

Authority: Planning and Growth Management Committee Item 15.2, adopted as amended, by City of Toronto Council on May 26 and 27, 2008

CITY OF TORONTO

BY-LAW No. 59-2015

To cancel taxes for school purposes for 43A Parliament Street.

Whereas By-law No. 518-2008, being a by-law to designate the City of Toronto as a community improvement project area, pursuant to section 28(2) of the *Planning Act*, and to adopt the city wide community improvement plan for brownfield remediation and development of prescribed employment uses was adopted by Council on May 26 and 27, 2008; and

Whereas 271 Front Inc., is the registered owner of the Eligible Property and has applied to the City to cancel the property taxes for the Eligible Property, in accordance with the waterfront community improvement plan and section 333 of the *City of Toronto Act, 2006*; and

Whereas the Owner has provided the City with a Phase 2 Environmental Assessment, demonstrating that Provincial standards cannot be met in order to file a Record of Site Condition in respect of the Eligible Property; and

Whereas the Eligible Property is located within the community improvement project area and is eligible for Tax Assistance pursuant to section 333 of the *City of Toronto Act, 2006*; and

Whereas in accordance with Planning and Growth Management Committee Item 15.2, adopted as amended, by City Council at its meeting held on May 26 and 27, 2008, the General Manager of Economic Development and Culture is authorized to review applications for the Financial Incentives Program to determine eligibility and to execute financial incentive agreements to implement the Brownfield Remediation Tax Assistance Program; and

Whereas the General Manager of Economic Development and Culture has determined that the Owner of the Eligible Property located at 43A Parliament Street is eligible for Brownfield Remediation Tax Assistance; and

Whereas in accordance with subsection 333(2) of the *City of Toronto Act, 2006*, the City may pass by-laws providing for the cancellation of all or a portion of taxes for municipal and school purposes levied on eligible properties; and

Whereas the City has passed By-law No. 1442-2012 for the cancellation of municipal taxes; and

Whereas in accordance with subsection 333(7) of the *City of Toronto Act, 2006*, a by-law under subsection 333(2) does not apply to the cancellation of taxes for school purposes unless, before the by-law is passed, it is approved in writing by the Minister of Finance; and

Whereas in accordance with subsection 333(6) of the *City of Toronto Act, 2006*, the General Manager of Economic Development and Culture has provided the Minister of Finance with a copy of the proposed by-law for the cancellation of taxes for school purposes; and

Whereas the Minister of Finance has approved the proposed by-law; and

Whereas this by-law is in form and content the same as the proposed by-law;

The Council of the City of Toronto, pursuant to section 28 of the *Planning Act* and section 333 of the *City of Toronto Act, 2006* enacts as follows:

1. In this by-law the following terms shall have the following meanings:

"Base Municipal CVA Taxes" means the amount calculated by multiplying the Current Value Assessment(s) ("CVA") applicable for the lands upon which the Eligible Development is constructed, as reflected in the returned assessment roll applicable to the taxation year immediately preceding the first year the Eligible Development is reassessed, by the tax rate(s) applicable for both the municipal and education portions of the property tax for those lands, for that taxation year. The Base Municipal CVA Taxes shall be fixed in this manner for the purposes of determining the Tax Increment, subject to any adjustment arising from assessment appeals or changes to CVA made by the Municipal Property Assessment Corporation ("MPAC") through requests for reconsideration, equity changes or gross error, and shall remain unchanged for the duration of the term of the Tax Assistance.

"City" means the City of Toronto.

"Destination Municipal CVA Taxes" means the amount calculated by multiplying the CVA for the Eligible Property as reflected in the returned assessment roll applicable to the first full taxation year following the completion and reassessment of the Eligible Development, by the tax rate(s) applicable for both the municipal and education portions of the property tax at that time, to the land upon which the Eligible Development is constructed and to the Eligible Development itself. The Destination Municipal CVA Taxes shall remain fixed for the purposes of determining the Tax Increment for the Eligible Development subject to any adjustments to taxes arising from assessment appeals or changes to the Destination Municipal CVA made by MPAC through requests for reconsideration, equity changes or gross error, and shall remain unchanged for the duration of the term of the Tax Assistance.

"Development Period" means with respect to the Eligible Property, the period of time starting on the date that the Rehabilitation Period ends and ending on the earlier of:

- (i) the third anniversary of the passage of this by-law; or
- (ii) the date that the Tax Assistance provided for the Eligible Property equals the Remediation Costs.

"Eligible Development" means the development of Eligible Uses on the Eligible Property which occurs following remediation that would enable the Owner to file a record of site condition with respect to the Eligible Property in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act*.

"Eligible Property" means the property municipally known as 43A Parliament Street and more particularly described in Schedule "A" attached to this by-law.

"Eligible Uses" means those uses eligible to receive Brownfield Remediation Tax Assistance in accordance with By-law No. 518-2008.

"Financial Incentives Agreement" means the agreement entered into between the Owner and the City setting out the terms and conditions of the Brownfields Remediation Tax Assistance program.

"Owner" means 271 Front Inc., the registered owner of the Eligible Property.

"Remediation Costs" means the cost of any action taken to reduce the concentration of contaminants on, in or under the Eligible Property to permit a record of site condition to be filed in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act* and the cost of complying with any certificate of property use issued under section 168.6 of the *Environmental Protection Act*, as further specified in By-law No. 518-2008.

