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HALIFAX
REGIONAL MUNICIPALITY

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Halifax Regional Council
May 3rd, 2005

TO: Mayor Kelly and Members of Halifax Regional Council

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

DATE: April 25, 2005

SUBJECT: **By-law T-700, Replacement of By-law T-300, Residential Property Tax Deferral - Revisions**

ORIGIN

This report is initiated by staff of HRM Financial Services as a result of budget discussions. By-law T-300 is the legislation under which the municipality provides tax deferrals to low income residential homeowners. Staff recommend changes to the program's income threshold and eligibility criteria. If approved by Regional Council, the revised program would be implemented in 2005-06. A public hearing is required under the Municipal Government Act (1996). This report was approved by the HRM Grants Committee March 21st, 2005.

RECOMMENDATION

HRM Grants Committee recommends that Regional Council approve:

1. Approve in principle the replacement of By-law T-300 with By-law T-700 as detailed in the Discussion section of this report;

2. Allow for interest to be applied against any deferred amount not otherwise subject to interest. Such interest is to be deferred. The interest rate in such cases will be set at 0% in 2005-06;

3. Direct staff to set a date for a public hearing.

BACKGROUND

At amalgamation the discretionary provision of property tax deferrals delivered by former municipalities were standardized into By-law T-300. In 2001, the age limit (55 or older) was removed which opened the program to low waged families, unemployed, retired, and disabled persons irrespective of age. Presently, the eligibility criteria has an income threshold of $26,000. While there is a 'cost' to the municipality in terms of reduced annual cash flow, all monies deferred are still revenues. The collection of these monies has simply been delayed and are against the property should it be sold or ownership transferred, for example through an estate settlement. **See: Attachment 1. Residential Tax Deferral Program Criteria.**

Staff have developed recommended revisions to the deferral program in accordance with the following program principles:

- ☐ Municipal assistance shall target individuals and families with combined household incomes at the low and middle income range;
- ☐ Public assistance shall recognize personal responsibility in making affordable housing choices while also acknowledging that some residents face barriers to equitable participation in the economy;
- ☐ The integrity of the program shall be protected through the development and evaluation of program policy and procedures, and objective outcome measures;
- ☐ The cost of public assistance shall be monitored and adjusted annually within HRM's financial capacity.

Many applicants to the municipal tax deferral program would not be eligible for a reverse mortgage through a financial institution. Consequently, for some customers a deferral averts the prospect of a tax sale. Arguably, there are two distinct reasons for deferral (a) an acute, short-term loss of income, or (b) a chronic, long-term inability to pay full property tax . Market-driven tax increases impact on those living on a fixed, low income with limited discretionary spending capacity (for example, a pension that is not indexed or social assistance). Staff have noticed an increase in the number of applications to avert tax sale due, in part, to changes to the Municipal Government Act (1996) that make tax sale proceedings optional after one year of arrears but mandatory after three years of arrears. Assessment increases and an increase in the use of local improvement charges or area rates also contribute to higher tax bills.

A separate report has been circulated *"Residential Property Tax Assistance Programs for Lower Income Homeowners in HRM"* (2005) with details on program participation.

DISCUSSION

1. Increase the income eligibility threshold to $27,000.

This threshold is set according to the Canadian Council on Social Development "Low Income Cut-Off Scales" and is rounded up to the nearest thousand. Staff have used an urban population <500,000 and a rate for up to 3 persons.

2. Allow application to more than one assistance program in accordance with each program's eligibility criteria.

If approved, eligible applicants can receive a tax deferral for all or a portion of their property tax and any outstanding interest, local improvement, and trunk sewer charges, as well as a rebate, for the year in which application is made.

