

550 Bayview Avenue – Designation of the premises used by Evergreen as a Municipal Capital Facility

Date:	August 22, 2013
To:	Government Management Committee
From:	Treasurer General Manager, Economic Development and Culture
Wards:	Ward 29 - Toronto-Danforth
Reference Number:	P:\2013\Internal Services\rev\gm13023rev (AFS18016)

SUMMARY

This report seeks Council authority to adopt the necessary by-laws to designate certain portions of the leased premises at 550 Bayview Avenue (the Brickworks site) that are being used by Evergreen as Municipal Capital Facilities to provide a property tax exemption for municipal and education purposes.

RECOMMENDATIONS

The Treasurer and General Manager, Economic Development and Culture recommend:

1. Council pass a by-law pursuant to section 252 of the *City of Toronto Act, 2006*, providing authority to:
 - (i) enter into a municipal capital facility agreement with Evergreen, with whom the City has an agreement to develop and manage the Brickworks Project, on portions of the leased premises at 550 Bayview Avenue; and,
 - (ii) exempt the portions of 550 Bayview Avenue identified in Attachment 1 from property taxation for municipal and school purposes, which tax exemption is to be effective from the latter of (a) the date the municipal capital facility agreement is signed, and (b) the date the tax exemption by-law is enacted.

2. The City Clerk be directed to give written notice of the by-law to the Minister of Education, the Municipal Property Assessment Corporation, the Toronto District School Board, the Toronto Catholic District School Board, the Conseil Scolaire de District du Centre-Sud-Ouest, and the Conseil Scolaire de District du Catholique Centre-Sud.
3. Council pass a resolution that the above municipal capital facility is for the purposes of the City and is for public use.
4. Council authorize a grant to Evergreen in the amount of the \$156,995, funded from the Non-Program Tax Deficiency account, being the amount of municipal taxes paid by Evergreen for the portions of the property at 550 Bayview Avenue being used by Evergreen for community purposes, and arising from the recent property tax bills issued as a result of Omitted Assessments for the years 2010, 2011, and 2012, and the Assessment for the year 2013, and deem such grant to Evergreen to be in the interests of the City.
5. Authority be granted for the introduction of the necessary bills to give effect thereto.
6. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Financial Impact

The Evergreen Brickworks project was substantially completed in the fall of 2010. In May 2013, Evergreen received Omitted Assessments from the Municipal Property Assessment Corporation (MPAC) for taxation years 2010, 2011, and 2012, together with the Assessment for 2013. These notices of assessment established the tax class for the portions of the property used by Evergreen as being in the residential tax class, the portions used by tenants of Evergreen as being in the commercial class, and the portions used by the City's Parks, Forestry and Recreation Division and by the School Board as being in the exempt tax class. The quarry lands, as parkland, continue to remain exempt. Prior to Evergreen's occupancy, the entire property was exempted from property taxes.

The portions of the property sub-leased for the exclusive use of tenants, other than the City or School Boards, is not eligible for tax exemption as a municipal capital facility. If the tenant is a registered charity, the tenant may apply to the City for a 40% tax rebate under the statutory Tax Rebate Program for Registered Charities.

Most of the other portions of the property leased to Evergreen are being used by Evergreen primarily as community space for local community activities (approximately 88% of the space), and for parking ancillary to these purposes. As such, these portions of the property are eligible to be declared municipal capital facilities and thereby exempted from taxation. The space used by Evergreen as office space is not eligible for municipal capital facility designation (approximately 12% of the space). The annual taxes on these

premises, based on its 2013 assessment, are \$58,970 for municipal purposes and \$23,422 for education purposes, as shown in Table 1.

Designating certain portions of the premises at 550 Bayview Avenue that are being used by Evergreen for community uses as municipal capital facilities to provide for a property tax exemption for municipal and school purposes will result in an estimated loss of annual taxation revenue to the City of approximately \$51,900 based on proportionate space (88% of the residential taxable space), and to the Province of approximately \$20,600.

Table 1 below summarizes the current assessment of the property and applicable taxes, excluding the property tax exemption being recommended in this report.

Table 1 - 2013 Assessment as Returned for 550 Bayview Avenue

Occupied / Used by:	Current Assessment Value (CVA) (\$)	Property Tax Class	2013 Taxes		
			City (\$)	Education (\$)	Total (\$)
Evergreen Brickworks*	11,048,000*	Residential	\$58,970*	\$23,422*	\$82,392*
Tenants (Commercial and NPO's)	2,406,000	Commercial	\$38,287	\$30,316	\$68,603
Conservation Lands, PF&R space, and School Board spaces	1,718,000	Exempt	-	-	-
Total	15,172,000		\$97,258	\$53,737	\$150,995

*approximately 88% of the residential space is recommended for tax exemption

Given that a tax exemption under municipal capital facilities cannot be made retroactive, and given that in July 2006 Council directed staff to consider declaring eligible leased portions as municipal capital facilities and exempting such portions from taxation, this report also recommends making a one-time grant to Evergreen in the amount of \$156,995, being equivalent to the municipal taxes paid on the Omitted Assessments for 2010 to 2012 and the portion of taxes for 2013 prior to the enactment of the municipal capital facilities by-law for the portions of the property that would otherwise have been exempted as municipal capital facilities, to be funded from the Non-Program Tax Deficiency Account. Evergreen will not be reimbursed for the retroactive portion of the education taxes.

