Winnipeg

CITY OF WINNIPEG POLICY NO. PD-028

POLICY TITLE *Real Estate – Leasing and Licensing of Property*	**ADOPTED BY** *City Council*	**EFFECTIVE DATE** *September 29,2021*
ORIGIN / AUTHORITY *City Council*	**CITY POLICY NO** **PD-028**	**MOST RECENT CONSOLIDATION** *XXX-XXX*

1. Purpose:

To update the policy for consistency among all real estate policies, in addition to other minor clerical revisions.

2. Definitions:

Replace:

"Market Rent" means the rental income that a property would probably command in the open market, and includes any amount listed in the City's Fees and Charges Schedule;

With:

"Market Rent" means the rental income that a property would probably command in the open market **based on an annual return of the appraised value**, and includes any amount listed in the City's Fees and Charges Schedule;

Replace:

> **"Unbuildable Land"** means a property that does not conform with the provisions of the Winnipeg Zoning By-law No. 200/2006 or the Downtown Winnipeg Zoning By-law No. 100/2004, or property for which the highest and best use as determined by an accredited appraiser is for consolidation with the adjacent non-City-owned property;

With:

> **"Unbuildable Land"** means a property**, excluding Parkland or City property used for cemetery purposes,** that does not conform with the provisions of the Winnipeg Zoning By-law No. 200/2006 or the Downtown Winnipeg Zoning By-law No. 100/2004, or property for which the highest and best use as determined by an accredited appraiser is for consolidation with the adjacent non-City-owned property;

3. Leasing and Licensing of Property Policy

Replace:
"3. Leasing"

With:
"**3. Leasing and Licensing of Property Policy**"

Replace Clauses 3.1.A. and 3.1C.:

3.1 Property Management Circulation

A. The Public Service must Circulate City Property to Stakeholders for a minimum of 10 business days, unless otherwise specified by the Director of PPD, prior to recommending that the City Property be leased or licensed.

i. Stakeholders may identify (if necessary):

- A City departmental need, if any;
- Objection to the Lease or Licence.

B. In the event that a Stakeholder objects to a proposed Lease or License, the Stakeholder must indicate their need for the City Property, evidenced through existing infrastructure, recommended project alignment or identified funding within an adopted Capital Budget and Five-Year Forecast.

C. The Public Service shall notify the Ward Councillor subsequent to a completed Circulation if the Public Service intends to recommend that a Lease or Licence be pursued.

With:

3.1 Property Management Circulation

A. The Public Service must Circulate City Property to Stakeholders **and the Ward Councillor** for a minimum of 10 business days, unless otherwise specified by the Director of PPD, prior to recommending that the City Property be leased or licensed.

i. Stakeholders may identify (if necessary):

- A City departmental need, if any;
- Objection to the Lease or Licence.

B. In the event that a Stakeholder objects to a proposed Lease or License, the Stakeholder must indicate their need for the City Property, evidenced through existing infrastructure, recommended project alignment or identified funding within an adopted Capital Budget and Five-Year Forecast.

C. The Public Service shall notify the Ward Councillor subsequent to a completed Circulation if the Public Service intends to recommend that a Lease or Licence be pursued**; such notification will be acknowledged by the Ward Councillor or attempted a minimum of three times by the Public Service.**

Replace Clause 3.2.A.:

3.2 Property Management Lease or Licence

A. A Property Management Lease or Licence must:

i. Obtain best value for the City Property, which may or may not be Market Rent;

ii. Require the Tenant to pay proportionate Operating Costs associated with the Lease or Licence, unless specified otherwise within an Act or City by-law;

iii. Subject to Section 3.2(B), be Marketed;

iv. Align with Council-approved development policies and/or other Council-approved policies;

v. Be open and transparent, ensuring all prospective Purchasers receive equal information and/or access;

vi. Be negotiated in consultation with the City department having jurisdiction over the City Property or programming of the City Property;

vii. Be approved by Council or its delegated authority, and in all cases, the Ward Councillor will be provided notice of the Public Service recommendation prior to submission for approval;

viii. Include insurance and termination provisions as approved by the appropriate City department; and

ix. Adhere to the City's Real Estate Transaction Management Framework.

With:

3.2 Property Management Lease or Licence

A. A Property Management Lease or Licence must:

i. Obtain best value for the City Property, which may or may not be Market Rent;

ii. Require the Tenant to pay proportionate Operating Costs associated with the Lease or Licence, unless specified otherwise within an Act or City by-law;

iii. Subject to Section 3.2(B), be Marketed;

iv. Align with Council-approved development policies and/or other Council-approved policies;

v. Be open and transparent, ensuring all prospective **Tenants** receive equal information and/or access;

vi. Be negotiated in consultation with the City department having jurisdiction over the City Property or programming of the City Property;

vii. Be approved by Council or its delegated authority, and in all cases, the Ward Councillor will be provided notice of the Public Service recommendation prior to submission for approval;

viii. Include insurance and termination provisions as approved by the appropriate City department; and

ix. Adhere to the City's Real Estate Transaction Management Framework.

