



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

Ontario Place - Assessment Review Board Appeals

Date:	June 9, 2009
To:	Government Management Committee
From:	Acting Treasurer and City Solicitor
Wards:	Ward 19 – Trinity Spadina
Reason for Confidential Information:	This report is about litigation or potential litigation that affects the City.
Reference Number:	P:\2009\Internal Services\rev\gm09020rev (AFS# 8125)

SUMMARY

This report provides information on the status of the assessment appeals filed with the Assessment Review Board by the Ontario Place Corporation for taxation years 1998 to 2008 inclusive, with respect to their premises at 955 Lake Shore Boulevard West (re: Assessment Roll Number 1904 041 040 00910) and 851 Lake Shore Boulevard West (re: Assessment Roll Number 1904 041 040 01040). In addition, the report recommends a settlement of the appeals as outlined in Confidential Attachment 2.

RECOMMENDATIONS

The Acting Treasurer and the City Solicitor recommend that:

1. Council adopt the recommendations contained in Confidential Attachment 2;
2. Council authorize the public release of the confidential information and recommendations contained in Confidential Attachment 2, at the discretion of the City Solicitor, if a settlement is finalized to the satisfaction of the City Solicitor; and,
3. the appropriate City staff be authorized and directed to take the necessary action to give effect thereto.

Financial Impact

Details regarding financial impacts resulting from the recommendations made in this report are disclosed in Confidential Attachment 2.

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 July 25, 26, and 27, 2006, City Council authorized staff to participate in Assessment Review Board proceedings concerning Ontario Place (re: Policy and Finance Committee Report 6, Clause 20 “Payment in Lieu of Property Taxes – Federal and Provincial Properties”).

To view this report on line, please follow the hyperlink:

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060725/pof6rpt/cl020.pdf>

ISSUE BACKGROUND

Ontario Place Corporation is a non-profit service organization established under the *Ontario Place Corporation Act*, R.S.O. 1990, c. O34 as a corporation without share capital. The mandate of the corporation, which is legislated under section 8 of the *Ontario Place Corporation Act*, is to:

- a) operate Ontario Place as a provincial exhibit and recreational centre;
- b) develop projects and programs designed to provide the people of Ontario with a greater appreciation of the Province and its accomplishments and potential, and to provide talented artists in the Province with the opportunity to exhibit their works and their abilities;
- c) develop special programs from time to time considered to be worthwhile to enhance the image of the Province and to co-ordinate activities with the Canadian National Exhibition at times when that exhibition is in operation; and
- d) do such other things as the Minister may require from time to time and to advise the Minister on projects and programs of general advantage to the Province.

In order to allow the Corporation to fulfill its mandate, the Province of Ontario transferred the administration and control of the following public lands (known as Ontario Place) to the Ontario Place Corporation:

- (a) 851 Lake Shore Boulevard West, Assessment Roll # 1904 041 040 01040 (Parking Lot)

This is a 19.59 acre parcel of land used primarily as a parking lot. The car park is managed and operated by Ontario Place, with any net revenues going back to the non-profit service organization, Ontario Place Corporation.

- (b) 955 Lake Shore Boulevard West, Assessment Roll # 1904 041 040 00910
(Provincial Recreation Land, including amusement park and water lots)

This is a 96 acre parcel of land, of which:

- 50 acres is water lots; and,
- 46 acres is primarily used as an amusement park consisting of:
 - three (3) man-made islands connected by bridges and walkways;
 - pavilions;
 - an IMAX movie theatre;
 - a marina;
 - a water park and amusement areas; and,
 - an outdoor concert venue.

Ontario Place Corporation filed assessment appeals with the Assessment Review Board going back to the 1998 taxation year for its two properties identified above. Attachment 1 to this report shows the history of the assessment of Ontario Place from 1998 to 2008 as returned on the annual assessment roll by MPAC. Attachment 1 also summarizes the classifications and current values returned for both properties. To assist in understanding the information in Attachment 1 a table describing the property classification codes is included.

With respect to the property classification, MPAC classified the:

- a) parking lot (851 Lake Shore Boulevard West) as Commercial, given that the property is used and operated as a parking lot; and, subject to Payment-in-Lieu of Taxes (PILTs) given that the property is owned by an agency of the Crown;
- b) the portions of the property occupied by commercial tenants and the amphitheatre as Commercial Taxable (CT) for 1998-2000 tax years. Due to a regulation change MPAC correctly converted these taxable components to Commercial PILT (CP) for 2001 and subsequent years;
- c) provincial recreational land as Commercial PILT (CG/CZ) based on its initial interpretation of Ontario Regulation 282/98; and,
- d) amusement devices as Exempt pursuant to the *Assessment Act*.

