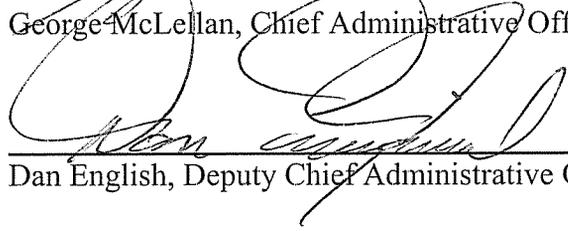


Halifax Regional Council
May 14, 2002

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:


George McLellan, Chief Administrative Officer


Dan English, Deputy Chief Administrative Officer

DATE: May 2, 2002

SUBJECT: Hotel Marketing Levy

ORIGIN

1. October 10, 2000 HRM Council approval to seek enabling legislation for a Hotel Room Tax to fund incremental tourism marketing for HRM.
2. July 8, 2001 Council approval to draft a bylaw to collect a tax based on hotel room sales.
3. January 15, 2002 Council approved in principle Bylaw H-400.
4. February 12, 2002, Council approved Bylaw H-400
5. March 19, 2002, Presentations at Council expressing concern over the implementation of the tax on properties containing 20 to 99 rooms
6. April 23, 2002, Presentation by Peter O'Brien seeking changes to the existing levy

RECOMMENDATION

It is recommended that:

1. Council direct staff to arrange for the formal introduction of an amendment to By-law H400 to increase the minimum size of facilities to be subject to the Marketing Levy from 20 or more to 100 rooms or more.
2. Council authorize staff to refrain from imposing penalties for non-registration under the By-law to date for facilities having fewer than 100 rooms.

BACKGROUND

HRM staff has been working with the Hotel Association of Nova Scotia (HANS) toward the implementation of a levy (tax) on occupied hotel rooms in order to fund tourism marketing initiatives. A tax on occupied hotel rooms is used by many municipalities to fund this type of initiative.

HANS was assigned the responsibility of determining private sector buy-in and advising HRM on the size of the property to be affected by the By-law.

Council sought and received provincial enabling legislation and proceeded through the By-law adoption process including the holding of a public hearing and as a result thereof, and on the advice of HANS and as allowed by the enabling legislation, assigned a property size of 20 or more rooms as the minimum to which the levy applied.

Subsequent to the passage of the By-law, Council presentations were made by a group of accommodation property owners in the 20 to 99 room range. They expressed concern over the lack of opportunity for input provided them, their opinion on the impact of the tax on their properties, difficulties with the time allowed for implementation, representation on the board of the Destination Marketing Organization (DMO) as well as other issues.

Council responded by reconfirming its decision on the 20 room inclusion level and provided direction to staff to forego prosecutions for failure to register and collect the levy up to 15 April 2002 where properties could demonstrate efforts to collect the tax but were experiencing technical difficulties. (Communication to properties attached as Appendix A)

The Mayor and staff met with this group to hear their concerns, answer questions and provide information on the process.

As well, the 20 to 99 room group arranged meetings with representatives of the DMO.

At his presentation to Council on 23 April 2002, Mr. Peter O'Brien spoke as a representative of the 20 to 99 room group. Mr. O'Brien presented letters from HANS, TIANS and the DMO supporting the position of the 20 to 99 group, seeking:

- 1) That the marketing levy by law be amended such that it would only apply to those properties with greater than 99 rooms.
- 2) That the marketing levy by law be amended such that it would apply to all properties with greater than 19 rooms as of April 1st, 2004.
- 3) That the penalty for non-registration and failure to remit the tax for the time the tax was in effect be forgiven.

DISCUSSION

Staff has reviewed the issue of the implementation of this tax from a variety of perspectives in order to evaluate compliance with HRM legislative processes; opportunity allowed by the process for public input and discussion, and the strength of assumptions on which the recommendations to Council were based.

Staff is satisfied the by-law process followed standard procedures, providing opportunity for input through the provincial law amendment process during the passage of the enabling legislation, as well as the public advertisement and public hearing process during the passage of the by law. This is the standard method through which Council receives information on which to base its decisions.

Further, staff provided the recommendation to include properties with 20+ rooms based on information provided by industry groups such as HANS and TIANS.

Analysis of the issues as presented by the 20 - 99 room group has been the subject of a previous staff report. After reviewing the report, Council confirmed its desire to continue with the implementation of the tax as originally approved by Council.

