

## **Refining Eligibility Criteria for the Creative Co-Location Facilities Property Subclasses**

**Date:** May 10, 2018  
**To:** Executive Committee  
**From:** General Manager, Economic Development and Culture  
**Wards:** All

### **SUMMARY**

---

City Council recently approved detailed eligibility criteria for inclusion of properties in the new Creative Co-Location Facilities Property subclasses. Staff have since refined the eligibility criteria to ensure that the benefit is provided to the appropriate properties as presented in the attachment to this report. Changes to the eligibility criteria are based on new information provided to the City by stakeholders and on advice from the Municipal Property Assessment Corporation (MPAC). The refined criteria simplifies the calculation of eligible common space that can be included in the Creative Co-location Facilities Property subclasses.

### **RECOMMENDATIONS**

---

The General Manager, Economic Development and Culture recommends that:

1. City Council approve the revised eligibility criteria outlined in Attachment 1 of this report in order to assess eligibility of properties for inclusion in the Creative Co-Location Facilities Property subclasses.
2. The General Manager, Economic Development and Culture report directly to Council at its meeting scheduled for May 22, 2018, identifying any necessary by-law amendments arising from the recent enactment of Ontario Regulation 384/18.

### **FINANCIAL IMPACT**

---

City Council adopted the report entitled "2018 Tax Rates and Related Matters" on February 12, 2018 that set the level of tax relief for the new Creative Co-Location Facilities Property Subclasses at a 50% reduction in the commercial residual and

industrial tax rates, subject to the Ontario Minister of Finance's regulation enabling the by-law.

As no Creative Co-location Facility properties were returned on the tax roll received for 2018, no direct financial implications are to be reflected in the 2018 City's budget arising from the adoption of the revised eligibility criteria for the new property subclasses. However, when the City receives the requested authority by the July meeting of City Council, eligible properties will be transferred into the new subclasses later in 2018, resulting in those properties' taxes for 2018 being adjusted by the approved reduction percentage for the subclasses.

Based on available information, it is anticipated that less than twenty properties will request and be approved for inclusion in the sub-class in 2018. Preliminary estimates suggest that the municipal property tax reduction in 2018 for applicable portions of eligible properties would be in the range of \$0.8 to \$1.2 million, to be funded from the Corporate Non-Program Tax Deficiency Account. The corresponding education tax reduction would be in the range of \$0.6 to \$1.0 million. In total, eligible properties could benefit from tax reductions ranging from \$1.4 to \$2.2 million.

In 2019 and future years, existing properties in the sub-class will be funded by corresponding rates changes within the commercial class, while new additions to the class will be treated as in-year pressures each year, in a similar fashion to property assessment class changes.

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

## **DECISION HISTORY**

---

On January 31, 2017, Toronto City Council adopted a Member's Motion from Councillor Cressy requesting that the Government of Ontario work with municipalities to explore opportunities to support not-for-profit arts and culture organizations and incubators, including property assessment tools and changes to the Ontario Culture Strategy to support the continued vibrancy of the sector.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.MM24.14>

At its meeting of October 2, 2017, City Council directed staff to develop policy objectives and a set of criteria for the creation of a new property tax subclass for arts and cultural facilities in Toronto and report back to Executive Committee by February 1, 2018.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.MM32.39>

On December 5, 2017, City Council directed the General Manager, Economic Development and Culture, in consultation with the Interim Chief Financial Officer and the City Solicitor, to establish detailed eligibility criteria for inclusion of properties in the proposed Creative Co-Location Facilities tax class, together with a process to approve inclusion of such properties in this tax class, and a process to address appeals related to the City's eligibility criteria, with a report to the February 6, 2018 Executive Committee meeting.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX29.17>

On February 12, 2018, City Council approved with amendments the reports "2018 Property Tax Rates and Related Matters" and "Creative Co-Location Facilities Property Tax Subclasses" providing the parameters for assessing the eligibility criteria for inclusion in the Creative Co-Location Facilities Property subclasses and the reduction of the tax rate for the subclasses.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX31.1>

<https://www.toronto.ca/legdocs/mmis/2018/ex/bgrd/backgroundfile-112457.pdf>

## **COMMENTS**

---

City Council adopted eligibility criteria, with amendments, for inclusion of properties in the new Creative Co-Location Facilities Property subclasses in February, pending Provincial legislation, which was enacted on May 8, 2018. Over the last two months the City received new information from stakeholders and advice from MPAC. Following the latest input, staff are proposing to refine the eligibility criteria to ensure that the benefit is provided to appropriate properties.

