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Item No.
Grants Committee
July 10, 2017

TO: Chair and Members of HRM Grants Committee

Original signed

SUBMITTED BY:

Amanda Whitewood, Director of Finance & Asset Management/CFO

DATE: June 28, 2017

SUBJECT: **Administrative Order 2014-001-ADM Tax Relief for Non-Profit
Organizations: Appeal – Black Educators Association**

ORIGIN

April 13, 2017 – Correspondence from the Black Educators Association sent care of the Municipal Clerk’s office requesting an increase in tax relief for fiscal year 2016 and 2017.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (2008)

Section 79(1) clause (av) “Council may expend money required by the Municipality for ...(av) a grant or contribution to....

- (v) a charitable, nursing, medical, athletic, educational, environmental, cultural, community, fraternal, recreational, religious, sporting or social organization within the Province,
- (vii) a registered Canadian charitable organization.

Halifax Regional Municipality Charter (2008)

Section 89(6) “A policy made pursuant to this section has effect in the fiscal year following the fiscal year in which it was provided, unless the policy sets a different date including an effective date retroactive to the beginning of the current fiscal year.”

Administrative Order 2014-001-ADM Tax Relief to Non-Profit Organizations.

RECOMMENDATION ON PAGE 2

RECOMMENDATION

It is recommended that the Grants Committee recommend that Halifax Regional Council:

1. Confirm that the tax relief provided to the Black Educators Association remain unchanged for fiscal year 2016-17; and
2. Direct the CAO to direct staff to consider the Association's request for an increase in level of tax relief during the regular application review and decision-making process for the 2017-2018 fiscal year.

BACKGROUND

In 2014, the Black Educators Association made application to the Municipality for inclusion of their property located at 2136 Gottingen Street, Halifax, in the tax relief program. In 2015, the Association's request for full exemption was declined. In the alternative, partial tax relief at a Conversion from the Commercial to Residential tax rate (Schedule 29) was recommended and approved. The award was "conditional" in that two apartments assessed as Residential were excluded: the premises serve as a source of self-generated revenue and are not income-tested or subsidized¹. A letter of confirmation dated February 24, 2016, was mailed to the Association's registered office with a renewal form for 2016-17 fiscal year to be submitted by March 31, 2016.

By policy, an organization in receipt of tax relief must renew their status annually by providing a complete financial statement for the prior year, complete and sign the renewal form provided and return by the stated deadline. This process is also an opportunity for organizations to update their contact information or alert the Municipality to any change in ownership or occupancy. This information was not provided by the organization on or before the stated deadline and was included with other "late" submissions in a report to Regional Council's meeting of March 28, 2016.

In preference to applying current policy which deducts one day of eligibility for each day late, on March 28, 2017, Council approved an *interim* measure pending amendments to Administrative Order 2014-001-ADM. Late renewal applicants were awarded a "grant equivalent to a grant under the Administrative Order" pro-rated with a maximum deduction threshold. Because these awards were granted outside the program's policy the seven (7) organizations in receipt of this consideration were removed from the program's Schedules. One of these seven organization was the Black Educators Association. The motion approving the grant was as follows:

Provide a grant equivalent to a grant under the Administrative Order pro-rated for the lesser of \$5,000 or a deduction of 1/365th for each day the application is late after June 30, 2016, to the following organizations:

- (h) Black Educators Association, 2136 Gottingen Street, Halifax, equivalent to a grant under Schedule 29, effective April 1, 2016, pro-rated as of July 1, 2016, at an estimated cost of \$3,437;

However, it was proposed that continuation of non-compliance with the program's reporting requirements in the following year (consecutive default) could result in the application of the 1/365th formula which has been set by Council in the Administrative Order and/or removal from the program². Organizations receiving these interim awards were notified by mail on March 28, 2017, with a copy of the Council report enclosed.

¹ Report to Grants Committee, "Tax Report for Non-Profit Organizations Proposed Renewal of Tax Relief and Addition for Fiscal Year 2015-16," December 7, 2015, p.6, Item 6 and Supplementary Report to Regional Council, "Tax Relief to Non-Profit Organizations: New Applications, Renewals, and Proposed Amendments for 2015-16 Fiscal Year", February 23, 2016, p.3, Item 6.

² Report to Regional Council, "Tax Relief for Non-Profit Organizations Program Fiscal Year 2016: Referrals", March 28, 2017, p.2, Item (h).

