



**STAFF REPORT  
ACTION REQUIRED**  
with Confidential Attachment

**23 Brydon Drive – Application by the Madresa Ashraful Uloom under the *Madresa Ashraful Uloom Act, 2008***

<b>Date:</b>	September 30, 2008
<b>To:</b>	Government Management Committee
<b>From:</b>	Treasurer and City Solicitor
<b>Wards:</b>	Ward 2 – Etobicoke North
<b>Reason for Confidential Information:</b>	This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions.
<b>Reference Number:</b>	P:\2008\Internal Services\Rev\gm08022rev (AFS#8337)

**SUMMARY**

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This report provides information on a request made by the Madresa Ashraful Uloom (the Madresa), through its solicitors, to have City Council pass a resolution supporting the extension of time in which the Madresa may make an application to the Superior Court of Justice to determine whether the property at 23 Brydon Drive was incorrectly classified for assessment and taxation purposes for the 1994 to 2000 taxation years.

The confidential portion of this report contains information and confidential recommendations regarding the Madresa’s request.

**RECOMMENDATIONS**

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**The Treasurer and City Solicitor recommend that:**

1. Council adopt the confidential instructions to staff contained in Attachment 1.
2. The confidential instructions adopted by City Council be released at the discretion of the City Solicitor.

## **Financial Impact**

Financial impacts arising from the adoption of the recommendations are discussed in confidential Attachment 1 to this report.

## **DECISION HISTORY**

In May 2008, Council approved that an extension agreement be entered into with Madresa Ashraful Uloom, the owner of the land municipally known as 23 Brydon Drive, to extend the redemption date for payment of tax arrears owing on the property from July 31, 2008, to July 31, 2009 (ref. GM 15.9 - *23 Brydon Drive - Tax Sale Extension Agreement*). The staff report and Council's decision document respectively are available at:

<http://www.toronto.ca/legdocs/mmis/2008/gm/bgrd/backgroundfile-13516.pdf>

<http://www.toronto.ca/legdocs/mmis/2008/cc/decisions/2008-06-23-cc22-dd.pdf>

The property at 23 Brydon Drive is also identified on the City's list of largest property tax debtors, with outstanding tax arrears of \$1.07 million as of December 31, 2007, as last reported to the Government Management Committee on April 17, 2008, at which time the Committee received the report for information (ref. GM 13.5 - *Largest Property Tax Debtors with Tax Arrears Greater than \$500,000 as at December 31, 2007*). This report is available at:

<http://www.toronto.ca/legdocs/mmis/2008/gm/bgrd/backgroundfile-11968.pdf>

## **ISSUE BACKGROUND**

The property located at 23 Brydon Drive in Toronto is owned by the Madresa Ashraful Uloom (the Madresa), which is a religious organization and registered charity, and which has operated, in the past, a prayer hall and a seminary of learning for Islamic interests on the site. The property has tax arrears dating back to the 1995 taxation year which now total more than \$1.17 million, including penalties and interest.

Table 1, below, provides a summary of the assessment history of the property.

The Madresa claims that this property was incorrectly classified on the assessment rolls for taxation years 1994 through 2000, and that the property should have been exempt from taxes given its use as a place of worship and a seminary of learning during this period. In early 2008, the Board of Directors of the Madresa Ashraful Uloom applied for special legislation, via a Private Members Bill, to extend the time within which an application can be made to the Superior Court of Justice under section 46 of the *Assessment Act* to make a determination whether the property at 23 Brydon Drive was incorrectly classified for taxation years 1994 to 2000.

Bill Pr5, the *Madresa Ashraful Uloom Act, 2008* (the Act), received Royal Assent on June 18, 2008. The Act provides that the City may, within 180 days of the Act receiving Royal Assent, pass a resolution in support of extending the time within which the Madresa may make an application to the Superior Court of Justice to consider whether the property was incorrectly classified for taxation years 1994 to 2000. The Act also

provides that if the City passes such a resolution, then the Madresa has a further 90 days following the date of Council's resolution in which it may make an application to the Court under section 46 of the *Assessment Act*.

The link to Pr 5: *Madresa Ashraful Uloom Act, 2008* is:

[http://www.ontla.on.ca/bills/bills-files/39\\_Parliament/Session1/Pr005ra.pdf](http://www.ontla.on.ca/bills/bills-files/39_Parliament/Session1/Pr005ra.pdf)

**Table 1: 23 Brydon Drive - Summary of Assessment: 1993 - 2008**

<b>Tax Year</b>	<b>Assessment as Returned on the Roll</b>	<b>Revised Assessment (as amended by Appeal Decisions, etc.)</b>	<b>Comments / Events</b>
1993	Commercial 122,000	Commercial 122,000	Sept. 15: Madresa purchases Property.  Renovations begin (and continue until 1995) to develop a prayer hall and seminary of learning on the property.  Appeals have not been filed.
1994	Residential 122,000	Residential 122,000	Renovations continue.  Religious services began in January 1994.  Appeals have not been filed.
1995	Residential 122,000	Residential 86,620 Exempt* <u>35,380</u> Total: 122,000 <i>*effective Sept. 1, 1995</i>	Sept. 1995 – Seminary of Learning begins operating.  Oct. 1995 – Ontario Ministry of Education and Training confirmed that the seminary had been recorded with the Ministry as a private school.  Through a <i>Municipal Act</i> tax appeal, the former City of Etobicoke converted 29% of the total assessed value to exempt, reflecting the use of a portion of the property for a seminary of learning. The Madresa did not appeal the City's decision to the Assessment Review Board (ARB).
1996	Residential 122,000	Residential 86,620 Exempt <u>35,380</u> Total: 122,000	Through a <i>Municipal Act</i> tax appeal, the former City of Etobicoke converted 29% of the total assessed value to exempt, reflecting the use of a portion of the property for a seminary of
1997	Residential 122,000	Residential 86,620 Exempt <u>35,380</u> Total: 122,000	

