



STAFF REPORT ACTION REQUIRED

Property Tax Exemption Agreement for Properties Owned by Bathurst Jewish Centre and United Jewish Welfare Fund (4588 and 4600 Bathurst Street)

Date:	December 23, 2008
To:	Government Management Committee
From:	Acting Treasurer
Wards:	Ward 10 – York Centre
Reference Number:	P:\2008\Internal Services\Rev\gm08027rev (AFS#8139) Revised

SUMMARY

This report recommends that an existing tax exemption agreement between the former City of North York and the United Jewish Welfare Fund (owner of the property at 4600 Bathurst Street) be amended to eliminate specific references to named organizations that existed at the time the agreement was signed, to be replaced by more general wording that would permit the tax exemption to continue so long as the land is occupied and used for the purposes of the Welfare Fund (or its successor organization) and its related organizations. This report further recommends that Council affirm that certain transfers of small portions of land between 4588 and 4600 Bathurst Street, intended to facilitate redevelopment and corporate restructuring, will not trigger a condition in the tax exemption agreement that requires that property taxes for the preceding 10-year period be repaid if the property is sold, leased or otherwise disposed of. Finally, this report recommends that a tax cancellation agreement between the former City of North York and the Bathurst Jewish Centre (located at 4588 Bathurst Street) be terminated and removed from title to the property, as the tax cancellation was terminated on December 31, 1997, and replaced with a 100 per cent rebate of property taxes under the City's ethno-cultural rebate program in January 1998. Legal Services Division was consulted in the preparation of this report. This report, and the recommendations herein, replaces item GM19.4 that appeared on the agenda of the November 21, 2008 meeting of the Government Management Committee.

RECOMMENDATIONS

The Acting Treasurer recommends that:

1. Former City of North York By-law No. 29454 be amended to delete references to “Jewish Immigrant Services of Canada, Toronto Hebrew Re-Establishment Services and Jewish Family and Child Service of Metro Toronto”, and to replace these with: “the United Jewish Welfare Fund (or its successor organization) and its related organizations”, and to make other consequential amendments as necessary;
2. Council affirm that the transfer of portions of land between the parcels known as 4588 Bathurst Street and 4600 Bathurst Street, as described in this report, will not trigger the requirement to repay property taxes foregone in the preceding 10-year period, as provided for in agreements between the property owners and the former City of North York;
3. Former City of North York By-law No. 33142 be repealed and the related tax cancellation agreement between the former City of North York and the Bathurst Jewish Centre (4588 Bathurst Street) dated February 2, 1998 be terminated and removed from title to the property;
4. Authority be granted for the introduction of the necessary bills to give effect thereto; and
5. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Financial Impact

The property at 4600 Bathurst Street is currently exempt from taxation, and therefore the City receives no property tax revenue for this property. The continuation of the tax exemption will not result in any additional financial implications. As the property at 4588 Bathurst Street is already receiving an annual rebate of property taxes under the ethno-cultural rebate program, there are no additional financial implications resulting from the termination of the tax cancellation agreement identified in Recommendation 3.

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

DECISION HISTORY

At its meeting on May 15, 2008, the Government Management Committee, in response to a motion from Councillor Feldman, requested that the Treasurer consult with the City Solicitor and report back to the Government Management Committee on the existing tax exemption agreements for 4600 Bathurst Street owned by the United Jewish Welfare Fund, and 4588 Bathurst Street owned by the Bathurst Jewish Centre:

1. Verifying whether these properties meet the eligibility criteria under the existing Rebate Program for Ethno-Cultural Centres, and whether there are other similar properties that are exempt due to private legislation and/or pre-amalgamation agreements that would also qualify under the Ethno-cultural Rebate Program.
2. Advising on the feasibility and implications of amending or terminating the existing tax exemption agreements with the property owners in each case, with a view to maintaining the current tax exempt status of these properties with appropriate recommendations as warranted.

