HALIFAX

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Item No. 9.1.1
Grants Committee
April 17, 2023

TO: Chair and Members of Grants Committee

SUBMITTED BY: Original Signed

Cathie O'Toole, Chief Administrative Officer

DATE: March 30, 2023

SUBJECT: **Tax Relief for Non-Profit Organizations Program Fiscal 2022/23 – Referral of Nova Scotia Regional Tennis Development Association**

ORIGIN

October 18, 2022 - Regional Council motion (15.3.1):

MOVED by Councillor Councillor Deagle Gammon, seconded by Councillor Mason

THAT Halifax Regional Council:

1. Approve the addition of thirteen (13) properties to Administrative Order 2014-001-ADM as detailed in the Discussion section of this report at an estimated combined cost of $207,273 from Operating Account M311-8006;

2. Approve an increase in level of tax relief for twelve (12) housing properties at a combined cost of $33,093 as detailed in the Discussion section of the staff report dated August 11, 2022;

3. Approve four (4) one-time grants by resolution of the Council in support of four properties developed under the auspices of the federal Rapid Housing Initiatives Program: Phase 1 and Phase 2 as listed in the Discussion section of the staff report dated August 11, 2022, at an estimated combined cost of $16,692 from Operating account M311-8006;

4. Suspend the application of Section 7C and 7D of Administrative Order 20214-001-ADM in fiscal 2022-23 by amending the Administrative Order as set out in Attachment 2 of the staff report dated August 11, 2022;

5. Approve records management corrections and amendments as listed in the Discussion section of the staff report dated August 11, 2022, and as set out in Attachment 2 of the staff report dated August 11, 2022; and

6. Adopt the amendments to Administrative Order 2014-001-ADM as set out in Attachment 2 of the staff report dated August 11, 2022, including adopting Attachments A through E attached to Attachment 2 to repeal and replace Schedules 26, 27, 28, 28 and 30 of the Administrative Order.

MOVED by Councillor Outhit, seconded by Councillor Russell

THAT Halifax Regional Council refer the Nova Scotia Regional Tennis Development Association, 50 Verdi Drive, Bedford (AAN 10376531) proposal to the Grants Committee for reconsideration.

MOTION TO REFER PUT AND PASSED UNANIMOUSLY.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, S.N.S, 2008, c.39

79A **(1)** Subject to subsections (2) to (4), the Municipality may only expend money for municipal purposes if

(a) The expenditure is included in the Municipality's operating budget or capital budget or is otherwise authorized by the Municipality…

89 **(1)** The Council may, by policy, exempt from taxation, to the extent and under the conditions set out in the policy

(a) property

(i) of a named registered Canadian charitable organization, and

(ii) that is used directly and solely for a charitable purpose;

(b) property of a non-profit community, charitable, fraternal, educational, recreational, religious, cultural or sporting organization if, in the opinion of the Council, the organization provides a service that might otherwise be a responsibility of the Council;

(2) The Council may, by policy, to the extent and under the conditions set out in the policy, provide that the tax payable with respect to all or part of the taxable commercial property of any non-profit community, charitable, fraternal, educational, recreational, religious, cultural or sporting organization named in the policy be reduced to the tax that would otherwise be payable if the property were residential property, inclusive of area rates.

Administrative Order 2014-001-ADM Respecting Tax Relief for Non-Profit Organizations

Administrative Order 2019-007-ADM Respecting Public Disclosure of Municipal Grants

RECOMMENDATION

It is recommended that the Grants Committee recommend that Halifax Regional Council retain the Nova Scotia Regional Tennis Development Association on Schedule 29 of the *Tax Relief for Non-Profit Organizations Administrative Order* pending the implementation of a new Administrative Order respecting tax relief.

EXECUTIVE SUMMARY

As proposed, the facility owned by the Nova Scotia Regional Tennis Development Association will remain on Schedule 29 of the Tax Relief for Non-Profit Organizations Program in fiscal 2023/24 pending Regional Council's approval of a program redesign which would commence in fiscal 2024. An increase in level of tax relief for only one organization could pose reputational risk to the Municipality if perceived as preferential consideration.

