



STAFF REPORT ACTION REQUIRED

Approval to Initiate and Participate in Assessment Appeals

Date:	June 2, 2010
To:	Government Management Committee
From:	Treasurer
Wards:	All Wards
Reference Number:	P:\2010\Internal Services\rev\gm10018rev (AFS11620)

SUMMARY

This report identifies those properties where, as a result of staff review and analysis, the Acting Director of Revenue Services has initiated assessment appeals at the Assessment Review Board (ARB) and is now seeking authorization to proceed with those appeals. The appeals are intended to correct assessments that have been incorrectly classified, under-valued, or wrongly returned on the 2010 assessment roll. In addition, staff are requesting authorization to actively participate in taxpayer (owner) initiated appeals in order to protect the City's interests.

If the recommendations put forward in this report are adopted, Revenue Services and the City Solicitor's office will proceed to prepare the City's position on a case-by-case basis.

RECOMMENDATIONS

The Treasurer recommends that Council authorize:

1. City staff to proceed with the assessment appeals identified in Appendix A of this report.
2. City staff to participate in the assessment appeals initiated by the taxpayer, as identified in Appendix B to this report, and approve the actions taken to-date by Revenue and Legal Services staff in respect of these appeals.
3. The Acting Director of Revenue Services and/or his Designee, in consultation with the City Solicitor, to take all steps appropriate to deal with the appeals identified in this report including authority to withdraw appeals filed by the City

or end its participation or to execute Minutes of Settlement or other settlement agreements.

4. The appropriate City officials to take the necessary action to give effect thereto.

FINANCIAL IMPACT

The fees paid to the Minister of Finance for filing appeals with the ARB, as listed in Appendix A of this report, are estimated to be \$5,700 (\$150.00 each for 29 non-residential assessment appeals, and \$75.00 each for 18 residential appeals).

There are no fees for the City's participation in appeals brought by the property owner. However, costs could be incurred in disputing these assessments to retain specialized professional services (such as appraisers, planners, or economists) to provide expert opinion or evidence at the ARB as required. Funds to cover the cost of retaining such professional services are included in the 2010 Approved Operating Budget, Non-Program account entitled "Assessment Function."

Staff cannot estimate, at this time, the financial impact to the City of these appeals; however, we anticipate that the City's taxation revenue should increase as a result of the appeals initiated by the City.

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 May 17, 2005, in considering Clause No. 4 of Report No. 5 of the Policy and Finance Committee, "City Initiated Assessment Appeals under Section 40 of the *Assessment Act* for the 2005 Taxation Year," City Council delegated authority to the Treasurer or his designate to initiate assessment appeals with the ARB on behalf of the City, subject to the subsequent approval of Council.

To view this report online please follow the hyperlink:

<http://www.toronto.ca/legdocs/2005/agendas/council/cc050517/pof5rpt/cl004.pdf>

At its meeting of January 31, February 1 and 2, 2006 Council considered Policy and Finance Committee Clause 3 of Report 1, "Criteria, Methodology and Costs of Examining Assessment Appeals and Participation in the Appeal Hearings" which proposed criteria in order to determine when the City would initiate appeals before the Assessment Review Board and when the City would actively participate in appeals filed by taxpayers. The recommendations put forward in this report have been guided by the criteria set out in the report noted above.

To view this report online please follow the hyperlink:

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060131/pof1rpt/cl003.pdf>

ISSUE BACKGROUND

The Revenue Services Division's Assessment Analysis Unit currently conducts a detailed analysis of the annual assessment roll and supplementary/omitted rolls to identify those properties that are significantly under-valued, misclassified, missing, or otherwise incorrectly assessed (e.g., due to a recent severance or consolidation, zoning change or a change in use). These inconsistencies or errors are further categorized by type and property class, and sorted in order of descending Current Value Assessment (CVA) magnitude. Efforts to date have focussed primarily on non-residential properties with large assessment values.

Where staff detect issues and/or errors, these are identified to the Municipal Property Assessment Corporation (MPAC) to determine whether they can initiate corrections. Where MPAC indicates that they cannot correct errors, Revenue Services staff may initiate third party appeals on behalf of the City under section 40 of the *Assessment Act*.

It is necessary to distinguish between those cases where staff initiate an assessment appeal to correct an error (i.e., with the City as the appellant), and those cases where the City intends to participate as a full party to owner filed appeals. The City is a statutory party to every assessment appeal that is filed with the ARB pursuant to section 40 of the *Assessment Act*. In general, the City does not appear and participate in each and every appeal that is filed, since to do so would require significant financial resources and would duplicate the activities of MPAC, for which the City already pays. There are, however, situations where it is appropriate and prudent for the City to take an active role in an appeal in order to support the position taken by MPAC.

In order to meet the ARB's deadline of March 31st for filing assessment appeals for the preceding taxation year, applications to appeal the properties identified in Appendix A to this report have already been initiated with the ARB. It is necessary for staff to file these appeals in advance of obtaining Council approval, given the short period of time following the return of the assessment roll and the March 31st deadline to submit appeal applications. This process is similar to that followed in prior years.

