



STAFF REPORT ACTION REQUIRED

2010 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors

Date:	May 31, 2010
To:	Executive Committee
From:	Treasurer
Wards:	All
Reference Number:	P:\2010\Internal Services\rev\ec10014rev (AFS11211)

SUMMARY

This report seeks Council authority for the introduction of the by-law necessary to levy and collect taxes for the 2010 taxation year on railway roadways and rights of way and on land used as transmission or distribution corridors owned by power utilities, totalling approximately \$7.8 million in taxation revenue, of which the municipal share is \$6.6 million and the provincial share is \$1.2 million.

RECOMMENDATIONS

The Treasurer recommends that:

1. Council authorize the levy and collection of taxes for the 2010 taxation year on railway roadways and rights of way and on land used as transmission or distribution corridors owned by power utilities, in accordance with subsection 280(1) of the *City of Toronto Act, 2006* and subsection 257.7 (1) of the *Education Act*;
2. Authority be granted for the introduction of the necessary bill to give effect thereto; and,
3. The appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Financial Impact

The 2010 levy of taxes on railway roadways and rights of way and on power utility transmission or distribution corridors will raise approximately \$7.8 million in taxation revenue, of which the municipal share is \$6.6 million and the provincial share is \$1.2 million.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting held on August 5 and 6, 2009 City Council, in its consideration of Executive Committee reports EX33.14 entitled "2009 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors" and EX33.14a entitled "Advocacy Strategy for Taxation of Railway Rights of Way and Power Utility Transmission and Distribution Corridors", adopted the following resolutions:

- "4. *City Council approve seeking an amendment to:*
 - a. *Regulation 387/98 and 392/98 to require an annual inflationary adjustment in the "mature rate".*
 - b. *the "mature rate" prescribed by Regulation so as to phase in rate changes that more properly reflect the market value of the land over a period of time be reviewed.*
5. *City Council request the City Manager to actively pursue this matter in concert with other municipalities in Ontario.*
6. *City 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.*
7. *Deputy City Manager and Chief Financial Officer and the Acting Treasurer report on their progress annually."*

The reports and decision document of Council can be accessed at:

<http://www.toronto.ca/legdocs/mmis/2009/ex/bgrd/backgroundfile-21506.pdf>
<http://www.toronto.ca/legdocs/mmis/2009/cc/bgrd/backgroundfile-22698.pdf>
<http://www.toronto.ca/legdocs/mmis/2009/ex/reports/2009-06-02-ex33-cr.htm>

ISSUE BACKGROUND

Ontario Regulations 387/98 under the *Municipal Act, 2001* and 392/98, under the *Education Act*, as amended, have prescribed the applicable rates for railway and power utility rights of way acreage levies since 1998. Beginning in 1998 and ending in 2005, the Province prescribed what were termed “transition rates” each year, to phase-in changes to the taxation level of these right of way properties, until a uniform rate was reached in 2005. The acreage tax rates established in 2005 are called ‘mature rates’ and are intended to apply to all years beyond 2005.

COMMENTS

Subsection 280(1) of the *City of Toronto Act, 2006* requires the City, in accordance with the regulations, to levy an annual tax for municipal purposes on railway roadways and rights of way and on land used as transmission or distribution corridors owned by power utilities.

Subsection 257.7(1) of the *Education Act* requires the City to levy and collect taxes based on the rates prescribed for school purposes on the railway and power utility lands described in subsection 280(1) of the *City of Toronto Act, 2006*.

Ontario Regulation 121/07 under the *City of Toronto Act, 2006* and 392/98 under the *Education Act*, (as amended by O. Reg 123/07), prescribe the applicable rates for 2010 for the municipal portion and education portion of taxes respectively, for railway and power utility rights of way acreage levies.

To calculate the taxes payable on acreage properties, the City of Toronto requires the area of each property and the applicable tax rates. The acreage figures are provided to municipalities by the Municipal Property Assessment Corporation (MPAC) on the returned assessment roll each year and are available for 2010.

The estimated revenue for 2010 from all the railway and power utility rights of way is approximately \$7.8 million, of which the municipal share is \$6.6 million and the education share is \$1.2 million. Of the \$6.6 million municipal share, \$81,202.96 will be received in the form of payment-in-lieu of taxes from GO Transit.

Table 1 below identifies the per-acre tax rates and levy amounts for 2010 for railway roadways and rights of way and power utility transmission and distribution corridors.

