

**Halifax Regional Council
February 12, 2008**

TO: Mayor Kelly and Members of the Halifax Regional Council

SUBMITTED BY:

for Melody Campbell

Councillor Russell Walker, Chair, HRM Grants Committee

DATE: February 4, 2008

SUBJECT: **Property Matter: Less Than Market Value Land Lease**

ORIGIN

Grants Committee meeting of February 4, 2008.

RECOMMENDATION

It is recommended that Regional Council approve:

1. The staff recommendation not to enter in to a less than market value land lease agreement with the Dartmouth Kinsmen Club for the sum of \$1 per year for a term of 10 years;
2. The staff recommendation to enter in to a less than market value land lease agreement with the Dartmouth Kinsmen Club, 30 Caledonia Road, Dartmouth, as per the revised terms and conditions set out in the Discussion section of this report.

BACKGROUND

See staff reports attached as Attachment 1 to this report.

DISCUSSION

Further to a letter of appeal received from the Dartmouth Kinsmen Club dated January 30, 2008, staff prepared a briefing report for the Grants Committee setting out some alternatives; the aim was to help the club transition to a discounted rental rate.

The Grants Committee selected the following:

The rental rate is set using the entire lot size of 13,114 sq.ft but the fair market value is discounted to 50%, ie. 0.17 cents per sq.ft, to allow for the limitations of the land (ie. the actual land occupied by the building and not the wooded area or a portion of the parking lot). Payment is phased over the 5-year term of the lease. Year 1 is at a flat rate of \$1 per year to allow the club to confirm sub-leases and applicable rental rates when the Boys & Girls Club move to the new East Dartmouth Recreation Centre. The standard lease agreement also allows for an annual rent increase for inflation.

Schedule	Annual Rent*	Monthly Rent	Rental Rate
Year 1. 2008-2009	\$1.00	Not applicable	Not applicable
Year 2. 2009-2010	\$655.70	\$54.64	0.05 cents per sq.ft
Year 3. 2010-2011	\$1,311.40	\$109.28	0.10 cents per sq.ft
Year 4. 2011-2012	\$1,967.10	\$163.25	0.15 cents per sq.ft
Year 5. 2012-2013	\$2,229.38	\$185.78	0.17 cents per sq.ft

* HST is also payable.

BUDGET IMPLICATIONS

The execution of this lease agreement will not increase/decrease in HRM's revenue in 2008-2009. Thereafter, revenue shall increase annually over a period of 4 years as set out in Table 1 of the Discussion section of this report.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

See staff report attached as Attachments 1 to this report.

ALTERNATIVES

See staff report attached as Attachments 1 to this report.

ATTACHMENTS

1. Staff Report dated January 18, 2008 Property Matter: Less than Market Value Land Lease: Dartmouth Kinsmen Club - Lot BF-2, 30 Caledonia Road, Dartmouth
2. Letter of Appeal to HRM from Dartmouth Kinsmen Club, dated January 30th, 2008, and staff Briefing report to HRM Grants Committee, February 4, 2008.

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: Melody Campbell, Legislative Assistant.



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Attachment 1

HRM Grants Committee
February 4th, 2008

TO: Chair and Members of HRM Grants Committee

SUBMITTED BY: 
Dale MacLennan, CA, Director of Finance

DATE: January 18, 2008

SUBJECT: Property Matter: Less than Market Value Land Lease: Dartmouth
Kinsmen Club - Lot BF-2, 30 Caledonia Road, Dartmouth.

SUPPLEMENTARY REPORT

ORIGIN

In May, 2007, HRM received an unsolicited request from the Dartmouth Kinsmen Club to renew a land lease agreement for the HRM-owned property located at 30 Caledonia Road, Dartmouth. Subsequent to a report to the HRM Grants Committee dated January 7th, 2008, it has been determined that the land occupied by the Kinsmen building is 1,135.48 sq.ft and a sub-division of this lot from HRM's larger land holding is not recommended given that HRM might have future recreation needs in this specific area.

RECOMMENDATION

It is recommended that:

1. HRM Grants Committee approve the staff recommendation not to enter into a less than market value lease agreement with the Dartmouth Kinsmen Club for the sum of \$1 per year for a term of 10 years;
2. HRM Grants Committee approve in principle the staff recommendation to enter into a less than market value lease agreement with the Dartmouth Kinsmen Club as per the terms and conditions set out in this report.

