Minutes - Executive Policy Committee – June 22, 2005

Minute No. 410
Report - Standing Committee on Fiscal Issues - June 14, 2005

Item No. 1 Entertainment Funding By-law Exemption
File FL-6

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Committee on Fiscal Issues and submits the following to Council:

1. That the following amusements and/or places of amusement, which meet the criteria set forth in Schedule "B" of The Entertainment Funding By-law No. 7710/2000, be listed in Schedule "A":

   A. McConnell Irish Dancers Inc.
   B. Sarasvati Dramatic Theatre Productions and Repertory Inc.

2. That pursuant to Section 5 of Schedule "B" of the Entertainment Funding By-law No. 7710/2000 the following be listed as an amusement in Schedule "A" of the By-law, namely:

   A. Manitoba Theatre Centre - 2005/2006 Season of Performances at the Main Stage and Warehouse locations for the events:
      i. Crowns
      ii. Guys & Dolls
      iii. The Clean House

3. That the following amusements and/or places of amusement, that do not meet the criteria set forth in Schedule "B" of The Entertainment Funding By-law No. 7710/2000, be denied listing in Schedule "A":

   A. Manitoba Theatre Centre - 2005/2006 Season of Performances at the Main Stage and Warehouse locations for the events:
      i. The Innocent Eye Test
      ii. Cul-de-Sac

4. That pursuant to Section 347 of The City of Winnipeg Charter the taxes owing in respect of the McConnell Irish Dancers Inc. for the event titled "58th Year End Performance" held on June 11, 2005 at the Prairie Theatre Exchange be cancelled.

Minutes - Executive Policy Committee - June 22, 2005

Report - Standing Committee on Fiscal Issues - June 14, 2005

5. That the following amusements and/or places of amusement, that do not meet the criteria set forth in Schedule "B" of The Entertainment Funding By-law No. 7710/2000, be filed, inasmuch as information on the casting for these events cannot be confirmed as to whether or not the percentage of the performers will meet the local content requirement, namely:

    A. Manitoba Theatre Centre - 2005/2006 Season of Performances at the Main Stage and Warehouse locations for the events:
        i. A Christmas Carol
        ii. The Goat or Who is Sylvia
        iii. Fully Committed

6. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Minutes - Executive Policy Committee – June 22, 2005

Report - Standing Committee on Fiscal Issues - June 14, 2005

DECISION MAKING HISTORY:

Moved by Councillor Clement,

That the recommendation of the Standing Committee on Fiscal Issues be concurred in and forwarded to Council.

Carried

Zaz Bajon and Glen Dyrda, Manitoba Theatre Centre, submitted a copy of the Manitoba Theatre Centre 2005/2006 Season Entertainment Guide.

STANDING COMMITTEE RECOMMENDATION:

On June 14, 2005, the Standing Committee on Fiscal Issues concurred in the administrative recommendation as amended, namely:

- Administrative recommendations 1 and 2 recommending that amusements and/or places of amusement which meet the criteria set forth in Schedule "B" of The Entertainment Funding By-law No. 7710/2000 be listed in Schedule "A", be concurred in.

- Administrative recommendations 5 c and 5 e recommending that amusements and/or places of amusement that do not meet the criteria set forth in Schedule "B" of The Entertainment Funding By-law No. 7710/2000 be denied listing in Schedule "A", be concurred in.

- Administrative recommendations 3, 5 a, b and d not be concurred in,

Further, the Standing Committee on Fiscal Issues passed the following motion:

WHEREAS the Entertainment Funding By-law No. 7710/2000 ("the By-law") imposes a tax upon persons attending places of amusement;

AND WHEREAS section 6 of the By-law provides that no person shall be required to pay for attending an amusement, or place of amusement, that is listed in Schedule "A" of the By-Law;

AND WHEREAS the McConnell Irish Dancers Inc. has submitted an application for exemption of its 58th Year End Performance held June 11, 2005 which monies are owing and payable to the City in respect of amusement tax relating to that event;

