



City of
Peterborough

TO: Members of the Joint Services Steering Committee

FROM: Patricia Lester, City Solicitor, Director of Legal Services

MEETING DATE: September 12, 2013

SUBJECT: Report OCSP0AJSSC13-001
Relocation of Provincial Offences Courtroom and Office

PURPOSE

A report to recommend that staff continue to investigate the potential relocation of the Provincial Offences Courtroom and Office to 185 King Street, Peterborough.

RECOMMENDATIONS

That the Joint Services Steering Committee endorse the recommendations outlined in Report OCSP0AJSSC13-001 dated September 12, 2013 of the City Solicitor as follows:

- a) That Staff be authorized to negotiate leasing arrangements at 185 King Street, with the Peterborough County-City Health Unit; and
- b) That Staff report back to the Joint Services Steering Committee on the results of the negotiations and any and all related rent, leasehold improvements and relocation costs.

BUDGET AND FINANCIAL IMPLICATIONS

While negotiations with the Peterborough County-City Health Unit have yet to be completed, since the current space needs for the Provincial Offences Courtroom (“POA”) and Office are inadequate (details following), the recommended new space requirements are likely to increase 2- 3 times. Therefore facility leasing costs would increase. The current POA operating budget includes annual facility rental costs of \$25,000 for the POA Courtroom and \$28,000 for the POA Office and storage for a total of \$53,000. It is anticipated that utility and heating costs would also increase.

In addition to ongoing lease payments, there will be a one-time renovation cost to retrofit the space. The Provincial Architectural Design Standards for Courthouses are very specific and although Staff have not had the opportunity to determine exact costs of leasehold improvements, they will be in the \$1.4 to \$2.0 million range. The City would fund the leaseholds up front, capitalize the cost over a 10 or 15 year period and recover the principle and interest over a 10 to 15 year period as an annual charge to the POA operations. The exact annual amount will depend on the total leasehold costs incurred, annual interest rates and the term of the loan.

BACKGROUND

Since 2009 Staff have provided updates to the Joint Services Steering Committee with regards to the increasing space needs for both the POA Courtroom space located at 70 Simcoe Street and the POA Office located at 99 Simcoe Street. The opportunity to combine and relocate the POA Courtroom and Office has arose, with the potential of the Peterborough County-City Health Unit (“PCCHU”) purchasing the building at 185 King Street, Peterborough and leasing space to the POA.

Through a Memorandum of Understanding and a Local Side Agreement with the Ministry of the Attorney General (“MAG”) the City is contractually obligated to provide for the administration and operation of the POA facility, which in part means “open access to the court system in a fair and timely process.” In addition, the City must comply with prosecutorial and operational standards and compliance and performance measures.

RELOCATION OF PCCHU

City Council at its meeting of August 6, 2013 approved in principle the relocation of the PCCHU to 185 King Street, subject to certain conditions, one being:

“That City staff be authorized to review the available space at 185 King Street and the City’s requirements for the POA and Court Offices and report back to the Joint Services Steering Committee and Council on the leasehold improvements and moving costs required if such a move is deemed appropriate.”

SPACE RESTRICTIONS OF POA COURTROOM AND OFFICE

POA Courtroom – 70 Simcoe Street

The POA Courtroom (approximately 1146 square feet) is located at 70 Simcoe Street, in a building owned by the City. The City leases the building to MAG for the Ontario Court of Justice (criminal court), with the lease expiring December 31, 2014. MAG pays approximately \$550,000. annually in rent which covers off the operating costs of the building and the principle and interest payments of the \$2.6 million debenture in 2002 when the City bought the property. The debenture matures in 2017.

Although Staff are aware that MAG has been conducting space need studies across the province to consolidate courthouse functions (combining both the Ontario Court of Justice and Superior Court plus administration and Crown offices), no specific locations have been identified and therefore there is some question as to how long MAG may wish to remain at 70 Simcoe Street. However, in May of this year, Staff was contacted by MAG’s leasing agent–CBRE, seeking a 2-year extension to the lease plus an option to extend for an additional 5 year term. The terms of any extension have yet to be negotiated.

The City uses courtroom space for the POA Court (2.5 days a week), under a licence agreement with MAG. Correspondence received by the City in December 2009 indicated that MAG was not renewing their licence agreement with the City for use of the POA Court, effective December 31, 2010. Although Staff have met with and corresponded with MAG and its leasing agent, no resolve of the space need issue has been achieved to date. Without a license agreement in place the use of the POA Court is tenuous, with Staff experiencing at least 5 times a year, the bumping of the POA Court from its allocated space. This results in either relocation to another facility, most often the City Council Chambers if time permits or an adjournment of all trial matters to another day, which is often 3 or 4 months later.

The number of charges filed with the POA Office are increasing while the number of court dates available is decreasing. In 2002 we had 90 court days available while only 77 court days were available in 2012. According to Stats Canada the population of Peterborough County increased by 6.6% from 2001 to 2011 and is projected to increase another 9.9% to 2021.

