MARKHAM
the MARK of EXCELLENCE

Clerk's Department
Corporate Services Commission

DEC 22 2003
R.M.Y.
CLERK

December 18, 2003

Mr. Denis Kelly
Regional Clerk
The Regional Municipality of York
17250 Yonge Street
Newmarket, ON L3Y 6Z1

REGION OF YORK
CLERK'S OFFICE
FILE No. - P04

Dear Sir:

RE: PROPERTY TAX REDUCTION PROGRAM FOR HERITAGE PROPERTIES (7.3 & 16.11)

This will confirm that at the meeting of Council held on December 16, 2003, the following motion was approved:

> "That the Town of Markham implement a Heritage Property Tax Reduction Program effective January 1, 2003 under the provisions of Section 365.2 of the *Municipal Act, 2001* to provide tax relief for eligible heritage properties as defined in the *Act* and in the by-law attached to this report;
>
> And that the criteria for eligibility in the heritage tax reduction program include the following:
>
> 1. To meet Provincial requirements an eligible heritage property must be designated as a property of cultural heritage value or interest under Part IV of the *Ontario Heritage Act* or it must be part of a heritage conservation district under Part V of the *Ontario Heritage Act*; and, in either case, the property must be subject to a heritage easement agreement under section 22 or 37 of the *Ontario Heritage Act*; and
> 2. To meet Town of Markham requirements, an eligible property/building must meet all of the following additional eligibility criteria to the satisfaction of the Commissioner of Development Services:
>   a. Be classified as a Group 1 or Group 2 structure as evaluated by Heritage Section staff using the Town of Markham's 'Evaluating Heritage Resource' document; and
>   b. Be in a good and habitable condition.
> 3. If only a portion of a property (building and land) is deemed to be of cultural heritage value, Town staff would determine that proportion for the purposes of the application and forward the application to the Municipal Property Assessment Corporation for an assessed value of the portion;

.../2

4. A heritage easement agreement must be in place by December 31 of the taxation year for which relief is sought except for 2003 in which case the heritage easement agreement must be in place no later than July 31, 2004;
5. The property must not be the subject of any Town by-law contraventions, work orders or other outstanding municipal requirements as of the date the application is made;
6. The amount of the annual heritage tax rebate be set at 30% of taxes payable on the eligible property;
7. There are no outstanding municipal fines, arrears of taxes, fees or penalties assessed against the property.

And that Council support the elimination of the agreement preparation fees associated with heritage conservation easement agreements to encourage property owners to enter into these forms of agreements as part of Markham's commitment to preserving its local heritage resources;

And that the heritage tax reduction will be applied to taxes as levied, or as reduced on a reconsideration or assessment appeal;

And that the Town of Markham's Fees and Charges Bylaw 2002- 276 be amended to reflect the elimination of the easement agreement fees and to include the heritage tax reduction application fee;

And that the application fee of 20% of the annual heritage reduction for the initial year of application and the application fee of 10% of the annual heritage tax reduction for each renewal period (every third year) be deducted from the total annual heritage tax reduction amount once calculated;

And that the Heritage Tax Reduction shall be repaid by the owner in full for every year for which there are outstanding municipal by-law contraventions, work orders, penalties, fees, arrears of taxes, fines or other outstanding municipal requirements;

And that staff report annually to Council on the program and include elements such as the number of applications, costs and resource requirements;

And that the Regional Municipality of York be requested to pass its own heritage tax reduction by-law to account for its share of the total taxes, failing which the 30% reduction in taxes would be limited to the Town and education components;

And that the necessary by-laws be enacted.
(By-laws 2003-341 and 2003-342)"

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By way of background information, enclosed are copies of the staff reports dated December 8 and 16, 2003 together with copies of By-laws 2003-341 and 2003-342.

Please note that the Town of Markham Council has requested the Regional Municipality of York to pass its own heritage tax reduction by-law to account for its share of the total taxes, failing which the 30% reduction in taxes would be limited to the Town and education components.

Sincerely,

S. Birrell

Sheila Birrell
Town Clerk

/lh
Encl.

c. A. Taylor, Commissioner of Corporate Services
B. Cribbett, Treasurer
C. Conrad, Town Solicitor
J. Baird, Commissioner of Development Services
V. Shuttleworth, Director, Planning and Urban Design
P. Wealleans, Director of Taxation
R. Hutcheson, Manager, Heritage Planning

MARKHAM
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BY-LAW 2003-341

Being a By-law to establish a program
to provide tax reductions or refunds
in respect of eligible heritage properties

WHEREAS the Council of The Corporation of the Town of Markham is empowered by section 365.2 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, to pass a by-law establishing a program to provide heritage tax refunds in respect of eligible heritage properties;

AND WHEREAS the Council of The Corporation of the Town of Markham deems it advisable and in the public interest to provide financial assistance on the terms set out in this By-law as an incentive to encourage property owners to renovate, restore and maintain heritage buildings in the Town of Markham;

NOW THEREFORE the Council of The Corporation of The Town of Markham enacts as follows:

1. In this By-law:

   "contravention " means an offence under a municipal by-law, Act or regulation for which enforcement proceedings have been commenced that relates specifically to the building or land for which a Heritage Tax Reduction is sought or given;

   "Council" shall mean the Council of The Corporation of the Town of Markham;

   "Eligible Heritage Property" means land or buildings or a portion thereof that is,
   (i) located in the Town of Markham;
   (ii) designated under Part IV of the *Ontario Heritage Act* or is part of a heritage conservation district under Part V of the *Ontario Heritage Act*; and
   (iii) subject to a heritage easement agreement with the Town under section 22 or 37 of the *Ontario Heritage Act*
   and that complies with the additional eligibility criteria set out in this By-law.

   "Heritage Property Tax Reduction Program" means a financial assistance program adopted by the municipality to help owners of heritage properties maintain and restore their properties for the benefit of the entire community by providing tax relief to owners of eligible heritage properties;

   "Heritage Tax Reduction" means the amount of property tax reduction in respect of an Eligible
   Heritage Property;

   "Lower Tier Municipality" has the same meaning as in Section 1 of the Municipal Act, 2001;

   "MPAC" means the Municipal Property Assessment Corporation;

   "Owner(s)" includes a corporation and partnership and the heirs, executors, administrators and other legal representatives of a person to whom the context can apply according to law;

   "Person(s)" includes a corporation and partnership and the heirs, executors, administrators and other legal representatives of a person to whom the context can apply according to law;

   "Town" means The Corporation of the Town of Markham.

2. The amount of a Heritage Tax Reduction shall be 30% of the taxes for municipal and school purposes levied on the property that are attributable to:

   (i) the building or structure or portion of the building or structure that is the Eligible Heritage Property; and
   (ii) the land used in connection with the Eligible Heritage Property, as determined by the Town.

3. Subject to the conditions set out in this by-law, one Heritage Tax Reduction may be paid annually for each eligible heritage property in the property tax class of Residential, Multi-Residential, Farm, Commercial and Industrial as defined by the *Assessment Act*, R.S.O 1990, c. A. 31 and Ontario Regulation 282/98 thereunder, as amended.

4. MPAC, at the request of the Town, shall determine the portion of a property's total assessment that is an attributable to the Eligible Heritage Property.

Eligibility Criteria

5. In order to be eligible to apply for a Heritage Tax Reduction, owners of the subject properties must provide proof, satisfactory to the Treasurer of the Town, of the following;
   (i) the property has been designated as a property of cultural heritage value or interest under Part IV of the *Ontario Heritage Act* or it must be part of a heritage conservation district under Part V of the *Ontario Heritage Act*; and
   (ii) is subject to a heritage easement agreement under section 22 or 37 of the *Ontario Heritage Act;* and
   (iii) the heritage easement agreement referred to subsection (ii) above must be registered against the eligible heritage property by December 31 of the taxation year for which relief is sought except for the 2003 tax year in which the easement must be in place no later than July 31, 2004;
   (iv) the Eligible Heritage Property is not the subject of any contraventions, work orders or outstanding municipal requirements; and
   (v) meets all of the following criteria, to the satisfaction of the Commissioner of Development Services:
      (a) Be classified as a Group 1 or Group 2 structure as evaluated by Heritage Section staff using the Town of Markham's "Evaluating Heritage Resource" document ; and
      (b) Be in a good and habitable condition

   (vi) there are no outstanding municipal fines, arrears of taxes, fees or penalties assessed against the applicant.

6. All applications must include the following to be considered for the refund program:
   (i) Heritage easement agreement approved by Council.
   (ii) Photographs of all elevations of the Eligible Heritage Property.
   (iii) Proof of insurance on the Eligible Heritage Property.

