HALIFAX
REGIONAL MUNICIPALITY

P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 11.2.1
Halifax Regional Council
December 3, 2013

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed

Councillor Bill Karsten, Chair, Audit and Finance Standing Committee

DATE: November 21, 2013

SUBJECT: **Write-off – Leased Land Accounts**

ORIGIN

A motion of the Audit and Finance Standing Committee at a meeting held on November 20, 2013

LEGISLATIVE AUTHORITY

The principle role of the Audit and Finance Standing Committee is to provide advice to Council on matters relating to Audit and Finance. In particular, Section 3.2.6 of the Audit and Finance Standing Committee's Terms of Reference shall 'Review as required, any other policies, procedures, forecasts, reports or process as agreed to mutually by the Municipalities CAO and the Committee".

Section 42 of the Halifax Regional Municipality (HRM) Charter requires that;

The Treasurer shall promptly advise Council of:
(a) all moneys due to the Municipality that the Treasurer considers cannot reasonably be collected after pursuing all reasonable avenues of collection; and
(b) the reasons for the belief that such moneys cannot be collected, and the Council may write off the amounts determined to be uncollectible.

RECOMMENDATION

The Audit and Finance Standing Committee recommends that Halifax Regional Council approve the real property tax accounts in the amount of $399,549.34 comprised of $374,773.93 principal and $24,775.41 interest as detailed in Schedule 1 of the October 25, 2013 staff report be formally written out of the books of account.

BACKGROUND

At the November 20, 2013 meeting of the Audit and Finance Standing Committee, the committee recommended a report, dated October 25, 2013 be received by Regional Council.

DISCUSSION

Staff answered questions from the committee pertaining to the scale of the write-offs and noted that HRM's statistics with respect to write-offs are below the comparable private sector bench-mark of 2% of sales.

FINANCIAL IMPLICATIONS

As outlined in the October 25, 2013 staff report.

COMMUNITY ENGAGEMENT

All meetings of the Audit and Finance Standing Committee are open to the public and reports are made available prior to the meeting.

ENVIRONMENTAL IMPLICATIONS

No Environmental Implications have been identified.

ALTERNATIVES

No alternatives were identified.

ATTACHMENTS

1. A staff report from the Audit and Finance Standing Committee dated October 25, 2013

A copy of this report can be obtained online at http://www.halifax.ca/council/agendasc/cagenda.html then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Liam MacSween, Legislative Assistant, 490-6521

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Attachment 1

Audit & Finance Committee
November 20, 2013

TO: Councillor Bill Karsten, Chair, and Members of Audit & Finance Standing Committee

Original Signed

SUBMITTED BY: ______________________________
Greg Keefe, CMA, Director of Finance & ICT, CFO

DATE: October 25, 2013

SUBJECT: **Write-off – Leased Land Accounts**

ORIGIN

Staff and HRM Charter requirement.

LEGISLATIVE AUTHORITY

Section 42 of the Halifax Regional Municipality (HRM) Charter requires that;

The Treasurer shall promptly advise Council of

(a) all moneys due to the Municipality that the Treasurer considers cannot reasonably be collected after pursuing all reasonable avenues of collection; and

(b) the reasons for the belief that such moneys cannot be collected, and the Council may write off the amounts determined to be uncollectible.

RECOMMENDATION

It is recommended that:

1. The real property tax accounts in the amount of $399,549.34 comprised of $374,773.93 principal and $24,775.41 interest as detailed in Schedule 1 be formally written out of the books of account;

BACKGROUND

The HRM Charter requires that all accounts considered uncollectible and which are to be permanently removed from the accounts of the HRM be approved by Council. Administrative order 18, The Revenue and Collections Policy, section 5(g) requires staff to provide Council with a write-off report at least once per year.

The last write-off report to Council was on March 19, 2013.

DISCUSSION

Each year the provision for losses on accounts is budgeted in the operating fund as mandated by the HRM Charter. The HRM Charter section 93(1) – (2b) requires that:

93 (1) The Council shall make estimates of the sums that are required by the Municipality for the fiscal year.

(2) The estimates shall include the probable revenue from all sources other than taxes for the fiscal year and make due allowance for

(a) the abatement and losses that might occur in the collection of the taxes; and

(b) taxes for the current fiscal year that might not be collected.

This provision is accumulated each year in the valuation allowance account in order to offset on the balance sheet the value of the receivables recorded in the books of account. In this way, and in accordance with legislation and with generally accepted accounting practices, there is recognition that not all accounts billed will be collectible.

Real property taxes by legislation form a first lien on the real property.

Section 147 (1) of the Charter States that:

Taxes levied in respect of real property are a first lien upon the real property.
As such real property taxes have very low collection risk, as the municipality reserves the right to sell the property at tax sale to recover outstanding tax liens. An exception to this lien is when the real property is part of a crown lease. The Nova Scotia Assessment Act states:

PROPERTY EXEMPT FROM TAXATION

Exempt property

5 (1) The following property is exempt from taxation under this Act:

(a) all property vested in Her Majesty or vested in any person for Imperial, Dominion or Provincial purposes, and either unoccupied or occupied by some person in an official capacity, except that, if any such property is occupied by any person otherwise than in an official capacity, the occupant shall be assessed and rated in respect thereof, but the property itself shall not be liable;

Where the federal government, provincial government, or their crown corporations establishes a lease of their real property to an external 3rd party, the lease for assessment purposes is set up on the assessment roll as a taxable account, and HRM would tax the tenant directly, as opposed to the property owner. HRM cannot recover tax arrears through tax sale action on real property of the crown; consequently, leased land accounts carry a higher risk with respect to collection, similar to business occupancy tax.

