



**STAFF REPORT  
ACTION REQUIRED**

**Property Tax Exemption for Luso Canadian Charitable Society (formerly Society of Portuguese Disabled Persons Building Fund) – 2295 St. Clair Avenue West**

<b>Date:</b>	July 29, 2010
<b>To:</b>	Government Management Committee
<b>From:</b>	Treasurer
<b>Wards:</b>	Ward 11 York South - Weston
<b>Reference Number:</b>	P:\2010\Internal Services\rev\gm10024rev (AFS12551)

**SUMMARY**

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This report seeks Council authority to adopt the necessary by-laws to exempt the land and building owned and occupied by Luso Canadian Charitable Society ("the Society") from taxation for municipal purposes, beginning January 1, 2010 and to cancel taxes for municipal purposes, including interest and penalty for the period from June 7, 2007 to December 31, 2009.

The authority for the property tax exemption/cancellation for the premises owned and occupied by Luso Canadian Charitable Society at 2295 St. Clair Avenue West is provided under the *Luso Canadian Charitable Society Act (Tax Relief), 2010*, a private statute which allows the City to pass by-law(s) providing for the property tax exemption/cancellation. Once by-law(s) are passed, the statute provides that the provincial education portion of taxes will also be made exempt or cancelled.

**RECOMMENDATIONS**

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**The Treasurer recommends that:**

1. Council exempt from taxation for municipal purposes the property owned and occupied by Luso Canadian Charitable Society, formerly Society of Portuguese Disabled Persons Building Fund, at 2295 St. Clair Avenue West (the "Premises"), beginning January 1, 2010 provided the following conditions are met:

- a. the Premises are occupied and used solely for the purposes of a centre for people living with physical or developmental disabilities operated by the Society;
  - b. the Society is the registered owner of the Premises; and
  - c. the Society is a registered charity within the meaning of the *Income Tax Act (Canada)*.
2. Council cancel taxes for municipal purposes, including interest and penalties, for the period from June 7, 2007 to December 31, 2009 inclusive for the Premises.
  3. The City Clerk notify the Minister of Finance of Council's actions with respect to the recommended exemption and cancellation of taxes for the Premises, for the purposes of ensuring that the exemptions and cancellations in respect of school taxes permitted by the Luso Canadian Charitable Society Act (Tax Relief), 2010 are implemented.
  4. Authority be granted for the introduction of the necessary bill to give effect thereto.
  5. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

### **Implementation Points**

Following Council's enactment of the by-law associated with this report, it will be necessary for Luso Canadian Charitable Society to file an application for cancellation, reduction and refund of taxes under Section 323 of the *City of Toronto Act, 2006* to cancel the taxes for the 2010 taxation year. The application deadline for the 2010 tax year is February 28, 2011.

Revenue Services staff will advise officials of Luso Canadian Charitable Society of the deadline for the submission of applications under Section 323 of the *City of Toronto Act, 2006*.

Revenue Services staff will verify annually that the conditions set out in Recommendation No. 1 of this report continue to be met. Should circumstances change in future such that the conditions for the exemption are no longer met, staff will notify the Municipal Property Assessment Corporation (MPAC) of this change and advise that the tax exemption no longer applies, and that the property should become taxable from the date that the conditions ceased to be met.

### **Financial Impact**

The net effect of providing a property tax exemption of the property owned and occupied by Luso Canadian Charitable Society at 2295 St. Clair Avenue West will be a reduction in annual property tax revenue of approximately \$6,804 per year beginning in 2010, representing the municipal portion of taxes that are levied against the premises. The

estimate is based on 2010 assessment and tax rates. The education portion of taxes, once exempt, will no longer be required to be levied nor submitted to the Province/school boards.

Additionally, the property tax cancellation for the period from June 7, 2007 ending December 31, 2009 would result in a cancellation of \$22,432 in total, of which the City would be responsible for \$15,693, representing the outstanding municipal taxes (\$15,682) and interest and penalty charges (\$11), which would be charged to the City's Non-Program Tax Deficiency account. The remaining \$6,739, representing the education portion of the levy, would be fully recovered from the school boards/Province, with no net impact. The amounts to be cancelled are summarized in Table 1 below.

