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TAX REBATE PROGRAM FOR NOT-FOR-PROFIT CHILDCARE CENTRES LOCATED IN COMMERCIAL OR INDUSTRIAL PREMISES

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, August 10, 2004, from the Commissioner of Finance:

1. RECOMMENDATIONS

It is recommended that:

1. The current policy of providing a 40% property tax rebate to not-for-profit licensed childcare centres who are tenants in commercial or industrial properties be extended until December 31, 2008 to the following eligible organizations:
   (a) The Centered on Children Child Care Centre; and
   (b) The Mount Albert Children's Academy.

2. Council reaffirm its position that the Province should require the Municipal Property Assessment Corporation (MPAC) to implement an equitable policy regarding the assessment of childcare centres.

3. The Regional Solicitor is authorized to prepare the necessary by-law to give effect to the above noted recommendation.

2. PURPOSE

In 2003, Council approved a 40% property tax rebate to those not-for-profit childcare centres that were located in commercial or industrial properties, subject to a further review in 2004.

3. BACKGROUND

3.1 A Chronology of the Current Rebate Program

While the *Municipal Act* states that a municipality **must** provide an eligible charity with a rebate equal to at least 40% of the taxes payable for space occupied in a commercial or industrial class property, it also states that a municipality **may** provide rebates to organizations that are "similar" to eligible charities (or "similar organizations"). From 1998 to 2001 the Region had a policy to provide property tax relief to a number of similar organizations; however, Council decided to end this policy mainly because of the additional protection already provided by *The Continued Protection for Property Taxpayers Act (Bill 140)* which caps property tax increases on commercial and industrial properties at 5% annually. As a result, Council directed that no new similar organizations would be eligible to receive a rebate and that those organizations already receiving a rebate would have the rebate phased-out over a three year period ending in 2003.

However, in May 2002 the similar organizations' provisions of the Act (s.361(4)) was used by Council to extend the tax relief already being given to Royal Canadian Legions and veterans' associations (collectively referred to as "veterans' associations"). Under this section, Council provided a full rebate of all taxes owing (including the education component) for veterans' associations on the basis that tax relief from the municipal component had been specifically granted to them by local municipalities under s.325 of the Act.

Subsequently, Council received a deputation on behalf of the Centered on Children Child Care Centre, a not-for-profit childcare centre located in a commercial class premise in the City of Vaughan requesting the same treatment that was given to the veterans' associations – a full rebate of their property taxes. Reports were presented to Council in May 2002, September 2002 and April 2003 discussing the property tax treatment of childcare centres and the options available to provide tax relief to not-for-profit childcare centres.

In 2002, staff had hoped that the much anticipated Beaubien report (Beaubien, Marcel. *Property Assessment and Classification Review*, *Final Report*, Ministry of Finance, Fall 2002) would clearly address the inequities of childcare centre property assessment. Unfortunately, while the report acknowledged some of the issues, it did not support a call to the Province to revise the legislation or assessment methodology.

In January 2003, Regional Council adopted a number of the comments put forward by staff with respect to the final Beaubien Report including a request that the Province implement an equitable policy for childcare centres so that operations with exclusive control over their premises are assessed using the same methodology regardless of their location. The Province had indicated that any action taken as a result of Mr. Beaubien's report and/or comments received about it would not occur until at least 2004.

The April 2003 report recommended that Council request the Province to require the Municipal Property Assessment Corporation (MPAC) to implement an equitable policy regarding the assessment of childcare centres.

Subsequent to a further deputation from the Centered on Children Child Care Centre in April 2003, Council decided to implement a one-time policy to provide a 40% rebate (the same as eligible charities) for all registered not-for-profit childcare centres located in commercial or industrial premises. The benefit was provided under the similar to eligible charities subsection of the Act on a one year basis with the intention that the policy would be revisited by Council again in 2004. A letter from the Commissioner of Finance dated June 10, 2003 was sent to all registered childcare centres in York Region to inform them of the opportunity of receiving 40% tax rebate if all criteria were met. Only two childcare centres applied for the rebate in 2003.