BACKGROUND

The Municipal Government Act (1989), Section III, Item 51 (1) authorizes the sale or lease of an HRM-owned property for less than market value to a registered non-profit organization on the condition that the organization carries on an activity that Regional Council considers to be "...beneficial to the municipality". In accordance with legislation and the HRM Transaction Policy (2002), the Real Property division directs such requests through the HRM Grants Committee. A less than market value lease must be approved by Regional Council but a public hearing is not required.

The land located at 30 Caledonia Road, Dartmouth, is owned by HRM and has been leased to Dartmouth Kinsmen Club since 1976. The initial land lease was for a term of 10 years for \$1/year with the option to renew for 5 years. The Dartmouth Kinsmen Club is a men's service club that raises funds for neighbourhood and community initiatives including schools, health facilities, sport and recreation amenities, and social benevolence. Revenues are self-generated through membership fees, fundraising, special events, leasing and rental fees.

The current lease expired in 2003 and has been held-over on a recurring basis. Real Property Planning staff have confirmed that the land is a strategic holding and should not be sold. The building located on the property is owned by the Dartmouth Kinsmen Club; it was donated by the former City of Dartmouth from a street-widening expropriation and moved by the club to the present site to serve as a clubhouse/community centre. At the time the area was not served by a municipal community facility. In 2008, the HRM-owned East Dartmouth Community Centre is due to open.

DISCUSSION

Proponent's Request: The Kinsmen Club have requested a 10 year lease for \$1/year and renewal thereafter in increments of 5 years. The club have requested a discounted rate and long-term lease because they want to undertake capital improvements to their building such as windows, doors, flooring, washrooms, and paving the driveway and parking lot. The club's management estimate that over the course of the 31 years leased to date they have invested \$75,000-\$80,000.

Staff recommend that the request for 10 years at \$1/year be declined on the basis of the following:

- The initial agreement recognized the club's role in the provision of a community hall in the absence of a municipal community centre. With construction of the East Dartmouth Community Centre an HRM-owned facility will be available to the general public.
- Any capital investment made by the club in the building has secured or enhanced an asset owned by the club, not a public asset. Also, past practice has been to discount rent in lieu of capital and operating expenses. As such, the cumulative value of a 31 year lease at \$1/year represents a significant form of municipal compensation or subsidy.

Given the long-term occupancy of the tenant, staff initially looked at the potential for a less than market value sale but this was not pursued based upon possible future development of the site by HRM given its proximity to public recreation and school facilities. In the alternative, staff recommend a less than market value lease for 5 years with the option to renew, subject to the land being surplus to HRM's operational requirements.

Market Value Rent vs Less than Market Value Rent

The Kinsmen building is situated on a parcel of land (Lot BF-2) with a total area of 13,114 sq.ft. See: **Attachment 1. Site Map.** The parcel includes a wooded area to the rear of the Kinsmen clubhouse and a portion of the parking area at the front.

Estimated Market Value: The market value of the land for “highest and best use” is estimated to be \$75,000. However, this value assumes that the property could be re-zoned for commercial use. Based on this value and using a capitalization rate of 8.25% (Prime +2%) the annual market rent would be \$6,187.50/year. This value has not been used as the basis for calculating the benchmark against which to establish “less than market value” because HRM’s interest in not selling the land and its’ zoning (Institutional) diminish the property’s marketability. Instead, we have used the 2007-2008 assessment value.

Less than Market Value: The 2007-2008 assessment value for the land is \$54,100; based on this value the annual rent would be \$4,463.25/year (\$0.34 sq.ft). However, Lot BF-2 includes a parking area that is used by the general public and driveway access for an abutting property leased to the Dartmouth Non-Profit Daycare, and a wooded area to the rear that is not functional (HRM is not likely to approve removing the trees). Staff have, therefore, discounted the rental rate by 50% to 0.17 cents per sq.ft .

Summary of Key Terms and Conditions (Proposed)	
Civic Address	Lot BF-2, 30 Caledonia Road, Dartmouth
Zoning	S-Institutional
Occupancy	13,114 sq.ft total land area
Rental Rate*	\$0.17 per sq.ft (\$2,229.38 per annum \$185.78/month) plus HST and applicable property tax.
Duration of Lease	5 years with the option to renew for a further 5 year term provided the land is surplus to HRM’s operational requirements. Lease commences on or before April 1, 2008.
Conditions	No sub-leasing without the written consent of HRM. Term of lease not to exceed 2018 to permit a review of lands owned by HRM re: possible strategic re-development options.
Other	Any future removal of the built structure from the property shall be at the expense of the tenant. Dartmouth Kinsmen Club to provide driveway access to Dartmouth Daycare Centre and general public access to parking. Any capital improvements to parking, or proposed restrictions on public access, to be approved in writing by HRM.