DECISION HISTORY

In 2003, the City issued a Request for Proposal (RFP) seeking proponents to raise the capital necessary for the restoration and adaptive re-use of the heritage structures at the Don Valley Brick Works to create a centre for environmental learning and urban ecology. Evergreen, a national registered charity, responded to the RFP, and by 2006, the necessary master plan and agreements between the City, Toronto Regional Conservation

Authority (TRCA) and Evergreen were entered into for the redevelopment of the site into a centre for environmental learning and urban ecology.

At its meeting held on July 25 to 27, 2006, City Council granted authority to enter into a Lease for part of 550 Bayview Avenue to Evergreen and requested the Deputy City Manager and Chief Financial Officer, in consultation with the City Solicitor and the General Manager of Economic Development Culture and Tourism, "to consider the feasibility of declaring the Leased Premises or any part(s) thereof, a municipal capital facility and exempting it or such part(s) from taxation for municipal and school purposes and from development charges". That report can be viewed at:

<http://www.toronto.ca/legdocs/2006/agendas/committees/adm/adm060704/it031.pdf>

COMMENTS

With respect to development charges, at the time of Evergreen's building permit application (2008), no development charges were payable under the City's Development Charges By-Law (By-Law 547-2004). Evergreen was required to pay Education Development charges amounting to \$19,235, and there is no exception to this requirement.

With respect to potential property tax liability, the entire site is owned by the Toronto and Region Conservation Authority. The City manages the site under a long term management agreement. Under this arrangement, the entire property had historically been exempted from property taxes. Given the uniqueness of the site and of the development proposal, wherein Evergreen would become a tenant of the industrial pad while the City remained manager of the remainder of the site primarily consisting of the Weston Quarry, it was not clear at that time how MPAC would ultimately assess the property under this sublease arrangement between the City and Evergreen.

In May 2013, MPAC issued Omitted and Supplementary Assessments for the property dating back to 2010. The portions of the property used by Evergreen were assessed under the residential tax class with a value of \$11,048,000 (2013), and the portions tenanted by not-for-profit and other organizations were assessed under the commercial tax class with a value of \$2,406,000 (2013). The property taxes payable on the residential portion, being that used by Evergreen, are \$58,970 for municipal purposes and \$23,422 for education purposes (2013). The property taxes liable on the commercial portion, being that used by sub-tenants, are \$38,287 for municipal purposes and \$30,316 for education purposes (2013). Evergreen have paid the taxes arising from the Omitted Assessments in full and their property taxes for 2013 is in good standing.

Those tenants that are registered charities occupying commercial space can apply to the City's Property Tax Rebate Program for a 40% rebate in taxes. However, the residential portion being used by Evergreen is not eligible under the Property Tax Rebate Program as legislation does not extend such relief to the residential property class. Legislation does not extend the rebate to the residential class because prior to the introduction of CVA in 1998, charities were taxed at the residential class regardless of the property type they occupied, and the 40% rebate was intended to continue this tax treatment so that

charities in spaces now classified as commercial or industrial under CVA continue to pay taxes at a level closer to the residential level, so that all charities are treated in a similar manner.

Table 2 shows the tax liability related to the portions of the property used by Evergreen, and classified as residential by MPAC. The recommended grant amount based on 88% of the space being eligible for municipal capital facilities is shown in the right column, totalling \$156,995 for 2010-2013.

**Table 2
Property Taxes - Residential Portion Attributable to Evergreen Uses**

Year	Residential Assessment	Effective Date	Municipal Tax	Education Tax	Total Tax	Recommended Grant (88% of space, municipal taxes only)
2010 Omitted Assessment	4,531,369	11/1/10	4,465	1,825	6,290	
	2,328,661	1/1/10	13,729	5,612	19,341	
	6,860,030		18,194	7,437	25,631	16,011
2011 Omitted Assessment	7,199,015	1/1/11	40,453	16,630	57,083	35,598
2012 Omitted Assessment	11,048,000	1/1/12	60,786	24,416	85,202	53,492
2013 Assessment	11,048,000		58,970	23,422	82,392	51,894
2010-2013			178,403	71,905	250,308	156,995

Section 252 of the *City of Toronto Act, 2006* allows the City to enter into agreements for the provision of municipal capital facilities, which may provide for an exemption from taxation for municipal and school purposes, land or a portion of land on which municipal capital facilities are or will be located. Ontario Regulation 598/06 prescribes various classes of municipal capital facilities for which such tax exemptions may be granted. These classes include community centres, provided that the facilities are primarily used for local community activities and Council declares by resolution that the facilities are for the purposes of the City and are for a public use. Parking facilities ancillary to community centres are also eligible as municipal capital facilities.

