

CITY PLANNING COMMISSION

November 16, 1994/Calendar No. 30

C 910560 POK

IN THE MATTER OF an application submitted by the Human Resources Administration and the Department of General Services pursuant to Section 197-c of the New York City Charter for acquisition of property located at 432 Rutland Road (Block 4810, Lot 23), Community District 9, Borough of Brooklyn, for continued use as a day care center.

This application (C 910560 POK) was filed on June 12, 1991 by the Human Resources Administration (HRA) and the Department of General Services (DGS) for the continued use of property located at 432 Rutland Road (Block 4810, Lot 23), Community District 9, Borough of Brooklyn, as a day care center.

BACKGROUND

The Human Resources Administration (HRA) proposes to continue to occupy 8,826 square feet of space in a privately-owned building located at 432 Rutland Road (Block 4810, Lot 23), as a day care center. The space is currently occupied by the Learner's Haven Day Care Center. A day care center has operated at this location continuously since 1972, under a 20 year lease which expired on August 2, 1992 and then under a license agreement which expired on August 2, 1994. Currently the facility is operating on a month-to-month basis as a holdover tenant. HRA intends to acquire the site either by renewal of the lease for a term of up to twenty years, or by purchase or condemnation.

The site is located at 432 Rutland Road in the Wingate section of Brooklyn and is developed with a two-story building with a play area in the rear yard, and a roof top play area, which are both in use. The day care center occupies the entire building.

The site is in an R6, which allows this facility as-of-right. The site abuts a semi-attached dwelling to the east, a detached dwelling to the west and a contractor's yard to the rear. The surrounding area is predominately developed with two- and three-story semi-attached and attached dwellings. Kings County Hospital is located two blocks southeast of the site, and Downstate Medical Center is located three blocks south of the site. P.S. 397 is located one block south of the site and Wingate High School is located one block east of the site.

The Learner's Haven Day Care Center operates Monday through Friday, from 8:00 A.M. to 6:00 P.M., and provides a variety of social, nutritional, educational and cultural programs for children. Children are also provided with lunch and two snacks daily. Most parents walk their children to the facility from the surrounding community. The site is located close to public transportation, including the B 12 bus which runs on Albany Avenue three blocks east of the site and the B 44 bus which runs on New York Avenue one block west of the site. The IRT Nos. 2 and 5 trains stop at the Winthrop Avenue station, two blocks southwest of the site.

ENVIRONMENTAL REVIEW

This application (C 910560 POK) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq., and the New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is the Human Resources Administration.

This application was determined to be a Type II action, which requires no further environmental review.

UNIFORM LAND USE REVIEW

This application (C 910560 POK) was certified as complete by the Department of City Planning on June 27, 1994, and was duly referred to Community Board 9 and the Brooklyn Borough President in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 9 held a public hearing on this application on August 24, 1994, and on that day, by a vote of 27 to 0 with 1 abstention, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application (C 910560 POK) was considered by the Borough

President of Brooklyn, who issued a recommendation disapproving this application on September 9, 1994, subject to the following conditions:

That the recommendations included in the reports released by the Brooklyn Borough President and Mayor's Office for Families and Children be implemented expeditiously;

That inspections be performed by the Fire Department and the Department of Buildings on any facility which was part of the Agency For Child Development Fire Prevention Upgrade Program;

That prior to the execution of a new lease, HRA and the City Administration arrange for the repair of any roof related leaks;

That HRA conduct annual inspections of the center to ascertain whether building deficiencies exist;

That the City Planning Commission include, as a condition of its approval, a requirement that the period of approval be limited to ten years if the City does not acquire fee title to this property during that period;

That HRA instruct DGS to execute a lease for this facility for a term not to exceed ten years, and that it include provisions for sanctions or penalties to ensure the landlord's performance of the terms and conditions for the lease as well as a provision for the City to terminate the lease;

That procedures now in place to arrange for the replacement of necessary equipment and appliances be streamlined;

That HRA and the Department of City Planning conduct a comprehensive analysis of day care center needs throughout the City in relation to the location of existing facilities and eligible population in need of day care services. Such analysis shall be based on the Guidelines for Siting of City Facilities pursuant to Section 203 of the New York Charter."

City Planning Commission Public Hearing

On September 28, 1994 (Calendar No. 2), the City Planning

Commission scheduled October 12, 1994, for a public hearing on this application. The hearing was duly held on October 12, 1994 (Calendar No. 17). There were no speakers, and the hearing was closed.