* The estimated rental has been based on the 2007-08 assessment value and is 0.34 per sq.ft.

Using the proposed rental rate of \$0.17 per sq.ft, excluding HST, HRM’s rent subsidy would be \$2,229.38 per year (13,114 sq.ft x \$0.17 per sq.ft = \$2,229.38). Presently, the entire parcel of land is assessed for Commercial tax and in 2007-2008 the value was \$4,111; HRM will request confirmation of the assessment for Lot BF-2. Application for tax assistance is in progress under By-law T-200.

BUDGET IMPLICATIONS

The execution of this lease agreement would increase rental revenue to HRM by \$2,229.38 per year.

HRM has requested confirmation that the 2007-08 assessment value applies specifically to Lot BF-2. If the assessment pertains to a larger or smaller area, the assessment and lease rate may be adjusted to better reflect Lot BF-2, the area being leased.

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 relevant legislation.

ALTERNATIVES

1. The HRM Grants Committee could overturn or amend staff's recommendation and direct staff to negotiate a market value lease with the Dartmouth Kinsmen Club for a rent of \$6,187.50/year.

This action is not recommended: In the opinion of staff a market value for the land is not appropriate in this context insofar as HRM has a vested interest in not sub-dividing and selling this property, or re-zoning, due to its' proximity to public and private amenities.

2. The HRM Grants Committee could overturn or amend staff's recommendation.



ATTACHMENTS

1. Site Map Lot BF-2, 30 Caledonia Road, Dartmouth.

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: Peta-Jane Temple, Team Lead Tax, Grants & Special Projects, HRM Finance 490-5469;
Carla Thistle, Real Estate Officer, Transportation & Public Works 490-5477.

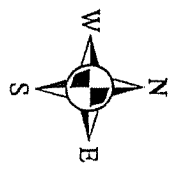
Report Approved by:

 
Bruce Fisher, Manager Tax & Fiscal Policy, HRM Finance

ATTACHMENT 1

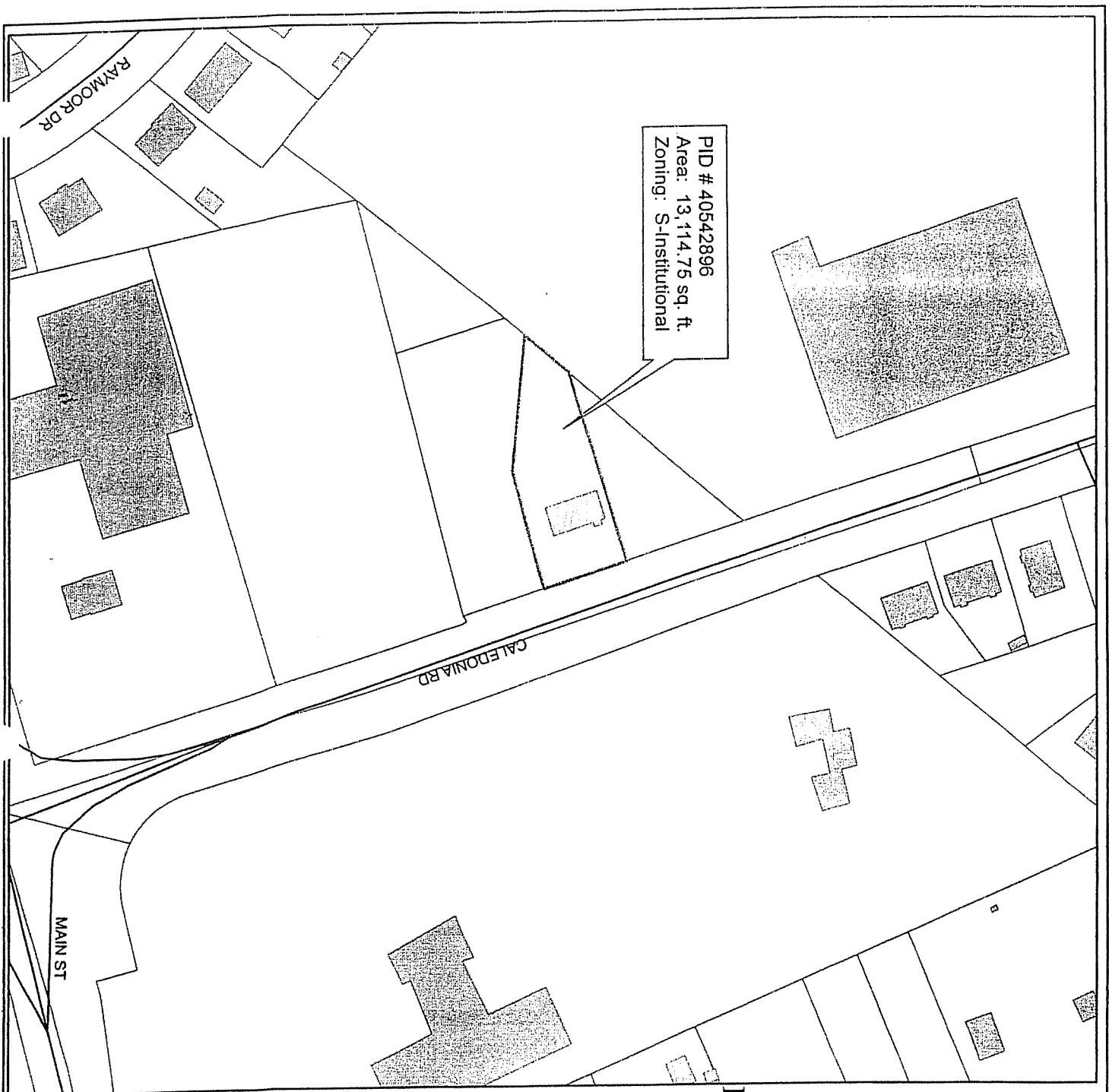
KINSMEN CLUB
Lot BF-2, 30 Caledonia Road
Dartmouth, Nova Scotia