7. The application will cover each year of the two-year period as long as the property remains an Eligible Heritage Property. Renewal of the Heritage Tax Reduction must be made by application every third year. The application fee shall be deducted from the Heritage Tax Reduction once calculated.

Limitations and Restrictions

8. The Heritage Tax Reduction program set out in this By-law is subject at all times to the availability of funding for the program. Nothing in this By-law requires the Town to provide funding for this program and the Heritage Tax Reduction contemplated by this By-law may be eliminated by Council through repeal of the By-law at any time with no notice whatsoever to affected persons.

9. The Heritage Tax Reduction program is subject to any regulations that the Minister of Finance may make governing by-laws on tax refunds and reductions for heritage properties.

10. Where multiple easement and/or preservation and maintenance agreements are registered on one parcel of land, multiple refunds will not be provided in respect of the same heritage features.

11. Upon application, the owner must consent to the Town conducting an inspection of the interior and exterior of the Eligible Heritage Property at any reasonable time, if required, to ensure that the relevant heritage easement agreement is being complied with and to ensure that the eligibility criteria can be met.

12. No Heritage Tax Reduction will be given under this By-law where the Town determines that the relevant heritage easement agreement is not complied with to the satisfaction of the Town.

13. Heritage Tax Reductions shall be calculated using the assessed value of the property, as returned, for the taxation year for which the application is made.

14. If the assessment of a property for a year changes as a result of proceedings under the *Assessment Act* or *Municipal Act* or a judicial decision, the Heritage Tax Reduction shall be recalculated using the new assessment and the tax roll for the year shall be amended to reflect the determination. The Town may set off any amount in favour of the Town against any refund to be paid to the owner as a result of the appeal, or it may apply it against the taxes owed for the succeeding taxation year.

15. The Heritage Tax Reduction shall be repaid in full by the owner for every year where there is an outstanding contravention or where there are outstanding municipal fines, arrears of taxes, fees or penalties assessed against the owner.

16. The minimum amount of the Heritage Tax Reduction that shall be paid for an individual property is $50.00.

Penalties

17. If the owner of an Eligible Heritage Property demolishes the Eligible Heritage Property or breaches the terms of the relevant heritage easement, the Town may require the owner to repay part or all of any Heritage Tax Reduction(s) provided to the owner for one or more years under this By-law.

18. The Town may require the owner to pay interest on the amount of any repayment required under section 17, at a rate not exceeding the lowest prime rate reported to the Bank of Canada by any of the banks listed in Schedule I of the *Bank Act* (Canada), calculated from the date or dates the Heritage Tax Reduction(s) were provided. Any amount repaid under this section will be shared by the Town, School Boards and the Region of York (if applicable) in the same proportion as their respective shares of the Heritage Tax Reduction(s) on the property.

19. This By-law shall be known as the "Heritage Tax Reduction By-law".

20. The effective date of this By-law is January 1, 2003.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS 16TH DAY OF DECEMBER, 2003.

Sheila Birrell

SHEILA BIRRELL, TOWN CLERK

D Cousens

DON COUSENS, MAYOR

MARKHAM
the MARK of EXCELLENCE

BY-LAW 2003–342

A By-law to Amend By-law 2002-276, "A By-law to Impose Fees or Charges for Services or Activities Provided or Done by The Town of Markham"

Whereas Section 391 of the *Municipal Act, 2001* provides that a municipality may pass a by-law for imposing fees or charges for services or activities provided by or done on behalf of it;

AND WHEREAS Council wishes to encourage owners of heritage properties to enter into Heritage Easement Agreements to ensure the ongoing maintenance and long-term protection of these properties;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM HEREBY ENACTS AS FOLLOWS:

THAT By-law 2002-276 be amended as follows:

1. That the following fees and charges contained in Schedule "A" related to the CAO Commission – Legal Department be deleted:

   Heritage Easement Agreements $300.00   Per Agreement

2. That Schedule "A" of By-law 2002-272 be amended by adding thereto the following section:

   Heritage Tax Reduction Application:
   - first year of application: 20% of annual heritage reduction amount
   - every renewal: 10% of annual heritage reduction amount

3. All other provisions of By-law 2002-276, except as herein amended or effected, which are not inconsistent with the provisions of this By-law shall continue to apply.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS 16TH DAY OF DECEMBER, 2003.

Sheila Birrell
SHEILA BIRRELL, TOWN CLERK

Don Cousens
DON COUSENS, MAYOR

REPORT TO Committee of the Whole

TO:	Mayor and Members of Council
FROM:	Andy Taylor, Commissioner of Corporate Services Jim Baird, Commissioner of Development Services
PREPARED BY:	Paul Wealleans, Director, Taxation Regan Hutcheson, Manager, Heritage Planning
DATE OF MEETING:	2003-Dec-16
SUBJECT:	Property Tax Reduction Program for Heritage Properties – Additional Information

RECOMMENDATIONS:

THAT the Town of Markham implement a Heritage Property Tax Reduction Program effective January 1, 2003 under the provisions of Section 365.2 of the *Municipal Act, 2001* to provide tax relief for eligible heritage properties as defined in the *Act* and in the by-law attached to this report;

AND THAT the criteria for eligibility in the heritage tax reduction program include the following:

1. To meet Provincial requirements an eligible heritage property must be designated as a property of cultural heritage value or interest under Part IV of the *Ontario Heritage Act* or it must be part of a heritage conservation district under Part V of the *Ontario Heritage Act*; and, in either case, the property must be subject to a heritage easement agreement under section 22 or 37 of the *Ontario Heritage Act*; and
2. To meet Town of Markham requirements, an eligible property/building must meet all of the following additional eligibility criteria to the satisfaction of the Commissioner of Development Services:
   a. Be classified as a Group 1 or Group 2 structure as evaluated by Heritage Section staff using the Town of Markham's 'Evaluating Heritage Resource' document; and
   b. Be in a good and habitable condition.
3. If only a portion of a property (building and land) is deemed to be of cultural heritage value, Town staff would determine that proportion for the purposes of the application and forward the application to the Municipal Property Assessment Corporation for an assessed value of the portion;

4. A heritage easement agreement must be in place by December 31 of the taxation year for which relief is sought except for 2003 in which case the heritage easement agreement must be in place no later than July 31, 2004;
5. The property must not be the subject of any Town by-law contraventions, work orders or other outstanding municipal requirements as of the date the application is made;
6. The amount of the annual heritage tax rebate be set at 30% of taxes payable on the eligible property;
7. There are no outstanding municipal fines, arrears of taxes, fees or penalties assessed against the property.

AND THAT Council support the elimination of the agreement preparation fees associated with heritage conservation easement agreements to encourage property owners to enter into these forms of agreements as part of Markham's commitment to preserving its local heritage resources;

AND THAT the heritage tax reduction will be applied to taxes as levied, or as reduced on a reconsideration or assessment appeal;

AND THAT the Town of Markham's Fees and Charges Bylaw 2002- 276 be amended to reflect the elimination of the easement agreement fees and to include the heritage tax reduction application fee;

AND THAT the application fee of 20% of the annual heritage reduction for the initial year of application and the application fee of 10% of the annual heritage tax reduction for each renewal period (every third year) be deducted from the total annual heritage tax reduction amount once calculated;

AND THAT the Heritage Tax Reduction shall be repaid by the owner in full for every year for which there are outstanding municipal by-law contraventions, work orders, penalties, fees, arrears of taxes, fines or other outstanding municipal requirements;

AND THAT staff report annually to Council on the program and include elements such as the number of applications, costs and resource requirements;

AND THAT the Regional Municipality of York be requested to pass its own heritage tax reduction by-law to account for its share of the total taxes, failing which the 30% reduction in taxes would be limited to the Town and education components;

AND THAT the necessary by-laws (attached) be enacted.

PURPOSE:
The purpose of the report is to provide additional information regarding the heritage tax reduction program that was requested at the December 8, 2003 meeting of Finance and Administrative Committee.

BACKGROUND:
At its meeting of December 8, 2003, the Finance and Administrative Committee considered a report entitled "Property Tax Reduction Program for Heritage Properties – Final Report" and requested staff to review and clarify the wording of certain matters raised relating to the proposed Property Tax Reduction Program For Heritage Properties, as follows:

Clause 1, Sub-section 1: clarify heritage easement criteria;
Clause 1, Sub-section 2: clarification relating to additional municipal criteria (heritage classification);
Clause 1, Sub-section 3: clarification regarding building and/or land; and
Clause 1, Sub-section 5: clarification regarding infractions - eligibility and time frame;

The Committee also requested that a report be presented for consideration at the Committee of the Whole meeting on December 16, 2003.

EXECUTIVE SUMMARY:
This report addresses and incorporates comments and issues raised at the December 8, 2003 meeting of the Finance and Administrative Committee. It is recommended that a heritage tax reduction program be implemented in the Town of Markham effective January 1, 2003.

