



CITY OF HAMILTON

**CORPORATE SERVICES
Taxation Division**

TO: Chair and Members Audit, Finance and Administration Committee	WARD(S) AFFECTED: WARD 2
COMMITTEE DATE: December 10, 2012	
SUBJECT/REPORT NO: Treasurer's Write-Off of Outstanding Taxes for Hamilton Ballet Youth Ensemble Under Section 354 of the Municipal Act, (2001) (FCS12094) (Ward 2)	
SUBMITTED BY: Roberto Rossini General Manager Finance & Corporate Services Department	PREPARED BY: Larry Friday 905-546-2424 ext. 2425
SIGNATURE:	

RECOMMENDATION

That the Treasurer, under Section 354(4)(b) of the Municipal Act, (2001), write off taxes as uncollectible on 145 Main Street East, Hamilton, (Tax Roll Number 020.151.00250) in the amount of \$41,098 to the benefit of the Hamilton Ballet Youth Ensemble (HBYE), as conducting a tax sale would not be in the best interest of the municipality.

EXECUTIVE SUMMARY

Section 354(4)(b) of the Municipal Act, (2001), allows Council to write-off taxes, as uncollectible, if the recommendation of the Treasurer includes a written explanation of why conducting a tax sale would be ineffective or inappropriate.

Alternatives for Consideration – See Page 3

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: Total taxes to be written off are \$41,098, of which \$7,434, would be charged back to the various Boards of Education, while \$13,529 would be charged to HAMTN 12040 000100 (Tax Write-offs) and \$20,135 would be charged to HAMTN 52167-252009 (Penalty and Interest).

Staffing: None

Legal: None

HISTORICAL BACKGROUND (Chronology of events)

The Hamilton Ballet Youth Ensemble (HBYE) were the intended purchasers of the building at 145 Main Street East. As they were unable to arrange financing, the building was put into a numbered company name and a lease agreement set up whereby the HBYE would be responsible for all operating costs including taxes. Being a not-for-profit service organization, they were under the impression the building would be exempt from taxes or taxed at a much lower residential tax rate. Due to the ownership arrangement, the property is properly assessed and taxed at the commercial tax rate. The only recourse available to the HBYE to limit their tax liability was, therefore, to apply for the 40% charitable rebate. For the tax years 2008 to 2010, these rebates were not applied for and a significant tax liability has accumulated in the amount of \$100,655.

In working with the HBYE and the local Councillor, they are now aware of the process and have applied for and received the 40% charitable rebate for 2011 and will continue to properly apply for these rebates in 2012 and future years. The taxes to be written off represent 40% of the taxes for 2008 to 2010 which the HBYE would have been eligible for had the applications been submitted within the legislated time-frames. Payment of \$52,528 was received on October 23, 2012, for the taxes not eligible for rebate. It is also being recommended that the penalties and interest be forgiven for this organization.

POLICY IMPLICATIONS

Municipal Act (2001), Part XI, Section 354.

RELEVANT CONSULTATION

Councillor's Office, Ward 2.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

The organization is run by volunteers who were unaware of the overall process and what their tax liability options were. They sincerely felt that the property would be exempt and therefore did not consider the charitable rebate process. Had they known the process, they would have been eligible for the 40% vacancy rebate, so this write-off is being recommended to allow them credit for the missed rebates. The charitable rebate process is a legislated process under Section 361 of the Municipal Act, 2001. The deadlines under that section were not met and, therefore, that option is no longer available.

It is also being recommended that the accumulated penalty and interest also be forgiven. This is a not-for-profit group that benefits youth and cultural activities and who now have to budget for and pay an expense they were not prepared for.

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Council has full discretion to approve the full amount recommended or a portion of the amount recommended. Any amount approved, less than the amount in the original recommendation, would simply reduce the write-off amounts accordingly. There would be no staff, legal or policy implications.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Skilled, Innovative & Respectful Organization

- ◆ A skilled, adaptive and diverse workforce, i.e. more flexible staff

APPENDICES / SCHEDULES

None.