

Authority: Planning and Growth Management Committee Item PG17.5, as adopted by City of Toronto Council on October 2, 3 and 4, 2012

CITY OF TORONTO

BY-LAW 1029-2017

To cancel municipal taxes for the property at 40 Hanna Avenue.

Whereas by the adoption of By-law 516-2008, as amended by By-law 1323-2012, City Council designated the City of Toronto as a community improvement project area, pursuant to section 28(2) of the *Planning Act*, and adopted a city wide community improvement plan for brownfield remediation and development of prescribed employment uses consisting of development grants in the form of tax increment equivalent grants for certain defined uses and for brownfield remediation tax assistance, pursuant to section 38(2) of the *Planning Act*, R.S.O, 1990, c. P.13 and section 333 of the *City of Toronto Act, 2006*, c. 11, Schedule A; and

Whereas the registered owner of the Eligible Property has applied to the City to cancel the property taxes for the Eligible Property, in accordance with the Community Improvement Plan and section 333 of the *City of Toronto Act, 2006*; and

Whereas the Eligible Property is located within the community improvement project area and is eligible for Tax Assistance pursuant to section 333 of the *City of Toronto Act, 2006*; and

Whereas the Owner has provided the City with a Phase 2 Environmental Assessment demonstrating that provincial standards cannot be met in order to file a record of site condition in respect of the Property; and

Whereas in accordance with subsection 333(2) of the *City of Toronto Act, 2006*, the City may pass by-laws providing for the cancellation of all or a portion of taxes for municipal and school purposes levied on eligible properties; and

Whereas the City wishes to provide for the cancellation of a portion of the municipal taxes for the Property described in Schedule A to this by-law;

The Council of the City of Toronto, pursuant to section 28 of the *Planning Act* and section 333 of the *City of Toronto Act, 2006* enacts:

1. In this by-law the following terms shall have the following meanings:

"Base Municipal CVA Taxes" means the amount calculated by multiplying the Current Value Assessment(s) ("CVA") applicable for the taxation year in which the Financial Incentive Agreement between the City and the Owner is signed, by the tax rate(s) applicable for those lands, for that taxation year. The Base Municipal CVA Taxes shall be fixed in this manner for the purposes of determining the Municipal Tax Increment, subject to any adjustment arising from assessment appeals or changes to CVA made by the Municipal Property Assessment Corporation ("MPAC") and shall remain unchanged for the duration of the term of the Tax Assistance.

"Destination Municipal CVA Taxes" means the amount calculated by multiplying the CVA for the Property directly attributable to the Eligible Development, as reflected in the returned assessment roll applicable to the first full taxation year following the completion

and reassessment of the Property, by the tax rate(s) applicable at that time. The Destination Municipal CVA Taxes shall remain fixed for the purposes of determining the Municipal Tax Increment subject to any adjustments to taxes arising from assessment appeals or changes to the Destination Municipal CVA made by MPAC, and shall remain unchanged for the duration of the term of the Tax Assistance.

"Community Improvement Plan" or "CIP" means the Citywide Community Improvement Plan for Brownfield Remediation and Development of Prescribed Employment Uses as set out in By-law 516 2008, as amended by By-law 1323-2012.

"CVA" means the Current Value Assessment for the Property as determined by the Municipal Property Assessment Corporation, ("MPAC"). For purposes of this by-law, the CVA taxes for the Property attributable to the Eligible Development shall not include any portion of the CVA attributable to the existing 5 storey brick factory building, the boiler house building, or the 3 storey brick building located on the Property, or any new development relating to such existing buildings.

"Eligible Development" means the development of Eligible Uses on the Eligible Property which occurs following remediation that would enable the Owner to file a Record of Site Condition with respect to the Eligible Property in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act* and includes only the development of an eight storey, new build office building known as the "Atlantic-Liberty Building to be located on the westerly portion of the Property, as more specifically described in the IMIT Property Tax Incentive Application attached as Schedule "D" to the Financial Incentives Agreement. The Tax Assistance provided for under this by-law does not include any other development on the Property.

"Eligible Property" or "Property" means that portion of the Property known municipally as 40 Hanna Avenue, as described in Schedule A attached to this by-law, consisting only of the westerly portion of the Property upon which an eight storey, new build office building known as the Atlantic-Liberty Building, as described in the IMIT Property Tax Incentive Application, attached to the Financial incentives Agreement is to be located.