Councillor Feldman's motion dated May 1, 2008, and the Government Management Committee's (May 15, 2008) decision document respectively can be accessed at:

<http://www.toronto.ca/legdocs/mmis/2008/gm/bgrd/backgroundfile-12770.pdf>
<http://www.toronto.ca/legdocs/mmis/2008/gm/decisions/2008-05-15-gm14-dd.pdf>

An earlier version of this report first appeared on the agenda of the November 21, 2008 meeting of the Government Management Committee as item GM19.4. At that meeting, the Committee deferred this item to its next meeting on January 14, 2009. This report replaces the previous version submitted in November 2008, to reflect revised recommendations based on further discussions between staff and counsel for the property owners. The previous report is available at:

<http://www.toronto.ca/legdocs/mmis/2008/gm/bgrd/backgroundfile-17375.pdf>

ISSUE BACKGROUND

The properties located at 4600 Bathurst Street and 4588 Bathurst Street are currently subject to property tax exemption or tax cancellation as a result of private member legislation, pre-amalgamation by-laws and agreements between the former City of North York and the respective property owners, as indicated in the table below.

	Location	Owner/Facility	Private Legislation	Date of agreement	Exemption /Cancellation By-law
1.	4588 Bathurst St.	Bathurst Jewish Centre	<i>An Act respecting 4588 Bathurst</i> (Bill Pr.74 – July 21, 1997)	February 2, 1998	City of North York By-law No. 33142 (Cancellation)
2.	4600 Bathurst St.	United Jewish Welfare Fund	<i>An Act respecting the United Jewish Welfare Fund</i> (Bill Pr. 31 – Nov. 27, 1984)	June 17, 1985	City of North York By-law No. 29454 (Exemption)

Based on the above agreements, if the land or any part thereof that is exempt from taxation or subject to tax cancellation is sold, leased or otherwise disposed of, the owners agree to make immediate payment to the City of an amount equal to the taxes foregone in the preceding 10-year period. The agreements have been registered on title to the respective properties and the amounts payable under these agreements constitute a lien or charge upon the properties.

COMMENTS

4600 Bathurst Street is owned by The United Jewish Welfare Fund (UJWF) and is currently exempt from property taxes under former City of North York By-law No. 29454. This property is operated as a cultural community centre, and the operating agency is a registered charitable organization as defined under the *Income Tax Act* (Canada).

4588 Bathurst Street is located adjacent to 4600 Bathurst Street to the south, and is owned and occupied by the Bathurst Jewish Centre. The Bathurst Jewish Centre is incorporated by letters patent dated July 26, 1994 and is a registered charitable organization within the meaning of the *Income Tax Act* (Canada) and operates social, cultural, physical and spiritual programs.

Proposed Transfers of Land and 10-Year Repayment Provisions

The City has been advised by the solicitor for the owners that, as part of a corporate restructuring and redevelopment of both sites, certain small portions of the lands at 4588 Bathurst Street (the “Transferred Lands”) will be transferred to the United Jewish Welfare Fund to form part of the parcel at 4600 Bathurst Street. This conveyance will enable the appropriate financing of the ongoing construction of a new building – the Gales Family Pavilion – which will contain an early childhood education centre, program space for seniors, multi-purpose rooms and administrative office suites for the future adjacent Prosserman Jewish Community Centre. While the Gales Family Pavilion is being constructed, the already existing Lipa Green Building located at 4600 Bathurst Street will be renovated. The Lipa Green Building will maintain its present uses and tenants.

In approximately late January 2009, the Transferred Lands (currently owned by 4588 Bathurst) and 4600 Bathurst Street (currently owned by the United Jewish Welfare Fund of Toronto) will be transferred to the Lipa Green Centre for Jewish Community Services, an incorporated non-share capital corporation which is a registered charity as of December 1, 2008.

Upon completion of the above-noted renovations and construction, part of 4600 Bathurst will be conveyed back to 4588 Bathurst Street to better align the future uses of the redeveloped campus.

The owners' solicitor has raised concerns that the proposed transfers would trigger the exemption agreement's 10-year tax repayment provision, despite the fact that both properties will continue to be used for purposes consistent with the United Jewish Welfare Fund and the Bathurst Jewish Centre. As the proposed transfers appear to be consistent with the original intent of the private legislation, i.e., that the properties remain occupied and used for the purposes of the respective organizations, staff support the waiving of the 10-year repayment requirement in this circumstance.

