

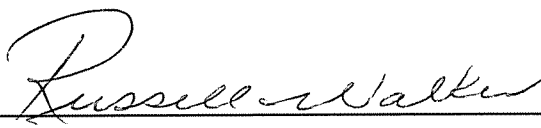
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Halifax Regional Council
December 14, 2004

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: 
Councillor Russell Walker, Chair, HRM Grants Committee

DATE: December 6, 2004

SUBJECT: **By-law T-214, An Amendment to By-law T-201: Appeals 2004-05**

ORIGIN

This reports originates with staff of HRM Financial Services and was approved by the HRM Grants Committee November 1st, 2004.

RECOMMENDATIONS

Staff recommend that Regional Council :

1. Approve the changes in exemption level for the Marine Drive Community Care Association and Khyber Arts Society as detailed in the Discussion Section and Schedule 26 of this report, effective April 1, 2004;

PLEASE RETAIN FOR PUBLIC HEARING

BACKGROUND

The Municipal Government Act (1996) permits municipalities, at their discretion, to provide partial or full tax exemption to non-profit organizations. HRM presently provides property tax subsidies to eligible registered non-profit under the authority of By-law T-201. This report covers appeals and corrections.

DISCUSSION

1. Marine Drive Community Centre Association, Highway #7, Head of Jeddore - Social Supports

The Marine Drive Community Centre Association ("Centre by the Sea") is a registered non-profit organization who own and operate a facility in the Head of Jeddore. Programs and services delivered on the premises include a food bank, CAP site, literacy programs, youth dances, GED courses, and room rentals for business seminars and classes. The applicant was added to the program in 2000 at conversion from the commercial tax rate to residential tax rate (By-law T-203, August 15, 2000).

The property is assessed at the Commercial tax rate and taxes are \$2,507. An appeal has been made for an increase in subsidy rate to 100% tax exempt in 2004 (late application). The applicant claims that the payment of \$998 in property taxes places the operation of the facility in jeopardy.

Staff recommend a two-year increase in subsidy to 100% tax exemption to stabilize the operations of the facility. A further review of the type of programming conducted on the premises will be conducted by Grants Program staff. The estimated annual cost of this change in exemption level is \$1,000.

2. Khyber Arts Society, 1588 Barrington Street, Halifax - Arts

In November, 1988, the former City of Halifax purchased two properties located on Barrington Street, one of which was the former Church of England Institute and now a registered heritage building. In February, 1998, HRM entered into an agreement to lease the facility to the Khyber Arts Society for a term of 5-years with the option to purchase the property. In 2003, HRM agreed to a 5-year lease agreement which expires April, 2008. Under the terms of the lease the tenant is responsible for payment of applicable property taxes and rates (Item 4.3 (b) and 5.18). Further, the lease states that taxes would be collected by the landlord and any over-payment or under-payment would be reconciled within 60 days of the end of the fiscal year. In the absence of notification, or any separate tax bill or charge for taxes in addition to "base rent", the tenant presumed that the applicable taxes were collected as part of the monthly rent payments. In effect, the Khyber Arts Society assumed they had paid their required taxes in full.

In 2002, the Khyber Arts Society were advised by HRM staff that the Municipal Government Act (1996) prohibits direct tax subsidies to business, commerce or industry. The society subsequently applied for tax exemption for the 2003-04 fiscal year and were awarded a partial tax exemption at 75% of the residential tax rate for the portion of the premises occupied by registered non-profit organizations; this subsidy excluded any commercial or business occupancy taxes payable on any portion of the premises used for commercial activity (ie. sub-leases).

The management of the Khyber Arts Society has not collected the proportional share of the commercial property tax from sub-leases to business and have only partial recourse to collect unpaid business

occupancy tax from private partnership agreements for the Khyber Club (a licensed bar). HRM Real Property & Asset Management Services has not collected the property taxes as part of the rental agreement (both the 25% of residential tax for non-profit occupants and the proportional share of the commercial tax). The account is in arrears and the society has appealed their obligations to pay the uncollected tax.

Because of HRM error, staff recommend a temporary increase in the value of the tax subsidy to the Khyber Arts Society to 100% exemption, excluding any commercial occupancy in the premises, effective April 1st, 2002. The exemption will be applicable for the 2002-03, 2003-04, 2004-05 at 100% only. Effective April 1st, 2005, the subsidy will return to 75%.