Certain portions of the Brickworks do meet the criteria of a "community centre" used primarily for local community activities, including parts which are primarily used as community space and for community programming together with common areas related to that space, including the surface parking pad area, but not parts such as any office space, including that occupied by Evergreen, and any retail space.

Accordingly, this report recommends that Council authorize a municipal capital facility designation, and a property tax exemption for municipal and school purposes, for the portions of the premises used by Evergreen as a community centre, as identified in Attachment 1 to this report. Given that in 2006 Council indicated its intent of providing a

tax exemption for this property, and because municipal capital facilities designation cannot be made retroactive, this report recommends making a grant to Evergreen equivalent to the municipal taxes paid on the eligible spaces, funded from the Non-Program Tax Deficiency account.

In order to make these portions exempt from taxes, Council must authorize the entering into of a municipal capital facility agreement between the City and Evergreen. The City Clerk must also give written notice of the by-law to the Minister of Education and Training. To facilitate the tax exemption, the City Clerk must also provide a written notice of the contents of the by-law to the Municipal Property Assessment Corporation and the Secretary(s) of the School Board(s).

CONTACT

Adir Gupta, Manager, Financial Policy
Corporate Finance
416-392-8071, agupta@toronto.ca

Terry Nicholson, Acting Director
Cultural Services, Economic
Development and Culture
416- 392-4166, tnichols@toronto.ca

SIGNATURE

Giuliana Carbone
Treasurer

Michael H. Williams
General Manager, Economic
Development and Culture

ATTACHMENTS

- Attachment 1 - Premises used By Evergreen to be declared as Exempt as Municipal Capital Facilities
- Attachment 2 – Evergreen Brickworks Site Plan

Attachment 1
Premises used By Evergreen to be declared as Exempt
as Municipal Capital Facilities

Building Number	Floor Number	Location	Tenat/Use	Net Usable Area	TaxClass
Building 1	Ground Floor	Vestibule	Common	329	RT
Building 1		Washrooms	Common	768	RT
Building 1		Hallways	Common	837	RT
Building 1		Studio 2	Evergreen	700	RT
Building 1		Handicap Washroom	Common	73	RT
Building 1	2nd Floor	Hallways 2nd	Common	614	RT
Building 1		Utility	Common	169	RT
Building 1		Studio 4	Evergreen	1,287	RT
Building 1		Event Space	Evergreen	1,467	RT
			Total Building 1	6,244	
Building 12	Ground Floor	Welcome Centre	Evergreen	4,998	RT
Building 12		Atrium	Evergreen	2,851	RT
Building 12		Classroom 114	Evergreen	791	RT
Building 12		Classroom 119	Evergreen	412	RT
Building 12		Mud Room	Evergreen	398	RT
Building 12		Shared Kitchen/Kitchen 2	Evergreen	1,228	RT
Building 12		Washrooms	Common	690	RT
Building 12		Storage	Common	226	RT
Building 12		Mechanical	Common	115	RT
Building 12	2nd Floor	204	Evergreen	530	RT
Building 12		205	Evergreen	500	RT
Building 12		206	Evergreen	700	RT
Building 12		207	Evergreen	1,100	RT
Building 12		211&212	Common	570	RT
Building 12		Washrooms	Common	422	RT
Building 12		Hallway	Common	1,068	RT
Building 12		Mechanical	Common	347	RT
Building 12		Washrooms	Common	422	RT
Building 12		Hallways	Common	768	RT
Building 12		Mechanical	Common	2,160	RT
Building 12	4th Floor	Washrooms	Common	422	RT
		Hallway	Common	1,014	RT
Building 12	5th Floor	Washrooms	Common	422	RT
		Hallways	Common	768	RT
		Mechanical	Common	2,160	RT
			Total Building 12	25,082	
Building 14	Ground Floor	102	Common	2,357	RT
Building 14		Indoor Market	Evergreen	1,787	RT
			Total Building 14	4,144	

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Building Number	Floor Number	Location	Tenat/Use	Net Usable Area	TaxClass
Building 3		Electrical	Common	473	RT
Building 4		Storage	Evergreen	3,240	RT
Building 5		Storage, Back of House for Pavillion Users	Evergreen	1,816	RT
Building 6		Market Pavillions	Evergreen	27,481	RT
Building 7					
Building 8					
Building 9		Storage and housing of designated heritage artifacts	Evergreen	26,970	RT
Building 10					
Building 11					
Building 10b		Bike Works - DIY bike repairs	Evergreen	1,625	RT
Building 15		Koener Gardens and Ice Rink	Evergreen	22,402	RT
Building 16		Kiln Building, Holcim Gallery	Evergreen	52,744	RT
Surface Parking Area		Exterior Pad	Common		RT
Not Eligible:					
Building 12	3rd Floor	300	Evergreen Office	8,804	RT

See map on next page

Attachment 2 – Evergreen Brickworks Site Map