COMMENTS

Section 40 Appeals Initiated by the City of Toronto

Given the vast number of properties in the City (over 680,000), and the limited time and resources available to conduct a review of the full assessment roll, not all property accounts returned on the 2010 assessment roll were reviewed. Instead, Revenue Services staff focussed their efforts on non-residential accounts where the sales history details indicated that the property was under-valued. Revenue Services staff also focussed their efforts on reviewing planning applications, zoning by-laws, and building permit data to identify properties that have changed but the assessment value and/or classification was not revised accordingly. As a result of this review, appeals were initiated on some properties that were not residential but were incorrectly classified as such on the assessment roll.

Furthermore, Revenue Services staff conducted a year-over-year assessment analysis. The year-over-year assessment analysis was a comprehensive review of changes that occurred on the assessment roll compared to the previous year's assessment roll. Where staff detected issues/errors, discussions ensued with MPAC to determine whether corrections could be made via supplementary/omitted assessments. Where MPAC indicated that the errors identified could not be corrected via the supplementary/omitted assessment process, staff initiated third party appeals on behalf of the City under section 40 of the *Assessment Act*. In total, staff have initiated 47 assessment appeals, as identified in Appendix A. The reasons for the appeals are summarized below.

- (i) Twenty three (23) properties were identified with incorrect tax classifications (e.g., properties that are rezoned may be subject to a change in tax classification);
- (ii) Eleven (11) properties were identified as under-valued;
- (iii) Twelve (12) properties were identified as being both under-valued and incorrectly coded with respect to their tax classification;
- (iv) One (1) property was incorrectly returned on the assessment roll as MPAC applied the wrong methodology to arrive at the 2005 CVA value which now forms part of the assessment roll.

It should be noted that the column in Appendix A entitled "Reason to Appeal" is based on staff's preliminary review. Often, during the preparation of the City's defence, other errors or omissions are detected which are also raised in the pleadings prepared by the City.

City Application to the Federal Dispute Advisory Panel

Also included in Appendix A is an application filed to the Federal Dispute Advisory Panel ("DAP") for Parc Downsview Park Inc. ("Downsview Park") for the year 2008. Downsview Park is the assessed owner of the property located at 0 Keele Street N/S and is a wholly-owned subsidiary of Canada Lands Company Limited. As such, Downsview Park is subject to the *Payments in Lieu of Taxes Act*, ("*PILT Act*") and the *Crown Corporation Payments Regulations* ("*CCPR*").

Where a municipality disagrees with the value or effective rate applied by a federal crown corporation to determine its payments in lieu of taxes ("*PILTs*"), the municipality may apply to the DAP in accordance with subsection 11.1 of the *PILT Act* (mirrored in subsection 12.1 of the *CCPR*).

Legal Services, at the request of the Director of Revenue Services, applied to the DAP requesting a hearing to review the value and effective rate used by Downsview Park for its 2008 PILT. The grounds for the review are that Downsview Park has calculated its PILT using values and effective rates different from the ones used by the City in its determination of the PILT amount payable (the City's PILT request). As a result, Downsview Park's PILTs to the City are significantly lower than what was requested. Since Downsview Park's 2009 PILTs are calculated in the same manner as its 2008 PILT, Legal Services will apply to the DAP for a hearing for the 2009 tax year as well. Notwithstanding the application to DAP, the City will continue discussions with Downsview Park to explore whether the issues can be narrowed or resolved before a DAP hearing.

Appeals Filed by Owners Requiring City Participation

Pursuant to section 40 of the *Assessment Act*, the City is a statutory party to every appeal that is filed with the ARB. In general, the City does not appear and participate in each and every appeal that is filed, as to do so would require significant resources and would duplicate the activities of MPAC, a service the City already pays for. In determining whether the City should participate in the various appeals launched by taxpayers, staff followed the criteria set out in the report referred to above entitled "Criteria, Methodology and Costs of Examining Assessment Appeals and Participation in the Appeals Hearings".

Appendix B to this report lists those taxpayer appeals where it is recommended that the City participate.

Of the twenty-four (24) properties identified in Appendix B, staff are seeking authority to participate in six (6) appeals where the City will be supporting MPAC's position with respect to classification. In these cases, a result in favour of the owner could set a precedent that could negatively impact the City financially.

Sixteen (16) properties represent roll numbers for shopping centres where the assessment values are significant (i.e. over \$100,000,000). It is therefore in the City's interest to participate in these proceedings to protect against any unwarranted erosion of assessed value for this property type, which could establish a precedent and result in negative value impacts on other similar retail properties.

The remaining two (2) properties are considered to be under-valued. The City intends to participate to ensure that the values are revised appropriately.

This report has been prepared in consultation with the City Solicitor's office.

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SIGNATURE

Giuliana Carbone
Treasurer

ATTACHMENTS

Appendix A – Appeals Initiated by the Treasurer

Appendix B – Appeals Initiated by Taxpayers in which the City will Fully Participate