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Item No. 7.1.1
HRM Grants Committee
July 21, 2014

TO: Chair and Members of HRM Grants Committee

SUBMITTED BY: Original signed

Greg Keefe, Director of Finance & ICT/CFO

DATE: July 2, 2014

SUBJECT: Tax Appeal: The Deanery Project Cooperative Limited

ORIGIN

April 14, 2014 – An appeal from The Deanery Project Cooperative Limited for retroactive exemption from property tax referred to staff by the HRM Grants Committee.

LEGISLATIVE AUTHORITY

HRM Charter (2008) s.79 respecting grants and contributions.
HRM Administrative Order 2014-001-ADM. Tax Relief for Non-Profit Organizations.

RECOMMENDATION

It is recommended that the Grants Committee decline any further consideration of The Deanery Project Cooperative Limited's request for retroactive tax exemption.

BACKGROUND

The property known as “The Deanery” comprises two properties. The first, located at civic address 37 Deanery Road, is a 7.3 acre parcel of land with a former campground residence and outbuildings. This property was awarded tax exemption in 1994 (PID#00606657). The second property located at 13183 Highway 7 (PID#41344573) is 36.4 acres of vacant woodland assessed at a fixed rate of 0.26 cents per acre (for a total tax of \$9.68 in 2013). This second property has not/is not in receipt of any municipal tax relief and in all probability would not qualify given the nominal sum.

The Deanery was owned by the United Church of Canada and leased to the former Tangier Deanery Association for use as a campground. The Association ceased operations in 2009. Because neither the owner or tenant notified HRM of the change in use, the property received tax assistance until removed from By-law T-200 in the 2011-12 fiscal year (By-law T-228). The United Church of Canada subsequently sold the property to a private party in April, 2011.

This report provides an overview of property ownership (**Attachment 1**) and the party assessed for property tax (**Attachment 2**) with respect to a request from The Deanery Project Cooperative Limited for full exemption retroactive to 2011, 2012 and 2013. Full exemption for 2014-15 has also been requested (**Attachment 3**).

DISCUSSION

Based on a review of property title and the party assessed for property tax per the Municipality’s annual tax roll there is no substantive rationale to support retroactive tax exemption for fiscal years 2011, 2012, and 2013.

- **2011** - To be eligible for consideration for the 2011-12 tax year The Deanery Project Cooperative Limited would have to apply in the preceding year by the November 30, 2010, deadline. In 2010, the cooperative was not an incorporated entity, did not own the property and was not the party assessed for tax. Title was held by Ms. Kim Thompson and as such would have been ineligible for consideration.
- **2012** – Title was held by Ms. Kim Thompson until November 30, 2012. The owner was ineligible for consideration. **The Deanery Project Cooperative Limited was not added to the municipal tax roll until December 6, 2012.** The staff report regarding renewals and new applicants was drafted prior to this timeline. Hence, the report stated “....Title is held by a third party”. The staff report was presented to Council December 5, 2012, and a public hearing held March 19, 2013. All appeals received under By-law T-229 were declined because tax exemption could not be made retroactive. All appeals were deferred to the 2013 program.

The report to the Grants Committee dated May 6, 2013, noted “....A deferral will also allow for confirmation of the terms of conveyance that will be reviewed in relation to a request to the 2013-14 Community Grants Program in the amount of \$24,962” (p. 4).

- **2013** – The Deanery Project Cooperative was added to By-law T-200 at a Conversion from the Commercial to Residential tax rate.
- **2014** –There is no basis to provide preferential consideration to The Deanery Project Cooperative Limited, therefore the request for an increase in level of tax relief will be addressed with other applicants to the 2014-15 program.

A brief summary of title-holder, the party assessed for tax and any discretionary municipal tax assistance is presented below in Table 1.