OPTIONS/DISCUSSION:
This report will address each of the issues raised separately. Where necessary, recommendations have been amended.

Clause 1, Sub-section 1: Heritage Easement Criteria - Clarification
Provincial legislation that permits municipalities to implement a heritage tax reduction program requires that the eligible property be subject to a heritage easement agreement or an agreement with the municipality respecting the maintenance and preservation of the property. The Town has been successfully utilizing heritage easements for a number of years. These easement agreements are registered on title of the property and can be enforced by the municipality using the penalty provisions of the *Ontario Heritage Act*.

The other option of using a municipal maintenance and preservation agreement would need to contain similar requirements as an easement agreement and would not have the legislative backing of the *Ontario Heritage Act* or the ability to use the penalty provisions. It is staff's opinion after consultation with Provincial staff that an easement agreement is necessary to ensure protection of the heritage property. Recommendation 1 has been amended to reflect the specific requirement of an heritage easement agreement. The draft by-law has been amended to delete from subsection (iii) of the definition of "Eligible Heritage Property" the reference to "an agreement with the Town respecting the preservation and maintenance of the property".

Clause 1, Sub-section 2: Additional Municipal Eligibility Criteria (Heritage Classification)
It is recommended that, in addition to provincial requirements, two additional criteria must be met to the satisfaction of the Commissioner of Development Services to be included for eligibility. These are:

a. Be classified as a Group 1 or Group 2 structure as evaluated by Heritage Section staff using the Town of Markham's 'Evaluating Heritage Resource' document; and
b. Be in a good and habitable condition.

Staff originally requested that as part of the municipal criteria, the property must date from an early age in the development of the Town, retain most of its original architectural features and represent a specific style, period or method of construction in addition to being in a good and habitable state. These were requested to ensure that only contributing heritage properties would be eligible. It was suggested that the first three criteria could be construed as being subjective and that it may be more appropriate to utilize the Town's approved heritage resource evaluation process to assess the heritage value of the building. If a building is classified as Group 1 (of major significance and importance, worthy of designation) or Group 2 (significant, worthy of preservation), it would be eligible if it is also in a good and habitable condition. Staff will prepare criteria to help assess what would be considered 'good and habitable condition'.

Clause 1, Sub-section 3: Clarification Regarding "building and/or land"
This recommendation relates to a property that may only have a portion of it to be deemed of cultural importance, and therefore, eligible for the tax reduction. The intent is to ensure that the portion of the building and land that is valued by the Municipal Property Assessment Corporation (MPAC) relates only to the eligible portion. For example, if a farmhouse is sitting on a 10 acre parcel of land, the eligible portion would only be the farm house building and the land it is sitting on. In rare cases, there may be a cultural heritage feature associated with the building such as a significant tree or cultural landscape element that is identified in the designation by-law. In that case, the eligible portion may include the building and some additional land. The recommendation has been amended to read "building and land" not "building and/or land".

Clause 1, Sub-section 5: Clarification of Infractions - Eligibility and Limitations and Restrictions
This recommendation is included to ensure that a property that receives a heritage tax reduction is in compliance with municipal by-laws and not be the subject of any contraventions, work orders, penalties, fees, arrears of taxes, fines or any other outstanding requirements.

The draft Heritage Tax Reduction By-law has been amended in the following manner:

1. The term "contravention" has been added to the definition section. A "contravention" has been defined as "an offence under a municipal by-law, Act or regulation for which enforcement proceedings have been commenced";
2. The section setting out the eligibility criteria regarding by-law convictions has been amended to refer to "contraventions" as that term is now defined;
3. An additional section has been included with the "Limitations and Restrictions" section to provide that where there is a contravention in any year for which a Heritage Tax

Reduction applies, the amount of the rebate for the year during which there is non-compliance with the contravention (even where there is a conviction) or where there are outstanding fines, penalties, arrears of taxes, fees, or other outstanding municipal requirements, must be repaid in full by the owner.

The intention with these changes is that a "contravention" prior to application disqualifies an owner from making an application for the year or years during which the contravention exists. Once there is compliance, however, the owner becomes eligible for rebates for future years. In addition, where an owner commits a contravention after having been given a Heritage Tax Reduction, the total amount of the reduction is to be repaid while there is non-compliance with the contravention. There would be no in-year adjustments. Any contravention in any year would disqualify the owner from a rebate for that entire year. It should be noted that the contraventions contemplated in the draft by-law include offences with respect to every municipal by-law and Provincial and Federal Act and regulation that relate specifically to the building or land for which a Heritage Tax Reduction is sought or given.

FINANCIAL CONSIDERATIONS:

If all 1299 properties designated as heritage in the Town were to qualify for a rebate, total costs would range from $1,014,628 (Town share $191,788) for a 10% program to $4,058,512 (Town share $767,154) for a 40% program. However, given the criteria proposed, the number of eligible properties is reduced from 1299 to some 564 properties.

Should owners of all 564 eligible heritage properties successfully apply for this program, the cost to the Town would range from $80,400 (10%) to $321,601 (40%).

The recommended program as outlined in this report, with a 30% reduction and with a 10% take-up, would cost the Town of Markham an estimated $24,121. The cost to Markham if all 564 properties became eligible is estimated at $241,201. Given the timing of this report, and the time required for the program to be implemented (including application and information brochure development and printing), advertising and application receipt and processing, rebates will not be processed in 2003. It is therefore recommended that program costs be funded from the 2004 budget.

There will also be associated costs for the development and printing of the application and brochure that should be covered through the application fee.

Program costs of $24,121 for 2003 will need to be funded from the 2004 budget as well as a similar amount for 2004.

BUSINESS UNITS CONSULTED AND AFFECTED:

Legal Services Department and Planning and Urban Design Department.

ATTACHMENTS:

Appendix A – Draft Bylaw to Establish a Program to Provide Reductions or Refunds in respect of Eligible Heritage Properties
Appendix B – Draft by-law to amend Bylaw 2002-276 (Fees and Charges By-law)

Andy Taylor, Commissioner, Corporate Services

Jim Baird, Commissioner, Development Services

Q:\Finance and Administration\Finance\SHARED\2003COW_Council\0321 Heritage Rebate - Additional Info.doc

BY-LAW 2003-

Being a By-law to establish a program
to provide tax reductions or refunds
in respect of eligible heritage properties

WHEREAS the Council of The Corporation of the Town of Markham is empowered by section 365.2 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, to pass a by-law establishing a program to provide heritage tax refunds in respect of eligible heritage properties;

AND WHEREAS the Council of The Corporation of the Town of Markham deems it advisable and in the public interest to provide financial assistance on the terms set out in this By-law as an incentive to encourage property owners to renovate, restore and maintain heritage buildings in the Town of Markham;

NOW THEREFORE the Council of The Corporation of The Town of Markham enacts as follows:

1. In this By-law:

"contravention " means an offence under a municipal by-law, Act or regulation for which enforcement proceedings have been commenced that relates specifically to the building or land for which a Heritage Tax Reduction is sought or given;

"Council" shall mean the Council of The Corporation of the Town of Markham;

"Eligible Heritage Property" means land or buildings or a portion thereof that is,
- (i) located in the Town of Markham;
- (ii) designated under Part IV of the *Ontario Heritage Act* or is part of a heritage conservation district under Part V of the *Ontario Heritage Act*; and
- (iii) subject to a heritage easement agreement with the Town under section 22 or 37 of the *Ontario Heritage Act*

and that complies with the additional eligibility criteria set out in this By-law.

"Heritage Property Tax Reduction Program" means a financial assistance program adopted by the municipality to help owners of heritage properties maintain and restore their properties for the benefit of the entire community by providing tax relief to owners of eligible heritage properties;

"Heritage Tax Reduction" means the amount of property tax reduction in respect of an Eligible Heritage Property;

"Lower Tier Municipality" has the same meaning as in Section 1 of the Municipal Act, 2001;

"MPAC" means the Municipal Property Assessment Corporation;

"Owner(s)" includes a corporation and partnership and the heirs, executors, administrators and other legal representatives of a person to whom the context can apply according to law;

"Person(s)" includes a corporation and partnership and the heirs, executors, administrators and other legal representatives of a person to whom the context can apply according to law;

"Town" means The Corporation of the Town of Markham.

2. The amount of a Heritage Tax Reduction shall be 30% of the taxes for municipal and school purposes levied on the property that are attributable to:

   (i) the building or structure or portion of the building or structure that is the Eligible Heritage Property; and
   (ii) the land used in connection with the Eligible Heritage Property, as determined by the Town.