Consideration

The City Planning Commission believes that the application of the Human Resources Administration (HRA) and the Department of General Services (DGS) for the acquisition of property located at 432 Rutland Road (Block 4810, Lot 23), for continued use as a day care center, is appropriate.

Direct-lease day care centers have been established in neighborhoods where demographic characteristics, such as income and social eligibility, demonstrate a need for such services.

The Human Resources Administration (HRA) has utilized the space continuously since 1972, serving the community by providing needed day care services for children, including educational, recreational and nutritional programs. It is well located within the community it serves and most parents walk their children to the facility. It is also close to public transportation, including the B 12 bus which runs on Albany Avenue three blocks east of the site and the B 44 bus which runs on New York Avenue one block west of the site. The IRT Nos. 2 and 5 trains stop at the Winthrop Avenue station, two blocks southwest of the site.

The Commission shares the concerns of the Borough President regarding the continued maintenance and physical condition of the

building. HRA has assured the Commission that the building will be repaired and properly maintained. In response to the Commission's concerns, HRA has submitted a summary of the "Scope Report" for this facility, which describes the work required to upgrade the building. Under its Lease Renewal Upgrade Program, HRA requires that the landlord prepare plans for the renovation of the facility to comply with the requirements of the scope, including roof repairs. The plan for repairs shall be submitted to the Agency for Child Development (ACD) for approval, as specified in ACD's Policy and Procedures Protocol.

The Commission further notes that Section 1602 of the City Charter provides that the business terms of the proposed lease, including any conditions governing maintenance and repair, will be the subject of a second public hearing.

RESOLUTION

RESOLVED, by the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that based on the environmental determination and consideration described in this report, the application (C 910560 POK) of the Human Resources Administration and the Department of General Services for acquisition of property located at 432 Rutland Road (Block 4810, Lot 23) Community District 9, Borough of Brooklyn, for continued use as a day care center, is approved for a period of up to twenty years, or without time limitation if the site is acquired in fee.

The above resolution, duly adopted by the City Planning

Commission on November 16, 1994 (Calendar No. 30), is filed with the Office of the Speaker, City Council, and the Borough President of Brooklyn in accordance with the requirements of Section 197-d of the New York City Charter.

JOSEPH B. ROSE, Chairman
VICTOR G. ALICEA, Vice-Chairman
EUGENIE L. BIRCH, A.I.C.P., IRWIN G. CANTOR, P.E., ANTHONY I. GIACOBBE, Esq., MAXINE GRIFFITH, WILLIAM J. GRINKER, ANALISA TORRES, Esq., Commissioners.

AMANDA M. BURDEN, A.I.C.P., BRENDA LEVIN, EDWARD T. ROGOWSKY, RONALD SHIFFMAN, A.I.C.P., Commissioners voted "NO".

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send a copy of the completed form with any attachments to the applicant's representative as indicated on the Notice of Certification, one copy to the Borough President, and one copy to the Borough Board when applicable.

APPLICATION C 910560 PQK

DOCKET DESCRIPTION

IN THE MATTER OF an application submitted by the Human Resources Administration and the Department of General Services pursuant to Section 197-c of the New York City Charter for acquisition of property located at 432 Rutland Road (Block 4810, Lot 23), Borough of Brooklyn, Community District 9, for continued use as a day care center. (Learner's Haven Day Care Center)

COMMUNITY BOARD NO. 9

BOROUGH Brooklyn

BOROUGH BOARD N/A

DATE OF PUBLIC HEARING

WAS QUORUM PRESENT? YES XNO

(A public hearing shall require a quorum for 2/3 of the appointed members of the board, but in no event fewer than seven such members.)

VOTE ADOPTING RECOMMENDATION TAKEN

DATE August 24, 1994

**LOCATION Atwell JHS Auditorium
400 Empire Blvd, Brooklyn, NY**

RECOMMENDATION

APPROVE

APPROVE WITH MODIFICATIONS/CONDITIONS

DISAPPROVE

DISAPPROVE WITH MODIFICATIONS/CONDITIONS

EXPLANATION OF RECOMMENDATION-MODIFICATION/CONDITIONS (Attach additional sheets if necessary)

CITY CLERK
 94 SEP 12 PM 1:22
 DEPT. OF CITY PLANNING

VOTING

IN FAVOR 27 AGAINST 0 ABSTAINING 1 TOTAL MEMBERS APPOINTED TO BOARD 45

Anthony Abden
COMMUNITY/BOROUGH BOARD OFFICER

Chairman
TITLE

8/30/94
DATE

**Brooklyn Borough President
Recommendation**

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
FAX# (212) 720-3358

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicants representative as indicated on the Notice of Certification.

