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## **2013 OPERATING BUDGET BRIEFING NOTE**

### **Sign By-law Unit and Third Party Sign Tax**

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#### **Issue:**

- In December 2009, Council adopted the recommendations around the report titled “New Sign Regulation and Revenue Strategy for the City of Toronto”. This included: the adoption of a new Sign By-law for Toronto; a new tax on third-party signs (TPST); and the establishment of a unit to administer and enforce the regulations for permanent signs across the city.
- Over the past three years, the TPST was challenged in the Courts by the outdoor advertising industry. The City's ability to administer and collect the TPST in accordance with the original provisions of the By-law was upheld on November 22, 2012 when leave to appeal to the Supreme Court of Canada was not granted.

#### **Background:**

- At its meeting on December 3, 2012, the Budget Committee requested that the City Manager provide a briefing note outlining the Billboard Tax since its approval in 2009, including all income generated since its inception, as well as any monies being held in escrow and income projections for the next five years.
- Sign By-law Unit:
  - Established in 2010 to enforce the Sign By-law and to collect and administer the TPST;
  - Annual funding of the Unit is comprised of sign application fees and a portion of the TPST revenues.
- Third Party Sign Tax (TPST):
  - Developed in line with the goals and objectives of the Sign By-law, gross revenues from the TPST were originally forecast to be \$7.9 million in 2010 and \$10.4 million per year thereafter based on approximately 2,300 taxable signs. As of 2010, anticipated revenues have been included in the City's base Budget, within Non-Program accounts.
  - In 2010, the TPST was challenged by the outdoor advertising industry to the Superior Court of Ontario. In March 2011, the Superior Court ruled that although the TPST was legal, it could not be applied to signs that lawfully existed as of April 6, 2010.

- As a result of the Superior Court Decision, the number of taxable signs was reduced with a corresponding reduction in revenues of approximately 75%. Both the City and the outdoor advertising industry launched appeals of the Superior Court decision in the summer of 2011.
- The matter was heard by the Ontario Court of Appeal in the fall of 2011. In April 2012, the Court ruled that the TPST applied to all signs regardless of the date they were installed.
- In the spring of 2012, the outdoor advertising industry petitioned the Supreme Court of Canada to review the ruling of the Ontario Court of Appeal. On November 22, 2012 the Supreme Court of Canada issued their decision not to grant leave to appeal.

### **Key Points:**

- The decision of the Supreme Court of Canada confirmed the City's ability to administer and collect the TPST in accordance with the original provisions of the TPST Bylaw.
- While the TPST was under challenge, invoicing and collection activities continued under the prevailing position of the Courts. Some payments were received and some payments were withheld by sign owners pending a final decision from the Courts.
- Due to the Supreme Court of Canada decision, sign owners have been contacted regarding amounts owing resulting in:
  - Past due and current TPST payments now being received;
  - A one-time collection of retroactive payments in the range of \$20 to \$25 million is anticipated in 2012 which includes prior and current year TPST amounts.
- Going forward, base budget TPST revenues are expected to be relatively stable at approximately \$10.5 million gross and \$9.4 million net per year from 2013 to 2017 due to:
  - Modest increases in TPST rates;
  - Attrition of third party signs;
  - Changes in base of taxable signs;
  - Annual contributions to the Sign Unit for administration and enforcement.
- For 2013, the base budget for TPST revenue is \$10.480 million gross and \$9.555 net, with a 2014 Outlook increase of \$.155 million net and a 2015 Outlook decrease of \$0.056 million net.
  - One strategy that staff will examine over the course of 2013, for consideration as part of the 2014 Budget process, will be to develop a 5 year phase-in plan to provide additional funding

for Arts and Culture purposes, using the 2012 TPST one-time collection of retroactive payments of \$20 to \$25 million to mitigate future year tax increases, until an increased base funding level can be achieved.

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