3. An interest rate (prime) shall be applied to a deferral not otherwise subject to interest.

Most Local Improvement Charges already include an interest portion as part of the total amount owed under the bylaw. Outstanding taxes deferred are currently not subject to interest. It is proposed that where taxes and charges are otherwise not subject to interest, that interest be accrued. As well for local improvement charges, that interest would be eligible for deferral. The interest rate is not meant as a penalty (eg. late payment interest of prime +4%) but offsets the interest cost incurred by HRM and is an incentive to homeowners to make payment if and when they are able. HRM does not want to serve as a bank; however, many applicants to the deferral program would be ineligible for a reverse mortgage in the open market. The interest would accrue annually, along with the deferred principal, and would be part of the lien. Payment can be made in full or in part at any time by the homeowner, but is collected in full if title to the property is transferred. **See: Attachment 2. Deferral vs Reverse Mortgage.** The interest rate shall be set by Regional Council.

4. The interest rate on deferrals awarded in 2005-2006 shall be set at 0%.

The interest rate on deferrals will be implemented in the 2006-07 fiscal year. Staff feel that it is important to provide notice to affected citizens regarding this policy change. The delay is also needed in order to provide time to configure a rigorous system to ensure interest is calculated appropriately and that reporting mechanisms are in place to properly administer this new policy.

Rationale: The program uptake is relatively low at present and HRM Financial Services does not have the data system to track interest at the present time.

5. Recommend decrease in maximum cumulative amount deferred from the present 100% of assessed value to 75% of the assessed value of the property. Only lienable charges can be deferred.

Rationale: The aim of this change is to protect both public and private interests. Should an individual or family reach this limit over the course of a long-term deferral they could be left without equity (the cash needed to rent alternate accommodations). Likewise, the municipality might be unable to recover the value of the lien if market values have changed or the condition of the building has depreciated.

Charges that <u>can</u> be deferred:

- Real Property Tax
- Trunk Sewer Charge (By-law S-100)
- Local Improvement Charge for Sewer and Water (By-law L-100)
- Local Improvement Charge for Road Improvements (By-law S-400)

With the exception of trunk sewer charges all of these taxes and charges are currently subject to deferral.

Charges that cannot be deferred:

- Dangerous and unsightly premises charges
- Snow and ice removal
- Solid waste removal
- False alarm charges

Note: The municipality remains unable to assist in cases where the payment of property tax is included in a mortgage arrangement: a private contractual agreement between the homeowner and a financial institution. If a bank refuses to permit the deferral of property taxes the municipality can only offer a payment plan option and/or a tax rebate to eligible applicants.

6. Recommend eligibility be restricted to the registered titleholder(s) of the property as documented through the Nova Scotia Registry of Deeds.

Presently, the program is designed to make the beneficiary and the owner one and the same. But, the program does not require that the applicant be the registered titleholder; this has resulted in an ability to transfer title to a business entity or trustee without registration resulting in a tax account listing in the name of a business. Also, because current income requirements are limited, staff are unable to assess if the gross income is a function of business deductions, including a proportional share of property tax as a business-related expense.

7. If title to the property is not in the name of the applicant other standards of eligibility shall apply.

Where the titleholder is a legally recognized trustee, guardian or executor, excluding a corporation or company, who is not the beneficiary of ownership and makes application on behalf of the resident(s) the applicant shall be required to submit proof of advocate status and the personal income tax statement (if applicable) for the beneficiary.

Advocate status may include a government appointed social worker, court appointed lawyer, or government appointed probate officer. Eligible applicants shall include:

- the resident has a living interest;
- the party in receipt of the tax bill has legally recognized power of attorney.

Ineligible applicants shall include:

- adverse possession
- a trustee in bankruptcy
- a corporation or company (other than a registered Canadian charity)

Where the registered titleholder named on the property deed at the Nova Scotia Registry of Deeds or their spouse is self-employed, the applicant shall be required to submit relevant income tax documents and forms including any business-related information.

Rationale: The proposed revisions to eligibility are intended to reduce the risk of subsidizing a personal business or corporate entity while at the same time protecting the eligibility of children, disenfranchised or disabled persons.