BACKGROUND

In 2011 Tennis Nova Scotia and Tennis Canada requested municipal capital funding and land towards the establishment of a facility serving recreational and high-performance tennis. A revised proposal was subsequently submitted for funding towards the purchase of the former Daniel Nestor Tennis Centre ("DNTC"), a business venture located in Bedford. In 2016, Regional Council approved a $2.5 million capital grant. The terms and conditions of funding included "low or no-cost access for municipal programming to Nova Scotia Regional Tennis Centre commensurate with the level of investment"[1]. The staff report stated that HRM could not provide any commitment to Tennis Canada regarding property tax status for the Centre prior to consideration of applications from other non-profit organizations. In the following year a non-profit society, the Nova Scotia Regional Tennis Development Association ("the Association"), was established for the purpose of acquiring and operating a tennis facility located in Bedford.

In 2018, the Association purchased the former DNTC facility which was then expanded through a multi-million-dollar investment supported by funding from three levels of government, fundraising, and a mortgage. In 2020, the Association requested full tax exemption based on the assertion that the facility was equivalent to that of Soccer Nova Scotia. Full exemption was not awarded, and the property was added to Schedule 29 of the tax relief program. Organizations on Schedule 29 receive a conversion from the Commercial to Residential tax rate which is equivalent to a two-thirds saving[2]. Although the level of tax relief under Schedule 29 was consistent with other tennis facilities in the region the Association has refuted this decision based on precedence (soccer), debt incurred during construction, and revenue structure (membership-based vs "public"). This report addresses Council's motion of referral with respect to the Association's current level of tax relief (Administrative Order 2014-001-ADM) and the proposed program re-design which is under development and subject to Regional Council's approval.

For an orientation to issues related to current practice and the proposed re-design concept readers are encouraged to review the following reports:

- Halifax Regional Council, February 7, 2023, Proposed Tax Relief for Non-Profit Organizations Program Redesign Concept, dated January 23, 2023.

- Halifax Regional Council, April 25, 2023, Proposed Tax Relief for Non-Profit Organizations Program Redesign, dated March 21, 2023.

The January 23, 2023 report is available online at halifax.ca or from the Office of the Municipal Clerk at 902.490.4210.

DISCUSSION

Precedence

A review of past practice has been undertaken as part of the proposed tax relief program re-design. The findings suggest that following precedence established before and immediately following amalgamation (1996) might have afforded organizations familiar with a municipal tax program or those with an established municipal funding relationship an advantage relative to later applicants. Precedence, in combination the capacity for self-representation and a lack of criteria to substantiate the different levels of tax grant (called

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[1] Report to Regional Council meeting of August 2, 2016, Tennis Canada Proposal, dated July 26, 2016 [Item 14.1.9].

[2] Report to the September 22, 2020, meeting of Regional Council, Tax Relief for Non-Profit Organizations: Fiscal Year 2020-2021. Part 1 – Proposed Amendments to Schedules, dated July 31, 2020, p.10 [Item 11.1.10].

Schedules), has resulted in unpredictable and inconsistent levels of assistance. For example, sailing, curling, tennis and rifle organizations have received a lower level of tax relief as compared to lawn bowls, snowmobiling, paddling, soccer, gymnastics, and baseball. The aim of the re-design is to establish criteria for each schedule to enhance consistency and predictability and to re-distribute financial assistance to standardize the level of relief[3]. If the re-design concept is approved by Regional Council, all sports organizations will be grouped in the same schedule[4].

Policy Clarification (Applicant Debt)

As noted in the report to Council (February 7, 2023) tax relief is <u>not</u> connected or related to any of the following:

- a municipal cash grant or contribution agreement;
- "alternate service delivery";
- a municipal development agreement;
- to mitigate an organization's debt;
- in relation to an organization's financial position; or
- designation as a registered heritage property.