Report - Standing Committee on Fiscal Issues - June 14, 2005

DECISION MAKING HISTORY (continued):

AND WHEREAS the McConnell Irish Dancers Inc.'s application for an exemption of its 58th Year End Performance held June 11, 2005 would have met the criteria for an exemption and listing in Schedule "A" of the By-law;

AND WHEREAS the McConnell Irish Dancers Inc.'s application for an exemption for its general listing of performances has been recommended for approval;

AND WHEREAS section 347 of The City of Winnipeg Charter provides that Council may, by by-law, cancel in whole or in part any taxes or any debt or money owing to the City;

THEREFORE BE IT RESOLVED THAT pursuant to section 347 of The City of Winnipeg Charter the taxes owing in respect of the McConnell Irish Dancers Inc.'s 58th Year End Performance held June 11, 2005 be cancelled.

Further, the Standing Committee on Fiscal Issues laid over consideration of the following amusement and/or place of amusement, that does not meet the criteria set forth in Schedule "B" of The Entertainment Funding By-law No. 7710/2000, namely:

2. B. The "FemFest" previously held on October 21 - 30, 2004 by Sarasvati Dramatic Theatre Productions and Repertory Inc. until such time as the organization's application for exemption for A Cabaret of Monologues held on March 11 - 12, 2005 comes forward.

ADMINISTRATIVE REPORT

RE: RECOMMENDATION FOR ENTERTAINMENT FUNDING BY-LAW EXEMPTION – JUNE 2005

FOR SUBMISSION TO: STANDING COMMITTEE ON FISCAL ISSUES

ORIGINAL REPORT SIGNED BY: CHIEF FINANCIAL OFFICER

REPORT DATE: June 3, 2005

RECOMMENDATION(S):

That the following amusements and/or places of amusement, which **meet** the criteria set forth in Schedule "B" of The Entertainment Funding By-law No. 7710/2000, be recommended to Council for listing in Schedule "A":

1. McConnell Irish Dancers Inc.
2. Sarasvati Dramatic Theatre Productions and Repertory Inc.

That the following amusements and/or places of amusement, that **do not meet** the criteria set forth in Schedule "B" of The Entertainment Funding By-law No. 7710/2000, be denied listing in Schedule "A":

3. McConnell Irish Dancers Inc. for the event titled "58th Year End Performance" to be held on June 11, 2005 at the Prairie Theatre Exchange
4. The "FemFest" previously held on October 21st – 30th, 2004 by Sarasvati Dramatic Theatre Productions and Repertory Inc.
5. Manitoba Theatre Centre – 2005/2006 Season of Performances at the Main Stage and Warehouse locations for the events:
    a. Crowns
    b. Guys & Dolls
    c. The Innocent Eye Test
    d. The Clean House
    e. Cul-de-Sac
    f. A Christmas Carol
    g. The Goat or Who is Sylvia
    h. Fully Committed

REPORT SUMMARY:

Key Issue(s):

The Administrative recommendations contained within this report have been made in accordance with the criteria set forth in the Entertainment Funding By-law No. 7710/2000.

Notwithstanding these recommendations, particularly those recommendations which deny a listing under Schedule "A", the By-law does contain provisions which would allow Council to provide an exemption for amusements and/or places of amusements which would otherwise be subject to the tax.

Implications of the Recommendation(s):

General Implications

	None
	For the organization overall and/or for other departments
X	**For the community and/or organizations external to the City**
	Involves a multi-year contract

Comment(s): Council may exercise its discretion and approve exemptions on amusements that fall outside the listing principles contained in the By-law.

Policy Implications

x	**No**
	Yes

Comment(s):

Environmental Implications:

x	**No**
	Yes

Comment(s):

Human Resources Implications:

x	**No**
	Yes

Comment(s):

Financial implications

x	**Within approved current and/or capital budget**

☐ **Current and/or capital budget adjustment required**

Comment(s): The financial impact of an approved application for exemption from the Entertainment Funding Tax is unknown. The tax revenue that could be generated from future events cannot be quantified.

