

Clause embodied in Report No. 1 of the Policy and Finance Committee, as adopted by the Council of the City of Toronto at its regular meeting held on February 4, 5 and 6, 2003.

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**Freedom of Information Limitations on the  
Use of “Municipal Connect” Property  
Assessment Information System  
(All Wards)**

*(City Council at its regular meeting held on February 4, 5 and 6, 2003, amended this Clause by adding thereto the following:*

*“It is further recommended that:*

- (1) for the purposes of disclosure of assessment data on-line, Members of Council be considered to be officers of the Corporation of the City of Toronto under Section 32(d) of the Municipal Freedom of Information and Protection of Privacy Act; and*
- (2) Council establish an ad hoc Committee of Council, comprised of Councillors Bussin, Moscoe and Soknacki, and that such Committee be directed to meet with officials of the Municipal Property Assessment Corporation (MPAC), supported by staff, to negotiate an arrangement with MPAC that will permit Members of Council to have access to sufficient data to be able to effectively serve their constituents while, at the same time, maintaining the appropriate degree of confidentiality.”)*

**The Policy and Finance Committee recommends the adoption of the report (January 17, 2003) from the Chief Financial Officer and Treasurer.**

The Policy and Finance Committee reports, for the information of Council, having requested the Chief Financial Officer and Treasurer, in consultation with the City Solicitor and the City Clerk, to submit the letter from the Municipal Property Assessment Corporation that is relevant to this issue, to Council for consideration at its meeting on February 4, 2003, together with the relevant sections of any legislation that pertain to this matter, such report to also include answer's respecting the province's ability to sell database information related to vehicle license plates.

**The Policy and Finance Committee submits the following report (January 17, 2003) from the Chief Financial Officer and Treasurer:**

Purpose:

Given that staff cannot comply with the direction provided by Council at its October 2002 meeting, this report seeks an amendment to Council's previous approval that granted authority to City staff to enter into a licence agreement with the Municipal Property Assessment Corporation (MPAC) for access and use of MPAC's "Municipal Connect" on-line property assessment information system. Without an amendment staff are unable to proceed in securing a licence agreement for the use of the "Municipal Connect" system by City staff.

Financial Implications and Impact Statement:

There are no financial implications arising from the adoption of this report.

Recommendation:

It is recommended that:

- (1) Council amend the authority provided to staff to enter into a licence agreement with the Municipal Property Assessment Corporation (MPAC) that was granted by Council's previous adoption of Clause No. 7 of Report No. 13 of the Policy and Finance Committee, "Licence to Use 'Municipal Connect' Property Assessment Information System," at its meeting of October 1, 2 and 3, 2002, by deleting the phrase "subject to the licence agreement with MPAC including a provision that the information be made available to the City Clerk and City Councillors on-line in their office," and in so doing, reaffirm the original recommendations of the September 5, 2002 report from the Chief Financial Officer and Treasurer in this matter, as recommended by the Policy and Finance Committee, to it;
- (2) the City of Toronto enter into a licence agreement with MPAC in a form satisfactory to the City Solicitor for the use of the "Municipal Connect" Property Assessment Information system; and
- (3) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Background:

"Municipal Connect" is a new internet-based system developed by the Municipal Property Assessment Corporation (MPAC) that allows users to access up to date property assessment information on-line. In order to obtain access, the City must enter into a licence agreement with MPAC to ensure the confidentiality of assessment information is maintained.

On October 1, 2 and 3, 2002, in adopting Clause No. 7 of Report No. 13 of the Policy and Finance Committee that sought approval for the City to enter into a licence agreement for the use of the "Municipal Connect" system, Council amended the clause by adding the words "subject to the licence agreement with MPAC including a provision that the information be made available to the City Clerk and City Councillors on-line in their offices."

Legal limitations under the *Municipal Freedom of Information and Protection of Privacy Act* and *Assessment Act* prevent staff from being able to carry out Council's direction in this regard. As such, this report seeks amended authority to proceed in securing a licence agreement for the use of the "Municipal Connect" system by City staff.