The proposed refined criteria changes three elements of the criteria approved by City Council in February.

Firstly, it simplifies the calculation of eligible common space that can be included in the Creative Co-location Facilities Property subclasses to match the percentage of Concentration of Creative Enterprises as determined in Step 1 c) of the eligibility process. This change will simplify the determination of the overall property tax reduction. The revised eligibility criteria can be found in Attachment 1.

Secondly, changes are also recommended for the definitions of Below Average Market Rent and Creative Enterprises as set out below. These changes are being proposed to ensure that the tax reduction benefits the appropriate properties without unforeseen benefit to highly profitable businesses and to ensure that properties that offer non-creative enterprises a reduced rent may be included in the subclasses.

Original:	Revised:	Rationale:
<p><b>Below Average Market Rent</b> is the lesser of:  a net rent that is at least 30% lower than the average market net rent for a similar space in a similar neighbourhood (as validated by the City of Toronto through reference to current data compiled by a recognized commercial realty firm), and a net rent that is 30% below the net rent paid by non-eligible tenants in the same building.</p>	<p><b>Below Average Market Rent</b> - a net rent that is at least 30% lower than the average market net rent for a similar space in the same classification of property as defined by BOMA (Building Owners and Managers Association) standards and in the same neighbourhood (as validated by the City of Toronto through reference to current data compiled by a recognized commercial realty firm).</p>	<p>The revision reflects the composition of potentially eligible properties in the city where property owners frequently offer below market rents to all tenants, creative and non-creative enterprises alike.</p>
<p><b>Creative Enterprises</b> are entities that produce "Cultural Goods or Services", as defined by the Canadian Framework for Cultural Statistics (under the headings Core Culture Domains; Cultural Sub-Domains; or Ancillary Culture Sub-Domains).</p>	<p><b>Creative Enterprises</b> are entities that produce cultural goods or provide cultural services, as defined by the Canadian Framework for Cultural Statistics, under the headings Core Culture Domains; or Cultural Sub-Domains, and in respect of the Cultural Sub-Domains D, E and F (written and published works, audio-visual and interactive media and sound recording) are registered not-for-profit organizations.</p>	<p>The revised definition removes "Ancillary Culture Sub-Domains" which includes advertising, architecture, design and collected information from eligibility to ensure that the tax reduction benefits the appropriate properties without unforeseen benefit to highly profitable businesses. This is also the rationale to restrict eligibility for tenants under Cultural Sub-Domains D, E and F to those that are registered not-for-profit organizations. The revised definition also clarifies that a cultural service is provided, not produced.</p>

**Provincial Regulation**

The provincial budget bill (*Bill 31, Plan for Care and Opportunity Act (Budget Measures), 2018*) received Royal Assent on May 8, 2018. The passing of this bill was required before the Ontario Minister of Finance could enact a regulation to establish the regulatory framework for the creation of the new property tax subclasses. The required regulation was filed by the Minister on May 8, 2018. This report recommends that the Executive Committee request that the General Manager, Economic Development and Culture report directly to Council at its meeting scheduled for May 22, 2018, identifying any necessary by-law amendments arising from the recent enactment of Ontario Regulation 384/18, to reflect the requirements outlined in the regulation.

In the preparation of this report, EDC staff consulted with staff from the Ontario Ministry of Finance, MPAC, City Legal Services, Corporate Finance and Revenue Services.

## **CONTACT**

---

Patrick Tobin, Director, Arts and Culture Services  
Economic Development and Culture  
416-392-4166  
[Patrick.Tobin@toronto.ca](mailto:Patrick.Tobin@toronto.ca)

## **SIGNATURE**

---

Mike Williams  
General Manager  
Economic Development and Culture

## **ATTACHMENTS**

---

Attachment 1: Detailed Eligibility Criteria for Inclusion in Creative Co-location Facilities  
Property Subclasses