3.2 Tax Status of Childcare Centres

The tax status of childcare centres for property tax purposes is complex in both the legislation and in the application of the legislation. MPAC's determination of a childcare centre's taxability is highly dependent upon the type of premises they are located in and the nature of the occupancy.

Some for-profit childcare centres located in exempt institutions such as schools and churches are not subject to property tax because of the nature of their occupancy agreement with their landlord. If the childcare entity does not have full tenancy rights over their portion of the premises that they occupy, they may well be exempt from property taxation. The landlord may enter into a license agreement or a management agreement for just this purpose.

Conversely, the Province has indicated that childcare centres will be subject to property taxation regardless of their profit status if they are located in a taxable premise. Therefore, not-for-profit childcare centres located in commercial or industrial properties are taxed at the commercial or industrial rate but are subject to the 5% capping provision.

4. ANALYSIS AND OPTIONS

The assessment issues for the two childcare centres that applied for a rebate in 2003 have not changed in the past year and there is no indication that the Province will address the assessment equity issue in the near future. While it is recognized that suitable facilities for a large childcare centre may be difficult to find in other than commercial or industrial class properties, it is not normally the role of the Region to remedy legislated property assessment inequities. As stated earlier, the most desirable solution would be to have the Province revise the legislation or provide specific direction to MPAC on this matter.

Notwithstanding, childcare is important to the Region. The Human Services Planning Coalition report speaks to the chronic under funding of not-for-profit childcare in York Region and therefore the importance of preserving spaces (*Towards a New Model for Social Services Funding in York Region, p 25*).

Therefore, it is proposed that Council adopt a policy to provide only interim property tax relief by extending the rebate to the childcare centres that had applied in 2003 for an additional period of up to five years. This would allow that the two childcare centre operators currently receiving a rebate to look for more suitable locations and/or advocate to the Province for equitable assessment treatment relative to operators located in tax exempt premises.

5. FINANCIAL IMPLICATIONS

5.1 Current Participation

While it was estimated that about eight not-for-profit childcare centres in York Region were taxed at commercial rates in 2002, only two qualified childcare centres applied for the rebate for 2003. On this basis it is recommended that tax relief be offered to the two childcare centres and that they are named in the by-law.

Participation in the Tax Relief Program for Not-for-profit Childcare Centres for 2003

Municipality	# of Applica-tions	Relief Local Municipal Portion $	Relief Region Portion $	Relief Education Portion $	Total Relief Granted $
East Gwillimbury	1	395	553	1,686	2,634
Vaughan	1	1,138	2,037	6,700	9,875
Total	2	1,533	2,570	8,386	12,509

Sources: local municipal tax offices, 2004.

The tax rebate is shared by the upper and lower tier municipalities and school boards in the same proportion as tax revenue, relieving much of the burden on the lower tier municipalities.

Of the total $12,509 rebate provided in 2003, the Region's portion accounted for $2,570. Should Council decide to renew the tax relief program that provides not-for-profit childcare centres located in commercial or industrial facilities with a rebate equal to 40% of taxes payable, based on the current rate of participation the overall cost in property tax rebates from the Region is estimated to be approximately $2,700.

6. LOCAL MUNICIPAL IMPACT

Should Council renew property tax relief to not-for-profit childcare centres through the tax rebate program, it is estimated that the local municipalities would incur a cost of $1,500 based on current participation.

7. CONCLUSION

It is recommended that the current policy of providing a 40% property tax rebate to not-for-profit licensed childcare centres who are tenants in commercial or industrial properties be extended until December 31, 2008 to the following two eligible organizations that have applied for the rebate in the prior year:

(a) The Centered on Children Child Care Centre

(b) The Mount Albert Children's Academy

Further, it is recommended that Council reaffirm the position of the April 2003 report, Update on Property Taxation of Childcare Centres (*Report 4, Clause 6, Finance and Administration Committee, April 17, 2003)* that the Province should require the Municipal Property Assessment Corporation (MPAC) to implement an equitable policy regarding the assessment of childcare centres.

The Senior Management Group has reviewed this report.