This report recommends that Council affirm, for the above-noted transfers of land between the parcels at 4588 Bathurst Street and 4600 Bathurst Street, Council will not require the repayment of property taxes foregone in the preceding 10-year period, as currently provided for in the above-noted agreements between the property owners and the former City of North York.

Tax Exemption Agreement for 4600 Bathurst Street

4600 Bathurst Street is currently exempt from taxation pursuant to private legislation enacted in 1984, former City of North York By-law 29454, and the 1985 agreement between the City and the United Jewish Welfare Fund which contains the 10-year repayment provision.

Revenue Services staff have confirmed that, based on the information provided, this property would likely meet the eligibility criteria to receive a 100 per cent rebate of property taxes under the City's existing Rebate Program for Ethno-cultural Centres (Article VII of Chapter 767 of City of Toronto Municipal Code). This program provides a rebate of 100 per cent of the taxes payable on the eligible portion of qualifying ethno-cultural centres, provided that the centre is owned, occupied and used by an organization that is a registered charity. An ethno-cultural centre is defined as:

A centre for the promotion of culture within the multi-cultural context of Canadian Society and for the facilitation of communication and understanding of culture, education, arts and trade, the activities of which are accessible to the community as a whole or an appreciable portion thereof at minimal or no cost.

This rebate program, established in 1998, was intended to harmonize the method of providing property tax relief to numerous ethno-cultural centres that were subject to various forms of tax exemptions/tax relief under private legislation, or pre-amalgamation agreements or by-laws. The rebate program does not contain a requirement to repay the taxes in the preceding 10-year period if the property is sold, leased or otherwise disposed of, relying instead on the program's requirement that organizations apply annually to confirm eligibility status in order to receive the rebate.

However, the property owners, through their solicitor, have advised that they prefer to retain the tax exempt status for 4600 Bathurst that is established under the 1984 private legislation, *An Act respecting the United Jewish Welfare Fund*, believing that property-specific legislation and the City by-law implementing it, is more permanent and secure than a City rebate program that could be cancelled or reduced in scope in future. The property owners have also expressed the view that the 10-year repayment provision in the exemption agreement represents a potential liability, and have therefore asked that the City consider amending the existing agreement and by-law to delete this condition. Such a change would represent a significant change to the original Council-approved direction regarding this tax exemption, and the conditions attached thereto, and would require that Council reconsider the entire matter.

By preferring to retain the exempt status of this property, rather than coming under the City's ethno-cultural rebate program, the owners are opting to continue to be bound by the existing agreement, which contains the 10-year repayment provision. As this agreement was willingly entered in to at the time it was executed, staff maintain that keeping the original terms and conditions of the agreement upholds Council's previous direction, and provides a measure of fiscal prudence while retaining Council's future options. If, for example, this property was to be sold in the future, and Council decides that there are valid reasons why the 10 years of taxes should not be repaid to the City, Council can delete the requirement at the time of the sale. Therefore, staff do not recommend that the agreement be amended to delete the 10-year repayment provision, but as discussed above, are recommending a waiver of the requirement to repay taxes potentially triggered by the currently contemplated transfers.

Staff are also recommending that former City of North York By-law No. 29454 be amended only to eliminate specific references to named organizations that existed at the time the agreement was signed, to be replaced by more general wording, in accordance with the private legislation, that would permit the tax exemption to continue so long as the land is occupied and used for the purposes of the Welfare Fund (or its successor organization) and its related organizations. The property will retain its exempt status, and the existing agreements will remain registered on title, with the same terms and conditions.

Tax Cancellation Agreement for 4588 Bathurst Street

This property has received a 100% rebate of the property taxes payable under the City's Tax Rebate Program for Ethno-Cultural Centres in each year since January 1, 1998. Prior to 1998, the property taxes were cancelled under former City of North York By-law No. 33142 from May 8, 1995 forward. In 1999, City of Toronto By-law 829-1999 amended the former North York by-law to make the period of the tax cancellation effective until December 31, 1997, to coincide with the January 1, 1998 start date of the City's rebate program for ethno-cultural centres.

