

DATE: July 21, 2011

REPORT TITLE: **APPLICATION FOR AN AREA BASIS TOURIST EXEMPTION UNDER THE RETAIL BUSINESS HOLIDAYS ACT BY MORGUARD CORPORATION FOR THE BRAMALEA CITY CENTRE**

FROM: Dan Labrecque, Commissioner of Public Works

RECOMMENDATION

That the application by Morguard Corporation for an area basis tourist exemption under the *Retail Business Holidays Act* for the Bramalea City Centre, be approved;

And further, that a by-law be enacted to approve the subject application, as set out in the report of the Commissioner of Public Works, dated July 13, 2011, titled "Application for an Area Basis Tourist Exemption under the Retail Business Holidays Act by the Morguard Corporation for the Bramalea City Centre."

REPORT HIGHLIGHTS

- On November 10, 2010 Morguard Corporation applied to the Regional Municipality of Peel for an exemption under the *Retail Business Holidays Act* (RBHA) for an Area Basis Tourist exemption for Bramalea City Centre (BCC) in the City of Brampton.
- The subject lands are known municipally as 25, 44, 70 and 90 Peel Centre Drive.
- The exemption would permit retail businesses to remain open voluntarily on New Year's Day, Family Day, Victoria Day, Canada Day, Labour Day and Thanksgiving Day.
- These are the same days as Council approved for Mississauga Square One through Regional By-law 33-2010.
- Staff is recommending that Council approve the application with a modification to the operating hours to align with Mississauga Square One.
- The recommended operating hours are from 11:00 a.m. to 6:00 p.m.

DISCUSSION

1. Purpose and Effect

Morguard Corporation, on behalf of retail businesses located within the Bramalea City Centre area, has applied to The Regional Municipality of Peel for an exemption to the *Retail Business Holidays Act*.

If this application is approved as applied for, retail businesses within and adjacent to Bramalea City Centre would be permitted to remain open voluntarily between 10:00 a.m.

July 21, 2011

APPLICATION FOR AN AREA BASIS TOURIST EXEMPTION UNDER THE RETAIL BUSINESS HOLIDAYS ACT BY MORGUARD CORPORATION FOR THE BRAMALEA CITY CENTRE

and 6:00 p.m. on the following statutory holidays: New Year's Day, Family Day, Victoria Day, Canada Day, Labour Day, and Thanksgiving Day.

The application does not propose to allow retail business openings on Christmas Day, Good Friday, or Easter Sunday.

The proposed Bramalea City Centre exemption area is generally bounded by Peel Centre Drive, Queen Street East, Dixie Road, Clark Boulevard and Team Canada Drive as shown in Appendix I.

2. Retail Business Holidays Act

The *Retail Business Holidays Act* (RBHA) provides Regional Council with the authority to grant tourism area exemptions. An adopted Regional by-law is required for approval. Any person who objects to the by-law may appeal Council's decision to the Ontario Municipal Board within 30 days. A by-law that is not appealed will come into force on the 31st day after it is passed by Council.

The RBHA requires that the exemption would be for the maintenance or development of tourism.

The RBHA provides direction to a municipal council considering approval of a tourism area exemption. In making its decision, a municipal council is to take into account the following:

- 1) The principle that holidays should be maintained as common pause days; and that
- 2) A by-law may only be passed if there is compliance with the Provincial tourism criteria found in Ontario Regulation 711/91.

3. Provincial Tourism Criteria – Ontario Regulation 711/91

The Provincial Tourism Criteria, Section 2 (2) identifies that an exemption granted on an area basis may only be given if:

- o All of the retail business establishments in the area are within two kilometres of the tourist attraction;
- o The area does not exceed that necessary to encompass all of the retail business establishments for which an exemption is sought; and
- o At least 25 per cent of the retail business establishments in the area are directly associated with the tourist attraction or rely on tourists visiting the attraction for business on a holiday.

Section 2(3) of the Regulation further states that, for the purpose of this section, tourist attractions are limited to: a) natural attractions or outdoor recreational attractions, b) historical attractions, and c) cultural, multi-cultural or educational attractions.

July 21, 2011

APPLICATION FOR AN AREA BASIS TOURIST EXEMPTION UNDER THE RETAIL BUSINESS HOLIDAYS ACT BY MORGUARD CORPORATION FOR THE BRAMALEA CITY CENTRE

4. Consultant Reports

Peel Region By-law 18-1999 details the process for Regional consideration of applications under the *Retail Business Holidays Act*. It requires applicants to submit studies and documentation to demonstrate whether or not the exemption requested will comply with the Provincial Tourism Criteria.

