Minutes – Executive Policy Committee – April 22, 2009

REPORTS

Minute No. 236 La Maison Gabrielle-Roy Inc. – Request for a Municipal Tax Exemption
eFile FL-2.5

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service, that pursuant to City Council's existing policy, the request for a Grant in lieu of taxes be denied.

Further, the Executive Policy Committee referred the issue of overall funding for La Maison Gabrielle-Roy Inc. to the City of Winnipeg Museums Board.

DECISION MAKING HISTORY:

Moved by Councillor Fielding,

That the recommendation of the Winnipeg Public Service be concurred in, namely, that pursuant to City Council's existing policy, the request for a Grant in lieu of taxes be denied;

And That the issue of overall funding for La Maison Gabrielle-Roy Inc. be referred to the City of Winnipeg Museums Board.

Carried

RE: LA MAISON GABRIELLE-ROY INC. - REQUEST FOR A MUNICIPAL TAX EXEMPTION

FOR SUBMISSION TO: **EXECUTIVE POLICY COMMITTEE**

ORIGINAL REPORT SIGNED BY: **DEPUTY CHIEF ADMINISTRATIVE OFFICER / CHIEF FINANCIAL OFFICER**

REPORT DATE: **January 19, 2009**

RECOMMENDATION:

1. That pursuant to City Council's existing policy, the request for a Grant in lieu of taxes be denied.

Report Summary

Key Issues:

- La Maison Gabrielle-Roy Inc. is the non-profit organization that owns and operates Maison Gabrielle-Roy Museum. The museum property is exempt from the payment of school/education related taxes. However, La Maison Gabrielle-Roy Inc. is required to pay municipal taxes.

- La Maison Gabreille-Roy Inc. has an outstanding tax liability of $9,703.38 representing municipal taxes owing for 2007 and 2008.

- La Maison Gabreille-Roy Inc. has formally requested ongoing financial assistance from the City in the amount of its municipal taxes.

- Over the past 37 years, City Council has adopted a number of policy positions concerning Grants in lieu of taxes. The intent of these various policies continues to be relevant when considering providing financial assistance to museums.

- City Council's existing policy does not allow for Grants in lieu of property taxes. However, in the few instances that Council has provided financial assistance, the assistance has been provided through one-time or time-limited grants which are both transparent and subject to periodic review.

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): Providing a Grant for the payment of property taxes is contrary to existing Council policy and would set a precedent which may result in other organizations making requests for similar consideration.

Policy Implications

( ) No

(X) Yes

Comment(s): In 1972, Council adopted a policy of not providing Grants for the payment of property taxes. This policy was reconfirmed by the Executive Policy Committee as recently as February 2001.

Regulatory Implications

(X) None

( ) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s):

Environmental Implications

(X) No

( ) Yes

Comment(s):

Human Resources Implications

(X) No

( ) Yes

Comment(s):

Financial Implications

( ) Within approved current and/or capital budget

() Current and/or capital budget adjustment required

Comment(s): There are no financial implications are contained herein.

Report

REASON FOR THE REPORT:

At its meeting on October 2, 2008, the Standing Policy Committee on Property and Development directed the Winnipeg Public Service to review a request from La Maison Gabrielle-Roy Inc. for a municipal tax exemption and report back to the committee.

HISTORY:

La Maison Gabrielle-Roy Inc. (the "property owner") has owned the property at 375 Deschambualt (the "property") since March 7, 1997 and has used the property as a museum honoring the life of French Canadian author Gabrielle Roy since June 19, 2003.

Prior to being owned by La Maison Gabrielle-Roy Inc. and the official opening of the museum, the property was used as a residential property.

In conjunction with the official opening of the La Maison Gabrielle-Roy museum, the property became eligible for school/education tax exemption under section 23(1)(j) of the *Municipal Assessment Act*. However, in order for municipal taxes to also be exempt under *The Municipal Assessment Act*, City Council must first adopt a by-law pursuant to clause 22(1)(l) of *The Municipal Assessment Act*. To date, no such by-law has been adopted by City Council for any museum property.

Currently, municipal taxes on the property totaling $9,703.38 remain unpaid for 2007 and 2008.

In a letter dated September 15, 2008, the property owner requested that the Riel Community Committee consider a municipal tax exemption or a Grant equivalent to municipal taxes be extended to the property.

On October 2, 2008, the Standing Policy Committee on Property and Development directed the Winnipeg Public Service to review the request from the property owner for a municipal tax exemption and report back to the committee.

DISCUSSION:

The issue of providing financial support (e.g. Grants in lieu of property taxes) has been in existence since the formation of Unicity. Since 1972, City Council has addressed this issue on a number of occasions and has developed policy which continues to be applied today.

Policy Provisions

On May 17, 1972, Council adopted a policy that eliminated all Grants in lieu of taxes commencing with the year 1973. In addition, all Grants in lieu of taxes were not extended in the year 1972 to any association that did not enjoy this privilege in the year 1971.

It should be noted that on February 21, 2001, the Executive Policy Committee passed the following motion:

***"WHEREAS** on May 17, 1972, Council adopted a recommendation of the Committee on Finance that "it be the policy of the City that no Grants in lieu of taxes be made in future, commencing with the year 1973…."*

***AND WHEREAS** the City continues to receive various requests for Grants for the purpose of making tax payments.*

***THEREFORE BE IT RESOLVED** that the Administration be directed to reply to any requests for Grants to pay taxes, citing the applicable Council decision, and advising that such Grants are contrary to Council policy."*

The Public Service continues to deny requests for Grants in lieu of taxes on the basis of the above noted direction from the Executive Policy Committee. Council's current policies regarding the provision of tax relief are clear.

