

Approval to Initiate and Participate in 2011 Assessment Appeals

Date:	May 16, 2011
To:	Government Management Committee
From:	Treasurer
Wards:	All Wards
Reference Number:	P:\2011\Internal Services\rev\gm11007rev (AFS 12586)

SUMMARY

This report identifies properties where, as a result of staff review and analysis, the Director of Revenue Services has filed assessment appeals at the Assessment Review Board (ARB) and seeks authorization to proceed with those appeals. The appeals are intended to correct assessments that have been incorrectly classified, under-valued, or otherwise incorrectly returned on the assessment roll for 2011. In addition, staff are requesting authorization to actively participate in appeals initiated by other parties (e.g., a taxpayer, a property owner or the Municipal Property Assessment Corporation (MPAC)), in order to protect the City's tax base.

RECOMMENDATIONS

The Treasurer recommends that Council authorize:

1. City staff to proceed with the assessment appeals identified in Appendix A of this report;
2. City staff to participate in the assessment appeals initiated by other parties, as identified in Appendix B to this report, and approve the actions taken to-date by Revenue and Legal Services staff in respect of these appeals;
3. the Director of Revenue Services and/or his designee, in consultation with the City Solicitor, to take all steps necessary to deal with the appeals identified in this report including authority to withdraw appeals filed by the City or to end the

City's participation or to enter Minutes of Settlement or other settlement agreements on the City's behalf respecting any of the appeals; and,

4. the appropriate City officials to take the necessary action to give effect thereto.

Implementation Points

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 for each appeal on a case-by-case basis.

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 estimated to be \$12,225 (\$150.00 each for 67 non-residential assessment appeals, and \$75.00 each for 29 residential appeals).

There are no fees for the City's participation in appeals brought by other parties. However, by participating there could be costs 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 2011 Approved Operating Budget, Non-Program account entitled "Assessment Function."

Staff cannot estimate, at this time, the financial impact to the City of these appeals; however, we anticipate that the City's taxation revenue should increase as a result of the appeals initiated by the City.

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 - 19, 2005, in adopting Clause 4 of Policy and Finance Committee Report 5, "City Initiated Assessment Appeals under Section 40 of the *Assessment Act* for the 2005 Taxation Year," City Council delegated authority to the Treasurer or his 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 adopted Clause 3 of Policy and Finance Committee Report 1, "Criteria, Methodology and Costs of Examining Assessment Appeals and Participation in the Appeal Hearings" which proposed criteria to determine when the City would initiate appeals with the Assessment Review Board and when the City would actively participate in appeals filed by property owners, taxpayers or MPAC.

To view this report online please follow the hyperlink:

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060131/pof1rpt/c1003.pdf>

The recommendations put forward in this report have been guided by the criteria adopted by Council in 2006 .

ISSUE BACKGROUND

The City of Toronto's main revenue source is derived from property taxation. Given that property taxes are based on the assessment of properties located in the City, it is imperative that the City's assessment base be as up-to-date and accurate as possible.

Assessments that are too high are generally appealed by taxpayers, however, where an assessment is inaccurate in favour of the taxpayer, it is incumbent on the City to identify and appeal these in order to ensure overall fairness and equity in assessment and taxation.

The Revenue Services Division's Assessment Analysis Unit has been mandated to conduct a detailed analysis of the annual assessment roll and supplementary/omitted 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.

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 every appeal that is filed, since to do so would require significant financial resources and would duplicate the services of MPAC that are already paid for by the City. There are, however, cases where it is appropriate and prudent for the City to actively participate in other parties' appeals.

COMMENTS

Section 40 Appeals Initiated by the City of Toronto

Given the vast number of properties in the City (over 680,000), and the limited time and resources available to conduct a review of the full assessment roll, not all properties returned on the assessment roll for 2011 were reviewed. Instead, Revenue Services staff focussed on non-residential accounts where the sales history details indicated that the property was under-valued. Revenue Services staff also reviewed planning applications, zoning by-laws, and building permit data to identify properties that have changed but their values and/or classifications were not changed accordingly. Some of the properties that were appealed were incorrectly classified as residential on the assessment roll.

Further, Revenue Services staff conducted a comprehensive review of changes to the assessment roll for 2011 compared to the assessment roll for 2010. MPAC was asked to correct errors found by staff through supplementary/omitted assessments; where MPAC indicated that the errors identified could not be corrected via the supplementary/omitted assessment process, staff initiated third party appeals on behalf of the City under section 40 of the *Assessment Act*. Staff have appealed 96 properties on the following grounds:

- (i) Twenty-six (26) properties were incorrectly classified for taxes (e.g., properties that are rezoned may be subject to a change in tax classification);
- (ii) Twenty-five (25) properties were under-valued based on best information available to the City;
- (iii) Forty-five (45) properties were both under-valued and incorrectly classified.

Appeals Filed by Other Parties Requiring City 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 by a property owner, taxpayer or MPAC, as to do so would require significant resources and would duplicate MPAC's services that are already paid for by the City. However, there are cases when the City's participation in other parties' appeals is worthwhile in order to protect the City's tax base from unwarranted erosion and/or significant inaccuracies. If the third party appeal meets the criteria set out in the 2006 report entitled "Criteria, Methodology and Costs of Examining Assessment Appeals and Participation in the Appeals Hearings," then the City will consider participating.

Appendix B to this report lists four (4) assessment appeals initiated by the property owner/taxpayer where staff are recommending that Council provide authority to participate in the appeal proceeding given potential legal or precedent-setting implications associated with these four appeals, and to protect the City's tax base.

Among the properties listed in Appendix B are three (3) properties where the principle of valuation based on highest and best use is being challenged by the taxpayer. The taxpayers are arguing that the property should be valued based on current use. A finding against the City could result in lower assessments on these three properties, and the precedent set could have implications on other similar properties resulting in revenue losses to the City.

The fourth property listed in Appendix B is of concern since the taxpayer is attempting to appeal even though the deadline has expired. If the taxpayer is successful, the concern is that other taxpayers may attempt to do the same putting at risk the finality of the tax roll.

This report has been prepared in consultation with the City Solicitor's office.

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SIGNATURE

Giuliana Carbone
Treasurer

ATTACHMENTS

Appendix A – Appeals Initiated by the Treasurer

Appendix B – Appeals Initiated by Taxpayers in which the City will Fully Participate