In April, 2017, the Black Educators Association sent a letter of appeal to the Municipal Clerk's office requesting that the Chair of the Grants Committee re-consider the Association's level of tax relief. See: Attachment 1. Specifically, the Association is requesting:

- (i) a retroactive increase in level of tax relief to 100% exemption for fiscal year 2016-17; and
- (ii) an increase to 100% exemption in fiscal year 2017-18.

For context, a chronology of correspondence and customer contact with the Black Educators Association is included in Attachment 2 of this report.

The Association is a registered charity whose purpose is to monitor the development of an equitable educational system throughout the Province of Nova Scotia and to ensure that all Black residents of the Province have equitable access to roles as students, teachers, administrators and decision-makers in education in Nova Scotia. The Association's revenues depend on grants received from the provincial government. Specifically, the Department of Education (~92%) and the Department of Labour (~5%)³.

DISCUSSION

Before considering an application for tax relief, Regional Council receives a recommendation from the Grants Committee. Regional Council then makes the decision whether to provide tax relief to the particular charity or non-profit. Before reaching this decision, section 17 of the Administrative Order does permit a referral by Council back to the Grants Committee as follows: "The question of the tax relief for a particular property pursuant to the Administrative Order may be referred by the Council to a Standing Committee or to the Council in Committee for a recommendation to the Council on whether to provide tax relief".

Request for Retroactive Award Fiscal Year 2016: The Charter requires that any exemption of real property tax must be approved by Regional Council and, based on standard practice, it is typically only considered in the event HRM failed to issue a tax bill, a correction to the subject property's assessed value or classification by Property Valuation Services Corporation, or the amount due is uncollectable. Examples of the latter include the owner is deceased, the dissolution of an organization, or the owner cannot be located. Evidently, when added to the program in 2015 the Association assumed they were fully tax exempt. Notwithstanding the complexity of taxation and orienting new applicants to the tax relief program, every effort was made to assist the organization meets its obligations. However, the Association can be assisted with payment of tax through installments under a payment plan arrangement with the Revenue Division, Finance. Further, the audited financial statement for 2016 provided by the applicant includes provision for the payment of property tax.

Regional Council does not hear appeals from its own decision. Usually, when Council wants to revisit a previous decision, it rescinds or reconsiders the matter. In this case, the Association is requesting Regional Council rescind a prior decision in which the Association's was not provided full relief. In accordance with subsection 89(6) of the Charter tax exemption can only be awarded retroactively within the *current fiscal year*.

Council does have the option of providing a grant outside of tax relief program for the residential taxes owed for the property. The amount of the grant for 2016-2017 would be \$4,998.38. This new grant would be in addition to the grant Regional Council has already provided outside of the tax relief program. Regional Council has not yet considered tax relief for 2017-2018 so the request for full exemption can be considered when Regional Council considers all the tax relief applications for the current fiscal year.

Request for an Increase in Level of Tax Relief Fiscal Year 2017: To consider the Association's request for an increase in level of tax relief outside the regular review and decision-making process would set precedence and could be challenged as preferential consideration. Therefore, it is recommended that the

³ The value of provincial government grants (~97%) as a percentage of total revenues are for fiscal year 2015 as stated in the Association's 2016 audited financial statement.

request be referred to the 2017 tax relief program and considered within the context of all renewals, applications for the addition of a property, and the program's overall budget capacity. However, it should be noted that the initial request (2015) for full exemption was declined and the Association does not provide alternate (municipal) service delivery. An educational/advocacy organization, including those with a province-wide mandate, are typically not fully exempt.

If, as stated in the letter of appeal, the Association has removed any provision for the payment of real property from their 2017 budget the organization has in effect not made provision for a continuation of partial exemption (commercial assessment) or full payment of tax on the rental apartments. Any reconsideration of the level of tax relief in 2017 would require a copy of the signed lease agreements. In the absence of a budget for payment of real property tax the Association could be assisted with payment of tax through a payment plan arrangement with the Revenue Division, Finance.

FINANCIAL IMPLICATIONS

If the staff recommendation to decline a retroactive increase in tax relief for fiscal year 2016-17 is upheld there are no financial implications.

