

2007 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors

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| Date: | May 8, 2007 |
| To: | Executive Committee |
| From: | Treasurer |
| Wards: | All |
| Reference Number: | P:\2007\Internal Services\Rev\ec07016Rev (AFS #3344) |

SUMMARY

This report requests Council authority for the introduction of the by-law necessary to levy and collect taxes for the 2007 taxation year on railway roadways and rights of way and on land used as transmission or distribution corridors and owned by certain power utilities.

RECOMMENDATIONS

The Treasurer recommends that:

1. Council authorize the levy and collection of taxes for the 2007 taxation year on railway roadways and rights of way and on land used as transmission or distribution corridors and owned by certain power utilities, in accordance with subsection 280 (1) of the *City of Toronto Act, 2006* and subsection 257.7(1) of the *Education Act*;
2. authority be granted for the introduction of the necessary bill to give effect thereto; and
3. the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Financial Impact

The 2007 levy of taxes on railway roadways and rights of way and on power utility transmission or distribution corridors will raise approximately \$7.8 million in revenues, of which the municipal share is \$6.6 million and the provincial education share is \$1.2 million.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting on July 25, 26 and 27, 2006, while considering a report entitled “2006 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors” (June 29, 2006) from the Treasurer, City Council recommended, among other things, that the Minister of Finance be requested that:

- (i) Regulations 387/98 and 392/98 be amended to require an annual inflationary adjustment in the “mature rate”; and
- (ii) the “mature rate” prescribed by Regulation so as to phase in rate changes that more properly reflect the market value of the land over a period of time, be reviewed.

This report can be accessed at:

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060725/pof6rpt/c1019.pdf>

To date, the City has not received a response from the Minister, and no changes have been made to the legislative or regulatory provisions to incorporate Council’s request. Despite Council’s July 2006 resolution, no legislative authority exists for the City to levy a tax rate other than that permitted by the provincial regulation for 2007.

ISSUE BACKGROUND

Ontario Regulations 387/98 under the *Municipal Act, 2001* and 392/98 under the *Education Act*, as amended, have prescribed the applicable rates for railway and power utility rights of way acreage levies since 1998. Beginning in 1998 and ending in 2005, the Province prescribed what were termed “transition rates” each year, to phase-in changes to the taxation level of these right of way properties, until a uniform rate was reached in 2005. The acreage tax rates established in 2005 are called ‘mature rates’ and are intended to apply to all years beyond 2005.

COMMENTS

Subsection 280 (1) of the *City of Toronto Act, 2006* requires the City, in accordance with the regulations, to levy an annual tax for municipal purposes on railway roadways and rights of way and on land used as transmission or distribution corridors and owned by certain power utilities.

Subsection 257.7(1) of the *Education Act* requires the City to levy and collect taxes based on the rates prescribed for school purposes on the railway and power utility lands described in subsection 280 (1) of the *City of Toronto Act, 2006*.

Ontario Regulations 121/07 under the *City of Toronto Act, 2006* and 392/98 under the *Education Act*, (as amended by O. Reg 123/07), prescribe the applicable rates for 2007 for the municipal portion and education portion of taxes respectively, for railway and power utility rights of way acreage levies.

To calculate the levy on acreage properties, the City of Toronto requires the area of each property and the applicable tax rates. The acreage figures are provided to the municipalities by the Municipal Property Assessment Corporation (MPAC) on the returned assessment roll each year and are available for 2007.

The tax rates set out in Table 1 below are the applicable rates for 2007 for railway roadways and rights of way and power utility transmission and distribution corridors.

Table 1
Rates to be levied for 2007 on Railway Roadways or Rights of Way and on Power Utility Transmission or Distribution Corridors

| Company | Municipal Taxes Per Acre (iii) | Education Taxes Per Acre (iv) | Total Taxes Per Acre |
|--|-----------------------------------|----------------------------------|-------------------------|
| Canadian National Railway | \$611.33 | \$822.69 | \$1,434.02 |
| Canadian Pacific Railway | \$611.33 | \$822.69 | \$1,434.02 |
| Greater Toronto Transit Authority –(GO Transit) (i) | \$611.33 | \$0.00 | \$611.33 |
| Power Utility - Hydro One (ii) | \$834.02 | \$1,208.66 | \$2,042.68 |

- (i) *Greater Toronto Services Board Act, 1998* exempted the real property owned by the Greater Toronto Transit (GO Transit) from education taxes. Pursuant to the *GO Transit Act, 2001*, as of January 1, 2002, GO Transit became a Crown Agency of the Province. It is exempt from property taxes but subject to payment-in-lieu taxes.
- (ii) As certified by the Ministry of Consumer and Commercial Relations in May 2000, the name of the corporation 'Ontario Hydro Networks Company Inc.' was changed to 'Hydro One Networks Inc'.
- (iii) Based on O. Reg. 121/07 under the *City of Toronto Act, 2006*.
- (iv) Based on O. Reg. 392/98, as amended, under the *Education Act, 1990*.

The estimated revenue for 2007 from all the railway and power utility rights of way is approximately \$7.8 million, of which the municipal share is \$6.6 million and the education share is \$1.2 million. Of the \$6.6 million municipal share, \$81,202.96 will be received in the form of payment-in-lieu of taxes from GO Transit. Pursuant to the *GO Transit Act, 2001*, as of January 1, 2002, GO Transit became a Crown Agency of the Province. It is now exempt from property taxes but subject to payment-in-lieu taxes.

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SIGNATURE

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