



REPORT FOR ACTION

Apportionment of Property Taxes - November 13, 2017 Hearing

Date: October 30, 2017
To: Government Management Committee
From: Treasurer
Wards: All

SUMMARY

Unpaid property taxes on land that has been severed can be apportioned on to the new parcels through an apportionment application made under section 322 of the *City of Toronto Act, 2006*. This report deals with 70 apportionment applications made by or to the Treasurer for the properties listed in Appendices A and B (attached).

The legislation requires that Council make its decision after holding a public meeting, at which the applicants and / or property owners may appear or make representations regarding the apportionment. Council has delegated authority to hear and make final decisions in respect of these matters to the Government Management Committee

Notices of the Government Management Committee Hearing on November 13, 2017 that will consider the apportionment applications reviewed in this staff report were mailed to affected property owners on October 10, 2017.

RECOMMENDATIONS

The Treasurer recommends that:

1. Government Management Committee approve the apportionment of unpaid property taxes in the amounts identified in Appendix A and Appendix B, under the columns entitled "Apportioned Tax" and "Apportioned Phase In/Capping".

FINANCIAL IMPACT

Appendices A and B identify that \$81,971 (as of October 2, 2017) in late payment charges (penalty and interest) have been levied and form part of the unpaid taxes that the applicants seek to apportion. This amount, and late payment charges that will be levied until the applications are decided, will be written off. City Council has granted authority for these write offs to the Director of Revenue Services. Funding for the write-off of the interest/penalty amount is provided for in the 2017 Tax Penalty Account (Non-Program Budget).

With the exception of the write off of late payment charges, the apportionment of the unpaid taxes has no financial impact on the City of Toronto and secures the City's revenues.

The Acting Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting of April/May 2001, Council adopted a report from the Chief Financial Officer and Treasurer entitled "Apportionment of Taxes", which recommended a policy for the hearing and deciding of unpaid tax apportionments under Section 356 of the *Municipal Act, 2001* (re: Clause 20 of Report No. 5 of the Administration Committee, "Apportionment of Taxes," adopted by Council at its meetings held April 23 to May 2, 2001) To view this report online please follow the link:

<http://www.toronto.ca/legdocs/2001/agendas/council/cc010424/adm5rpt/cl020.pdf>

At its meeting of April 23-24, 2007, Council adopted a report from the Treasurer entitled "Apportionment of Property Taxes," which delegated authority to the Director, Revenue Services to write off as uncollectible the late payment (interest and penalty) charges that have accumulated on, and form part of unpaid taxes which are apportioned (re: Clause GM3.17 of Government Management Report Meeting No. 3). To view this report online please follow the link:

<http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-04-23-cc07-dd.pdf>

At its meeting of August 25-28, 2014 Council adopted Item GM32.3: "Amendments to Chapter 767 of the Municipal Code, Taxation, Property Taxes", which delegated authority to the Government Management Committee to hold meetings at which applicants can make representations to the committee and to decide various municipal tax applications, including apportionments pursuant to section 322 of the *City of Toronto Act*. To view this report on-line please follow the link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.GM32.3>

ISSUE BACKGROUND

Municipalities are required to prepare and issue tax bills in accordance with information on the assessment roll which is prepared by the Municipal Property Assessment Corporation (MPAC) and is returned to the municipalities in December each year. The information included on the assessment roll reflects the property's characteristics (e.g. legal description, ownership and property tax class).

If, during the year, a property is severed and split into two or more parcels of land, (e.g., when a single property is redeveloped into condominiums/townhouses/new homes), MPAC updates the following year's assessment roll to capture the newly created parcels of land including any new property owner information. By their nature, the timing of redevelopments and changes in ownership are unpredictable. As a consequence, if MPAC is unable to update a property's severance for the following year's assessment

roll, then the following year's taxes are levied on properties as they existed before the severance and tax bills for that year are sent to the wrong assessed owner.

Developers often apply under section 322 to apportion the unpaid taxes that arise in these cases. Apportionments ensure that the unpaid taxes are paid by the new owners of the severed parcels (e.g., condominium units after they are registered).

In other cases, the Treasurer may apply to apportion unpaid taxes on properties that no longer exist due to redevelopment or severances and that the former owner did not pay or apply to apportion. The apportionment process does not change the total amount of taxes levied, rather it divides the unpaid taxes on the original property amongst the newly created properties.

For Treasurer and non-Treasurer initiated apportionment applications MPAC provides values for the severed parcels that are used to calculate a proportionate amount of the unpaid taxes to be apportioned.

The *City of Toronto Act* requires that apportionment applications be decided after a public meeting is held at which the applicants and / or property owners may make representations. Council delegated authority to hear and decide apportionment applications to the Government Management Committee. The Government Management Committee meeting that will hear the apportionment applications that are the subject of this staff report is November 13, 2017.

In addition, Revenue Services staff will host an open house at the North York Civic Centre on November 3, 2017 to address property owner questions and concerns about the apportionment applications.

COMMENTS

Appendix A lists three non-Treasurer initiated apportionment applications. Appendix B lists 67 apportionment applications made by the Treasurer. With respect to the 67 Treasurer-initiated applications, a variety of efforts have been used by Revenue Services to try to collect the unpaid taxes from the original property owner without success, including mailing of collection letters and overdue notices, mailing notices advising of pending bailiff action, or mailing demand letters from the City Solicitor's office.

In many cases, Revenue Services has been unable to locate the former owner, (e.g. the developer corporation may no longer exist). In other cases, former owners refuse to pay because of contractual arrangements made between it and purchasers to deal with unpaid taxes when the property was sold. The Treasurer is unable to conduct a tax sale for these unpaid taxes because the land upon which the unpaid taxes were originally levied no longer exists as a result of the severance.

The majority of the apportionment applications made by the Treasurer on Appendix B are for tax years 2015, 2016 and 2017. However, the application for 201 Carlaw Avenue deals with unpaid taxes for the 2006 to 2010 tax years. The delay in applying to apportion these unpaid taxes is a result of Assessment Review Board decisions made

in 2014 on assessment appeals from 2006 and 2009. The Printing Factory Lofts Inc., which owned 201 Carlaw Avenue until 2010, and developed the former industrial property into residential condominiums is still an active corporation. Because the unpaid taxes are from years when Printing Factory owned the property, the City attempted to collect payment for them by bringing a civil claim against Printing Factory. These proceedings took time. The City was granted a default judgment against Printing Factory in the amount of the unpaid taxes in 2016. Nevertheless, in 2017 it was determined through other court procedures that Printing Factory has no assets and is unable to pay the judgment. An apportionment application is the last option to collect the unpaid taxes for 201 Carlaw Avenue.

If the Government Management Committee approves the apportioned taxes as recommended by this report, Notices of Decision will be mailed to affected property owners with a bill for the apportioned unpaid taxes. Property owners may appeal an apportionment decision to the Assessment Review Board (ARB) within 35 days of the Government Management Committee's decision.

It is recommended that the Government Management Committee approve the recommended apportionment of taxes as identified in columns "Apportioned Tax" and "Apportioned Phase In/Capping" for the properties listed in Appendices A and B.

CONTACT

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SIGNATURE

Mike St. Amant
Treasurer

ATTACHMENTS

Appendix A: Apportionment Report – Taxpayer Initiated Tax Apportionments
(October 2, 2017)

Appendix B: Apportionment Report – Treasurer Initiated Tax Apportionments
(October 2, 2017)