

*City of Alexandria, Virginia*

---

MEMORANDUM

DATE: FEBRUARY 7, 2009

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER *J*

SUBJECT: CONSIDERATION OF A REQUEST FOR WAIVER OF PERMIT FEES FOR THE ALEXANDRIA BOYS & GIRLS CLUB

---

**ISSUE:** Permit fee waiver request from the Alexandria Boys and Girls Club.

**RECOMMENDATION:** While I recognize that the Boys & Girls Club provides a valuable service to the City, given the current economic climate, the budget rescissions enacted in FY 2009, the budget reductions planned for FY 2010, and given the precedent a fee waiver would create, I do not recommend that Council grant the requested fee waiver. However, if Council wishes to approve a fee waiver, options are listed on page 2 of this report.

**BACKGROUND:** The Alexandria-Olympic Branch of the Boys & Girls Clubs of Greater Washington has begun a major capital improvement project to renovate its Alexandria facility located at 401 North Payne Street. This will be the first major renovation to this facility since it was constructed in 1936. The project is financed from private fundraising.

In the execution of this project, the Boys & Girls Club, as is the case with many major renovation projects of older buildings, has found its budget for this project "tight" and as a result has turned to the City (Attachment I) for a waiver of construction and inspection-related fees that the City would normally charge for such a project. The City established these fees on construction activities to recover a portion of City costs related to Code Administration's and other departments' plan review and inspections. The Boys & Girls Club have estimated that the City fees for this renovation project could total \$20,000.

While City Code Section 8-1-29 (Attachment II) allows Council to provide such fee waivers to non-profits for construction projects such as this if such projects will "further the health, safety and/or welfare of City residents and will not generate a profit for its owner," it is not the City's practice to do so. Private for profit, non-profit and homeowners sectors all pay applicable construction related fees. Only public entities such as the City Schools or the Alexandria Redevelopment and Housing Authority are exempt from paying these fees. City staff has checked its files and believes that there probably have been no prior instances where Council approved such a waiver in more than a decade (or possibly much longer). It appears that all

other non-profits who have undertaken construction projects in the City have paid the applicable City construction-related fees. This includes charitable non-profits such as hospitals, day care centers, and non-profit housing organizations, as well as non-profit trade associations and churches.

There are a number of policy considerations to weigh as Council considers this fee waiver request. First, is the precedent in waiving fees for non-profits, which would likely trigger future fee waiver requests by other non-profits as they undertake various minor to major renovation or new construction projects. Such fee waivers represent a potential multi-year revenue loss to the City's General Fund of some unmeasurable amount. Regardless of the merits of this or any other non-profit fee waiver request, determining who gets the waiver, or not, will be problematic. This decision dilemma of providing City grants among competing non-profits is evidenced by the issues on grant funding for non-profit groups which led Council to shift that decision-making from Council to new decision-making processes, such as the Community Partnership Fund now a part of the Fund for Human Services.

The second major concern relates to providing an increase subsidy through a fee revenue loss to a non-profit at the same time the City is facing major budget reductions in FY 2009 and FY 2010, service curtailments, as well as a potential staff reductions-in-force. While a potential \$20,000 subsidy is not a budget-breaking amount, each incremental decision to expand City subsidies or to provide new grant funds represents a cost, as well as a step in the opposite direction that the City is headed in for FY 2010 and probably FY 2011. In FY 2009 and FY 2010, the City will be seeking to conserve as many resources as possible to keep the budget in balance as evidenced by the \$10.5 million in budget rescissions put into effect for FY 2009.

Finally, from a financial management perspective, it is considered a "best practice" of strong financial management that if a government provides a government subsidy or grant to a non-profit, it should do so by awarding grants on the expenditure side of the budget, rather than subsidies on the revenue side of the budget. Such revenue subsidies have less transparency than a grant provided on the expenditure side of the budget.

Council has a number of options. These include:

- (1) Approve the \$20,000 fee waiver to the Boys & Girls Club as requested;
- (2) Approve an appropriation of \$20,000 from Council's Contingent Reserve, by reallocating \$20,000 from the contingent account originally set aside for AEDP. These funds will not be needed for the original designated purpose in FY 2009, but by using these funds, the carryover to help fund FY 2010 would be reduced by \$20,000;
- (3) Approve an amount less than \$20,000;
- (4) Not approve the \$20,000 request; or
- (5) Approve an option which combines some of the above concepts.

