



STAFF REPORT ACTION REQUIRED

Apportionment of Property Taxes

Date:	January 26, 2007
To:	General Government Committee
From:	Treasurer
Wards:	All
Reference Number:	P:\2007\Internal Services\Rev\gg07003Rev (AFS3252)

SUMMARY

Section 356 of the *Municipal Act* as continued under section 322 of the *City of Toronto Act* permits the apportionment of property taxes when one parcel of land is split into two (2) or more parcels, and the division of land has not yet been captured on the assessment roll for the year. The *Act* allows the treasurer or an owner of the land to initiate the apportionment of any unpaid taxes for the year in which the application is made and any previous years. The apportionment process does not change the total amount of taxes levied, but rather splits the taxes between the newly created parcels of land.

The *Act* requires that upon receipt of an application to apportion taxes, Council must hold a public meeting at which the applicants and owners of any part of the land may make representation. Authority to hold such public meetings has been delegated to the General Government Committee.

This report recommends approval of 26 tax apportionment applications initiated by both taxpayers and the Treasurer for the properties listed in Appendices A and B (attached).

This report also recommends a change to the City's current treatment of outstanding penalty/interest that has accrued on unpaid taxes pending the apportionment of those unpaid taxes. As legislative authority now exists, it is recommended that such penalty/interest amounts be written-off.

RECOMMENDATIONS

The Treasurer recommends that:

1. the property taxes identified in Appendix A and Appendix B, under the columns entitled “Apportioned Tax” and “Apportioned Phase In/Capping”, be approved;
2. all interest and penalty charges which have accrued on the taxes being apportioned, identified in Appendix A and Appendix B, under the columns entitled “Apportioned Interest/Penalty” be written off as uncollectible;
3. authority be delegated to the Director of Revenue Services to write-off as uncollectible the interest and penalty charges that have accrued on, and form part of, any unpaid taxes which are apportioned by Council; and,
4. the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Financial Impact

Appendices A and B, identify that approximately \$49,458.68 (as at January 22, 2007) in penalty/interest charges has accrued on the tax accounts pending Council’s approval of the apportioned taxes. It should be noted that this amount is subject to change as interest charges continue to accrue until such time as the apportioned tax bills have been issued. Whereas previously this amount would have been off-set by an automatic grant, this report recommends that such penalty/interest be written-off. Funding for the write-off of the interest/penalty amount is provided for from the 2007 Tax Penalty Account (Non-Program Budget).

With the exception of the penalty/interest amount, the apportionment of property taxes has no financial impact on the City of Toronto. The apportionment process merely secures the City’s revenue by reallocating taxes from an account(s) that has ceased to exist to the accounts that have resulted from a redevelopment as discussed below.

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

DECISION HISTORY

At its meeting of April/May 2001, Council adopted a report (February 23, 2001) from the Chief Financial Officer and Treasurer, titled “Apportionment of Taxes”, which recommended a policy for the hearing and disposition of unpaid tax apportionment applications pursuant to section 356 of the *Municipal Act, 2001* (re: Clause 20 of Report No. 5 of the Administration Committee, as adopted by City Council at its regular meeting

held on April 23, 24, 25, 26, 27 and its special meeting held on April 30, May 1 and 2, 2001). To view this report online please follow the link:

<http://www.toronto.ca/legdocs/2001/agendas/council/cc010424/adm5rpt/cl020.pdf>

At its meeting in July 2003, Council adopted a report (June 18, 2003) from the Chief Financial Officer and Treasurer, titled “Apportionment of Taxes”, which recommended a grant program to off-set any penalty/interest that has accrued on accounts prior to the actual apportionment of unpaid taxes (re: Clause 8 of Report No. 7 of the Administration Committee, as adopted by City Council at its meeting held on July 22, 23 and 24, 2003). Council delegated administration of the penalty/interest grants to the Chief Financial Officer and Treasurer or his designate. No application is necessary for the grant; it is automatically approved for the owner upon the apportionment of penalty / interest to their property. To view this report online please follow the hyperlink:

<http://www.toronto.ca/legdocs/2003/agendas/council/cc030722/adm7rpt/cl008.pdf>

ISSUE BACKGROUND

By law, municipalities are required to prepare tax bills in accordance with information provided by the Municipal Property Assessment Corporation (MPAC) on the annual assessment roll. An application to apportion taxes usually stems from incorrect assessed owner information on the assessment roll for properties that have been redeveloped. If, during the year, a parcel of land, owned by a developer, is redeveloped into multiple properties with townhouses/condominiums that are sold off individually, MPAC should update the following year’s assessment roll with new roll numbers containing the new property owner information. By their nature, the timing of redevelopments and changes in ownership are unpredictable. When delays cause MPAC to fail in updating the following year’s assessment roll, that year’s tax bill is sent to the wrong assessed owner (the developer). In some instances, these taxes go unpaid. The only means for the City to collect the unpaid taxes from the correct owner is to initiate the tax apportionment process.

For both treasurer-initiated and taxpayer-initiated applications, MPAC has reviewed the request and has provided City staff with their recommendation as to how the original assessed value of the property should be divided/apportioned between the newly created parcels. Upon receiving feedback from MPAC, the Revenue Services Division has calculated the recommended tax apportionments by applying the same ratio to the taxes as that used in relation to the assessment. The affected property owners have been sent Notices of Hearing to advise them of the recommended apportioned tax amount for which they will be responsible, if approved, and of the February 15th, 2007 date of the upcoming hearing before the General Government Committee. In addition, to facilitate the process and address taxpayer concerns, Revenue Services staff will be conducting an open house at the North York Civic Centre on Friday, February 9, 2007.