APPLICATION # 910550 PQR
DESCRIPTION

LEARNERS HAVEN DAY CARE CENTER

COMMUNITY DISTRICT NO. 9

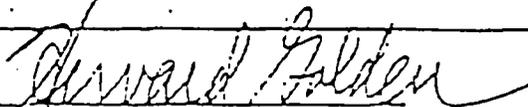
BOROUGH OF BROOKLYN

RECOMMENDATION

- APPROVE
- APPROVE WITH MODIFICATIONS/CONDITIONS
- DISAPPROVE
- DISAPPROVE WITH MODIFICATIONS/CONDITIONS

EXPLANATION OF RECOMMENDATION — MODIFICATIONS/CONDITIONS

- RECOMMENDATION ATTACHED
- RECOMMENDATION TO FOLLOW


BOROUGH PRESIDENT

09/09/94
DATE

LEARNERS HAVEN DAY CARE CENTER

(910560 POK)

RECOMMENDATION REPORT BY THE PRESIDENT OF THE BOROUGH OF BROOKLYN

Background

The Human Resources Administration (HRA) and the Department of General Services (DGS) requests approval for the acquisition of a privately owned building located at 432 Rutland Road (Block 4810, Lot 23) for the continued use as a day care center in the Crown Heights section of Community District 9. HRA and the Agency for Child Development (ACD) has used the building continuously since 1972 in accordance with a 20 year lease that expired on August 2, 1992.

The site is within an R6 zoning district. The surrounding community is comprised of residential uses.

The Learners Haven Day Care Center provides a variety of recreational, educational and cultural activities to approximately 105 preschool children. Breakfast, lunch and two snacks are served daily.

Borough President's Public Hearing

On August 31, 1994, the Borough President held a public hearing on this application. There were two speakers: one representative each from the Agency for Child Development (ACD) and the service provider. Both speakers spoke in favor of the application.

The Borough President asked several questions concerning repairs to be performed at this facility, including the schedule of repairs to the center's rear yard and roof, and whether the center's roof is used for recreation.

In response, the ACD representative stated that the center's rear yard would be completely upgraded and its design would commence immediately. The ACD representative was uncertain as to the duration of the rear yard upgrading, but agreed to advise the Borough President about this information in writing. She further stated that the installation of the center's rooftop playties would occur as soon as the new lease was executed and that she would include this commitment in her forthcoming correspondence to the Borough President. The representative also stated that a recent roof leak at this facility has been repaired, that the building is presently leak-free and that the entire dual air-conditioning and heating system would be replaced upon the execution of the new lease.

The day care center director stated that the center's roof and the rear yard are both used for recreation purposes. She stated that the roof is not used during hot weather because there is no shaded area. This condition, however, will be corrected according to ACD's proposed scope of repairs for the facility.

Consideration

In May and June, 1991, the Brooklyn Borough President and the Mayor's Office for Children and Families released reports critical of the system of direct leasing of day care centers. Both of these reports offered a series of similar recommendations to improve the present system.

On August 24, 1994, Brooklyn Community Board 9 voted to recommend approval of this application subject to the repair of the roof and the painting of the facility.

On August 17, 1994, a representative of the Borough President's staff visited the facility and met with the director of the day care center.

According to the day care director, the roof at this facility was recently patched which has resolved many of the leaks. However, recent rains have demonstrated that the center is not entirely leak-free. The day care center director has notified ACD of this continuing problem. The day care center director also stated that the facility is currently waiting for the replacement of its rooftop playtiles. Neither the roof leaks nor the delay in the installation of the rooftop playtiles have interfered with the use of the roof for recreation purposes.

The day care program also uses a grade level, rear yard space for recreation purposes. The program's director stated her desire to have the rear yard leveled and also to have safety playtiles installed. Currently, safety playtiles have been placed only under the center's play equipment.

The center's director also stated that the dual air-conditioning and heating (HVAC) system is currently operational. However, according to the proposed scope of repairs for this facility, the 20 year old HVAC system will be replaced upon the execution of the new lease. With respect to the center's kitchen appliances, the director indicated that although occasional repair has been necessary, all of the center's kitchen appliances are currently operational and are also scheduled for replacement upon the execution of the new lease.

