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Halifax Regional Council

April 1, 2003

April 8, 2003

May 6, 2003

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:


Jim Hobin, Chair, HRM Grants Committee

DATE: January 8, 2003

SUBJECT: **By-law T-210, An Amendment to By-law T-201 Respecting Tax Exemption for Non-Profit Organizations: 2002-2003 Appeals and Revisions.**

ORIGIN

This report originates with staff of the Grants Program, HRM Financial Services. The report makes recommendations for the approval of Regional Council regarding appeals, additions, deletions, and corrections to By-law T-201.

RECOMMENDATION

It is recommended that Regional Council:

1. Approve the addition of new organizations as recommended in Section A of the Discussion section of this report;
2. Approve the decline of applications as recommended in Section B of the Discussion section of this report;
3. Approve the revisions to Schedules 26 to 29 as recommended in Section C in the Discussion section of this report;
4. Authorize staff to proceed to a public hearing;

Please Retain for Public Hearing

BACKGROUND

The Municipal Government Act (1998) permits municipalities, at their discretion, to provide partial or full property tax exemptions to non-profit organizations. HRM presently provides property tax subsidies to eligible registered non-profit organizations and charities under the authority of By-law T-201. This report covers (a) appeals resulting from By-law T-209 (March, 2002), (b) late applications for 2002-03, and (c) "housekeeping" changes to the present schedules.

DISCUSSION

A. Recommended Approved:

1. Coastal Communities Economic Development Cooperative Limited, 1030 Terence Bay Road, Terence Bay - Appeal.

This organization is a registered non-profit Co-Operative and has applied for tax exemption in 2001-02 and 2002-03. On both occasions the applicant was declined on the basis of serving business interests. Grants Program staff have requested a stay of tax sale proceedings pending an appeal, the purpose of which is to clarify the tax implications of shareholder interests in the Co-Operative and a determination by HRM Legal Services.

In February, 2003, the Co-Operative received notification of an ACOA grant to develop the site, specifically a gazebo, docks, improved parking, exterior painting, landscaping, and architectural design fees for the future re-configuration of the interior. According to the proposal, the facility will open to the public in the Spring of 2003 with a craft shop, take-out food service, boat storage, and possibly marina services.

Grants Committee recommend a deferral of taxes owing for a period of up to two (2) years pending consultation with HRM Legal Services and provision of the Constitution and By-laws of the Coastal Communities Economic Development Cooperative, effective fiscal year 2002-03.

2. Sackville Masonic Building Society, 57 Gloria Avenue, Sackville.

Under By-law T-206 (April 17, 2001) Sackville Masonic Building Society was granted 100% tax exemption on the playground portion of the site from 50% of the Residential tax rate for the building. In the fall of 2002, the Society entered into a lease agreement with HRM Real Property Services and HRM Parks & Recreation for the lease of a portion of the property for use as a children's playground.

Application has been made requesting an increase the 50% exemption to 100% exempt on the building in exchange for annual playground maintenance: grass-cutting, snow and ice removal, garbage disposal, and minor repairs. If the provision of a tax subsidy is approved by Regional Council in exchange for playground maintenance, HRM Parks & Recreation staff will set the service standards in consultation with the property owner. HRM Parks & Recreation would retain full responsibility for the safety of any physical apparatus placed on the property by HRM, its repair and replacement.

Grants Committee recommend an increase from 50% of the Residential tax rate to 100% exempt for the duration of the lease agreement between HRM Parks & Recreation Services and the Sackville Masonic Building Society in exchange for playground maintenance. The estimated cost of this additional subsidy

is \$1,747.

Note: If the lease agreement is revoked by either party the taxable status of the building shall revert to 50% of the Residential tax rate, or level of subsidy awarded pursuant to the by-law in effect at that time.

3. Emmanuel Baptist Church, 711 Pockwock Road, Upper Hammonds Plains.

The 21 acre parcel of land located at 711 Pockwock Road, Upper Hammonds Plains was deeded by the Province of Nova Scotia to the Rev. Hibbert Binney, Bishop of Nova Scotia in 1878. The land was the site of what is believed to be the first school in the community referred to as "The Coloured School House". Since 1878, this property has been the site for several schools; the latest of which was a public school built on church-owned land. At the time, the property was not sub-divided and the church retained full title. When the public school closed the building was transferred to the former Municipality of Halifax County. The building was declared surplus and subsequently leased to the Upper Hammonds Plains Community Development Association for use as a community centre. The Association have operated the building and associated playground and ball fields for over 20 years.