In any event, if Council is interested in approving some or all of the request for \$20,000, then Council should direct staff to negotiate with the Boys & Girls Club a similar value of new benefit to the community in return.

**FISCAL IMPACT:** If Council decides to fund part or all of this Boys & Girls Club \$20,000 request, the impact on the FY 2009 budget would be the amount approved, with that much of the money not rolling over to help fund the City's FY 2010 budget.

**ATTACHMENTS:**

Attachment I: Boys & Girls Club Request

Attachment II: City Code Section 8-1-29

**STAFF:**

Mark Jinks, Deputy City Manager

Bruce Johnson, Director, Office of Management and Budget

John Catlett, Director, Building and Code Administration



Alexandria-Olympic Branch

401 North Payne Street · Alexandria, VA 22314  
703-549-3077 (O) · 703-549-1318 (F) · [www.aobgc.org](http://www.aobgc.org)

February 1, 2009

The Honorable William D. Euille  
Mayor of the City of Alexandria  
Alexandria City Hall  
301 King Street  
Alexandria, VA 22314

Re: Alexandria-Olympic Boys & Girls Club Renovation – Request for Waiver of Permit Fees

Dear Mr. Mayor:

The Alexandria-Olympic Boys & Girls Club needs your help.

As you know, the Club has finally “broken ground” on the renovation that has literally been on the drawing board for so long. This is the first major capital improvement to the building since it was originally erected in 1936. The construction contract has been signed, and the initial payment on the building permit has been paid. We anticipate the work to take approximately five months and hope to move the children back into the building by July 1 at the latest.

The Club currently serves over 200 young Alexandrians on a regular basis; an improved facility will allow us to meet the needs of even more young people and help them to build confidence, develop character, and acquire the skills they will need to become productive, civic-minded, and responsible adults. This is our mission, and we are resolute in carrying it forward.

The costs of the renovation are steep, and, like everyone else, we are operating on a very tight budget. Our permit fees to date are \$13,874.36, and we expect them to climb to more than \$20,000.00 when all is said and done.

The Board of Directors of the Alexandria-Olympic Club joins me in requesting help from the City of Alexandria in two ways: (1) by refunding the initial payment we have already made for the building permit and (2) by waiving future permit fees. I am attaching a schedule of projected permit fees prepared by our Architect and Project Manager, Stephanie Dimond. We make this request pursuant to section 8-1-29 of the Alexandria City Code and assure you that approval will go a long way in helping us to carry out our renovation project.

**2009 BOARD OF DIRECTORS**

Robert C. Blumel, *President* · Keith D. Burner, *Vice President* · Denise Dunbar, *Vice President* · Tom Scurlock, *Treasurer*  
Kerry Adams · Patrick Adams · Ken Barnett · Dayna Blumel · Mary A. Burner · Wallace L. Butler  
Anthony Cicero · John F. Corrigan · Melissa Murer Corrigan · Christopher W. Dannahey · Nicole DelRosario · Elissa Dodge  
The Honorable William D. Euille · Gerald B. File · Charles A. Hall · Scott Johnson, Esq. · Michael Lindsay · David W. Lowe · Michael S. Lyons  
Peggy Taylor McCoy · Matt McKinnis · Taurus Phillips · Virginia O'Brien Record · Tonya S. Rideout · Nancy Riegler  
Annemarie Selvitelli · Mark Souder · Maria Tiratsuyan · Terry E. Waters · David E. Woodbury

Anna C. Allen, *Parents' Council Representative* · Jim Almond, *Area Director, Alexandria & Fairfax Region*

William D. Euille  
February 1, 2009  
Page two

Please do not hesitate to contact Stephanie or me if you have any questions. The Board joins me in thanking you very much for your attention to this matter.