Comments:

"Municipal Connect" contains detailed property information, including property values, structure data, ownership and mailing addresses, personal statistics and previous sales data. Personal and property information available through the "Municipal Connect" system has been collected under authority of the *Assessment Act*, and as such the release of the information is governed by the *Municipal Freedom of Information and Protection of Privacy Act*.

To obtain access to MPAC's "Municipal Connect" on-line assessment information, the City must first enter into a licence agreement with MPAC to ensure that the confidentiality of assessment information is maintained. Once a license agreement has been signed, the City's Director of Revenue Services, acting as the license administrator, may grant access to individual city staff members for their use on an as-required basis. Prior to access being granted, however, users of the "Municipal Connect" system will be notified of the confidentiality provisions under the licence agreement and all users will be required to sign a statement agreeing to maintain the required level of confidentiality.

The license agreement makes clear that the assessment information is being made available to the municipality for planning purposes only, and may not be released in any form to anyone at any charge, including free of charge. This prohibition includes any copy or printout of any of the information, and applies even to information that is public information (i.e., information that may appear on the annual assessment roll). The licence agreement also provides that the licensee shall not transfer, sell, lend, trade pledge, sub-license, assign, lease or disseminate the assessment information in any form to any party.

It was intended that access to "Municipal Connect" would be granted to a limited number of city staff for in-house operational and planning purposes only. The ability to access real-time assessment information will allow staff in the Finance Department's Revenue Services Division to verify that current information is being used for tax and water billing purposes. It is also expected that the Office of the City Clerk and Surveys and Mapping Services will use this service in their operations, to the extent permitted by legislation.

In approving the clause to grant authority to enter into a licence agreement with MPAC for use of the "Municipal Connect" system, Council added the words "subject to the licence agreement with MPAC including a provision that the information be made available to the City Clerk and City Councillors on-line in their offices." This direction has made it impossible for staff to proceed.

At issue is the question of access to this information being made available to city councillors. Under *Assessment Act* provisions relating to disclosure of information (S. 53), the assessment corporation may provide information to a municipality for planning purposes, but states that the information provided may not be used for any other purpose. City staff may therefore be granted access to assessment information where required in the course of their duties, but may not

provide this information to any other person.

The City's Director of Corporate Access and Privacy, in response to staff inquiries in this regard, has advised that previous decisions respecting the release of certain information governed by the *Municipal Freedom of Information and Protection of Privacy Act* have established that city councillors are not considered to be staff of the corporation. As such, Council's request to have this information provided to Councillors on-line in their offices would contravene this section of the *Assessment Act*.

Further, Section 32 of the *Municipal Freedom of Information and Protection of Privacy Act* provides that information may only be disclosed to employees of a municipality where the information is needed for the performance of that employee's duties, and where the disclosure is necessary and proper in the discharge of the municipality's functions. This provision would similarly prohibit access to assessment information being provided to city councillors, as they are not considered to be employees of the corporation.

In following up on Council's request in this matter, MPAC officials advised city staff that the standard form licence agreement, which all municipalities must sign in order to obtain access to the "Municipal Connect" system, would not be changed to allow access by city councillors, as this would violate the above provisions.

Staff also approached MPAC to determine whether it would be possible to make access available to city councillors in a limited read-only format by screening or masking certain data fields within "Municipal Connect" that contain personal information. This is not currently possible due to technical and administrative constraints within the "Municipal Connect" system.

With regard to access to the "Municipal Connect" system being provided to the City Clerk, it is anticipated that certain staff within the City Clerk's office, as designated by the Commissioner of Corporate Services or the City Clerk, will be provided access where necessary for the performance of job-related functions. The provision of access in these cases, however, would not permit members of the public to access the system, and would not allow staff to perform look-up services based on requests from the public.

#### Conclusions:

Council's request to have access to MPAC's "Municipal Connect" on-line assessment information system made available to city councillors within their offices as a condition of the licence agreement cannot be met, due to legal limitations surrounding the release of personal and property information under the *Municipal Freedom of Information and Protection of Privacy Act* and the *Assessment Act*. MPAC has advised that the standard form licence agreement, which all municipalities must sign in order to obtain access to the "Municipal Connect" system, cannot be changed to allow the access requested by city councillors.

