

THE CORPORATION OF THE CITY OF WINDSOR
Office of the City Treasurer - Finance

**MISSION STATEMENT:**

"Our City is built on relationships – between citizens and their government, businesses and public institutions, city and region – all interconnected, mutually supportive, and focused on the brightest future we can create together."

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To: Mayor and Members of City Council

Subject: Request for Waiver of Property Taxes - Spirit of Excellence

1. RECOMMENDATION: City Wide: _____ Ward(s): 5

THAT City Council **DENY** the waiver of property taxes.

EXECUTIVE SUMMARY:

N/A

2. BACKGROUND:

Municipal property taxation is the City's fundamental source of revenue from which both operating and capital projects are funded. Apart from the tax rate, an individual property owner's share of property taxes is primarily dependent upon two factors; assessment value and tax classification, both of which are determined by the Municipal Property Assessment Corporation (MPAC).

The ability for municipalities to grant relief for property taxes once levied is limited to specific programs as allowed under the Ontario Municipal Act, 2001 (the Act). Examples include rebates for vacancy, repairs & renovations, building demolitions, charities and heritage properties. Applications must be made to Administration and eligibility is considered each year on a case by case basis. Full and/or partial exemptions from property taxes on an ongoing basis are available however are done under Section 3 of the Ontario Assessment Act. Property owners wanting an exemption must make application through MPAC. If deemed eligible by MPAC, the returned assessment is coded as exempt thereby not attracting a tax bill.

3. DISCUSSION:

In February 2005, Colleen and John Kosti took occupancy of two properties located at 1012 & 1018 Drouillard Rd. for the purpose of operating their non-profit charitable organization Ministry of Role Modelling The Spirit of Excellence Inc. (Spirit of Excellence). Later that year (approximately July 2005) they purchased the property, holding title personally until 2007 when ownership was transferred to the organization. At the time of purchase (in 2005) total property taxes were in excess of \$10,900 annually (\$6,087 for 1012 Drouillard and \$4,894 for 1018 Drouillard respectively).

According to Spirit of Excellence web-site; their vision is *"to connect young people with qualified mentors to develop their potential personally, professionally and artistically inspiring a lifestyle of excellence"*.

Their mission *"aims at creating lives of excellence, through working with artists and professionals, locally and globally, to help young people discover their unique, God-given creativity and develop mastery and leadership skills in a creative, safe, confidence-building environment. These opportunities will help to make history for SOE participants by enhancing their vision for dreaming their dreams and then providing them the resources and mentorship to accomplish them and uniting them with global opportunities for their future"*.

To reduce the property tax burden an application was made to MPAC for tax exemption under Section 3 of the Ontario Assessment Act. In September 2007, a decision to deny the application for exemption was made by MPAC. A review by MPAC's Policy and Legislative Branch found that the organization did not meet several of the conditions as prescribed under the Assessment Act. In December 2007 a Notice of Application was filed in Superior Court by Spirit of Excellence requesting a review and reconsideration of MPAC's decision. In March 2013, by way of Court Order, notwithstanding MPAC's reasons for denial, Spirit of Excellence was provided with tax exempt status effective for tax years 2007 and subsequent years. The Court Order does not cover the period of time from date of purchase (mid 2005) or 2006 when the property was held personally by the Kosti's.

Property taxes have not been paid since acquisition in 2005. Since the exemption was being challenged in the courts, a registration certificate for non-payment of taxes was being held in abeyance. In compliance with the Court Order, Administration has now removed all taxes levied as it relates to billings effective with tax year 2007. The adjustment also included any penalties and/or interest which accumulated on those years on the basis that those taxes should not have been levied and therefore should not have attracted penalties and interest. What are remaining are the taxes, inclusive of penalties and interest, for part year 2005 and full year 2006. As of the writing of this report total outstanding taxes are \$15,890.34. The Kosti's are requesting that City Council consider a waiver of the outstanding property taxes as they do not have sufficient funds to pay this amount. To do so would require that City Council provide a grant to the Kosti's which would be applied to the outstanding property tax balance.

Administration is not in support of this request. During the years for which the property was held personally, application was made under the charity relief program and tax adjustments in each of those years were provided (credit for 40% of the taxes). To provide a grant could result in other person(s)/organizations coming forward requesting similar treatment. Nonetheless, should City Council determine that in this case a grant is warranted, the amount of the grant could be set from within the following alternatives:

- Option 1: Grant of \$15,890.34 (i.e. waiver of the full amount of taxes including penalties and interest). The grant would be made on the basis have that the personal ownership at that time was merely a formality as evidenced by the later ownership transfer to the actual charitable organization.
- Option 2: Grant of \$12,090.82 (i.e. waiver of the full amount of taxes leaving the outstanding penalties and interest of \$3,799.52 due). The grant would be made on the same basis as Option 1 above however during the course of time that the exemption was being considered, other sources of municipal funding was required to fund municipal operations. Under any of the tax relief program and/or provisions, there is the expectation that property taxes are to be paid when due and subsequent refunds/credits are to be issued at the time that relief is granted.
- Option 3: Grant of \$3,799.52 (i.e. waiver of the full amount of penalties and interest leaving the taxes as levied and owing of \$12,090.82 due). This option would be exercised on the basis that the matter was tied up in court and therefore there was perhaps a reasonable expectation by the owners that they would not have to pay the taxes and therefore it was not inappropriate for them to not pay the taxes which led to the incurrence of the penalties and interest.
- Option 4: Grant in another amount as deemed appropriate by City Council.

4. RISK ANALYSIS:

Administration frequently receives request for property tax relief and those taxpayers are accommodated by Administration by way of programs noted and available under the Act. However there is a requirement of property owners to pay property taxes when billed. Those taxpayers who choose not to pay on the basis of a request for tax relief do so at their own risk should the request not meet the eligibility requirements. As frequently noted, property taxes are the basis upon which annual operating expenditures are funded. In the absence of the required cash flow from payment of taxes, alternate funding sources such as use of reserves or lines of credit are required to be used. There is a cost to the municipality for use of those alternate funding sources.

5. FINANCIAL MATTERS:

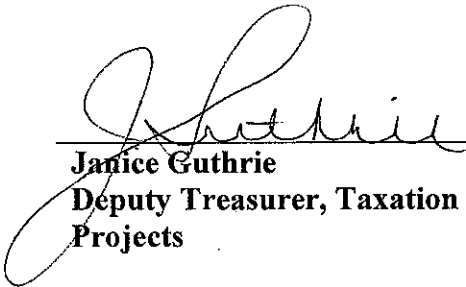
As stated above, outstanding property taxes covering both properties is \$15,890.34 which includes \$3,799.52 in penalties and interest. Should City Council wish to provide a grant funding for such a grant would be required. There is no specific funding within the 2014 operating budget for this grant and therefore funds would have to come from the annual overall provision for property tax write-offs. Should Council determine that all or a portion of the taxes are required to be paid by the organization, Administration would work with the organization to develop a suitable repayment plan consistent with the guiding principles of tax arrears collection.

6. CONSULTATIONS:


N/A

7. CONCLUSION:


The ability to receive a property tax exemption comes from the Ontario Assessment Act as determined by MPAC. The decision of the Superior Court deemed Spirit of Excellence eligible effective tax year 2007 and each subsequent year. Taxes for years prior were not paid and remain outstanding attracting penalties and interest. Administration does not support the waiver of these taxes.



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APPENDICES:

DEPARTMENTS/OTHERS CONSULTED:
Name:
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NOTIFICATION :				
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