Sincerely,

Robert C. Blumel  
President of the Board of Directors

Attachment: Projected Fee Schedule (was not attached to original letter)

**2009 BOARD OF DIRECTORS**

Robert C. Blumel, *President* · Keith D. Burner, *Vice President* · Denise Dunbar, *Vice President* · Tam Scurlock, *Treasurer*  
Kerry Adams · Patrick Adams · Ken Barnett · Dayna Blumel · Mary A. Burner · Wallace L. Butler  
Anthony Cicero · John F. Corrigan · Melissa Murer Corrigan · Christopher W. Dannahey · Nicole DelRosario · Elissa Dodge  
The Honorable William D. Euille · Gerald B. File · Charles A. Hall · Scott Johnson, Esq. · Michael Lindsay · David W. Lowe · Michael S. Lyons  
Peggy Taylor McCoy · Matt McKinnis · Taurus Phillips · Virginia O'Brien Record · Tonya S. Rideout · Nancy Riegler  
Annemarie Selvitelli · Mark Souder · Maria Tiratsuyan · Terry E. Waters · David E. Woodbury

Anna C. Allen, *Parents' Council Representative* · Jim Almond, *Area Director, Alexandria & Fairfax Region*

Internal Revenue Service

Department of the Treasury  
P. O. Box 2508  
Cincinnati, OH 45201

Date: December 12, 2002

Person to Contact:

Linda A. Hill 31-01768  
Customer Service Representative

Toll Free Telephone Number:

8:00 a.m. to 6:30 p.m. EST  
877-829-5500

Fax Number:

513-263-3756

Federal Identification Number:

53-0236759

Accounting Period Ends:

June 30

Boys & Girls Clubs of Greater  
Washington, Inc.  
8555 16<sup>th</sup> St., Ste. 400  
Silver Spring, MD 20910-2802

Dear Sir or Madam:

This is in response to your telephone request for a letter affirming your organization's exempt status.

In April 1943, we issued a determination letter that recognized your organization as exempt from federal income tax under section 101(6) of the Internal Revenue Code of 1939 (now section 501(c)(3) of the Internal Revenue Code of 1986). That determination letter is still in effect.

We classified your organization as a publicly supported organization, and not a private foundation, because it is described in sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code. This classification was based on the assumption that your organization's operations would continue as stated in the application. If your organization's purposes, character, method of operations, or sources of support have changed, please let us know so we can consider the effect of the change on the organization's exempt status and foundation status.

Your organization is required to file Form 990, Return of Organization Exempt from Income Tax, only if its gross receipts each year are normally more than \$25,000. If a return is required, it must be filed by the 15th day of the fifth month after the end of the organization's annual accounting period. The law imposes a penalty of \$20 a day, up to a maximum of \$10,000, when a return is filed late, unless there is reasonable cause for the delay.

As of January 1, 1984, your organization is liable for taxes under the Federal Insurance Contributions Act (social security taxes) on remuneration of \$100 or more the organization pays to each of its employees during a calendar year. There is no liability for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Organizations that are not private foundations are not subject to the excise taxes under Chapter 42 of the Code. However, these organizations are not automatically exempt from other federal excise taxes. If you have any questions about excise, employment, or other federal taxes, please let us know.

Boys & Girls Clubs of Greater Washington, Inc.  
53-0236759

Donors may deduct contributions to your organization as provided in section 170 of the Code.

Bequests, legacies, devises, transfers, or gifts to your organization or for its use are deductible for federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

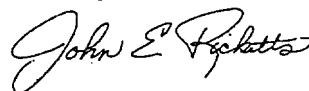
Your organization is not required to file federal income tax returns unless it is subject to the tax on unrelated business income under section 511 of the Code. If your organization is subject to this tax, it must file an income tax return on Form 990-T, Exempt Organization Business Income Tax Return. In this letter, we are not determining whether any of your organization's present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

The law requires you to make your organization's annual return available for public inspection without charge for three years after the due date of the return. If your organization had a copy of its application for recognition of exemption on July 15, 1987, it is also required to make available for public inspection a copy of the exemption application, any supporting documents and the exemption letter to any individual who requests such documents in person or in writing. You can charge only a reasonable fee for reproduction and actual postage costs for the copied materials. The law does not require you to provide copies of public inspection documents that are widely available, such as by posting them on the Internet (World Wide Web). You may be liable for a penalty of \$20 a day for each day you do not make these documents available for public inspection (up to a maximum of \$10,000 in the case of an annual return).