REASON FOR THE REPORT:

Council must approve all Entertainment Funding By-law exemptions and may consider providing exemptions for amusements that would otherwise be denied an exemption.

HISTORY:

The Entertainment Funding By-law No. 7710/2000 was adopted in September 2000, wherein the former Amusement Tax By-law was replaced. A report to the Standing Committee on Fiscal Issues is prepared for each scheduled meeting if an application for exemption is received. The report was first submitted for the meeting of January 16, 2001 and for each meeting thereafter as required.

DISCUSSION:

An amusement or place of amusement may be listed in Schedule "A" where an organization has submitted an application for exemption. Listings are intended to assist locally based charitable and not-for-profit cultural or athletic organizations in producing entertainment and sporting events with admission prices at a level which will encourage a broad audience. Listings are not intended to apply where an amusement is held for fund raising events in which the performers or promoters profit or where the exemption would result in for-profit gains.

An exemption listing which has been provided in section 2 of the bylaw for an indefinite term or for season program **does not apply** to any performance that is:

a) a for-profit production, including a for–profit touring production which is offered through a bidding process;
b) mounted and assembled outside the City and has limited local content; or
c) is not directly held by the listed organization;
d) intended for fundraising purposes, except in the circumstances set out in section 3 of Schedule "B" of the by-law;

unless that performance has been specifically listed.

The Administration has conducted a thorough review of the applications received for exemption from the Entertainment Funding By-law in accordance with the criteria set forth in Schedules "A" and "B" of By-law No. 7710/2000.

<u>Recommended for Exemption</u>

The following amusements and/or places of amusement are being recommended for exemption listing in Schedule "A":

1. ***McConnell Irish Dancers Inc.***

2. ***Sarasvati Dramatic Theatre Productions and Repertory Inc.***

Not Recommended for Exemption

The following amusements and/or places of amusement are not recommended for exemption listing in Schedule "A": (Appendix "I" of this Report provides a table further illustrating the eligibility criteria that were not met.)

3. ***McConnell Irish Dancers Inc. for the event titled "58th Year End Performance" to be held June 11, 2005 at the Prairie Theatre Exchange.***

The ***McConnell Irish Dancers Inc.*** submitted an application for exemption for their "58th Year End Performance" to be held on June 11, 2005. It is recommended that this application be denied as their event will be held prior to the June 29, 2005 Council meeting (see Appendix "I"). If this recommendation is supported by Council, this organization will be required to submit the entertainment funding tax for this event.

It is noted that ***McConnell Irish Dancers Inc.*** has applied, and is being recommended for, a general exemption listing. The event "58th Year End Performance" meets the criteria for exemption but is being recommended for denial based on the fact the event will be held prior to their potential listing.

4. ***FemFest held by Sarasvati Dramatic Theatre Productions and Repertory Inc.***

Sarasvati Dramatic Theatre Productions and Repertory Inc. submitted an application for exemption for the FemFest 2004 which was held in October, 2004. It is recommended that this application be denied as this organizations' event was held prior to the June 29, 2005 Council meeting. If this recommendation is supported by Council, this organization will be required to submit the entertainment funding tax for this event.

It is noted that **Sarasvati Dramatic Theatre Productions and Repertory Inc.** has applied, and is being recommended for, a general exemption listing. The event "FemFest 2004" meets the criteria for exemption but is being recommended for denial based on the fact the event was held without an exemption listing.

5. ***Manitoba Theatre Centre -2005/2006 Season of Performances Main Stage and Warehouse***

Although the **Manitoba Theatre Centre** (MTC) is currently listed in Schedule "A", they have applied for exemption for the remaining performances in their 2005/2006 season of performances both at the main stage as well as at the

warehouse, that have not already been granted an exemption from the entertainment funding by-law (see Appendix "II").

The following performances as part of the 2005/2006 season have not been recommended for exemption as these productions are not directly held by MTC (see Appendix "I").

