



**Member Motion -  
REVISED**

**City Council**

**Notice of Motion**

MM49.7	ACTION			Ward: All
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**Recent Supreme Court of Canada Decision on Payments in Lieu of Taxes (PILTS) - by Councillor Moscoe, seconded by Councillor McConnell**

*\* Notice of this Motion has been given.*

*This Motion is subject to referral to the Executive Committee. A two thirds vote is required to waive referral.*

**Recommendations**

Councillor Moscoe, seconded by Councillor McConnell, recommends that:

1. City Council request the City Manager and the Deputy City Manager and Chief Financial Officer to review all Federal properties within the City of Toronto to determine the extent to which the April 15th decision of the Supreme Court of Canada will affect tax payments to the City of Toronto and submit a report on their findings to the Executive Committee.
2. City Council request the City Solicitor to review the court decision and determine the extent to which it might apply to provincial payments in lieu of taxes, such report to include the City’s ability to collect PILTS payments retroactively.
3. City Council authorize the City Manager and the City Solicitor to take whatever action that may be necessary to give full effect to the Court decision as it applies to all Federal and Provincial property within the City of Toronto.
4. City Council request the City Solicitor to review the files respecting the tax arrears for the following three federal properties in the light of the Montréal PILTs decisions:

Property Address	Ownership	Outstanding Taxes	Remarks
1133 Sheppard Ave West	National Defense Canada, Public Works Canada	\$1,390,044.71	Outstanding balance represents 1977 taxes. Supplementary billing created for approximately 10 business tenants.

			however bills were mailed in 1998 after some tenants had vacated the property*
39 John Street, Ground Floor	Canadian Broadcasting	\$972,297.60	The outstanding balance represents 2009 taxes and penalties. The tenant moved out on or near April 2009 and one third or \$450,000 in taxes. Since this property is owned by the CBC the assessment on the portion previously occupied by the tenant should be subject to a payment in lieu of taxes for the remaining portion of the 2009 taxation year
39 John Street, Ground Floor	Canadian Broadcasting	\$621,684.87	Outstanding balance represents 2003 to 2005 taxes and penalties. This is a federally owned property leased to Move! Restaurants Ltd. The shell companies went into bankruptcy in June 2005. Staff are attempting to collect the outstanding receivables from the CBC

5. The City Council authorize the City Manager and the City Solicitor, in the light of the Montreal court decision, to take whatever action may be necessary to recover the tax arrears on the properties listed in Recommendation 4 above.
6. City Council request the City Manager and Deputy City Manager and Chief Financial Officer to review all Federal Properties within the City of Toronto that are currently in tax arrears and take whatever action may be necessary to recover these arrears.
7. A copy of this resolution be forwarded for information to the City of Montreal, the FCM and the co-chair of the FCM PILT's Committee who is solicitor for the City of Halifax.

### Summary

The recent April 15th decision of the Supreme Court of Canada in the case of Montreal (city) vs. Montreal Port Authority and the Canadian Broadcasting Corporation was a significant win for municipalities. Both the Federation of Canadian Municipalities and the City of Toronto were interveners. Essentially the court ruled that the Federal government and its corporations cannot arbitrarily set its own formula for calculating their PILTS payments but must have regard for the tax rates established by the municipality.

Preliminary estimates indicate that this was a \$20 million decision for Montreal. What remains to be determined is its value to the City of Toronto. For example: the Toronto Port Authority has arbitrarily calculated its payments in lieu of taxes to the City of Toronto on the basis of a per passenger levy. Mayor McCallion has advised me that Pearson Airport also uses this kind of a formula. It would seem that the Court decision would now require them to use Municipal tax rates in making PILT payments. This will generate a significantly higher PILS payment. Not only that, but the extent to which this would apply retroactively, has yet to be determined.

The decision raises other related questions. The Ontario government pays a “heads and beds” payment in lieu of taxes for colleges and university properties. Would the Supreme Court decision also not apply to Ontario PILTS?

One part of the lower court decision, *Montreal (city) vs. Montreal Port Authority and the Canadian Broadcasting Corporation* was not appealed to the Supreme Court. That decision ruled on the requirement for the Montreal Port Authority and the CBC to be responsible for tax arrears incurred by commercial tenants.

In a recent report to the Government Management Committee, the Treasurer cited three Federal properties that are tax arrears, as noted in Recommendation 4 above.

Municipalities are restricted from using certain collection actions such as tax sales on federally-owned property. Revenue Services has exhausted all efforts and attempts to recover the outstanding taxes and penalties for these three properties, including the issuance of bailiff warrants in addition to holding meetings with Federal representatives, their counsel and MPAC. Federal policies and guidelines, the Municipal Grants Act and the Payment in Lieu of Taxes Act negate the City’s efforts to recover the taxes and penalties from the Federal Government.

It may now be possible under the Montreal court Ruling to collect these taxes.

(Submitted to City Council on May 11 and 12, 2010 as MM49.7)