4. Responsibilities

Replace Clause 4.1.:

4.1 Director of PPD is authorized to:

A. Subject to Section 4.5(A), approve all Property Management Leases, Property Management Licences, and settlements claims with a combined Base Rent value, proportionate Operating Costs and Tenant Improvements of $300,000.00 or less, where:

i. transactions with a Base Rent value of $10,000.00 or more, the Base Rent is at least 80% of the Market Rent; and

ii. the term of the Lease or Licence is five years or less (with up to one option to renew for an additional term of five years or less), or the term is annual continuing.

B. Approve all Leases or Licences that have pre-approved prices from the Designated Committee;

C. Approve all Tenant Improvements under Property Management Leases or Property Management Licences;

D. Approve any sublease subject to

i. Ward Councillor notification;

ii. the term of the sublease not extending beyond the term of the head lease; and

iii. confirmation of satisfactory insurance provisions.

E. Approve Property Management Short-Term Use Agreements on City Property under jurisdiction of the Director of PPD where, subject to Section 3.2(C), the Base Rent is at least 80% of the Market Rent;

F. Discharge, amend or register caveats on a certificate of title that relate to a Property Management Lease:

i. Amendments to a mortgage are permitted only where the amended principal amount does not exceed the original principal amount.

G. Negotiate and approve the terms and conditions of all agreements with respect to leasing or licensing, including but not limited to the following agreements and documents:

i. Offer to Lease
ii. License
iii. Property Management Short-Term Use
iv. Landscape & Maintenance
v. Enter to Construct
vi. Amending
vii. Assignment
viii. Confidentiality

ix. Residential Management
x. Estoppel Certificate
xi. Letter of Intent
xii. Memorandum of Understanding

With:

4.1 Director of PPD is authorized to:

A. Subject to Section 4.5(A), approve all Property Management Leases, Property Management Licences, and settlements claims with a combined Base Rent value, proportionate Operating Costs and Tenant Improvements of $300,000.00 or less, where:

i. **Base Rent must be at least 80% of the Market Rent for all transactions that have a Market Rent exceeding $10,000; and**

ii. the term of the Lease or Licence is five years or less (with up to one option to renew for an additional term of five years or less), or the term is annual continuing.

B. Approve all Leases or Licences that have pre-approved prices from the Designated Committee;

C. Approve all Tenant Improvements under Property Management Leases or Property Management Licences;

D. Approve any sublease subject to

i. Ward Councillor notification;

ii. the term of the sublease not extending beyond the term of the head lease; and

iii. confirmation of satisfactory insurance provisions.

E. Approve Property Management Short-Term Use Agreements on City Property under jurisdiction of the Director of PPD where, subject to Section 3.2(C), the Base Rent is at least 80% of the Market Rent **for all transactions that have a Market Rent exceeding $10,000**;

F. Discharge, amend or register caveats on a certificate of title that relate to a Property Management Lease:

i. Amendments to a mortgage are permitted only where the amended principal amount does not exceed the original principal amount.

G. Negotiate and approve the terms and conditions of all agreements with respect to leasing or licensing, including but not limited to the following agreements and documents:

i. Offer to Lease
ii. License
iii. Property Management Short-Term Use
iv. Landscape & Maintenance
v. Enter to Construct
vi. Amending
vii. Assignment
viii. Confidentiality
ix. Residential Management
x. Estoppel Certificate
xi. Letter of Intent
xii. Memorandum of Understanding
xiii. Ancillary Agreements or such other terms and conditions deemed necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

J. Notwithstanding the above, the Director of PPD, at their sole discretion, may refer any matter within their delegation of authority to the Designated Committee.

Add the following new Clause 4.3.B.:

4.3 CAO is authorized to:

A. Subject to Section 4.5(A), approve all Property Management Leases, Property Management Licences, and settlement claims with a combined Base Rent value, proportionate Operating Costs and Tenant Improvements exceeding $300,000.00 up to and including $700,000.00, where:

i. Base Rent is at least 80% of the Market Rent; and

ii. the initial term of the Lease or Licence is five years or less, with up to one option to renew for an additional term of five years or less.

B. Notwithstanding the above, the CAO, at their sole discretion, may refer any matter within their delegation of authority to the Designated Committee

Replace Clause 4.4.A.:

4.4 Designated Committee is authorized to:

A. Subject to Section 4.5(A), approve all Property Management Leases, Property Management Licenses, and settlement claims exceeding $700,000.00.

B. Authorize pre-approved Lease prices, where applicable.

C. Approve management agreements for the City's rental portfolio.

With:

4.4 Designated Committee is authorized to:

A. Subject to Section 4.5(A), approve all Property Management Leases, Property Management Licenses, and settlement claims exceeding $700,000.00 **or where the Base Rent is less than 80% of the Market Rent**.

B. Authorize pre-approved Lease prices, where applicable.

C. Approve management agreements for the City's rental portfolio.