"Eligible Uses" means those uses eligible to receive Brownfield Remediation Tax Assistance in accordance with the CIP and the Financial Incentives Agreement.

"Financial Incentives Agreement" means the agreement entered into between the Owner and the City setting out the terms and conditions of the Brownfield Remediation Tax Assistance program.

"Owner" means the registered owner of the Eligible Property.

"Municipal Tax Increment" means the difference derived from the following calculation for all Eligible Development:

Destination Municipal CVA Taxes (-) Base Municipal CVA Taxes

The Municipal Tax Increment shall be calculated in the first year that the subject Assistance is provided, and shall remain subject to the provisions for adjustment as set out in the Financial Incentives Agreement.

"Remediation Costs" means the cost of any action taken to reduce the concentration of contaminants on, in or under the Eligible Property to permit a record of site condition to be filed in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act* and the cost of complying with any certificate of property use issued under section 168.6 of the *Environmental Protection Act*, as further specified in the CIP.

"Tax Assistance" means brownfield remediation tax assistance in the form of cancellation of the Municipal Tax Increment in accordance with the terms of this by-law and the CIP and as set out in the Financial Incentives Agreement. The Tax Assistance provided for in this by-law relates only to the westerly portion of the Property upon which an eight storey, new build office building known as the "Atlantic-Liberty Building, and as more specifically described in the IMIT Property Tax Incentive Application attached as Schedule "D" to the Financial Incentives Agreement, is to be located. The Tax Assistance provided for under this by-law does not include any other development on the Property.

2. Tax Assistance for the Eligible Property will be provided subject to the provisions of this by-law, the Financial Incentives Agreement, and the applicable provisions of the CIP.
3. Tax Assistance shall commence on the date that the Municipal Tax Increment would have been payable, but for the cancellation of taxes as authorized by this by-law, in the first calendar year in which the Property tax bill reflects the increased assessed value attributable to the Eligible Development and shall terminate upon the earlier of:
 - A. Either
 - (i) two years after the date that MPAC reassesses the Property to reflect the fully improved value of the developed Property; or
 - (ii) three years after the date that MPAC reassesses the Property to reflect the fully improved value of the developed Property, if the Property is also receiving development grants; or
 - B. The date that the Tax Assistance provided for the Property equals the sum of:
 - (i) the cost of any action taken to reduce the concentration of contaminants on, in or under the property to permit a record of site condition to be filed in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act*, and
 - (ii) the cost of complying with any certificate of property use issued under section 168.6 of the *Environmental Protection Act*.
4. The maximum Tax Assistance provided in any given year shall not exceed the Municipal Tax Increment for that year.

5. Where Tax Assistance is provided for a portion of any year, or where Tax Assistance represents only a portion of the taxes levied on the Eligible Property, the Owner is responsible for payment of all Property taxes levied during the portion of the year when the Tax Assistance is not provided, and for all taxes not subject to Tax Assistance.
6. The Treasurer shall alter the tax roll in accordance with the Tax Assistance to be provided for the Eligible Property.
7. Tax Assistance shall be suspended, and may be terminated, in the following circumstances:
 - A. the Owner is in default of any obligation pursuant to this by-law or applicable provisions of the CIP, or
 - B. the Owner is in default of any obligation pursuant to the Financial Incentives Agreement.
8. If Tax Assistance is to be suspended or terminated under section 7, the City may:
 - A. provide the Owner with notice that the conditions under this by-law, the CIP, or the Financial Incentives Agreement, as applicable, have not been met and that the Tax Assistance is terminated and order the Owner to repay the property taxes that were subject to the Tax Assistance, with interest, in accordance with section 310 of the *City of Toronto Act, 2006*; or
 - B. provide the Owner with notice that Tax Assistance will be suspended pending the Owner curing the default within such period and on such terms as the City specifies in writing, and that the failure to do so will result in termination of the Tax Assistance in accordance with subsection 8.A of this by-law.

Enacted and passed on October 4, 2017.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

SCHEDULE A
LEGAL DESCRIPTION

PIN 21299-0147 LT

LT 38-47, 63-69 PL 765 TORONTO; BLK A PL D1361 TORONTO; PT LT 48 PL 765
TORONTO AS IN TB984303; S/T CA267234; CITY OF TORONTO