Table 1. Overview of Property Ownership and Tax Status					
Fiscal Year	Title	Assessed for Tax	By-law T-200 or Admin Order	HRM Pays*	Owner/Tenant Pays
1994-	United Church of Canada	Unknown	No	Unknown	Unknown
1998-2008	United Church of Canada	Tangier Deanery Association	Tangier Deanery Association	Yes Value Unknown	\$0
2008-2009	United Church of Canada	Tangier Deanery Association	Tangier Deanery Association	\$3,305	\$0
2009-2010	United Church of Canada	Tangier Deanery Association (Inactive)	Tangier Deanery Association	\$3,252 In error	\$0
2010-2011	United Church of Canada	Tangier Deanery Association (Inactive)	Tangier Deanery Association	\$3,371 In error	\$0
2011-2012	Ms. Kim Thompson	Ms. Kim Thompson	Ineligible	\$0	\$3,305
2012-2013	Ms Kim Thompson April 1,2012, to November 30,2012	Ms. Kim Thompson April 1, 2012, to December 5, 2012	Ineligible	\$0	\$3,776
	Deanery Project Cooperative November 30, 2012, to March 31, 2013	Deanery Project Cooperative December 6, 2012, to March 31, 2013	Deferred	\$0	\$0
2013-2014	Deanery Project Cooperative Limited	Deanery Project Cooperative Limited	Deanery Project Cooperative Limited	\$2,352	\$1,396

*Figures rounded.

FINANCIAL IMPLICATIONS

There are no financial implications if the recommendation to decline the appeal for retroactive tax exemption is upheld.

COMMUNITY ENGAGEMENT

Not applicable.

ENVIRONMENTAL IMPLICATIONS

Not applicable.

ALTERNATIVES

1. The Grants Committee could consider a one-time grant for taxes, excluding interest on arrears, paid for the period December 6, 2012, to March 31, 2013, for total of 116 days during which the Cooperative held title and was the party identified on the municipal tax_roll as assessed for tax. The total value of any refund would be \$815.

This action is not recommended: The size and complexity of the *Tax Relief for Non-Profit Organizations Program* is not conducive to making individual adjustments throughout the course of a fiscal year. Recommendations and decisions are not well founded if made on the basis of intent or speculative actions at some undetermined future date.

Should the Grants Committee overturn the staff recommendation and elect to issue a refund payment would have to be made from the 2014-15 budget for the *Tax Relief for Non-Profit Organizations Program* account M311-8006.

ATTACHMENTS

1. Chronology of Property Title and Related Agreements.
2. Chronology of Tax Status and Tax Relief in Relation to 37 Deanery Road, Lower Ship Harbour.
3. Letter from Kim Thompson, Executive Director, The Deanery Project Cooperative Limited to HRM Grants Committee dated March 20, 2014.

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Peta-Jane Temple, Team Lead Grants & Contributions, Finance & ICT 490-5469

Report Approved by: Original signed
Crystal Nowlan, Senior Financial Consultant Acting for: Bruce Fisher, Manager Financial Policy & Planning, Finance & ICT 490-1342

Attachment 1

Chronology of Property Title and Related Agreements

April 21, 2011 – Warranty deed between Right Reverend Susan E. Moxley, Bishop of Nova Scotia and Prince Edward Island, to Kim Thompson.

September 1, 2011 – Incorporation of The Deanery Project Cooperative Limited with the Nova Scotia Registry of Joint Stocks.

November 30, 2012 - Quit claim deed between Kim Thompson and The Deanery Project Cooperative Limited for the property described as PID#6066657 and PID#41344573.

November 30, 2012 – The Deanery Project Cooperative entered into a collateral mortgage with Maggie Thompson for \$150,000. Reference is made to a document titled “Agreement of Gift” between Kim Thompson and The Deanery Project Cooperative Limited. The Agreement of Gift is defined “.....means the document in which the Mortgagor accepted the gift of the Lands from Kim Thompson (the “Custodian”) on the condition that the Mortgagor assume the mortgage on the Lands in favour of the Mortgagee and the Indebtedness secured by such mortgage”.

January 2, 2013 – Maggie Thompson assigned the mortgage to Kim Thompson.