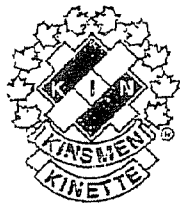
SITE MAP



This map was produced for the internal use of Halifax Regional Municipality (HRM). HRM takes no responsibility for errors or omissions. Date of map is not indicative of the date of data creation.

Date: January 11, 2007
Prepared by: E. Wall





DARTMOUTH KINSMEN CLUB

30 Caledonia Road, Dartmouth, Nova Scotia B2K 1K8 Tel: 902-435-1704

January 30, 2008

Halifax Regional Municipality
Tax & Grants Committee
C/o Ms. P.J. Temple

Dear Ms. Temple,

Re: 30 Caledonia Road Kinsmen Building assessments for taxation and rent

The Kinsmen Club of Dartmouth appreciates the opportunity to negotiate these items with the Halifax Regional Municipality.

Prior to 2002 a written request was submitted (with cheque) for a renewal of \$1.00 per year for ten years and was returned by HRM. The original re-negotiation process was disrupted in 2002 with the signing of a one year lease due to the uncertainty on where exactly the new community centre would be placed and who exactly owned the current facility at 30 Caledonia Road. At this time city staff and volunteer representatives of the Kinsmen Club negotiated a short term lease within the original intentions of 1976, of the \$1.00 / year in order to have something formal in writing to protect each party.

Throughout these discussions it was clear that taxes (only taxes) were being discussed. The full membership was informed to be prepared in the future to pay taxes. The maximum amount the club was suggested to budget was approximately \$3000.00 with the hope of receiving a tax subsidy to reduce this figure to at least half. At no prior meetings, only within the last couple of months have there been discussions concerning the increased payment of rent/lease.

This being said the Kinsmen Club of Dartmouth proposes the following;

1. Continue with the original lease agreement of 1976 of \$1.00 per year. This will be for lease of the land of the building footprint
2. Kinsmen continue to maintain daily operations and maintenance for the facility to code.
3. Receive consideration of no less than a 50% discount from the residential tax rate.
4. The duration of the lease to follow the 1986 renewal of 5 years.
5. The facility will compliment the new East Dartmouth Community Centre as & when required.

In summary; the payment of taxes, increased cost of building insurance and the planned upgrades to improve the facility for other potential not for profit groups use of office & meeting space would be financially feasible for our volunteer service club. Our goal since 1955 has been to serve the community's greatest needs. This proposed arrangement will enable us to continue to accomplish valuable work throughout all of Dartmouth, Cole Harbour, Eastern passage and the Preston areas.

