



April 29, 2016

Councillor Jon Burnside
Toronto City Hall
100 Queen Street West, Suite A16
Toronto, ON
M5H 2N2

Re: Japanese Canadian Cultural Centre, 6 Garamond Crt, Don Mills Property tax dispute 19-08-101-250-00400-000 Plan 864 Block E

This is to request the support of City Council to resolve a property tax issue for the Japanese Canadian Cultural Centre (JCCC) that has arisen recently due to a reassessment conducted by MPAC. The JCCC has had meetings with MPAC and Department of Revenue staff at the City of Toronto with the hope of resolving the question of commercial versus residential allocation for assessment and applicable taxes and we now require a political settlement to move forward.

Tax arrears in dispute total \$230,000.

Background:

The JCCC has been in operation in the Don Mills area since 1963 having originally purchased property at 123 Wynford Dr and more recently (1997) it has owned and operated a 114,000 sq' facility at 6 Garamond Crt. The JCCC is classified by the City of Toronto under the ethno cultural tax rebate programme since inception and this taxability issue is the result of a recent MPAC assessment. The JCCC is a not for profit cultural centre with a charitable tax charter #118972967RR0001.

Historically, the JCCC received a letter from Toronto Revenue Services asking for an information package to claim our tax rebate by June of each year highlighting any change in use of the building. The JCCC would annually file this information package by the June deadline. Usually in January of the following year the JCCC would receive a letter confirming that the rebate had been granted under the ethno cultural centre designation showing the taxable amounts owing on account of both school board and city taxation had been reversed to a zero balance. A tax account statement would also be sent to Avison Young, the JCCC property Manager, confirming the zero balance. The last record of any confirmation to this effect and receipt from the City was for 2011 but the JCCC continued to receive its annual letter and filed its updated rebate information package in advance of the required deadline for the years 2012 to 2015.

On May 9, 2013 the JCCC with its advisor Altus Group Ltd (Altus) had a meeting at the JCCC with representatives from MPAC and shared the detailed space utilization information supporting our annual filing and associated documentation highlighting that 11.25% of our space was allocated to groups that were viewed to be operating as community JCCC partners.



The JCCC strategy behind the purchase and renovation of 6 Garamond Crt was for the JCCC to become the nexus for community organizations to come together to provide services and cultural offerings consistent with the mandate of the JCCC. In all cases these community partners had expertise beyond the capacity of the JCCC to deliver so they were sought out in our space allocation plan. The list of community partners included organizations such as Japanese Social Services, The Nikkei Voice (national community newspaper), The National Association of Japanese Canadians, Ikebata Japanese language nursery, and kaiseki yu zen Hashimoto to showcase food. The action item from that meeting was that MPAC was to advise the JCCC of any changes or recommendations based on their understanding of our space utilization.

In calendar 2014 under advice from Altus, the JCCC started to collect property taxes for the tenants that it felt were true new commercial relationships making up 18.75% of the building space and held those funds in reserve pending any potential changes resulting from the MPAC activity. At that point there was no indication from the City that the tax rebate or tax liability had changed.

In January 2015 the JCCC was advised that property taxes were owed for 2012, 2013 and 2014 and that the ethno cultural rebate had not been applied to any space. Additionally, through follow-up by Altus on behalf of the JCCC in 2014, the JCCC learned that MPAC had been referencing minutes of settlement for 2013 that were never confirmed in writing to the JCCC until January 2015 when Charles Benton received a copy of a letter dated Jan 7, 2014 signed by Greg Martino. (Altus is prepared to file an affidavit to the receipt date). Given that the receipt of the minutes of settlement for 2013 occurred after the appeal deadline of Feb 15, 2014 had already passed months prior, Altus filed an appeal on behalf of the JCCC for 2015 and subsequently for 2016.

In April 2015, the JCCC filed the attached letter with a payment of \$69,010 on account of amounts owing for 2014 and interim amounts for 2015, representing all property taxes collected since January 2014 from its commercial tenants. An additional payment of \$20,578 was paid in August 2015 covering the remainder of 2015 property taxes for the 18.75% of the building used for commercial purposes.

