Re: 18.3

Four Appeals Regarding the Disallowance of Requests for Refund Concerning Third Party Sign Taxes Paid for Sign I.D. No. 19-059 (2 Strachan Avenue)

Presentation to the Government Management Committee

February 21, 2017

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The Refund Process

- The Sign Tax By-law provides that a Sign Owner who has paid taxes that s/he believes are not payable may apply to the CBO for a refund within 24 months of payment;

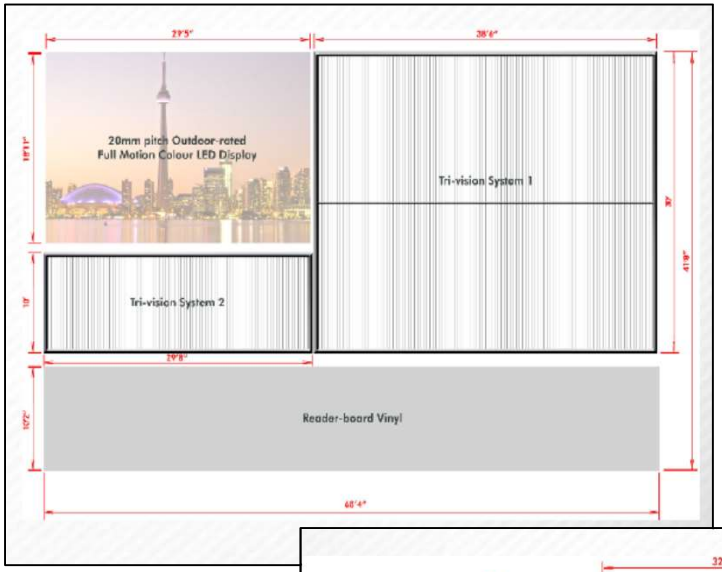
- Where the CBO refuses the refund request, the Sign Owner may object to the CBO's disallowance of the refund, and require the CBO to reconsider the disallowance;

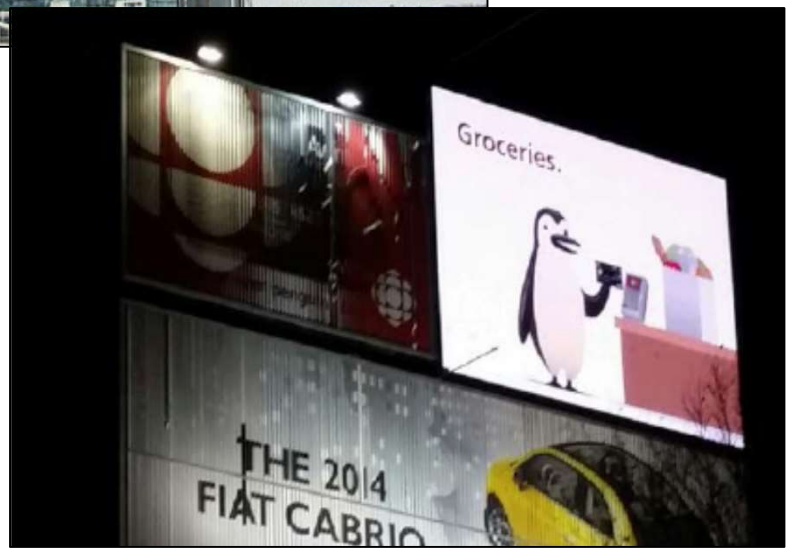
- The Sign Owner may then appeal the CBO's refusal to City Council through the Government Management Committee ("GMC").

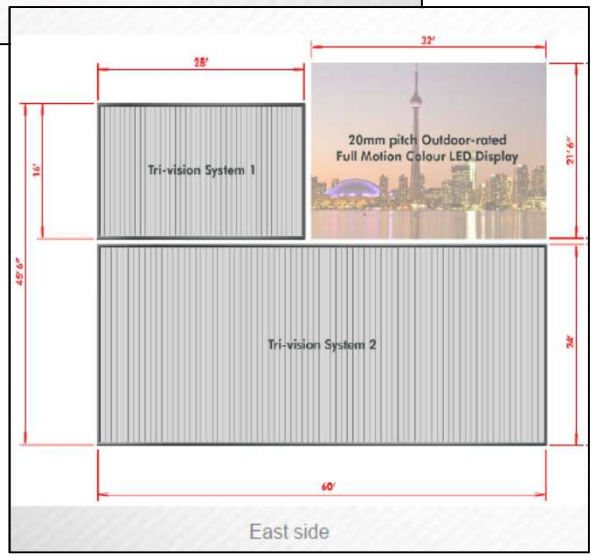
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The Sign Subject to This Appeal









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Background – Relevant Facts

- Clarity operated the Sign subject to a revenue sharing agreement (the "Agreement") with the Ex Place Board of Governors (the “Board”) in the relevant taxation years (2011-2014);
- The term of the Agreement is 15 years; however, Clarity assigned its interest and ceased operating the Sign in mid-2014;
- The Board's decision to enter into the Agreement received Council approval in August of 2010;
- Clarity was assessed for the payment of sign tax for each of the years in question; it is not disputed that Clarity was the Sign Owner in these years;
- Until recently, Clarity did not pay the Sign Tax assessed;

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Background – Relevant Facts (cont'd)

- Clarity recently paid the principal amounts of the Sign Tax assessed but claims a refund arguing that the exemption in s. 771-8.K applies;

- S. 771-8.K reads as follows:

> No tax is payable by an owner who is one of the following persons or entities:
>
> > K. During the term of a revenue sharing agreement with the City of Toronto, an Owner who has entered into a revenue sharing agreement with the City of Toronto

- Clarity argues that s. 771-8.K must be read to give effect to the law of agency such that it applies to revenue sharing agreements with city boards which are agents of the City under COTA

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The CBO's Position

- Separate Legal Entities
- The Relevant Legal Question in Issue
- The Right to Differentiate – s. 10 of COTA
- Purposive Approach to Interpretation of By-laws
  - The Intention Behind the Exemption; and
  - The Wording in the Sign Tax By-law

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Questions?

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