The Borough President believes that the continued use of this site as a day care center is appropriate. However, the Borough President is concerned that serious deficiencies exist at this facility. He is also concerned that after the public release of two reports regarding the direct lease system and after three years of public hearings, serious problems continue to exist in the inter-agency system responsible for negotiating and enforcing leases. These conditions compromise the day care system's ability to provide a safe and secure environment for children.

The Borough President is also concerned that should this application for the acquisition of property for use as a day care center be approved by the City Planning Commission (CPC), it may permit HRA to renew future leases of this property without further public review. In the past, similar lease renewals were submitted by HRA to the CPC as ULRP applications for the lease of private property by the city. Such applications required public review in accordance with Section 197-c of

the City Charter should HRA desire to renew the lease. In the past three years, HRA has submitted day care center lease renewals as ULURP applications for the acquisition of property by the city. The Borough President's Office has been informed by the Department of City Planning that should CPC approve an acquisition application, subsequent lease renewals may not be subject to 197-c review. The Borough President believes that public review of these lease renewals is an effective means of ensuring that HRA maintains day care centers and that the agency enforces all pertinent lease provisions for these facilities.

Therefore, the Borough President recommends against approval of this site unless the modifications outlined in the Recommendation section of this report are implemented.

Recommendation

Whereas, there are approximately 105 preschool children presently served by this day care center; and,

Whereas, this building has been used for this purpose since 1972; and,

Whereas, there is an acknowledged need for day care services throughout the entire City of New York and in the Borough of Brooklyn; and,

Whereas, reports have been released by the Brooklyn Borough President and the Mayor's Office for Families and Children recommending reform of the direct lease system; and,

Whereas, serious fire safety concerns have been raised about day care centers; and,

Whereas, significant building deficiencies at this center have been previously identified by the Borough President; and,

Whereas, frequently updated information regarding the condition of day care centers would be advantageous to maintaining these facilities and enforcing lease provisions; and,

Whereas, the approval of this application for the acquisition of property for use as a day care center would permit the Human Resources Administration to renew the lease in the future without further public review in accordance with Section 197-c of the New York City Charter; and,

Whereas, public review is advantageous to maintaining these facilities and enforcing lease provisions; and,

Whereas, the Borough President has expressed his concern that long term leases serve as a disincentive to landlords to properly maintain these facilities; and,

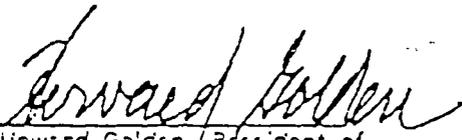
Whereas, existing procedures for the replacement of necessary facility equipment and appliances are cumbersome, lengthy, and inefficient; and,

Whereas, there is a need for a comprehensive analysis of day care needs in relation to the location of existing facilities, and the location of the eligible population in need of day care services; now, therefore, be it

Resolved, that the President of the Borough of Brooklyn, pursuant to Section 297-c of the New York City Charter, that based on the consideration described in the report, recommends against approval of this application (910560 POK) by the City Planning Commission subject to the following conditions:

1. That the recommendations included in the reports released by the Brooklyn Borough President and the Mayor's Office for Families and Children be implemented expeditiously;
2. That inspections be performed by the Fire Department and Department of Buildings on any facility which was part of the Agency for Child Development Fire Prevention Upgrade Program;
3. That prior to the execution of a new lease, HRA and the city administration arrange for the repair of any roof related leaks;
4. That HRA conduct annual inspections of the center to ascertain whether building deficiencies exist;
5. That the City Planning Commission include, as a condition of its approval, a requirement that the period of approval be limited to ten years if the city does not acquire fee title to this property during that period;
6. That HRA instruct DGS to execute a lease for this facility for a term not to exceed ten years, and that it include provisions for sanctions or penalties to ensure the landlord's performance of the terms and conditions for the lease as well as a provision for the city to terminate the lease; and,
7. That procedures now in place to arrange for the replacement of necessary equipment and appliances be streamlined.

Be it further resolved, that the Borough President recommends that HRA and the Department of City Planning conduct a comprehensive analysis of day care needs throughout the City in relation to the location of existing facilities and the eligible population in need of day care services. Such analysis shall be based on the Guidelines for the Siting of City Facilities pursuant to Section 203 of the New York Charter.


Howard Golden, President of
the Borough of Brooklyn