Council's earlier approval for authority to enter into a licence agreement was conditional on the licence agreement including a provision that would make access available to the City Clerk and City Councillors. As this direction cannot be met, this report seeks an amendment to Council's previously granted authority that would allow the City to proceed to enter into a license

agreement with MPAC for access to the “Municipal Connect” system in the absence of this condition.

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Councillor Howard Moscoe, Eglinton-Lawrence, appeared before the Policy and Finance Committee in connection with the foregoing matter.

*(City Council, at its regular meeting on February 4, 5 and 6, 2003, had before it, during consideration of the foregoing Clause, the following report (January 31, 2003) from the Chief Financial Officer and Treasurer:*

Purpose:

*This report provides further information on the matter of providing Councillors access to the Municipal Property Assessment Corporation's (MPAC) "Municipal Connect" on-line property assessment information system, as requested by the Policy and Finance Committee at its meeting of January 17, 2003.*

Financial Implications and Impact Statement:

*There are no financial implications arising from the adoption of this report.*

Recommendation:

*It is recommended that this report be received for information.*

Background:

*"Municipal Connect" is a new internet-based system developed by the Municipal Property Assessment Corporation (MPAC) that allows users to access up to date property assessment information on-line. In order to obtain access, the City must enter into a licence agreement with MPAC to ensure the confidentiality of assessment information is maintained.*

*In October 2002, a staff report from the Chief Financial Officer and Treasurer sought approval for the City to enter into a licence agreement for the use of the "Municipal Connect" system by City staff. In adopting this report, Council amended the clause to add the words "subject to the licence agreement with MPAC including a provision that the information be made available to the City Clerk and City Councillors on-line in their offices." (Clause No. 7 of Report No. 13 of the Policy and Finance Committee, adopted as amended, on October 1, 2 and 3, 2002).*

*In following up on Council's direction, staff found that legal limitations surrounding the release of this information under the Municipal Freedom of Information and Protection of Privacy Act and the Assessment Act prevent the license agreement from including a provision that would provide councillors access to the "Municipal Connect" system. In response to staff inquiries in this regard, MPAC officials advised that the requested changes to the license agreement could not be made.*

*As such, staff were unable to carry out Council's direction in this regard. A further report to the January 23, 2003 meeting of the Policy & Finance Committee sought an amendment to Council's previously granted authority, by deleting the inclusion of the phrase "subject to the licence agreement with MPAC including a provision that the information be made available to the City Clerk and City Councillors on-line in their offices." This amendment was necessary to allow staff to proceed in securing a licence agreement for the use of the "Municipal Connect" system by City staff.*

*At the January 23, 2003 meeting of the Policy and Finance Committee, the Committee recommended the adoption of the January 17, 2003 report of the Chief Financial Officer and Treasurer, but requested that the Chief Financial Officer and Treasurer, in consultation with the City Solicitor and the City Clerk, be requested to submit the letter from the Municipal Property Assessment Corporation that is relevant to this issue to Council for consideration at its meeting on February 4, 2003, together with the relevant sections of any legislation that pertain to this matter, such report to also include answers respecting the province's ability to sell data base information related to vehicle license plates.*

*This report responds to that request. The City Solicitor and the City Clerk have been consulted in its preparation.*

Comments:

*A letter from the Municipal Property Assessment Corporation dated January 30, 2003 to City staff is attached to this report as Appendix A. The second to last paragraph letter states that, after having given careful consideration to the City's requests for changes to the licences, "MPAC is unable to make any revisions to the Licence Agreement for Municipal Connect." MPAC's correspondence also references a 1998 investigation report of the Information and Privacy Commissioner of Ontario that documents a similar situation involving the disclosure of personal information to members of a municipal council (also attached within Appendix A).*

*Essentially, at issue is the release of personal information that is collected under the authority of the Assessment Act. "Municipal Connect" contains detailed property information, including ownership and mailing addresses, personal statistics, property values, structure data, and previous sales information.*