3. Subject to the conditions set out in this by-law, one Heritage Tax Reduction may be paid annually for each eligible heritage property in the property tax class of Residential, Multi-Residential, Farm, Commercial and Industrial as defined by the *Assessment Act*, R.S.O 1990, c. A. 31 and Ontario Regulation 282/98 thereunder, as amended.

4. MPAC, at the request of the Town, shall determine the portion of a property's total assessment that is an attributable to the Eligible Heritage Property.

Eligibility Criteria

5. In order to be eligible to apply for a Heritage Tax Reduction, owners of the subject properties must provide proof, satisfactory to the Treasurer of the Town, of the following;
   (i) the property has been designated as a property of cultural heritage value or interest under Part IV of the *Ontario Heritage Act* or it must be part of a heritage conservation district under Part V of the *Ontario Heritage Act*; and
   (ii) is subject to a heritage easement agreement under section 22 or 37 of the *Ontario Heritage Act;* and
   (iii) the heritage easement agreement referred to subsection (ii) above must be registered against the eligible heritage property by December 31 of the taxation year for which relief is sought except for the 2003 tax year in which the easement must be in place no later than July 31, 2004;
   (iv) the Eligible Heritage Property is not the subject of any contraventions, work orders or outstanding municipal requirements; and
   (v) meets all of the following criteria, to the satisfaction of the Commissioner of Development Services:
      (a) Be classified as a Group 1 or Group 2 structure as evaluated by Heritage Section staff using the Town of Markham's "Evaluating Heritage Resource" document ; and
      (b) Be in a good and habitable condition

   (vi) there are no outstanding municipal fines, arrears of taxes, fees or penalties assessed against the applicant.

6. All applications must include the following to be considered for the refund program:
   (i) Heritage easement agreement approved by Council.
   (ii) Photographs of all elevations of the Eligible Heritage Property.
   (iii) Proof of insurance on the Eligible Heritage Property.

7. The application will cover each year of the two-year period as long as the property remains an Eligible Heritage Property. Renewal of the Heritage Tax Reduction must be made by application every third year. The application fee shall be deducted from the Heritage Tax Reduction once calculated.

Limitations and Restrictions

8. The Heritage Tax Reduction program set out in this By-law is subject at all times to the availability of funding for the program. Nothing in this By-law requires the Town to provide funding for this program and the Heritage Tax Reduction contemplated by this By-law may be eliminated by Council through repeal of the By-law at any time with no notice whatsoever to affected persons.

9. The Heritage Tax Reduction program is subject to any regulations that the Minister of Finance may make governing by-laws on tax refunds and reductions for heritage properties.

10. Where multiple easement and/or preservation and maintenance agreements are registered on one parcel of land, multiple refunds will not be provided in respect of the same heritage features.

11. Upon application, the owner must consent to the Town conducting an inspection of the interior and exterior of the Eligible Heritage Property at any reasonable time, if required, to ensure that the relevant heritage easement agreement is being complied with and to ensure that the eligibility criteria can be met.

12. No Heritage Tax Reduction will be given under this By-law where the Town determines that the relevant heritage easement agreement is not complied with to the satisfaction of the Town.

13. Heritage Tax Reductions shall be calculated using the assessed value of the property, as returned, for the taxation year for which the application is made.

14. If the assessment of a property for a year changes as a result of proceedings under the *Assessment Act* or *Municipal Act* or a judicial decision, the Heritage Tax Reduction shall be recalculated using the new assessment and the tax roll for the year shall be amended to reflect the determination. The Town may set off any amount in favour of the Town against any refund to be paid to the owner as a result of the appeal, or it may apply it against the taxes owed for the succeeding taxation year.

15. The Heritage Tax Reduction shall be repaid in full by the owner for every year where there is an outstanding contravention or where there are outstanding municipal fines, arrears of taxes, fees or penalties assessed against the owner.

16. The minimum amount of the Heritage Tax Reduction that shall be paid for an individual property is $50.00.

Penalties

17. If the owner of an Eligible Heritage Property demolishes the Eligible Heritage Property or breaches the terms of the relevant heritage easement, the Town may require the owner to repay part or all of any Heritage Tax Reduction(s) provided to the owner for one or more years under this By-law.

18. The Town may require the owner to pay interest on the amount of any repayment required under section 17, at a rate not exceeding the lowest prime rate reported to the Bank of Canada by any of the banks listed in Schedule I of the *Bank Act* (Canada), calculated from the date or dates the Heritage Tax Reduction(s) were provided. Any amount repaid under this section will be shared by the Town, School Boards and the Region of York (if applicable) in the same proportion as their respective shares of the Heritage Tax Reduction(s) on the property.

19. This By-law shall be known as the "Heritage Tax Reduction By-law".

20. The effective date of this By-law is January 1, 2003.

READ A FIRST AND SECOND TIME THIS DAY OF , 2003.

READ A THIRD TIME AND PASSED THIS DAY OF , 2003.

CLERK

MAYOR

Appendix B

BY-LAW 2003 – XXX

A By-law to Amend By-law 2002-276, "A By-law to Impose Fees or Charges for Services or Activities Provided or Done by The Town of Markham"

Whereas Section 391 of the *Municipal Act, 2001* provides that a municipality may pass a by-law for imposing fees or charges for services or activities provided by or done on behalf of it;

AND WHEREAS Council wishes to encourage owners of heritage properties to enter into Heritage Easement Agreements to ensure the ongoing maintenance and long-term protection of these properties;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM HEREBY ENACTS AS FOLLOWS:

THAT By-law 2002-276 be amended as follows:

1. That the following fees and charges contained in Schedule "A" related to the CAO Commission – Legal Department be deleted:

   Heritage Easement Agreements $300.00 Per Agreement

2. That Schedule "A" of By-law 2002-272 be amended by adding thereto the following section:

   Heritage Tax Reduction Application:
   - first year of application: 20% of annual heritage reduction amount
   - every renewal: 10% of annual heritage reduction amount

3. All other provisions of By-law 2002-276, except as herein amended or effected, which are not inconsistent with the provisions of this By-law shall continue to apply.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
( ) DAY OF (month), 2003.

MARKHAM the MARK of EXCELLENCE **REPORT TO Finance and Administrative Committee**

TO: Mayor and Members of Council

FROM: Andy Taylor, Commissioner of Corporate Services
Barb Cribbett, Treasurer
Jim Baird, Commissioner, Development Services

PREPARED BY: Paul Wealleans, Director, Taxation
Regan Hutcheson, Manager, Heritage Planning

DATE OF MEETING: 2003-Dec-08

SUBJECT: Property Tax Reduction Program for Heritage Properties – Final Report

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RECOMMENDATIONS:

THAT the Town of Markham implement a Heritage Property Tax Reduction Program effective January 1, 2003 under the provisions of Section 365.2 of the *Municipal Act, 2001* to provide tax relief for eligible heritage properties as defined in the *Act* and in the by-law attached to this report;

AND THAT the criteria for eligibility in the heritage tax reduction program include the following:

1. To meet Provincial requirements an eligible heritage property must be designated as a property of cultural heritage value or interest under Part IV of the *Ontario Heritage Act* or it must be part of a heritage conservation district under Part V of the *Ontario Heritage Act*; and, in either case, the property must be subject to a heritage easement agreement under section 22 or 37 of the *Ontario Heritage Act* or an agreement with the Town respecting the preservation and maintenance of the property; and
2. To meet Town of Markham requirements, an eligible property/building must meet all of the following additional eligibility criteria to the satisfaction of the Commissioner of Development Services:
   a. Date from an early age in the development of the lands now forming the Town of Markham;
   b. Retain most of its original architectural features;
   c. Represent the distinctive visible characteristics of an architectural style, period or method of construction; and
   d. Be in a good and habitable condition.
3. If only a portion of a property (building and/or land) is deemed to be of cultural heritage value, Town staff would determine that proportion for the purposes of the application and forward the application to the Municipal Property Assessment Corporation for an assessed value of the portion;

4. A heritage easement agreement must be in place by December 31 of the taxation year for which relief is sought except for 2003 in which case the heritage easement agreement must be in place no later than July 31, 2004;
5. The property must not be the subject of any Town by-law infractions, work orders or other outstanding requirements;
6. The amount of the annual heritage tax rebate be set at 30% of taxes payable on the eligible property.

AND THAT Council support the elimination of the agreement preparation fees associated with heritage conservation easement agreements to encourage property owners to enter into these forms of agreements as part of Markham's commitment to preserving its local heritage resources;

AND THAT the heritage tax reduction will be applied to taxes as levied, or as reduced on a reconsideration or assessment appeal;

AND THAT the Town of Markham's Fees and Charges Bylaw 2002- 276 be amended to reflect the elimination of the easement agreement fees and to include the heritage tax reduction application fee;

AND THAT the application fee of 20% of the annual heritage reduction for the initial year of application and the application fee of 10% of the annual heritage tax reduction for each renewal period (every third year) be deducted from the total annual heritage tax reduction amount once calculated;

AND THAT staff report annually to Council on the program and include elements such as the number of applications, costs and resource requirements;

AND THAT the Regional Municipality of York be requested to pass its own heritage tax reduction by-law to account for its share of the total taxes, failing which the 30% reduction in taxes would be limited to the Town and education components;

AND THAT the necessary by-laws (attached) be enacted.

