

# MEMO

**To:** Nora Dickson, President LWF Ratepayers' Association

**From:** Meg Cuming, Law and Recreation Services

**Re:** LWF Ratepayers' Association Grant Program

---

Thank you for engaging me to review the LWF Ratepayers' Association Grant policy and procedures and provide an opinion as to whether the group is authorized to distribute grants in order to fulfill its mandate to serve the area rate payers.

In providing this opinion, I have reviewed the following documents:

1. LWF Ratepayers' Association Memorandum of Association
2. LWF Ratepayers' Association By-Laws
3. HRM Policy & Procedures – Recreation Area Rate Funds (Attachment 1)
4. LWF Ratepayers' Association Grant Sub Committee Guidelines
5. LWF Ratepayers' Association Grant Application
6. LWF Ratepayers' Association Reporting Form
7. LWF' Ratepayers Association 2015 Grant Application Review Form

It is my opinion that the LWF Ratepayers' Association can offer grant funding to organizations that provide recreation services for the benefit of area rate payers that reside in the geographic area of Lakeview, Windsor Junction, and Fall River to fulfil its objective as a society as long as it is fiscally responsible in doing so and as long as it follows HRM's policies and procedures for reporting the expenditure.

## ***Governing Documents***

The LWF Ratepayers' Association (the "Association") is a Society incorporated under the *Societies Act* of Nova Scotia and registered with the Registry of Joint Stock Companies in Nova Scotia. The Association's Memorandum of Association states that "on a volunteer and non-profit basis, the objective of the society is: The promotion of projects which serve to improve the area of the association". The Memorandum of Association also clearly states that the Association can "acquire by way of grant, gift, purchase, bequest, devise or otherwise, real and personal property and to use and apply such property to the realization of the objects of the society ... provided that all funds shall be used solely for the purpose of the Society and the promotion of its objects". This governing document authorizes the Association to use its funds to advance the objective of the Association which broadly encompasses projects which serve to improve the area of the Association and would include grants to organizations that fulfill that objective. They By-laws of the Association do not contain any stipulations which would limit that authority.

## ***HRM Policy and Procedures***

Although the Association is a separate entity from Halifax Regional Municipality (“HRM”), it is subject to the Nova Scotia Municipal Government Act and HRM’s Policies and Procedures because it is funded through an area rate. HRM’s Policy and Procedures – Recreation Area Rate Funds state:

*The Provincial Legislation that governs the expenditures for Area Rate Accounts is the Municipal Government Act (“MGA”) which lists allowable expenditures and area rates.*

*Overall, HRM has expenditure principles whereby all expenditures:*

- *must meet the spending guidelines of the MGA s.65*
- *must have supporting documentation for payment, no advances issued*
- *should be made in accordance with HRM Conflict of Interest Policy*
- *must comply with the spirit of procurement policy, and*
- *must be made in accordance with Provincial and Federal Legislation.*

*Specifically with regard to area rate expenditures the expenditure must also benefit the community on whose behalf the area rate has been collected (Section 526(2) of the MGA)*

The purpose of the Association’s Grant Program is to:

*[...] support recreational opportunities and community based events which benefit the residents within the LWF Rate Paying communities by promoting an active, healthy, involved community for all ages.*

As long as the Association operates its Grant Program in accordance with its purpose statement, the Grant Program meets the requirements of MGA s.65, which stipulates “recreational programs” (s.65(k)) as an allowable expenditure. The Grant Program also meets the requirements of section 526(2) of the MGA (above) because it must benefit the rate paying communities.

HRM’s policy documents also outline the roles and responsibilities of the Association with respect to its management of the recreation area rates that are collected by HRM but which are the responsibility of the Association. The policy stipulates that the Association “shall seek the approval of Regional Council for the Area Rate Fund’s annual budget and business plan through the regular HRM business planning and budget process” but, importantly, that:

*[the Association] is responsible for making a determination if an expenditure is permissible and shall be expected to expend funds in accordance with the appropriate policies.*

This clause delegates decision making authority for the area rate funds to the Association, within the parameters that have been outlined in this opinion letter.

### ***Considerations***

Although the Association has the authority, and the responsibility, to manage the area rate funds, that authority is not unfettered. In implementing the Grant Program all expenditures must fulfill the objectives of the Association and must be in compliance with HRM Policies and Procedures, the Municipal Government Act, and any other relevant provincial or federal legislation including, but not limited to:

1. Promotion of projects which serve to improve the area of the Association.
2. Seeking HRM Council approval for annual budget and business plan.
3. Budgeting on a break-even basis and seeking council approval for surplus carry overs.
4. Providing supporting documentation for expenditures

Sincerely,

A handwritten signature in black ink, appearing to read 'Meg Cuming', with a stylized flourish at the end.

Meg Cuming  
Lawyer