As a condition of the original North York tax cancellation by-law, however, the Bathurst Jewish Centre was required to enter into an agreement with the City in 1998 providing that property taxes for the preceding 10-year period would become repayable if the property was sold, leased or otherwise disposed of.

As the period of the tax cancellation granted by the former by-laws is no longer in effect and has not been in effect for over 10 years, and given that there is no requirement to repay taxes under the City's ethno-cultural rebate program, this report recommends that City of North York By-law No. 33142 be repealed, and the 1998 tax cancellation agreement between the former City of North York and the Bathurst Jewish Centre be terminated and removed from title to the property.

The Bathurst Jewish Centre and/or its affiliated successor organizations will remain able to apply for and receive a 100 per cent rebate of property taxes on eligible portions of the property for as long as it continues to meet the eligibility criteria under the City's rebate program for ethno-cultural centres.

Other Similar Properties

Staff have also examined other similar ethno-cultural organizations that are exempt from taxes or subject to tax cancellation under private legislation, by-laws and/or agreements. Of the organizations examined, the Japanese Canadian Cultural Centre, Jamaican Canadian Association, Korean Canadian Cultural Association of Metropolitan Toronto, Miles Nadal Jewish Community Centre (formerly known as the Bloor Jewish Community Centre), National Ballet of Canada and Chinese Cultural Centre are currently receiving property tax rebates under the City's ethno-cultural rebate program on the eligible portions of the properties they own and occupy. None of these organizations are subject to any requirement to repay property taxes if the property is sold, leased or otherwise disposed of.

The Hungarian Canadian Cultural Centre continues to receive a property tax exemption under private legislation, but a former condition that required the repayment of taxes was removed and the agreement terminated and removed from title by By-law No. 116-2003 in 2003.

Two other organizations, Bikur Cholim (506 Coldstream Avenue) and the Bernard Betel Centre for Creative Living (6250 Bathurst Street) remain subject to 10-year tax repayment conditions as a result of pre-amalgamation by-laws and/or agreements between the former City of North York and the respective property owners.

The taxes on Bikur Cholim were cancelled for the period January 1, 1993 to December 31, 2001 under a former City of North York By-law No. 32039 and a June 30, 1993 agreement between the property owner and the former City of North York. As a condition of the by-law, Bikur Cholim was required to enter into an agreement with the City in 1993 providing that the property taxes for the preceding 10-year period would become repayable if the property was sold, leased or otherwise disposed of. Since 2002,

however, this property has been in receipt of a 100 per cent rebate of property tax under the City's ethno-cultural rebate program.

The Bernard Betel Centre for Creative Living has a leasehold interest in lands and premises municipally known as 1003 Steeles Avenue West (Assessed address - 6250 Bathurst Street), which premises are leased from the Toronto Community Housing Corporation (formally known as Metropolitan Housing Company Limited). Under former City of North York By-law No. 28962 and an agreement dated August 11, 1983 between the Centre and the former City of North York, the premises occupied by the Centre are exempt from taxes for municipal and school purposes as long as the land is occupied and used for the purposes by the Centre. The property tax exemption granted was conditional upon the Bernard Betel Centre for Creative Living agreeing that if the land exempted from taxes is sold, leased or otherwise disposed of then the Centre would agree to make immediate payment of taxes forgone in the preceding period of 10 years.

As the Bernard Betel Centre is a tenant in this building, it would not qualify for property tax relief under the City's ethno-cultural rebate program, as the program requires that the eligible property be owned, used and occupied by an eligible organization for the purposes of providing an ethno-cultural centre.

City staff will undertake a review of any remaining agreements with the property owners, and will report to Council as warranted with any recommendations regarding these remaining agreements.

CONTACT

Casey Brendon
Acting Director, Revenue Services
Phone: (416) 392-8065
Fax: (416) 696-4230
E-mail: cbrendo@toronto.ca

SIGNATURE

Giuliana Carbone
Acting Treasurer