

LONDON PUBLIC LIBRARY POLICY

Title: Lease of London Public Library Property by Non-LPL Entities
Policy Type: Operational Linkage Policy
Policy No.: F-R-02

Effective Date: September 28, 2017

Review Date: September 2021

PURPOSE: The purpose of this policy is to establish:

- Principles by which London Public Library (LPL) leases Library property to non-LPL entities and
- General terms applicable to making lease agreements.

SCOPE:

This policy applies to all London Public Library property available to lease and to those entities interested in leasing Library property.

This policy does not cover agreements in which the Library provides its space to an entity as part of an in-kind contribution.

This policy excludes procurement of goods and services which is covered in the LPL *Procurement Policy*.

This policy excludes rental of Library space for programs, meetings, exhibits and events, etc. which is covered in the LPL *Monetary Charges Policy* and Library operational policy.

DEFINITIONS:

“Costs to maintain space” means the pro-rated portion of utilities, services, repairs and maintenance and building depreciation costs required to operate the property being leased.

“Fair market value” means the highest price, expressed in dollars, that a property would bring in an open and unrestricted market, between a willing buyer/lessee and a willing seller/lessor who are both knowledgeable, informed and prudent, and who are acting independently of one another. (Canada Revenue Agency, “Fair Market Value” Summary Policy CSP-F02)

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“Lease” means a contract or agreement granting use or occupation of Library property during a specified period in exchange for a specified rent. “Lease” also means the legal instrument by which such use is conveyed.

“Leasehold improvements” means work done to make leased spaces usable to the occupant.

“Lessee” means the entity that holds the lease to property.

“Property” means Library-owned buildings (or space within a building) and land (surface and subsurface) and any associated rights, or any of them as appropriate.

“Qualified donee” means an organization that can issue official donation receipts for gifts it receives from individuals and corporations. It can also receive gifts from registered charities.

“Term” means the contractual term as specified in the lease agreement.

POLICY STATEMENT:

London Public Library operates for the use and benefit of the public and in alignment with its Purpose Statement, Value Promise and Service Excellence Model and in accordance with its policies. This requires that Library space be available for all types of library services and activity to ensure delivery of relevant, accessible and high quality library services. Such use will have priority over all other uses.

London Public Library will lease its property to non-Library entities, including government, public sector, not for profit and for profit entities for purposes that LPL

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accepts as related to and supportive of the Library's goals and objectives and in order to generate revenue for the Library.

The Library is not bound or obligated to lease its property to any entity regardless of the availability of space or land, the proposed purpose of the lease, or the goals of the entity desiring to lease from the Library. Nothing in this policy shall be construed to limit the prerogative of the Library Board to make decisions about its property.

No person, group, firm or corporation shall locate within the property of the Library (its buildings and land) without the written approval of, or under the specific terms of, a lease agreement with the Library Board.

Written leases are required when Library property is used on a continuous basis of thirty (30) days or more. A lease does not indicate Library endorsement of the policies, goals or opinions of the non-LPL entity.

It is the policy of London Public Library that:

1. LPL will lease space within its property, i.e. buildings and land, when in the best interests of the Library.
2. The Library will require a written agreement for the leased use of Library property by a non-Library entity.
3. The leasing of property will be in compliance with all federal, provincial and municipal laws and regulations governing leasing of property and business contracts.
4. LPL will comply with sections of the Income Tax Act relevant to the Library's charitable status as a qualified donee when leasing space to non-LPL entities - qualified donees and those who are not qualified donees. As such, LPL may not take part in any partisan political activity. A partisan political activity is one that

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involves direct or indirect support of, or opposition to, any political party or candidate for public office.

5. Use of the Library property by a lessee will be in accordance with all federal, provincial and municipal laws and Library policy.
6. A lessee will have necessary liability, risk and property damage insurances.
7. The leasing of property will be in accordance with LPL's Business Plan and financial (revenue and expenditure) model including cost recovery.
8. Monies collected from all leases will go directly into the Library's operating budget.

Authority to Lease

Accountability for the application of this Board policy is vested in the office of the CEO & Chief Librarian.

The CEO & Chief Librarian will establish and maintain a *Schedule of Fair Market Value Lease Charges* as an adjunct to the *Lease of London Public Library Property by Non-LPL Entities Policy*.

All leases and subleases require the approval of the CEO & Chief Librarian. Lease terms and conditions may be negotiated by the CEO & Chief Librarian and LPL Director, Financial Services in consultation with LPL legal counsel.

The charging and collection of rents and other monetary charges is delegated to LPL Staff.

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Accountability for the applications of the *Lease of London Public Library Property by Non-LPL Entities Policy* resides with the Library Board. The Library Board will ensure that:

- The Board policy is applied and that
- Through the CEO & Chief Librarian, operational level policies, processes, procedures and guidelines are followed.

Lease Requests

Library property is leased on a space-available basis. LPL property may be leased without seeking competitive proposals when it is in the best interests of the Library. In some instances, lessees/owners that adjoin an available parcel of space and/or land may be given first opportunity to lease the adjoining area. At the Board's sole discretion interim uses may be permitted if the demand for the highest and best use of the property is delayed.

Subtenants

Upon Library approval, a tenant may sub-lease a portion of the leased space. The Library reserves the right to approve the sub-tenant and will require a lease amending agreement prior to approving a subtenant. Although the tenant will remain liable for all lease costs, the Library reserves the right to require a subtenant to pay lease costs directly to the Library.

Lease Costs

Lease costs will be established according to the following general considerations:

- a. The nature and use of the property;
- b. Fair market value based on the use when leasing Library property;
- c. Recovery of costs to maintain space incurred by the Library; and/or

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- d. Percentage of gross income for use of the property (in the case of a commercial tenant).

Applicable federal and provincial taxes will be charged.

Lease costs will be reviewed regularly to ensure they are reasonable and in line with inflation and the costs incurred by the Library. As such, leases may be subject to periodic cost adjustments during the term of the lease.

Length of Lease Term

To allow the Library the greatest flexibility in making property use decisions for its buildings and land, lease terms are generally limited to a maximum of two (2) years. When necessary, extended-term leases are granted to allow a lessee to amortize and receive a reasonable return on the lessee's investment in leasehold improvements.

The Library may grant a lease extension to a lessee who has fully complied with all terms and conditions of the lease, including timely payment of rent, and if granting such an extension would be in the best interests of the Library.

Non-payment of rent or other amounts due according to the terms of the lease is typically a default and cause for lease termination.

Typically, Library leases will provide that at the end of the lease, leasehold improvements will become the property of the Library regardless of who installed the improvements.

Lease Agreements and Legal Review

Library lease agreements are intended to transfer to the lessee the liabilities associated with possession and control of real property regarding compliance with all federal, provincial and municipal laws and regulations. The Library may also include clauses

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that are more restrictive than private sector clauses to better protect the public interest and interests of the Library.

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BACKGROUND:

INQUIRIES:

CEO & Chief Librarian
Director, Financial Services

KEYWORDS:

Lease, property, space, tenant, subtenant

RELATED DOCUMENTS:

Income Tax Act of Canada
Canada Revenue Agency Policy Statement CPS-022, Political Activities
Canada Revenue Agency, Summary Policy CSP-F02, Fair Market Value
LPL Monetary Charges Policy
LPL Procurement Policy

DOCUMENT CONTROL:

Approved: September 19, 2013 (L13/50)
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