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November 10, 2017

Delivered By E-mail
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GM23.1.49

Government Management Committee
Committee Room 1
10th Floor, West Tower, Toronto City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Government Management Committee

Dear Committee Members:

**Re: Government Management Committee - Item GM23.1
Apportionment of Unpaid Property Taxes
201 Carlaw Avenue, City of Toronto ("Subject Property")
2006-2010 Taxation Years**

We are counsel for Toronto Standard Condominium Corporation 2073 ("TSCC 2073") with respect to the above Hearing scheduled to commence November 13, 2017 at 9:30 a.m. at City Hall.

We are writing at this time on behalf of our client to respectfully request that the Government Management Committee ("Committee") not apportion the unpaid property taxes in the amounts identified in Appendix A and Appendix B of the Treasurer's Report dated October 30, 2017. The reasons for our request are set out below.

The Unit Owners were Denied Natural Justice and Procedural Fairness

The unpaid taxes at issue arose as a result of appeals by the City of Toronto which sought an increase in the assessed value (2006-2008 tax years) and change in classification (2009-2010 tax years) for the Subject Property.

For the 2006-2010 taxation years, the Subject Property was owned by the Printing Factory Lofts Inc. (the "Developer"). The Subject Property was registered as a condominium in January 2010 and by mid-2011 the Developer had no remaining ownership interest in the Subject Property.

In 2014, the Assessment Review Board ("Board") released the following Decisions which resulted in a tax increase for the Subject Property:

Hearing #	Attendees	Result
548364 Heard: Feb. 27, 2014 Released: Mar. 24, 2014	<ul style="list-style-type: none"> • <u>MPAC</u>: Melissa VanBerkum • <u>City of Toronto</u>: Chris Henderson, Sara Baxter • <u>Developer</u>: No one appeared 	Taxes increased for 2006-2008: <ul style="list-style-type: none"> • <u>Commercial (Full)</u>: \$845,450 to \$2,768,000 • <u>Industrial (Full)</u>: \$1,600,550 to \$ 5,232,000
560940 Heard: May 2, 2014 Released: June 13, 2014	<ul style="list-style-type: none"> • <u>MPAC</u>: Melissa VanBerkum, Richard Mauntah • <u>City of Toronto</u>: Chris Henderson, Sara Baxter • <u>Developer</u>: No one appeared 	Tax classification changed for 2009-2010: <ul style="list-style-type: none"> • <u>Commercial (Full)</u> to <u>Commercial (Vacant)</u>: \$3,347,000 • <u>Industrial (Full)</u> to <u>Commercial (Vacant)</u>: \$6,328,000

Attached as **Appendix “A”** to this letter are copies of the Board Decisions for the above hearings. Also attached as **Appendix “B”** are copies of the Board’s Hearing Notice Confirmations and Sign-in Sheets confirming that the Developer did not appear despite being properly served with notice.

None of the unit owners were provided with Notice of the above Hearings by the Board. As a consequence, the unit owners were denied natural justice and procedural fairness.

Following registration of TSCC 2073’s Declaration in 2010, it is standard practice for the Municipal Property Assessment Corporation (“MPAC”) to delete the “Parent” Roll Number for the Subject Property (Roll No. 1904-082-050-00310-0000) and create various “Child” Roll Numbers for each of the new unit owners.

As a result, the unit owners were entitled to receive notice of the Hearings and make submissions as “persons whose assessment is the subject of the appeal” in accordance with s. 40(11) of the *Assessment Act*, R.S.O. 1990, c. A-31, as amended (“Act”):

Parties

40 (11) The following persons are parties to an appeal:

1. The assessment corporation.
2. All persons appealing and all persons whose assessment is the subject of the appeal.
3. The municipality in which the land is located or, if the land is located in non-municipal territory, the Minister. 2008, c. 7, Sched. A, s. 11.

Given that the unit owners were denied the opportunity to participate in the Hearings and only learned of the tax increases and proposed apportionment upon receipt of the City’s letter dated October 6, 2017, we respectfully request that the Committee not apportion the unpaid taxes for reasons of natural justice and procedural fairness.

