



**REPORT FOR ACTION WITH  
CONFIDENTIAL ATTACHMENT**

**Assessment Act Appeals at the West Don Lands**

**Date:** September 11, 2017  
**To:** Government Management Committee  
**From:** City Solicitor and Treasurer  
**Wards:** Ward 28 - Toronto Centre-Rosedale

**REASON FOR CONFIDENTIAL INFORMATION**

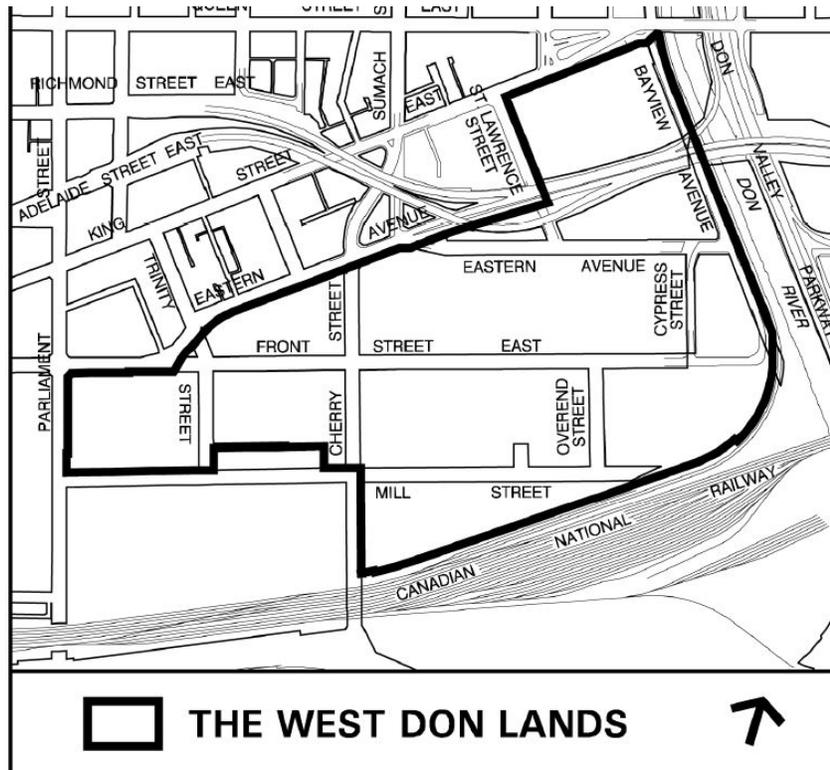
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This report is about litigation that affects the City, and contains advice that is subject to solicitor-client privilege.

**SUMMARY**

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This report relates to appeals commenced pursuant to the Assessment Act for various parcels of property located in the West Don Lands area of the City to determine the valuation and classification of these properties for property tax and payment in lieu of tax ("PILTS") purposes.



## **RECOMMENDATIONS**

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The City Solicitor and Treasurer recommend that:

1. City Council adopt the confidential instructions to staff in Confidential Attachment 1.
2. City Council direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it is about litigation that affects the City and contains advice which is subject to solicitor-client privilege.

## **FINANCIAL IMPACT**

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The Financial Impact of the recommendations from the City Solicitor and City Treasurer is contained in the Confidential Attachment.

The Deputy City Manager & Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

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### Creation and Subsequent Cancellation of the Joint City / Provincial Ataritiri Project

On July 12, 1988, former Toronto City Council adopted a report from the then Commissioners of Property, Housing, Planning and Development, and Finance, to initiate a joint municipal-provincial housing project located in the West Don Lands area of the City to be named St. Lawrence Square, later renamed Ataritiri.

Ataritiri contemplated that the former City of Toronto would expropriate these lands, with certain financial assistance and loan guarantees from the province, and re-develop the lands for affordable housing.

On August 30, 1991, former Toronto City Council adopted a report from the then-Acting Commissioner of Housing dated August 13, 1991 to the Executive Committee, which recommended that the City attempt to re-negotiate Ataritiri with the province to attempt to eliminate the financial risk to the City in continuing with the project. This report identified that the then prevailing recession, downturn in the housing market, and rising interest rates had adversely affected the financial viability of Ataritiri.

On May 4, 1992, former Toronto City Council adopted a report from the then-City Solicitor and Acting Commissioner of Housing dated May 1, 1992 which recommended that the City cancel Ataritiri.

On December 22, 1995, the province advised the former City of Toronto that it intended to take ownership of the Ataritiri lands. In exchange, the province provided funds to

repay the City for costs it incurred to expropriate and otherwise acquire the properties to that date.

