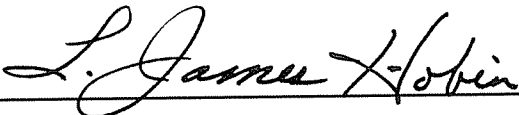

Halifax Regional Council
February 5th, 2002

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: 
J.L. Hobin, Chair, HRM Grants Committee

DATE: December 20th, 2001

SUBJECT: St. Margaret's Arena and Community Centre, 12 Westwood Boulevard,
Upper Tantallon: Tax Arrears Resolution

ORIGIN

This matter was brought to the attention of staff of the Grants Program through Financial Services, Taxation, for outstanding property taxes in the amount of \$163,467 (principle and interest). These arrears date from 1998 to 2002. The collection of these taxes cannot proceed to a tax sale because HRM owns the property.

RECOMMENDATION

The HRM Grants Committee recommend that Regional Council approve:

1. The payment of arrears for principle in the amount of \$34,723 for 2001-2002 from the Tax Exemption for Non-Profit Organizations Program to be paid from the 2001-2002 budget;
2. Interest for the period 1998-2002 in the amount of \$26,588 be waived (non-collectable debt);
3. The balance of the principle in the amount of \$102,156 for the period 1998 to 2001 to be written off against the valuation allowance (non-collectable debt) to reflect the property management agreement between HRM and the St. Margaret's Arena Association.

BACKGROUND

The property located at 12 Westwood Boulevard, Upper Tantallon, was constructed in 1987 through the provision of a loan by the former Municipality of Halifax County in the amount of \$596,826 to St. Margaret's Arena Association. The loan was to be re-paid over a maximum of 25 years. Title to the property was held by the municipality to secure the loan. As noted in a subsequent staff report (dated November 16th, 1995) "...Although there was no formal loan agreement between the County and the Association executed, it was the intent, at that time, to re-convey the property to the Association once the loan was re-paid". The proposal also stipulated that the facility would maintain its tax exempt status despite a change in ownership.

Under this arrangement ownership for the property was due to transfer to the Association on or before December 31st, 1995. In the interim, the Association leased the property from the municipality for the sum of \$1 for a term of five (5) years with the option to renew. The lease stipulated taxes were payable (item 4.a) but application was made under By-law 51, Schedule A, of the former Halifax County. The St. Margaret's Arena Association was tax exempt at the 100% rate.

At amalgamation (April, 1996) property ownership reverted to the new Halifax Regional Municipality. On May 2nd, 1996, Regional Council approved the sale of the property to the Association for an amount equal to the balance outstanding of the loan, plus accrued interest. Council also agreed to re-purchase the property from the Association for a specified period of time to facilitate the Association getting a mortgage. The Association was unable to complete the purchase and the sale terminated. From 1996 to 2001 the Association leased the property from HRM. But the facility was never entered on By-law T-201 as tax exempt.

On August 10th, 2001, HRM Parks & Recreation signed a Property Management and Operating Agreement with the St. Margaret's Arena Association for the purpose of a community-managed sports facility and community centre. The agreement stipulates that the Association shall operate the facility in accordance with an operating and capital budget "...approved from time to time by the Municipality". Property taxes would normally be considered an on-going operating expense unless otherwise stipulated. The tax status of the facility should have been determined at this point and stated in the management agreement.

Section 6.01 (d) of the Agreement clearly states "... The Purchaser had obtained confirmation from the Vendor that the property will qualify for a full tax exemption from municipal property taxation under the Vendor's Tax Exemption By-law". However, application was not made in 1999-2000 or in 2001-2002. In retrospect, it would seem that staff of Financial Services and of the Grants Program were not informed of this arrangement and consequently taxes have been charged to an account in error.

Grants Program staff view the St. Margaret's Arena tax arrears as an error of omission on the part of HRM and therefore the tenant should not be held liable for payment. The organization will be added to the By-law in 2002-2003 at 100% exempt.

