

26. SHIRLEY COMMUNITY CENTRE LEASE

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The purpose of this report is to advise the Community Board how leases are currently entered into at the Shirley Community Centre and to seek feedback on whether there should be a change to the current method of leasing this facility.

INTRODUCTION

The Shirley Community Centre is situated on land formerly owned by the Shirley Primary School at 10 Slater Street. The status of the land is a local purpose Reserve and was acquired by the Council for a Community Centre.

BACKGROUND

In May 1978 the Secretary and Associate Town Clerk wrote to Mr I Finlayson, President of the Shirley Community Centre Society Inc. advising "That the Council has been notified of the intention of the Minister of Lands to make the old Shirley School available as a reserve for Community purposes and that the Council could assume full control of the site. In a subsequent meeting between Council officers and your Association on Thursday 10 November 1977, it was agreed that your committee should take administrative control of the Community Centre on the Council's behalf and that interim use begin, pending the renovations and agreed strengthening of the building."

Since this date the Society has carried out the administrative function, part of which has been entering into leases.

The Council however, did not give the Society a legal mandate to enter into leases on its behalf. Therefore, for example, if one of the lessees has a dispute involving the terms and conditions and sought legal advice and the question was asked if the Society had the power to enter into leases on the Council's behalf, the answer would be no. The lease would have to be set aside. Three options to remedy this situation, including the advantages and disadvantages, follow:

Option 1

The Council enters into a lease with the Shirley Community Centre incorporated, giving it the power to sublet the premises.

Advantages	Disadvantages
<ul style="list-style-type: none">The Society deals directly with the lessee and sets out the terms and conditions it sees fit for tenancy in the building.	<ul style="list-style-type: none">Terms and conditions may not be compatible with Council Policy which could lead to inconsistency around the City.
<ul style="list-style-type: none">The Society does not have to get the Council's approval to enter into leases, which streamlines the process.	<ul style="list-style-type: none">The Society will not be familiar with the Reserves Act, which sets out leasing conditions for this type of land.
<ul style="list-style-type: none">Able to set the rent and negotiate the terms and conditions.	<ul style="list-style-type: none">The Society has sole control over who becomes a lessee.
<ul style="list-style-type: none">Establish compatibility with other lessees.	<ul style="list-style-type: none">Council does not have a copy of the leases entered into.
	<ul style="list-style-type: none">Encourages inconsistency of building management and maintenance.

Option 2

The current leases entered into by the Society are surrendered and new leases are drawn up with the name of the lessor (owner) being the Council instead of the Society.

Advantages	Disadvantages
<ul style="list-style-type: none">Council knows who has entered into leases and has a copy of the Deed document.	<ul style="list-style-type: none">Slower process, as the Council takes sometime in getting documentation through.

<ul style="list-style-type: none"> • Achieve consistency with leases through Council. 	<ul style="list-style-type: none"> • Council is unaware of whether a new lessee is compatible with the existing tenants.
<ul style="list-style-type: none"> • Aware of the legal implications involved in dealing with leasing arrangements on Reserves. 	
<ul style="list-style-type: none"> • Council is able to clearly sort out the legal implications of any disputes. 	
<ul style="list-style-type: none"> • Other Units within Council are aware the Property Unit deals with leasing. 	
<ul style="list-style-type: none"> • The Property Unit is able to respond to any changes in Council policy ie ensure that the Asset Management Plan is carried out (this will affect every lease). 	
<ul style="list-style-type: none"> • Changes to legislation in relation to lease documents. The Property Unit can take a more proactive approach in making changes to leases. 	

Option 3

A joint arrangement whereby the Shirley Community Centre Society Inc and the Property Unit negotiate the terms and conditions of the lease.

Advantages	Disadvantages
<ul style="list-style-type: none"> • Both parties agree to the terms and conditions of the lease. 	<ul style="list-style-type: none"> • This process will take a little longer.
<ul style="list-style-type: none"> • Consistency within the Council in dealing with leases 	
<ul style="list-style-type: none"> • The lease will be entered into in the name of the Council (as Landlord/lessor) preventing any legal anomalies. 	
<ul style="list-style-type: none"> • The Property Unit can advise the Society of any changes in Council policy or law changes. 	

Since 1978 there have been numerous changes in legislation relating to leases and, although the Society uses a legal representative, these people may not be aware of changes to Council policy that could affect the lease.

In 2001 Audit New Zealand carried out an audit of Council leases and made a recommendation that the Council's Property Unit should be the party dealing with lease agreements. Since this recommendation was made, all parties entering into leases have come back to the Property Unit for input (see attachment 1).

Once negotiations on the Terms and Conditions have been agreed to, the lease can then be reported to the Community Board for adoption. The Community Boards have been given delegated authority to adopt leases under the Reserve Act.

CONCLUSION

After reviewing the advantages and disadvantages of the three options available and taking into account Audit New Zealand's advice, staff recommend that the preferred course of action would be for the Council and the Shirley Community Centre Society Inc to consult when leasing matters arise. The two parties should negotiate the terms and conditions for leases.

Staff

Recommendations: That the Shirley Community Centre Society Inc and Council consult when the Society is entering into leases, ensuring that

1. The lease be entered into in the name of the Council as owner.
2. The negotiations over terms and conditions be carried out by both parties so that all legislative and Council Policy issues are taken into account.

Chairperson's

Recommendation: That the staff recommendations be adopted.