Because this letter could help resolve any questions about your organization's exempt status and foundation status, you should keep it with the permanent records of the organization.

If you have questions, please call us at the telephone number shown in the heading of this letter.

Sincerely,



John E. Ricketts, Director, TE/GE  
Customer Account Services

(b) The building official may from time to time inspect all plumbing, mechanical or electrical supplies, fixtures or appliances offered for sale in the city and cause the removal of those that do not meet the requirements of this section.

**Sec. 8-1-29 Fees for building, electrical, mechanical and plumbing permits, inspections and certificates.**

(a) The fees for building, electrical, mechanical and plumbing permits, inspections and certificates required by the Uniform Statewide Building Code shall be as established by resolution of the city council and as they may be amended from time to time by further resolution of the city council.

(b) A permit to begin work shall not be issued until the fees required by this section have been paid. No amendment to a permit necessitating an additional fee shall be approved until the additional fee has been paid. All fees shall be paid to the City of Alexandria at the office of the city's director of finance. [BOCA Basic Building Code/1978, Secs. 112.2 and 114.1.]

(c) The minimum nonrefundable inspection fee for any one permit shall be \$15.

(d) The payment of any fee or fees required by this section shall not relieve the applicant for or holder of a permit from the payment of any other fee or fees required by law.

(e) Refunds. In the case of a revocation of a permit or abandonment or discontinuance of a building project, the volume of the work actually completed shall be computed and any excess fee for the incompleting work shall be returned to the permit holder upon written request; except that all plan examination, permit processing, inspection costs and all penalties that may have been imposed on the permit holder under the requirements of this chapter or of the Uniform Statewide Building Code shall first be deducted from the refund due.

(f) Exceptions.

(1) The Washington Metropolitan Area Transit Authority, the Alexandria Sanitation Authority and the City of Alexandria shall not be required to pay the fees established pursuant to this section.

(2) The city manager is hereby authorized, on a case-by-case basis, to exempt the Alexandria Redevelopment and Housing Authority from the payment of the fees established pursuant to this section upon a finding that the project for which a building permit is being sought will consist of housing for low and/or moderate-income persons.

(3) Any person or entity not covered by subsection (1) or (2) may be exempted from the payment of the fees established pursuant to this section only by city council upon a finding that the project for which the person or entity is seeking a building permit will further the health, safety and/or welfare of city residents and will not generate a profit for its owner. (Ord. No. 3280, 3/12/88, Secs. 1, 2; Ord. No. 3346, 12/17/88, Sec. 1)

**Sec. 8-1-30 Violations and penalties.**

(a) With the exception of violations of section 8-1-22, a violation of any section or provision of this article shall be a misdemeanor, and any person found guilty of any such violation shall, upon conviction, be punished by a fine of not more than \$500. Each day a violation of any section or provision of this article continues shall be deemed a separate violation. Notwithstanding the foregoing, if the violation of a section or provision of this article is also a violation of a section or provision of article A of this chapter, then section 8-1-6 shall apply to the violation in lieu of this section.

(b) A violation of any section or provision of this article may, in addition to and notwithstanding the penalty provided for in subsection (a) (c) or (d), be restrained, prohibited or enjoined by appropriate proceedings in a court of competent jurisdiction.

(c) Notwithstanding the provisions of subsection (a) and (b), any action or omission constituting a violation of a section or provision of this article which also constitutes a violation of a section or provision of article A shall only be subject to the penalties in section 8-1-6.

(d) Any violation of section 8-1-22 of this article shall be a civil violation that shall be enforced through the levying of a civil penalty, pursuant to section 1-1-11 of this code, of \$100 for a person's first violation and of \$150 for each subsequent violation of the same section or provision. Each day during which a violation exists shall constitute a separate violation. However, a series of violations arising from the same operative set of facts shall not give rise to the levying of a civil penalty more frequently than once in any 10-day period, and shall not result in civil penalties exceeding a total of \$3,000.

(e) In addition to the foregoing penalties, in the event that any person obtains a building permit based on representations that exempt the proposed construction from the grading and drainage plan requirements of section 8-1-22(d), and those representations prove to be incorrect, the