DISCUSSION

The standardization of property tax subsidies to non-profit organizations was approved by Regional Council in a Grants Committee report December 4th, 2001. This corrective action is expected to significantly reduce the risk of error and to provide consistency in the application of By-law T-201. Further, the municipality will be better positioned to receive due consideration from the provincial government for the taxes lost through subsidies to community organizations who provide services which supplement or replace municipal services.

COMMUNITY IMPACTS

The proposed standardization of tax subsidies is intended to improve coordination, consistency and public accountability. The same eligibility criteria and decision-making process will be applied to all non-profit organizations and charities seeking HRM's assistance. Public accountability will be enhanced through annual reporting and open access to information. The scope of the 'cost' of tax relief will be fully documented.

BUDGET IMPLICATIONS

The \$34,723 allocated to the *Tax Exemption for Non-Profit Organizations Program* is expected to exceed the 2001-2002 budget. However, the reason for this variance can be identified and will be explained in this year's annual report. The on-going cost to the program is estimated to be \$17,400/year.

Staff anticipate that the budget allocation for the *Tax Exemption for Non-Profit Organizations Program* will increase substantially in 2002-2003 as actual tax losses are itemized and accounted for through the by-law process. These are not 'new' costs per se, simply the consolidation of existing subsidies into one program.

MULTI YEAR FINANCIAL STRATEGIES IMPACTS

This report does not comply with the approved operating budget of the Grants Program; an over-expenditure is anticipated in the 2001-2002 fiscal year in the *Tax Exemption for Non-Profit Organizations Program*.

ALTERNATIVES

1. The total of \$163,467 could be posted as non-collectable debt and written off under Financial Services as part of the valuation allowance. For consistency, this action is not recommended. It is recommended that current year arrears be posted against the *Tax Exemption for Non-Profit Organizations Program* and that the retroactive arrears be posted against the valuation allowance as un-collectable debt.
2. The St. Margaret's Arena Association could be held responsible for the \$163,467. This action is not recommended because of their former tax exempt status under By-law 51 and subsequent partnership agreement.

3. The principle only, in the amount of \$48,744, for the period under which the facility has operated under a management agreement (2001-2002) could be charged to HRM Parks & Recreation on the basis that tax exemption is not explicitly stated under the terms of the agreement. This action is not recommended because the expenditure would probably result in the cancellation of project work late in the fiscal year. The corrective action approved by Council should suffice in reducing the risk of further incidents.

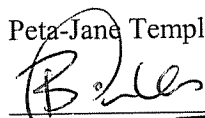
ATTACHMENTS

1. Annual breakdown of tax arrears.

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.

Report Prepared By: Peta-Jane Temple, Grants Coordinator 490-5469

Approved By:



Bruce Fisher, Manager, Financial Planning, Financial Services

Attachment 1:

All figures rounded.

Annual Breakdown of property Taxes and Exemption Status St. Margaret's Arena Facility				
Fiscal Year	Property Tax Due	Interest	Tax Status	Comments
1987-1995	\$0	\$0	Lease Agreement	Taxable. Halifax County By-law 51 at 100% exempt.
1996-1998	\$0	\$0	Lease Agreement	No tax exemption by-law in place in 1996 for HRM. Introduced in 1997. Should have been added to By-law T-200.
1998-99	\$33,818	\$11,520	Lease Agreement	
1999-2000	\$33,668	\$8,620	Lease Agreement	
2000-01	\$34,668	\$5,129	Lease Agreement	Awaiting Management Agreement (took 1 year)
2001-02	\$34,389	\$1,334	HRM Facility Management Agreement August 10th, 2001.	Should have been on By-law T-200.
2002-2003 (Proposed)	\$0	\$0	HRM Facility Management Agreement	Add to By-law T- 201 at 100% exempt
Total	\$136,879	\$26,588		