



Town of Niagara-on-the-Lake

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REPORT #: CS-24-021

COMMITTEE DATE: 2024-11-19

DUE IN COUNCIL: 2024-11-26

REPORT TO: COTW-General

Renewal of Lease Agreement with the Niagara Foundation (Foghorn Property) 99

SUBJECT: River Beach Drive

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Council **RECEIVE** the request from the Niagara Foundation to exercise the one-year extension of the lease for 99 River Beach Drive (the Foghorn Property) for the period February 1, 2025, to January 31, 2026, under the same terms and conditions per the current contractual obligation;
- 1.2 Council **CONFIRM** that there be no further extensions to the lease beyond January 31, 2026, and **DIRECT** Staff to prepare a report by the end of Q3 2025 on options and next steps for the property at the conclusion of the lease;
- 1.3 Council **DIRECT** staff to obtain documentation from the Niagara Foundation that their tenant has received and acknowledged formal notice of the lease termination effective January 31, 2026; and,
- 1.4 Council **AUTHORIZE** Staff to take the necessary actions to give effect hereto.

2. EXECUTIVE SUMMARY

- The Town of Niagara-on-the-Lake purchased the Foghorn House at 99 River Beach Drive in 1982 after the Department of Marine and Fisheries declared it redundant. The property has been leased to the Niagara Foundation since 1986.
- The existing lease with the Niagara Foundation for 99 River Beach Drive (the Foghorn Property) expires on January 31, 2025.
- The lease contains a proviso that if “not in default under the terms of this Lease, the Lessee shall have the right to renew this Lease for one (1) additional term of one (1) year on the same terms and conditions as set out in this lease, save that there shall be no further right for renewal.” The Niagara Foundation has provided notice that they wish to exercise the one-year extension option for the period February 1, 2025, to January 31, 2026.

3. PURPOSE

This report provides Council with information about the lease arrangements for 99 River Beach Drive and directs staff regarding the next steps in preparation for the expiry of the current lease on January 31, 2026.

4. BACKGROUND

The Foghorn House, built in 1904 by the Department of Marine and Fisheries, was a warning signal for marine vessels until 1978.

The Town of Niagara-on-the-Lake purchased the property in 1982 after it became redundant.

The property was designated under Part IV of the Ontario Heritage Act on January 14, 1991.

The property has been leased to the Niagara Foundation since 1986. The Niagara Foundation refurbished the exterior and interior of the property at their expense to operate it as a vacation rental cottage. The Niagara Foundation has stated that they have not sublet the cottage on a short-term basis since 2019, as they have a long-term tenant.

At its meeting on August 29, 2022, the previous Council approved By-law 5447-22, which provided the Niagara Foundation with a revised three (3) year lease (February 1, 2022, to January 31, 2025). (See **Appendix I** for a copy of the lease).

The Lease included an option for the Lessee to extend by one (1) year to January 31, 2026, on the same terms as the provision that there would be no further right of renewal. The Niagara Foundation has provided written notice to the Town that they wish to exercise the one (1) year lease extension for the period February 1, 2025, to January 31, 2026.

As a lease provision, the Niagara Foundation pays the Town 15% of the gross rent collected by subletting the property and pays for all utilities and routine maintenance.

The Town is responsible for all capital costs to maintain the building, and the current agreement assigned the Town the responsibility to pay all taxes related to the property.

The revenue provided by the lease is insufficient to offset the Town, Regional and School Board taxes. This shift in financial burden has resulted in an annual revenue shortfall for the Town of approximately \$4,500 (See the Financial Section below for a breakdown).

Staff recommend that there be no further leases under the existing terms and conditions beyond January 31, 2026, and that prior to the end of this period Council be provided with options to consider leveraging the value of this asset to the Town.

