

Authority: Planning and Growth Management Committee Item 40.2,
as adopted by City of Toronto Council on August 25, 26 and 27, 2010
Enacted by Council: August 27, 2010

CITY OF TORONTO

BY-LAW No. 980-2010

To adopt a Community Improvement Plan to support redevelopment of multiple properties destroyed by fire in Commercial Heritage Conservation Districts.

WHEREAS pursuant to subsection 28(2) of the *Planning Act*, the City of Toronto, with the exclusion of limited parts of the waterfront, has been designated as the City Wide Community Improvement Project Area by City of Toronto By-law No. 516-2008; and

WHEREAS subsection 28(4) of the *Planning Act* provides for adoption of a community improvement plan respecting areas designated as a Community Improvement Project Areas; and

WHEREAS the City of Toronto Official Plan contains provisions relating to community improvement in the area contemplated in this by-law; and

WHEREAS a public meeting has been held in accordance with the *Planning Act*; and

WHEREAS Council of the City of Toronto has determined it appropriate to adopt a community improvement plan for the City-Wide Community Improvement Project Area;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The community improvement plan attached to and forming part of this by-law as Schedule "A" is hereby adopted as the Community Improvement Plan to Support Redevelopment of Multiple Properties Destroyed by Fire in Commercial Heritage Conservation Districts.
2. The Community Improvement Plan to Support Redevelopment of Multiple Properties Destroyed by Fire in Commercial Heritage Conservation Districts shall apply within the City-Wide Community Improvement Project Area.

ENACTED AND PASSED this 27th day of August, A.D. 2010.

DAVID R. MILLER,
Mayor

ULLI S. WATKISS
City Clerk

(Corporate Seal)

SCHEDULE "A"

Community Improvement Plan to Support Redevelopment of Multiple Properties Destroyed by Fire in Commercial Heritage Conservation Districts

1 PROJECT AREA & SUMMARY

1.1 Project Area

This Community Improvement Plan (CIP) applies to eligible properties within the City-wide Community Improvement Project Area, as determined by Council.

1.2 Summary

This CIP provides financial incentives to support the redevelopment of new retail commercial space on properties destroyed by fire in commercial Heritage Conservation Districts.

2 AUTHORITY

Section 28 of the *Planning Act* authorizes municipalities to designate a Community Improvement Project Area (CIPA) where there is an official plan in effect that contains provisions relating to community improvement in the municipality. The *Planning Act* further authorizes Council to prepare a plan suitable for adoption as a Community Improvement Plan (CIP) for the CIPA.

The City of Toronto Official Plan contains appropriate provisions related to Community Improvement as required in order to designate and prepare plans for Community Improvement Project Areas as envisioned in Section 28 of the *Planning Act*. The City-wide Community Improvement Project Area was designated by By-law No. 516-2008, which was enacted by Toronto City Council on May 27, 2008.

The *Planning Act* authorizes municipalities to use a CIP to "make grants or loans to the registered owners, assessed owners, and tenants to pay for the whole or any part of the cost of rehabilitating such lands and buildings in conformity with the community improvement plan" (Section 28(7)).

Section 5.2.2 of the Official Plan states that "Community Improvement Plans will be prepared to promote the maintenance, rehabilitation, revitalization and/or conservation of selected lands, building and communities facing challenges of transition, deficiency or deterioration or for any other environmental, social or community economic development reason".

The Official Plan further provides that CIPs will be prepared to provide direction regarding allocation of public funds, in the form of grants, loans or other finance instruments, for the physical rehabilitation or improvement of private land and/or buildings including rehabilitation of contaminated properties.

3 BASIS

3.1 Heritage Conservation on Traditional Shopping Streets

Toronto's traditional shopping streets are characterized by continuous building facades with commercial uses at grade and either offices or residential uses on the upper floors.

Where traditional shopping streets are also part of a Heritage Conservation District, the retail façade may be a particularly important element of the heritage character. The Heritage Conservation District Plan may encourage commercial uses at grade and commercial facades in new buildings.

If buildings on traditional shopping streets in Heritage Conservation Districts are destroyed by fire, the loss of the retail façade and commercial floorspace may have a deleterious impact on the heritage character and amenity and vitality of the area.

The CIP will support the rebuilding of the retail space on properties on traditional shopping streets in Heritage Conservation Districts.

3.2 Property Tax Issues

A potential challenge for new commercial buildings on some traditional shopping streets is that they may face significant tax increases as a result of a change in their tax status related to the Current Value Assessment (CVA). With the introduction of CVA in 1998, the Province limited CVA tax increases for properties facing CVA-related tax increases in that their year-over-year CVA tax increase was generally capped at 5%. Some commercial properties in older buildings on traditional shopping streets continue to be subject to tax caps, and their annual taxes paid are less than the full Current Value Assessment (CVA) based taxes. New buildings have to pay property taxes at the full CVA tax rate and are not be eligible for capping protection.¹

Higher taxes payable on new buildings may affect the marketability of new commercial space, since the higher taxes may have to be absorbed in the rents charged for the new space. This could lead to significant rent increases, which may ultimately deter owners from rebuilding commercial space. This CIP will support competitive local market rents for the new retail space.

