



STAFF REPORT ACTION REQUIRED

Advocacy Strategy for Taxation of Railway Rights of Way and Power Utility Transmission and Distribution Corridors

Date:	August 5, 2009
To:	City Council
From:	Acting Treasurer
Wards:	All
Reference Number:	P:\2009\Internal Services\Rev\cc09025Rev (AFS# 10313)

SUMMARY

This direct report to Council provides information and recommendations for developing an advocacy position to the Province to alter the method used to levy taxes on railway roadways and power utility transmission lines rights of way, so that these properties are taxed on a Current Value Assessment (CVA) basis, similar to other properties.

Currently, the property tax levy on the railway roadways and rights of way on power utility transmission lines is calculated by applying acreage rates that are established by provincial regulations.

RECOMMENDATIONS

The Acting Treasurer recommends that:

1. Council authorize the Deputy City Manager and Chief Financial Officer and the Acting Treasurer, in consultation with Intergovernmental Relations, to work in conjunction with the Regional Treasurers of Ontario group, the Municipal Finance Officers' Association, the Association of Municipal Clerks and Treasurers and the Association of Municipal Tax Collectors, to advance the position to the Province of Ontario that railway and hydro rights of way should be assessed and taxed on a Current Value Assessment basis.

Financial Impact

There are no financial implications arising from the adoption of the recommendations in this report.

DECISION HISTORY

At its meeting held on June 2, 2009 the Executive Committee, while considering the report (May 15, 2009), entitled “ 2009 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors,” the Committee requested (Executive Committee Report EX33.14):

1. *the Deputy City Manager and Chief Financial Officer to report directly to Council on developing an advocacy position to the Province whereby the value of the railway roadways and rights of way on power utility transmission lines be calculated on a CVA basis.*

The report and decision document of the Executive committee can be accessed at:

<http://www.toronto.ca/legdocs/mmis/2009/ex/bgrd/backgroundfile-21506.pdf>

<http://www.toronto.ca/legdocs/mmis/2009/ex/decisions/2009-06-02-ex33-dd.htm>

ISSUE BACKGROUND

Prior to 1998, the taxation of railway roadways and rights of way and power utility transmission and distribution corridors were assessed on the basis of the assessed value of abutting lands. In 1998, with the introduction of Current Value Assessment, the Province established that railway and hydro rights of way would be taxed based on acreage rates prescribed by the Province (dollars per acre). The rates to be used for taxation were established for 9 geographic regions across the province, such that all railway/hydro properties within that region are taxed at identical rates. The City of Toronto and the regional municipalities of Durham, Halton, Peel and York form one of these geographic regions.

In 1998, the Province enacted Ontario Regulations 387/98 (re: city portion of the acreage taxes) and 392/98 (re: education portion of acreage taxes) which introduced new acreage rates. These new acreage rates were phased-in starting in 1998 and completed in 2005.

For the City of Toronto, the prescribed per-acre rates for railway and hydro rights of way have decreased each year from 1998 to 2005, and have remained constant since 2005. As a result, the City has experienced a reduction in taxation revenue totalling approximately \$8.6 million from 1998 to 2005. Since 2005, taxation revenues from railway/hydro corridors have remained relatively constant, at approximately \$7.8 million (consisting of a municipal portion of \$6.6 million and an education portion of \$1.2 million), subject only to annual changes in acreage.

Toronto City Council, in 2006, recommended that the Province:

- a. *amend Regulation 387/98 and 392/98 to require an annual inflationary adjustment in the “mature rate”; and*

- b. *that the “mature rate” prescribed by Regulation be reviewed to phase in rate changes that more properly reflect the market value of the land over a period of time.*

Council has adopted similar recommendations in 2007 and 2008. To date, the City has not received a response from the Minister, and no changes have been made to the legislative or regulatory provisions to incorporate Council’s requests for changes to the “mature” rates. No authority exists to levy taxes other to levy a tax rate other than that permitted by the provincial regulation for 2009.

COMMENTS

In order to advance the City of Toronto’s position to have railway and hydro rights of way assessed and taxed on a Current Value Assessment (CVA) basis, the City must consider advancing a unified position, supported by a much larger coalition of municipalities and municipal organizations, to advocate for a fundamental change on this issue to the Province.

Advocacy Strategy

It is proposed that the City of Toronto solicit the active involvement by a number of municipal associations and groups that can help build a strong membership base of municipalities, first to develop a solidified position, and then to actively lobby the government for change.

There are a number of municipal associations and partners through which it is proposed that this issue be raised.

The Regional Treasurers of Ontario is a group comprised of Chief Financial Officers and Treasurers of Ontario’s largest municipalities and upper-tier regions, and includes representatives from the Cities of Toronto, Ottawa, London, Hamilton, Kingston, Windsor, Thunder Bay and Sudbury, and the Regions of York, Halton, Peel, and Durham. A meeting of the Regional Treasurers is scheduled for August 7, 2009. With Council’s approval of this report, this issue can be brought forward at this meeting by the City of Toronto representatives, to initiate discussion and development of a common position.

The Municipal Finance Officers’ Association of Ontario (MFOA) is similarly comprised of financial officers, treasurers and CFO’s from many of Ontario’s municipalities, including Toronto, which has a number of members. MFOA’s Finance Policy Committee, through its Tax Policy Review Group, meets on a regular basis, and may be approached to provide policy support to develop a unified municipal position.

The Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO), and the Association of Municipal Tax Collectors of Ontario (AMTCO), are both municipal organizations that include municipal finance staff from a large number of Ontario’s small to medium-sized municipalities, and many larger municipalities. The Tax Collector’s Association operates an Advisory Group (the Payment in Lieu of Tax

Advisory Group), that regularly develops positions on assessment and taxation matters that are common to municipalities. This group has indicated an willingness to address the matter of railway/hydro rights of way at their upcoming fall teleconference, with a view to developing a consolidated position. This group also includes representation from the Association of Municipalities of Ontario (AMO), that may also consider advancing this issue before the Province, as it affects a large majority of AMO's members.

Staff have reviewed the above strategy with Intergovernmental Relations, and will continue to consult with this group to identify opportunities to advance this issue with the Province. With Council's approval of the recommendation in this report, staff will engage the various associations above, with a view to developing a strong policy rationale and financial data to support the position that the assessment and taxation of railway and hydro rights of way should be based on current value assessment, and that tax rates for such rights of way should be a matter within the jurisdiction of municipal councils, and to advance this position with the Province through appropriate channels. Further reports to Council on this issue will be prepared as warranted.

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SIGNATURE

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