The real property accounts being proposed for write-off as per schedule 1 were leases of the Halifax Port Authority and the Waterfront Development Corporation. In all cases the tenant became insolvent or bankrupt and both the Port and Waterfront Development Corporation realized losses, as well as other many other creditors.

Legal Services staff was engaged with the collection of these accounts and support staff's recommendation to write-off.

Nova Scotia Farmers Market Cooperative Write-off $139,112.35:

Farmers Market Development Cooperative Ltd. (FMDC) was a tenant through a lease agreement with the Halifax Port Authority (HPA) for space generally known as the Seaport Farmers Market. FMDC subleased the premises to City Market of Halifax Cooperative (CMHC). As the Halifax Port Authority is a Crown Corporation of the federal government, the lease was deemed taxable to FMDC for property taxes. In Dec 2012, FMDC and CMHC ceased operations and surrendered their lease to the Port of Halifax. Grant Thornton became the liquidator in the property of FMDC and CMHC in 2013 and reported creditors in the amount of $7.3M for CMHC and $10.8M for FMDC, of which $9M was owed to CMCH. HRM being an unsecured creditor received no payment for outstanding property taxes after liquidation proceedings.

Before FMDC and CMHC ceased operations, staff was successful in collecting $200,000. As the Seaport Farmers Market is now being operated by the Port of Halifax, HRM will receive commercial taxes on this facility through the Port's Payment in Lieu of Taxes (PILT) grant.

Nova Scotia Crystal Write-off $61,453.83:

Nova Scotia Crystal was a tenant through a lease agreement with the Waterfront Development Corporation, a crown corporation of the provincial government. The lease was taxable and property taxes were levied by HRM directly to Nova Scotia Crystal. In February 2013, Nova Scotia Crystal filed for protection against creditors and bankruptcy in April 2013. Creditors were owed approximately $1.7M. The Trustee, Green Landers Limited, was able to sell the assets of Nova Scotia Crystal to Halifax Glass Works Limited, however, HRM being an unsecured creditor, received no recovery from the proceeds of the sale of assets.

Staff was successful in collecting $42,000 on this account before they filed for bankruptcy. Halifax Glass Works is operating Nova Scotia Crystal in the same location on the Halifax Waterfront, through a lease with the Waterfront Development Corporation, and will be taxed directly by HRM for commercial property taxes.

Marener Industries Write-off $198,983.16:

Marener Industries was a tenant through a lease agreement with the Halifax Port Authority (HPA), at Richmond Terminal. As the Halifax Port Authority is a Crown Corporation of the federal government, the lease was deemed taxable to Marener for property taxes. After months of trying to financially re-structure or find a buyer, Marener was placed in receivership, with creditors owed $10M. BDO Canada Limited was appointed the trustee in bankruptcy for Marener. As an unsecured creditor HRM did not receive any of the realized proceeds of the Marener windup.

Staff was successful in collecting $20,000 prior to Marener's bankruptcy. The property formerly occupied by Marener is currently undergoing renovations, with most of the building being torn down. Taxable assessment on this property will be assessed back to HPA, and commercial taxes paid to HRM through HPA's Payment in Lieu of Taxes grant while unoccupied.

FINANCIAL IMPLICATIONS

Each year an allowance for bad debt, the valuation allowance, is calculated based on estimates of amounts outstanding that may be uncollectible in future years. Accounts proposed for write-off in this report have been 100% provided for in the annual valuation allowance expense.

Account Type	Write-off Amount	Allowance Account	Bal Oct 25, 2013
Real Property	$399,549.34	2521 – Allowance Tax	-$2,653,335

Write-offs per this report represent .06% of total budgeted tax revenue.

COMMUNITY ENGAGEMENT

N/A

ENVIRONMENTAL IMPLICATIONS

N/A

ALTERNATIVES

Staff is not proposing any alternatives

ATTACHMENTS

Schedule 1 – Write-off Summary of Leased Land Accounts

A copy of this report can be obtained online at http://www.halifax.ca/commcoun/index.html 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: Jerry Blackwood, CGA, Manager of Revenue, 490-6470

Original Signed

Financial Approval by: Greg Keefe, Director of Finance & ICT/CFO, 490-6308

SCHEDULE 1: Write-off Summary of Leased Land Accounts

Account #	Account Name	Total Due	Principal	Interest	Bill Year	Write-off Reason
10261988	Nova Scotia Farmers Market Co-op	$ 139,112.35	$ 139,112.35	$ -	2012	Insolvency
08763089	Nova Scotia Crystal	$ 61,453.83	$ 61,453.83	$ -	2011-2013	Bankrupcy
10265258	Marener Industries	$ 198,184.61	$ 173,546.27	$ 24,638.34	2009-2012	Bankrupcy
10416736	Marener Industries	$ 798.55	$ 661.48	$ 137.07	2011	Bankrupcy
		$ 399,549.34	**$ 374,773.93**	**$ 24,775.41**		