

ITEM 1
MANAGER'S REPORT NO. 38
COUNCIL MEETING 88/05/24

RE: HART HOUSE RESTAURANT PROPOSAL CALL
(ITEM 16, REPORT NO. 15, 1988 FEBRUARY 29)

ACTING MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendations of the Municipal Solicitor be adopted.

* * * * *

TO: MUNICIPAL MANAGER MAY 18, 1988
FROM: MUNICIPAL SOLICITOR
SUBJECT: HART HOUSE RESTAURANT PROPOSAL CALL, ITEM NO. 16,
MUNICIPAL MANAGER'S REPORT NO. 15, 1988 FEBRUARY 29

=====

RECOMMENDATION:

1. THAT a copy of this report be forwarded to the Parks and Recreation Commission for its information.

R E P O R T

At the regular Council Meeting held on 1988 March 07, Council completed their review of the above noted report, amended Recommendation #1 as contained therein and adopted the following:

1. "THAT the Municipal Manager be authorized to finalize a lease with Regency Caterers related to the development and operation of a quality restaurant at the Hart House upon conclusion of a Public Hearing and the rezoning process, and
2. THAT following finalization of the lease, a lease authorization bylaw be brought forward for the consideration and approval of Council, and
3. THAT a copy of this report be forwarded to the Parks and Recreation Commission for its information."

The lease of the Hart House has now been finalized and a Lease Authorization Bylaw is concurrently before Council. This report is intended to apprise Council of the final negotiations. The following are the main amendments requested by Regency Caterers Ltd. which, upon instructions, have been incorporated into the lease.

1. The lessee will be a newly created corporate entity called Hart Restaurant Ltd. The one director of record is Peter Scott who is also the principal of Regency Caterers Ltd. We have been advised that Regency will hold a 70-80% interest in Hart Restaurant Ltd.

2. The guarantors of the lease will be Peter Scott and Regency Caterers Ltd. and their liability will be joint and several. The personal guarantee of Peter Scott will terminate after ten years while the guarantee of Regency will continue until the end of the fifteen year term.

102

3. The invitation to tender required the lessee to obtain a letter of credit in the amount of \$500,000 to cover renovation of the Hart House. Regency advised that it was unable to obtain the letter of credit and we have received written confirmation of this from the Canadian Imperial Bank of Commerce and the Royal Bank of Canada. Accordingly, we have indicated that a Performance Bond should be obtained instead. Such bonds are customarily issued for one-half of the value of the construction work (which would be approximately \$150,000). We have provided Regency's solicitor with a form of wording for a Performance Bond in the amount of \$150,000.

4. Regency requested a provision in the lease that if the Hart House is destroyed Burnaby will apply the insurance proceeds to reconstruct and rebuild the premises. Regency is particularly concerned that if the property is destroyed by fire in the earlier part of the lease term, it will not recoup its capital outlay. It should be noted that, as a result of this clause, Burnaby becomes contractually committed to reconstructing the House if it is damaged or destroyed by a peril included in the insurance coverage.

5. Regency requested a provision enabling it to assign the lease subject to Burnaby's consent, which consent should not be unreasonably withheld. Burnaby's right to withhold consent is specifically permitted if the prospective assignee lacks restaurant experience or financial resources.

Municipal Solicitor

Per:



Peter Devonshire
Solicitor

PD:bi

cc

Director Administrative & Community Services
Director Finance
Director Engineering
Director Planning & Building Inspection
Director Recreation & Cultural Services