The request for an increase to 100% tax relief (Schedule 26) in fiscal year 2017-18 will be reviewed and considered with all renewals and requests to add a property to the program later in this fiscal year. The timing of the program report for 2017 is based awaiting Council's approval of area rates and uploading this information into the computerized tax system. The annual recommendation report(s) for the tax relief program includes the financial implications of all recommended awards relative to the program's annual budget.

RISK CONSIDERATION

A retroactive award to increase the value of tax relief award granted in a prior fiscal year is not an option under the current legislation, the Administrative Order, or HRM's general revenue collection policy and practice. Council could award a "special grant" but in doing so would contradict their decision of 2015 in which the Association's request for full exemption was declined.

COMMUNITY ENGAGEMENT

Not applicable.

ENVIRONMENTAL IMPLICATIONS

Not applicable.

ALTERNATIVES

The Grants Committee could refer the Black Educators Association's request for retroactive exemption for fiscal year 2016 to Regional Council. Any consideration would have to be outside the tax relief program's current policy and would be precedence insofar as there is no billing or assessment error.

This action is not recommended: Every reasonable effort has been made by HRM to assist the organization fulfil its obligations.

ATTACHMENTS

1. Letter to Councillor Russell Walker, Chair, Grants Committee from Ms. Jacqueline Smith-Herriott, Director of Programs, Black Educators Association, dated April 11, 2017.
2. Chronology of Correspondence and Customer Contact.

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Peta-Jane Temple, Team Lead Grants & Contributions, Finance & Asset Management
902.490.5469

Report Approved by: Original Signed

Bruce Fisher, Manager Financial Policy & Planning, Finance & Asset Management
902.490.4493

ATTACHMENT 1



Black Educators Association



April 11, 2017

Mr. Russell Walker, *Chair*
Halifax Regional Municipality
Grants Program: Non-Profit Tax Relief
Finance & ICT
P0 Box 1749
Halifax, NS B3J 3A5

Dear Mr. Walker:

I am writing to request your Office's consideration of tax exemption for the year 2016-2017 and 2017-2018. I realize this application is tardy, however, I've discovered that notices were being forwarded to our former *Finance Manager* – who's no longer employed with the *Association*. Our current *Finance Manager* is Mr. Kerry Johnston and may be contacted via email at kerry.johnston@theblackeducators.ca or by telephone at 902.424.3583 for any future correspondence.

The *Black Educators Association (BEA)* is a non-profit organization focused on educational equity for students of African descent living in Nova Scotia and has existed for nearly 50 years. We'd greatly appreciate your thoughtful consideration of our request as we enter our new fiscal year 2017 – 2018 (*BEA* relies heavily on government funding to operate) and await your approval of tax relief which is greatly needed as we continue to operate programs and projects. Additionally, I'd like to point out that it's not currently in our present budget to pay taxes which would create a budget pressure if the *Organization* was forced to do so.

In closing, I thank you in advance for consideration of this request and I eagerly await your response.

Kind regards,

Jacqueline Smith-Herriott
Director of Programs, BEA

COPY: K. Johnston – *Finance Manager*
D. States – *Office Manager*
K. Hudson – *President*

ATTACHMENT 2

Chronology of Correspondence and Customer Contact

October 9, 2014 – Application received from the Black Educators Association requesting addition to the tax relief program with full exemption (Schedule 26) and letter confirming receipt sent October 9, 2014, to Association's registered office address.

Note: correspondence has been sent to the office address identified in the society's application and Board of Directors listing as filed with the Nova Scotia Registry of Joint Stocks, not a personal address or post office box.

February 23, 2015 – Regional Council approved addition of Black Educators Association to Schedule 29 of Administrative Order 2014-001-ADM at a Conversion from the Commercial to Residential rate excluding that portion of the premises assessed as Residential. Total taxes were \$7,780.58. The value of award was \$4007.41 leaving a balance of \$3,773.17 payable.

February 24, 2016 – Letter with renewal application for 2016 fiscal year sent to the Association's registered office (not an individual). The deadline for application to renew was March 31, 2016.

March 4, 2016 - Statement with confirmation of addition at a Conversion, a copy of the tax bill (fiscal 2015-16), and balance due. Because the Association had paid the first tax bill in full when the tax relief award was applied the Association had a credit of \$1.62 on their tax account.

March 31, 2016 – No renewal form received.

April 26, 2016 – Registered letter mailed to the Association's registered office (not an individual) giving notice of the overdue form and financial statement for 2015 and intent to recommend pro-rated award for 2016-17: "A recommendation to pro-rate any award may be advanced for this year's program".