The applicant submitted the required application and a supporting report entitled: "Bramalea City Centre Application for Holiday Openings under: The *Retail Business Holidays Act*", by InterStratics Consultants Inc., dated November 8, 2010. An addendum report, dated February 25th, 2011 was also submitted.

The reports conclude that the Bramalea City Centre (BCC) is in and of itself a tourist attraction, representing a core component of Brampton's overall tourist infrastructure. The consultant references the following tourist attractions as being located within two kilometres:

- Chingaucousy Park;
- Lester B. Pearson Theatre; and
- Holiday Inn Toronto-Brampton Conference Centre

In addition, the consultant reports identify that tourist traffic represents a significant component of retail sales at over 75 per cent of retailers at the Bramalea City Centre.

5. External Circulation - Comments

Regional staff circulated this application to the Clerk's and Planning Departments at the City of Brampton, City of Mississauga, and Town of Caledon as well as Brampton's Economic Development Office, Peel Police, and Brampton Fire. The following comments were received:

- The Town of Caledon Council passed a resolution at its December 14, 2010 meeting indicating that the circulated application was received and that Council has no objections to the application.
- The City of Brampton's Economic Development Office commented that the exemption of BCC addresses an inequity that has existed in Peel Region since Square One was designated in 2009, by providing a wider range of retail and commercial service to residents and tourists in closer proximity to people that live and visit in Brampton. Brampton Economic Development staff believe that Region of Peel Council in conjunction with the area municipalities, should request the Province of Ontario to review the regulations of the *Retail Business Holidays Act, RSO 1990*. The review should be to address the uneven impact of designations of certain areas under the current Act, and to review the merits of amending the legislation to allow a more balanced treatment of smaller retail areas that operate at a competitive disadvantage to larger retail areas under the current legislative context.
- The City of Brampton supports the application. This is expressed through a Committee of Council Report approved by Brampton Council on June 8, 2011 (Council Resolution C116-2011). In its report, City of Brampton staff identify that

July 21, 2011

APPLICATION FOR AN AREA BASIS TOURIST EXEMPTION UNDER THE RETAIL BUSINESS HOLIDAYS ACT BY MORGUARD CORPORATION FOR THE BRAMALEA CITY CENTRE

Regional approval of the exemption request would place Bramalea City Centre on the same competitive playing field as Square One, which permits their merchants to operate on those same days. In addition, the report supports the analysis that this designation would benefit the retailers, area residents and tourists, providing an opportunity to shop within Brampton on select designated holidays and not export their spending to other jurisdictions.

6. Public Meeting

The public meeting on this application was held on June 23, 2011.

Regional staff provided an overview of the application and highlighted key requirements of the *Retail Business Holidays Act* and the Provincial Tourism Criteria.

Andrew Butler and Alex Arifuzzaman presented on behalf of the applicant.

Andrew Butler, General Manager, Morguard Investments Limited, stated that they are pursuing this application in response to Council's suggestion that Bramalea City Centre apply for an exemption at the September 10, 2009 Public Meeting of Regional Council. He stated that the store openings would be voluntary and at the discretion of the tenants.

Alex Arifuzzaman, Partner, Interstratics Consultants Inc., presented the application and provided an analysis which concluded that the application meets the Provincial tourism criteria. Alex Arifuzzaman concluded that it was his opinion that the Bramalea City Centre met the Provincial criteria for an area basis tourism exemption.

Both oral and written submissions were received from members of the public. In general, these submissions highlighted concerns with the application and whether or not it complies with the tourist area exemption criteria, the need for additional shopping days, and the desire and ability of retail workers to enjoy public holidays with family and friends.

Minutes of the public meeting are attached as Appendix II.

7. Policy Framework

Peel Region's Official Plan does not contain a policy framework for the evaluation of applications under the *Retail Business Holidays Act*. The Mississauga, Brampton and Caledon Official Plans similarly do not contain specific policies for the evaluation of tourism area exemption applications under the *Retail Business Holidays Act*. However, local Official Plans do identify areas for urban intensification, including tourism facilities.

The City of Brampton Official Plan identifies the subject lands as being within the "Central Area". Objective 4.2a) seeks to "Continue to promote the Central Area as a major location for business, shopping, living, dining, entertainment, tourism and cultural activities in the City of Brampton".

