




CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Economic Development Division

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	March 23, 2022
SUBJECT/REPORT NO:	Entertainment Venues Municipal Capital By-Law (PED18168(h)) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Anders Knudsen (905) 546-2424 Ext. 2628 Josh Van Kampen (905) 546-2424 Ext. 4592
SUBMITTED BY:	Norm Schleeahn Director, Economic Development Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- a) That the lands known as the FirstOntario Centre, located at 101 York Boulevard, Hamilton, be declared a municipal capital facility operating as a sport, recreational and entertainment complex for public use, to be exempted from taxation for municipal and school purposes;
- b) That the lands in the known as the Hamilton Convention Centre, located at 1 Summers Lane, Hamilton, be declared a municipal capital facility operating as a convention and entertainment complex for public use, to be exempted from taxation for municipal and school purposes;
- c) That the lands in the known as the FirstOntario Concert Hall, located at 1 Summers Lane, Hamilton, be declared a municipal capital facility operating as a concert hall and entertainment complex for public use, to be exempted from taxation for municipal and school purposes;
- d) That the Mayor and City Clerk be authorized and directed to execute Municipal Capital Facilities Agreements, and any ancillary documents, substantially in the form attached as Appendix "A" to Report PED18168(h), with such amendments deemed reasonable and necessary to the satisfaction of the City Solicitor,

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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- effective on or prior to the lease commencement dates of the FirstOntario Centre, Hamilton Convention Centre, and FirstOntario Concert Hall;
- e) That the By-law, attached as Appendix "B" to Report PED18168(h), to establish Municipal Capital Facility Designation for the FirstOntario Centre, be passed;
 - f) That the By-law, attached as Appendix "C" to Report PED18168(h), to establish Municipal Capital Facility Designation for the FirstOntario Concert Hall, be passed;
 - g) That the By-law, attached as Appendix "D" to Report PED18168(h), to establish Municipal Capital Facility Designation for the Hamilton Convention Centre, be passed;
 - h) That, upon approval by Council, staff be directed to give written notice of the following By-laws to the secretary of the school boards having jurisdiction, and the Municipal Property Assessment Corporation; and,
 - (i) MCF By-law – Arena
 - (ii) MCF By-law – Concert Hall
 - (iii) MCF By-law – Convention Centre
 - i) That the Clerk be directed to give written notice of the By-law approving this staff report in respect of recommendation (d) to the Minister of Finance.

EXECUTIVE SUMMARY

This report recommends the designation of the three downtown entertainment venues (the Downtown Entertainment Venues) subject to a Master Agreement between the City and Hamilton Urban Precinct Entertainment Group L.P. (HUPEG) as municipal capital facilities, and the exemption of these facilities from taxation for municipal and school purposes pursuant to section 110(6) of the *Municipal Act, 2001*.

The Master Agreement dated October 26, 2021 between the City and HUPEG provided that the City would formally enact by-laws declaring the eligible portions of the Downtown Entertainment Venues occupied or used or intended to be occupied or used for cultural, recreational or tourist purposes as municipal capital facilities.

This report is formalizing what the existing status currently is with these facilities. The Municipal Capital Facility By-law must be enacted prior to the lease commencement date, which is set as April 1, 2022 in the Master Agreement, or such other date agreed to by the parties.

The municipal capital facilities designation is limited to the portions of the three venues that are used for public purposes and are also cultural, recreational, or tourist purposes in accordance with the *Municipal Act*. Any space that ceases to be used for eligible purposes are excluded from the designation.

The By-laws designating each venue a municipal capital facility will be provided to MPAC and the secretaries of local school boards as required by the *Municipal Act* to ensure the tax exemption is implemented.

For greater clarity by passing the bylaws HUPEG will not be receiving any additional municipal tax benefit beyond what is currently in place at the venues.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Currently the non-commercial and unleased / unlicensed components of the subject facilities are exempt from assessment and taxation, so this designation retains the status quo.

Staffing: None

Legal: The City has authority under the *Municipal Act, 2001*, section 110(6) to exempt from all or part of the taxes levied for municipal and school purposes land or a portion of it on which municipal capital facilities are or will be located. The *Municipal Act* requires a tax exemption under section 110(6) to be supported by a Municipal Capital Facilities Agreement, and also that the lands be owned or leased by the person or entity providing municipal capital facilities. Subsection 2(1)(16) of regulation O.Reg 603/06 provides that municipal facilities used for cultural, recreational or tourist purposes are eligible for a tax exemption under section 110(6) provided that the municipality is the lessor (landlord) under the lease, and the council has declared by resolution that the municipal capital facilities are for the purposes of the municipality and are for public use.

HISTORICAL BACKGROUND

On June 9, 2021, Council approved item 4 of General Issues Committee report 21-012 which included authority to execute the Master Agreement, as well as the following resolution:

“(h) That staff be authorized and directed to draft Municipal Capital Facility Agreement By-Laws with respect to each of the FirstOntario Centre, FirstOntario Concert Hall and the Hamilton Convention Centre, to be put forward to General Issues Committee for approval;”

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The *Municipal Act* contains three legislative requirements following enactment of a municipal capital facilities by-law:

1. Notice of the tax exemption by-law to MPAC;
2. Notice of the tax exemption by-law to the secretaries of all school boards having jurisdiction; and,
3. Notice of the municipal capital facilities agreement by-law to the Minister of Finance.

RELEVANT CONSULTATION

- Corporate Services Department, Legal and Risk Management Services Division, Financial Planning and Policy Division, Taxation Division.
- Planning and Economic Development Department

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Municipal capital facilities By-laws for sports complexes used by professional sports teams have been passed in a number of other municipalities including St. Catharines, London, and Kingston. Cultural and entertainment facilities are also frequently subject to municipal capital facilities including the Art Gallery of Hamilton.

A Municipal Capital Facility designation for the FirstOntario Centre, Hamilton Convention Centre, and The Studio will allow HUPEG and/or its associated entities to maintain the tax exemption the City is entitled to under the *Assessment Act*, which would otherwise cease to apply once the entities are leased by a commercial entity. This tax exemption was central to the terms of the Master Agreement and the business case of HUPEG.

The designation applies to each of the buildings comprising the Downtown Entertainment Venues, excluding any areas not used for eligible purposes as well as any space subleased by the HUPEG entity. These exclusions are intended to ensure any commercial space within the facilities that is not related to the eligible purposes will not benefit from the exemption. For example, at the arena and the ice surface would benefit from the exemption, however any administrative space rented to or occupied by

third parties would be excluded. The designation will also cease if a given lease is terminated for any reason.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” - MCF Agreement (form)

Appendix “B” - MCF By-law – Arena

Appendix “C” - MCF By-law – Concert Hall

Appendix “D” - MCF By-law – Convention Centre