



## STAFF REPORT ACTION REQUIRED

### 495 Sherbourne Street - Write-off of Property Taxes

<b>Date:</b>	April 1, 2008
<b>To:</b>	Government Management Committee
<b>From:</b>	Treasurer
<b>Wards:</b>	Ward 28 - Toronto Centre – Rosedale
<b>Reference Number:</b>	P:\2008\Internal Services\Rev\gm08008rev (AFS#6309)

#### SUMMARY

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This report recommends the write-off of property taxes for a property owned by the City of Toronto at 495 Sherbourne Street. Staff of Revenue Services, Facilities & Real Estate and Legal Services divisions have collectively reviewed the history of the property and have determined that property taxes for the period January 1, 1998 to May 31, 2002 should be deemed uncollectible and written off, as the property should have been classified as exempt from taxation during this period.

#### RECOMMENDATIONS

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**The Treasurer recommends that:**

1. property taxes, fees and interest as set out in Table 1 to this report representing a total amount of \$1,654,487.58 as at April 28, 2008 be deemed uncollectible and written off; and
2. the appropriate City staff be authorized and directed to take the necessary action to give effect thereto.

#### Financial Impact

The property tax, fees and interest amounts that are being recommended for write-off, now totalling \$1,654,487.58, will be charged to the 2008 Tax Deficiency Non Program account. As such, the write-off of these amounts will have no additional financial impact on current year expenditures.

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

## **DECISION HISTORY**

This matter has not been previously considered by Council.

## **ISSUE BACKGROUND**

495 Sherbourne Street is a 1.77 acre parcel of vacant land located at the northeast corner of Sherbourne and Wellesley Streets. During the period from June 1996 to May 2002, the property was used as a parking lot for the Wellesley Hospital, and subsequently St. Michael's Hospital. The parking lot was managed by Imperial Parking, under a management agreement with the hospitals. During this time, the land was initially owned by the Province (March 1996 to December 1998) and subsequently owned by the City of Toronto (December 17, 1998 to present).

In terms of taxation status, the Municipal Property Assessment Corporation (MPAC) has classified the property as taxable at commercial rates since June 19, 1996, coinciding with the commencement date of the management agreement between the Wellesley Central Hospital and Imperial Parking for the operation of a parking lot, up to December 18, 2002, when the City's lease to Imperial Parking concluded. Since December 19, 2002 the property has been classified as exempt from taxation.

## **COMMENTS**

In general, land owned and occupied by the Province of Ontario, or by a municipality, is exempt from taxation under the *Assessment Act*. However, where land owned by the Province or a municipality is leased to a commercial tenant who would otherwise be taxable, then the land becomes subject to taxation.

Hospitals are also exempt from taxation under Section 3(1) of the *Assessment Act*, but again this exemption does not extend to a commercial tenant within a hospital that would otherwise be taxable. However, court decisions have established that the *Assessment Act*'s exemption for hospitals can extend to parking facilities where such parking facilities are occupied by the hospital and used in connection with and for the purposes of the hospital. The Municipal Property Assessment Corporation has confirmed that, where a management company operates a service on behalf of a hospital under the terms of a management agreement, the operator is deemed to not be in "full" occupancy of the premises, as it would be under a *bona fide* lease, and so the operator is not liable to assessment and taxation as a tenant in these cases. The property at 495 Sherbourne Street appears to meet this standard.

For the period June 1996 to May 31, 2002, 495 Sherbourne Street was owned either by the Province or the City of Toronto, and continuously leased by Wellesley Central Hospital, St. Michael's Hospital or Wellesley Central Health Corporation. As the parking lot was also continuously operated by Imperial Parking under a management agreement with the hospitals during this entire time period, the lands should have been exempt from taxation.

For the period from June 1, 2002 to December 18, 2002, when the parking lot was leased directly by the City to Imperial Parking, and not operated under a management agreement with any hospital, the lands would have been subject to taxation. The total taxes for this period, \$83,688, were paid in full in December of 2002. As such, this amount is not included in the amount being recommended for write-off in this report.

As all appeal deadlines have passed that would allow the tax classification for this property to be changed to exempt and there are no legislative provisions that would allow for the cancellation of the remaining outstanding taxes, the City's only remaining recourse is to write off the taxes as uncollectible.

Under the *City of Toronto Act, 2006*, Council may, on the recommendation of the Treasurer, write off taxes that are deemed uncollectible, but the Act also provides that taxes may be written off only after an unsuccessful tax sale has been held, unless the property is owned by a municipality, and where the Treasurer has provided a written explanation as to why conducting a tax sale would be ineffective or inappropriate.

In this case, conducting a tax sale would not be appropriate, not only because the City already owns the property, but also because the tax arrears stem from the property being incorrectly assessed as taxable during this period. The write-off of these taxes is simply a means of cancelling taxes that should not have been levied. There are no other appeal or legislative mechanisms available to correct the error. Accordingly, the Treasurer is recommending that the property taxes, and accumulated penalty, interest and fees as shown in the table below be deemed uncollectible and written off.

YEAR	TAXES	FEES	INTEREST	TOTAL
2002	\$80,137.54	\$55.00	\$64,843.40	\$145,035.94
2001	\$166,433.61		\$172,787.10	\$339,220.71
2000	\$169,720.28		\$201,447.66	\$371,167.94
1999	\$165,920.58		\$220,584.91	\$386,505.49
1998	\$200,047.81	\$16.00	\$212,493.69	\$412,557.50
<b>TOTAL</b>	<b>\$782,259.82</b>	<b>\$71.00</b>	<b>\$872,156.76</b>	<b>\$1,654,487.58</b>

## CONTACT

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## SIGNATURE

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Cam Weldon  
Treasurer