Thank you for taking the time to review our proposal. I can be reached at 435-1704 for further information if required.

Sincerely,

Harold Waller
Chair, Kinsmen Centre Committee

Briefing Report Dartmouth Kinsmen Club

Attached is a letter of appeal received from the Dartmouth Kinsmen Club regarding a proposed lease agreement, dated January 30th, 2008.

The principle issue appears to be the legacy assumed by HRM of past practices that did not account for how rental rates were determined or maintained. After 30 years at \$1 a year and no tax billing (\$0 tax paid) the new lease represents as significant change. Therefore, based on affordability, staff have developed several alternate scenarios that phase-in cost increases. A staff recommendation and rationale is provided.

Option A

The rental rate is set using the entire lot size of 13,114 sq.ft but the fair market value is discounted to 50%, 0.17 cents sq.ft, to allow for the limitations of the land (ie. the actual space occupied by the building and not the wooded area or a portion of the parking lot). Payment is phased over the 5-year term of the lease. Year 1 is at a flat rate of \$1 to allow the club to confirm new sub-leases and applicable rental rates when the Boys & Girls Club move to the new East Dartmouth Recreation Centre. However, given the phased approach a 2% per annum rent increase for inflation would be standard practice.

Schedule	Annual Rent	Monthly Rent	Rental Rate
Year 1. 2008-2009	\$1.00	Not applicable	Not applicable
Year 2. 2009-2010	\$655.70	\$54.64	0.05 cents per sq.ft
Year 3. 2010-2011	\$1,311.40	\$109.28	0.10 cents per sq.ft
Year 4. 2011-2012	\$1,967.10	\$163.25	0.15 cents per sq.ft
Year 5. 2012-2013	\$2,229.38	185.78	\$0.17 cents per sq.ft

This option is recommended: If the Grants Committee wish to overturn the staff recommendation contained in the report of February 4th, 2008, this would be the recommended alternative. Staff feel this rental rate is fair given that, as owner of the building, the Kinsmen have the option to sub-let their premises to other non-profit groups to recover all or a portion of the rent.

Note: The club cannot lease to a commercial or private enterprise under the current zoning of Institutional, but they can set a rental rate because the building is not owned by HRM¹. The lease will require that the club notify HRM of any sub-leasing so that we can confirm permitted use and any applicable adjustment in tax billing.

Option B

The rental rate is set using only the 1,135 sq.ft of the lot occupied by the club building and the fair market value is 0.34 cents sq.ft (the smaller square footage replaces the 50% discount). Payment is phased over the 5-year term of the lease. Year 1 is at a flat rate of \$1 to allow the club to confirm new

¹ Permitted uses include a park, sports club, public institutions such as library, hospital, school, college or university, church, museum, art gallery, or accessory uses.

sub-leases and applicable rental rates when the Boys & Girls Club move to the new East Dartmouth Recreation Centre. However, given the phased approach a 2% per annum rent increase for inflation would be standard practice.

Schedule	Annual Rent	Monthly Rent	Rental Rate
Year 1.	\$1	Not applicable	Not applicable
Year 2.	\$56.75	\$4.72	0.05 cents per sq.ft
Year 3.	\$170.25	\$14.18	0.15 cents per sq.ft
Year 4.	\$283.75	\$23.64	0.25 cents per sq.ft
Year 5.	\$385	\$29.60	0.34 cents per sq.ft

This option is not recommended: the rent discount in addition to a property tax subsidy are significant discounts and with ownership of the building the club has the capacity to sub-let and realize revenues in excess of operating, especially with a proposed tax exempt status in Year 1 and a proposed partial tax exemption in Year 2.

Option C

\$1 a year for a 5-year term as requested by the Kinsmen Club.

This option is not recommended: While the rationale for the previous leasing arrangement is not stated in any existing lease agreement, it seems likely that the building provided a service in the absence of a municipal facility. HRM is now moving towards greater transparency and accountability by making the process used to determine a rental rate (and other terms and conditions of leasing) explicit and easily understood by both the tenant and the public. Arguably, in doing so we legitimize the tenancy and can establish consistency in approach while evaluating each contractual agreement on a case-by-case basis.

Submitted By: Peta-Jane Temple
 Team Lead, Tax, Grants & Special Projects
 February 1, 2008.