January 17, 2013 - The Deanery Project Cooperative and Kim Thompson executed a mortgage amending agreement.

January 17, 2013 - The Deanery Project Cooperative Limited and Kim Thompson executed a right of first refusal requiring The Deanery Project Cooperative to offer to sell the property back to Kim Thompson for the original transfer value. The right of first refusal does not expire until the death of Kim Thompson. The right of first refusal does not change ownership; it creates a contractual agreement between Kim Thompson and The Deanery Project Cooperative Limited with respect to any future conveyance. Ms. Thompson is identified as the Executive Director of the cooperative in both applications for funding under the *Community Grants Program* (2013 and 2014).

Attachment 2

Chronology of Tax Status and Tax Relief 37 Deanery Road, Lower Ship Harbour

Fiscal Years 1994 - 2009

The property owned by the United Church of Canada was leased to the former Tangier Deanery Association for use as a seasonal campground. The property was not a place of worship, nor leased for such a purpose and was therefore taxable at the non-residential (Commercial) rate.

Incorporated as a non-profit society May 17, 1993, the Tangier Deanery Association was added to By-law T-200 for the 1998-1999 fiscal year (By-law T-201, June 30, 1998) as fully exempt (ANN#4524918 Schedule 5). Although not included in the former Halifax County By-law 51, the County issued a grant in 1994 towards "tax arrears". The subsequent inclusion of the Tangier Deanery Association under By-law T-200 appears to have been based on an assumption that the former Halifax County intended to provide tax assistance.

Fiscal Year 2009 – 2010

The Tangier Deanery Association ceased operations in 2009 but neither the tenant or owner notified HRM or Property Valuation Services. Consequently, the property remained in error on Schedule 26 of By-law T-200 under the Association's name as fully exempt. The property should have been removed from the program and any exemption pro-rated. The United Church of Canada would have resumed responsibility for the payment of property tax.

Fiscal Year 2011-2012

To be considered for inclusion in the 2011 fiscal year tax relief program applications must be submitted by November 30, 2010.

April 1, 2011 to March 31, 2012 - The municipal tax roll for 2011-12 shows ownership in the name of a Ms. Kim Thompson.

November 30, 2011 – Application received from the Deanery Project Cooperative Limited for consideration in the **2012-2013 tax assistance program**. At the time of application (November 30, 2011) title was held by Ms. Kim Thompson and this was the party billed for tax.

January 29, 2012 – Report to HRM Grants Committee, *By-law T-228 Tax Exemption for Non-Profit Organizations 2011-2012*, pp. 38-41, Tangier Deanery Association removed from By-law T-200. Thirty-three organizations deferred to the 2012-13 program for a total of 337 properties (\$974,682 in total taxes). A majority of those deferred were not profit housing cooperatives that had applied for admission to the program since 2006.

Fiscal Year 2012-13

To be considered for inclusion in the 2012 fiscal year tax relief program applications must be submitted by November 30, 2011.

December 5, 2012 – Report to HRM Grants Committee, *By-law T-229 Tax Exemption for Non-Profit Organizations 2012-2013*, p.35, the application from the Deanery Project Cooperative declined:

"In 2011, a private citizen acquired title to the former United Church of Canada campground located in Lower Ship Harbour. In 2011, a Co-Op Association was incorporated for the purpose of offering art, environmental and community events with a focus on youth. The property is assessed at the Commercial rate (\$3,775.85)."

"It is recommended that the addition of The Deanery Project Cooperative Limited, 37 Deanery Road, Lower Ship Harbour, be declined. Title is held by a third party" (p.35).

Twenty-five organizations deferred to the 2013 program for a total of 308 properties (\$841,323 in total taxes). A majority of those deferred were not profit housing cooperatives some of which had applied in 2006 (pp. 41 to 44).

December 6, 2012 – Deanery Project Cooperative added to the municipal tax roll. \$2,500 paid on December 11, 2012.

February 25, 2013 – Letter of notification sent to The Deanery Project Cooperative Limited regarding the public hearing schedules for March 19, 2013.

