



**City of Kingston
Report to Council
Report Number 14-262**

To:	Mayor and Members of Council
From:	Cynthia Beach, Commissioner Corporate & Strategic Initiatives
Resource Staff:	Paul MacLatchy, Director, Environment & Sustainable Initiatives
Date of Meeting:	August 12, 2014
Subject:	Amendment to Brownfield Tax Cancellation By-law for 663 Princess Street

Executive Summary:

On July 17, 2013, Council passed By-Law number 2013-134 to cancel municipal and education taxes for 659-663 Princess Street and 582, 590, 598 and 604 Victoria Street as authorized under the Community Improvement Plan for Brownfields Project Areas 1A, 1B and 1C (Brownfields CIP). The By-Law references the Ministry of Finance in relation to the cancellation of the education portion of the taxes pursuant to an approved brownfield agreement, including approval of the By-Law by the Ministry of Finance.

The conditions of the Ministry of Finance Brownfield Financial Tax Incentive Program application are such that the property was not eligible for cancellation of the education portion of property taxes due to the developer's early filing date for the Record of Site Condition.

A by-law to amend By-Law 2013-134 is being presented to remove references to the Ministry of Finance and education taxes. The amended by-law will continue to provide cancellation of property taxes for municipal purposes for the duration of the rehabilitation and the development period for the eligible property, as originally approved.

It is further recommended that Council waive the requirements of By-Law 2010-1 so that the by-law being presented in this report may be given three readings at the same Council meeting in order that the municipal property tax cancellation may be applied at the earliest possible date.

This report allows the subject property to obtain cancellation of the municipal portion of property taxes for the period of remediation and redevelopment under the Brownfields Financial Tax Incentive Program (BFTIP). All taxes cancelled under the BFTIP are subtracted from the

August 12, 2014

Page 2 of 5

amount eligible for rebate to the developer under the Tax Increment Rebate Grant Program (TIRGP).

Recommendation:

That a by-law be presented to Council to amend By-Law number 2013-134, being “A By-Law to Cancel Municipal and Education Taxes for 659-663 Princess Street and 582, 590, 598 and 604 Victoria Street”; to “A By-Law to Cancel Municipal Taxes for 663 Princess Street” and

That the by-law be presented to receive all three readings in order to provide the municipal property tax cancellation at the earliest possible date.

August 12, 2014

Page 3 of 5

Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

**Cynthia Beach, Corporate &
Strategic Initiatives**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Gerard Hunt, Chief Administrative Officer

Consultation with the following Commissioners:

Lanie Hurdle, Community Services	Not required
Denis Leger, Transportation, Facilities & Emergency Services	Not required
Jim Keech, President and CEO, Utilities Kingston	Not required

August 12, 2014

Page 4 of 5

Options/Discussion:

The Brownfields Financial Tax Incentive Program (BFTIP) in the Brownfields Community Improvement Plan authorizes the cancellation of property taxes for both the municipal and education portions of an approved brownfield property. Under the BFTIP, property taxes consisting of both the municipal and education portions may be cancelled for a period of up to 36 months to cover the rehabilitation (clean-up) and redevelopment (construction) stages of the project. The cancellation of the education portion of taxes must also be approved by the Minister of Finance.

Within the requirements of the Ministry of Finance Brownfields Financial Tax Incentive Program, there are several conditions to be met prior to their approval of the application. The program requires information to confirm that the property is an "eligible property" as defined in subsection 365.1(1) of the *Municipal Act, 2001*.

One of the specific conditions of eligibility is confirmation that the property has not had a Record of Site Condition filed for the property, because it does not meet certain *Environmental Protection Act* standards (the standards listed in clause (b) of the definition of "eligible property" found in subsection 365.1 (1) of the *Municipal Act, 2001*).

For the subject property, the rehabilitation period was short and the timeline was such that a Record of Site Condition was filed for the property on June 6, 2013, which was prior to this by-law being presented to City Council for the first and second readings on June 18, 2013 and for third reading on July 18, 2013. Due to the applicant's early filing of a Record of Site Condition, the Ministry of Finance has advised the City that the property is not eligible for cancellation of the education tax portion under the Brownfields Financial Tax Incentive Program (BFTIP) and therefore the previously approved by-law must be amended to remove the Ministry of Finance and education tax references.

Under the City's BFTIP program the cancellation of the municipal portion of property taxes will continue to apply. The by-law will continue to reflect the cancellation of the municipal portion of the taxes. The subject brownfield property has also been approved for rebate of eligible remediation expenses under the Tax Increment Rebate Grant Program (TIRGP). All taxes cancelled under the BFTIP program will be deducted from the eligible remediation costs rebated under the TIRGP thus reducing the amount of remediation expense eligible for rebate once the project has been completed.

The amount the developer is eligible to recover through the program will never exceed the costs to remediate the site.

The duration of tax cancellation is a maximum of the length of the rehabilitation period and development period, or 36 months, whichever is less. For this project it is estimated that municipal property taxes of approximately \$88,173 will be cancelled for this property under this portion of the Brownfield Community Improvement Program.

August 12, 2014

Page 5 of 5

Existing Policy/By-Law:

By-Law number 2013-134, as amended, being a By-law to Cancel Municipal and Education Taxes for 659-663 Princess Street and 582, 590, 598 and 604 Victoria Street.