Over the past several years the number of POA court appearances requested has increased but Staff has not been able to negotiate additional access to courtrooms.

Since March 2012 legislative changes have resulted in the offering of an “Early Resolution” meeting (approximately .5 days a week) where a defendant has the opportunity to speak with the Municipal Prosecutor seeking an early resolve of their charges.

For these meetings the Prosecutor must move between an available courtroom or one of the interview rooms and the Intake Office, which is space allocated to the Justice of the Peace. Not only is this disruptive but confusing for a defendant and issues of privacy have arisen because of the lack of private space.

The POA Court has also experienced an increase in time-to-trial, due to lack of available court time. The time-to-trial limit established by the courts is 10 months from the offence date. If a trial is set after this 10-month period a defendant may bring a constitutional challenge under the *Charter of Rights and Freedoms*, that their right to be tried within a reasonable time has been infringed. The result is that charges may be withdrawn by a Justice of the Peace on this basis and potential revenue is lost.

Rental costs for courtroom space are calculated on a per diem basis and are approximately \$25,000 a year.

POA Office - 99 Simcoe Street

The POA Office and storage facilities comprise approximately 1700 square feet at 99 Simcoe Street and are presently leased from Peterborough Square Investment Limited. A Space Analysis review in 2011 concluded that the office did not meet the current or future needs of the POA due to inadequacy in size and function. For example daily deliveries and pickups must be made through the Manager’s office, which is not only disruptive but has an adverse affect on security; there is inadequate storage space for POA documents and the current counter layout provides ergonomic issues for staff who spend their entire workday assisting the public.

Although some modifications were made to the counter space in 2011 and additional storage space was leased in 2012, the ability to expand the Office at this location is prohibited.

Rental costs for the Office (\$18.00 square foot) and storage space (flat amount) amounts to approximately \$28,000 a year, plus utilities and parking.

OPTIONS

A. Use of 70 Simcoe Street after MAG Vacates

Staff has considered the “do nothing” option and to relocate POA to 70 Simcoe Street once MAG’s lease term expires. However, this does not address the immediate space needs, necessity for additional court time and the City’s contractual obligations to MAG to provide court administration and support functions in compliance with the Memorandum of Understanding and Local Side Agreement.

In addition, with 70 Simcoe Street being 18,831 square feet, the space that would be available if MAG vacates, would be greater than the needs of the POA Courtroom and Office. The future deployment of 70 Simcoe Street therefore has yet to be determined as the ideal location for POA considering other corporate space needs.

B. 185 King Street

Staff and key stakeholders have toured the building at 185 King Street (“King Street”) and have identified their space needs through a number of sources - a Stakeholder Feasibility Study; discussions with other POA facilities; review of the Province of Ontario Architectural Design Standards for Courthouses and review of the Intercede Consulting Report, that was prepared for the City in 2012 when considering moving the Social Services division to 185 King Street (“King Street”).

The POA facility that could be located at King Street is estimated to be *a maximum of* 8000 square feet, comprised of 2 courtrooms and an intake office; a secured judicial office; interview room; waiting area; police court services office and secured holding area; municipal and other prosecutors’ offices; an administration office and storage space. It is anticipated that the space will accommodate a 10 year growth plan. Detailed architectural drawings have not been developed therefore the exact space needs of all stakeholders must be determined but will not exceed 8000 square feet.

Judicial consent to both the site of the POA facility and the final plans is required. Staff have informed the Regional Senior Justice, who has approved of our study but has yet to tour King Street along with the Regional Administrative Justice of the Peace.

In conjunction with the PCCHU and the City’s architect-of-record, Staff has determined that a portion of the first and second floors of King Street could be used for the POA facility, allowing for secured access for the judiciary and police; street access to allocated courts for the public; separate and private meeting room for Early Resolutions and expanded administration and storage space.

Staff has had preliminary discussions with the PCCHU regarding leasing terms and they have discussed with Finance Staff, financing options for the costs associated with leasehold improvements and relocation. Should the recommendations in this report be approved further discussions will take place.

C. Alternate Site(s)

In the event that the PCCHU purchase of King Street does not close, Staff will be pursuing other sites in the downtown core to accommodate the relocation of the POA facility.

SUMMARY

Staff believes it's an excellent opportunity to combine and relocate the POA Courtroom and Office into one facility at King Street if the PCCHU are successful in closing their Agreement of Purchase and Sale.

With Joint Services Steering Committee approval and the respective councils' approval, Staff will report back to the Joint Services Steering Committee in early 2014, with detailed budget and financial implications for the City and County.

Submitted by,

Patricia Lester
City Solicitor, Director of Legal Services

Contact Name:
Patricia Lester
Phone: 742-7777 extension 1603
Toll Free: 1-855-738-3755
Fax: 742-3947
E-Mail: plester@peterborough.ca