#### West Don Lands Re-Development Subsequent to Cancellation of Ataritiri

On May 17, 2005, Toronto City Council adopted, with amendments, a report from the City Manager to the Policy and Finance Committee which recommended a new precinct plan and master environmental assessment (EA) to re-develop the West Don Lands. A copy of this report, as amended, is located here:

<http://www.toronto.ca/legdocs/2005/agendas/council/cc050517/pof5rpt/cl001.pdf>

On June 27, 2006, Toronto City Council adopted a report from the Chief Planner to the Planning and Transportation Committee which recommended that the City lift a zoning 'hold' which had been imposed on "phase 1" of the West Don Lands (generally towards the east of the area) to permit development to proceed in that area. A copy of this report is located here:

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060627/plt4rpt/cl002.pdf>

#### City's Decision to Participate in the Assessment Act Appeals

On March 5, 2007, Toronto City Council adopted a report from the City Treasurer to General Government Committee which recommended that the City participate in the assessment appeals of the West Don Lands. A copy of this report is located here:

<http://www.toronto.ca/legdocs/mmis/2007/gg/bgrd/backgroundfile-1492.pdf>

On August 25, 2010, Toronto City Council adopted a report from the Director of Community Planning to the Toronto / East York Community Council which recommended that the City lift a zoning 'hold' which had been imposed on "phase 2" of the West Don Lands (generally towards the centre of the area) to permit development to proceed in that area.

By this point, the West Don Lands had been identified as the proposed site for the 2015 Pan Am Games Athletes Village. A copy of this report is located here:

<http://www.toronto.ca/legdocs/mmis/2010/te/bgrd/backgroundfile-33146.pdf>

## **COMMENTS**

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The West Don Lands appeals relate to approximately 66 distinct properties with a total area of approximately 62 acres which have been appealed from 1998 to present.

Prior to approximately 2008, the West Don Lands properties were occupied by a variety of tenants and used for numerous different uses, such as film studios, salvage yards, car dealerships and non-profit community groups. Some of the properties were vacant.

Where the properties have been occupied by private tenants, they are subject to property taxation. Where unoccupied or occupied by the province or a provincial agency, the province may make a PILT to the City.

The Assessment Act provides a process whereby any property owner can raise issues regarding whether their property has been appropriately classified and valued by the Municipal Property Assessment Corporation ("MPAC"). The dispute can ultimately be adjudicated by the Assessment Review Board.

MPAC is solely responsible to respond to the vast majority of Assessment Act proceedings commenced by property owners in the City of Toronto. In this case, City Council accepted the recommendation of the City Treasurer to the General Government Committee (now Government Management Committee) on March 5, 2007 that the City also participate in these proceedings.

Where the City participates in Assessment Act proceedings, financial analysts from Revenue Services work with lawyers from the City in Legal Services to determine and advocate for the correct classification and 'current values' of properties which are under appeal.

'Current value' is determined in accordance with principles of property appraisal, and the statutory definition of current value; generally speaking, the amount of money the land, if unencumbered, would realize if sold at arm's length by a willing seller to a willing buyer. The vast majority of appeals are resolved by way of settlement based on a review of relevant documents produced between the parties, the application of professional appraisal knowledge and experience, and an analysis of the strength and weaknesses of the parties' positions.

In this case, the province's position is that the current value of the West Don Lands properties has been adversely affected by soil contamination relating to the former industrial uses in the area, and flood risk and related need to build flood mitigation measures. The West Don Lands, amongst other lands, have been identified as a "special policy area" by the Toronto Region Conservation Authority due to flood risk.

The province also alleges that MPACs classification of the properties for various years is incorrect.

The Waterfront Secretariat and City Planning have been consulted leading up to the preparation of this report and the recommendations contained in Confidential Attachment 1.

## **CONTACT**

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For further information, please contact:

Carmela Romano  
Manager, Property Taxation  
Tel: 416-392-8128  
Email: [Carmela.Romano@toronto.ca](mailto:Carmela.Romano@toronto.ca)

Christopher J. Henderson  
Lawyer, Litigation Section  
Tel: 416-397-7106  
Email: [Christopher.Henderson@toronto.ca](mailto:Christopher.Henderson@toronto.ca)

## **SIGNATURE**

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Mike St. Amant  
Treasurer

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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Confidential Attachment 1 - Assessment Act Proceedings at the West Don Lands -  
Confidential Recommendations from the City Solicitor