Note: adverse possession is recognized for a tax rebate but not for a deferral. Deferred taxes are a lien against the property and the owner's agreement cannot be secured because title has not been proven through a deed. Such a deferral would not be secured through the subsequent sale or transfer of title of the asset.

8. Add information to the application form regarding what types of income are excluded in calculating an applicant's income eligibility.

The calculation of combined gross household income shall exclude:

War Veteran's Allowance Act (Chapter W-3, Section 7)
Child Tax Credit
GST and HST Rebate
Pensions paid to Armed Forces personnel under the Pensions Act (Canada) (Chapter P-6, Sub-section 1-12)

Rationale: These forms of income are excluded by Canada Customs and Revenue Agency for personal income tax and the Municipal Government Act (1996), Section IV, 69 (1).

9. Applicant's be notified that income includes out-of-province and out-of-country earnings.

10. Annual renewal of deferred tax status.

Homeowners awarded a deferral shall be required to apply annually, with proof of prior year's household income, to extend the deferral of taxes.

Rationale: Taxes are only deferred upon proof of an inability to pay. Hence, HRM needs a formal record of combined household income so as to confirm eligibility for a continuation of a deferral in accordance with the program's income threshold.

This policy shall apply retroactively to all deferral accounts, irrespective of date of award.

11. Development of a program database to track annual participation rates in the deferral program, distribution of participation by electoral district, annual and cumulative value of deferred tax.

Data would be collected annually to track trends in program participation and the implication of these trends in program design. The findings would be reported annually in the Grants Program Annual Report.

12. Development of database to track annual applications to HRM for proof of eligibility for the provincial seniors tax exemption program.

Presently, we have no records to show the number of seniors in HRM who apply for the provincial property tax rebate.

13. Add questions to the information form requesting to gather demographic information and program users for use in program monitoring and evaluation.

Such questions must be in accordance with the *Freedom of Information and Protection of Privacy Act* (1996), and would be approved by the HRM Grants Committee and FOIPOP staff.

BUDGET IMPLICATIONS

Deferrals are a 'cost' to the municipality in terms of lost investment earnings, loss of interest on arrears, and collection costs. The addition of an interest rate will offset the lost investment and earnings from the program. Any increase in program uptake will decrease the municipality's cash flow. Participation rates tend to be low and a measure "of last resort". Any increase in the volume of applications will increase administrative costs such as printing, office supplies, postage, and labour. Trunk sewer charges of $500 have not previously been deferred. The change in HRM's cash flow to accommodate this will be minor.

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.

A change to a by-law requires a public hearing before Regional Council.

ALTERNATIVES

1. Regional Council could amend or defeat the staff recommendation and elect to continue the present program un-altered.

This action is not recommended because the program's integrity needs further clarity regarding self-employed persons and trusteeships.

ATTACHMENTS

1. Residential Tax Deferral Program Criteria.
2. Reverse Mortgages verses Municipal Tax Deferral
3. Distribution of Income by Program: Tax Exemption vs Tax Deferral
4. By-law T-700, replacement of By-law T300

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

David Cormier, Acting Manager Revenue, HRM Financial Services

Wayne Anstey, Solicitor, HRM Legal Services

for Dale MacLennan, Director, HRM Financial Services

Attachment 1

Residential Tax Deferral Program

Presently, the key criteria used to determine eligibility are:

- ☐ The property shall be the applicant's permanent place of residence ("home") and not second home, cottage, income property or land-holding. The applicant must reside on the property.
- ☐ The applicant shall be the titleholder(s).
- ☐ Residence is not limited to a detached house and shall include a condominium, mobile home, duplex, or structure assessed as 'dwelling' by the Nova Scotia Assessment Services.
- ☐ Only that portion of the assessment deemed Residential, or Resource with Dwelling, may be used to calculate the value of the deferral. Commercial and Resource assessments are ineligible for public subsidy.
- ☐ Proof of combined gross household income for the prior year.
- ☐ The cumulative value of taxes deferred cannot exceed 75% of the assessed value of the property.
- ☐ A deferral cannot be applied retroactively.