3.3 Multiple Properties Destroyed by Fire

Where multiple properties are destroyed by fire the impact on the traditional shopping street and the Heritage Conservation District may be far greater than the impact of the destruction of a single building. Support for redevelopment through the CIP will be limited to those circumstances where multiple properties are destroyed by a single fire.

4 OBJECTIVES OF THE COMMUNITY IMPROVEMENT PLAN

The objectives of this CIP are:

- i. To reinforce the role of traditional shopping streets by encouraging quality development that is compatible with the character of the area and with adjacent uses (OP, Section 3.5.3.2 a)).
- ii. To reinforce the heritage character of the area as mandated by the area's Heritage Conservation District Guidelines.
- iii. To encourage the replacement of ground floor commercial space destroyed by fire.

¹ Other properties, which were historically taxed at a greater level than their CVA taxes, continue to have their decreases 'clawed back.' New buildings on these properties are not subject to 'claw backs.'

5 THE CIP PROGRAM

In order to achieve the objectives of this CIP, the City will offer Tax Capping Equivalent Grants for eligible development. The grants will be available annually and calculated in accordance with Section 5.4 of this CIP. For each fire incident, the eligible properties, grant levels, and other eligibility requirements specific to those properties, will be identified in a Schedule to the CIP. City Council will have to amend this CIP to include each additional schedule.

5.1 Definitions

- i) Commercial Floorspace: floorspace in Tax Class 'Commercial Occupied' ('CT').
- ii) Gross Floor Area: the total area of all wholly enclosed floors in a building, above and below grade, measured from the exterior of the main walls at the level of each floor, including stairwells and escalators; but excluding areas used by vehicles for purposes of parking or loading or both, and areas in the basement not used for the sale or display of goods and services.
- iii) New Building: a building that is subject to full CVA taxes after redevelopment, rebuilding or restoration following a fire.

5.2 Eligibility

Grants will only be provided for Eligible Floorspace on Eligible Properties.

Eligible Properties

- i) The property must be one of multiple properties destroyed by fire for which no criminal cause has been determined.
- ii) The property must be in a Heritage Conservation District (HCD) in which the commercial uses are a key element of the Heritage Conservation District's heritage character, including buildings on traditional shopping streets in Heritage Conservation Districts.
- iii) The property must be developed in conformance with the Heritage Conservation District Plan for the HCD in which the properties are located.
- iv) City Council must confirm the property's eligibility by listing it in a Schedule to this CIP.

Eligible Floorspace

- i) The eligible floorspace must be in a New Building.
- ii) The eligible floorspace must be ground floor Commercial Floorspace that replaces the Commercial Floorspace destroyed by fire.

5.3 Relationship with Other Grants

The Tax Capping Equivalent Grant may be reduced to reflect the amount of financial assistance for the development received from other federal, provincial or municipal sources.

However, Tax Capping Equivalent Grants will not be reduced for buildings and developments that receive Heritage Grants, energy efficiency grants and other environmental grants.

Commercial Floorspace that receives Development Grants through the *Toronto Community Improvement Plan for Brownfield Remediation and Development of Prescribed Employment Uses* (adopted by By-law 516-2008) will not be eligible for Tax Capping Equivalent Grants under this CIP.

5.4 Grant Calculation

- i) Annual Tax Capping Equivalent Grant amounts will be calculated each year to be equivalent to the difference between the full CVA Taxes payable on the commercial component for the New Building and the estimated taxes that these properties would have paid in that year in the absence of the fire. The estimated taxes will be based on the estimated average commercial level of taxation for the properties in the absence of the fire, which will be consistent with the average commercial taxation level for similar properties in the area that continue to pay taxes.

The Tax Capping Equivalent Grant levels for the full duration of the program for each property will be recommended by the Chief Financial Officer / City Treasurer, and finally determined by Council in advance of any payments, and will be required to be set out in a Schedule to this CIP and in the Financial Incentive Agreement referred to in Section 5.5 v) of this CIP.

