
**1. Report: Swan Lake Village Condominium – Request to Establish Task Force
(May 30, 2005)****REPORT TO General Committee**

TO: Mayor and Members of Council

FROM: Barb Cribbett, Treasurer

PREPARED BY: Paul Wealleans, Director, Taxation

DATE OF MEETING: 2005-May-30

SUBJECT: Swan Lake Village Condominium – Request to Establish Task Force

RECOMMENDATION:

THAT the report “Swan Lake Village Condominium – Request to Establish a Task Force” be received for information.

PURPOSE:

The purpose of this report is to respond to a proposal from the Swan Lake Group and the Association of Markham Village Townhouse Condominiums to establish a Task Force for Fair Taxation and Delivery of Municipal Services. It is this group’s position that the Town of Markham is not treating condominium owners fairly in terms of municipal services provided to condominium developments. The report provides information regarding property taxation in Ontario and the delivery of municipal services to condominium developments in general and to the Swan Lake Village condominium in particular.

EXECUTIVE SUMMARY:

This report sets out the broad property taxation policy in Ontario established by the province and its relationship to the provision of municipal services. It also addresses the issues raised by the Swan Lake Group and the Association of Markham Village Townhouse Condominiums as well as a preliminary analysis of associated comparative costs for selected services provided by the Town. A fundamental issue is the provision of municipal services to owners of dwellings on property owned by private condominium corporations.

The proponents from Swan Lake Group and the Association of Markham Village Townhouse Condominiums put forth the argument that property owners in condominium

developments – particularly, low density condominium developments – do not receive the same services that all other residential property owners do despite the fact that they are levied taxes at the same residential tax rate. All purchases of property in a condominium development require the purchaser to enter into legal agreements with the condominium corporation that sets out services to be provided and paid for, by the condominium owners. In most cases, these include services such as garbage disposal, snow removal, lighting, etc. These requirements are known at the time of purchase but in the view of the Swan Lake Group and the Association of Markham Village Townhouse Condominiums that low density condominiums, similar to any other residential subdivision, should be provided these services by the Town. The group is requesting that the focus, should a Task Force be struck, relate to services such as road maintenance, garbage disposal, street lighting, snow removal, sewer and water infrastructure.

BACKGROUND:

At the September 20, 2004 meeting of the Finance and Administrative Committee, Mr. A. Schollen, Chairman of the Swan Lake Group and the Association of Markham Village Townhouse Condominiums made a presentation regarding property taxation and the delivery of municipal services to condominium developments. In particular, the Committee was requested to establish a Task Force for Fair Taxation and Delivery of Municipal Services. The committee adopted the following resolution:

“That the presentation of Mr. Adrian Schollen, Chairman of the Swan Lake and the Association of Markham Village Townhouse Condominiums, regarding the formation of a Task Force for Fair Taxation and Delivery of Municipal Services, be referred to staff for additional information and report;

And that such report include an exploration of the issues; an overview of the taxation system; options available; the merits of establishing a task force; suggested terms of reference; related criteria and membership; and if possible, implications.”

This issue has been before Committee and Council previously. Prior to the deputation on September 30, 2004, it was before the Finance and Administration Committee in June 2003 and at its meeting of August 27, 2003 (Clause 1 of Finance and Administration Committee Report 51), Council did not provide compensation to Swan Lake condominiums.

OPTIONS/DISCUSSION:

This report will address a number of issues, including: an overview of property taxation in Ontario, the provision of services to property owners in a municipality, condominiums as private property developments, Swan Lake specific issues and the merits of establishing a Task Force.

Property Taxation in Ontario

Property taxation in Ontario is not based on ability to pay nor user fees but rather on an annual budgeted amount approved by municipal council, raised through a tax rate levy and collected based on the apportioned value of individual properties. The levy is determined by municipal council that authorizes a budget necessary to fund the services required by the municipality in that year. The taxes collected are sufficient to fund these services and are levied against all properties in the municipality based on the proportionate assessed value of each property. The higher the value of the property, the higher will be the taxes levied against the property.

The use of services in the municipality by individuals is a choice made by residents who may decide not to avail themselves of certain services even though they are funded by total budgetary requirements. Whether residents in the municipality utilize the services of an ice arena, recreation centre, park or a library is solely up to the residents but the funding to operate these services is included in the overall municipal budget. Lifestyle choices may result in certain municipal services not being used but does not preclude them from being funded by the municipal levy.

A user pay approach to taxation would not only be difficult to implement but could lead to financial shortfalls resulting in service closures or cutbacks. Calculating and allocating such costs might also prove difficult. For example, the provision of library services can be defended as necessary and beneficial for the community. Its resources can be utilized by all ages, not only as a learning and educational tool but also as a source of entertainment and culture. If a fee was charged each time a person entered a library or borrowed a book without any other financing from the municipality, it could result in funding shortfalls which would either need to be provided by the municipality or result in closing of the library or reduction of its services. Many municipal services will not be provided by the private sector because there is no financial gain to be realized but are still recognized by the community as necessary to the health and well being of its residents.

