

# Hearing Committee AGENDA

For the Third Meeting of the Hearing Committee to be held on **Monday, June 22, 2009** in **Committee Room C-12**, Tom Davies Square at **4:00 p.m.** 

## **DECLARATIONS OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF**

#### **MANAGERS REPORTS**

PAGE NO.

1. Report dated May 28, 2009 from the Chief Financial Officer/Treasurer regarding Charity Rebate Application, Section 361, *Municipal Act*, Sudbury Action Centre for Youth.

(RECOMMENDATION PREPARED)

## ADJOURNMENT (RECOMMENDATION PREPARED)

#### **COMMITTEE MEMBERS**

Councillor Callaghan, Chair Councillor Craig Councillor Thompson

#### **DISTRIBUTION**

Mayor and Members of Council D. Nadorozny Senior Management Team

R. Swiddle

T. Derro

B. Bigger

A. Haché

Angie Haché City Clerk

Franca Bortolussi Council Secretary

## Request for Recommendation Hearing Committee



						1600	
		Type of [	Decision				
Meeting Date	June 22, 2009		Report Date		Ma	y 28, 20	009
Decision Requested		No	Priority		High		Low
	Direction Only		Type of Meeting	$\boxtimes$	Open		Closed
		Repor	t Title				
	Charity Rebate	Application, Se	ection 361, Municipal	Act			
	npact / Policy Implication			Recon	nmendat	ion	
Turiding Source has	y book i donation.		THAT the reque Youth for the City process the char deadline not be a	y of G rity's a	reater Su application	dbury	to accept and
	Background Attached		Reco	mmer	nendation		
Lorella Hayes Chief Financial Offic	er/Treasurer		Doug Nadorozny Chief Administrativ	ud V ve Offic	er	)	

2

Title: Charity Rebate Application, Section 361, Municipal Act

Date: June 22, 2009

Report Prepared By	<b>Division Review</b>
4	
Tony Derro  Manager of Taxation	
Manager of Taxation	

#### **PURPOSE**

Sudbury Action Centre for Youth has requested that the City of Greater Sudbury receive and process a late application for a charity property tax rebate under Section 361 of the Municipal Act. Appended to this report is related correspondence noted as Schedules A, B & C.

#### **BACKGROUND**

Section 361 of the Municipal Act provides the authority for a municipality to give a property tax rebate to registered charities occupying commercial space within the municipality. This is a provincially mandated program and eligible charities are rebated 40% of the municipal property taxes paid to the landlord. The charity must have a registered charity number under the Income Tax Act (Federal), be occupying commercial space and applications must be made after January 1<sup>st</sup> of the subject year and before the last day of February in the following year. An excerpt of the legislation reads as follows:

Section 361 (3)7. An application for a taxation year must be made after January 1 of the year and no later than the last day of February of the following year.

This year with February 28<sup>th</sup> falling on a weekend, Monday March 2<sup>nd</sup> 2009 became the legislated deadline for 2008 tax rebates in accordance with Section 370 of the Municipal Act:

Section 370 Holidays - If the time for any proceeding or for the doing of anything in the offices of a municipality under this Part expires or falls upon a holiday, a Saturday or on any other day when the offices are closed but would ordinarily be open, the time shall be extended to and the thing may be done on the next day when the offices are open which is not a holiday or Saturday.

In order to comply with the statutory deadline, the City of Greater Sudbury's administrative practice is to date stamp an application when it is delivered or honour the postmark of the application in the same manner as tax payments are received towards the tax instalment due dates when submitted by mail. A copy of Section 361 of the Municipal Act is appended to this report as Schedule D. The Sudbury Action Centre for Youth application was received on April 24, 2009.

For 2007, 42 charities were rebated \$180,226.25 in property taxes of which the City of Greater Sudbury's share was \$107,711.50. The remainder was charged to the school boards. Sudbury Action Centre for Youth was one of the charities that applied for and received a property tax rebate in 2007 and the amount received was \$2,743.06. The 2008 rebate amount is \$2,959.41.