"Rehabilitation Period" means with respect to the Eligible Property, the period of time starting on the date on which this by-law is passed and ending on the earliest of:

- (i) the date that is 18 months after the date that the Tax Assistance begins to be provided;
- (ii) the date that a record of site condition for the Eligible Property is filed in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act*; or
- (iii) the date that the amount of the Tax Assistance provided for the Eligible Property equals the amount of the Remediation Costs.

"Tax Assistance" means the cancellation of the school tax portion of the Tax Increment, in accordance with section 2.

"Tax Increment" means the difference derived from the following calculation for all Eligible Development:

Destination Municipal CVA Taxes (-) Base Municipal CVA Taxes

In calculating the Tax Assistance available for Eligible Development, the Tax Increment shall be calculated in the first year that the subject Assistance is payable, and shall remain fixed for the duration of the Tax Assistance, subject to the provisions for adjustment as set out in the Financial Incentives Agreement.

2. A. Tax Assistance for the Eligible Property shall be provided subject to the provisions of this by-law, the Financial Incentives Agreement, and the applicable provisions of By-law No. 518-2008, including without limitation, confirmation that the Owner has paid all property taxes owing with respect to the Eligible Property for all years prior to the year in which this by-law is passed.
- B. Once the City has confirmed that the Owner's obligations under the by-laws and the Financial Incentives Agreement have been met; the Tax Assistance shall take the form of a cancellation of taxes.

3. Subject to section 2, Tax Assistance shall commence on the date that the Tax Increment would have been first payable, but for the provision of Tax Assistance as authorized by this by-law, in the first calendar year in which the property tax bill reflects the increased assessed value attributable to the Eligible Development and ending on the earlier of:
 - A. The date that the Tax Assistance provided for the Eligible Property under this by-law together with the assistance provided under By-law No. 1442-2012 equals the Remediation Costs; or
 - B. Either:
 - (i) if the Eligible Property is eligible for Development Grants pursuant to By-law No. 518-2008, the date upon which the final property tax bill is issued in the second calendar year following the year in which the Tax Assistance commenced; or
 - (ii) if the Eligible Property is not eligible for Development Grants pursuant to By-law No. 518-2008, the date upon which the final property tax bill is issued in the first calendar year following the year in which the Tax Assistance commenced.
4.
 - A. The maximum Tax Assistance provided will total the sum of the school tax portion of the Tax Increment following reassessment for a period not to exceed 3 years or the total cost of remediation as provided for in section 3 of this by-law.
 - B. Despite Section 4A, in no case shall the Tax Assistance exceed \$2,360,733.87 unless the Minister of Finance has, by notice in writing to the City, authorized a higher amount.
5. Where Tax Assistance is provided for a portion of any year, or where Tax Assistance represents only a portion of the taxes levied on the Eligible Property, the Owner is responsible for payment of all property taxes levied during the portion of the year when the Tax Assistance is not provided, and for all taxes not subject to Tax Assistance.
6. The Treasurer shall alter the tax roll in accordance with the Tax Assistance to be provided for the Eligible Property.
7. Tax Assistance shall be suspended and may be terminated, where any one of the following occurs:
 - A. The Owner is in default of any obligation pursuant to this by-law or applicable provisions of By-law No. 518-2008; or
 - B. The Owner is in default of any obligation pursuant to the Financial Incentives Agreement.
8. The Tax Assistance shall be terminated where any one of the following occurs:
 - A. The Eligible Property is severed, subdivided or all or any portion of the property is conveyed;

- B. Tax Assistance has been provided for three full years;
 - C. Tax Assistance is not being provided under By-law No. 1442-2012, as enacted.
9. If Tax Assistance is suspended or terminated under sections 7 or 8 the City shall:
- A. In the case of termination under section 7 or section 8, provide the Owner with notice that the conditions under this by-law, By-law No. 518-2008, or the Financial Incentives Agreement, as applicable, have not been met and order the Owner to pay all of the taxes for school purposes that were subject to the Tax Assistance, with interest, in accordance with section 310 of the *City of Toronto Act, 2006*; or
 - B. In the case of suspension under section 7, provide the Owner with notice that Tax Assistance is suspended pending the Owner curing the default within such period and on such terms as the City specifies in writing, and that the failure to do so will result in termination of the Tax Assistance in accordance with subsection 9A of this by-law.
10. A notice under section 9B of this by-law is not effective without the written consent of the Minister of Finance.
11. The Owner shall, within 30 days of the anniversary of the commencement of Tax Assistance for each year or part thereof that Tax Assistance is provided, submit to the City, an annual report, in the form required by the Ministry of Municipal Affairs and Housing and within 30 days of receipt of the report from the Owner, the City shall provide a copy of the report to the Minister of Finance.
12. In the event that the Owner files a record of site condition with respect to the Eligible Property in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act*, the Owner shall within 30 days, notify the City of the filing and within 30 days after receipt of the notice from the Owner, the City shall advise the Minister of Finance of the filing.
13. In the event that the Tax Assistance provided pursuant to this by-law together with the assistance provided under By-law No. 1442-2012 exceeds the actual Remediation Costs for the Eligible Property, the amount of the Tax Assistance which exceeds the Remediation Costs shall be paid by the Owner as property taxes.
14. This by-law shall come into force and take effect on its passing.

Enacted and passed on December 11, 2014.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

SCHEDULE "A"

PART OF PIN 21077-0025 (LT)

Being Part Lot 1, Plan 108, East Side of Parliament Street; Part Lot 3A, Plan 108, South Side of Front Street East; Part Lots 1, 2 and 3, Plan 108, North Side of Mill Street; designated as Parts 3 and 4 on Plan 66R-26445, City of Toronto.