[City of Kingston Community Improvement Plan – Brownfields Project Areas 1A, 1B & 1C](#)

Notice Provisions:

There are no notice provisions required for this action.

Accessibility Considerations:

There are no accessibility considerations at this time.

Financial Considerations:

It is anticipated that the Brownfields Financial Tax Incentive Program will contribute approximately \$88,173 in tax cancellation over the maximum of a 36 month period to the eligible environmental remediation costs for this project as allowed by Kingston Brownfield Community Improvement Plan Program.

Contacts:

Paul MacLatchy, Director of Environment & Sustainable Initiatives, Extension 1226

Other City of Kingston Staff Consulted:

Nathan Richard, Project Manager, Brownfields

Pat Carrol, Manager, Taxation and Revenue

Alan McLeod, Senior Legal Counsel

Exhibits Attached:

Exhibit A – Draft By-Law number 2014-1ZZ (A By-Law to amend By-Law number 2013-134 being a By-Law to Cancel Municipal and Education Taxes for 659-663 Princess Street and 582, 590, 598 and 604 Victoria Street, in order to remove reference to the Ministry of Finance and education property taxes

By-Law Number. 2014-XXX

**A By-Law To Amend By-Law Number 2013-134, "A By-law to Cancel
Municipal and Education Taxes for 659-663 Princess Street and 582,
590, 598 and 604 Victoria Street"**

Passed: August 12, 2014

Whereas a by-law to amend By-Law 2013-134 is being presented to remove references to the Ministry of Finance and education taxes. The amended by-law will continue to provide cancellation of property taxes for municipal purposes for the duration of the rehabilitation and the development period for the eligible property, as originally approved.

Therefore be it resolved that the Council of the Corporation of the City of Kingston hereby enacts as follows:

1. By-Law number 2013-134 of The Corporation of the City of Kingston entitled "A By-Law To Cancel Municipal and Education Taxes for 659-663 Princess Street and 582, 590, 598 and 604 Victoria Street", is hereby amended as follows:
 - 1.1. The last WHERE AS recital is hereby amended by deleting it in its entirety, "WHEREAS the Minister of Finance has approved this By-Law as required by the *Municipal Act*."
 - 1.2. Definition 1 f) is hereby amended by deleting "education" so that Section 4 shall read as follows:

"Tax Assistance" means the deferral or cancellation of taxes for municipal purposes levied on the Eligible Property during the Rehabilitation Period and the Development Period pursuant to this By-Law. In the period before the Owner's obligations under this By-Law have been met, Tax Assistance shall take the form of a deferral of taxes. Once the City of Kingston has confirmed that the Owner's obligations under this By-Law have been met, Tax Assistance shall take the form of a cancellation of taxes.
 - 1.3. Section 4 is hereby repealed and replaced by the following:

"The Tax Assistance available shall be a maximum of 100% of the taxes for municipal purposes levied during the Rehabilitation Period and the Development Period. The City of Kingston may revise the level of Tax Assistance based on the Municipal Tax Roll as returned in any given year and said revision shall not require an amendment to this By-Law."

- 1.4. Section 8 is hereby amended by deleting “and the Minister of Finance” and “Within 30 days after receiving the notice from the Owner, the City of Kingston shall advise the Minister of Finance of the filing”, so that Section 8 shall read as follows:

The Owner shall, within 18 months of the anniversary of the commencement of Tax Assistance (or such later date agreed to in writing by the City of Kingston), file a record of site condition with respect to the Eligible Property in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act*. The owner shall, within 30 days, notify the City of Kingston of the filing.

- 1.5. Section 9 (2) is hereby amended by deleting it in its entirety, “Within 30 days of receiving the report from the Owner, the City of Kingston shall provide a copy to the Minister of Finance”\

- 1.6. Section 10 (1) is hereby amended by deleting “education” so that it shall read as follows:

“Tax Assistance shall be suspended or terminated where any one of the following occurs:”

- 1.7. Sections 10 (3) a) and b) are hereby repealed.

- 1.8. Section 11 is hereby amended by deleting “The City of Kingston shall then forthwith notify the Minister of Finance”, so that Section 11 shall read as follows:

“The Owner shall notify the City of Kingston forthwith if any of the events in sections 10(1), 10(3)(a) or 10(4) occur.”

- 1.9. Section 13 is hereby amended by deleting it in its entirety.’ A notice under clause 12(b) is not effective with respect to education taxes unless it has been agreed to in writing by the Minister of Finance.”

- 1.10. Section 14 (1) is hereby amended by deleting “all of the educational taxes which were subject to the Tax Assistance, and” so that Section 13 (1) shall read as follows:

“In the event that Tax Assistance is terminated pursuant to section 10 or 12 above, the City of Kingston shall provide notice to the Owner under subsection 365.1(3.1) of the *Municipal Act* that the conditions under this

By-Law have not been met and order the Owner to repay all or a portion of the municipal taxes which were subject to the Tax Assistance.”

- 1.11. Section 14 is hereby renumbered to 13.
 - 1.12. Section 15 is hereby renumbered to 14.
 - 1.13. Section 16 is hereby renumbered to 15.
2. This By-Law shall come into force and take effect on the date of its passing.

GIVEN ALL THREE READINGS AND PASSED: August 12, 2014

John Bolognone
City Clerk

Mark Gerretsen
Mayor