PURPOSE:
This report incorporates the responses of the circulation of September 23, 2003 report to the 125 residents who attended the public meeting held on July 10, 2003. This report also recommends the enactment of a Heritage Property Tax Reduction By-law.

EXECUTIVE SUMMARY:
This report recommends that Council implement a 30% Heritage Tax Reduction Program in the Town of Markham, effective January 1, 2003. A staff report including these recommendations was considered by the Finance and Administrative Committee at its meeting of September 22, 2003 that included comments from the public meeting on July 10, 2003. The Committee on September 22, 2003 directed staff to circulate the September 22, 2003 report to the 125 people for additional comment. Feedback was received from seven members of the public supporting the program.

BACKGROUND:

At its meeting of September 22, 2003 Finance and Administrative Committee considered a report and presentation regarding a proposed program of tax relief for heritage properties in Markham. The Committee directed that staff circulate the report to the 125 members of the public who attended the public meeting held on July10, 2003.

OPTIONS/DISCUSSIONS:

As directed by Council, the staff report entitled "Property Tax Reduction Program for Heritage Properties" dated September 22, 2003 was forwarded to all members of the public who attended the public information meeting on July 10, 2003. In addition, the package was sent to the Society for the Preservation of Historic Thornhill, Ward One South Thornhill Residents Inc., Unionville Historical Society, Unionville Ratepayers Association, Markham Historical Society, Markham Village Conservancy, Old Markham Village Ratepayers Association, and Vinegar Hill Ratepayers Association. A notice accompanied the report, which summarized the main recommendations and requested that any comments be forwarded to staff by October 10, 2003.

Seven responses were received all of which were in support of the program. The seven responses of the 125 members of the public notified represent a response rate of 6%. Specific comments were:
<u>Implement Recommended Program</u>: Three respondents were very succinct and suggested that the Town implement the program as recommended.
<u>Percentage of Reduction</u>: Two property owners noted that the proposed 30% reduction should be 40%.
<u>Administrative Fees</u>: Two respondents indicated that the administrative fee should be reduced similar to other municipalities. It was suggested that a set fee (i.e. $100) be used, if necessary. It was also suggested that the renewal process seemed cumbersome for the owner and would consume a lot of staff time. It was recommended renewals could be automatic with staff doing spot checks to ensure that the easement requirements were being met.
<u>Easement Agreements</u>: No respondents indicated any objection to the required easement agreement.
<u>Property must be in compliance</u>: One owner indicated that he liked the fact that in order to be eligible the property must not be the subject of any outstanding Town infractions or outstanding requirements.
<u>Commercial Property Taxes</u>: One individual noted a concern regarding the amount of commercial property taxes and the high costs to maintain the original architecture of the building.
<u>Non-heritage property owners</u>: One respondent indicated support for the revised proposal, but noted that he had heard complaints from other residents who owned non-heritage properties since they must comply with heritage regulations in the heritage districts.

While some comments related to various components of the proposed program, they were all supportive of a heritage tax reduction program. It is staff's view that the recommendations included in the September 22, 2003 report again be recommended for implementation.

To encourage applications, it is recommended that no "up front" application fee be charged but rather the fee be collected by offsetting it against the annual tax reduction. For initial year applications, the fee would be 20% of the first year's annual heritage tax reduction and a 10% reduction for each renewal period. A renewal would be required every third year.

The committee also directed that staff include options regarding the proposed easement agreement particularly with respect to owners of heritage properties who might wish to opt out of the heritage tax reduction program in the future. The heritage easement agreement is a mandatory requirement of the Provincial Government. The main purpose of the agreement is to ensure that heritage properties are maintained without alteration or demolition unless the municipality expressly agrees to such changes while providing a financial benefit to the heritage property owner in the form of a heritage tax reduction.

The issue has been raised as to whether a heritage easement agreement be removed from the title of a property should a heritage rebate program be adopted now and subsequently eliminated by a future Council. The Town of Markham would need to agree to remove the agreements once on title. Given that a heritage property owner may enter into an easement agreement solely to receive a tax rebate, it might seem reasonable that if the rebate program is cancelled, then the easement agreement should be removed from title. However, an easement provides the mechanism for the Town to ensure that heritage stock is preserved – a step beyond what designation provides for. The easement ensures that demolition cannot occur without the Town's agreement. It also ensures that the heritage stock is maintained.

Staff is recommending that, as a general rule, easement agreements remain on title once the property owner has received a tax rebate benefit. However, Council does have the ability to remove an easement agreement from any individual property if it chooses and the owner consents.

In essence, to receive the rebate requires a commitment by the property owner. Heritage property owners should carefully consider the impacts before applying. It is staff's recommendation that even if the owner opts out of the program, the heritage easement agreement remains on title.

FINANCIAL CONSIDERATIONS:

If all 1299 properties designated as heritage in the Town were to qualify for a rebate, total costs would range from $1,014,628 (Town share $191,788) for a 10% program to $4,058,512 (Town share $767,154) for a 40% program. However, given the criteria proposed, the number of eligible properties is reduced from 1299 to some 564 properties.

Should owners of all 564 eligible heritage properties successfully apply for this program, the cost to the Town would range from $80,400 (10%) to $321,601 (40%).

The recommended program as outlined in this report, with a 30% reduction and with a 10% take-up, would cost the Town of Markham an estimated $24,121. The cost to Markham if all 564 properties became eligible is estimated at $241,201. Given the timing of this report, and the time required for the program to be implemented (including application and information brochure development and printing), advertising and application receipt and processing, rebates will not be processed in 2003. It is therefore recommended that program costs be funded from the 2004 budget.

There will also be associated costs for the development and printing of the application and brochure that should be covered through the application fee.

Program costs of $24,121 for 2003 will need to be funded from the 2004 budget as well as a similar amount for 2004.

BUSINESS UNITS CONSULTED AND AFFECTED:
Legal Services Department and the Planning and Urban Design Department.

ATTACHMENTS:
Appendix A – Draft By-law
Appendix B – Minutes of Public Information meeting held on July 10, 2003-11-21
Appendix C – Heritage Tax Relief Programs - Other Ontario Municipalities
Appendix D – Detailed Cost Scenarios
Appendix E – Draft By-law to amend Fees and Charges By-law 2002-276

Andy Taylor, Commissioner of Corporate Services

Jim Baird, Commissioner Development Services

Barb Cribbett, Treasurer

Valerie Shuttleworth, Director Planning and Urban Design

Paul Wealleans, Director, Taxation

Appendix A – Draft By-law

BY-LAW 2003-

Being a By-law to establish a program
to provide tax reductions or refunds
in respect of eligible heritage properties

WHEREAS the Council of The Corporation of the Town of Markham is empowered by section 365.2 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, to pass a by-law establishing a program to provide heritage tax refunds in respect of eligible heritage properties;

AND WHEREAS the Council of The Corporation of the Town of Markham deems it advisable and in the public interest to provide financial assistance on the terms set out in this By-law as an incentive to encourage property owners to renovate, restore and maintain heritage buildings in the Town of Markham;

NOW THEREFORE the Council of The Corporation of The Town of Markham enacts as follows:

1. In this By-law:

"Council" shall mean the Council of The Corporation of the Town of Markham;

"Eligible Heritage Property" means land or buildings or a portion thereof that is,

~~i)~~ (i) located in the Town of Markham;
~~ii)~~ (ii) designated under Part IV of the *Ontario Heritage Act* or is part of a heritage conservation district under Part V of the *Ontario Heritage Act*; and
~~iii)~~ (iii) subject to either a heritage easement agreement with the Town under section 22 or 37 of the *Ontario Heritage Act* or an agreement with the Town respecting the preservation and maintenance of the property;

and that complies with the additional eligibility criteria set out in this By-law.

"Heritage Property Tax Reduction Program" means a financial assistance program adopted by the municipality to help owners of heritage properties maintain and restore their properties for the benefit of the entire community by providing tax relief to owners of eligible heritage properties;

"Heritage Tax Reduction" means the amount of property tax reduction in respect of an Eligible Heritage Property;

"Lower Tier Municipality" has the same meaning as in Section 1 of the Municipal Act, 2001;

"MPAC" means the Municipal Property Assessment Corporation;

"Owner(s)" includes a corporation and partnership and the heirs, executors, administrators and other legal representatives of a person to whom the context can apply according to law;

"Person(s)" includes a corporation and partnership and the heirs, executors, administrators and other legal representatives of a person to whom the context can apply according to law;

"Town" means The Corporation of the Town of Markham.