April 27, 2016 – Phone call from Kerry Johnston, Finance Manager, Black Educators Association, requesting a renewal application form for 2016-17. Renewal form for 2016 fiscal year program re-sent by email to Mr. Johnston (email kerry.johnston@theblackeducators.ca). No response.

January 24, 2017 – Report to Regional Council, "Tax Relief for Non-Profit Organizations Program Fiscal Year 2016-17. Proposed Renewal of Tax Relief and Additions to the Program". Late renewal applications were referred to the Grants Committee for consideration of the impact of applying the 1/365th deduction formula for late renewals as per the Administrative Order.

January 25, 2017 – Renewal form for 2016 fiscal year re-sent to email address included on original application (james.makonyere@theblackeducators.ca) the original contact on the initial application. No response. Grants staff made a telephone call to the Association's office and left a message regarding the overdue application form for 2017. No reply.

March 28, 2017 – Regional Council approval of pro-rated award outside the tax relief program with a maximum deduction of \$3,437. Total taxes were \$8,436.52 less pro-rated award of \$3,436.52 leaving a balance of \$4,998.38 payable. A copy of the staff report to Regional Council was enclosed. Association also notified that the award was made "outside the tax relief program (policy cannot be suspended and there was insufficient time to amend the Administrative Order). Therefore, to be reinstated to Schedule 29 of the program in 2017 your application for renewal must be on time and complete. Applications not received by the stated deadline for the 2017 fiscal year may be deducted a day of eligibility for each day late and/or removed from the program. Please contact Shelley Hutt at 902.490.7191 as soon as possible

March 29, 2017 – Grants staff re-sent the 2016 and 2017 renewal application forms using the contact email address posted on the Association’s web site (info@theblackeducatorsassociation.ca).

April 5, 2017 – Registered letter mailed with copy of the bill and statement sent to Association’s registered office. Balance due after deduction for late renewal and full payment for that portion of the premises assessed as Residential totalled \$4,998.38.

April 7, 2017 – Telephone call from Mr. Kerry Johnston, Black Educators Association, stating that HRM’s correspondence had been mis-directed to a prior employee no longer employed by the Association. Provided an additional email contact (beafinance@eastlink.ca). Follow-up email provided copies of correspondence on file “Should the Grants Committee or Council receive a request a staff report on your appeal this information would be summarized and shared in the report. I am sending to you in advance for your consideration”.

April 13, 2017 – Letter to Councillor Russell Walker, Chair of Grants Committee, requesting retroactive full exemption for fiscal year 2016 and full exemption in fiscal year 2017 received by fax by the Municipal Clerk’s office. The correspondence included a completed application form for the 2016 fiscal year and 2017 fiscal year, an audited financial statement for 2016, program description, Board of Directors list, and Nova Scotia Registry of Joint Stocks number. Correspondence copied to Grants email address nonproffitax@halifax.ca. Correspondence filed.

April 18, 2017 – Copy of appeal sent internal mail from Municipal Clerk’s office to Grants & Contributions attention Peta-Jane Temple. Letter sent from Grants office confirming receipt of 2016 and 2017 application forms.

Note: financial information for 2014 and 2016 on file: no financial statement for 2015.

May 19, 2017 – Voice mail message from Mr. Kerry Johnston, Black Educators Association, to Peta-Jane Temple inquiring as to status of appeal.

May 23, 2017 – Telephone call from Peta-Jane Temple to Mr. Kerry Johnson, Association of Black Educators, to confirm that letter of request to be added to the June 13, 2017, meeting of the Grants Committee. Additional call made to confirm the applicant’s request: (a) retroactive full exemption for 2016, and (b) an increase in level of award to fully exempt for 2017.

May 25, 2017 - Email sent by Peta-Jane Temple to Mr. Kerry Johnston with copy of correspondence (1) dated February 24, 2016, with notification of Regional Council’s approval of addition to the program and a renewal form for fiscal year 2016-17, and (2) dated March 4, 2016, statement of account with notification that the Association had been “awarded tax relief at Conversion (difference between commercial and residential tax rate)” and balance on account. The email included the following: “You will note that because the Association had paid their initial tax bill in 2015 that when the tax relief award was applied there was no balance owing on the account. Perhaps seeing \$0 payable is where the assumption of full exemption originated?”.