

Status - Provincial Property Tax Pass-Through for Recreational Leases in Hydro Corridor Lands

Date:	October 9, 2007
To:	Executive Committee
From:	Shirley Hoy, City Manager Joseph P. Pennachetti, Deputy City Manager and Chief Financial Officer
Wards:	All
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SUMMARY

This report provides an update and status of the City's request to the Province to waive property taxes charged back to the City by Hydro One on hydro corridor lands leased by the City and used for parks and recreation purposes. Since 2003, after further consultation with the City of Toronto, the Association of Municipalities in Ontario (AMO) and other municipal representatives, the Province revised its secondary land use policy to require municipalities to reimburse the Province one-half of the property taxes the municipality imposes on the Province's hydro corridor lands, for those portions of lands used by the municipality for recreation purposes. The revision, from the original position of the Province that a reimbursement of all the taxes imposed by the municipality, was a compromise in recognition of the dual use on corridor land. Further discussions and correspondence with the Province over the last five-years towards repealing the 50 percent property tax-pass through policy has not yielded any further changes to this policy.

Financial Impact

The City currently has 65 lease agreements covering 399 acres in hydro corridors. Three agreements covering 10 acres were renewed at 50 percent pass-through for parks and recreation use resulting in property tax reimbursement from the City to the Province of \$10,276 annually, which is currently charged to the Parks, Forestry and Recreation budget as an expenditure item for property taxes.

As leases are renewed, the potential total additional annual impact of the Provincial secondary land use policy on the Parks, Forestry and Recreation Operating Budget for its current use in hydro corridors is estimated at \$371,920 annually. For each additional acre of new park in hydro lands will have an additional impact on the Parks, Forestry and Recreation Operating Budget of \$1,021 per acre per year. These expenditures will be reported on during the annual operating budget review process as they are finalized.

DECISION HISTORY

Executive Committee on June 25, 2007, in consideration of a motion referred from the City Council meeting of May 23-25, 2007, concerning provincial property tax pass-through for recreational leases in hydro corridor lands, recommended that:

“City Council request the City Manager to report to the Executive Committee on the status of the City’s requests to waive property taxes or declare hydro corridors municipal capital facilities for parks purposes, and include recommendations for next steps.”

A copy of this decision can be viewed at:

<http://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-5033.pdf>

ISSUE BACKGROUND

Since 2003, the Province has imposed throughout Ontario a secondary land use policy wherein municipal uses of hydro corridor lands would require the municipality to reimburse the Province one-half of the property taxes imposed by the municipality on the corridor land owner (Hydro One). The City (Parks, Forestry and Recreation Division) currently has 65 lease agreements, and as they come up for renewal, will be required to pay through the lease the equivalent of 50 percent of the taxes on the portions used for parks and recreation purposes.

COMMENTS

Hydro corridor lands are liable for payment-in-lieu of property taxes. As a payment-in-lieu of taxes, the City does not remit to the Province that portion collected for school purposes. At the current rate of \$834.02 per acre for municipal purposes, and \$1,208.66 per acre for school purposes, Hydro One will remit property taxes to the City totalling \$5.6 million for 2007, of which \$3.3 million is notionally collected for school purposes, but not remitted to the Province.

Prior to 2003, the Province allowed the City to use hydro corridor lands for nominal sum, and the Province assumed the full property tax responsibility on those portions of corridor lands used by the municipality. In 2003, the Province indicated its intention to adopt a secondary land use policy which would have required municipalities throughout Ontario to pay the property taxes on the hydro corridor lands they use. After further

consultation with the City of Toronto, the Association of Municipalities in Ontario (AMO), and other municipal representatives, the Province revised its policy to only require a 50 percent pass-through of property taxes, partly in recognition of the dual use (municipal and utility) on corridor land. In other words, municipalities will receive only half of the property tax revenue they would otherwise have received from Hydro One on those portions of corridor lands used by municipalities. This policy is being effected by the Ontario Realty Corporation (ORC), who have responsibility for the management of crown lands, as individual leases come up for renewal.

