

Approval to Initiate and Participate in Assessment Appeals

Date:	June 3, 2013
To:	Government Management Committee
From:	Treasurer
Wards:	All
Reference Number:	P:\2013\Internal Services\rev\gm13017rev (AFS16932)

SUMMARY

This report identifies those properties where, as a result of staff review and analysis, the Director of Revenue Services has initiated assessment appeals at the Assessment Review Board (ARB) and is now seeking authorization to proceed with those appeals. The appeals are intended to correct assessments that have been incorrectly classified, undervalued, or wrongly returned on the 2013 assessment roll. In addition, staff are requesting authorization to actively participate in various owner-initiated appeals in order to protect the City's interests.

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 on a case-by-case basis.

RECOMMENDATIONS

The Treasurer recommends that:

1. City Council authorize the Treasurer to proceed with the assessment appeals identified in Attachment 1 of this report.
2. City Council authorize the Treasurer to participate in the assessment appeals initiated by property owners, as identified in Attachment 2 to this report, and approve the actions taken to date by Revenue and Legal Services staff in respect to these appeals.

3. City Council authorize the Director of Revenue Services and/or his designate, in consultation with the City Solicitor, to take all steps appropriate to deal with all of the appeals identified in this report including authority to withdraw appeals filed by the City or to end the City's participation or to execute Minutes of Settlement or other settlement agreements.
4. City Council authorize the City Solicitor, based on consultation and instructions from the Director of Revenue Services and/or his designate, to take all steps appropriate to deal with all of the appeals identified in this report including authority to withdraw appeals filed by the City or to end the City's participation or to execute Minutes of Settlement or other settlement agreements.

Financial Impact

The fees paid to the Minister of Finance for filing appeals with the ARB, as listed in Attachment 1 of this report, is \$39,600 (\$150.00 each for 234 non-residential properties, and \$75.00 each for 60 residential/residential development properties).

There are no fees for the City's participation in appeals brought by the property owner. However, costs could be incurred in disputing these assessments 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 2013 Approved Operating Budget, Non-Program account entitled "Assessment Function".

Staff cannot estimate, at this time, the financial impact to the City of these appeals. Most often assessment appeals are resolved many years after they are initiated. However, based on experience to date, for those City initiated assessment appeals where the City has been successful in obtaining an increase in assessed value or correcting the tax classification of the property, the changes in assessment have yielded increases in the municipal portion of property taxes, on average, of between 30 and 50 per cent.

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, 2005, in considering Clause No. 4 of Report No. 5 of the Policy and Finance Committee, "City Initiated Assessment Appeals under Section 40 of the *Assessment Act* for the 2005 Taxation Year," City Council delegated authority to the Treasurer (or a 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 link below:

<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 Policy and Finance Committee Report 1, Clause 3, "Criteria, Methodology and Costs of Examining

Assessment Appeals and Participation in the Appeal Hearings” which proposed criteria in order to determine when the City would initiate appeals before the Assessment Review Board and when the City would actively participate in appeals filed by taxpayers. The recommendations put forward in this report have been guided by the criteria approved by City Council in 2006.

To view this report online please follow the link below:

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060131/pof1rpt/cl003.pdf>

ISSUE BACKGROUND

The Revenue Services Division’s Assessment Analysis Unit conducts 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.

Where staff detects issues and/or errors, these are identified to the Municipal Property Assessment Corporation (MPAC) to determine whether they can initiate corrections based on their legislative authority. Where MPAC indicates that they cannot correct errors, Revenue Services staff may initiate third party appeals on behalf of the City under section 40 of the *Assessment Act* to protect the City's interests.

It is necessary to distinguish between those cases where staff initiate an assessment appeal to correct an error (i.e., with the City as the appellant), and those cases where the City intends to participate as a full party to owner-filed appeals. 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 each and every appeal that is filed, since to do so would require significant financial resources and would duplicate the activities of MPAC, for which the City already pays. There are, however, certain situations where it is appropriate and prudent for the City to take an active role in an appeal in order to support the position taken by MPAC and in order to protect the City's revenues.