**Table 1**  
**Amounts of Property Tax Exemption and Property Tax Cancellation**  
**(Luso Canadian Charitable Society – 2295 St. Clair Avenue West – as at July 1, 2010)**

Taxation Year	Tax Amounts Levied				Amounts to be Cancelled	
	Municipal	Education	Interest and Penalty Accrued	Total	City Portion (i)	Education Portion
2007 (ii)	\$3,282	\$1,471	\$11	\$4,764	\$3,293	\$1,471
2008	\$5,975	\$2,582		\$8,557	\$5,975	\$2,582
2009	\$6,425	\$2,686		\$9,111	\$6,425	\$2,686
<b>Total (Cancellation)</b>	<b>\$15,682</b>	<b>\$6,739</b>	<b>\$11</b>	<b>\$22,432</b>	<b>\$15,693</b>	<b>\$6,739</b>
2010 (Exemption)	\$6,804	\$2,781		\$9,585	\$6,804	\$2,781

(i) City Portion = Municipal Taxes + Interest and Penalty Accrued

(ii) June 7 to December 31, 2007 (208 days)

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/c1082.pdf>  
<http://www.toronto.ca/legdocs/2006/agendas/committees/pof/pof060918/it025a.pdf>

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>

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>

At its meeting held on January 26 and 27, 2010, City Council, while considering Government Management Committee report GM27.17 "Property Tax Exemption for the Society of Portuguese Disabled Persons Building Fund" adopted the Committee's recommendation that City Council support the efforts made by the Society of Portuguese Disabled Persons Building Fund to obtain private legislation that would provide an exemption from property taxes for the property it owns at 2295 St. Clair Avenue West. The Government Management Committee recommendation and the Council decision can be accessed at:

<http://www.toronto.ca/legdocs/mmis/2010/gm/reports/2010-01-13-gm27-cr.htm#GM27.17>

## **ISSUE BACKGROUND**

The Luso Canadian Charitable Society, formerly the Society of Portuguese Disabled Persons Building Fund, was formed in 2001 to help stimulate social activities for individuals with disabilities who may be housebound in the community. Unfortunately, these individuals are faced with many limitations and have few channels available to allow them to integrate with society.

In order to build a centre for all disabled persons regardless of ethnicity, the Society purchased the property at 2295 St. Clair Avenue West in April 2003. 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. Currently, the Society owns and occupies the property at 2295 St. Clair Avenue West and is a registered charity within the meaning of the *Income Tax Act (Canada)*.

The centre first began operations at this location on June 7, 2007 and operates daily from Monday to Friday, 8 a.m. to 4 p.m., offering a variety of programs for people of all cultural and ethnic backgrounds with disabilities and providing support to their families. Through various programs, clients continue to learn social skills by group participation, building greater independence, self-esteem and facilitating integration within the community. These programs help to develop leadership skills which empower clients to be active and productive members of society.

The Luso Canadian Charitable Society applied to the Province to enact special legislation, through a Private Members Bill, that would provide an exemption from property taxes on the property it owns and occupies at 2295 St. Clair Avenue West, beginning in 2010, and to cancel the property taxes that were payable from 2004 to 2009. In response to this request, the Province enacted private legislation, the *Luso Canadian Charitable Society Act, 2010*, which received Royal Assent on June 8, 2010.

The Act provides that City Council may pass by-laws exempting the property at 2295 St. Clair Avenue West from property taxes for municipal purposes, beginning January 1, 2010, if,

- a. the property is occupied and used solely for the purposes of a centre for people living with physical or developmental disabilities operated by the Society;
- b. the Society is the registered owner of the property; and
- c. the Society is a registered charity within the meaning of the *Income Tax Act* (Canada).

The Act further provides that Council may also pass by-laws cancelling the taxes for municipal purposes, including interest and penalties, on the property for years 2004 to 2009, and that where the municipal portion of taxes are made exempt or cancelled by by-law, the education portion of taxes are also made exempt or cancelled for the periods in question.

## **COMMENTS**

Given Council's prior support for Luso Canadian Charitable Society's efforts to obtain private legislation that would provide an exemption from property taxation, and with the passage of the *Luso Canadian Charitable Society Act, 2010* that now permits such an exemption beginning January 1, 2010 and the cancellation of taxes for the taxation years 2004 through 2009, staff recommend that Council enact the necessary by-law(s) to provide for the property tax exemption and cancellation as recommended in this report.

Although the *Luso Canadian Charitable Society Act, 2010* allows taxes to be cancelled for the taxation years 2004 through 2009, staff are recommending that the taxes be cancelled only for the period from June 7, 2007 (the date that the Society began operations at this location according to the preamble set out in the Act), to December 31, 2009, and that the tax exemption become effective from January 1, 2010 onward, provided the conditions for the exemption continue to be met. Given that the conditions

for the tax exemption require that the property be occupied and used for the purposes of a centre for people living with physical or developmental disabilities, this same requirement should be applied to the period for which taxes are to be cancelled.

