



STAFF REPORT ACTION REQUIRED

Apportionment of Property Taxes – February 2009 Hearing

Date:	January 23, 2009
To:	Government Management Committee
From:	Acting Treasurer
Wards:	All
Reference Number:	P:\2009\Internal Services\rev\gm09002rev (AFS#8965)

SUMMARY

This report deals with 43 tax apportionment applications made by the Treasurer or to the Treasurer by an owner of land pursuant to section 322 of the *City of Toronto Act, 2006*, for the properties listed in Appendices A and B (attached).

The legislation requires Council to hold a public meeting at which the applicants and / or property owners may make representations. Council has delegated authority to hold such public meetings to the Government Management Committee.

Staff have mailed Notices of Hearing to affected taxpayers advising of the upcoming hearing before the Government Management Committee.

RECOMMENDATIONS

The Acting Treasurer recommends that:

1. the property tax in the amounts identified in Appendix A and Appendix B, under the columns entitled “Apportioned Tax” and “Apportioned Phase In/Capping”, be approved; and,
2. 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 \$25,289.67 (as at January 19, 2009) in penalty and interest charges has accumulated on the tax accounts pending the initiation of the process to reallocate the taxes. This amount, and any other interest that will accumulate on the accounts pending the finalization of the process, will be written off. Funding for the write-off of the interest/penalty amount is provided for in the 2009 Tax Penalty Account (Non-Program Budget).

With the exception of the penalty/interest amounts that will be written off, the reallocation of the property taxes from one account to other accounts has no financial impact on the City of Toronto and merely serves to secure the City's revenues.

The Acting 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, entitled "Apportionment of Taxes", which recommended a policy for the hearing and disposition of unpaid taxes pursuant to Section 356 of the *Municipal Act, 2001* (re: Clause 20 of Report No. 5 of the Administration Committee, "Apportionment of Taxes," adopted by 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 of April 23 and 24, 2007, Council adopted a report (March 7, 2007) from the Treasurer, entitled "Apportionment of Property Taxes", which delegated authority to the Director of Revenue Services to write off as uncollectible the interest and penalty charges that have accumulated on, and form part of, any unpaid taxes which are reallocated from one tax account to other accounts (re: Clause GM3.17 of Government Management Report Meeting No. 3). To view this report online please follow the link:

<http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-04-23-cc07-dd.pdf>

ISSUE BACKGROUND

By law, municipalities are required to prepare and issue tax bills in accordance with information provided by the Municipal Property Assessment Corporation (MPAC) on the annual assessment roll. In December of each year, the Municipal Property Assessment Corporation (MPAC) provides municipalities with an assessment roll containing property assessment data. The information included on the assessment roll should reflect the property's characteristics (e.g. legal description, ownership and property tax class) as of November of that year. The assessment roll data is used by municipalities to calculate the following year's property taxes.

If, during the year (i.e. after the assessment roll is provided to municipalities), a property is severed and split into two or more parcels of land (e.g., when a single property is

redeveloped into condominiums/townhouses/new homes), MPAC should update the following year's assessment roll to capture the newly created parcels of land including any new property owner information. By their nature, the timing of redevelopments and changes in ownership are unpredictable. When MPAC delays in updating the following year's assessment roll with the correct land parcels, taxes are levied against properties that no longer exist and the tax bills for that year are sent to the wrong assessed owner (usually the developer).

Pursuant to section 322 of the *City of Toronto Act, 2006* (COTA), concerned developers contact the City to request that any unpaid taxes be reallocated (i.e. apportioned) from the original property and divided amongst the newly created properties. In other instances, the Treasurer must initiate the process to resolve any unpaid taxes on properties that no longer exist due to re-development, severances and splits. This process of redistributing taxes following the severance or re-development of a property is referred to as "the apportionment of taxes". The apportionment process does not change the total amount of taxes charged, but rather divides the taxes on the original property between the newly created properties.

For both Treasurer-initiated and taxpayer-initiated apportionment applications, MPAC reviews the application and provides City staff with their recommendation as to how the original assessment value of the property should be reallocated / divided between the newly created properties. Based on the assessment apportionment information supplied by MPAC, the City distributes the taxes from the original property to the newly created properties by applying the same percentage factor to the taxes as that used in relation to the assessment.

The *COTA* requires that upon receipt of an application to reallocate taxes, Council must hold a public meeting at which the applicant and/or affected property owners may make submissions in defence of their position. Authority to hold such public meetings has been delegated to the Government Management Committee.

Revenue Services staff send Notices of Hearing to the affected property owners advising them of the upcoming hearing before the Government Management Committee and of the recommended taxes for which they will be responsible. To facilitate the process and address taxpayer questions and concerns, Revenue Services staff conduct an open house at the North York Civic Centre for each upcoming hearing.

COMMENTS

Revenue Services staff recommend that the taxes for 43 properties be transferred as listed in Appendices A and B. Of these, 24 applications (identified in Appendix A) are being initiated by the Treasurer as a means of collecting outstanding taxes. The remaining nineteen (19) applications (identified in Appendix B) have been initiated by taxpayers.

With respect to the 24 applications initiated by the Treasurer, staff may have undertaken various activities in an effort to collect the unpaid taxes from the original property owner, including:

1. Mailing of Collection Letters;
2. Mailing of Overdue 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 no longer exist) and in those cases where contact has been made, the previous owner may be refusing responsibility for the outstanding taxes. This may be because they (the previous owner) believe that they do not have responsibility for the taxes as billed, or because of arrangements made between vendor and purchaser when the property was sold. The City has no further means of collecting any unpaid taxes on these accounts, if the taxes are not reallocated to the new accounts. Municipal tax sale proceedings, which can normally be initiated once taxes on a property are at least three years in arrears, will not be used as a collection tool for these 43 original properties given that the assessment roll numbers for the original properties have ceased to exist and are no longer being returned on the assessment roll.

If Council approves the taxes as recommended by this report, Notices of Decision will be mailed to taxpayers. Under section 322(5) of the *COTA*, an owner may appeal a decision of City Council to the Assessment Review Board (ARB) within 35 days of Council's decision. Tax bills to individual owners will be generated immediately after Council or the ARB makes their decision with respect to the apportioned taxes.

It is recommended that the Government Management Committee approve the recommended taxes as identified in columns "Apportioned Tax" and "Apportioned Phase In/Capping" for the properties listed in Appendices A and B.

CONTACT

Casey Brendon, Acting Director, Revenue Services

Phone: (416) 392-8065, Fax: (416) 696-4230, E-mail: cbrendo@toronto.ca

SIGNATURE

Giuliana Carbone
Acting Treasurer

ATTACHMENTS

Appendix A: Apportionment Report – Treasurer Initiated Tax Apportionments
(January 19, 2009)

Appendix B: Apportionment Report – Taxpayer Initiated Tax Apportionments
(January 19, 2009)