



**STAFF REPORT
ACTION REQUIRED**

Property Tax Exemption for the Society of Portuguese Disabled Persons Building Fund

Date:	October 26, 2009
To:	Government Management Committee
From:	Treasurer
Wards:	Ward 11 York South – Weston
Reference Number:	P:\2009\Internal Services\rev\gm09029rev (AFS#10368)

SUMMARY

The Society of Portuguese Disabled Persons Building Fund (“The Society”) is seeking Toronto City Council’s support for its efforts to obtain private legislation that would provide an exemption from property taxes for the property it owns at 2295 St. Clair Avenue West. Staff are not recommending that Council support the Society’s efforts to obtain a tax exemption through private legislation.

RECOMMENDATIONS

The Treasurer recommends that:

1. The Government Management Committee receive this report for information.

Financial Impact

There are no financial impacts arising from the recommendation contained in this report.

Should Council decide to support the Society’s efforts to obtain private legislation to provide a property tax exemption for the property located at 2295 St. Clair Avenue West, and should private legislation be enacted and a tax exemption ultimately approved by Council, a tax exemption on this property would result in a reduction in municipal tax revenues of approximately \$6,426 per year (based on 2009 property taxes and rates for the municipal share of taxes only). A tax exemption would have no net impact to the City for the education portion of taxes that are remitted to the Province – this portion would simply no longer be required to be collected or remitted.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

In July 2006, Council considered Motion J(62), which requested the Deputy City Manager and Chief Financial Officer to report to the Policy and Finance Committee on the options available to provide property tax relief for the Society of Portuguese Disabled Persons Building Fund, located at 2295 St. Clair Avenue West. The motion was referred to the Policy and Finance Committee by City Council. The minutes of the Council meeting and the motion can be accessed at:

<http://www.toronto.ca/legdocs/2006/minutes/council/cc060725.pdf>

<http://www.toronto.ca/legdocs/2006/agendas/committees/pof/pof060918/it025.pdf>

At its meeting on September 25, 26, 27 and 28, 2006, City Council received for information a report (September 15, 2006) entitled “Property Tax Relief for Society of Portuguese Disabled Persons Building Fund – 2295 St. Clair Avenue West” (Policy and Finance Committee Report 7, Clause 82(L)).

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060925/pof7rpt/cl082.pdf>

<http://www.toronto.ca/legdocs/2006/agendas/committees/pof/pof060918/it025a.pdf>

More recently, at its meeting on August 5 and 6, 2009, City Council referred Motion MM 38.13 from Councillor Nunziata to the Government Management Committee. The motion, entitled “Property Tax Exemption for Society of Portuguese Disabled Persons Building Fund” recommends that Council support The Society in its effort to obtain a Private Member’s Bill to provide an exemption from property taxes. The motion can be accessed at:

<http://www.toronto.ca/legdocs/mmis/2009/gm/bgrd/backgroundfile-23311.pdf>

At its meeting held on September 17, 2009, the Government Management Committee referred the Member Motion from Councillor Nunziata entitled “Property Tax Exemption for Society of Portuguese Disabled Persons Building Fund (Ward 11 York South-Weston)” to the Deputy City Manager and Chief Financial Officer for a report back to Committee:

<http://www.toronto.ca/legdocs/mmis/2009/gm/decisions/2009-09-17-gm24-dd.htm>

ISSUE BACKGROUND

The Society of Portuguese Disabled Persons Building Fund (“the Society”) was formed in 2001 to help stimulate social activities for individuals with disabilities who may be housebound in the community. The Society is a registered charity within the meaning of the *Income Tax Act (Canada)*.

The Society purchased the property at 2295 St. Clair Avenue West in order to build a centre for all disabled persons, regardless of ethnicity. The centre was constructed at no cost to the government, until 2007 when The Society obtained a grant from the Provincial Government to assist the centre in purchasing some necessary equipment. The centre opened its doors to the public at this location on June 23, 2007. The centre operates from Monday to Friday, 8 a.m. to 4 p.m., and offers a variety of programs for people of all cultural and ethnic backgrounds with disabilities and provides supports to their families.

The Society is seeking to have private legislation introduced to provide an exemption from property taxes for their centre, and have requested that the City of Toronto support the Society in its efforts to have private legislation enacted.

COMMENTS

In general, exemptions from property taxes are established by the *Assessment Act*, according to the criteria set out in Section 3(1) of the Act. This section establishes exemptions from property tax for a number of different property types, including hospitals, churches, cemeteries, libraries, schools, universities and colleges, certain non-profit organizations, and land owned and used by a municipality, among others. The Municipal Property Assessment Corporation (MPAC) is responsible for identifying those properties that meet the statutory requirements for exemption under the Act – these are identified to the City annually through the returned assessment roll.

Properties may also receive an exemption from property taxes by virtue of special legislation, introduced either through a Government Bill (e.g., *The Royal Ontario Museum Act*), or through a Private Member's Public Bill or Private Bill introduced by an individual Member of Provincial Parliament that provides an exemption for a specific property or organization. From a municipal perspective, there is no general authority conferred by the *City of Toronto Act* that would allow the City to provide a property tax exemption for any property or class of properties.