For the information of the Committee, the Tax Department sends out blank application forms for the next year's rebate with all refunds. This gives a charity approximately 14 months to apply when considering the time frame of January 1<sup>st</sup> to February 28<sup>th</sup> of the next year. Sudbury Action Centre for Youth was sent such an application with it's refund for the year 2007.

The City of Greater Sudbury also provides a series of community service announcements to inform eligible taxpayers, including charities, of the availability of property tax rebates. A copy of this year's announcement is attached as Schedules E and F. Rebate programs are also promoted through the City's website.

Date: June 22, 2009

The charity rebate program is only one of a number of provincially mandated programs that are administered by the City of Greater Sudbury. Others include tax adjustments under Section 357 of the Municipal Act (demolition, change in rate of taxation etc.) and rebates under the commercial/industrial vacancy program. On average, approximately 30 such program applications each year are ineligible for processing due to non-compliance with the statutory deadline and the applicants are informed as such.

The Province has set a statutory deadline for these programs in an effort to provide budgeting continuity and ease of administration for both the municipality and the taxpayers. As well, statutory deadlines are established to ensure that all taxpayers are treated equally and that no bias is shown to any taxpayer. Adherence to the provincial legislation ensures that the City of Greater Sudbury remains in good standing with it's auditors in order to comply with accepted accounting principles.

#### **OPTIONS**

The Committee of Council has two (2) options to consider:

- 1) The Committee may deny the late processing of the charity's application. This action would comply with the eligibility requirements under the Municipal Act.
- 2) The Committee may provide a grant to the charity in the amount of \$2,959.41 which would be equal to the subject rebate amount. This action would require City Council approval for this unbudgeted amount and the passage of an appropriate by-law.

#### RECOMMENDATION

It is recommended that the request by Sudbury Action Centre for Youth for the City of Greater Sudbury to acceptant process the charity's application after the statutory deadline not be approved.



Application by a Registered Charity
pursuant to City of Greater Sudbury
Property Tax Rebate Policy for Registered Charities
established under City of Greater Sudbury By-law 2003-95F

1.	It, (corporate name) Sudducy Agregistered as a charity under registration nur hereby applies for a tax rebate for the taxation with respect to the property at 105 Elvi	nber <u>88808-5644- RROOO</u> In year <u>2008</u> Street; Se-ollow, ON P3C 153
	owned by <u>Citadel Holdin</u>	(Address)
	and which the applicant charity	DR X leases ☐ in whole ☐ in part under a
2.	The Property Roll Number is	net lease OR Pany's lease
3.	The Mailing Address of the applicant charity	
		APA DEP
4.	The contact person for the applicant charity is	Mardi Taylor
	(Name), who is the Executive ?	(position)
	and he/she can be reached at (705) 6	
5.		//leased space in this property since December 1999
6. (1)	The applicant charity has filed each of the fol a) a copy of its letters patent or incorporating b) a copy of the approval granting a charitable the applicant charity holds a charitable req	document; and le registration number or other satisfactory evidence that
(2)	illade, the applicant charity has filed each of t	of the property in respect of which the application is he items identified in Column A below, and where the of which the application is made, the applicant charity n B below:
	The deadline for submitting appl following the taxation year to	ications is February 28th of the year to which the application relates
Colum	following the taxation year t	Column B Situation in which the applicant charity owns the property
	nn A Situation in which the applicant	Column B Situation in which the applicant
(a) a (b) e <sup>e</sup> s <sub>i</sub> e <sup>e</sup> a <sub>i</sub>	nn A Situation in which the applicant charity leases space in the property copy of the lease for all/part of the property vidence of the square footage of the total rental pace in the building on the property and vidence of the square footage occupied by the oplicant charity - NB - if this information is not et out in the lease, a statutory declaration of the	Column B Situation in which the applicant charity owns the property  (a) evidence of ownership of the property  (b) evidence of the square footage of the total rental space in the building on the property, and evidence of the square footage occupied by the applicant charity
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Apr 28, 2009