Membership-Based Organizations

The tax relief program does not exclude membership-based organizations or make any distinction based on membership structure or rates. Rather, HRM's practice recognizes that some organizations rely on membership dues as a source of earned revenues and the capacity for revenue diversification varies significantly at the organizational level, within and between non-profit sectors. Membership can also afford participants an ability to vote at meetings, serve on committees, and to elect or serve on a Board of Directors. Organizations that choose not to implement membership fees could simply offset the revenue opportunity/loss through program or service fees. While membership-based clubs may offer limited access to non-members, most make instructional programs, special events, facilities, and equipment available to non-members to generate revenues, recruit members and volunteers, promote the sport, or to raise their public profile.

Status Quo Program - Nova Scotia Regional Tennis Development Association

Municipal property tax is calculated by dividing the assessed market value by 100 multiplied by the applicable tax rate. For property not classified as Residential or Resource the default tax rate is Commercial. The Commercial tax rate varies by location to reflect different municipal service levels in urban, suburban, and rural areas of the region[5]. The scale of any construction and age (depreciation) will also impact assessed market value and tax.

As shown below in Table 1 the Association purchased an existing facility which had a comparatively high market value (over $1 million dollars). Although there is no direct correlation between the dollar value invested and subsequent market value of an asset, especially for highly customized or specialized facilities, the expansion and retrofit undertaken by the Association significantly increased the assessed market value.

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[3] Recommendation to the February 7, 2023, meeting of Regional Council, Proposed Tax Relief for Non-Profit Organizations Program Redesign Concept, dated January 23, 2023 [Item 15.1.7].

[4] An exception may be made for a registered Canadian charity exclusively serving persons with a disability.

[5] In 2023 HRM will initiate commercial tax areas intended to reduce the commercial rate for downtown, community, and rural areas and redistribute the cost to business and industrial park areas.

When compared to most properties included in the tax relief program the *Sobey's Regional Tennis Centre* is considered large-scale and high value[6].

Table 1. Assessed Value 2019 to 2023
(Source: Property Valuation Services Corporation)

Year	Assessed Value	Change over Prior Year
2019	$1,293,500	
2020	$1,800,500	+$507,000
2021	$8,262,900	+$6,462,400
2022	$8,466,300	+$203,400
2023	$8,569,400	+$103,100

In 2020, the Association's property was assigned to Schedule 29 which was/is consistent with tennis facilities already accepted into the program. Namely, the South End Lawn Tennis Club, St. George's Lawn Tennis Club, and the Waegwoltic which although not exclusively tennis has ten courts and an established role in tournament hosting. Although grouping "like-with-like" did not address the disparity in level of tax relief provided to sports organizations, or any distinction between owner-occupied property versus leased property, work had commenced on a proposed re-design of the tax relief program to address the inconsistencies perpetuated by following precedence. If accepted by Council, the re-design will also help moderate the impact of location and real estate market activity.

Proposed Program Re-Design – Sport and Recreation Organizations

As proposed the number of schedules will increase and each will have specific eligibility criteria. The "default" schedule (Schedule E Community Benefit) accommodates eligible organizations accepted into the program that do not meet the criteria for any other schedule. Sport organizations have been assigned to Schedule C Cultural, Recreational, Environmental, and Community Transit Organizations. Although this is <u>not</u> "alternate service delivery" under contract to the Municipality, these facilities and the type of program or service they provide *might* correspond to and/or complement an established municipal service delivered directly by HRM. On February 7, 2023 Council deferred a decision on the proposed redesign pending a supplementary report reviewing Schedule C.

The proposed schedules and exemption levels are shown below in Table 2 but are subject to Regional Council's approval and may be amended during the development of a new Administrative Order. The column marked "Non-Profit Tax Benchmark" is a formula based on regional *residential* taxes and eliminates the need for a two-stage conversion (Commercial to Residential). The "Effective Rate" is the Tax Benchmark less the % exemption level. The Effective Rate is used to calculate the tax payable for each property and could be moderated for high value properties if Council accepts a maximum tax payable threshold per property. The proposed tax relief levels are expected to be implemented in fiscal year 2024/25 pending the approval of Regional Council.

Table 2. Proposed Tax Grant Formula by Schedule
(2022 Tax Benchmark)

Effective Rates (by Schedule)	Tax Benchmark (2022)	Exemption Level	Effective Rate (2022)

[6] In 2023, the assessed value of Soccer Nova Scotia's *BMO Soccer Centre* (3.9 acres) is $13,053,700 and assessed Commercial.