5. DISCUSSION / ANALYSIS

At its meeting on August 29, 2022, Council approved By-law 5447-22, which provided the Niagara Foundation with a new three (3) year lease for 99 River Beach Drive (the Foghorn Property) for the period February 1, 2022, to January 31, 2025. The lease included a one (1) year extension on the same terms with the proviso that there would be no further right of renewal. The Niagara Foundation has provided written notice to the Town that they wish to exercise the one (1) year lease extension for the period February 1, 2025, to January 31, 2026.

In a change to the lease arrangements between the Niagara Foundation and the Town, and approved by the previous Council, responsibility for paying municipal taxes on the property was shifted from the Niagara Foundation to the Town. This shift in financial burden has resulted in an **annual loss** to the Town. The revenue provided by the Niagara Foundation to the Town is insufficient to offset the Town, regional and school board taxes.

As the Lessee is not in default, there is no basis for not approving the one-year extension of the lease under the current terms and incurring a net operating loss on this Town asset. This is the key finding of the report.

This report does not contemplate the value of the Foghorn property beyond annual revenue generation to the Town and the offset of expenses under the current lease. That broader analysis will form part of the report back to Council by the end of Q3 2025 on fiscal options and next steps for the property at the conclusion of the lease with the Niagara Foundation.

6. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

4. Optimize Organizational Excellence

Priority

4.1 Streamline & Modernize

Action

2.1 c) Efficiencies & Cost Reductions/Avoidances

Pillar

4. Optimize Organizational Excellence

Priority

4.1 Streamline & Modernize

Action

4.2 a) Customer Experience

7. OPTIONS

Staff will report back to Council by the end of Q3 2025 with options and next steps for the property at the conclusion of the lease with the Niagara Foundation.

8. FINANCIAL IMPLICATIONS

The current lease arrangement with the Niagara Foundation for 99 River Beach Drive does not generate sufficient revenue to offset the portion of the annual Property Taxes that the Town must remit to the Region and local School Boards. This results in a projected 2024 shortfall of \$2,245.92. This, combined with the \$2,510.58 of lost property tax revenue to the Town, results in a net loss of \$4,756.50.

See Table 1.0 below for a financial summary for the period 2021 to 2024.

Table 1.0

Foghorn House Revenue and Payments to the Town (as of March 31, 2024)				
	2024 (projected)	2023	2022	2021
Rent Collected by Niagara Foundation	\$37,800.00	\$36,300.00	\$34,000.00	\$42,000.00
Revenue to the Town (A)	\$5,670.00	\$5,445.00	\$5,100.00	\$6,300.00
Revenue to the Niagara Foundation	\$32,130.00	\$30,855.00	\$28,900.00	\$35,700.00
Property Taxes Paid by the Niagara Foundation (B)	\$0.00	\$0.00	\$766.92	\$8,877.58
Property Taxes Remitted by Town to Region & School Boards (C)	\$7,915.92	\$7,512.35	\$6,949.41	\$6,825.58
Property Tax Retained by Town (D)	-\$2,510.58	-\$2,369.34	-\$2,195.36	\$2,052.00
Net Revenue to the Town (=A+B+D-C)	-\$4,756.50	-\$4,436.69	-\$3,277.85	\$8,352.00

9. ENVIRONMENTAL IMPLICATIONS

Not applicable

10. COMMUNICATIONS

Staff will advise the Niagara Foundation of Council's direction on this matter.

11. CONCLUSION

As the financial arrangements of the current lease result in a net loss to the Town, it is recommended that Council confirm and direct that there be no further lease extensions on the same terms and conditions for 99 River Beach Drive beyond January 31, 2026.

Staff will report back to Council by the end of Q3 2025 with fiscal options and next steps for the property at the conclusion of the lease with the Niagara Foundation.

12. PREVIOUS REPORTS

N/A

13. APPENDICES

- Appendix I – By-law 5447-22 - Lease Agreement for 99 River Beach Drive (Foghorn Property)

Respectfully submitted:

Recommended by:



Kevin Turcotte
Manager of Parks and Recreation

Submitted by:



Bruce Zvaniga
Chief Administrative Officer (Interim)