Supplemental user fees, such as a registration fee for swimming lessons, is a fee administered to cover the costs of the program. The basic provision of recreational services by having a public pool available is included as part of the budgetary requirements approved by Council. The additional fee is a fee over and above the basic cost of the service.

The current tax system is a value based system and the requirements determined and funded globally through the annual municipal budget process. Should residents not choose to use certain services, it does not follow that their tax bill be reduced to take it into account. There would be serious impractical aspects of such a system.

Condominiums as Private Property Developments

One of the major issues in providing services, particularly to residential condominiums, is the fact that condominiums are located on private property. The purchase of a residential condominium – whether it is a high rise or low rise – is a lifestyle choice. The purchaser is aware that an agreement must be entered into in which maintenance fees will be charged to provide the funding of services (both repair and replacement) that are the responsibility of the condominium corporation and its residents.

It has been suggested that through municipal taxation a condominium owner has paid for municipal services and that despite the condominium agreement freely entered into, the municipality should either provide the service to the condominium corporation or provide a rebate to offset the cost. For example, snow removal from roadways in a condominium development is a cost generally borne by condominium residents as it is removal of snow from streets on private property. The argument that the municipality should remove this snow without a cost to the condominium residents is analogous to that of single family home owner with a double car driveway with the expectation that the municipality will remove the snow from the driveway. It is the responsibility of the single family home owner to remove his/her own snow. The municipal cost for snow removal that is included in the overall budget provides for snow removal from all municipal streets in the Town so that once residents leave their property, whether it's from a condominium development or a double car driveway – access to drive on other roads in the Town is unimpeded.

Swan Lake – Specific Issues

Representatives from Swan Lake have indicated clearly their position that they believe they are not being treated fairly by the Town because the Town does not provide certain services to them that are available to all other residents despite the fact that they pay full residential taxes. In particular, road maintenance, garbage disposal, street lighting and sewer services have been identified as areas that should be provided by the Town.

Initial information received from Swan Lake representatives is based on the different condominium corporations within Swan Lake plus selected other low rise condominium developments. Costs were extracted from each condominium and, where possible, compared to Town data for maintenance costs per km of road, etc. Based on these initial costs, the provision of these services for Swan Lake would increase the Town's municipal tax rate by approximately 1% or about \$680,000 (about \$9 per household).

A complete analysis to verify these costs would be necessary. However, the principle of extending municipal services to private condominium property, when such service costs are clearly the responsibility of the condominium corporation, also needs to be included in any examination of this issue.

Other related issues include the fact that Swan Lake is a gated community and access must be received prior to entering and that some of the roads may in fact not meet municipal standards.

The Town of Markham Council approved a rebate to certain residential condominiums for garbage removal in 1995. There is no reduction to the tax rate but a rebate is provided annually to twelve condominium corporations. When the program was implemented in 1995, all condominium corporations in the Town were offered a rebate in lieu of the provision of garbage service. The condominium corporations that opted for the rebate were subsequently grandfathered by Council in 1998. The Town has since undertaken a review of other condominiums to ascertain if the Town can logistically provide garbage service to them based on street layout and access. In 2002, the Town extended the collection of garbage collection to York Region Condominium Corporations 906 and 932 in Swan Lake Village.

This rebate is considered by some condominium residents as a precedent by which the Town should expand to cover costs of other services that are the condominium's responsibility. However, the garbage rebate was implemented at a time when a separate rate was imposed for waste collection – a rate that no longer exists.

Merits of Establishing Task Force for Fair Taxation and Delivery of Services

The merits of establishing a task force may include:

- Providing an opportunity for ratepayers to have input into an issue that is of concern to them.
- Providing an opportunity to more fully examine the implications of providing services on private property to the Town of Markham as a whole
- The review of this issue may have an impact on more than a single municipality

However, establishing a task force may have negative connotations in that expectations of the property owners may be heightened simply because the task force is formed, and increased frustration will result if the outcome is not in favor of the condominium owners. As noted previously, this issue has been before Council before and its decision did not favour the residents of Swan Lake.

Membership:

It is recommended that, if a Task Force is formed, it include at least two members of Council, Town staff from Financial Services and the operating department responsible for the service provided, as necessary, two members of the Swan Lake Group and the Association of Markham Village Townhouse Condominiums and that the Task Force report to Council no later than December 31, 2005.

Terms of Reference:

The terms of reference are not detailed in this report but should include the investigation of the extent to which services may be provided, the practicality and methodology, the possible precedent impacts of such actions, relative fairness to all property owners in Markham (service to private property) and any other issues as determined by the Task Force. It would also be recommended that the scope of services to be reviewed be limited to: road maintenance, garbage disposal, street lighting, snow removal, and water and sewer infrastructure.