2. The amount of a Heritage Tax Reduction shall be 30% of the taxes for municipal and school purposes levied on the property that are attributable to:

   (i) the building or structure or portion of the building or structure that is the Eligible Heritage Property; and
   (ii) the land used in connection with the Eligible Heritage Property, as determined by the Town.

3. Subject to the conditions set out in this by-law, one Heritage Tax Reduction may be paid annually for each eligible heritage property in the property tax class of Residential, Multi-Residential, Farm, Commercial and Industrial as defined by the *Assessment Act*, R.S.O 1990, c. A. 31 and Ontario Regulation 282/98 thereunder, as amended.

4. MPAC, at the request of the Town, shall determine the portion of a property's total assessment that is an attributable to the Eligible Heritage Property.

Eligibility Criteria

5. In order to be eligible to apply for a Heritage Tax Reduction, owners of the subject properties must provide proof, satisfactory to the Treasurer of the Town, of the following;
   (i) the property has been designated as a property of cultural heritage value or interest under Part IV of the *Ontario Heritage Act* or it must be part of a heritage conservation district under Part V of the *Ontario Heritage Act*; and
   (ii) is subject to a heritage easement agreement under section 22 or 37 of the *Ontario Heritage Act* or an agreement with the Town respecting the preservation and maintenance of the property; and
   (iii) the heritage easement agreement referred to subsection (ii) above must be registered against the eligible heritage property by December 31 of the taxation year for which relief is sought except for the 2003 tax year in which the easement must be in place no later than July 31, 2004;
   (iv) The Eligible Heritage Property must not be the subject of any Town by-law convictions, work orders or outstanding municipal requirements; and
   (v) meets all of the following criteria, to the satisfaction of the Commissioner of Development Services:
      (a) date from an early age in the development of the lands now forming the Town of Markham;
      (b) retain most of its original architectural features;

(c) represent the distinctive visible characteristics of an architectural style, period or method of construction; and
(d) be in a good and habitable condition.

6. All applications must include the following to be considered for the refund program:
~~i.~~(i) Heritage easement agreement approved by Council.
~~ii.~~(ii) Photographs of all elevations of the Eligible Heritage Property.
~~iii.~~(iii) Proof of insurance on the Eligible Heritage Property.

7. The application will cover each year of the two-year period as long as the property remains a Eligible Heritage Property. Renewal of the Heritage Tax Reduction must be made by application every two years. The application fee shall be deducted from the Heritage Tax Reduction once calculated.

<u>Limitations and Restrictions</u>

8. The Heritage Tax Reduction program set out in this By-law is subject at all times to the availability of funding for the program. Nothing in this By-law requires the Town to provide funding for this program and the Heritage Tax Reduction contemplated by this By-law may be eliminated by Council through repeal of the By-law at any time with no notice whatsoever to affected persons.

9. The Heritage Tax Reduction program is subject to any regulations that the Minister of Finance may make governing by-laws on tax refunds and reductions for heritage properties.

10. Where multiple easement and/or preservation and maintenance agreements are registered on one parcel of land, multiple refunds will not be provided in respect of the same heritage features.

11. Upon application, the owner must consent to the Town conducting an inspection of the interior and exterior of the Eligible Heritage Property at any reasonable time, if required, to ensure that the relevant heritage easement agreement is being complied with and to ensure that the eligibility criteria can be met.

12. No Heritage Tax Reduction will be given under this By-law where the Town determines that the relevant heritage easement agreement is not complied with to the satisfaction of the Town.

13. Heritage Tax Reductions shall be calculated using the assessed value of the property, as returned, for the taxation year for which the application is made.

14. If the assessment of a property for a year changes as a result of proceedings under the *Assessment Act* or *Municipal Act* or a judicial decision, the Heritage Tax Reduction shall be recalculated using the new assessment and the tax roll for the year shall be amended to reflect the determination. The Town may set off any amount in favour of the Town against any refund to be paid to the owner as a result of the appeal, or it may apply it against the taxes owed for the succeeding taxation year.

15. Heritage Tax Reductions will only be provided for Eligible Heritage Properties that are not in arrears of taxes.

16. The minimum amount of the Heritage Tax Reduction that shall be paid for an individual property is $50.00.

Penalties

17. If the owner of an Eligible Heritage Property demolishes the Eligible Heritage Property or breaches the terms of the relevant heritage easement, the Town may require the owner to repay part or all of any Heritage Tax Reduction(s) provided to the owner for one or more years under this By-law.

18. The Town may require the owner to pay interest on the amount of any repayment required under section 17, at a rate not exceeding the lowest prime rate reported to the Bank of Canada by any of the banks listed in Schedule I of the *Bank Act* (Canada), calculated from the date or dates the Heritage Tax Reduction(s) were provided. Any amount repaid under this section will be shared by the Town, School Boards and the Region of York (if applicable) in the same proportion as their respective shares of the Heritage Tax Reduction(s) on the property.

19. The effective date of this By-law is January 1, 2003.

READ A FIRST AND SECOND TIME THIS DAY OF , 2003.

READ A THIRD TIME AND PASSED THIS DAY OF , 2003.

CLERK

MAYOR

Appendix B
Minutes from Public Information meeting held on July 10, 2003

PUBLIC INFORMATION MEETING
PROPOSED HERITAGE TAX RELIEF PROGRAM

TOWN OF MARKHAM
Council Chambers, Markham Civic Centre
Thursday, July 10, 2003

1.1.1 MINUTES

Attendance
Andy Taylor, Commissioner
Paul Wealleans, Director of Taxation
Regan Hutcheson, Manager of Heritage Planning
Shane Manson, Tax Policy Analyst
Deputy Mayor Frank Scarpitti
Councillor Jack Heath
Councillor Joe Virgilio

Y. Hurst, Committee Secretary

Councillor Joe Virgilio convened the meeting at 7:00 p.m. in the Council Chambers.

1.2 PROPOSED HERITAGE TAX RELIEF PROGRAM FOR

1.3 THE TOWN OF MARKHAM

1.4

Councillor Virgilio advised that staff of the Town of Markham (Finance Department and Heritage Section) would make a presentation outlining the financial impacts of the proposed heritage tax relief program.

Councillor Heath noted that the proposed program presents an opportunity to implement what the Provincial Government has permitted under the new *Municipal Act*. Both staff and councillors were present to hear comments and concerns of residents regarding this proposal.

The Manager of Heritage Planning advised that the information would be presented in two segments covering heritage issues and financial issues relating to the proposed program. He noted that it is not mandatory for a municipality to implement a heritage tax relief program and it is the responsibility of the municipality to determine what is to be considered 'heritage'. He advised that the goal of the program would be to help preserve significant heritage properties in the Town of Markham. He outlined the benefits of heritage conservation and advised that the program can include properties in a district under Part V of the Ontario Heritage Act or individually designated properties under Part IV of the Ontario Heritage Act.

The Manager of Heritage Planning provided information on a number of issues including: the heritage property inventory; significant heritage properties; what is a heritage easement (more comprehensive than designation in protecting a heritage property).

The Director of Taxation outlined the proposed tax relief program under section 365.1 of the *Municipal Act*. He noted that both upper tier and lower tier are required to pass a by-law in support of the tax relief program. The heritage property is required to be designated or in a heritage district. A heritage easement must be registered on title. The amount of tax relief proposed is 20% of the annual taxes. He noted that 40% of the first year's relief would be retained by the Town of Markham to cover the expense of preparing the easement and staff costs related to conducting investigation and research into the property. An amount of 10% is proposed to be retained upon renewal (every two years).

The Director indicated that a limit of 60 properties has been proposed for the first year on a first come first served basis due to workload implications. He noted that, for a renewal after the second year, a copy of the heritage easement agreement, the insurance certificate and pictures of the heritage dwelling would be required. The cost to the Town of Markham in the first year with a 20% rebate on 60 properties would be $16,080 with an average residential heritage refund of approximately $1,000.00 ($400 retained by the Town - $600 to the homeowner in the first year). In the initial phase only significant heritage structures would be considered for the program. After the first year the 60 dwelling limit would be reviewed.

