



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Report Date: April 4, 2006
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Meeting Date: April 18, 2006

TO: Vancouver City Council
FROM: Director of Social Planning
SUBJECT: Bayshore Gardens Child Care Centre

RECOMMENDATION

That Council approve the purchase by the City from 0700550 B.C. Ltd. ("Blue Tree") of the Property on the following terms and conditions:

- i. \$1.00 purchase price;
- ii. the Property "as is" without any warranties or representations as to its state other than certain limited warranties to be assigned to the City from Blue Tree;
- iii. support and access easements between the air space parcels;
- iv. a parking lease and easements for access to and from the parking spots for a term of 99 years;
- v. Blue Tree (later to be the strata corporation) to be responsible for the repair, replacement and maintenance of the membrane under the outdoor play area and to be responsible for certain other related costs;
- vi. closing date 45 days after issuance of occupancy permit for the Property;
- vii. Blue Tree to provide a child care facility in the Property in accordance with Provincial licensing requirements and, in addition, to pay \$94,000 to the City for material, furnishings & equipment as required in order to fully fit the child care facility in accordance with Provincial licensing requirements, such \$94,000 to be credited to a capital account created for this purpose;

- viii. the \$391,160.52 which Blue Tree paid to the City in 2004 in lieu of operating the childcare centre to be credited to the childcare endowment fund;
- ix. the City pay its share of the shared costs of being an owner of one of the air space parcels comprising the building on the Parent Property (the "Building") estimated at \$5,000 per year which shall be partly refunded by the childcare operator under its lease agreement with the City and partly paid by the existing maintenance budget;
- x. pursuant to the City assuming the benefits and burdens of the Air Space Parcel Support and Access Easement, the City shall be obliged to grant appropriate indemnities and rent charges to the other air space parcel owners in the Building. The City shall receive such indemnities and rent charges in return from the other air space parcel owners (including from the City in its capacity as being the owner of the Non-Market Housing air space parcel which shall be leased to the Performing Arts Lodge Seniors Housing Society for a term of 60 years);
- xi. the release of the option to lease in the City's favour currently registered against the title to the Parent Property;
- xii. the release and/or modification by the City from the titles to the Parent Property and/or some or all of the air space parcels and Remainder which shall be created by the deposit of the air space plan creating the Property of such agreements as seem appropriate to the Director of Legal Services;
- xiii. the Director of Legal Services be authorized to execute such agreements (including the purchase and sale agreement) and plans as may be necessary to complete the transaction as contemplated herein;
- xiv. no legal rights or obligations shall arise or be created until all legal documentation is fully executed on terms and conditions satisfactory to the Director of Legal Services; and
- xv. such other terms and conditions to the satisfaction of the Director of Legal Services in consultation with the Directors of Social Planning, Facilities and Design Management, and Real Estate.

GENERAL MANAGER'S COMMENTS

The General Manager of Community Services Group RECOMMENDS approval of the foregoing.

COUNCIL POLICY

In October, 1990, Council approved the Civic Childcare Strategy, which included two actions related to child care conditions of rezoning:

- “Require, where appropriate, construction and equipping of child care facilities as a condition of rezoning in commercial, retail and residential developments”
- Approve, in principle, the option of obtaining agreement from the developer for construction of child care facilities and the establishment of an on going operating fund to subsidize childcare services, as part of the rezoning process.” (This policy direction was confirmed by Council on April 16th, 1991).

In November 1991, Council required, as a condition of rezoning the Bayshore Lands, the provision of a fully furnished daycare facility for 47 children, as determined by requirements for both the commercial and residential components, and its conveyance to the City; all of the foregoing to be at no cost to the City. The facility was to comprise 5200 sq feet of indoor space and 5600 sq feet of immediately adjacent, fenced and equipped outdoor play space and was required to meet all requirements for community care and daycare facilities and the licensing thereof.

In 1993 Council approved child care operating contributions as a condition of rezoning for the Bayshore Development. Further, Council directed that city-owned properties, occupied by non-profit organizations, be held as assets in the Capital fund and be charged a nominal rent.

In 2005, Council approved a five year lease for the child care space at 1616 Bayshore Drive, to the Vancouver Society of Children’s Centres renewable for two further five year terms, for the purpose of a 49 space licensed child care centre, at a nominal rate (\$1), subject to the terms and conditions as outlined in this report and on terms satisfactory to the Directors of Social Planning, Legal Services, Real Estate Services and Facilities Design and Management. In addition, Council authorized the allocation of \$7,500 to Facilities and Design Management annual operating budget for maintenance services, without offset starting in 2006.