#### SUDBURY ACTION CENTRE FOR YOUTH 105 ELM ST SUDBURY ON P3C 1T3

PO BOX 5000 STN A 200 BRADY STREET SUDBURY ON P3A 5P3

CP 5000 SUCC A 200, RUE BRADY SUDBURY ON P3A 5P3

705.671.2489

www.greatersudbury.ca www.grandsudbury.ca Roll: 060.001.01600.0000

Property Address: 109 ELM ST 111

2008 Charity Rebate

Please be advised that your application under The Small Business and Charities Act 361.(1) of the Municipal Act, will not be processed for the following reason(s):

No Charity Registration Number

Property not in Commercial/Industrial Class

✓ Application Received after statutory deadline

Property was Previously Exempt

Non Profit Organization

Your application was received in this office on April 24, 2009. In accordance with the Municipal Act, an application for a taxation year must be made after January 01 of the year and no later than the last day of February of the following year. For 2009 only, the deadline was March 02, 2009.

However, we are enclosing an application form for 2009 and wish to confirm that your application will be accepted for 2009 as long as the Sudbury Action Centre for Youth remains eligible under applicable legislation.

If you have any questions, please contact the Tax Department at 311.

Yours very truly,

Tony Derro Manager of Taxation

TD/rm Encl (1)



Sudbury Action Centre For Youth

105 rue Elm Street Sudbury, Ontario P3C 1T3

> Phone (705) 673-4396 Fax (705) 673-0798

> > Web www.sacy.ca Email sacy@sacy.ca

April 30, 2009

Angie Hache
City Clerk
City of Greater Sudbury
P.O. Box 5000 Station A
Sudbury, ON
P3A 5P3

RE: 2008 Charity Rebate

Dear Angie,

As per our conversation on April 29, 2009, we would like to file an appeal to the Hearing Committee regarding the decision not to grant our rebate due to late filing.

1.3

It has been brought to our attention that we had missed the March 2, 2009 Charity Rebate deadline. Unfortunately, due to circumstances, this deadline was overlooked.

In the past, the Sudbury Action Centre for Youth has always been granted this Charity Rebate. This organization strives to provide so many services to the at-risk youth of the community, it would be unfortunate to penalize the Centre because of human error.

We sincerely apologize for this error and any inconvenience this may have caused. We look forward to hearing from you soon regarding this matter.

Sincerely,

Mardi Taylor

**Executive Director** 

cc T. Derro L Hayes

#### Rebates for charities

361. (1) Every municipality, other than a lower-tier municipality, shall have a tax rebate program for eligible charities for the purposes of giving them relief from taxes or amounts paid on account of taxes on eligible property they occupy. 2002, c. 22, s. 159 (1).

## Eligible charities, property

- (2) For the purposes of this section,
- (a) a charity is eligible if it is a registered charity as defined in subsection 248 (1) of the *Income Tax Act* (Canada) that has a registration number issued by the Canada Customs and Revenue Agency;
- (b) a property is eligible if it is in one of the commercial classes or industrial classes, within the meaning of subsection 308 (1). 2001, c. 25, s. 361 (2).

### **Program requirements**

- (3) A tax rebate program under this section is subject to the following requirements:
  - 1. The program must provide for a rebate for an eligible charity that pays taxes or amounts on account of taxes on eligible property it occupies.
  - 2. The amount of a rebate required under paragraph 1 must be at least 40 per cent, or such other percentage as the Minister of Finance may prescribe, of the taxes or amounts on account of taxes paid by the eligible charity on the property it occupies. If the eligible charity is required to pay an amount under section 367 or 368, the amount of the rebate shall be the total of the amounts paid by the eligible charity under those sections.
  - 3. The program must provide that payment of one-half of the rebate must be made within 60 days after the receipt by the municipality of the application of the eligible charity for the rebate for the taxation year and the balance of the rebate must be paid within 120 days of the receipt of the application.
  - 4. The program must permit the eligible charity to make an application for a rebate for a taxation year based on an estimate of the taxes or amounts on account of taxes payable by the eligible charity on the property it occupies.
  - 5. The program must provide for final adjustments, to be made after the taxes or amounts on account of taxes paid by the charity can be determined, in respect of differences between the estimated rebate paid by the municipality and the rebate to which the charity is entitled.
  - 6. The program must require, as a condition of receiving a rebate for a year, that a charity repay any other municipality amounts by which the rebates the charity received for the year from that other municipality exceed the rebates from that other municipality to which the charity is entitled for the year.
  - 7. An application for a taxation year must be made after January 1 of the year and no later than the last day of February of the following year. 2001, c. 25, s. 361 (3); 2002, c. 22, s. 159 (2-5).