MTC – Main Stage:

- Crowns – a co-production with Canstage Theatre which is a not-for-profit theatre from Toronto and with the National Arts Centre which is a not-for-profit theatre from Ottawa.
- Guys & Dolls – a co-production with the Citadel Theatre which is a not-for-profit theatre from Edmonton and with the Calgary Theatre which is a not-for-profit theatre group.
- The Innocent Eye Test – a co-production with Mirvish Productions which is a for-profit theatre from Toronto.
- The Clean House – a co-production with The Playhouse Theatre which is a not-for-profit theatre from Vancouver.

MTC – Warehouse:

- Cul-de-Sac – is being presented by Da Da Kamera which is a not-for-profit theatre from Toronto.

The following performances as part of the 2005/2006 season of performances have been requested for exemption from MTC, however we are unable at this time to make a recommendation as these performances have yet to be cast. Therefore MTC is unable to confirm that they will meet the local content requirement for these performances.

MTC – Main Stage:

- A Christmas Carol

MTC – Warehouse:

- The Goat or Who is Sylvia
- Fully Committed

However, once these productions have been cast, it is MTC's responsibility to ensure that the local content requirement is met. If MTC fails to meet the minimum 60% local content requirement, a separate application for exemption must be submitted for consideration by Council or the tax collected and remitted.

Other Considerations

It is noted that, notwithstanding the recommendation that a season of performances or a festival does not meet the criteria for a general exemption listing, the by-law provides for Council to list the performances in specific circumstances. The relevant By-law provisions have been attached as Appendix "III" to this report. These include circumstances where:

(a) the performance has limited local content but is to be offered by a locally based charitable or not-for-profit cultural or athletic organization as part of a festival, event, or season of performances and, in the opinion of Council, the limited local content will complement and enhance the ability of that organization to produce entertainment and attract a broad audience; and

(b) the amusement is not directly held by a charitable or not-for-profit cultural or athletic organization, but where Council is satisfied that:

- such a listing is in keeping with the Listing Principles;
- the organization demonstrates in writing that the compliance with a term, or terms, of the By-law may cause unreasonable hardship; and
- where possible, alternate arrangements proposed by the organization present a reasonable alternative in the circumstances of the particular organization.

FINANCIAL IMPACT STATEMENT - Date: June 3, 2005

The financial impact of approving applications for exemption from the entertainment funding tax is unknown for the listed events. The tax revenue that could be generated from these events cannot be quantified because the events have not yet occurred.

"Original signed by Carrie Erickson"
Carrie Erickson
Manager of Finance & Administration