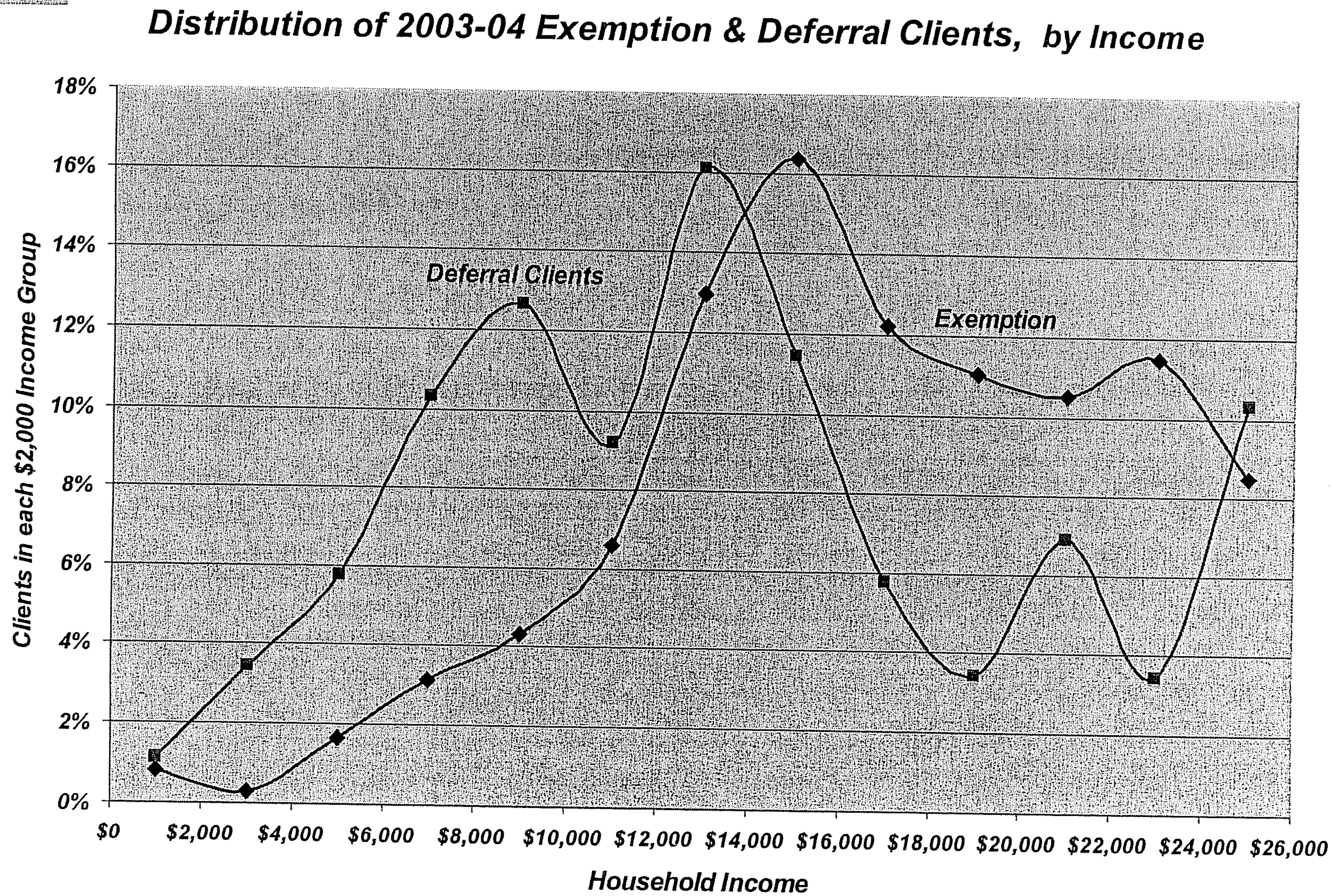
Attachment 2

Reverse Mortgages versus Municipal Tax Deferral

In general, reverse mortgages offered by financial institutions would be of limited, if any, assistance to the majority of homeowners who apply to the municipal Residential Tax Deferral Program. For example, many reverse mortgage programs have the following criteria:

- ☐ An age restriction (most are targeted to senior citizens whose life expectancy is shorter and who typically have substantial equity in their home);
- ☐ Applicants with substantial equity in their home: either mortgage free or with a very low mortgage balance outstanding.
- ☐ A limit on the maximum amount of equity that can be 'converted' into cash (as low as 25%-30% of the home's market value or as a % of the owner's equity). Or, can be a fixed amount (eg. up to $5,000).
- ☐ Interest rates are charged on the 'loan' (vary but usually prime or prime plus % , or set according to risk assessment).
- ☐ The equity can be taken in the form of a lump sum or in instalments
- ☐ Insurance or eligibility to insure the property required.

Deferral and “Rebate” Client Incomes



Attachment 4.

HALIFAX REGIONAL MUNICIPALITY

BY-LAW T-700

RESPECTING TAX DEFERRALS

BE IT ENACTED by the Council of the Halifax Regional Municipality as follows:

SHORT TITLE

1.1 This Bylaw shall be known as Bylaw Number T-700 and may be cited as the "Tax Deferral Bylaw";

INTERPRETATION

2.1 In this By-law,

(a) "income" includes wages, salaries, emoluments, gratuities and honorariums arising from employment; fees, earnings and profits from any profession, trade, business or calling after deducting the expenses of earning the same; interest and dividends received directly or indirectly from shares, stocks, bonds, debentures, deposits, mortgages, agreements for sale, estates, loans and other investments; pensions, annuities, retiring allowance, compensation and similar income from any person, business, estate, insurance or other company, government or government agency wherever earned.

(i) all world net income for deemed residents and for non-residents working outside of Canada; and

(ii) any owner withdrawals from a self-employed applicant;

but does not include:

(i) an allowance paid pursuant to the War Veteran's Allowance Act (Canada);

(ii) a child tax benefit;

(iii) a GST or HST rebate;

(iv) an oil rebate;

(v) a pension paid to arm forces personnel pursuant to the Pensions Act (Canada).

(b) "deferral" means any portion of the residential and resource property taxes, local improvement charges or trunk sewer charges levied against a property, payment of which is deferred pursuant to this By-law;

(c) "owner" means a registered title-holder named on the property deed at the Nova Scotia Registry of Deeds, and includes

(i) a part owner, joint owner, tenant in common or joint tenant of the property;

(ii) In the case of the absence or incapacity of the person having title to the property, a trustee, an executor, a guardian, an agent, an heir, or next of kin; or

(iii) a person with a life interest in the property;

but shall not include

(i) a trustee in bankruptcy;

(ii) a person having the care or control of the property through adverse possession; or

(iii) a corporation (other than a registered Canadian Charity)

(d) "residential property" shall be the building in which the owner or owners reside and that portion of land assessed as residential or resource with a dwelling under the Assessment Act of Nova Scotia (1989), provided that in the case of property assessed under two or more assessment categories, any partial property tax exemption shall not be calculated on the residential assessment or resource with dwelling portion only, and property or land assessed as commercial, farmland, resource, forest, residential farmland, or residential forest shall not be deemed to be residential property.

DEFERRAL

3.1 A person may apply in writing to the Treasurer of the Municipality for the postponement of the payment of the taxes rated by the Municipality upon residential property within the Municipality for the year in which the application is made and such postponement shall be allowed if the person meets the following criteria;

(a) the person is the owner of the property and uses it for his or her own principle residence; and

(b) the person's gross income together with the income of a spouse or other member of the household over the age of 18 years, including any legally recognized trustee, guardian or executor resident on the property does not exceed $27,000 for the calendar year proceeding that for which the application is made; and

(c) the property for which the deferral is applied meets all minimum health and safety laws, regulations and bylaws.