**Program options** 

(4) The following apply with respect to what a tax rebate program under this section may provide but is not required to provide:

- 1. The program may provide for rebates to organizations that are similar to eligible charities or a class of such organizations defined by the municipality.
- 2. The program may provide for rebates to eligible charities or similar organizations for taxes or amounts on account of taxes on property that is in any class of real property prescribed under the *Assessment Act*.
- 3. The program may provide for rebates that are greater than those required under subsection (3) and may provide for different rebate amounts for different eligible charities or similar organizations up to 100 per cent of the taxes paid by the eligible charity or similar organization.
- 4. The program may provide for adjustments in respect of the rebates for a year to be deducted from amounts payable in the next year for the next year's rebates. 2001, c. 25, s. 361 (4); 2002, c. 22, s. 159 (6).

#### Procedural requirements

(5) The program may include procedural requirements that must be satisfied for an eligible charity to be entitled to a rebate required under subsection (3). 2001, c. 25, s. 361 (5).

#### Who gives rebates

(6) Rebates under a program of a municipality under this section shall be given by the municipality unless the municipality is an upper-tier municipality, in which case the rebates shall be given by the lower-tier municipalities. 2001, c. 25, s. 361 (6).

#### Sharing amounts of rebates

(7) The amount of a rebate paid under this section on a property shall be shared by the municipalities and school boards that share in the revenue from the taxes on the property in the same proportion as the municipalities and school boards share in those revenues. 2002, c. 22, s. 159 (7).

## Statement of costs shared by school boards

(8) The municipality that gives a rebate to a charity or similar organization shall also give the charity or similar organization a written statement of the proportion of the costs of the rebate that is shared by school boards. 2001, c. 25, s. 361 (8).

#### Interest

(9) The municipality shall pay interest, at the same rate of interest that applies under subsection 257.11 (4) of the *Education Act*, on the amount of any rebate to which the eligible charity is entitled under this section if the municipality fails to rebate or credit the amount within the time specified in paragraph 3 of subsection (3) or within such other time as the Minister of Finance may prescribe. 2001, c. 25, s. 361 (9).

#### No fee

(10) Despite this Act, no fee may be charged by the municipality to process an application under this section. 2001, c. 25, s. 361 (10).

### Change of assessment

- (10.1) The following apply if the assessment of an eligible property for a year changes as a result of a request under section 39.1 of the *Assessment Act*, an appeal under section 40 of that Act or an application under section 46 of that Act:
  - 1. A rebate under subsection (3) with respect to the year shall be redetermined using the

new taxes on property for the year based on the new assessment.

- 2. If, as a result of a redetermination under paragraph 1, the amount of the rebate is increased, the increased amount shall be paid to the eligible charity in accordance with this section.
- 3. If, as a result of a redetermination under paragraph 1, the amount of the rebate is decreased and amounts paid on account of the rebate exceed the redetermined amount of the rebate, the excess payments are a debt due to the municipality which gave the rebate but the municipality shall not take any action to collect the debt, including the imposition of interest, until 120 days after providing the eligible charity with notice of the debt. 2002, c. 17, Sched. A, s. 64; 2008, c. 7, Sched. O, s. 6.

#### Regulations

- (11) The Minister of Finance may make regulations,
- (a) governing programs under this section including prescribing additional requirements for the programs;
- (b) governing procedural requirements the programs must include;
- (c) prescribing a percentage for the purpose of paragraph 2 of subsection (3);
- (d) prescribing a time period for the purpose of subsection (9). 2001, c. 25, s. 361 (11).

#### Definition

(12) In this section,

"tax" includes,

- (a) charges that are imposed under section 208, and
- (b) fees and charges, other than charges described in clause (a), that are imposed under this Act and satisfy the conditions set out in paragraphs 1, 2 and 3 of subsection (13). 2006, c. 32, Sched. A, s. 148.