3012

IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

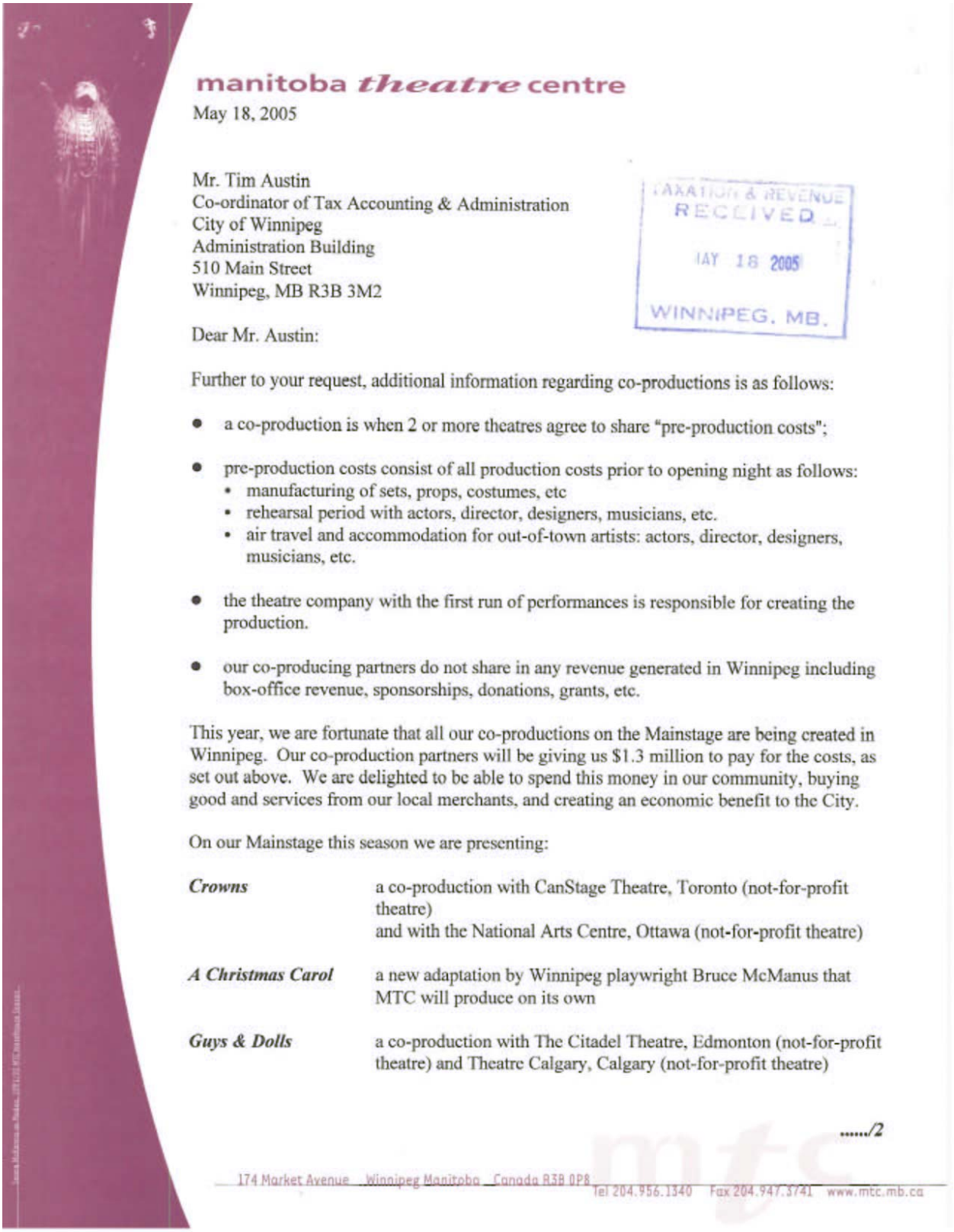
THIS REPORT SUBMITTED BY:

Corporate Finance Department
Taxation & Revenue
Prepared by: Robert Weselowski, Manager of Taxation and Revenue
File No. Fiscal Issues Entertainment Funding June 2005.doc

APPENDIX "I"

Name of Organization	Name of Event	Criteria Not Satisfied
McConnell Irish Dancers Inc.	• 58th Year End Performance	Event will be held prior to Council's June 29, 2005 meeting. The By-law does not contain provisions which would allow for the retroactive listing of an amusement.
Sarasvati Dramatic Theatre Production and Repertory Inc.	• FemFest	Event was held without an exemption listing. The By-law does not contain provisions which would allow for the retroactive listing of an amusement.
Manitoba Theatre Centre	Main Stage (co-productions): • Crowns • Guys & Dolls • The Innocent Eye Test • The Clean House Warehouse (co-productions): • Cul-de-Sac	The amusement is not directly held by the organization.
	Main Stage: • A Christmas Carol Warehouse: • The Goat or Who is Sylvia • Fully Committed	It is currently unknown if the percentage of the performers will meet the local content requirement as each play has yet to be cast.

APPENDIX "II"



manitoba *theatre* centre

May 18, 2005

Mr. Tim Austin
Co-ordinator of Tax Accounting & Administration
City of Winnipeg
Administration Building
510 Main Street
Winnipeg, MB R3B 3M2

TAXATION & REVENUE
RECEIVED
MAY 18 2005
WINNIPEG, MB.