Table 1
**Acreeage Rates and Levy Amounts for 2010 on Railway Roadways or Rights of Way and on
 Power Utility Transmission or Distribution Corridors**

Company	Municipal Taxes Per Acre	Education Taxes Per Acre	Total Taxes Per Acre	2010 Acreage	2010 Total Tax Levy (municipal + education)
Canadian National Railway	\$611.33	\$822.69	\$1,434.02	884.91	\$1,268,978.64
Canadian Pacific Railway	\$611.33	\$822.69	\$1,434.02	584.27	\$837,854.87
Greater Toronto Transit Authority (GO Transit) (i)	\$611.33	\$0.00	\$611.33	132.83	\$81,202.96
Power Utility – Hydro One	\$834.02	\$1,208.66	\$2,042.68	2,773.24	\$5,664,841.88
Totals:				4,375.25	\$7,852,878.35

(i) *Greater Toronto Services Board Act, 1998* exempted the real property owned by the Greater Toronto Transit (GO Transit) from education taxes. Pursuant to the *GO Transit Act, 2001*, as of January 1, 2002, GO Transit became a Crown Agency of the Province. It is exempt from property taxes but subject to payment-in-lieu of taxes.

Advocacy Strategy – Assessment-Based Taxation

Council's position on assessment and taxation of railway and hydro corridors was identified to the Province in the City of Toronto's submission on requested changes to the *City of Toronto Act* as part of the two-year review of the Act undertaken in the fall of 2009. No legislative or regulatory changes pertaining to railway and hydro rights of ways were made by the Province as a result of this review.

In 2009, City Council authorized staff to work in conjunction with the Regional Treasurers of Ontario Group, the Municipal Finance Officers' Association, the Association of Municipal Managers, Clerks and Treasurers and the Association of Municipal Tax Collectors, in consultation with Intergovernmental Relations, 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 (CVA) basis.

City staff contacted the organizations above in August of 2009 to seek their members' support for the City's position to request that the Government of Ontario introduce legislative and regulatory amendments to have the assessment and taxation of railway and hydro rights of way based on market value.

The Municipal Finance Officers' Association of Ontario (MFOA) membership includes the Chief Financial Officers, Treasurers and other finance professionals from many of Ontario's municipalities, including Toronto. The City's position has been identified to the Executive Director of MFOA, through a letter requesting that a resolution summarizing the City's position and the legislative changes sought be circulated to their membership for support. The draft resolution, which was developed in consultation with Intergovernmental Relations, is reproduced as Attachment 1 to this report.

The City's draft resolution and a letter seeking support for the City's position were also sent to the Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO), and the Association of Municipal Tax Collectors of Ontario (AMTCO). Both AMCTO and AMTCO are municipal organizations whose members 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 that regularly develops positions on assessment and taxation matters that are common to municipalities.

Staff will be following up with each of the associations above to make presentations to their membership on the City's position where appropriate, and to understand and gather information on the impacts that the requested changes may have on various municipalities. This process could yield important empirical information to augment or refine the strategy to continue to lobby the Province for legislative change. As directed by Council, staff will continue to report annually on the progress of this initiative.

CONTACT

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SIGNATURE

Giuliana Carbone
Treasurer

ATTACHMENTS

Attachment 1: Draft Resolution - Taxation of Railway and Hydro Corridor Rights of Way

Draft Resolution
Taxation of Railway and Hydro Corridor Rights of Ways

WHEREAS, 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; and

WHEREAS, 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); and

WHEREAS, in 1998, the Province enacted Ontario Regulations 387/98 under the *Municipal Act, 2001* (re: city portion of the acreage taxes) and 392/98 under the *Education Act* (re: education portion of acreage taxes) which introduced new acreage rates and these new acreage rates were phased-in starting in 1998 and completed in 2005; and

WHEREAS, since 2005, taxation revenues from railway/hydro corridors have remained relatively constant, subject only to annual changes in acreage; and

WHEREAS, in 2006 and subsequently in 2007 and 2008, Toronto City Council 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; and*

WHEREAS, to date, the City of Toronto 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; and

WHEREAS, other Ontario municipalities may be negatively impacted by the current legislative scheme of taxation for railways and hydro rights of ways;

THEREFORE BE IT RESOLVED, that [your association] supports the City of Toronto's position that the Province of Ontario should:

- a. *amend Regulation 387/98 and 392/98 (and regulations under the City of Toronto Act) to require an annual inflationary adjustment in the “mature rate”; and*
- b. *that the “mature rate” prescribed by Regulation be adjusted annually to phase in rate changes that more properly reflect the market value of the land over a period of time.*