Possible Implications:

The implications of providing services to private property are increased costs to the municipality. As the fairness issue is addressed (service to all private property in Markham), it is difficult to estimate what the impact on the Town's tax rate will be. The position of the Swan Lake Village Group will likely be adopted by more property owners (e.g. condominium high-rises, estate homes with long driveways etc.) and the resulting costs to the Town will have an impact on the tax rate.

FINANCIAL CONSIDERATIONS:

There are no financial implications to establishing a Task Force, however implementing the provision of municipal services on a Town-wide basis on private property will have a negative impact on the Town's tax rate.

BUSINESS UNITS CONSULTED AND AFFECTED:

None.

ATTACHMENTS:

- Letter from The Association of Markham Town House Condominiums
- Finance And Administrative Committee Resolution – Sept. 20, 2004

Paul Wealleans, Director, Taxation

Andy Taylor, Commissioner, Corporate Services

Barbara Cribbett, Treasurer

**GENERAL COMMITTEE
MAY 30, 2005
EXTRACT**

To: Commissioner of Corporate Services
Treasurer
Director of Taxation

*Council Mtg 57
June 14/05.*

**18. SWAN LAKE VILLAGE CONDOMINIUM
REQUEST TO ESTABLISH TASK FORCE (7.3 & 12.2.6)**

Mr. Adrian Schollen, Swan Lake Village Condominiums and The Markham Association of Village and Townhouse Condos, submitted and presented proposed amendments to a staff report entitled *Swan Lake Village Condominium – Request to Establish a Task Force*. He noted concerns with respect to the services provided by the Town to condominium developments in Markham, specifically the Swan Lake development. He requested that a Task Force be created to examine these concerns.

The Committee discussed jurisdictional authority, current tax rates and assessment practices, the request to assemble a Task Force and Town services currently provided to condominium developments in Markham.

Moved by Councillor J. Virgilio
Seconded by Councillor K. Usman

That the report *Swan Lake Village Condominium – Request to Establish a Task Force* be received for information.

CARRIED



THE CORPORATION OF THE TOWN OF MARKHAM

**EXCERPT CONTAINING ITEM #0007 OF THE FINANCE & ADMINISTRATIVE
COMMITTEE OF MEETING NO. 16 (Sep 20, 2004)**

**7. SWAN LAKE VILLAGE - TASK GROUP FOR FAIR TAXATION AND DELIVERY OF
MUNICIPAL SERVICES (7.3 & 12.2.6)**

Mr. Adrian Schollen, Chairman of the Swan Lake Group & The Association of Markham Village and Townhouse Condominiums, addressed Committee requesting that a Task Group be formed to examine the provision of municipal services to the owners of condominium properties. Copies of his presentation were distributed to Members.

Some discussion took place regarding the need to explore issues related to the request; methods of assessment used to determine taxation; and implications. It was agreed that the matter should be referred to staff to provide detailed information and options available.

Moved by Councillor D. Horchik

Seconded by Councillor J. Webster

That the presentation of Mr. Adrian Schollen, Chairman of the Swan Lake Group & The Association of Markham Village and Townhouse Condominiums, regarding the formation of a Task Force for Fair Taxation and Delivery of Municipal Services, be referred to staff for additional information and report;

And that such report include an exploration of the issues; an overview of the taxation system; options available; the merits of establishing a task force; suggested terms of reference; related criteria and membership; and possible implications.

CARRIED

August 27, 2003

Mr. Adrian Schollen
54 Celebrity Greens Way
Markham, ON L6E 1B5

RE: **MR. ADRIAN SCHOLLEN - SWAN LAKE VILLAGE
CONDOMINIUMS APPLICATION FOR
DELIVERY OF SERVICES (7.3)**

Dear Mr. Schollen:

This will confirm that at the meeting of Council held on August 26, 2003, Clause 1 of Report No. 51, was approved as follows:

"Whereas in 1995 Town Council approved a series of residential condominium developments in Swan Lake and permitted certain aspects, such as a private road network, to be designed and constructed at less than Town standards;

And Whereas purchasers of units in Swan Lake became financially responsible to maintain certain services such as road maintenance and repair, snow removal, street lighting, etc. on the Swan Lake property;


And Whereas residential condominium corporations are private property;

And Whereas the property tax system in Ontario is a value based system such that the total budgetary requirements determined by Council annually are distributed across all properties in proportion to their value;

And Whereas the allocation of costs for Town services are based on taxable assessment and not a user pay principle;

Therefore Be It Resolved that the presentation from Mr. Schollen regarding taxation and delivery of services to Swan Lake condominiums be received; and that no compensation be provided to the residents of Swan Lake."

Yours sincerely,



Sheila Birrell
Town Clerk

Copy to: Andy Taylor, Commissioner of Corporate Services
Barb Cribbett, Treasurer
Paul Wealleans, Director of Taxation