3.2 If the applicant is a legally recognized trustee, guardian or executor who is not the beneficial owner but is making application on behalf of the resident(s), the applicant shall submit proof of their status and proof of income of the beneficiary pursuant to Section 6.

3.3 Application for a property tax deferral can be made in any of the following manner:

(a) Property tax deferral on full residential portion or residential and resource with dwelling of billing; or

(b) Property tax deferral on a portion of the residential billing only with a property tax rebate under Administrative Order 10, taxes deferred will be charged interest each fiscal year; or

(c) Property tax deferral on a portion of the residential billing only with a property tax rebate under Administrative Order 10, with the option to also defer local improvement charges or trunk sewer charges; taxes deferred will be charged interest each fiscal year.

3.4 Applicants who have received a deferral prior to March 31st, 2005 will be exempt from the addition of interest on amounts deferred up to March 31st, 2006.

3.5 A deferral for property taxes shall only be granted on a residential property, or the portion of the property deemed residential or residential resource by the Provincial Assessment Office and occupied by the homeowner as a principle residence, excluding property taxes assessed as commercial or business occupancy, or strictly resource with no dwelling occupied by the homeowner, a second home, or a cottage, or a mobile home which is on land not owned by the applicant.

3.6 The total cumulative value of all taxes and local improvement charges deferred under this by-law shall not exceed 75% of the assessed property value as determined by the Provincial Assessment Office. Should the deferred taxes reach 75% of the assessed property value, payment is required, either in full of the deferred portion or through an active payment plan.

REPAYMENT

4.1 Taxes deferred pursuant to Section 3 shall be repaid to the Municipality in full upon the conveyance of the property or upon the death of the person granted the deferral provided that the deferral may continue if the property is conveyed to the widow or widower of the deceased person and the widow or widower meets the criteria set forth in section 3. Taxes deferred pursuant to Section 3 may be repaid in full or in part at any time without loss of eligibility for future application to the by-law.

INTEREST

5.1 Interest shall be charged on deferrals at the rate set by Regional Council. Local improvement charges and trunk sewer charges that are otherwise subject to interest are not subject to additional interest under this By-law.

APPLICATION FORM

6.1 An application to the Treasurer shall contain proof to the satisfaction of the Treasurer that the application has met the conditions required to be granted an deferral.

6.2 The applicant and spouse shall be required to submit required income tax returns, forms and documents including any relevant corporate or business information.

6.3 No applicant can apply for a retro-active deferral of any amount of tax, local improvement charges or trunk sewer charges.

6.4 An application for exemption for a fiscal year shall be submitted by December 31st of that fiscal year.

6.5 **Subject to subsection 6.7, if an applicant does not re-apply for a deferral pursuant to this By-Law or for a residential property tax exemption pursuant to Administrative Order 10 within the year following the fiscal year in which the last application for a tax deferral or tax exemption was made, all amounts to taxes previously deferred shall become payable and collectable in accordance with the Municipality's official collection policy without deferral.**

6.6 **Amounts deferred can remain deferred although applicants no longer qualify for the program due to changes in circumstances if they have an active mutually agreeable payment plan with the Municipality in respect of the deferred amount on which payments remain current, until payment of the deferred amount has been made in full.**

REPEAL

7.1 By-law T-300 is hereby repealed, provided that any deferral granted pursuant to such bylaw may be continued according to terms of this by-law.

DEFERRAL OF LOCAL IMPROVEMENT CHARGES

8.1 This by-law applies to deferrals of real property tax and Local Improvement Charges and Trunk Sewer Charges. Deferrals will not be applied retro-actively on property taxes, local improvement charges or trunk sewer charges. Notwithstanding this by-law, any past due amounts are payable in full.

Done and passed in Council this XX day of MAY, 2005.

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Mayor

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Municipal Clerk