During the period from 2004 until the Centre began its operations on June 7, 2007, the Society has confirmed that the property was either vacant or under construction. Although the premises were classified as commercial taxable for the period from 2004 to the end of 2005, no applications were submitted for this property under the City's tax rebate program for charities, which provides a 40% rebate of property taxes on eligible properties. In 2006, the property became taxable at the residential rate, reflecting the non-profit status of the organization, making it ineligible for the charity rebate program. Neither the *City of Toronto Act, 2006* nor the City of Toronto Municipal Code allow for a retroactive application of the charity tax rebate program.

The Municipal Property Assessment Corporation has confirmed that when the site was visited in January 2007, it was found that the old buildings were demolished and a new building was under construction. Given that the conditions for the property tax exemption set out in *Luso Canadian Charitable Society Act, 2010* require that the property be used for the purposes of a centre for people living with disabilities, it is recommended that the period of the tax cancellation become effective from the date the centre began operations in this location, or June 7, 2007, as identified in the Act.

The private legislation is permissive in nature, in that it requires Council to enact a by-law in order to make the tax exemption and tax cancellation effective. If Council does not pass a by-law, the premises will remain subject to taxation.

## **CONTACT**

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## **SIGNATURE**

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Giuliana Carbone  
Treasurer

## **ATTACHMENTS**

Attachment 1: Copy of Bill Pr34: *An Act respecting the Luso Canadian Charitable Society*



2ND SESSION, 39TH LEGISLATURE, ONTARIO  
59 ELIZABETH II, 2010

## **Bill Pr34**

*(Chapter Pr5  
Statutes of Ontario, 2010)*

### **An Act respecting the Luso Canadian Charitable Society**

**Mrs. Albanese**

1st Reading	May 19, 2010
2nd Reading	June 2, 2010
3rd Reading	June 2, 2010
Royal Assent	June 8, 2010

Printed by the Legislative Assembly of Ontario



## An Act respecting the Luso Canadian Charitable Society

### Preamble

The board of directors of the Luso Canadian Charitable Society, a corporation referred to in this Act as the Society, has applied for special legislation to exempt certain land from taxation for municipal and school purposes, other than local improvement rates, beginning in 2010, while the land is used for a specified purpose and to cancel the taxes for municipal and school purposes, other than local improvement rates, that were payable from 2004 to 2009. The applicant represents that the Society was incorporated under the *Corporations Act* by letters patent dated July 5, 2002 under the name Society of Portuguese Disabled Persons Building Fund, that it changed its name to Luso Canadian Charitable Society by supplementary letters patent dated September 29, 2009 and that it is a registered charity within the meaning of the *Income Tax Act* (Canada). The applicant also represents that the Society has a freehold interest in the land and has operated a not-for-profit charitable centre on the land for people living with physical or developmental disabilities since June 7, 2007.

It is appropriate to grant the application.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### Definition

1. In this Act,

“specified property” means the land, as defined in the *Assessment Act*, municipally known as 2295 St. Clair Avenue West in the City of Toronto.

### Tax exemption by-law

2. The council of the City of Toronto may pass by-laws exempting the specified property from taxes for municipal purposes, other than local improvement rates, beginning January 1, 2010, if,

- (a) the specified property is occupied and used solely for the purposes of a centre for people living with

physical or developmental disabilities operated by the Society;

- (b) the Society is the registered owner of the specified property; and
- (c) the Society is a registered charity within the meaning of the *Income Tax Act* (Canada).

### Tax cancellation by-law

3. The council of the City of Toronto may pass by-laws cancelling the taxes for municipal purposes, other than local improvement rates, on the specified property for the years 2004, 2005, 2006, 2007, 2008 and 2009.

### Property exempt from school taxes

4. (1) If the council of the City of Toronto passes a by-law under section 2, the specified property is also exempt from taxes for school purposes for so long as the by-law remains in effect.

### Same

(2) If the council of the City of Toronto passes a by-law under section 3, the taxes for school purposes on the specified property are also cancelled for the years for which the taxes for municipal purposes, other than local improvement rates, are cancelled.

### Chargeback

(3) Section 353 (taxes collected on behalf of other bodies) of the *Municipal Act, 2001* and section 318 (taxes collected on behalf of other bodies) of the *City of Toronto Act, 2006* apply, with necessary modifications, to taxes exempted or cancelled by subsection (1) or (2), as the case may be.

### Commencement

5. This Act comes into force on the day it receives Royal Assent.

### Short title

6. The short title of this Act is the *Luso Canadian Charitable Society Act (Tax Relief), 2010*.