

Approval to Initiate and Participate in Assessment Appeals

Date:	May 28, 2008
To:	Government Management Committee
From:	Treasurer
Wards:	All Wards
Reference Number:	P:\2008\Internal Services\Rev\gm08014rev (AFS#6816)

SUMMARY

This report identifies those properties where, as a result of staff review and analysis, the Director of Revenue Services has launched assessment appeals at the Assessment Review Board (ARB) and is now seeking authorization to proceed with those appeals. The appeals are intended to correct assessment values that have been incorrectly classified, under-valued, or wrongly returned on the 2007 supplementary and omitted assessment rolls and the 2008 assessment roll. In addition, staff are requesting authorization to actively participate in property owner / taxpayer initiated appeals in order to protect the City's assessment base.

If the recommendations put forward in this report are adopted, Revenue Services and the City Solicitor's office will proceed to prepare the City's position on a case-by-case basis.

RECOMMENDATIONS

The Treasurer recommends that:

1. The assessment appeals initiated by the Director of Revenue Services, as identified in Appendix A of this report, be authorized by Council.
2. City participation in the assessment appeals initiated by the taxpayer, as identified in Appendix B to this report, be authorized by Council and actions taken to-date by Revenue and Legal Services staff in respect to these appeals be approved.

3. Authority be delegated to the Director of Revenue Services, in consultation with the City Solicitor, to take all steps appropriate to deal with the appeals identified in this report including authority to withdraw appeals filed by the City or end its participation or execute Minutes of Settlement or other settlement documentation; and,
4. The appropriate City staff be authorized and directed to take the necessary action to give effect thereto.

Financial Impact

The fees paid to the Minister of Finance for filing appeals with the ARB, as listed in Appendix A of this report, are estimated to be \$7,875 (\$150.00 for each non-residential assessment appeal application, and \$75.00 for each residential appeal).

There are no fees required for those properties appealed by the property owner and where the City will become a full participant. However, costs could be incurred in disputing these assessments to retain specialized professional services (such as appraisers, planners, economists) to provide expert opinion/evidence at the ARB as required. Funds to cover the cost of retaining such professional services are included in the 2008 Approved Operating Budget, Non-Program account entitled "Assessment Function".

At this time, staff cannot estimate what the financial impact to the City will be from these appeals; however, we anticipate that the City's taxation revenue will increase as a result of the appeals initiated by the City.

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 May 17, 2005, in considering Clause No. 4 of Report No. 5 of the Policy and Finance Committee "City Initiated Assessment Appeals under Section 40 of the *Assessment Act* for the 2005 Taxation Year", City Council delegated authority to the Treasurer or his designate to initiate assessment appeals with the ARB on behalf of the City, subject to the subsequent approval of Council.

To view this report online please follow the hyperlink:

<http://www.toronto.ca/legdocs/2005/agendas/council/cc050517/pof5rpt/cl004.pdf>

At its meeting of January 31, February 1 and 2, 2006 Council approved Clause 3 of Policy and Finance Committee Report 1 "Criteria, Methodology and Costs of Examining Assessment Appeals and Participation in the Appeal Hearings" which proposed criteria in order to determine when the City will initiate appeals before the Assessment Review Board and when the City will actively participate in appeals filed by taxpayers. The recommendations put forward in this report have been guided by the criteria set out in the report noted above.

To view this report online please follow the hyperlink:

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060131/pof1rpt/c1003.pdf>

ISSUE BACKGROUND

The Revenue Services Division's Assessment Analysis Unit currently conducts a detailed analysis of the annual assessment roll and supplementary/omitted rolls and other data (e.g. comparable property data provided under section 331 of the *Municipal Act, 2001* or section 294 of the *City of Toronto Act, 2006*) to identify those properties that are significantly under-valued, misclassified, missing, or otherwise incorrectly assessed (i.e. due to a recent severance or consolidation or change in use). These inconsistencies or errors are further categorized by type, property class, and sorted in order of descending Current Value Assessment (CVA) magnitude. Efforts to date have focussed primarily on non-residential properties with large assessment values.

Where staff detect issues and/or errors, these are identified to the Municipal Property Assessment Corporation (MPAC) to determine whether corrections can be made via Minutes of Settlement or supplementary /omitted assessments. Where MPAC indicates that the errors cannot be corrected, staff may initiate third party appeals on behalf of the City under section 40 of the *Assessment Act*.