From a budgetary perspective, although Hydro One as landowner will still be billed by the City the full amount due for property taxes, the Parks and Recreation Program will be required to pay, on a go-forward basis as leases are renewed, an amount equivalent to half of the taxes payable by Hydro One on that portion of the corridor lands used by the Program. This is best illustrated by way of example in Table 1 below. It shows that, for every acre of corridor land used by a municipality, the municipality foregoes \$1,021.34 in tax revenue under the Province’s Secondary Land Use policy for every acre used by the municipality (Column III). City staff also explored the feasibility of declaring such lands a Municipal Capital Facility in order to exempt it from property taxation (Columns IV and V). The effect is that the municipality would forego twice the amount of tax revenue (\$2042.68 per acre). This is discussed in a later section of this report.

Table 1 – Example of Property Taxation on Hydro Corridor Lands used by Municipalities
Taxes Per Acre of Shared Land

Column	I	II	III	IV	V
	Pre- 50% pass through policy	50% pass through policy	Impact to City	If Land declared a Municipal Capital Facility	Impact if Municipal Capital Financing
Hydro One taxes paid to City	\$ 2,042.68	\$ 2,042.68	\$ 0	\$ 0	(\$ 2,042.68)
Parks Forestry & Recreation: paid to Hydro One through lease	\$ -	(\$ 1,021.34)	(\$ 1,021.34)	\$ 0	\$ -
City Tax Revenue (received as payment in lieu)	\$ 2,042.68	\$ 1,021.34	(\$ 1,021.34)	\$ 0	(\$ 2,042.68)

The City currently has 65 lease agreements covering 399 acres in hydro corridors related to recreational uses (there are two other lease related to parking lots in hydro corridors which are subject to a different arrangement). The 65 lease agreements can be categorized as follows:

	No. of Leases	No. of Acres	Current Tax Impact 1998-2007	Potential Annual Tax Impact (lease renewals 2008-2017)
Current Leases	15	119.740	\$ -	\$ 122,295.25
Leases Renewed @ 50% Pass-Through	3	10.061	\$ 10,275.70	\$ -
Expired Leases	33	239.724	\$ -	\$ 244,839.71
Leases Renewed Annually/Monthly*	7	24.646	\$ -	\$ -
Draft Agreements (Approved by Council but not yet implemented due to Pass-Through Policy)	3	0.855	\$ -	\$ 873.25
Pending Agreements	4	3.830	\$ -	\$ 3,911.73
Total Potential Tax Impact	65	398.9	\$ 10,275.70	\$ 371,919.94

**Grandfathered under old provisions, no taxes charged back at this time.*

Three agreements covering 10.06 acres were renewed at 50 percent pass-through for parks and recreation use, resulting in property tax reimbursement from the City to the Province of \$10,276, which is currently charged to the Parks, Forestry and Recreation budget as an expenditure item for property taxes. The City imposes the full taxes (\$20,552) on Hydro One, which is accounted as property tax revenue for the City, however, the Parks, Forestry and Recreation program pay half of this amount back to Hydro One through their lease payments.

The remaining 61 lease agreements consist of: seven leases that are being renewed yearly/monthly and are taxed under the old policy at this time (eg. no taxes passed-through); 15 leases that will expire over the next 10 years; 33 have recently expired; 3 new leases are at the draft agreement stage; and 4 agreements are still pending. The total potential estimated additional annual impact of the Provincial secondary land use policy for existing Program uses in corridor lands is \$371,920.

Further discussions and correspondence with the Province over the last five-years towards repealing the property tax-pass through policy have not yielded any further changes to this policy.

Declaring Corridor Lands as Municipal Capital Facilities:

Under Section 252 of the City of Toronto Act, the City may enter into an agreement for the provision of municipal capital facilities with the corridor land owner to provide for a tax exemption of the lands used as municipal capital facilities. However, the use of this legislative provision would result in further loss of taxes for the City, as under the secondary land use policy, Hydro One continues to pay half of the taxes on corridor lands used by the City. By declaring the corridor lands used by the City as a Municipal Capital Facility and exempting the lands from taxation, the City would lose this additional tax revenue. As such, staff would not recommend the use of municipal capital facilities in these cases.

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SIGNATURE

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