Staff recommend that the proportional share of taxes due for that portion of the premises occupied by registered non-profit organizations for the period April 1st, 2002 - March 31st, 2005 shall be paid under By-law T-201, Tax Exemption for Non-Profit Organizations Program in the amount of \$10,083 conditional upon a signed payment plan and compliance with the terms of the agreement.

Rationale: there is an error of omission on HRM's part in not billing and collecting applicable property taxes from the tenant as specified in the lease agreement negotiated by HRM staff.

Staff recommend that the Khyber Arts Society be held responsible for payment in full of the applicable commercial and business occupancy taxes for the portion of the premises sub-leased to business interests (including the Khyber Club). Estimated total of taxes due is \$15,240 plus \$2,030 in false alarm charges for a combined total of ~\$17,270.

HRM will offer the Khyber Arts Society a two-year payment plan to pay arrears of \$16,000-\$17,000.

Rationale: the Khyber Arts Society as facility operators are responsible to exercise due diligence in the contractual obligations of any sub-leasing or shared use agreement with third parties. The Khyber Club is a registered business name of the Khyber Arts Society (ID#3049276).

Staff recommend that HRM initiate a Memorandum of Understanding with the Khyber Arts Society to set out the specific roles, responsibilities, and contractual or legal obligations of the parties including compliance with municipal by-laws.

Rationale: a memorandum guides the development of the project; provides an assessment of cost and resource implications, and is a gauge for the respective parties to determine if the relationship should become a formal, long-term partnership.

Summary of Tax Payment Adjustments to 100% Exempt for Occupancy of Registered Non-Profit Organizations 2002-2005 (Tenant and Sub-Leases)			
HRM By-law T-201			
YEAR	HRM @75% of Residential rate	Adjustment to 100%	Total cost to HRM
2002-03	n/a	\$7,634	\$7,634
2003-04	\$9,930	\$1,050	\$10,980
2004-05	\$11,374	\$1,399	\$12,773
		\$10,083	\$31,387

BUDGET IMPLICATIONS

As noted in the Grants Committee report to Regional Council October 12th, 2004 (By-law T-214, An Amendment to By-law T-201 Tax Exemption for Non-Profit Organizations) the program is projected to be \$6,503 over budget in fiscal year 2004-05. Approval of staff recommendations would add an estimated \$10,083 for a **projected budget overage of ~\$17,586**. This overage will be offset by savings of the Community Grants Program.

The estimated annual cost of an increase in exemption level for the Marine Drive Community Care Association is \$1,000.

The cost of settling the Khyber Arts Society agreement with respect to property taxes is estimated to be \$10,083 to HRM; the Khyber Arts Society shall be held responsible for the payment of any commercial and business occupancy tax arrears, false alarm charges and any other applicable levy, over a 2-year payment plan (estimated in the amount of ~\$15,240 in real property tax and ~\$2,030 for false alarms for a total of ~\$ 17,270).

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating Reserves, as well as any other relevant legislation.

ALTERNATIVES

1. Regional Council could decline or amend the recommendations of the HRM Grants Committee.

ATTACHMENTS

1. By-law T-214, Schedule 26, 2004-05

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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Approved by:



Bruce Fisher, Manager, Financial Planning, HRM Financial Services

Attachment 1

HALIFAX REGIONAL MUNICIPALITY

BY-LAW NUMBER T-214

BY-LAW RESPECTING TAX EXEMPTIONS

Be it enacted by the Council of the Halifax Regional Municipality, under the authority of section 5 (1)(r) of the Assessment Act, Chapter 23, R.S.N.S. 1989, is amended as follows:

1. Schedule 26 of By-law T-201 is amended by:

- (a) Adding AAN #03403963, Marine Drive Community Care Association, 9411 Highway 7 Head of Jeddore
- (b) Adding AAN # 00228354, Khyber Arts Society, 1588 Barrington St., Halifax

2. Schedule 27 of By-law T-201 is amended by:

- (a) Deleting AAN # 00228354, Khyber Arts Society, 1588 Barrington St., Halifax

3. Schedule 29 of By-law T-201 is amended by:

- (a) Deleting AAN #03403963, Marine Drive Community Care Association, 9411 Highway 7 Head of Jeddore