



STAFF REPORT ACTION REQUIRED

Approval to Initiate and Participate in Assessment Appeals

Date:	May 29, 2014
To:	Government Management Committee
From:	Treasurer
Wards:	All
Reference Number:	P:\2014\Internal Services\rev\gm14017rev (AFS18861)

SUMMARY

This report identifies those properties where, as a result of staff review and analysis, the 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 supplementary/omitted assessment rolls provided to the City in 2013, or on the assessment roll for the 2014 taxation year. In addition, staff are requesting authorization to actively participate in various 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:

1. City Council authorize the Treasurer to proceed with the assessment appeals identified in Appendix A of this report.
2. City Council authorize the Treasurer to participate in the assessment appeals initiated by property owners, as identified in Appendix B to this report and any other appeals that may be subsequently identified by the Treasurer as warranting the City's active participation, including any motion, appeal of a decision or other adjudicative process that arises out of property and assessment matters, and

approve the actions taken to date by Revenue Services and Legal Services staff in respect to these appeals.

3. City Council authorize the Director of Revenue Services and/or his designate, in consultation with the City Solicitor, be granted standing authority to take all appropriate measures to deal with each of the appeals referred to in this report including authority to discontinue or settle such appeals where it is concluded that it is reasonable to do so, to execute minutes of settlement or any other settlement agreement, to appeal any decision where warranted, to commence and pursue any warranted and related adjudicative proceeding such as a request for reconsideration, an application for Judicial Review, the stating of a case or any other proceeding like those referred to.

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 \$16,500 (\$150.00 each for 94 non-residential properties, and \$75.00 each for 32 residential/residential development properties).

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 2014 Approved Operating Budget, Non-Program Tax Deficiency Account.

Staff cannot estimate, at this time, the financial impact to the City of these appeals. However, based on those City initiated appeals that have been resolved in the past year it is estimated that the change in assessment and/or classification have yielded increases in the municipal portion of property taxes, on average, of between 20 to 30 per cent on the related properties.

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 a 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, in considering Policy and Finance Committee Report 1, Clause 3, "Criteria, Methodology and Costs of Examining

Assessment Appeals and Participation in the Appeal Hearings” approved criteria to be used in determining when the City would initiate appeals before the Assessment Review Board and when the City would actively participate in appeals filed by taxpayers.

To view this report online please follow the hyperlink:

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

The recommendations put forward in this report have been guided by the criteria approved by City Council in 2006. The criteria are summarized in Appendix C to this report.

ISSUE BACKGROUND

The Revenue Services Division’s Assessment Analysis Unit conducts a detailed analysis of the annual assessment roll and supplementary/omitted assessment 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). 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 based on their legislative authority. 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* to protect the City's interests.

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 resources and would duplicate the activities of MPAC, for which the City already pays. There are, however, certain 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 or to put forward an alternative position when the City does not entirely agree with the position taken by MPAC, in each case to protect the City's assessment and revenue base.

There are also potential motions, appeals and other adjudicative processes that arise in the context of property assessment and taxation matters. Such matters may be initiated by MPAC, the owner(s) of property and/or the City. Like the owner-filed appeals described above, there are certain situations where it is best for the City to be actively involved in a motion, appeal or other adjudicative process that arises out of property and assessment matters.

COMMENTS

Section 40 Appeals Initiated by the City of Toronto

Given the vast number of properties in the City (over 740,000), and the limited time and resources available to conduct a review of the full assessment roll, not all properties returned on the 2014 assessment roll were reviewed. Instead, Revenue Services staff focussed their efforts primarily on non-residential properties where the sales history indicates that the property was under-valued. 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 appropriately. Accordingly, certain properties were selected to be appealed. Although some of the selected properties are classified residential, these properties were appealed to correct their classification and/or assessment because their use has, or will, change to a class that is not residential.

Revenue Services staff also complete a year-over-year assessment analysis. This analysis is a comprehensive review of changes that occurred on the assessment roll compared to the previous year's assessment roll. Where staff identify issues and potential errors, a request is made to MPAC to make corrections via a supplementary or omitted assessment. If MPAC indicates that a supplementary/omitted assessment cannot be issued, staff may initiate an appeal under section 40 seeking a higher assessment. Prior to finalizing their determination as to whether the City should launch an assessment appeal, Revenue Services staff consider each property according to the criteria approved by City Council in 2006 (re: Policy and Finance Committee Report 1, Clause 3, "Criteria, Methodology and Costs of Examining Assessment Appeals and Participation in the Appeals Hearing"). Appendix C summarizes the criteria previously approved by Council.

Since 2014 is the second year in the current four-year assessment cycle, the number of appeals initiated by the City this year is significantly lower than in 2013. Revenue Services staff expect the number of new appeals to continue to be lower than in 2013 during the remainder of the current assessment cycle.

In total, 126 appeals under section 40 of the *Assessment Act* have been initiated as noted in Appendix A. The following summarizes the basis for the appeals:

- (i) Thirty-two (32) properties were identified with incorrect tax classifications (e.g., properties that are rezoned may be subject to a change in tax classification);
- (ii) Sixty (60) properties were identified as under-valued;
- (iii) Twenty-eight (28) properties were identified as being both under-valued and incorrectly classified;

- (iv) Two (2) properties were appealed due to a concern that MPAC had increased the assessment value through an omitted assessment on the wrong account (i.e., the child roll number rather than the parent roll number); and
- (v) Four (4) properties were appealed due to a concern that the omitted assessment issued by MPAC was too low.

The column in Appendix A entitled “Reason to Appeal” is based on the staff’s preliminary review. Often, during the preparation of the City’s formal Statement of Issues, other errors or omissions are detected which are also raised in the pleadings prepared by the City.

Appeals Filed by the Owners Requiring the City's 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 approved by City Council in February 2006 (summarized in Appendix C to this report).

Appendix B to this report includes appeals related to 55 properties that are owned by the Province of Ontario and are located in the West Don Lands. These properties have been under appeal for many years with City staff actively involved. Since these appeals are still pending resolution, staff are requesting Council's authority to continue participation in relation to the most recent taxation years in order to ensure that the City's interests are protected for all years.

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SIGNATURE

Giuliana Carbone
Treasurer

ATTACHMENTS

Appendix A – Appeals Initiated by the Treasurer

Appendix B – Property Owner Appeals for West Don Lands - City Participation

Appendix C – Summary of Criteria Approved by City Council in 2006