Schedule A	Housing and Dedicated Services for Persons with Special Needs	$1.100	100%	$0.000
Schedule B	Family Services, Child Care, and Dedicated Youth Services	$1.100	85%	$0.165
Schedule C	**Cultural, Recreational, Environmental, and Community Transit Organizations**	**$1.100**	**75%**	**$0.275**
Schedule D	Affordable Housing Rental Accommodations	$1.100	50%	$0.550
Schedule E	Community Benefit	$1.100	25%	$0.825
Schedule F	Vacant Property Under Development	$1.100	75%	$0.275
Schedule G	Federal Government Rapid Housing Initiatives Program	$1.100	100%	$0,000
Schedule H	Volunteer Search and Rescue Organizations (Interim)	$1.100	100%	$0.000
The Tax Benchmark will adjust periodically to reflect any change in the overall average residential tax rate (urban). A minimum tax payable per property is also proposed.				

Notes to Table 2:
1. The Tax Benchmark is based on Residential rates set by Council for the fiscal year.
2. Exemption Level is the tax grant expressed as a percentage.
3. The Effective Rate is equal to the Tax Benchmark rate, less the exemption level (%). The figures shown are theoretical and for demonstration purposes only.
4. Proposed minimum tax payable of $150 per property would be applied to all schedules.
5. Proposed maximum tax payable of $25,000 would be applied to all schedules.
6. Schedule D Affordable Housing Rental Accommodations differs from other Schedules insofar as there is a maximum payable per dwelling unit and a maximum payable threshold per property to address high value properties in a consistent manner.

It is important to note that standardized criteria and grant formulas by schedule will not result in organizations paying the same amount of tax. Some organizations will pay more than the stated maximum tax payable because some charges are excluded from tax relief:

- harmonized sales tax (applied to leases);
- rates or uniform charges applied for private roads;
- business improvement district levy
- fire protection levy
- property used as an employment-related benefit;
- fees, fines, or interest owned to the Municipality for tax arrears;
- charges imposed or fixed to a by-law, including a subdivision by-law;
- occupancy serving business, commercial, industrial or private interests;
- non-profit acreage subject to a reduction in tax under Section 29 of the Assessment Act; and
- other (at Council's discretion to add to the Administrative Order or subsequent new by-law charges).

Preliminary modelling of the impact of the proposed changes is based on fiscal year 2022. In that year the Association's total tax was $298,860 in 2022. Under Schedule 29 the tax payable was $97,701 (~33% of total tax) which reflects a saving of ~$201,159 (value of tax grant) to the owner by virtue of a conversion from the Commercial to Residential tax rate.

Under the initial redesign proposal presented to Regional Council on February 7, 2023, the Association would receive a reduction as shown below in Table 3 under the "Re-Design Tax Payable" column. However, although there was general acceptance of the redesign concepts, Council requested staff look at options to moderate the financial impact on "smaller" organizations as compared to "larger" organizations. To address Council's motion, staff modelled the impact of a maximum tax payable of $25,000 per property and also submitted an alternate option to introduce a tiered approach to tax relief for property with an assessed value of $1 million or above.

Under the alternative the "Effective Rate" for the applicable schedule would apply to the first $1 million of assessed value, the "effective rate" applied to the assessed value over $1 million would be that of the next (lower) exemption level. For example, a property in Schedule C would pay the Effective Rate for Schedule C ($0.275) for the first $1 million dollars of assessed value and the Effective Rate for Schedule D ($0.550) for the remaining assessed value over $1 million threshold. (See: Table 2 above for the list of effective rates by schedule).

The $1 million threshold is a proxy value for "larger" property and is an independent and objective measure provided by Property Valuation Corporation Services. The impact of a tiered approach is shown in Table 3 under the "Alternative Tax Payable" column.