In 1974, an area rate was approved "....for the purpose of maintaining the community centre". These funds are collected by HRM and expensed through the Upper Hammonds Plains Community Development Association. The Centre provides educational, recreational, and social activities for local residents. HRM Parks & Recreation have provided ad-hoc maintenance for the ball field but essentially all capital purchases, maintenance and repairs are provided through the Association.

In 2002, the property was assessed for taxes and classified at the Commercial rate. The assessment is correct in that although the land is owned by a church only a "place of worship" is exempt tax under the Assessment Act. As owner of the land, and in the absence of a lease agreement with HRM or the Upper Hammonds Plains Community Development Association to the contrary, the church is now liable for payment of the property taxes including the land upon which the community centre is located and the building structure itself. Emmanuel Baptist Church has applied for exemption from property tax and a local improvement charge.

This case has been referred to staff of HRM Real Property Services to negotiate a new Facility Management Agreement with both the Emmanuel Baptist Church and the Upper Hammonds Plains Community Development Association in compliance with the HRM Recreation Area Rate Guidelines (May 14, 2002).

Grants Committee recommend 100% property tax exemption, effective retroactively to April 1, 2002 conditional upon the confirmation of a formal lease agreement between HRM, Emmanuel Baptist Church, and the Upper Hammonds Plains Community Development Association. Any outstanding arrears for 2002-03 shall be paid by the Tax Exemption for Non-Profit Organizations Program on the basis of error of omission on the part of HRM (the lack of a lease). The estimated cost of this subsidy is \$3,788 /year.

Exemption from the Local Improvement Charge cannot be effected under the present By-law T-201.

Note: By-law T-201 cannot be applied retroactively for any taxes and interest outstanding for years prior to 2002-03.

4. Quest - A Society for Adult Support and Rehabilitation, 82 Scots Pond Road, Musquodoboit Harbour.

The Metro Residential Support for Adults Society formally changed its name to Quest - A Society for Adult Support and Rehabilitation in December, 2001. The organization is a registered charity and operates a regional rehabilitation centre at 2414 Gottingen Street, Halifax, two (2) Small Options homes in Dartmouth, and a Small Options home in Lawrencetown. Presently, the Society has a total of seventeen (17) clients diagnosed with severe mental retardation, traumatic brain injury, or behavioural problems. The Society is primarily funded through an operating grant from Nova Scotia Department of Community Services.

In 1979, the property at 82 Scots Pond, Musquodoboit Harbour was purchased at a cost of \$23,500 by the Halifax County Rehabilitation Centre with monies from the Residential Benevolent Fund. Title to the land was held by the former Municipality of Halifax County. The cottage on the land is the property of the former Halifax County Regional Rehabilitation Centre and all capital costs have been assumed by the Society. The purpose of the purchase was to provide recreational programming for residents of the Centre. Quest has also made the amenities available at nominal cost to other organizations such as IWK Children's Response Program, Ocean View Manor Society (seniors nursing home), and Scotia Nursing Home.

An unsolicited request to purchase the land from HRM has been received from Quest and is under review by HRM Real Property Services. In the interim, a lease agreement for the use of the HRM-owned land and its maintenance has been negotiated. As a lessor of the land, Quest is liable for payment of property taxes.

Grants Committee recommend 100% tax exemption for the fiscal year 2002-03, effective for the duration of the lease agreement, for the purpose of providing a recreational camp facility for persons with special needs. The estimated annual cost is \$474.

5. Prospect Peninsula Residents Association, Wharf, Prospect Bay Harbour.

In November, 2001, the Prospect Peninsula Residents Association acquired title to the former federal government wharf and breakwater located at Prospect Bay Harbour. The Association is a registered charity which organizes recreational activities, community events, and local nature conservation initiatives.

The wharf was the last property bordering the harbour that was not privately owned; this purchase is important in retaining public access to the waterfront. The Association has since invested about \$40,000 to upgrade and insure the wharf which now provides community access to launch kayaks, canoes, and small boats. The amenity is also used by the RCMP and diving schools for scuba diving lessons. Presently, there is no on-site commercial activity and no user fees levied. The Residents Association has requested 100% tax exemption on the basis of provision of a community recreation facility.

Grants Committee recommend 100% tax exemption conditional upon public access to the wharf and breakwater for recreational activities. The estimated annual cost is \$250.

