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Halifax Regional Council  
March 26, 2002

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:

  
George McLellan, Chief Administrative Officer

DATE:

March 1, 2002

SUBJECT:

Recommendation for Permanent write-off of Uncollectible Accounts -  
Property Taxes

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**ORIGIN**

This is a staff originated report following guidelines for write-off procedures adopted by Council on June 29, 2001.

**RECOMMENDATION**

It is recommended that :

- 1) The tax account for M & M Fabricators Ltd in the amount of \$231,006.13 principal and \$158,185.10 in accrued interest be permanently written out of the books of account.
- 2) The tax account for NS Ice Limited in the amount of \$19,825.24 principal and \$10,095.01 accrued interest be permanently written out of the books of account.
- 3) The tax account for Shearwater Development Limited in the amount of \$471,516.69 principal and \$115,088.48 in accrued interest be permanently written out of the books of account.

## BACKGROUND

The MGA requires that all accounts considered uncollectible and which are to be permanently removed from the accounts of the HRM be approved by Council.

Policy approved by Council on June 29, 2001 directs staff to submit to Council amounts of \$100,000 or more immediately upon determination thereof.

## DISCUSSION

All three of these accounts relate to unpaid property taxes for property held as a leasehold interest from the Crown. Leased federal property is property owned by the Federal Government and leased to a non-governmental agency or corporation for non-governmental purposes. The Assessment Department assigns an assessed value to the property, depending on its use - residential or commercial.

The HRM tax roll currently lists 94 individual Crown owned-properties as leasehold interests. Although commercial and residential taxes can and are assessed to the property in the same manner as privately held property, collection opportunities differ. Collecting taxes on privately held property can be accomplished by first attaching the outstanding charge as a lien and then undertaking tax sale procedures for land and its contents. Should the property change hands through a sale or transfer, the HRM's financial interests are protected and payment for the outstanding lien is received at the time of sale/transfer or when the new owner assumes responsibility for the full outstanding amount.

Leasehold Crown land can not be sold at tax sale because the land is not owned by the party from whom the HRM is trying to collect and Crown property is exempt from tax sale. Opportunities to collect outstanding business occupancy or real property taxes on Crown land held as a lease are limited. Until recently, HRM's only option has been to distrain on the physical assets held in the property/business occupancy's name, which are often nominal in value. A recent ruling (1998) from the Supreme Court of Canada upheld the HRM's right to receive payment for outstanding taxes at the time a leasehold interest is voluntarily sold/transferred to a third party.

While this decision is beneficial to municipalities, the opportunity to exercise this right occurs very infrequently. More often than not, the Lessee in question goes out of business without transferring the leasehold interest. The HRM is unable to collect under the lien provisions and must employ other collection methods or legal action. If these are unsuccessful, then the collection process is frustrated and the account remains outstanding.

### **M & M Fabricators**

M & M Fabricators Ltd. who became M & M Manufacturers Ltd, held a leasehold interest in Crown

land situated at 3 Atlantic Street in the Woodside Oceans Industrial Park, Dartmouth. The City of Dartmouth began strenuous collection action in November 1995 for outstanding property and business occupancy taxes since 1992. The company had failed to meet a scheduled payment under a plan that had been agreed to in May of 1995.

M & M Manufacturing Ltd/M & M Fabricators Ltd declared bankruptcy effective April 1, 1996. At that time collection action ceased and no other legal action was taken. It is highly unlikely that the HRM could successfully pursue any legal action at this time as the leasehold interest held by M & M Manufacturing has transferred ownership at least twice since 1996.

#### **NS Ice Limited**

Nova Scotia Ice Limited was located on CN Rail property in Halifax until 1997 at which time the business closed down and the building formerly occupied by NS Ice was demolished by the Crown. Outstanding property taxes go back to 1994. Collection action was undertaken by staff of the former City of Halifax but due to the condition and nature of the property, were unsuccessful.

#### **Shearwater Development Corporation Ltd**

Shearwater Development Corporation Limited was incorporated in 1994 under the Society's Act with assistance from ACOA. The Municipal Grants Division of Public Works Canada leased the former military air base to the Corporation. Commercial property taxes were assessed but remained outstanding. On February 9, 1999 the property reverted back to the Crown when the Shearwater Development Corporation Limited became defunct and the federal government cancelled its lease. A separate legal action undertaken by another creditor resulted in the Provincial Sheriff's Office seizing and selling all remaining assets. The HRM made a priority claim against these assets and received approximately \$97,000. The remaining outstanding balance is now before Council.

The total outstanding on these three (3) properties is \$722,347 (principal) which accounts for 83% of the total outstanding amount of \$876,260 for the other 91 known Crown leaseholds. Many of these other properties are in various stages of collection activity for outstanding business occupancy or real property taxes but the average balance is under \$2,000. As collection activities are exhausted, the remaining uncollected taxes will be brought forward to Council.

The very nature of a leasehold requires that staff maintain high vigilance on the account activity and exploit any opportunity to attach a lien should the leasehold interest transfer. Unless this information reaches the public domain, staff are not usually made aware of the transfer until after it occurs and the opportunity to collect is lost. As long as land that is not used for the Crown's purposes continues to remain in the hands of the Crown, the HRM will continue to face these challenges.

#### **BUDGET IMPLICATIONS**

**Recommendation for Permanent  
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There are no budget implications as the amount has been fully provided for in the valuation allowance in each successive budget since amalgamation. The valuation allowance expenses any accounts in excess of one year old as per the Municipal Government Act.

**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**

None.

**ATTACHMENTS**

None

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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490-4093

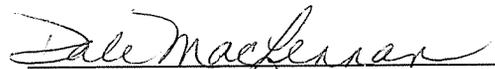
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