<b>Tax Year</b>	<b>Assessment as Returned on the Roll</b>		<b>Revised Assessment (as amended by Appeal Decisions, etc.)</b>		<b>Comments / Events</b>
					learning. The Madresa did not appeal the City's decision to the ARB.
1998	Industrial, vacant	598,000	Industrial, vacant	531,000	ARB reduces assessed value, but did not make any portion of the property exempt.
1999	Industrial	531,390	Commercial	464,390	ARB reduces the assessed value and converts the Industrial assessment to Commercial, leaving a small portion (13%) exempt.
	Exempt	<u>66,610</u>	Exempt	<u>66,610</u>	
	Total:	598,000	Total:	531,000	
2000	Industrial	531,390	Commercial	464,390	ARB reduces the assessed value and converts the Industrial assessment to Commercial, leaving a small portion (13%) exempt.
	Exempt	<u>66,610</u>	Exempt	<u>66,610</u>	
	Total:	598,000	Total:	531,000	
2001	Industrial	608,000	Exempt	787,000	Madresa applies to the Superior Court of Justice for exemption. Court grants exemption effective January 1, 2001.
2002	Exempt	787,000	Exempt	787,000	
2003	Exempt	1,071,000	Exempt	1,071,000	
2004	Exempt	1,118,000	Exempt	1,118,000	
2005	Exempt	1,118,000	Exempt	1,118,000	
2006	Exempt	1,184,000	Exempt	1,184,000	MPAC converts Assessment from Exempt to Commercial effective May 1, 2006 based on evidence indicating that the property was no longer being used as a school and place of worship.  Appeals have not been filed.
	(Jan 1 to April 30)		(Jan 1 to April 30)		
	Commercial	1,184,000	Commercial	1,184,000	
	(May 1 to Dec 31)		(May 1 to Dec 31)		
2007	Commercial	1,184,000	Commercial	1,184,000	Appeals have not been filed.
2008	Commercial	1,184,000	Commercial	1,184,000	Appeals have not been filed.

## COMMENTS

In their letter dated July 29, 2008, the solicitors for the Madresa requested that Toronto City Council pass a resolution in support of extending the time within which the Madresa may make an application to the Superior Court of Justice to determine whether the classification of this property was incorrect for taxation years 1994 through 2000. In essence, the Madresa is seeking, through special legislation, to bring an application before the Court to change the assessment classification of this property from taxable to exempt for those years, on a retroactive basis, after all normal appeal deadlines have passed.

The confidential attachment to this report (Attachment 1) contains information and confidential recommendations regarding the Madresa's request.

In summary, the property at 23 Brydon Drive was classified as fully or partially taxable in each year from 1993 to 2000. The property was subsequently made exempt for the period from January 1, 2001 to April 30, 2006, and then reverted to fully taxable status from May 31, 2006 to 2008. During the entire 15-year period from 1993 to 2008, assessment appeals were only filed for 6 taxation years (1995 through 2000), and the Assessment Review Board's decisions in those appeals resulted in only a small portion of the property being identified as exempt in any year.

If Council decides not to pass a resolution pursuant to the *Madresa Ashraful Uloom Act, 2008*, the Madresa will not be able to seek relief from the courts for the 1994 to 2000 taxation years. If City Council passes a resolution, the Madresa will still need to pursue the court application. The Madresa will have to satisfy the Court through verifiable evidence that the facts supporting an exemption as a place of worship existed during the relevant time period (i.e. 1994 and 2001). Were the Court to uphold the assessment classification as returned on the assessment roll, the property tax arrears from this period, including accrued interest and penalties, would remain due and payable.

Even if the Court grants an exemption for tax years 1994 to 2000, arrears for taxation years 2006 through 2008 remain unaddressed and unpaid to date, given that the *Madresa Ashraful Uloom Act, 2008* only allows an application for the prior years. In this case, the remaining tax arrears on this property would be reviewed to determine whether a tax arrears certificate, registered on title to 23 Brydon on August 1, 2007, and the extension agreement approved by Council in June 2008, should remain in place to secure the unpaid taxes, with further Council approvals sought as warranted.

## CONTACT

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## SIGNATURE

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Cam Weldon  
Treasurer

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Anna Kinastowski  
City Solicitor

## ATTACHMENTS

Attachment 1: Confidential Information  
23 Brydon Drive – Application by the Madresa Ashraful Uloom under the  
*Madresa Ashraful Uloom Act, 2008*