6. Beacon House Interfaith Society, 450 Cobequid Road, Sackville.

Under By-law T-209, Beacon House Interfaith Society were added to By-law T-201 at 100% exempt pending conclusion of an Agreement of Purchase and Sale. The initial property purchase did not occur, but the organization has since purchased two (2) abutting properties with access to public transit. The site will operate primarily as a food bank, with additional assistance such as donated clothing and household furnishings, and referrals to services for low income individuals and families in Sackville and surrounding communities.

Beacon House is a registered charity. The Society's operations were formerly located at an HRM-owned facility and monthly rent was \$788. The portion of the premises rented by Beacon House were chronically under-capitalized for an extended period of time resulting in the need for partial demolition of the structure. Beacon House has now secured independent operations through a property acquisition. The property located at 450 Cobequid Road, Sackville, is assessed at the Commercial rate for \$6,649 a year.

Grants Committee recommend 100% tax exemption, effective April 1, 2003, conditional upon the property acquisition closing date. The estimated annual cost is \$6,649.

7. Beacon House Interfaith Society, 470 Cobequid Road, Sackville.

The property located at 470 Cobequid Road, Sackville is a house which is assessed at the Residential tax rate for \$937 in property taxes. The future use of this building has yet to be confirmed but in the interim will be vacant or serve as a residence for a caretaker.

Grants Committee recommend 100% tax exemption, effective April 1, 2003, for a period of one year, conditional upon the property acquisition closing date. Once the operations of Beacon House at this site have been confirmed, staff will conduct a review of the tax exemption status. The estimated annual cost is \$937.

B. Recommend Decline:

1. Tourism Industry Association of Nova Scotia, 1099 Marginal Road, Halifax - Appeal.

The Association is an advocacy and educational organization serving the tourism industry in Nova Scotia. Individual, company, and organizational memberships include transportation, travel agents, the hospitality industry, food and beverage industry, events, conferences and trade show organizers, and the Nova Scotia Department of Tourism. The Association is a registered non-profit organization and a charity.

In a report to Regional Council, March 26, 2002 (By-law T-209), the Grants Committee recommended TIANS application for a tax subsidy be declined. The rationale for the recommendation was the Association's mandate in serving the needs of industry and professional affiliates. The review recommended payment of property taxes through membership fees, service fees, or sales opportunities. The Municipal Government Act (1989) states that a municipality "....shall not grant a tax concession or any other form of direct financial assistance to a business or industry" (Section 75(2), p.28).

At the public hearing of June 11, 2002, a TIANS representative disputed the organization's ability to pay

property taxes due to reduced government support and increased costs such as rent. Further, TIANS dispute their programs and services serve only industry and identified several developmental projects such as responsible gambling, responsible drinking, and trail development. The appeal was referred to the Grants Committee for further consideration at their meeting of March 24, 2003.

Upon appeal, TIANS assert that in addition to the services provided to the local tourism industry, the society provides programming in association with local schools and non-profit organizations in environmental practices, cultural activities, and heritage-related attractions. Examples of such programming include Adopt-A-Highway, Communities In Bloom, Taxi Certification, and the Green Leaf Eco Rating Program. Further, the organization has received a decrease in provincial government funding from the Nova Scotia Department of Tourism, Culture & Heritage because of a change from a 'grant' funding process to a 'fee-for-service' process.

A correction to the original staff report needs to be made with respect to rental costs; the report of March 26, 2002, incorrectly stated that the Association's rental costs had reduced by \$5,000. The rental agreement for the premises at Marginal Road indicates as base rent of \$55,000 for 1999-2000, rising to \$8.00 sq.ft (@ 8,052 sq.ft = \$64,416 in 2000-01), and thereafter adjusted annually in accordance with the Consumer Price Index. The lease agreement is in effect for a period of ten (10) years, expires October, 2009.

Grants Committee recommend application for a partial tax exemption be declined and TIANS be referred to Destinations Halifax for consideration of a fee-for-service arrangement.

2. Sackville Family Day Care Association, 22 Memory Lane, Lower Sackville.

The Sackville Family Day Care Association is a registered charity. The organization provides programs to encourage healthy child development: (a) parent education, (b) school readiness, and (c) community outreach. All programs are free except the Home Child Care Program for which a nominal fee of \$4 is charged; the balance of program costs are subsidized by the Nova Scotia Department of Community Services. Clients are low income families and single parents. The property is presently on By-law T-201 at 75% exempt at the Residential tax rate at an estimated annual cost to HRM of \$8,602. The Association pays \$979. This level of tax subsidy is comparable to other non-profit day cares assisted under the program. The Association has requested 100% tax exemption based on a dependence on government grants which make no provision for property taxes.

