

# **TORONTO** STAFF REPORT

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March 29, 2006

To: Policy and Finance Committee

From: Deputy City Manager and Chief Financial Officer

Subject: Property Tax Exemption for Sheena's Place, A Registered Charity  
Ward 20 (Trinity-Spadina)

Purpose:

To respond to a request from the Policy and Finance Committee to the Deputy City Manager and Chief Financial Officer to report on a request from Sheena's Place seeking the City's support for an exemption from property taxes.

Financial Implications and Impact Statement:

There are no immediate financial implications arising from the adoption of recommendations contained in this report. However, should Council choose to indicate its support of efforts by Sheena's Place to secure a tax exemption for their property through a Private Member's bill, and such legislation is enacted, a property tax exemption for the premises occupied by the organization would result in a reduction in current municipal property tax revenues of approximately \$7,000 per year, representing the municipal portion of taxes levied against the property that would no longer be collected. 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.

Recommendations:

It is recommended that this report be received for information.

Background:

At its meeting on December 5, 6 and 7, 2005, City Council, in considering a communication (November 10, 2005) from former Councillor Olivia Chow (Clause 43 (1) of Report 10 of the Policy and Finance Committee), adopted the recommendation of the Policy and Finance Committee that the Deputy City Manager and Chief Financial Officer be requested to report to the Policy and Finance Committee on a request from Sheena's Place seeking the City's support in obtaining a property tax exemption for their property located at 87 Spadina Road.

### Comments:

Sheena's Place, a facility known as the Hospice for Eating Disorders of Toronto, located at 87 Spadina Road in Toronto, is a non-profit, community-based support centre for people affected by eating disorders and their families. It also raises awareness of and fosters education about eating disorders, and serves as a link between hospital-based programs, schools, agencies, therapists, families and people with eating disorders.

Sheena's Place is a registered charity, with a registration number issued by Canada Customs and Revenue Agency. Incepted as a charity in 1994, Sheena's Place has been offering programs from its location at 87 Spadina Road since September 1996. The agency's programs are offered at no cost to the user, and Sheena's Place receives no government funding for their operational expenses, relying instead on financial support from individuals, corporations, foundations, and proceeds from special events.

According to the communication from former Councillor Chow, Sheena's Place has requested the City's support in their attempt to obtain an exemption from future property taxes, as well as a waiver for all arrears, interest and penalties therein for their facility.

The property occupied by Sheena's Place at 87 Spadina Road has been classified as taxable at the residential tax rate since 1998. The property's Current Value Assessment (CVA) is 1,232,000 for the 2006 taxation year, and annual property taxes are estimated at approximately \$10,200 for 2006. As of March 31, 2006, the property has outstanding tax arrears, including accumulated interest and penalties, totalling more than \$105,600 dating back to the 1998 taxation year. No payments to the tax account have been made since prior to 1998. While attempts have been made to collect the outstanding taxes over this period, collection proceedings had been held in abeyance recently pending the outcome of appeals regarding the organization's tax status before the Assessment Review Board. Several hearing dates scheduled for 2005 were adjourned, and at present these appeals have been adjourned *sine die*.

### Property Tax Exemptions:

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 *Municipal Act* that would allow the City to provide a property tax exemption for any property or class of properties. Municipalities may, however, designate certain facilities as exempt from property taxes by by-law, by virtue of a municipal capital facilities agreement, in cases where a municipal service is provided by a third party on behalf of the municipality, or where a municipal service occupies leased space that would otherwise be taxable. Ontario Regulation 46/94 prescribes a narrowly defined list of activities or facilities that qualify as eligible municipal capital facilities.

And finally, the City of Toronto has established rebate programs to provide a 100 per cent rebate of taxes payable by eligible veteran's clubhouses and ethno-cultural centres. While not a true tax exemption, these programs provide rebates in an amount equivalent to the total property taxes payable. Sheena's Place does not meet the eligibility criteria for either of these programs.

As such, in order for Sheena's Place to be made exempt from taxation, they would have to either meet the requirements for an exemption under Section 3(1) of the *Assessment Act*, or be made exempt through property-specific legislation (i.e. via a Private Member's Bill).

While Section 3(1) of the *Assessment Act* provides for an exemption for certain philanthropic organizations, paragraph 12 of the Act also stipulates that a) the organization must provide services for the "relief of the poor," and b) must be "supported in part by public funds." The Municipal Property Assessment Corporation (MPAC), in response to appeals filed by Sheena's Place regarding their tax status dating as far back as the 1996 taxation year, has consistently held the position that Sheena's Place does not meet the legislative requirements to be declared exempt. In a letter dated September 18, 2000, MPAC informed Sheena's Place that the organization did not qualify for an exemption under Section 3(1) of the *Assessment Act*, citing that the documents supplied by Sheena's Place, including Letters Patent, made no reference to "relief of the poor" nor did they indicate that the organization was "supported in part by public funds," and as such did not meet the requirements for exempt status.

At present, Sheena's Place has appeals pending before the Assessment Review Board (ARB) for taxation years 1996, 1997, 1999, 2000 and 2002 regarding the organization's tax status. While no decision has been rendered by the ARB to date for the pending years under appeal, it is considered unlikely that the ARB would interpret the *Assessment Act* requirements for exemption differently than MPAC, given the specific wording of the Act and the facts at hand.

