

Tax Cancellation Request

Islamic Missionary Association

Recommendation

That Executive Committee recommend to City Council:

1. That the outstanding municipal property taxes (principal) and associated penalties for the Islamic Missionary Association (Tax Rolls 3026374, 10303920, 10303940) for 2016, 2017 and 2018 tax years, be approved for tax cancellation under section 347 of the *Municipal Government Act*.
2. That all remaining taxes, including education taxes, charges and penalties, remain payable.
3. That collection of the remaining balance owing be given until June 30, 2018, for payment before additional penalties apply.

Previous Council/Committee Action

At the April 11/12, 2017, City Council meeting, the following motion was passed:

1. That the Islamic Missionary Association (Tax Roll 3026374, 10303920, 10303940) municipal taxes be deferred under section 347 of the Municipal Government Act, until May 2018.
2. That, if the Islamic Missionary Association reaches the conditions required for cancellation under City Policy C543 by May 2018, Administration will provide a report to Executive Committee recommending municipal tax and penalty cancellation back to 2016 and consideration of municipal tax and penalty cancellation back to 2012.
3. That, if the Islamic Missionary Association does not reach the conditions required for cancellation under City Policy C543 by May 2018, Administration will provide a report to Executive Committee requesting further deferral or other action as appropriate.

Executive Summary

Based on a February 23, 2018 inspection, the Development Services Branch confirms that the Islamic Missionary Association has passed all necessary inspections to begin operation. Based on this information and City Council's 2017 motion, Administration is recommending municipal tax and municipal penalty calculations for the 2016, 2017 and 2018 tax years. This report also outlines municipal taxes and penalties from previous years as well as outstanding arrears from education tax, other charges and associated penalties.

Report

The Islamic Missionary Association (Association) took possession of an old commercial site in 2012 to repurpose it into a mosque. This included two additional titles for associated parking lots. Properties operated for religious purposes are exempt from taxation under section 362(1)(k) of the Municipal Government Act (MGA). The relevant section reads:

Exemptions for Government, churches and other bodies

362(1) The following are exempt from taxation under this division

...

(k) property held by a religious body and used chiefly for divine service, public worship or religious education and any parcel of land that is held by the religious body and used only as a parking area in connection with those purposes.

Of particular relevance within this section is the reading of “used chiefly for”, which suggests that the property is being used for its stated purpose. A religious body, for example, cannot purchase land with the intention of developing a residential subdivision while also being exempt from taxation. In the case of the Islamic Missionary Association location, the property was under development from 2012 to 2018 and therefore did not qualify for tax exemption status.

Construction on this site has been ongoing since its purchase in 2012, but most of the property taxes were left unpaid. This resulted in a significant outstanding tax balance accumulating on the mosque and 2 parking lots. Following normal processes, the City of Edmonton initiated tax recovery proceedings on the main building in 2013 and associated parking lots in 2014. The year lag in proceedings was due to the parking lot accounts being paid in full prior to 2012, whereas the main mosque site still had outstanding taxes from 2011. This began with a caveat on the main building in 2013 and subsequent caveats on the parking lots in 2014. In 2014, the main building also fell into the City's tax sale proceedings.

In response, the Association met with Administration and worked out an agreement to avoid tax sale in April 2014. The City agreed to hold off on tax sale proceedings in anticipation of the group moving forward with a tax cancellation request under policy C-543 in 2015. This agreement, however, explicitly indicated that taxes and penalties would continue to accrue.

The building was ultimately not operational by the end of 2014 and the Association approached the City for further extensions. A new tax agreement was made for the building and parking lots in March 2015. This agreement included a payment schedule, which acknowledged that Council policy would likely cancel the municipal property tax amounts. The payment agreement, therefore, only required the organization to pay off outstanding education tax amounts (and penalties). This agreement was honoured, but ended in March of 2016, the revised estimated completion date when the Association was expected to apply for tax cancellation through Council policy C-543.

In May of 2016, the organization contacted the City's Assessment and Taxation Branch and indicated that their building was now operational and could therefore be exempted from property tax. Assessors inspected the premises and noted religious activities were taking place. As a result, an exemption for the 2016 tax year was processed.

In early 2017, it became clear to the Assessment and Taxation Branch that the Islamic Missionary Association had not received its final occupancy permit. This meant that the exemption in 2016 was in error and the organization would not qualify to apply for C-543 proceedings in 2017.

In April of 2017, the Islamic Missionary Association approached City Council requesting deferral of the taxes owed. Council agreed to this deferral with the understanding that the group would have all its necessary permits within a few months of the decision and be able to apply for tax cancellation consideration in 2018.