*Under Assessment Act provisions relating to disclosure of information (S. 53), subsection (3) establishes that the assessment corporation shall provide information to a municipality for planning purposes, but subsection (4) states that the information provided may not be used for any other purpose. City staff may therefore be granted access to assessment information where required in the course of their duties, but may not provide this information to any other person.*

*The “Municipal Connect” license agreement makes clear that the assessment information is being made available to the municipality for planning purposes only, and may not be released in any form to anyone at any charge, including free of charge. The text of Section 53 of the Assessment Act is attached to this report as Appendix B.*

*The disclosure of personal information, once collected by a municipality, is governed by the Municipal Freedom of Information and Protection of Privacy Act. Section 32(d) of this Act provides that information may only be disclosed to employees of a municipality where the information is needed for the performance of that employee’s duties, and where the disclosure is necessary and proper in the discharge of the municipality’s functions. The text of Sections 31, 32 and 33 of the Municipal Freedom of Information and Protection of Privacy Act is attached to this report as Appendix C. These provisions effectively prohibit access to personal information contained on the “Municipal Connect” system being provided to city councillors, as members of council cannot be employees of the corporation.*

*As noted in the Chief Financial Officer’s previous report on this subject (January 17, 2003), the City’s Director of Corporate Access and Privacy has advised that previous decisions of Ontario’s Information and Privacy Commissioner respecting the disclosure of personal information have established that city councillors are not considered to be employees of the corporation. In addition, in accordance with subsection 258(1) of the Municipal Act, 2001, employees of a municipality are not eligible to be elected as a member of a council of that municipality except in very limited circumstances. The text of subsection 258(1) is attached as Appendix D.*

*In summary, the combined provisions of the Assessment Act, the Municipal Freedom of Information and Protection of Privacy Act and the Municipal Act, 2001 prohibit councillors from accessing personal information contained in the “Municipal Connect “ system.*

*The Policy and Finance Committee also requested staff to report on the Province’s ability to sell data base information related to vehicle license plates. The Provincial Ministry of Transportation sells information on vehicle ownership, license plates, driver histories, etc. to customers, including the City of Toronto, using a number of different fee structures. In the case of license plate data, however, the Ministry owns all of the license plates on vehicles, and driver’s licenses and the information attached to each, and may therefore sell certain information. The Ministry is still bound by similar limitations on the release of personal information under its control, as established under the Freedom of Information and Protection of Privacy Act.*

#### Conclusions:

*Council’s request to have access to MPAC’s “Municipal Connect” on-line assessment information system made available to city councillors within their offices as a condition of the licence agreement cannot be met, due to legal limitations surrounding the release of personal and property information under the Municipal Freedom of Information and Protection of Privacy Act and the Assessment Act. MPAC has advised that the standard form licence agreement, which all municipalities must sign in order to obtain access to the “Municipal Connect” system, cannot be changed to allow the access requested by city councillors.*



*As Council's earlier approval for authority to enter into a licence agreement was conditional on the licence agreement including a provision that would make access available to the City Clerk and City Councillors, the Policy and Finance Committee has recommended that Council delete this requirement, so that staff may proceed in securing a licence agreement for the use of the "Municipal Connect" system by City staff.*

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Attachments:

*Appendix A: Letter from Gregory W. Baxter, Account Manager, Municipal Relations, Municipal Property Assessment Corporation, to Giuliana Carbone, Director, Revenue Services Division, City of Toronto, dated January 30, 2003, and attached Investigation Report MC980018 from the Information and Privacy Commissioner of Ontario, dated October 28, 1998.*

*Appendix B: Excerpt from Assessment Act, R.S.O. 1990, c. A.31  
Section 53: Disclosure of Information*

*Appendix C: Excerpt from Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56  
Sections 31, 32 and 33: Use and Disclosure of Personal Information*

*Appendix D: Excerpt from Municipal Act, 2001, S.O. 2001, c. 25  
Section 258 (1) Ineligible*

*(A copy of the Appendices referred to in the foregoing report are on file in the office of the City Clerk.)*