



**STAFF REPORT
ACTION REQUIRED**

76 Wychwood Avenue - Designation of the premises used by The Stop Community Food Centre at the Artscape Wychwood Barns Project as a Municipal Capital Facility

Date:	August 22, 2013
To:	Government Management Committee
From:	Treasurer General Manager, Economic Development and Culture
Wards:	Ward 21 – St. Paul’s
Reference Number:	P:\2013\Internal Services\rev\gm13024rev (AFS18017)

SUMMARY

This report seeks Council authority to adopt the necessary by-law to designate certain portions of the premises at 76 Wychwood Avenue that are being used by The Stop Community Food Centre, and ancillary space forming part of the Covered Barn, as Municipal Capital Facilities to provide a property tax exemption for municipal and school purposes.

RECOMMENDATIONS

The Treasurer and General Manager, Economic Development and Culture recommend:

1. City Council pass a by-law pursuant to section 252 of the *City of Toronto Act, 2006*, providing authority to:
 - (i) enter into a municipal capital facility agreement with Toronto Artscape Inc., with whom the City has an agreement to develop and manage the Artscape Wychwood Barns at 76 Wychwood Avenue; and,
 - (ii) exempt the portions of 76 Wychwood Avenue identified in Attachment 1 from property taxation for municipal and school purposes, which tax exemption is to be effective from the latter of (a) the date the municipal

capital facility agreement is signed, and (b) the date the tax exemption by-law is enacted.

2. The City Clerk be directed to give written notice of the by-law to the Minister of Education, the Municipal Property Assessment Corporation, the Toronto District School Board, the Toronto Catholic District School Board, the Conseil Scolaire de District du Centre-Sud-Ouest, and the Conseil Scolaire de District du Catholique Centre-Sud.
3. Council pass a resolution that the above municipal capital facility is for the purposes of the City and is for public use.
4. Authority be granted for the introduction of the necessary bills to give effect thereto.
5. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Financial Impact

Designating certain portions of the premises at 76 Wychwood Avenue that are being used by The Stop Community Food Centre, together with three small rooms in the Covered Barn being ancillary to the community uses, as municipal capital facilities to provide for a property tax exemption for municipal and school purposes will result in an estimated loss of annual taxation revenue to the City of approximately \$33,500 based on proportionate space (50% of the commercial taxable space), and to the Province of approximately \$28,100.

Table 1 below summarizes the current assessment of the property and applicable taxes, excluding the property tax exemption being recommended in this report.

Table 1 - 2013 Assessment as Returned for 76 Wychwood Avenue

Occupied / Used by:	Current Assessment Value(CVA) (\$)	Property Tax Class	2013 Taxes		
			City (\$)	School (\$)	Total (\$)
The Helene Comay Nursery School (a non-profit child care centre)	448,330	Residential	\$2,393	\$950	\$3,343
Tenants (Artist Studios, NPO's, The Stop)*	4,125,605*	Commercial	\$67,033*	\$56,269*	\$123,301*
Affordable Housing, Theatre Direct, Public Washrooms, Entryways, Utility Rooms, City of Toronto PF&R Storage, Covered Barn, Community Gallery	7,754,315	Exempt	-	-	-
Total	12,328,250		\$69,426	\$57,219	\$126,644

*approximately 50% of the commercial space is being recommended for tax exemption

Other spaces used primarily as administrative space for not-for-profit and other organizations will continue to be taxable, however, if the tenant is a registered charity, they may continue to apply for the statutory 40% Property Tax Rebate Program for Registered Charities.

DECISION HISTORY

In January 2006, City Council authorized entering into an agreement with Artscape, a non-profit cultural organization, to redevelop and manage the former Toronto Transit Commission (TTC) streetcar repair barns located at 76 Wychwood Avenue as a multi-tenancy community centre and a live/work space for artists. The affordable housing component of the project, representing 26 units and 19,386 sq. ft. of space for live/work (residential) artist studios and ancillary space, was exempted from property taxes and municipal fees and charges were waived pursuant to the City's Municipal Housing Capital Facility by-law. That report can be viewed at:

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060131/pof1rpt/cl015.pdf>

In June 2008, City Council adopted a report designating additional portions of the property tax exempt as Municipal Capital Facilities for cultural, recreational or tourist purposes for public use, specifically, the Covered Street Barn (Barn 2) (14,518 sq. ft.), the Community Gallery (8,566 sq. ft.) and public washrooms, entryways and utility rooms (5,958 sq. ft.), which provide community use space, including year-round access for community events, exhibitions, festivals, etc.

It was also determined at that time, in consultation with Artscape, that:

- The theatre and ancillary theatre production space (6,392 sq. ft.) and the storage facility for City of Toronto Parks, Forestry and Recreation Division (425 sq. ft.) were eligible for statutory exemption under the Assessment Act as a theatre under 1,000 seats, and municipal use, respectively;
- The work-only (non-residential) artist studios (15 units) being part of the Studio Barn (4,045 sq. ft.) was considered to be private space tenanted by individual artists, and hence taxable;
- The space used by other non-profit environmental and arts tenants – part of the Community Barn No. 3 (12,414 sq. ft.) was considered space tenanted by other organizations and, to the extent the space is likely only available for public use in limited circumstances, it would not qualify for a tax exemption as a municipal capital facility; and,
- The Stop, part of Green Barn No. 4, was considered to be operated by a private organization under a separate agreement with Artscape, and as such would be subject to property taxation.

This report can be viewed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2008.GM16.7>

ISSUE BACKGROUND

At the request of Artscape and The Stop, City staff have visited and reviewed the uses of the portions of the property used by The Stop and have determined they meet the eligibility criteria for municipal capital facility as a community centre. In order to exempt the eligible spaces from property taxes, City Council must enter into a municipal capital facility agreement with the owner (Artscape Inc.) and enact a municipal capital facility by-law, as recommended by this report.

