

Authority: Planning and Growth Management Committee Item PG15.2, as adopted by City of Toronto Council on May 26 and 27, 2008, Planning and Growth Management Committee Item PG17.5, as adopted by City of Toronto Council on October 2, 3 and 4, 2012 and Economic Development Committee Item ED13.5, as adopted by City of Toronto Council on July 12, 13, 14 and 15, 2016

## **CITY OF TORONTO**

### **BY-LAW No. 1274-2016**

#### **To cancel municipal taxes for 45 Bay Street, also known as 81 Bay Street.**

Whereas the City of Toronto adopted By-law 516-2008, as amended by By-law 1323-2012, to designate the City of Toronto as a community improvement project area, and to adopt a city wide community improvement plan for brownfield remediation and the development of prescribed employment uses consisting of development grants in the form of tax increment equivalent grants for certain defined uses and for brownfield remediation tax assistance, pursuant to section 28(2) of the *Planning Act*, R.S.O. 1990, c. P.13 and section 333 of the *City of Toronto Act, 2006*, S.O.2006, c. 11, Schedule A; and

Whereas by the adoption of ED13.5 by City of Toronto Council at its meeting held on July 12, 13, 14 and 15, 2016, City Council approved the proposed development at 45 Bay Street, also known as 81 Bay Street and 141 Bay Street, as a transformative project under the city wide community improvement plan; and

Whereas the Property is located within the community improvement project area and is eligible for brownfield remediation tax assistance pursuant to section 333 of the *City of Toronto Act, 2006*; and

Whereas the registered Owner of the Property has applied to the City to cancel the property taxes for the property in accordance with the 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 Property; 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 wishes to provide for the cancellation of a portion of the municipal taxes for the Property described in Schedule "A" to this By-law;

The Council of the City of Toronto enacts:

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 taxation year in which the Financial Incentive Agreement between the City and the Owner is signed, for the Property upon which the Eligible Development is to be constructed, by the tax rate(s) applicable for

both the municipal and education portions of the property tax for the Property, for that taxation year. The Base Municipal CVA Taxes shall be fixed in this manner for the purposes of determining the Municipal 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.

"Community Improvement Plan" or "CIP" means the City wide the City-Wide Community Improvement Plan for Brownfield Remediation and Development of Prescribed Employment Uses as set out in By-law 516 2008, as amended by By-law 1323-2012.

"Destination Municipal CVA Taxes" means the amount calculated by multiplying the CVA for the Property directly attributable to the Eligible Development as reflected in the returned assessment roll applicable to the first full taxation year following the completion and reassessment of the Property, by MPAC, by the tax rate(s) applicable for both the municipal and education portions of the property tax for the property, at that time.. The Destination Municipal CVA Taxes shall remain fixed for the purposes of determining the Municipal 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.

"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" or "Property" means the property municipally known as 45 Bay Street, also known as and referred to in this By-law as 81 Bay Street, as 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 the CIP.

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

"Owner" means the registered owner from time to time, of the Eligible Property described in Schedule "A" attached to this By-law, provided that the Owner has assumed the Financial Incentives Agreement.

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

Destination Municipal CVA Taxes ( - ) Base Municipal CVA Taxes.

The Municipal Tax Increment shall be calculated in the first year that the Tax Assistance is provided and shall remain fixed, subject to the provisions for adjustment as set out in the Financial Incentives Agreement.

"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 the CIP.

"Tax Assistance" means brownfield remediation tax assistance in the form of cancellation of all or some of the municipal portion of the Municipal Tax Increment in accordance with the terms of the Financial Incentives Agreement, this By-law and the CIP.