Section 322 of the *City of Toronto Act, 2006* (COTA) allows the treasurer or a property owner to initiate an application to apportion unpaid taxes. By law, municipalities are required to prepare tax bills in accordance with information provided by the Municipal Property Assessment Corporation (MPAC) on the annual assessment roll. An application to apportion taxes usually stems from incorrect assessed owner information on the assessment roll for properties that have been redeveloped.

If, during the year, a property owned by a developer, is redeveloped into multiple properties with townhouses/condominiums that are sold off individually, MPAC should update the following year's assessment roll with new roll numbers containing the new property owner information. By their nature, the timing of redevelopments and changes in ownership are unpredictable. When delays cause MPAC to fail in updating the following year's assessment roll, that year's tax bill is sent to the wrong assessed owner (the developer). In some instances, these taxes go unpaid.

The only means for the City to collect the unpaid taxes from the correct owner is to initiate the tax apportionment process thus transferring responsibility for the unpaid taxes to the new owner.

COMMENTS

Together, the attached Appendices A and B identify 26 properties for which the apportionment of taxes is recommended. Of these, 15 applications (identified in Appendix A of this report) are being initiated by the Treasurer as a means of collecting outstanding taxes. The remaining eleven (11) applications (identified in Appendix B) have been initiated by the taxpayer.

With respect to the 15 applications initiated by the Treasurer, staff have undertaken various activities in an effort to collect the unpaid taxes from the original property owner such as:

1. Mailing of Collection Letters;
2. Mailing of Over-due Notices [Statement of Tax Account];
3. Mailing of Final Notices advising of pending Bailiff Action; and,
4. Mailing of Demand Letters by the City Solicitor's Office.

To-date, the City's collection efforts have not resolved the outstanding property taxes considered in this report. In many cases, the City has been unable to locate the previous owner (i.e. the company may have ceased to exist) and in those cases where contact has been made, the previous owner is refuting responsibility for the outstanding taxes. Since the City is not privy to the arrangements made between vendor and purchaser when the property was sold, we have no mechanism to force the previous owner to pay the outstanding taxes. The City's only recourse is to pursue the current owner. The City has no further means of collecting any unpaid taxes on these accounts, if the taxes are not apportioned. Municipal tax sale proceedings, which can normally be initiated once taxes

on a property are at least three (3) years in arrears, could not be used as a collection tool for these 15 original properties given that these assessment roll numbers have ceased to exist and are no longer being returned on the assessment roll.

Once Council approves the apportioned taxes, Notices of Decision will be mailed to taxpayers. Under section 322(11) of *COTA*, an owner may appeal a decision of City Council to the Assessment Review Board (ARB), within 35 days of Council rendering its decision. Tax bills to individual owners will be generated only after the review period has expired or a decision has been rendered by the ARB.

As per Council current policy, grants totalling approximately \$49,458.68 (as at January 22, 2007) should be automatically provided to offset penalty/interest amounts that have accrued on the original account, once the recommended apportionment of the taxes is approved by Council. The exact amount of such grants is subject to change as interest charges continue to accrue until such time as the apportioned tax bills have been issued. However, with the enactment of *COTA*, the need to provide grants is no longer necessary as Council now has the ability to write-off these taxes as uncollectible upon a written explanation from the Treasurer of why conducting a tax sale would be ineffective or inappropriate. Prior to the enactment of this provision, the City had no means of writing off penalty/interest as it forms part of the unpaid taxes, and unpaid taxes could only be written off as uncollectible following an unsuccessful tax sale.

In the cases where the property is subject to an apportionment, conducting a tax sale to recover unpaid taxes stemming from penalty/interest accruing on the original account while it waits to be apportioned is not appropriate. A tax sale on the original account cannot be initiated since it has ceased to exist. Furthermore, to pursue these charges from the accounts subject to the apportionment is not appropriate since these properties will only be billed for the first time after Council apportions the taxes. The original tax bills were sent to the previous owner/developer of the land and penalty/interest accrued on that account, pending the actual apportionment. Council initiated the grant program in recognition of the fact that it is not appropriate to charge penalty/interest on accounts that previously had not been billed.

Given that the new *COTA* provides greater ability to write-off taxes, this report recommends that the policy to provide grants to off-set penalty/interest be terminated in place of the Treasurer and/or his designate writing-off these taxes as a routine manner. This can be achieved by delegating to the Director of Revenue Services the authority to write-off unpaid taxes consisting of penalty/interest amounts on taxes which have been approved for apportionment by Council.

Future reports that recommend the apportionment of taxes will not identify the amount of the outstanding penalty/interest amounts. The Director of Revenue Services will merely write-off the amounts as a routine manner at the time the apportioned tax bills are issued.

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SIGNATURE

Cam Weldon
Treasurer

ATTACHMENTS

- Appendix A: Apportionment Report – Treasurer Initiated Tax Apportionments
(January 22, 2007)
- Appendix B: Apportionment Report – Taxpayer Initiated Tax Apportionments
(January 22, 2007)