Dear Mr. Austin:

Further to your request, additional information regarding co-productions is as follows:

- a co-production is when 2 or more theatres agree to share "pre-production costs";
- pre-production costs consist of all production costs prior to opening night as follows:
  - manufacturing of sets, props, costumes, etc
  - rehearsal period with actors, director, designers, musicians, etc.
  - air travel and accommodation for out-of-town artists: actors, director, designers, musicians, etc.
- the theatre company with the first run of performances is responsible for creating the production.
- our co-producing partners do not share in any revenue generated in Winnipeg including box-office revenue, sponsorships, donations, grants, etc.

This year, we are fortunate that all our co-productions on the Mainstage are being created in Winnipeg. Our co-production partners will be giving us $1.3 million to pay for the costs, as set out above. We are delighted to be able to spend this money in our community, buying good and services from our local merchants, and creating an economic benefit to the City.

On our Mainstage this season we are presenting:

Crowns	a co-production with CanStage Theatre, Toronto (not-for-profit theatre) and with the National Arts Centre, Ottawa (not-for-profit theatre)
A Christmas Carol	a new adaptation by Winnipeg playwright Bruce McManus that MTC will produce on its own
Guys & Dolls	a co-production with The Citadel Theatre, Edmonton (not-for-profit theatre) and Theatre Calgary, Calgary (not-for-profit theatre)

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174 Market Avenue Winnipeg Manitoba Canada R3B 0P8
Tel 204.956.1340 Fax 204.947.3741 www.mtc.mb.ca

The Innocent Eye Test	a co-production with Mirvish Productions, Toronto (for-profit theatre), which will be part of their 5-week subscription series at the Royal Alexandra Theatre. this will be a world premiere of a new Canadian play, hardly usual fare for a not-for-profit theatre
The Clean House	co-production with The Playhouse Theatre, Vancouver (not-for-profit theatre)
Driving Miss Daisy	cultural exchange production with Rubicon Theatre, Ventura, CA **Exempted**

Co-productions have enabled MTC to balance the budget and to continue to provide the diverse programming that presently exists at MTC: the 6-play Mainstage season, the 4-play Warehouse season, the annual Regional Tour, school programming, the annual Winnipeg Fringe Theatre Festival, and the Master Playwrights Festival.

Without co-productions, MTC would have gone the way of other regional theatres and eliminated all its programming except for a 5-play season on the Mainstage.

The MTC Warehouse season for 2005/06 is as follows:

The Goat, or Who is Sylvia	MTC producing
Cul-de-Sac	being presented by Da Da Kamera, Toronto (not-for-profit theatre)
Long Day's Journey into Night	MTC's production for the Master Playwrights Festival - **Exempted**
Fully Committed	MTC producing

I would like to reaffirm that the intent of the By-law was to exempt not-for-profit charitable organizations like MTC so we could avoid asking for exemptions on an annual basis, as was required by the original Amusement Tax By-law. MTC is listed in the By-law as an organization that is exempt.

This By-law was revised to stop the abuses that arose when charitable organizations sponsored **Commercial Road Shows** in large venues. At the time the By-law was revised, MTC was told that as long as we stayed in our own venue and did what we normally did, we would be exempt from the tax.

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The Winnipeg Arts Council, an agency of the City, provides funding to MTC because MTC is a not-for-profit charitable arts organization.

As you are already aware, many cities and provinces do have a similar tax but exempt all cultural not-for-profit charitable organizations, like MTC.

We believe the By-law, as it is presently written, discriminates against theatre in favour of other art forms, because of it's emphasis on local performers. Our sister arts organizations — the Royal Winnipeg Ballet, the Winnipeg Symphony Orchestra and the Manitoba Opera — all rely on large resident companies and a small number of visiting artists, which the nature of our art form dictates that the array of artists must change substantially with each production. Our theatre also builds more sets, props and costumes than the RWB, the WSO and the MO combined, yet the By-law fails to take into consideration the large number of local artisans who are not visible to an audience.