Table 3. Comparison of Taxes Payable
Status Quo (Schedule 29) vs Proposed Program Re-Design (Schedule C)
(2022 Assessed Values and Municipal Tax Rates)

AAN	Name	Assessed Value 2022	Total Tax	2022 Tax Payable (Status Quo)	Re-Design Tax Payable (Proposed)	Alternative Tax Payable
10376531	Nova Scotia Regional Tennis Development Association (6.13 acres)	$8,466,300	$298,860	$97,701	$26,415	$46,947
04373944	South End Lawn Tennis Club (20,520 sq ft)	$1,197,200	$ 42,261	$13,813	$3,735	$4,278
04401638	St. George's Lawn Tennis Club (1.03 acres)	$ 616,700	$ 21,770	$7,117	$1.924	$1,924
04778561	Waegwoltic Limited (8.47 acres)	$8,965,200	$131,643	$43,180	$11,616	$19,105

Note: The modelling undertaken to date indicates that all four tennis facilities would see a reduction in tax payable under the redesign. However, although the Association's property is comparable to that of the Waegwoltic in terms of a high assessed market value, the amount of tax payable is lower for the Waegwoltic because they qualify under Section 29 of the Assessment Act for the non-profit acreage exemption which is applied only to land in excess of the first three (3) acres[7].

Leasing

In 2020, the Association entered into a Facility and Operating Lease Agreement with Tennis Nova Scotia, a registered non-profit, for an initial term of ten (10) years with the option to renew for two additional terms of five years each[8]. Under the agreement, Tennis Nova Scotia is responsible for the payment of property tax. This agreement does not impact the level of tax relief under current policy; Clause 5A (4) (c) permits the inclusion of tenancy if the lease is for a minimum term of five (5) years and the lease requires an eligible

[7] In 2022, the estimated saving to the club attributed to the acreage rate was an estimated ~$208,175.

[8] Initial lease expires October 1, 2030.

registered non-profit or charity to pay real property taxes on that portion of the premises they occupy. If this clause is met, Section 5B of the existing policy permits tax relief at the same level as the non-profit or charitable owner. However, staff is considering whether HRM can (1) provide tax relief to a party other than the owner and (2) bill a party that is not the property owner. The findings will inform the tax program re-design and the feasibility of expanding the scope of the program to include leasing in the private sector. In summary, because title to the property remains in the name of the Nova Scotia Regional Tennis Development Association (a registered society) the property remains eligible for tax relief, but the program schedules attached to the Administrative Order may need to be re-formatted for consistency. For example, by listing the name of the non-profit or charitable organization's owner, not the non-profit tenant(s).

FINANCIAL IMPLICATIONS

In fiscal 2022-2023. the program budget was $5,596,000 and the projected over-expenditure was $204,851 which can be attributed primarily to the cost of renewals (+$426,490) and additions (+$207,273). Consequently, the proposed program re-design must take account of any projected increased cost, the implications of a maximum tax payable threshold, and administrative capacity.

RISK CONSIDERATION

The cost of the Tax Relief for Non-Profit Organizations Program is expected to increase annually due in part to market conditions but also in relation to government investment in large-scale housing construction projects, sizeable construction or rehabilitation undertaken by local non-profit and charitable organizations, or property acquisitions.

An increase in level of tax relief for only one organization could pose reputational risk to the Municipality if perceived as preferential consideration.

COMMUNITY ENGAGEMENT

No community engagement was required in the preparation of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

The Grants Committee could recommend to Council that the Nova Scotia Regional Tennis Development Association be assigned to a different schedule to increase the level of tax relief in fiscal 2023/24.

<u>This option is not recommended</u>:

The selection of only one sport organization on Schedule 29 could provide an incentive for other organizations to request reconsideration. Typically, requests for an increase in level of tax relief are considered within the context of new applications seeking inclusion in the program.

The evaluation of applications for the 2024/25 fiscal year will take into consideration the impact of commercial tax boundaries (as applicable) and the program redesign, as well as the program's budget capacity in fiscal 2024/25. As proposed in the program redesign, participants in the program (2022) who believe they have been incorrectly assigned to a schedule will have the opportunity to provide documentation to that effect. These submissions will be considered under the 2024/25 tax relief program should the redesign be implemented next fiscal year.

ATTACHMENTS

No attachments.

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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