The following persons provided their support/concerns/recommendations:
Donna Wigmore, 17 Peter Street
Reid McAlpine, Unionville
Karen John, 8 David Gohn, Markham Heritage Estates
Peter Ross, 89 Main Street South
Mr. Woods, Church Street, Markham
Doug Meharg, 107 Robinson Street, Markham
Speaker unknown, Alma Walker House
Mike Brady 12 Celebrity Place
Tony Murphy, Main Street, Unionville
Martha Mingay, Main Street, Markham
Albert Strauss, 19 Peter Street,
Wendy Henderson, Wales Avenue
Bill Wylie, 148 John Street, Thornhill
Richard Talbot, 10 Station Lane, Unionville
Glen Russell, Highway 7 east of 9th Line
Darryl Simmons, 86 John Street,
Karen Barrer, Union Street, Unionville
Patricia Bridal Salon (owner), 48 Washington Street, Markham
Don Garland, Main Street, Markham
Dean Ayati 179 John Street, Thornhill
Therese Taber, 156 Main Street (lady)

Comments/questions of support/concern/recommendations were:

- provincial grants are no longer available – the present loan from the Town is not an incentive to homeowners
- many heritage homes are neglected – incentives to maintain and restore historic structures are needed
- many heritage homes do not have tile drainage, work on the exterior of a heritage home is very expensive
- renovations and repairs to heritage properties are very expensive
- heritage homeowner's rights are already restricted
- insurance is difficult to obtain; some insurance companies are refusing to insure homes with old electrical wiring
- contractors are difficult to find and costly due to the unique issues of a heritage home
- required wooden windows are more costly and less heat efficient
- old fieldstone foundations require maintenance
- Heritage homes are a tourist attraction yet the additional costs for maintenance and restoration are a burden to the homeowner
- If the Town of Markham's motto is 'Leading While Remembering' then it should stand by its motto and assist homeowners to preserve their heritage dwellings
- Strongly encourages Council to implement a 40% tax relief
- Where can a resident obtain a copy of the list of buildings that are considered significant and how was it determined that 60 homes would qualify? (Ans: 60 homes was based on an estimate that 10% of the significant property owners would participate in the program on a first come first serve basis. The 60 homes represent a significant workload for Town staff. The heritage inventory list is available for review at the municipal offices.)
- What deems a building to be significant? (Ans: In the three heritage district plans significant buildings are identified. These buildings are considered significant for architectural and/or historical reasons.)
- What is a heritage easement and how does it differ from the requirements in Markham Heritage Estates? (Ans: In Markham Heritage Estates the buildings are designated under the Heritage Act. An easement is a legal agreement that is registered on title. The easement requires the owner to maintain the dwelling, provide insurance coverage and have exterior alterations approved by the Town. Designation does not require maintenance.)
- The renewal process should be simplified; owner should be allowed to use own lawyer to reduce the costs charged by the Town
- How long will the Town reduce the rebate? (Ans: For the first year only the Town will reduce the rebate by 40%; for renewals the Town will reduce the rebate by 10%.)
- what if the property owner was selling to a developer would the Town release its interest in the heritage home? (Ans: The easement does not prevent an owner from selling his/her house, however, the Town needs to ensure that the house is protected. A heritage easement ensures that the dwelling is not demolished.)
- it is a great deal to ask of a homeowner (the heritage easement) for a very small amount of rebate (20%)
- Even with an easement there is no protection for a heritage home if the owner is not maintaining the home

- Resident surprised to learn that he lives in a heritage district; he needs a new roof does he have to go to Heritage Markham? (Ans: there were 6 public meetings held prior to adoption of the district boundaries, passed by the OMB, and every owner in the district was advised. Any exterior alterations to a home in the heritage district requires the completion of a Heritage Permit Application.)
- Being in a heritage district or having a heritage easement affects the value of the house negatively (Ans: The Manager of Heritage Planning indicated that studies are available for review at the Town offices that indicate being in a heritage district affects the value of the house in a positive manner.)
- Resident lives in the Alma Walker House (a 1952 bungalow). No maintenance was done on this house over the years. How does the committee determine historical/architectural significance? (Ans: The program criteria focuses on architectural significance; not historical significance. Eligibility of building having historical significance would have be addressed on a case by case basis
- Request to include historically significant homes
- Rather than limiting the applications in the first year to 60 homes, have Council determine how much money the Town is willing to invest in heritage and then share that amount among those who apply
- Look at alternatives to the application criteria; for renewals the owner should demonstrate what maintenance has been done on the house
- Concern from many residents regarding the requirement for a heritage easement (Ans: a heritage easement is an eligibility requirement determined by the province.)
- Residents who choose to live in a heritage home also choose to maintain them; not willing to let Town dictate to homeowners but agreeable that certain requirements would have to be met; suggested something other than an 'easement'
- Town should let owners know when their building is being put on the heritage inventory list
- Owners need to have guidelines as to what are acceptable improvements
- If the ability for the municipality to provide tax relief were taken away by the province, would the heritage easement be released from the property?
- If a resident already has a heritage easement on the property is there a reduction in the 40% retained by the Town in the first year?
- Concerns expressed that many of the heritage buildings on Main Street Markham are not maintained
- The heritage easement protects the house from being torn down; the tax relief assists with maintenance of the house; they don't go together; suggest develop another program for funding assistance for maintenance of heritage homes; make an easement a separate issue (Ans: There is no other program available at the present time. It is difficult for a municipality to provide lower taxes for a segment of the population.)
- $1,000 per year will not cover the costs of painting a heritage home every three years
- Increase the Town's contribution to $160,000 to show Markham's concern and support of its heritage
- Pleased to have a proposal, residents have worked for a number of years for some system of tax relief for owners of heritage homes
- What happens with respect to the heritage easement if the house is sold? (Ans: The easement runs with the land.)

- Owns one of the few heritage homes in the Cornell area and concerned that there are few incentives to designate the house (Avery Reesor house). Why are 100 properties paying no tax? (Ans: Properties such as churches are exempt.)
- People who live in heritage homes love their homes and will maintain these houses without the legislation
- Bought a heritage home because she wanted to live in a heritage dwelling and restores the home because she wants to do so; she does not support a heritage easement; pleased that the Town is looking at assisting in some way but Town should be addressing those homes that are not being taken care off
- Believes that the requirement for a heritage easement is an insult; their heritage home is maintained; $10,000 was recently spent to paint the board and batten exterior.
- Advise province that requirement for a heritage easement is not acceptable
- Maintenance costs to repair and restore heritage homes are high; has spent $128,000 for structural repairs, will the taxes be reduced? (Ans: Taxes are based on assessment, the assessment can be appealed.)
- What if an owner wishes to discontinue the tax relief program, will be heritage easement be removed? (Ans: It is expected that the easement would remain on the property.)

Deputy Mayor Scarpitti advised that the public meeting has been held to review the initial program proposed by staff as permitted under provincial legislation. It is important for the Town to receive comments, concerns and suggestions from the public before Council initiates any type of heritage tax relief program. The process for renewals will be reviewed by staff as well as consideration for property owners who already have a heritage easement on their property. The Town is hoping that tax incentives will encourage those heritage homeowners who do not maintain their properties to provide some level of upkeep to their homes.

Deputy Scarpitti noted the resistance to one of the main components of the provincial legislation, which is the heritage easement. When these requirements are considered, not all heritage homeowners will want to participate in the program. The province has been approached over a number of years to provide some way for municipalities to provide a measure of tax relief for heritage properties. The Region of York supports enhancement and protection of heritage inventories; therefore, it is believed that the Region will be supportive of the tax relief program. Deputy Scarpitti indicated that the province would be requested to review the requirement for a heritage easement. Council is open to all suggestions and alternative ways of structuring the program.

It was noted by a show of hands that, with a 20% rebate program, approximately 80% of those in attendance had a problem with the requirement for a heritage easement. If the tax relief was increased to 40% (rather than 20%) then those objecting to the requirement for a heritage easement was lowered to approximately 50%.

ADJOURNMENT

The public information meeting adjourned at the hour of 9:00 p.m.