COMMENTS

The most significant difference in the parties' approach to valuing the properties stemmed from the land rates being used: MPAC valued the land component based on its assumed highest and best use based on a mix of recreational, residential and commercial uses while Ontario Place Corporation maintained that the property was largely recreational land based on the City's Official Plan designation and zoning by-law which contemplates that Ontario Place will remain as public recreational land in the future.

Staff from Revenue Services and the City Solicitor's office were involved in the preparation of pleadings and examinations for discoveries during the ARB process and

gained a detailed understanding of the facts and issues in these appeals. They met with representatives from Ontario Place Corporation and MPAC to review the classification and assessment values for both assessment roll numbers under appeal. Over the past year, discussions between the parties through their respective lawyers have taken place with respect to the methodology, the valuation of the lands and water lots, and the appropriate classification of the properties. This is discussed more fully in Confidential Attachment 2.

CONTACT

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SIGNATURE

Giuliana Carbone
Acting Treasurer

Anna Kinastowski
City Solicitor

ATTACHMENTS

Attachment 1: Assessments as Returned on the Assessment Rolls for Ontario Place
Attachment 2 – Confidential Attachment

ATTACHMENT 1

Current Value Assessment (CVA) as Returned on the Assessment Rolls for Ontario Place

Tax Year	851 Lake Shore Boulevard West		955 Lake Shore Boulevard West		Total CVA: Both Properties
	Property Class	Assessed Value (\$)	Property Class	Assessed Value (\$)	
1998	CZ	14,293,000	CT CG Exempt TOTAL	8,790,185 31,927,045 <u>4,827,770</u> 45,545,000	59,838,000
1999	CZ	14,293,000	CT CG CZ Exempt TOTAL	12,559,775 37,423,775 50,000 <u>5,666,450</u> 55,700,000	69,993,000
2000	CZ	14,293,000	CT CG CZ Exempt TOTAL	12,559,775 37,423,775 50,000 <u>5,666,450</u> 55,700,000	69,993,000
2001	CZ	16,651,000	CP CG CZ Exempt TOTAL	13,582,080 42,916,320 56,600 <u>6,405,000</u> 62,960,000	79,611,000
2002	CZ	16,651,000	CP CG CZ Exempt TOTAL	13,582,080 42,916,320 56,600 <u>6,405,000</u> 62,960,000	79,611,000
2003	CZ	16,651,000	CP CG CZ Exempt TOTAL	16,298,000 51,500,000 68,000 <u>7,686,000</u> 75,552,000	92,203,000
2004	CZ	16,817,000	CP CG CZ Exempt TOTAL	14,148,790 44,708,725 59,035 <u>6,672,450</u> 65,589,000	82,406,000
2005	CZ	16,817,000	CP CG CZ Exempt TOTAL	14,148,790 44,708,725 59,035 <u>6,672,450</u> 65,589,000	82,406,000
2006	CG	29,385,000	CP CG Exempt TOTAL	28,805,000 82,441,000 <u>5,562,000</u> 116,808,000	146,193,000
2007	CG	29,385,000	CP CG Exempt TOTAL	28,805,000 82,441,000 <u>5,562,000</u> 116,808,000	146,193,000
2008	CG	29,385,000	CP CG Exempt TOTAL	28,805,000 82,441,000 <u>5,562,000</u> 116,808,000	146,193,000

Table 1: Description of Property Classification Codes

Property Class Code	Description
CG	Commercial Payment-in-Lieu General Rate. This classification means that the assessment is subject to Payment-in-Lieu of Taxes (PILT) at the General Commercial Rate, municipal rate only.
CP	Commercial Taxable Tenant of Province This classification means that the assessment is subject to Payment-in-Lieu of Taxes (PILT) at the Full Commercial Rate, municipal and school/education rates.
CT	Commercial Taxable This classification means that the assessment is subject to taxation at the Full Commercial Rate, municipal and school/education rates.
CZ	Commercial Payment-in-Lieu General Vacant Land Rate. This classification means that the assessment is subject to Payment-in-Lieu of Taxes (PILT) at the Commercial Vacant Land Rate, municipal rate only.
E	Exempt This classification means that the assessment is exempt from property taxation and Payment-in-Lieu of taxes (PILT).
RG	Residential Payment-in-Lieu General Rate This classification means that the assessment is subject to Payment-in-Lieu of Taxes (PILT) at the General Residential Rate, municipal rate only.