#### Same

- (13) The conditions referred to in clause (b) of the definition of "tax" in subsection (12) are:
  - 1. The fees and charges are imposed to raise an amount for at least one of the following purposes:
    - i. Promotion of an area as a business or shopping area.
    - ii. Improvement, beautification and maintenance of land, buildings and structures of the municipality in the area, beyond that provided at the expense of the municipality generally.
    - iii. Interest payable by the municipality on money it borrows for the purposes of subparagraph i or ii.
  - 2. The fees and charges are imposed on owners of land that is included in the commercial or industrial classes within the meaning of subsection 308 (1).
  - 3. The fees and charges have priority lien status and are added to the tax roll. 2006, c. 32, Sched. A, s. 148.

City of Greater Sudbury Ville du Grand Sudbury PODEUK 5000 STNA 200 BRADY STREET STIDBURY ON 12A 5P CP 5000 SCICCIA 200, RLIEBRADY SUDBURY ON 193A 5193





For Immediate Release

Monday, February 23, 2009.

## ELIGIBILITY FOR PROPERTY TAX REBATES AND CREDITS

The following is a summary of eligibility requirements for property tax rebates and tax credits. For complete details and application forms, please contact the City of Greater Sudbury by dialing 3-1-1 or visit the tax department at Tom Davies Square, 200 Brady Street, Sudbury.

#### **Registered Charities Rebate**

Deadline for applications for the 2008 tax year: March 2, 2009.

Registered charities, legions, licensed day care nurseries and others are eligible for property tax rebates, provided applicants meet the following requirements:

- registered charities occupying space on commercial properties are eligible for a 40 per cent property tax rebate, provided the charity has a registration number issued by the Canada Revenue Agency;
- the Royal Canadian Legion, the Navy League of Canada and the Polish Combatant's Association within the City of Greater Sudbury are eligible for a 100 per cent rebate;
- licensed day nurseries operating as a registered charity under the Income Tax Act are eligible for a 100 per cent rebate provided the nursery occupies all or part of a property assessed as residential.

#### **Commercial Vacancy Rebate**

Deadline for applications for the 2008 tax year: March 2, 2009.

To qualify for a Commercial Vacancy Tax Rebate of 30 per cent for commercial properties or 35 per cent for industrial properties, property owners must:

- provide proof that all or part of a building has been vacant for 90 consecutive days,
- maintain the vacant unit so that it could be eligible for the rental market,
- clearly demarcate the vacant unit apart from other areas of the building.

The following are not eligible for a property tax rebate:

- seasonal businesses and vacant land,
- areas of a building used for storage,

• areas of a building that would not be eligible for the rental market.

#### **Property Tax Refund**

## Deadline for applications for the 2008 tax year: March 2, 2009.

To qualify for a rebate or refund of municipal property tax under Section 357 or Section 358 of the Municipal Act, property owners must provide proof of one or more of the following:

- property no longer falls under the applied tax rate,
- property has become tax exempt,
- building has been destroyed by fire or demolition,
- mobile unit has been removed from the property,
- gross or manifest clerical error has occurred.

#### **Elderly Tax Credit**

## Deadline for applications for the 2009 tax year: December 31, 2009.

To qualify for an Elderly Tax Credit of \$200 through the City of Greater Sudbury, you or your spouse must:

- receive the Government of Canada's Guaranteed Income Supplement (GIS),
- be a resident of the City of Greater Sudbury,
- be at least 65 years of age as of December 31, 2009,
- be assessed as the owner of a residential property for the entire current year,
- occupy the property on which municipal taxes have been levied.