Council's 2017 decision deferred the outstanding balance of \$191,067.29, with the understanding that the group would be compliant with a few months. The Islamic Missionary Association did not complete its building and safety codes inspections in 2017. Development Services issued an order to vacate on October 26, 2017 as the organization was still holding religious worship ceremonies without building or occupancy permits.

As a result, the building remained taxable in 2017, with \$31,815.87 added in municipal tax and \$7,366.13 added in education tax. Local improvement levies were also added in 2017 for sidewalk reconstruction totaling \$1,203.17 (these will be ongoing regardless of future tax cancellation or exemptions). These factors combined bring the organization's current owing total to \$231,452.46.

Another inspection took place on February 7, 2018, but deficiencies were still noted. The organization has only become compliant and exempt as of February 23, 2018.

Budget Implications

Below are three possible tax cancellation options for Council's consideration. In all three scenarios, the branch is assuming Council would consider cancelling the yet to be determined 2018 tax when the organization was still considered taxable.

Based on Council's 2017 motion, Administration is currently recommending municipal tax cancellation (along with associated penalties) for the 2016 and 2017 tax years (Option 1). Approving this recommendation will result in the organization receiving a cancellation of \$31,815.87 and owing \$199,636.59. This approach would be the most consistent with policy C-543, which only provides tax refunds for the year exemption is received (2018) and a maximum of two previous years (2016, 2017). This does, however, leave the organization with a large outstanding tax balance.

Council's motion also requested consideration of a second option, which would cancel municipal taxes (along with associated penalties) back to 2012. Approving this option (option 2) will result in the organization receiving a cancellation of \$149,900.47 and owing \$81,551.99. This approach would significantly reduce the organization's owing taxes, but would also fall outside policy C-543 and set a precedent for future requests.

A third option would be to approve cancellation of the municipal taxes owing from 2012 onwards, but still require the payment of all penalties associated with non-payment during that period. Approving this option (option 3) will result in the organization receiving a cancellation of \$105,870.45 and owing \$125,582.01. This approach would forgive all unpaid municipal taxes, but penalize the non-payment of taxes throughout this period.

Options	Taxes Cancelled	Taxes Owed
Option 1* - Cancellation for 2016 and 2017 municipal taxes and penalties	\$31,815.87	\$199,636.59
Option 2 - Cancellation for 2012 to 2017 municipal taxes and penalties	\$149,900.47	\$81,551.99
Option 3 - Cancellation for 2012 to 2017 municipal tax principal only	\$105,870.45	\$125,582.01

All three options would include cancellation of the upcoming 2018 tax amount for the month of January, equalling approximately \$2,250.

**Contained within the recommendation of the report.*

Legal Implications

Case law has established that a property cannot be exempt until it is actually being used for the exempt purpose. When a property is exempt, it is exempt from both municipal and education tax. While City Council has the ability to exempt by bylaw, this would only apply to municipal taxation.

Public Engagement

No public engagement has taken place on this matter as it relates to a specific property owner request.

Corporate Outcomes and Performance Management

Corporate Outcome(s): The City of Edmonton has a resilient financial position			
Outcome(s)	Measure(s)	Result(s)	Target(s)
Ensure transparent and reasonable tax policy.	5-year total of Council- approved tax cancellations and refunds	Under City Policy C543: \$535,586.19 (2013-2017) Ad-hoc requests from non-profit organizations: \$301,314.21 (2013-2017)	N/A
	5-year average value of Council- approved tax cancellations and refunds	Private property owners: \$0.00 (2013-2017) Under City Policy C543: \$107,117.24 (2013-2017) Ad-hoc requests from non-profit organizations: \$60,262.84 (2013-2017) Private property owners: \$0.00 (2013-2017)	
Ensure transparent and reasonable tax policy.	5-year total of Council- approved tax deferrals	Ad-hoc requests from non-profit organizations: \$638,293.58 (2013-2017) Private property owners: \$0.00 (2013-2017)	N/A

	5-year average value of Council- approved tax deferrals	Ad-hoc requests from non-profit organizations: \$127,658.72 (2013-2017) Private property owners: \$0.00 (2013-2017)	
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Risk Assessment

Risk Element	Risk Description	Likelihood	Impact	Risk Score	Current Mitigations	Potential Future Mitigations
Commercial	Tax refunds will shift the tax burden onto remaining taxpayers	5	1	5	Council could choose not to approve the request	A refund will be absorbed by the remaining tax base, but will put pressure on tax increases.
Legal / Regulatory	The City runs the risk of additional groups requesting similar consideration	3	1	3	This risk is mitigated by the existence of Council policy.	Council ultimately has the authority to approve or deny subsequent requests.

Others Reviewing this Report

- L. McCarthy, Deputy City Manager, Urban Form and Corporate Strategic Development