



**STAFF REPORT  
ACTION REQUIRED  
with Confidential Attachment**

**Unpaid Property Taxes at 3500 Eglinton Avenue West**

<b>Date:</b>	February 7, 2014
<b>To:</b>	Government Management Committee
<b>From:</b>	Treasurer and City Solicitor
<b>Wards:</b>	Ward 12: York – South Weston
<b>Reason for Confidential Information:</b>	This report contains advice or communications that are subject to solicitor-client privilege. This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions.
<b>Reference Number:</b>	P:\2014\Internal Services\rev\gm14004rev (AFS18946)

**SUMMARY**

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The purpose of this report is to advise Council of property tax arrears which are outstanding at 3500 Eglinton Avenue West, and to seek Council's approval for a plan to attempt to collect the unpaid amount.

**RECOMMENDATIONS**

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**The Treasurer and City Solicitor recommend that:**

1. Council adopt the confidential instructions to staff in Attachment 1.
2. City Council direct that Confidential Attachment 1 remain confidential as it contains advice and information that is subject to solicitor-client privilege and pertains to litigation or potential litigation. City Council authorize the public release of all or a portion of the confidential instructions once adopted by City Council at the discretion of the City Solicitor.

## **Financial Impact**

The financial impacts resulting from the recommendations made in this report are disclosed in the Confidential Attachment.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information disclosed in the Confidential Attachment.

## **DECISION HISTORY**

At its meeting of June 19 - 22, 2007, in considering Item GM5.14: *Approval to Initiate and Participate in Assessment Appeals*, City Council authorized staff to proceed with property assessment appeals for the 2007 taxation year on a number of properties, including 3500 Eglinton Avenue West. The link to this item is available at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2007.GM5.14>

The City's decision to appeal the 2007 taxation year results in an automatic appeal of the 2008 taxation year as well pursuant to s. 40(24) of the *Assessment Act*, 1990.

## **ISSUE BACKGROUND**

The property at 3500 Eglinton Avenue West is a 51.79 acre site previously owned by Kodak Canada Inc. and used for Kodak's film manufacturing operations. Kodak sold the site on July 31, 2006 to Zeehan Capital Inc for \$19.5 million.

For the 2007 and 2008 taxation years, the property was assessed by the Municipal Property Assessment Corporation (MPAC) for property taxation purposes with a Current Value Assessment (CVA) of \$11.5 million, and a property tax classification of 'Industrial Vacant Land'.

Following a review of the assessment of this property for the 2007 taxation year, staff of Revenue Services' Assessment Review and Analysis Unit determined that the CVA returned by MPAC for the 2007 taxation year of \$11.5 million was too low, especially when compared to the July 2006 sale of the property for \$19.5 million. Accordingly, City staff sought and received Council approval in June 2007 to appeal to seek an increase in the CVA of the property to the Assessment Review Board.

The City's appeal came before the Assessment Review Board (ARB) on July 17, 2013 (six [6] years after the original appeal was initiated). The ARB decision in the matter increased the CVA of the property for 2007 and 2008 to \$19.5 million. The increase in the CVA directly and retroactively increased the property taxes for the 2007 and 2008 taxation years. It also increased the property taxes for the 2009 to 2013 taxation years due to changes in the assessment phase-in calculations.

## COMMENTS

The ARB assessment appeal decision processed late in 2013 increased the outstanding taxes on this property tax account by \$1,087,544.17 from \$11.06 to \$1,087,555.23. At the time of the ARB decision in July of 2013, there was only a small outstanding balance of \$11.06 on this account – all earlier year taxes had been paid, presumably by Zeehan Capital Inc. The ARB decision resulted in additional taxes being added for all years from 2007 to 2013. Table 1 below provides details of the outstanding taxes, accrued interest, and the breakdown between the municipal and education portions of the taxes owed.

**Table 1: 3500 Eglinton Avenue West - Property Tax Balance as at January 9, 2014**

Year	Adjusted Phased-In CVA <sup>1</sup>	City Portion			Education Portion	Total Tax Balance
		Taxes	Interest	Total		
2007	19,500,000	97,367.33	5,112.06	102,479.39	107,115.17	209,594.56
2008	19,500,000	107,630.31	5,356.68	112,986.99	106,636.88	219,623.87
2009	20,467,000	110,897.57	5,174.94	116,072.51	96,099.79	212,172.30
2010	21,434,000	90,236.00	4,187.58	94,423.58	77,266.93	171,690.51
2011	22,401,000	67,432.20	3,135.88	70,568.08	58,002.66	128,570.74
2012 <sup>2</sup>	23,368,000	50,370.22	2,308.94	52,679.16	41,987.75	94,666.91
2013 <sup>2</sup>	23,543,250	27,262.84	1,250.05	28,512.89	22,723.45	51,236.34
<b>Total</b>		<b>\$551,196.47</b>	<b>\$26,526.13</b>	<b>\$577,722.60</b>	<b>\$509,832.63</b>	<b>\$1,087,555.23</b>

1. From 2007 to present, the property tax classification is Industrial Vacant Land
2. Metrolinx is seeking to have the property classified as either exempt from taxation or subject to a payment in lieu of taxes from the date of Metrolinx's ownership in 2012, as well as for 2013 and forward.

The property was owned by Zeehan Capital Inc. for the years under appeal (2007 and 2008), as well as for subsequent years until early in 2012 when the property was sold to Metrolinx. The property was purchased by Metrolinx on January 25, 2012, to be used as a railyard/construction staging grounds for the Eglinton Crosstown rapid transit line. Metrolinx's legal counsel have indicated that the property, given Metrolinx's ownership as a government agency, should be either fully exempt from property taxation or subject to a payment in lieu of taxes from the date of the transfer to Metrolinx.

Normally, the City's ability to collect unpaid taxes is unaffected by changes in the ownership of a property. Property taxes are a special lien on the land, pursuant to the *City of Toronto Act*, and the City is entitled to seek to recover the taxes from *either* the taxpayer originally assessed for them (which is Zeehan Capital Inc.), or from a subsequent or current owner (in this case, Metrolinx).

Additional information and confidential recommendations are contained in Attachment 1 to this report.

## **CONTACT**

Casey Brendon  
Director, Revenue Services  
E-mail: [cbrendo@toronto.ca](mailto:cbrendo@toronto.ca)  
Phone: (416) 392-8065  
Fax: (416) 696-3778

Christopher J. Henderson  
Lawyer, Legal Services  
E-mail: [chender3@toronto.ca](mailto:chender3@toronto.ca)  
Phone: (416) 397-7106  
Fax: (416) 392-1199

## **SIGNATURE**

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Giuliana Carbone  
Treasurer

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Anna Kinastowski  
City Solicitor

## **ATTACHMENTS**

1. Confidential Information: Unpaid Property Taxes at 3500 Eglinton Avenue West