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#### Media Contact:

Tony Derro, Manager of Taxation,

City of Greater Sudbury, 674-4455, ext. 2412

City of Greater Sudbury Ville du Grand Sudbury

POBOX 5000 SINA 200 BRADY SIRLET SLIDBLIRY ON 13A 5P3 CP 5000 SCROCA 200, RUJE BRADY SUIDBURY ON P3A 3P3





Pour distribution immédiate

le lundi 23 février 2009

## ADMISSIBILITÉ AUX REMBOURSEMENTS ET CRÉDITS D'IMPÔT

Les critères d'admissibilité aux remboursements et crédits d'impôt foncier sont résumés ci-dessous. Pour plus d'information et pour obtenir les formulaires de demande, veuillez communiquer avec la Ville du Grand Sudbury au 3-1-1 ou vous rendre au Service d'impôt, situé au 2<sup>e</sup> étage à la Place Tom Davies, au 200, rue Brady, à Sudbury.

## Remboursement pour les organismes de bienfaisance enregistrés

Date limite pour les demandes relatives à l'année d'imposition 2008 : le 2 mars 2009.

Les organismes de bienfaisance enregistrés, les légions, les services de garde agréés et autres sont admissibles aux remboursements d'impôt foncier, à condition que l'auteur/e de la demande se conforme aux exigences suivantes :

- les organismes de bienfaisance enregistrés occupant des locaux situés sur une propriété commerciale sont admissibles à un remboursement d'impôt foncier de 40 %, à condition d'avoir un numéro d'enregistrement émis par l'Agence du revenu du Canada;
- la Légion royale canadienne, la Ligue navale du Canada et la Polish Combatant's Association de la Ville du Grand Sudbury sont admissibles à un remboursement de 100 %;
- les services de garde agréés opérant en qualité d'organisme de bienfaisance enregistré selon la Loi de l'impôt sur le revenu sont admissibles à un remboursement de 100 % à condition que la garderie occupe, en tout ou en partie, la propriété évaluée comme résidentielle.

## Remboursement pour inoccupation commerciale

Date limite pour les demandes relatives à l'année d'imposition 2008 : le 2 mars 2009.

Pour être admissible à un remboursement d'impôt foncier pour inoccupation commerciale de 30 % dans le cas des propriétés commerciales et de 35 % dans le cas des propriétés industrielles, les propriétaires doivent :

- fournir la preuve que le bâtiment, en tout ou en partie, a été inoccupé pendant 90 jours consécutifs;
- entretenir l'unité vacante afin qu'elle soit disponible pour le marché locatif;

• délimiter clairement l'unité vacante des autres parties du bâtiment;

Les cas suivants ne sont pas admissibles à un remboursement d'impôt foncier :

- les commerces saisonniers et les terrains vacants;
- les espaces d'un bâtiment utilisés comme aires d'entreposage;
- les espaces d'un bâtiment qui ne sont pas disponibles pour le marché locatif.

#### Remboursement d'impôt foncier

## Date limite pour les demandes relatives à l'année d'imposition 2008 : le 2 mars 2009.

Pour être admissible à un remboursement d'impôt foncier municipal conformément à l'article 357 ou à l'article 358 de la *Loi sur les municipalités*, les propriétaires doivent fournir une preuve d'une ou de plusieurs des conditions suivantes :

- la propriété n'entre plus dans le taux d'imposition appliqué;
- la propriété est devenue exonérée d'impôt;
- le bâtiment a été détruit par un incendie ou démoli;
- l'unité mobile a été enlevée de la propriété;
- une erreur d'écriture grossière ou manifeste s'est produite.

## Crédit d'impôt pour les personnes âgées

## Date limite pour les demandes relatives à l'année d'imposition 2009 : le 31 décembre 2009.

Pour être admissible à un crédit d'impôt de 200 \$ pour personnes âgées par l'entremise de la Ville du Grand Sudbury, vous ou votre conjoint/e devez :

- recevoir le Supplément de revenu garanti (SRG) du gouvernement du Canada;
- être résidente ou résident de la Ville du Grand Sudbury;
- avoir au moins 65 ans au 31 décembre 2009;
- pendant toute l'année en cours, être la ou le propriétaire inscrit au rôle d'évaluation concernant le bien résidentiel;
- résider dans la propriété pour laquelle les taxes municipales sont exigibles.

#### Renseignements:

the . A

Tony Derro, Gestionnaire des taxes foncières

Ville du Grand Sudbury, 674-4455, poste 2412