Grants Committee recommend no increase in level of tax subsidy. The lack of an explicit provision for property taxes as an operating expense in a provincial government's per diem subsidy to a non-profit group is not compensated for under By-law T-201.

C. Recommended Revisions:

1. Harrietsfield/Williamswood Ratepayers Association, 61 Acres Road, Williamswood.

The property located at 61 Acres Road is provincial land administered under the Nova Scotia Department of Natural Resources. The Harrietsfield Williamswood Ratepayers Association leased the land for use as a ball field. In 1993, the former Halifax County Municipality assumed the lease with the Department of Natural Resources for a sum of \$500, for a term of 10 years (expired 2003). The lease agreement states that the former Municipality was responsible for payment of property taxes and other

applicable charges. In 2003, HRM entered into a new lease agreement and while operated by the municipality the property will not be taxable.

Grants Committee recommend the removal of this account from By-law T-201 effective as of the date of the lease agreement between HRM and the Nova Scotia Department of Natural Resources. The estimated annual saving is \$261.

Note: If HRM Real Property Services enters into a lease agreement with a community non-profit group, or third party, for the operation of this site the property will become taxable and application can be made to HRM for consideration of a tax subsidy for the duration of the agreement, subject to applicable terms and conditions of the by-law.

2. Sisters of Charity, 150 Bedford Highway, Halifax.

The Sisters of Charity is a religious order who own and operate the Mount Saint Vincent Motherhouse located at 150 Bedford Highway. The property is a residence for the Order, a place of worship, and formerly a nursing home residence for retired members of the Order. In 2001, the property was added to Schedules 24 and 29 of By-law T-201 for a conversion to the Residential tax rate for that portion of the premises assessed at the Commercial rate. The partial exemption was in effect for the period April 1, 2000 to March 31st, 2001, while the Sisters of Charity pursued a legal appeal of (1) the assessment value of the property, and (2) the assessment classification. The cost to HRM of conversion from the Commercial to the Residential tax rate was \$116,000/year. This partial exemption was extended in 2001-2002 pending the outcome of a hearing before the Nova Scotia Utilities and Review Board.

In 2002, the nursing services provided by the Order were discontinued and potential sale of the property considered. The Sisters of Charity also received a reduction in the assessed value of the property and a tax assessment classification of Residential amended as of the 2002-03 fiscal year.

Grants Committee recommend the deletion of this account from By-law T-201, effective April 1, 2003. The partial exemption is no longer required. The estimated annual saving to the program is \$116,000.

3. Ocean Glen Society, Lot - Hall, East Dover.

The Ocean Glen Society is a registered non-profit organization. The organization was added to By-law T-201 in 1997 by virtue of 100% tax exemption under the former Halifax County Municipality, By-law 51. The site comprises of a community hall and lot. Staff of the Grants Program have made numerous attempts to contact the applicant by telephone and in writing with no success. On May 24, 2002 the organization's registered agent was sent notification of the pending removal of account ANN #03602613 from By-law T-201; no reply has been received to date.

Grants Committee recommend removal of this account from By-law T-201 for non-compliance with reporting requirements, effective April 1, 2003. The estimated annual saving is \$693.

HRM Grants Program staff to notify HRM Real Property Services.

4. Three Villages Recreation Association, Lot, Main Road, Glen Haven.

The Association was a registered non-profit organization but as of 2002 their status is in default. The organization was added to By-law T-201 in 1997 by virtue of 100% tax exemption under the former Halifax County Municipality, By-law 51. The Association leased the property from the Nova Scotia Department of Natural Resources for use as a ballfield. The lease expired in 1997. Despite progressive notices sent to the Association, they have not reported since 2000. It appears the Association is no longer operating the site.

Grants Committee recommend deletion of this account from By-law T-201 for non-compliance with reporting requirements, effective April 1, 2003. The estimated annual saving is \$262.

HRM Grants Program staff to notify HRM Real Property Services (Recreation Facilities).

COMMUNITY IMPACTS

By-law T-210 concludes the review of existing appeals and applications for the 2002-03 fiscal year. New applications and renewals for the 2003-04 fiscal year are on file and under review pending confirmation of the 2003-04 budget and Regional Council's approval of the revised By-law T-201 due to commence in 2003.