March 19, 2013 – Public hearing with respect to By-law T-229. Presentations included Ms. Kim Thompson representing The Deanery Project Cooperative Limited. Referred back to the Grants Committee for reconsideration “due to transition of the ownership of the property” (Minutes, March 19, 2013, p. 20).

May 6, 2013 – Report to HRM Grants Committee, Addendum to By-law T-229 Respecting Tax Exemption for Non-Profit Organizations: Appeals 2012-2013.¹

“The Deanery Project Cooperatives application to the 2012-13 project [sic] **was declined based on private ownership (as of the application deadline of November 30, 2011)**. The basis of appeal is that title has been conveyed to the cooperative. Deferral to the 2013-14 program is recommended pursuant to legislation. A deferral will also allow for confirmation of the terms of conveyance that will be reviewed in relation to a request to the 2013-214 Community Grants program in the amount of \$24,962.”²

“It is recommended that the Deanery Project Cooperative’s request for full exemption (Schedule 26) for the premises located at 37 Deanery Road, Lower Ship Harbour, be deferred to the 2013-14 *Tax Exemption for Non-Profit Organizations Program* pursuant to Section 89(6) of the HRM Charter” (p. 4).

All seven (7) appeals received at the public hearing the March 19, 2013, were deferred because Section 89 (6) of the HRM Charter states:

“A policy made pursuant to this Section has effect in the fiscal year following the fiscal year in which it is published, unless the policy sets a different effective date, including an effective date retroactive to the beginning of the current fiscal year”.

¹ Approved by Regional Council May 28, 2013.

² The review referenced in the staff report of May 6, 2013, was in regards to the nature of the relationship between the Cooperative and the former owner. The applicant’s eligibility was questioned with respect to a contractual agreement executed January 17, 2013, that affords Ms. Kim Thompson the right of first refusal to acquire title for “the original value”. HRM Legal Services reviewed the request in relation to s.61(g) of the Cooperatives Associations Act (1998) which states:

“(1) When a non-profit association is dissolved or wound up, any property of the association remaining after payment of all debts payable by the association and all expenses of or incidental to the dissolution or winding up and the realization of the assets shall be distributed to a fraternal, charitable, community, developmental or other non-profit organization including another non-profit association.

(2) The articles or by-laws of a non-profit association may designate the organizations to which the property of the association is to be distributed pursuant to subsection (1).

This issue is important if the rationale for HRM’s tax assistance to non-profit organizations or any capital grant is predicated, at least in part, on the principle that unlike private property ownership no individual derives gain, financial or otherwise, from the property’s operation or future conveyance.

The former By-law T-200 did not have a stated effective date but awards were generally made effective in the same fiscal year in which they were approved, retroactive to April 1st of the current fiscal year, unless stated otherwise such as pro-rated exemption for a portion of the current fiscal year and stated as either: (1) a specified number of days or (2) an effective date other than April 1st.

May 29, 2013 – Letter of notification sent to Deanery Project Cooperative Limited dated May 29, 2013, to advise that their appeal made at the public hearing March 19, 2013, was deferred to the 2013-2014 program because exemptions cannot be applied retroactively. Also noted that taxes for 2012-13 were overdue and a payment plan option.

September 5, 2013 – Letter requesting the Deanery Cooperative provide written confirmation from the Inspector of Cooperatives that the organization's current Articles of Incorporation and/or current Agreement of Purchase and Sale comply with Section 61 (g) of the Cooperative Associations Act.

Fiscal Year 2013-2014

To be considered for inclusion in the 2013 fiscal year applicants would have submitted by November 30, 2012. The Deanery Project Cooperative's application to the 2012-13 tax relief program was deferred and therefore automatically considered in 2013-14.

February 3, 2014 – Report to Grants Committee, Administrative Order 59, Tax Relief for Non-Profit Organizations. New Applications. 2013 Fiscal Year. Part 2.