It is necessary to draw a distinction between those cases where staff initiate an assessment appeal to correct an error (i.e. with the City as the appellant), and those cases where the City intends to participate as a full party to owner filed appeals. The City is a statutory party to every complaint (appeal) that is filed with the ARB pursuant to section 40 of the *Assessment Act*. In general, the City does not appear and participate in each and every assessment appeal that is filed, as to do so would require significant financial resources and would duplicate the activities of MPAC, for which the City already pays. There are, however, certain situations where it may be appropriate and prudent for the City to take an active role in an appeal in order to support the position taken by MPAC.

COMMENTS

Appeals Initiated by the City of Toronto

Given the vast number of properties in the City (over 665,000), and the limited time and resources available to conduct a review of the full assessment roll, not all property accounts returned on the 2008 assessment roll were reviewed. Instead, Revenue Services staff focussed their efforts on non-residential accounts where sales history details indicated that the property was under-valued. Revenue Services staff also focussed their efforts on reviewing planning applications, zoning by-laws, and building permit data where the data indicated that the property may be under-valued, misclassified or incorrectly assessed.

Furthermore, Revenue Services staff conducted a year-over-year assessment analysis. The year-over-year assessment analysis was a comprehensive review of all the changes that occurred on the assessment roll compared to the previous year's assessment roll.

Where staff detected issues/errors, discussions ensued with MPAC to determine whether corrections could be made via supplementary/omitted assessments. Where MPAC indicated that the errors identified could not be corrected via the supplementary/omitted assessment process, staff initiated third party assessment appeals on behalf of the City under section 40 of the *Assessment Act*. In total, staff have initiated 68 appeals, as identified in Appendix A. Of these, 52 accounts were appealed under section 40 of the *Assessment Act* due to the following:

- (i) Twenty Two (22) were identified to be coded incorrectly with respect to their tax classifications;
- (ii) Three (3) were identified to be under-valued;
- (iii) Twenty four (24) were identified as being both under-valued and coded incorrectly with respect to the tax classification; and,
- (iv) Three (3) were identified as being both under-valued and having incorrect legal descriptions on the assessment roll which could jeopardize the tax billing.

It should be noted that the column in Appendix A and B entitled “Reason to Appeal” is based on the staff’s preliminary review. Often, during the preparation of the City’s defense, other errors or omissions are detected which are also raised in the pleadings prepared by the City.

Among the 52 properties for which a section 40 assessment appeal has been initiated, it should be noted that two (2) properties are owned by the Toronto Transit Commission.

Although properties owned by the Toronto Transit Commission (TTC) are currently exempt from taxation, the current value assigned to these properties do not reflect the property’s highest and best use and/or zoning. If the value is not updated correctly for 2008, the City will suffer revenue losses when and if the property is sold and converted to taxable during the current taxation year. This is due to the fact that although the *Assessment Act* permits MPAC to change a property from exempt to taxable when a change takes place in-year, MPAC takes the position that they cannot update the current value at the same time. Given that rezoning applications have either been filed or approved for these properties, the sale and redevelopment is anticipated to occur shortly. Therefore, notwithstanding the current exempt status of the properties the City has an interest in ensuring that the assessment is accurate as it will form the basis for calculating the taxes that would be payable after the sale.

The remaining 16 properties that have been appealed relate to three supplementary / omitted assessment rolls received in 2007 for the tax years 2005, 2006, and 2007. For the most part, the problem with these accounts stem from errors in the preparation of the supplementary/omitted rolls. Appeals of supplementary and omitted assessments are filed pursuant to section 40 of the *Assessment Act*.

Appeal(s) Filed by Owner(s) Requiring City Participation

Pursuant to section 40 of the *Assessment Act*, the City is a statutory party to every complaint (appeal) that is filed with the ARB. In general, the City does not appear and participate in each and every appeal that is filed, and to do so would require significant financial resources and would duplicate the activities of MPAC, for which the City already pays. In 2008, staff have reviewed a number of properties where the taxpayer has initiated a section 40 assessment complaint to the ARB in order to seek a lower assessment. The purpose of the review was to identify those properties where it is important for the City to fully participate in the ARB proceedings in order to protect the City's assessment base and its financial interests.

Appendix B to this report contains five (5) properties where it is recommended that the City participate because the current value assigned to the properties is too low and/or the current legal description is incorrect.

This report has been prepared in consultation with the City Solicitor's office.

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SIGNATURE

Cam Weldon
Treasurer

ATTACHMENTS

Appendix A – Appeals Initiated by the Treasurer

Appendix B – Appeals Initiated by Taxpayers in which the City will Fully Participate