MTC has been doing exactly the same thing for the past 47 years — providing world-class theatre to Winnipeggers, and during that period of time the City has exempted us from collecting an amusement or entertainment tax.

The recent recommendation exempting only programming with significant local content is unworkable, as subscription tickets are being sold well before casting is complete.

Currently, we have approximately 17,000 subscribers at the Mainstage and approximately 3,000 subscribers at the MTC Warehouse. We have tried to make our programming accessible to all, and with the variety of price packages available, our subscribers do come from every area of the City (see map attached). We are very proud of the fact that MTC has more household subscribers than all the other cultural groups combined, in part due to the contribution of the 1,000 volunteers who work here every year.

In conclusion, we ask that you exempt the balance of our season so that we can continue providing theatre art to all individuals in our community.

Thank you for your on-going support.

Yours truly,

Zaz Bajon
General Manager

APPENDIX "III"

The Entertainment Funding By-law No. 7710/2000

Schedule B

Listing Principles

An amusement or place of amusement may be listed in Schedule A where an organization has made application for an exemption as hereinafter set out. Listings are intended to assist locally based charitable and not-for-profit cultural or athletic organizations in producing entertainment and sporting events with admission prices at a level which will encourage a broad audience. Listings are not intended to apply where an amusement is held for fund raising events in which the performers or promoters profit or where the exemption would result in for-profit gain.

Part 1 - Criteria

Definitions:

1 In this schedule:

"charitable organization" includes an organization registered as a "charity" with Revenue Canada;

"cultural organizations" includes organizations providing the following types of amusements: musical, artistic, ethno-cultural, museums, galleries and exhibits of a non-commercial nature;

"identifiable group" means a section of the public distinguished by age, ancestry, nationality, gender, ethnic background, religion or belief;

"not-for-profit cultural or athletic organization" means an organization which:
(a) is organized without share capital;
(b) has a governing body elected democratically by the membership;
(c) less than 50% of the organization's directors are "related" persons; and
(d) has a membership criteria such that membership in the organization is open to the public, or an identifiable group, for no, or minimal consideration;

"related persons" means individuals who are related to each other by blood, marriage, adoption, common-law relationship, or close business or corporate association (e.g., business partners, employee and employer). Individuals or groups can also be related to a corporation in which they have a controlling interest. Persons related to these individuals are also related to the corporation.

Scope re listings for charitable or not-for-profit cultural or athletic organizations

2 Listings may be provided for the performance of amusements where:

(a) the amusement is directly held by a charitable or not-for-profit cultural or athletic organization;

(b) the amusement to be held is directly related to the character of the organization;

(c) the organization is financially sound, or where in a deficit position, the organization is able to demonstrate a sound deficit reduction plan;

(d) the organization renders a service to an identifiable group while being of a general benefit to the community as a whole; and

(e) net revenues will be used to further the organization's undertaking or purpose.

Fund raising activities

3 An amusement which is intended for fund raising may be listed where:

(a) the amusement is directly held by a charitable or not-for-profit organization; and,

(c) individuals participating in the amusement each receive no more than $50.00 in remuneration for their services, in addition to reimbursement for reasonable expenses related to their participation in the amusement.

amended 7844/2001

Limited Local Content

4 Performances which have limited local content may only be considered for listing where the performance is to be offered by a locally based charitable or not-for-profit cultural or athletic organization as part of a festival, event, or season of performances and, in the opinion of Council, the limited local content will complement and enhance the ability of that organization to produce entertainment and attract a broad audience.

Council may vary provisions

5 Notwithstanding any other provision of Schedule "B", an amusement, or place of amusement, that is not within the scope of sections 2, 3 or 4 may be listed in Schedule "A" where Council is satisfied:

(a) such a listing is in keeping with the Listing Principles set out herein;

(b) the organization demonstrates in writing that the compliance with a term, or terms, of this By-law may cause unreasonable hardship; and

(c) where possible, alternate arrangements proposed by the organization present a reasonable alternative in the circumstances of the particular organization.