Appendix "C"

Comparison of Adopted and Proposed Heritage Property Tax Reduction Programs

Municipality	% Of Rebate	Eligible Properties	Additional Criteria	Designation & Easements	Fees	Program Costs
Markham (Proposed)	30% Rebate (all classes)	Individually designated and significant heritage properties in heritage districts	Properties must: -Date from an early age; retain most of the original architectural features; represent a distinctive style, period or method of construction; be in good and habitable condition. No by-law infractions, work orders or other outstanding requirements. Cap of 60 for first year.	Property must be designated. Designation research to be prepared by staff. Use of standard easement agreement is proposed.	Initial application fee is 20% of tax reduction. Renewal fee is 10% of the annual tax reduction	First year, 10% take-up, cost to Markham is $24,000. For all eligible properties, the cost to Markham is $240,000
Toronto Approved Feb 2002 Not Implemented	40% for all eligible properties in all classes. However, tax rebates to be paid for from within their own property tax class. This requires new legislation as Toronto has a cap on Com / Ind properties	Eligibility initially limited to those properties that meet current criteria (designated and easement- 150 properties). If opened up to all 1300 designated properties, easement agreements would be required- generate considerable work for staff	Maximum upper limit of $500,000 per property. Must hire architect to inspect building and verify at initial application that building is well maintained in accordance with Heritage Easement. Verification is required every 5 years. Must supply any outstanding Easement related info (revised photos, insurance certificates)	Properties must be designated and subject to an Easement or City owned properties that have an agreement respecting preservation and maintenance.	Schedule of fees to be developed. Administrative costs of program to be covered.	For initial 150 prop's, total cost is $8.2m, municipal share of $4.2m, 94% for commercial properties.
Port Hope	40% of the amount of the increase in the municipal portion of the taxes that is the direct result of reassessment due to an approved restoration plan	Industrial properties (Brownfield's Heritage)	To be eligible, the building must be fully restored. Maximum of $10,000/yr. Credit against the real property taxes for a max. of 10 yrs. Grant is repayable if property is sold or transferred within 3 yrs.	Properties must be designated and / or approved restoration plan must have been completed.	Unknown	Funded from supplementary tax revenues.
Kitchener	40% for all eligible properties	One heritage tax refund annually for Res & Farm class. One heritage tax refund annually per property to a max. of 10 refunds for Ind, Com or Multi-residential.	Application must be made each year Owner must consent to inspection to ensure Easement Agreement or preservation agreement is being complied with	Property must be designated and retain an Easement or an agreement respecting preservation.	No fees	Unknown
Peterborough	40% (Res) 20% (Com) Industrial not eligible.	Only designated sites in a specific core area and those outside core area designated a minimum of 10 years.	Only sites designated on or before Dec 31st of the previous year (i.e. for tax relief in 2003, property must have been designated before Dec 31st 2002). This if for budget purposes. Council can also apply thresholds and caps on tax relief amounts in future years. Council can make exceptions for compelling cases outside of core area.	Property must be designated and have a standard easement agreement.	Res: $250 Com: $400 Renewal after 5 years – same fees.	Expected 10 sites are eligible for 2003. City's cost is $12,000

Appendix "D"

Financial Impacts – Heritage Rebates

Scenario 1: *10% Tax Refund, All Classes*

Total Estimated Cost of Refund:	$468,724	*10% Take up*	**$46,872**
Provincial Education Portion:	$235,448	*10% Take up*	**$23,544**
York Regions Portion:	$152,875	*10% Take up*	**$15,287**
Markham's Portion:	$ 80,400	*10% Take up*	**$ 8,040**

Property Type	Class Counts	2003 CVA	2003 Total Levy	Total Refund	Markham's Share
Residential	353	$168,296,000	1,913,615	191,361	46,523
Farm	75	38,847,900	110,430	11,043	2,685
Multi-Residential	2	3,580,000	40,706	4,071	990
Industrial	4	1,786,935	53,522	5,352	625
Commercial	130	109,282,070	2,568,965	256,896	29,578
Grand Total	**564**	**$321,792,905**	**4,687,239**	**468,724**	**80,400**

Scenario 2: *20% Tax Refund, All Classes*

Total Estimated Cost of Refunds:	$ 937,448	*10% Take up*	**$ 93,744**
Provincial Education Portion:	$ 470,896	*10% Take up*	**$ 47,089**
York Regions Portion:	$ 305,751	*10% Take up*	**$ 30,575**
Markham Portion:	$ 160,801	*10% Take up*	**$ 16,080**

Property Type	Class Counts	2003 CVA	2002 Total Levy	Total Refund	Markham's Share
Residential	353	$168,296,000	1,913,615	382,723	93,045
Farm	75	38,847,900	110,430	22,086	5,369
Multi-Residential	2	3,580,000	40,706	8,141	1,979
Industrial	4	1,786,935	53,522	10,704	1,250
Commercial	130	109,282,070	2,568,965	59,156	59,156
Grand Total	**564**	**$321,792,905**	**4,687,239**	**937,448**	**160,801**

Scenario 3: *30% Tax Refund, All Classes*

Total Estimated Cost of Refunds:	**$1,406,172**	*10%Take up*	**$140,617**
Provincial Education Portion:	$ 706,344	*10% Take up*	**$ 70,634**
York Regions Portion:	$ 458,626	*10% Take up*	**$ 45,862**
Markham Portion:	$ 241,201	*10% Take up*	**$ 24,121**

Property Type	Class Counts	2003 CVA	2003 Total Levy	Total Refund	Markham's Share
Residential	353	$168,296,000	1,913,615	574,084	139,568
Farm	75	38,847,900	110,430	33,129	8,054
Multi-Residential	2	3,580,000	40,706	12,212	2,969
Industrial	4	1,786,935	53,522	16,057	1,876
Commercial	130	109,282,070	2,568,965	770,689	88,734
Grand Total	**564**	**$321,792,905**	**4,687,239**	**1,406,172**	**241,201**

Scenario 4: *40% Tax Refund, All Classes*

Total Estimated Cost of Refunds:	**$1,874,896**	*10% Take up*	**$187,489**
Provincial Education Portion:	$ 941,793	*10% Take up*	**$ 94,179**
York Regions Portion:	$ 611,502	*10% Take up*	**$ 61,115**
Markham Portion:	$ 321,601	*10% Take up*	**$ 32,160**

Property Type	Class Counts	2003 CVA	2003 Total Levy	Total Refund	Markham's Share
Residential	353	$168,296,000	1,913,615	765,446	186,091
Farm	75	38,847,900	110,430	44,172	10,739
Multi-Residential	2	3,580,000	40,706	16,283	3,959
Industrial	4	1,786,935	53,522	21,409	2,501
Commercial	130	109,282,070	2,568,965	1,027,586	118,312
Grand Total	**564**	**$321,792,905**	**4,687,239**	**1,874,896**	**321,601**

30 % Heritage Refund Program (By District)

Tax Class		Designated Or Listed	Markham District	Thornhill District	Unionville District	Grand Total
Com	Properties 2003 CVA Total Refund	55 73,474,075 486,980	41 13,376,675 105,984	3 2,459,690 19,488	31 19,971,630 158,237	130 109,282,070 770,689
Farm	Properties 2003 CVA Total Refund	75 38,847,900 33,129				75 38,847,900 33,129
Ind	Properties 2003 CVA Total Refund	4 1,786,935 16,057				4 1,786,935 16,057
Multi	Properties 2003 CVA Total Refund	0 0 0	2 3,580,000 12,212			2 3,580,000 12,212
Res	Properties 2003 CVA Total Refund	188 121,263,000 413,647	103 25,122,000 85,695	21 7,313,000 24,946	41 14,153,000 48,278	353 168,296,000 574,084
Totals	**Properties** **2003 CVA** **Total Refund**	**322** **235,371,910** **949,813**	**146** **42,078,675** **203,891**	**24** **9,772,690** **44,434**	**72** **34,124,630** **206,515**	**564** **321,792,905** **1,406,172**

Average Heritage Refund (By Class)

Tax Class	No. Props	03 Average CVA	03 Average Tax	Average Refund	Avg. Town Portion	Avg. Region Portion	Avg. Edc. Portion
Com	130	$840,631	$19,761	$5,928	$683	$1,298	$3,948
Farm	75	$517,972	$1,472	$442	$107	$204	$130
Ind	4	$446,733	$13,381	$4,014	$469	$892	$2,654
Multi	2	$1,790,000	$20,353	$6,106	$1,484	$2,823	$1,799
Res	353	$476,759	$5,421	$1,626	$395	$752	$479

The table above illustrates what an average refund by tax class would be; utilizing the 30% refund formula.

Appendix E

BY-LAW 2003 – XXX

A By-law to Amend By-law 2002-276, "A By-law to Impose Fees or Charges for Services or Activities Provided or Done by The Town of Markham"

Whereas Section 391 of the *Municipal Act, 2001* provides that a municipality may pass a by-law for imposing fees or charges for services or activities provided by or done on behalf of it;

AND WHEREAS Council wishes to encourage owners of heritage properties to enter into Heritage Easement Agreements to ensure the ongoing maintenance and long-term protection of these properties;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM HEREBY ENACTS AS FOLLOWS:

THAT By-law no. 2002-276 be amended as follows:

1. That the following fees and charges contained in Schedule "A" related to the CAO Commission – Legal Department be deleted:

   Heritage Easement Agreements $300.00 Per Agreement

2. All other provisions of By-law 2002-276, except as herein amended or effected, which are not inconsistent with the provisions of this By-law shall continue to apply.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
( ) DAY OF (month), 2003.

SHEILA BIRRELL, TOWN CLERK

DON COUSENS, MAYOR

Q:\Development\Heritage\SUBJECT\Property Tax Rebate Program\By-law for fees.doc