The JCCC did not sign off the 2013 minutes of settlement until April 2016 believing that the acceptance or acknowledgement of same would jeopardize the JCCC's dispute over the space allocation. In discussion with Casey Brendon and Carmela Romano both with City of Toronto Revenue Services, it was agreed that the best course would be to sign off on those minutes and at least get the commercial/residential allocation changed from 45/55 to 30/70 as per the MPAC minutes of settlement to then allow Revenue Services to adjust the tax arrears accordingly. The JCCC still contends that the commercial percentage is 18.75% and not 30% as identified by MPAC.



Issues:

1. The JCCC contends that community partners comprising 11.75% of the available space were sought out by the JCCC to deliver services to the community that are otherwise not available in the GTA and that their being physically based at the JCCC should not cause their tenancies to be treated as commercial leases. The JCCC entered into formal arrangements with those community partners not realizing that this would be interpreted as a pure commercial relationship and taxed accordingly. Going back now and charging those partners retroactively to 2012 in the absence of any appropriate notice puts them under undue hardship and it would threaten their continued viability as the taxes would exceed their gross payment for subsidized space in some cases.
2. The JCCC is in a very difficult position for the tax year 2012 and 2013 for the 30% of the building that is now treated as taxable. In some cases, the true commercial tenants have moved out of the JCCC and the JCCC would suddenly be in the position of a tax collector chasing former tenants while remaining otherwise liable for their outstanding taxes. That obligation and the contingent liability would result in undue hardship on the JCCC's breakeven operating business.
3. The JCCC has collected taxes from existing commercial tenants as of 2014 (even before being advised to do so by the City) and remitted all such amounts to the City. The JCCC had no notice in advance of any obligation to charge these commercial tenants retroactively to 2012. Having that retroactive obligation enforced against the JCCC now would jeopardize the JCCC's business relationship with those tenants, and in some cases, their financial viability.

Request:

1. The JCCC requests that Council dismiss the taxes applied one time for 2012, 2013 for the 30% of space designated by MPAC as commercial as we are not in the position of being able to pay or collect for those retroactive amounts.
2. The JCCC requests that Council dismiss the tax arrears one time for 2014 and 2015 for the 11.75% of space that was utilized by JCCC community partners.

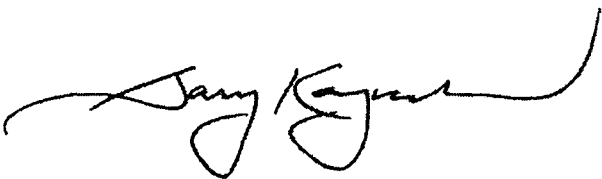
Rationale:

The JCCC is under tremendous financial pressure threatening our current viability as a result of the poor execution and communication of any change to our tax status from both MPAC and subsequently the City.

1. The JCCC is willing to accept the MPAC assessment going forward for all space with the exception of two small groups that currently pay gross rents close to or below the new property tax rate that would have to be imposed. The two tenants are Japanese Social Services (JSS) and The Nikkei Voice (national community newspaper). Both tenants are highly subsidized by the JCCC and would not be able to survive without that support. Going forward, the JCCC will pursue the proper legal arrangement with those two community services in order to satisfy both MPAC and the City.
2. The JCCC was not informed in a timely manner to deal with this issue in advance and has been burdened after the fact with this assessment and arrears calculation.
3. The JCCC does not have the financial capacity to pay the outstanding commercial taxes putting the organization into financial distress.
4. The JCCC needs to resolve this issue quickly as our credit facility has now been jeopardized given that the outstanding tax amount has been disclosed to the bank, blindsiding the JCCC with stress to our banking covenant.
5. The JCCC has been approached by a key tenant (the Canadian Race Relations Foundation) that has tried to file its' tax rebate based on their charitable status but cannot have it processed by the City while the JCCC as landlord is in property tax arrears. They too do not want to finance this issue.

I look forward to an early opportunity to meet with your office to discuss this issue and seek your advice to move forward with the City.

Yours truly,



Gary Kawaguchi
President