimately result in a lease to a non-profit.

1. Social Leases

Leases of City land or space involve organizations that provide social facilities such as senior centres and daycares.

2. Cultural Leases

Leases to organizations in the cultural sector cover a range of facilities including theatres, museums, and artist studios.

3. Housing-related Leases

There are over 11,000 non-market housing units that are on over 200 City owned sites. These projects often involve a ground lease, with the building owned by the operator or leased by a provincial authority. More recently, new developments and their associated developer contributions often result in new buildings and/or air space parcels provided to the City which are then leased to a non-profit operator.

BPPS Non-Profit Lease Management Project

The City's Business Planning & Project Support (BPPS) team has an active project underway that focuses on Social and Cultural leases. One focus of the project has been on addressing

the backlog of overholding¹ leases and projects for which a lease agreement had never been formally in place. Other areas of work include standardizing and formalizing the associated business processes, defining roles and responsibilities, developing an agreed-to framework to assist in making decisions on subsidy levels, and establishing ongoing tenant oversight for programming and lease terms.

Scope

The audit objectives were to review the City's processes related to the management of non-profit leases and:

1. To assess the adequacy and effectiveness of management's processes and controls throughout the lifecycle of the lease, from tenant selection, lease negotiation, contract management and monitoring, and renewal decisions;
2. To determine whether roles and responsibilities are clearly assigned and documented between City departments and the related non-profit organizations;
3. To assess compliance with City policies and processes for management of non-profit leases; and
4. To determine whether lease payments are received in accordance with the lease, and lease terms are complied with.

The scope of the audit included a review of the processes and selected sample transactions related to the City's leases to non-profit organizations in the categories of social, culture, and housing.

Out of scope:

- Leases involving the Property Endowment Fund, as this is covered under a separate audit; and
- Non-profit leases managed by the Park Board; these are managed under separate processes.

Our work included:

- Interviews with key staff and management in Arts, Culture, and Community Services, Real Estate Services, Financial Services, and Business Planning & Project Support;
- Documentary review of related Council reports, process documents, and other departmental records and correspondence; and
- Review of key documents for a sample of leases, including lease agreements, service level agreements, and insurance documentation.

The audit is not designed to detect fraud. Accordingly there should be no such reliance.

¹ Over holding refers to leases that have expired, but the contract terms have carried forward after the lease expiry.

Conclusion

Internal controls with respect to the management of non-profit leases require improvement. Efforts have been made to clarify roles and responsibilities with respect to the management of non-profit leases, but significant work remains to finalize these processes and embed them in operations. Addressing the backlog of social and cultural leases that were either over holding or not established has been the main focus and progress has been made in this area.

The more significant findings and recommendations are:

E.1 Establish a framework for financial support levels for non-profit organizations

Management will establish a framework for determining the level of overall City financial support provided to social and cultural non-profit groups, as measured by market value of in-kind contributions, and covering rental rates and operating costs. This will facilitate lease negotiation and enhance transparency and consistency in the support provided to non-profit organizations.

E.2 Implement monitoring processes to enhance City's oversight of non-profits

There is currently a lack of lease management and oversight throughout the lease term for all non-profit leases. Formalized processes to monitor building maintenance and operational performance need to be developed within the Arts, Culture, and Community Services department. A monitoring program will be implemented providing sufficient information to ensure compliance to lease terms and to established public service objectives.

E.3 Document roles and responsibilities for housing related leases

The Arts, Culture, and Community Services and Real Estate Services departments are working together to clarify roles and responsibilities for Housing related leases.

E.4 Enhance lease tracking information

Additional lease tracking information related to billing amounts would be beneficial for social and cultural leases. Housing leases require a more comprehensive database to be established and maintained.

Findings and recommendations have been discussed with management and work is underway to address them.