Legislative Provisions

The City of Winnipeg Charter:

The Public Service does not have the administrative authority to provide tax relief. When a request is made for any type of tax relief, the Public Service will deny the request on the basis of existing Council policy. In cases where the requestor has pursued tax relief directly at the political level, the requests are presented to Council for consideration.

Council's decisions with respect to requests for tax relief or financial assistance have been made in consideration of two distinct options available under the City of Winnipeg Charter ("the Charter"). These options are contained under section 347 of the Charter (Cancellation of Taxes) or subsection 218(1) which deals with Financial Assistance.
Section 347 of the Charter states:

> *347 Council may by by-law cancel in whole or in part any taxes or any debt or money owing to the city, other than local improvement taxes.*

Section 347 of the Charter provides some latitude and discretion in the cancellation of taxes for any number of purposes, as long as it is not exercised in bad faith or discriminatorily. Cancelling taxes under a by-law could set a precedent in dealing with other similar tax relief requests.

With respect to financial assistance, subsection 218(1) of the Charter states:

> *218(1) Council may provide financial assistance*
>
> *(a) to assist a charitable or non-profit organization, association or corporation;*
> *(b) to aid sports and recreation;*
> *(c) to support economic and cultural development;*
> *(d) to improve, preserve, repair, maintain, convert or develop any property in the city; or*
> *(e) for any other purpose that council considers may be in the interests or to the advantage of the city or its citizens.*

The Charter also allows for financial assistance to be in form of a grant, tax credit, loan or loan guarantee.

The financial assistance provisions under subsection 218(1) of the Charter have been used more frequently when dealing with funding and tax relief matters than the by-law option available under section 347. When favorable consideration is given to a request for financial assistance to offset taxes pursuant to subsection 218(1) of the Charter, in most cases, only the municipal portion of the tax is offset. There has been reluctance to grant money for Provincial Education or School Division taxes and the penalties accrued on these amounts as well as any charges such as those for local improvements.

It should be noted that in order for a property to continue to receive either a cancellation of taxes pursuant to section 347 of the Charter or financial assistance to offset taxes pursuant to subsection 218(1) of the Charter, a by-law or approval for financial assistance is required each and every year for which the tax relief is sought.

The Municipal Assessment Act:

The Municipal Assessment Act ("the MAA") provides an additional avenue for municipal tax relief but only on properties that are already exempted from school tax. Under subsection 23(1) of the MAA, real property is exempt from school taxes if it is owned (or held under leasehold title) and used for such things as a nursing home, seniors housing, legion, community association, service club or a museum.

If a property has received a school tax exemption under subsection 23(1) of the MAA, subsection 22(1) of the MAA allows for an exemption from municipal taxes as follows:

> *22(1) Subject to sections 25 and 26, real property is exempt from taxation levied by a municipality, other than for local improvements, where the real property*
>
> *(l) is exempt from school taxes under subsection 23(1) and is exempted by by-law of the municipality from taxation for municipal purposes;*

In most cases, properties owned and used by a charitable organization for the purposes of a museum have received a school tax exemption. However, the City has not passed any by-laws under 22(1)(l) of the MAA to further exempt a museum from municipal taxation. Therefore, most museums continue to pay municipal taxes. One of the reasons is that a by-law passed by council under clause 22(1)(l) of the MAA remains in effect in perpetuity or until the by-law is repealed. In other words, the exemption by-law is not required to be reconsidered annually. In addition, it not only establishes a precedent for other charitable organizations but the lost municipal tax continues on an annual basis for an indefinite period.

The Centennial Projects Tax Status Act:

The *Centennial Projects Tax Status Act* was intended to exempt from real property tax projects conceived "as the principal memorial in the province to the centennial anniversaries of the Confederation of Canada and the inclusion of Manitoba as a province of Canada".

The *Centennial Projects Tax Status Act* and the *Municipal Assessment Act* are read together with respect to assessable property and municipal realty taxation. The *Municipal Assessment Act* defines assessable property. However, included in this definition is an exemption for real and personal property that is part of a "centennial project".

The *Centennial Projects Tax Status Act* sets out specific properties that are to be treated as centennial projects and therefore are not assessable property and are not subject to realty taxation. Over time, the *Centennial Projects Tax Status Act* has been used to exempt properties which are not technically centennial projects. Properties listed under the *Centennial Projects Tax Status Act* are exempt from taxation in perpetuity.

The Province of Manitoba is responsible for listing properties under the *Centennial Projects Tax Status Act*. City Council has requested to the Province of Manitoba that no further properties be added under the *Centennial Projects Tax Status Act,* and further, Council additionally requested that grants in lieu of taxes be provided for these listed properties.

Conclusion

There are municipal service costs associated with every property in the City of Winnipeg. To grant an exemption from municipal taxation to any property does not erase these municipal costs, it merely transfers them to all other property tax payers within the municipality. It bestows a benefit to only those who use the property, the cost of which is borne by users and non-users alike.

The principal weakness in utilizing the property tax to assist various organizations is that exemptions constitute a hidden subsidy. While the assistance granted to an organization may be justifiable, the use of grants is more transparent as decisions are made as part of the budget process.

If Council decides to financially support an organization, then these organizations should be subsidized directly in the form of grants rather than on the basis of their real property taxes. In this way, the subsidies that are paid are established openly and subject to review and amendment by the elected representatives according to their interpretation of the public interest.

Financial Impact Statement Date:

Project Name:

COMMENTS: There are no financial implications associated with this report.

Original Signed by
Brad Cull, Manager, Taxation and Finance

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

External Consultation With:

THIS REPORT SUBMITTED BY:

Department: Assessment and Taxation Department
Division: Support Services and Strategic Planning
Prepared by: Mel Chambers, Manager Support Services & Strategic Planning / Deputy City Assessor
File No.