The latest developments have seen the private sector come together and reach an agreement on a stated schedule for full implementation of the levy as allowed under the provincial enabling legislation.

It is the opinion of staff that the agreement of all private sector parties presents a compelling argument to amend the by law as per their agreement for full implementation on April 1st, 2004.

The difficult issue is the imposition of penalties. Council should consider that the by law was legally constituted and binding on all properties with greater than 20 rooms from April 1st, 2002. Council asked that staff be sensitive to the imposition of penalties until April 15, 2002 recognizing the difficulties of technological change and the apparent lack of advance notice (see Attachment #1)

Some properties in the 20 to 100 room range registered, as required by the By-law, and are collecting the tax. It is the opinion of staff, that as the By-law was legally in force since April 1st, properties must remit to HRM those taxes which the By-law was meant to generate. The penalty for non-registration only should be forgiven to date should Council agree to amend the by-law, and that taxes continue to be collected until the By-law is amended.

BUDGET IMPLICATIONS

Moving the application of the levy from 20 rooms or more to 100 rooms or more, reduces revenues by approximately \$84,000. This will cause an adjustment in the budgeted amounts available for transfer to the DMO as well as a corresponding reduction in those funds to be retained by HRM for the Special Events Reserve.

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) Council could take no action. The By-law would continue to affect all properties with 20 rooms and more.
- 2) Council could amend the by law and adjust the number of rooms to something greater than 20. This action would have both positive and negative ramifications. On one hand, revenues would increase and thereby increase the marketing resources of the DMO. The negative impact would be in finding an acceptable number based on a supportable criteria.
- 3) Council could raise the room number from 20 to 100 and raise the taxing rate from 1.5% to 2% as allowed for in the enabling legislation. This would improve the revenue as well as satisfy those who are requesting the change from 20 to 100. However, it should be recognized that this may cause confusion in the marketplace and impose yet another technology change on those properties with 100 rooms or greater.

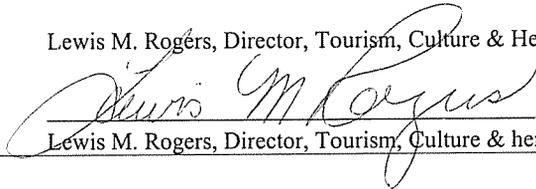
ATTACHMENTS

1. Information to properties on imposition of penalties contained in By-law H-400.

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: Lewis M. Rog ers, Director, Tourism, Culture & Heritage

Report Approved by:


Lewis M. Rog ers, Director, Tourism, Culture & heritage, 490-5978

April 3, 2002

To: [REDACTED]

Fax: [REDACTED]

Re: Marketing Levy

Dear Operator:

As you are aware, Halifax Regional Council approved By-Law H400 to enable the collecting of a tax to fund tourism expenditures. The tax became effective April 1, 2002.

Some operators have expressed concern regarding this by-law. We have arranged an information meeting in order to address these concerns. At this meeting, Paul Stackhouse and representatives of the Destination Marketing Organization will be present to provide information on the planned activities of that organization, and to seek your opinions and input. Mayor Kelly has agreed to Chair and members of HRM staff will also be present.

Council has also requested that staff be sensitive to the operational difficulties in smaller properties, changing technologies and processes. Therefore, they have requested that staff apply judicious judgement on the application of penalties and prosecutions until 15 April 2002. After that date, we will be pursuing appropriate remedies as provided under the by-law.

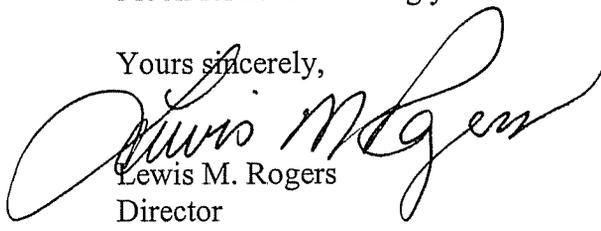
The tax will apply as of April 1, and all operators are responsible for collecting it and its applicable HST. Staff will consider efforts made by operators to seek assistance from the DMO for technological advice and assistance in considering the application of penalties.

MEETING INFORMATION:

PLACE: Inn On The Lake
TIME: 11:00 am to 1:00 pm
DATE: April 5, 2002

I look forward to seeing you there.

Yours sincerely,


Lewis M. Rogers
Director