SUMMARY

Blue Tree is near completion of the construction of a 49 space child care centre in the Property. In addition it has fulfilled its obligation to pay to the City \$391,160.52 in operational funding and \$94,000 to fully fit, furnish and equip the child care centre, in lieu of Blue Tree itself operating the child care facility on the Property.

As Blue Tree has nearly fulfilled its obligation to provide the child care facility, staff recommend purchase of the Property on the terms and conditions set out in Recommendation A. Staff recommend the City purchase the fee simple interest in the Property rather than just leasing it to ensure that the City has more control over this facility over the life of the Building and to ensure a consistent approach with the adjacent non-market housing air space parcel.

PURPOSE

The purpose of this Report is to obtain Council approval of the purchase of the Property on the terms and conditions set out in Recommendation A.

BACKGROUND

The child care calculation for the Bayshore development originally resulted in a requirement for a 47 space child care centre. The City's position was to build a 37 space program with a 10 space pay-in-lieu @ 25,650 per space (\$256,500) based on 1992 rates to offset future operating costs. The developer did not agree with the staff recommendation and in a presentation to the Standing Committee on Planning and Environment proposed to construct 47 day care spaces, in accordance with all applicable Municipal and Provincial requirements, and maintain responsibility for ongoing management and operation of the facility, including all necessary subsidies to reduce the cost to that which was affordable in the market place. They further committed that the City of Vancouver would not be responsible for any ongoing operating subsidies. It was on this basis that the project went forward to Public Hearing and Council agreed to these terms.

The option to lease was drafted to reflect Council's agreement with the 47 spaces and the assurance that the City would not be responsible for any future operating costs for the life of the building, in the event that Blue Tree did not continue to operate the child care. As such, the option to lease set out a requirement that should the developer surrender his obligation to operate the child care, a payment equivalent to the operating costs would be paid to the City.

In 2004 the City was advised by Blue Tree Hotels Investment Canada Limited that they did not wish to hold the operating responsibility for the childcare. As a result, Blue Tree paid to the City \$391,160.52 - the required operating funding, and in 2006 paid the required \$94,000 to fully fit, furnish and equip the child care centre. The \$391,160.52 operational funding will be held in the child care endowment reserve. The \$94,000 will be held by a capital account created for this purpose to be managed by Facilities and Design Management.

The child care endowment reserve was created in 1991 to ensure the availability of start up and operating subsidies needed to sustain those new child care facilities being opened in high density neighbourhoods, as a result of rezoning negotiations. Endowment funds offset the high costs of operating infant and toddler spaces, primarily due to staffing and operating costs in high density buildings. The current endowment grant for eligible programs is \$1,650 per infant/toddler space per year and is approved by Council on an annual basis.

The facility has been built to meet the 47 space requirements; however Community Care Facilities Licensing has indicated that the program will be eligible for a license to accommodate 49 children. This would include 12 infants, 12 toddlers and 25 children age's three to five. Staff anticipate the program opening in Spring/Summer 2006

DISCUSSION

The child care will be located in the Property which will be one of the air space parcels, formerly being part of Lot V. The other air space parcels will house the non-market housing and the retail units.

The Bayshore Garden's CD-1 requires that at least 13% of the units be developed as affordable housing. This requirement is being met through the development of 111 units for the Performing Arts Lodge of Vancouver. The PAL Vancouver project is under construction now as

part of the larger project that includes the childcare, retail and condominiums. PAL Vancouver will occupy its own airspace parcel within the project, and the City will be purchasing PAL's airspace parcel pursuant to the Option to Purchase negotiated as a condition of the original rezoning approval.

The remainder of Lot V will be stratified and will house the condominium units as well as most of the parkade. Some of the parkade is located in Air Space Parcels 1 and 2 which are located in the complex and which were the subject of a previous air space subdivision. Staff have been discussing with all relevant parties the appropriate allocation of expenses for joint use of some areas in the complex.

FINANCIAL IMPLICATIONS

The City will own the air space parcel housing the child care and, as owner, shall be accepting substantially all structural and maintenance responsibilities. As Council has previously approved an annual allocation of \$7,500 to maintain the child care facility upon opening, there should be no additional costs to the City in the foreseeable future. Capital repair and replacement must be included in the Facilities Management overall capital plan in the long term to deal with any issues as the facility ages over time.

Operational responsibilities will be secured in a lease agreement between the City of Vancouver and the Vancouver Society of Children's Centres. Staff will seek Council approval for the child care endowment grant, in a separate report later this year.

Payments to the City from Blue Tree include:

- construction costs (fully covered),
- operating fund (\$391,160.52),
- fit, furnish and equip the childcare facility (\$94,000).

CONCLUSION

Staff are recommending that Council approve the purchase by the City from Blue Tree of the Property on the terms and conditions as listed in Recommendation A.

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