BUDGET IMPLICATIONS

If the recommendations of this report are approved, the estimated cost savings to HRM total \$117,216 and the additional cost of new awards total \$13,845; for an overall cost-saving to the program of \$103,371. Note: a deferral is not accounted for as a 'cost' in terms of lost revenue under this program.

On the basis of the cost-savings anticipated through removal of accounts presently on By-law T-201, there is no budget increase required in 2003-04 fiscal year. Existing capacity is expected to be sufficient to cover any costs associated with the addition of new applicants.

Note: HRM Grants Program and HRM Real Property & Asset Management Services are collaborating on a review of HRM-owned properties leased to community non-profit organizations with a view to adding eligible non-profit organizations to By-law T-201. The forms of agreement to be added to the By-law include (a) tenant leases, (b) facility management agreements, including area-rated facilities, and (c) land, park, or playground leases. The addition of HRM-owned properties leased to third parties is in compliance with the applicable legislation. This process shall also identify those properties, or portions thereof, which should be taxed at the Commercial or Business Occupancy rate.

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.

Municipal Government Act (1998), HRM By-law T-201.

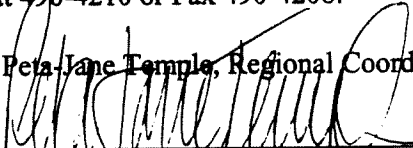
ALTERNATIVES

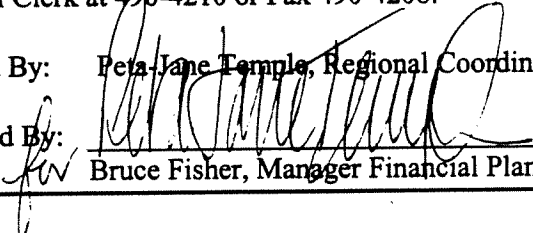
1. Regional Council could dispute the recommendations advanced in this report and recommend (a) approval upon appeal, (b) to decline an applicant, or (c) to re-instate an account.

ATTACHMENTS

Attachment 1. By-law T-210 Amendment to By-law T-201 Tax Exemption By-law

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:  Peter Jane Temple, Regional Coordinator, HRM Grants Program 490-5469

Report Approved By:  Bruce Fisher, Manager Financial Planning, HRM Financial Services

HALIFAX REGIONAL MUNICIPALITY

BY-LAW NUMBER T-210

BY-LAW RESPECTING TAX EXEMPTIONS

Be it enacted by the Council of the Halifax Regional Municipality, under the authority of section 5 (1)(r) of the Assessment Act, Chapter 23, R.S.N.S. 1989, is amended as follows:

1. Schedule 26 of By-law T-201 is amended by:

- (a) Adding, AAN # 02065924, Sackville Masonic Building Society, 57 Gloria Avenue, Sackville, building portion
- (b) Adding, AAN # 06058353, Emmanuel Baptist Church, lot 711 Pockwock Road, Upper Hammonds Plains
- (c) Adding, AAN # 01409085, Emmanuel Baptist Church, Church, 711 Pockwock Road, Upper Hammonds Plains
- (d) Adding, AAN # 03393097, Quest - A Society for Adult Support and Rehabilitation, 82 Scots Pond Road, Musquodoboit Harbour
- (e) Adding, AAN # 03383539, Prospect Peninsula Residents Association, wharf access, Prospect
- (f) Adding, AAN # 03383547, Prospect Peninsula Residents Association, wharf site, water lot, Prospect
- (g) Adding, AAN # 01361198, Beacon House Interfaith Society, 450 Cobequid Road, Sackville
- (h) Adding, AAN # 01057138, Beacon House Interfaith Society, 470 Cobequid Road, Sackville
- (i) Deleting, AAN #06301967, Harrietsfield/Williamswood Ratepayers Association, 61 Acres Road, Williamswood
- (j) Deleting, AAN # 05887909, Beacon House Interfaith Society, Lot H-1CA-B - Industrial Estates Sub. - Sackville Industrial Park - Lower Sackville
- (k) Deleting, AAN # 03602613, Ocean Glen Society, lot - hall, East Dover
- (l) Deleting, AAN # 07691189, Three Villages Recreation Association, lot - Main Road, Glen Haven

2. Schedule 28 of By-law T-201 is amended by:

- (a) Deleting, AAN # 02065924, Sackville Masonic Building Society, 57 Gloria Avenue, Sackville, building portion

3. Schedule 29 of By-law T-201 is amended by:

- (a) Deleting, AAN #04281365, Mount Saint Vincent Motherhouse/Sisters of Charity, 150 Bedford Highway, Halifax