The other possible means to obtain a property tax exemption would be through a Private Member's Bill, introduced by a Member of Provincial Parliament and enacted by the Legislature. City staff understand that representatives of Sheena's Place are seeking to have such a bill introduced, and have had indications that a Member of Provincial Parliament would be willing to table the bill in the Legislature. Sheena's Place has retained legal counsel to assist them in the process.

Provided the bill was passed, the legislation enacted could make Sheena's Place exempt from taxation for all future years, or it could also be retroactive, making the property exempt from the time of the organization's initial occupation of the current premises in 1996. A retroactive exemption would have the effect of cancelling all tax arrears and penalties currently outstanding.

Alternatively, the Act may be discretionary on the part of the municipality, providing that the municipality may, by by-law, provide for a tax exemption if it so chooses. Again, the municipal by-law could reference a future time frame, or be retroactive in nature.

From a financial perspective, a retroactive tax exemption would result in a cancellation of \$100,408 in tax arrears of which the City would be responsible for \$78,647 representing the outstanding municipal taxes and interest (which would be charged to the City's Non-Program Tax Deficiency account), and the remaining \$21,763 representing the education portion of the levy would be fully recoverable from the school boards/Province. The net effect of a tax exemption on current and future budgets would be to reduce the City's revenues by approximately \$7,000 per year, representing the municipal portion of taxes levied against the property.

In the event that a tax exemption was not made retroactive, the existing arrears dating back to 1998 would have to be addressed, as the City would have no authority to cancel these amounts, having been legitimately levied. However, should Council choose to provide a one-time grant to Sheena's Place to offset arrears, including interest and penalty, for the period 1998 to 2005, the total amount of the grant would be \$100,408. This amount represents \$39,516 in municipal taxes, \$21,763 in provincial education taxes, and \$39,129 in accrued interest/penalties, as shown in Table 1.

Table 1  
Outstanding Property Taxes and Accrued Interest and Penalty Charges  
(Sheena's Place - 87 Spadina Road – taxation years 1998 to 2005)

Taxation Year	Total Tax Levy	Payments Received	Outstanding Balance (Before Penalty Charges)			Interest and Penalty Accrued	Outstanding Balance (Includes Penalty Charges)	
			Total	Municipal	Education		Municipal + Penalty	Outstanding Balance (Includes Penalty)
1998	\$4,373	\$0	\$4,373	\$1,777	\$2,595	\$4,756	\$6,533	\$9,128
1999	\$4,850	\$0	\$4,850	\$3,196	\$1,654	\$10,694	\$13,890	\$15,544
2000	\$5,596	\$0	\$5,596	\$3,687	\$1,909	\$4,897	\$8,584	\$10,493
2001	\$7,614	\$0	\$7,614	\$4,968	\$2,645	\$5,506	\$10,474	\$13,119
2002	\$9,351	\$0	\$9,351	\$6,191	\$3,160	\$5,333	\$11,524	\$14,684
2003	\$9,241	\$0	\$9,241	\$6,119	\$3,122	\$3,931	\$10,050	\$13,172
2004	\$10,027	\$0	\$10,027	\$6,689	\$3,339	\$2,738	\$9,427	\$12,766
2005	\$10,228	\$0	\$10,228	\$6,889	\$3,339	\$1,274	\$8,163	\$11,502
<b>Total</b>	<b>\$61,280</b>	<b>\$0</b>	<b>\$61,280</b>	<b>\$39,516</b>	<b>\$21,763</b>	<b>\$39,129</b>	<b>\$78,645</b>	<b>\$100,408</b>

As the education portion of the taxes would remain payable to the Province, the cost of the grant to the City would be the full \$100,408 – this previously unidentified amount would have to be funded through an allocation from the current year's budget. Further, a decision to provide a grant in this case may set an undesirable precedent for other non-profit organizations seeking exemptions from property taxes.

Notwithstanding the above, a decision by Council to support the efforts of Sheena's Place in obtaining a property tax exemption should also take into consideration that this organization is perhaps unique, by virtue of the services they provide to a narrow segment of the population, and that these services are provided free of charge to the community, and that the organization relies entirely on private contributions, sponsorships and fund raising to finance its operations. As such, it fulfils a vital service need, and complements the City's own community health and wellness initiatives.

In recognition of the philanthropic nature of the services provided by Sheena's Place and the organization's valuable contribution to the community, it would not be unreasonable for Council to support the efforts of Sheena's Place in seeking an exemption from past and future property taxes. Representatives of the organization have indicated that the City's public support of a Private Members bill would greatly further the chances of having the bill approved by the Legislature, and have requested that Council indicate, through its consideration of this report and any motions arising therefrom, its support of this initiative.

#### Conclusions:

Sheena's Place, a facility known as the Hospice for Eating Disorders of Toronto, located at 87 Spadina Road in Toronto, has requested that the City of Toronto support its efforts to have private legislation enacted to make the property exempt. Representatives of the organization have indicated that the City's public support of a bill would greatly further the chances of having the bill approved by the Legislature. Should Council support this initiative, with the result that the property is made exempt from taxation since its inception, all tax arrears on the property would be extinguished.

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