“In April, 2011, the former United Church of Canada campground was sold to a private party. In 2012, an application for tax assistance was declined because as of the application deadline (November 30, 2011) title was held by an individual. On September 1, 2011, a cooperative was formally incorporated and title conveyed by way of a quit claim deed on November 30, 2012. The property is taxed as Commercial (\$4,272). Upon appeal the application was deferred because exemption cannot be awarded retroactively (By-law T-229 Supplementary). The account is in arrears. If added to By-law T-200, taxes due prior to April 1, 2013, are due in full” (p.14).

“It is recommended that the Deanery Project Cooperative, 37 Deanery Road, East Ship Harbour, be added to Schedule 29 of Administrative Order 59 at a Conversion from the Commercial to the Residential rate, effective April 1, 2013, conditional upon a signed payment plan for arrears and compliance with same.

March 18, 2014 – Recommendation to add to Schedule 29 of the program approved by Regional Council.



Item No. 7.3

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March 20, 2014

Attention:
Councillor Russell Walker, Chair HRM Grants Committee
Members of HRM Grants Committee
Greg Keefe, Director of Finance
Councillor David Hendsbee

From:
Kim Thompeon

RE: Tax Relief for Non-Profit Organizations 2011 – 2012, 2012 – 2013 and 2013 - 2014

To all concerned,

Please accept this letter as a formal appeal to the HRM Grants Committee regarding the Deanery Project's application for tax relief for non-profit organizations. Our request is for 100% exemption for property taxes paid in 2012, 2013 and 2014.

When the Deanery Project began as a registered non-profit in 2011 we applied for tax-relief assistance from HRM on Nov. 30, 2011. Unfortunately this application was not recommended by the Grants Committee and on March 17, 2013 two of our board members attended a Council meeting to appeal the decision.

We did not hear the (negative) results of that appeal until a few weeks ago. The rationale given to not support it was that the property was not registered with the Deanery Project at the time of application. I hope the following background information, which has been previously provided to staff, will clarify our situation. Similar applications were also made November 30, 2012 and 2013 for 100% tax-exemption assistance.

Our volunteer-driven, non-profit organization was formed in June 2011, when we first saved valuable community land from being sold for private use. The 25 acre coastal property had served as a summer youth camp for 75 years. When it was suddenly put up for sale a group of local residents, environmentalists and artists mobilized to purchase it in order to keep in community service. In April, 2011 a generous loan from a supporter of the Deanery Project enabled purchase of the property as a "place-holder" until such time as we were able to migrate the deed to the Deanery Project's name.

The Deanery Project Board was formed in May 2011 and we officially incorporated with Registry of Joint Stocks September 1, 2011 (registry # 3258956). From Day One the Project has been a unique resource for HRM providing environmental education and research programs, recreation and tourism opportunities and acting as a skills and employment training site. It has collaborated with, and garnered recognition and respect from, all levels of government, businesses, academic institutions, other NGO's and the local community.

It has been a puzzle to us why HRM has not actively supported the Deanery Project through its Tax Relief program. As a start up organization with few resources and much infrastructure to repair, it can not be over-stated how much this aid is needed!

We first applied to the Tax Relief program in November 2011 thinking that surely the city would appreciate the multiple values the organization was bringing to the region. Our lawyers worked very hard to insure that the deed transfer was in the system by November 30 in order to meet the application deadline. (attached is the statement of registered and recorded interests that shows the transaction was completed Nov. 30 2012).

A call to an HRM office informed us that the following taxes have been paid on the property:
2011 – 3304.02
2012 – 3775.55
2013 – 3746.88
2014 – 1835.95 (outstanding – not overdue)

All of us at the Deanery Project ask you to seriously consider our case, and provide as much assistance through the tax relief program as is possible.

I have attached a recent overview of the Deanery Project and invite you visit our web site www.thedeaneryproject.com and also to sign up for our monthly newsletter. Please call should you have any questions, I would also be happy to present to the Committee in person.

Thank you.

Sincerely,

Kim Thompson
Executive Director
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