COMMENTS

Prior to the redevelopment of the site by Artscape commencing in 2006, the property was exempt from property taxes as lands owned by a municipality. Upon completion of the redevelopment in 2008, the City declared portions of the property at 76 Wychwood Avenue occupied and used by Artscape as Municipal Capital Facilities and exempted those portions from property taxes. Space that is subleased or licensed to others by Artscape is taxable unless it was specifically included in Municipal Capital Facilities By-law 801-2008 respecting this property. The Stop Community Food Centre (The Stop), a tenant in the Artscape Wychwood Barns project, was not included in By-law 801-2008 as space eligible for municipal capital facility designation as it was thought to be space for private use at that time.

In late 2010, the City, as owner of 76 Wychwood Avenue, received Omitted Assessment tax bills going back to 2009 as commercial taxable for some portions of the property subleased by Artscape to others, including the portion sub-leased to The Stop. Artscape commenced an appeal for taxation years 2009-2012 with the Assessment Review Board and 2013 is under reconsideration with the Municipal Property Assessment Corporation (MPAC). City Real Estate has also participated in discussions with MPAC as they believe there are issues with the subject property's assessment tax classification, and hence tax level. The property tax bill for 2013 for the property is \$126,644. For 76 Wychwood Avenue, the tenant, Artscape, is \$370,000 in arrears in taxes, penalties and interest for the years 2010-2013. Artscape has held back tax payments in an amount they feel represents the amount of tax reduction anticipated upon successful appeal and reconsideration of the assessment on the property.

The Stop Community Food Bank is a tenant in the Artscape Wychwood Barns project, occupying a total of 8,928 sq. ft., comprising of the Community Kitchen and Green House in Barn 4 (4,771 sq. ft.) and the adjacent Community Gardens (3,479 sq. ft.). The Stop provides a variety of local community activities, such as programs, services and advocacy to address problems of poverty and hunger in Toronto, including operating a food bank and providing meals on a drop-in basis to those in the community who need it.

They also run food demonstrations from their outdoor garden using food grown from their greenhouse, offer food-centred educational curriculum subjects, a summer food camp program, and accommodate various community meetings and uses. Weekend farmer's markets help provide revenues for the Stop to run its programs. The Stop is a Registered Charity under the Income Tax Act.

Section 252 of the *City of Toronto Act, 2006*, allows the City to enter into agreements for municipal capital facilities which may provide for an exemption of all or part of the taxes levied for municipal and school purposes on land on which municipal capital facilities are or will be located, provided certain conditions are met. Ontario Regulation 598/06 prescribes various classes of municipal capital facilities for which such tax exemptions may be granted. These classes include community centres, provided that the facilities are primarily used for local community activities, and Council declares by resolution that the facilities are for the purposes of the City and are for public use.

City staff have visited and reviewed the uses on the portions of the premises used by the Stop and have determined the premises meet the criteria of community centre eligible for municipal capital facilities designation. It was also brought to City staff's attention that the spaces identified as Studio 153 (250 sq. ft.), Studio 172 (321 sq. ft.) and Studio 175 (174 sq. ft.), for a total of 745 sq. ft., are in fact storage/support spaces ancillary to Barn 2 – the Covered Street Barn (which has already been exempted).

Accordingly, this report recommends that Council authorize a municipal capital facility designation, and a property tax exemption for municipal and school purposes, for the portions of the premises used by The Stop as a community centre, as well as the storage and ancillary spaces to the Covered Street Barn 2, as identified in Attachment 1 to this report.

In order to make these portions exempt from taxes, Council must authorize the entering into of a municipal capital facility agreement between the City and Artscape and must enact a municipal capital facility by-law. The City Clerk must give written notice of the by-law to the Minister of Education and Training. To facilitate the tax exemption, the City Clerk must also provide a written notice of the contents of the by-law to the Municipal Property Assessment Corporation and the Secretary(s) of the School Board(s).

A tax exemption under municipal capital facilities cannot be made retroactive. Legislation prescribes that the exemption can only be made effective from the latter of the date the municipal capital facility agreement is signed and the date the tax exemption by-law is enacted. However, the exemption will help arrest further tax arrears accumulating on the property pending the outcome of the assessment appeal.

CONTACT

Adir Gupta, Manager, Financial Policy
Corporate Finance
416-392-8071, agupta@toronto.ca

Terry Nicholson, Acting Director
Cultural Services, Economic
Development and Culture
416- 392-4166, tnichols@toronto.ca

SIGNATURE

Giuliana Carbone
Treasurer

Michael H. Williams
General Manager, Economic
Development and Culture

ATTACHMENTS

Attachment 1 - Premises used by The Stop, and ancillary spaces to be declared as exempt as a Municipal Capital Facility
Attachment 2 – Wychwood Barns Ground Floor Site Map

Attachment 1
Premises used by The Stop, and ancillary spaces
to be declared as Exempt as Municipal Capital Facility

Location	Occupied/Used by	Useable Area
Barn 1 – Storage Space ancillary to Artscape (studio 153)	Artscape	250 ft2
Barn 3 – Storage Space ancillary to Artscape (studio 172)	Artscape	321 ft2
Barn 3 – Ancillary Space to Artscape (studio 175)	Artscape	174 ft2
Barn 4 – The Stop Community Food Centre	The Stop	4,771 ft2
Barn 4 – The Stop Community Garden	The Stop	3,479 ft2

See map on following page.

Attachment 2 – Wychwood Barns Ground Floor Site Map