2. The City shall provide Tax Assistance for the Eligible Property subject to the provisions of this By-law, the Financial Incentives Agreement, and the applicable provisions of the CIP.
3. Tax Assistance shall commence on the date that the Municipal Tax Increment would have been payable, but for the cancellation of taxes 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 shall terminate upon the earlier of A or B below:
  - A. Either
    - (i) two years after the date that MPAC reassesses the Property to reflect the fully improved value of the developed Property; or,
    - (ii) three years after the date that MPAC reassesses the Property to reflect the fully improved value of the developed Property, if the Property is also receiving development grants.
  - B. The date that the Tax Assistance provided for the Property equals the sum of:
    - (i) the cost of any action taken to reduce the concentration of contaminants on, in or under the 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
    - (ii) the cost of complying with any certificate of property use issued under section 168.6 of the *Environmental Protection Act*.
4. The maximum Tax Assistance provided in any given year shall not exceed the Municipal Tax Increment for that year.
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. Tax Assistance shall be suspended and may be terminated if a default by the Owner has occurred pursuant to:
- A. this By-law;
  - B. applicable provisions of the CIP; or
  - C. the Financial Incentives Agreement;
- and any cure period provided thereunder has expired.
7. If Tax Assistance is to be suspended or terminated under section 6, the City may, at the City's option:
- A. provide the Owner with notice that the conditions under this By-law, the CIP, or the Financial Incentives Agreement, as applicable, have not been met and that the Tax Assistance is terminated and order the Owner to repay the property taxes that were subject to the Tax Assistance, with interest, in accordance with section 310 of the *City of Toronto Act, 2006*; or
  - B. provide the Owner with notice that Tax Assistance will be 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 7A of this By-law.

Enacted and passed on December 15, 2016.

Frances Nunziata,  
Speaker

Ulli S. Watkiss,  
City Clerk

(Seal of the City)

**SCHEDULE "A"**

Legal Description - 45/81 Bay Street

**FIRSTLY:****PIN 21396-0039 (LT)**

Part Block 6 Plan 655E Toronto Part 1, 64R-15016; together with CA441788; together with CA441790 partially released under AT2792988; together with an easement over Part of Lots 1 and 3 on Land Registrar's Compiled Plan 12164 designated as Parts 6, 12 and 25 on Plan 64R-14875 as in AT2792963; together with an easement over part Lot 3 on Land Registrar's Compiled Plan 12164 designated as Parts 7, 8, 9 and 10 on Plan 64R-14875 as in AT2792963; together with an easement over Part of Lot 4 on Land Registrar's Compiled Plan 12164 designated as Part 11 on Plan 64R-14875 as in AT2792963; together with an easement over Part Lot 11 on Land Registrar's Compiled Plan 12164 designated as Part 16 on Plan 63R-4759 save and except Part 35 on Plan 64R-16698 as in AT2792963; together with an easement over Part of Lot 19 on Land Registrar's Compiled Plan 12164 designated as Part 17 on Plan 63R-4759 save and except Part 55 on Plan 66R-18763 as in AT2792963, City of Toronto.

**SECONDLY:****PIN 21396-0088 (LT)**

Part of Lot 18 Plan 12164 designated as Parts 1 and 2 Plan 66R-24072; subject to an easement over Part 1 Plan 66R-24072, Partial Release of Part 1 Plan 66R-24072 as in AT2896809, in favour of Part Lot 18 Plan 12164 designated as Parts 2, 3 and 4, Plan 64R-17123 as in AT1985021; subject to an Easement over Parts 1 and 2 Plan 66R-24072 in favour of Part Lot 18 Plan 12164 designated as Parts 2, 3 and 4 Plan 64R-17123 as in AT1985021; together with an Easement over Parts 1 and 3 on Registrar's Compiled Plan 12164 designated as Parts 6, 12 and 25 on Plan 64R-14875 as in AT2792963; together with an Easement over Part Lot 3 on Registrar's Compiled Plan 12164 designated as Parts 7, 8, 9 and 10 on Plan 64R-14875 as in AT2792963; together with an easement over Part of Lot 4 on Registrar's Compiled Plan 12164 designated as Part 11 on Plan 64R-14875 as in AT2792963; together with an Easement over Part Lot 11 on Land Registrar's Compiled Plan 12164 designated as Part 16 on Plan 63R-4759 save and except Part 35 on Plan 64R-16698 as in AT2792963; together with an easement over Part of Lot 19 on Land Registrar's Compiled Plan 12164 designated as Part 17 on Plan 63R-4759 save and except Part 55 on Plan 66R-18763 as in AT2792963; City of Toronto.