COMMENTS

Section 40 Assessment Appeals Initiated by the City of Toronto

In the fall of 2012, MPAC mailed a Property Assessment Notice to every property owner in Ontario. The 2012 Notices provided the classification and updated assessed value for properties in Ontario based on a legislated valuation date of January 1, 2012. The last province-wide assessment update took place in 2008.

To provide a level of property tax stability and predictability, market increases in assessed value between the January 1, 2008 and January 1, 2012 valuation dates will be phased in over a four year cycle (2013-2016). The phased-in values for each property are

indicated on the Property Assessment Notice. The phase-in program does not apply to decreases in assessed value, which are applied immediately.

Given the vast number of properties in the City (over 720,000), and the limited time and resources available to conduct a review of the full assessment roll, not all properties returned on the 2013 assessment roll were reviewed. Instead, Revenue Services staff focused their efforts primarily on non-residential properties where the sales history indicates that the property was under-valued on the 2013 assessment roll. Staff also focussed their efforts on reviewing planning applications, zoning by-laws, and building permit data to identify properties that have changed, but the assessment value and/or classification has not been revised appropriately. Accordingly, certain properties were selected to be appealed. Although some of the selected properties are classified residential, these properties were appealed to correct their classification and/or assessment because their use has, or will, change to a class that is not residential.

Revenue Services staff also complete a year-over-year assessment analysis. This analysis is a comprehensive review of changes that occurred on the assessment roll compared to the previous year's assessment roll. Where staff identify issues/errors, a request is made to MPAC to make corrections via supplementary/omitted assessments. If MPAC indicates that a supplementary/omitted assessment cannot be issued, staff may initiate an appeal under section 40 seeking a higher assessment. Prior to finalizing their determination as to whether the City should launch an assessment appeal, Revenue Services staff consider each property according to the criteria approved by City Council in 2006 (re: Policy and Finance Committee Report 1, Clause 3, "Criteria, Methodology and Costs of Examining Assessment Appeals and Participation in the Appeals Hearings"). Attachment 3 summarizes the criteria previously approved by Council.

As noted above, this year is the first year of a new four-year assessment cycle. Revenue Services and Legal Services have worked hard to identify those properties where they suspected that the assessment values and/or the classification of the property is incorrect. Accordingly, the number of appeals is higher than in 2012. Revenue Services staff expect the number of new appeals to decline in subsequent years during the four-year cycle.

In total, 294 appeals under section 40 of the *Assessment Act* have been initiated as noted in Attachment 1. The following summarizes the basis for the appeals:

- (i) Ninety three (93) properties were identified with incorrect tax classifications (e.g., properties that are rezoned and therefore subject to a change in tax classification);
- (ii) One hundred and forty three (143) properties were identified as under-valued;
- (iii) Fifty eight (58) properties were identified as being both under-valued and incorrectly classified;

The column in Attachment 1 entitled “Reason to Appeal” is based on the staff’s preliminary review. Often, during the preparation of the City’s formal Statement of Issues, other errors or omissions are detected which are also raised in the pleadings prepared by the City.

Appeals Filed by the Owners 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, as to do so would require significant resources and would duplicate the activities of MPAC, a service the City already pays for. In determining whether the City should participate in the various appeals launched by taxpayers, staff followed the criteria approved by City Council in 2006 (re: Policy and Finance Committee Report 1, Clause 3, "Criteria, Methodology and Costs of Examining Assessment Appeals and Participation in the Appeals Hearings").

Attachment 2 to this report lists seventeen (17) property owner's appeals where it is recommended that the City participate. Staff are requesting Council authority to participate in the appeals due to the potential loss in revenue, and the possible precedent setting implications of these appeals.

CONTACT

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SIGNATURE

Giuliana Carbone
Treasurer

ATTACHMENTS

Attachment 1 – Appeals Initiated by the Treasurer
Attachment 2 – City Participation in Taxpayer-Initiated Appeals
Attachment 3 – Summary of Criteria Approved by City Council in 2006