



CONFIDENTIAL

Briefing Note

January 12, 2022

Update on Failure of Tenant to pay Lease Hold Obligations

ISSUE

Tenant Natural High Fitness has been unable to make rent payments to the Town of Okotoks since October of 2021. Outstanding rent in the total amount of \$[REDACTED] is due and consists of \$[REDACTED] for October, \$[REDACTED] for November and \$[REDACTED] for December.

BACKGROUND AND CURRENT SITUATION

The Recreation Centre expansion was completed in 2006. The ORC expansion included a specific area for a fitness centre (in alignment with best practices/ common service levels with major multi-purpose recreation centres). Council at the time made some key policy decisions: 1) A community fitness centre within the recreation centre was considered a key service and component of a multi-purpose recreation centre 2) Town Council determined that the service would be provided by a private operator as the Town of Okotoks would not get into competition or directly deliver a service provided by others in the community. The space was leased to a third party provider (Natural High Fitness and Athletics-NHFA). The lease has been in place and has provided a positive multi-purpose recreation experience to Okotoks residents without incident until October of 2021.

The COVID-19 pandemic and resulting provincial health orders have drastically impacted the operation of fitness centres since March 2020. Recreation and as such the fitness centre, were mandated to be closed March-July 2020, very limited usage July – November 2020, closed November 2020-March 2021 and very limited capacity again until June 2021. The months that fitness centre has been able to remain open, there has been reduced capacity as adults participating in physical activity should remain 2-3 meters apart. In addition, because NHFA is part of the Okotoks Recreation Centre, they are required to be part of the Provincial REP (Restrictions Exemption Program) and have lost participants that choose to not be vaccinated or provide proof of a current negative COVID-19 test.

When COVID-19 first came into effect in 2020, the Town allowed for elimination or reduction of rent payments dependent upon the health orders and used its municipal grant from the Government of Alberta to offset those adjustments. This rent reduction applied to all Town facilities that were impacted by the Provincial health regulations and included all leases that were impacted (e.g. Natural High Fitness and Athletics, Main Street Market etc.).

The Lessee has advised that in the current situation of ongoing limitations as a result of COVID-19, they do not anticipate that they will be able to make lease payments until after October/November 2022 assuming the COVID-19 conditions do not further exacerbate the situation and that there is no new additional grant programs that NHFA would be eligible for.

Our lease contract allows for the following:



Before making this decision, we need to develop solutions that will be in alignment with Council's strategic outcomes. Consideration will need to be given to:

- 1) Is a community fitness centre which provides and ensures access to base fitness and physical activity services for all residents still a service that Council wants to maintain? For example, a true multi-purpose cross functional recreation/leisure experience fitness, hard court gymnasium, swimming, skating etc.? Access for all: specifically no membership is required, all ages including youth 12+ are welcome, and town fee assistance programs are available.
- 2) If a community fitness centre is still a service level that Council wants to maintain for the community, should the municipality deliver the service directly or continue to have a third party operate? IE do the social benefits of point one above outweigh the fiscal and competition risks?
 - a. If the choice to have a third party operator should it be NHFA or should we close fitness area until another operator is found?
- 3) Should the Town be in the business of providing grants to businesses to support them with COVID challenges? If we are to provide financial support to our tenant what implications does that have across the entire business community? Do we need to support all fitness centres equally if we support our tenant? Can we differentiate from a policy perspective tenant support for a Town owned property delivering a town specified core service vs overall support for tenants?
- 4) Would we or should we consider writing off this debt? There is no opportunity for a long term/multi-year debt repayment strategy as under the MGA, we are prohibited from loaning to for profit entities.

ALTERNATIVES UNDER DEVELOPMENT

1. A fitness centre is a required service to the community
 - a. Keep Same Operator
 - b. Find a new operator
 - c. Town becomes operator
2. Terminate the lease with the fitness centre operator and find a different compatible use for the space

BUDGET CONSIDERATIONS

Leasehold revenue vs operational cost of gym operation are under development. The current lease from Natural High generates approximately \$[REDACTED] in annual leasing revenue.

IF the Town were to take over and deliver service directly it would need to:

1. purchase equipment for a fitness centre (estimated cost for new equipment (\$400-500k)
2. Hire staff to operate the fitness centre
3. Budget for ongoing equipment repairs, lifecycle maintain and lifecycle repairs

Potential Impacts to annual facility pass sales for all scenarios will need to be analyzed as well.

RISK CONSIDERATIONS

Financial Risk

Reputational Risk

Social Fabric/Social Health Risks

NEXT STEPS

Based on the current COVID-19 pandemic, the current amount in arrears and the likelihood that rent payments will not be able to be made, Council is being made aware of this situation and will be asked to make future policy decisions tentatively scheduled for the February GPC and Council meetings. This information is confidential at this time and will be added to the CAO Briefing for January 24th where Council can discuss and advise on any additional information that will be required for decision making and we can review a potential public participation strategy. It will move into the public agenda when it is posted for the formal meetings. We are currently working with NHFA so they are aware this will become public information as there are no grounds for exclusion of this information.

*Redacted under FOIP s. 16(1)(a)(ii)and(c)