Charities and Property Taxes in Toronto

Based on statistics from the Canada Revenue Agency, there are some 4,067 registered charities located within Toronto. Although a small percentage of charitable organizations are exempt from taxes through exemptions under the *Assessment Act* or through special legislation, the large majority of charities in Toronto pay property taxes on premises they occupy.

Charities that are located in commercial or industrial property may qualify for a 40% rebate of the property taxes payable under the City's rebate program for registered charities. On average, approximately 700 charitable organizations receive property tax rebates annually under this program. Charities that occupy space within the residential tax class pay property taxes at residential tax rates. Additionally, a small number of charities receive a 100% rebate of property taxes under the City's rebate programs for veteran's clubhouses or ethno-cultural centres, while others may operate as charities in name only, without staff and without dedicated office space staff that would require a tax exemption.

The current property tax treatment for charitable organizations is based on long established Council policies that define the level of tax relief available to charities. Notably, in July of 1998, in considering a staff report entitled "Property Tax Rebates for Charitable and Similar Organizations" (July 13, 1998), Council adopted among other things a recommendation that "no property tax rebate program be instituted for charitable and similar organizations located in taxable properties in the residential or multi-residential property classes." The predominant aim of the tax policies for charities adopted in 1998 was to continue the tax treatment that had previously applied to charities prior to amalgamation and the introduction of Current Value Assessment (CVA). Prior to 1998, registered charities were taxed at residential tax rates, even where they occupied commercial or industrial space, by virtue of their charity status. Following

amalgamation, Council approved that charities located in commercial or industrial space receive a 40 per cent rebate of the commercial/industrial taxes that would otherwise be payable under CVA, as a means of approximating the taxes that would be payable if they continued to be taxed at a level equivalent to residential property. This has continued to form the basis of current tax policy surrounding charities.

Current Tax Status of the Society of Portuguese Disabled Persons Building Fund

In September 2006, a staff report prepared for the Policy and Finance Committee dated September 15, 2006 identified that although the Society of Portuguese Disabled Persons Building Fund was a registered charity, the property owned by the Society was not eligible for a property tax exemption.

Specifically, that report identified that the Society's property did not meet the eligibility criteria for a statutory tax exemption under the *Assessment Act*, nor did it meet the criteria to receive a 100% rebate of property taxes under the City's existing rebate programs for veteran's clubhouses or ethno-cultural facilities. The report concluded that the property, as a registered charity, may have been eligible to receive a 40% rebate of property taxes under the City's rebate program for registered charities, as the property was, at that time, classified within the commercial property tax class.

Subsequently, in 2007, the tax classification for this property was changed by the Municipal Property Assessment Corporation (MPAC) from commercial to residential. The change to the residential classification rendered the property ineligible to receive a rebate under the City's charity rebate program. In response to a request by the Society, MPAC reviewed the tax class of the property and determined that the property was correctly classified within the residential tax class pursuant to Ontario Regulation 292/98.

In revisiting the Society's renewed efforts to obtain a property tax exemption for this property, the City approached MPAC in August of 2009 to ascertain whether the Society met the *Assessment Act's* criteria for exemption from property taxes. MPAC staff confirmed that, while the *Assessment Act* provides for an exemption for philanthropic organizations, paragraph 12 of Section 3(1) of the Act stipulates that, to qualify, a charitable organization must a) provide services for the "relief of the poor;" and b) must be "supported in part by public funds." Based on the above, and on a review of the Society's letters patent dated July 5, 2002, and discussions with staff of the Society, it does not appear that the Society meets the *Assessment Act's* criteria for an exemption from property taxes under this section. The property is currently taxed at residential tax rates.

Should Council support charities seeking exemptions through private legislation?

While recognizing the valuable work performed and the services provided to Toronto residents by charities across the City, Council's objectives and policies surrounding tax relief for charities must continue to offer a broad-based and consistent level of support for all charitable organizations, regardless of the nature of the charity work carried out. For this reason, it is not advisable that Council support the efforts of individual charities that seek to create, through

private legislation or other means, instances where the property tax treatment of charities differ from property to property or from charity to charity.

Where Council has, in the past, approved tax exemptions for charities under private legislation, these cases have generally involved either a continuation of a long-standing tax exemption, (e.g., the United Jewish Welfare Fund property located at 4600 Bathurst Street), or cases where charities that, but for a particular circumstance, would otherwise meet the requirements for an exemption under the *Assessment Act* (e.g., Master's College and Seminary located at 3080 Yonge Street).

By supporting a single charity's request to seek a property tax exemption, notwithstanding the value of the work or the services delivered by the charity, a precedent is established that could see other charities seeking to obtain specialized or case-specific legislation. Ultimately, a proliferation of differential tax treatments could call into question the fairness and equity of application of tax policies for charities.

Therefore, the Society's request for Council to support the Society's efforts in obtaining private legislation to provide a property tax exemption must be considered within the context of Council's overall strategy for supporting charitable organizations that operate within the City. Within this context, Council should strive to maintain consistency of application in the tax treatment for charities. As such, staff cannot recommend that the City support efforts by individual charities to obtain private legislation to provide tax exemptions, including the current request before the Government Management Committee and Council from the Society of Portuguese Disabled Persons Building Fund for a tax exemption for its property at 2295 St. Clair Avenue West.

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SIGNATURE

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