The Grant level will be expressed as a percentage of commercial CVA taxes, so that annual Tax Capping Equivalent Grants will be calculated each year with the following formula:

$$\text{Tax Capping Equivalent Grant} = \text{Commercial CVA Taxes paid} \times \text{Grant level.}$$

- ii) If the building contains Commercial Floorspace on more than one floor, the Tax Capping Equivalent Grant will be based on the ratio of the eligible ground floor commercial Gross Floor Area to the total commercial Gross Floor Area of the building using the following formula:

$$\text{Tax Capping Equivalent Grant} = \text{Commercial CVA Taxes paid} \times \text{Grant level} \times (\text{ground floor commercial Gross Floor Area} / \text{total commercial Gross Floor Area}).$$

- iii) Adjustments: Grant amounts will be reduced to reflect:

- the amount of rebates of municipal taxes paid to the property owner to reflect vacancy and charitable status.
- any subsequent changes in the total municipal taxes payable in any year due to reductions resulting from assessment appeals. Where such tax changes occur after grant amounts have been paid, future year grant entitlements may be reduced accordingly. Any overpayment of grant amounts arising from subsequent assessment or tax reductions will be deemed to be a debt owing to the municipality.

5.5 Other Conditions

- i) Applications for grants must be made before the first above grade building permit for the development is issued, unless otherwise indicated in a Schedule to this CIP.
- ii) Development receiving grants must conform to all City by-laws, policies, and processes, and all improvements must be made pursuant to an approved building permit, and conform to the *Ontario Building Code* and applicable zoning requirements and development approvals.
- iii) The applicant must be the owner of the property or have the owner's authorization to apply for the grant.
- iv) The Owner must enter into an agreement with the City to be registered on title, pursuant to Section 28(7) and 28(11) of the *Planning Act*. The Financial Incentive Agreement will set out the terms and conditions of the Tax Capping Equivalent Grant Program. Terms and conditions of the agreement will compliment and may expand upon, but in no way will detract from the conditions set out herein.
- v) The property must not be in arrears of property taxes or other fees and charges on the day the agreement is signed.

5.6 Payment

- i) Grants are paid once annually, no later than 90 days after the final tax bill is paid for the year, provided that:
 - a. there are no outstanding taxes, water rates, or other sums owed to the City with respect to the property;
 - b. there are no outstanding work orders and/or orders or requests to comply from any municipal or provincial entity; and
 - c. all other eligibility criteria and conditions are met.
- ii) Grants will not be applied as tax credits against property tax accounts
- iii) In case of an assessment appeal, the City reserves the right to withhold any forthcoming Tax Capping Equivalent Grants pending final disposition of the appeal.

6 CIP EXPIRY

This CIP shall expire five (5) years after its coming into full force and effect subject only to Council amending this CIP so as to revise the expiry date or delete this provision. Upon the expiry of this CIP, the City will no longer accept new applications for Tax Capping Equivalent Grants under this CIP. Despite the expiry of this CIP, owners that successfully submitted applications prior to the expiration date and were found eligible to receive Tax Capping Equivalent Grants will continue to receive Tax Capping Equivalent Grants, as applicable, in accordance with this CIP.

7 CIP REVIEW

The CIP will be reviewed no later than four (4) years after it comes into full force and effect. The review will be initiated by a staff report recommending the content and process for the review.

8 LIST OF SCHEDULES

1. 611 – 625 Queen Street West

SCHEDULE 1: 611 – 625 QUEEN STREET WEST

1 The Queen Street West Fire of February 2008

Six buildings at 611 – 625 Queen Street West burned down on February 20, 2008. The buildings consisted of ground floor retail space with residential uses on the second and third floors. They were part of a traditional shopping street that stretches along most of Queen Street.

These properties are also part of the Queen Street West Heritage Conservation District (HCD), which runs from Simcoe Street to Bathurst Street. The Guidelines for the HCD indicate that 'commercial uses at grade ... have always been part of the character of Queen Street West' and that 'new and renovated buildings must be characterized by one storey commercial facades.' (*Queen Street West Heritage Conservation District Plan*, p65)

2 Tax Capping Equivalent Grant Levels

Annual Tax Capping Equivalent Grant amounts for the properties at 611-625 Queen Street West will be calculated each year with the following formula:

$$\text{Tax Capping Equivalent Grant} = \text{Total Commercial CVA Taxes paid} \times \text{Grant Level}$$

where the Grant Level for each year is as follows:

<u>Year</u>	<u>Grant Level (%)</u>
2010	40
2011	31
2012	22
2013	13
2014	4
2015	0

3 Limits to Eligible Floorspace

No Commercial Floorspace of any individual establishment, store, or occupancy which occupies more than 400 metres² (4,304 ft²) will be eligible to receive Tax Capping Equivalent Grants. For greater clarity, if an establishment, store, or occupancy occupies more than 400 metres² (4,304 ft²), none of the establishment, store, or occupancy's ground floor GFA will be eligible to receive any Tax Capping Equivalent Grants.

4 Timing of Applications for Grants

Applications for grants must be made before the first above grade building permit for the development is issued, unless the application is for a development for which the building permit application was made after November 18, 2008 and before this Plan came into full force and effect.