The Apportionment is Not Appropriate due to Special Circumstances

The committee has discretion under s. 322 of the *City of Toronto Act, 2006*, S.O. 2006, c. 11, as amended to determine when a proposed apportionment will not be appropriate and apportion the unpaid taxes in “any other manner” it see fit:

Division into parcels

322 (1) Upon application by the city treasurer or to the treasurer by an owner of land, the City may,

- (a) divide, for the purposes of this section, land which is assessed in one block into two or more parcels if each parcel is one that can be legally conveyed under the *Planning Act*;
- (b) apportion the unpaid taxes on the land among the parcels,
 - (i) in proportion to their relative value at the time the assessment roll for the year in which the application is made was returned, or
 - (ii) if council is of the opinion that an apportionment under subclause (i) is not appropriate due to special circumstances, any other manner; and
- (c) direct what proportion of any part payment of taxes on the land is to be applied to each of the parcels. 2006, c. 11, Sched. A, s. 322 (1).

It is unjust and unreasonable that the legal responsibility for paying the commercial taxes of an absconding corporate developer now be imposed on innocent unit owners, some 8 years after the debt first arose. It is doubly unfair that these taxes arose following Hearings in which the unit owners themselves did not receive proper notice in violation of their rights to natural justice and procedural fairness.

The apportionment is also inappropriate given that unit owners with title insurance may not be covered. Prior to 2014, the City issued “clear” tax certificates showing no outstanding taxes. Following the 2014 Board Decisions, the City began issuing tax certificates that showed outstanding taxes for the Developer. Unit owners with title insurance that purchased prior to 2014 will likely not be covered since the Board’s Decisions and outstanding taxes were effectively undiscoverable at that time. We have also been advised that there are several unit owners who obtained “clear” tax certificates after 2014. In addition, there are a number of unit owners who did not obtain title insurance prior to purchasing their units and will be given no protection in the event that the City’s proposed apportionment is accepted.

During an Open House hosted at the Subject Property on November 8, 2017, City staff indicated that the City was in the process of implementing new measures that would require condominium developers to confirm that there are no outstanding property taxes on their property and no appeals are outstanding before the Board before a condominium declaration can be registered. City staff also indicated that these new measures were introduced specifically because of the unpaid taxes relating to the Subject Property to prevent similar occurrences in the future. As was pointed out during the Open House by several attendees, these measures are not retroactive and provide no relief whatsoever to the current unit owners.

A review of the case law with respect to the apportionment of unpaid taxes also illustrate that the circumstances facing the unit owners at the Subject Property are unique. The available case law under the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended pertains to the apportionment of unpaid taxes from a prior owner. The unpaid taxes with respect to the Subject Property arose as a result of an increase sought by the City that was approved by the Board. Unlike in other cases, the Developer paid all taxes for the 2006-2010 tax years but did not pay the tax relating to the increase. Attached as **Appendix “C”** to this letter is a summary of the available case law which speaks to the uniqueness of the Subject Property.

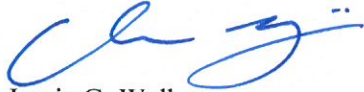
Based on the foregoing, it is not correct, fair, equitable, or just for the City to make the unit owners responsible for paying off the Developer’s indebtedness.

On behalf of our client, we respectfully request that the Committee exercise its discretion and apportion zero unpaid taxes to the Roll Numbers of the unit owners with respect to the 2006-2010 taxation years. In our opinion, this is the most just and appropriate result in the circumstances.

We thank you in advance for your consideration of this matter.

Yours very truly,

Walker West Longo LLP



Jamie G. Walker

Enclosures.

APPENDIX A

**Environment and Land
Tribunals Ontario**

Assessment Review Board

655 Bay Street, Suite 1500
Toronto, Ontario M5G 1E5

Telephone: (416) 212-6349
Toll Free: 1-866-448-2248
Fax: (416) 314-3717
Toll Free Fax: 1-877-849-2066
Web Site: www.elto.gov.on.ca

**Tribunaux de l'environnement et de
l'aménagement du territoire Ontario**

Commission de révision
de l'évaluation foncière

655 rue Bay, Suite 1500
Toronto, Ontario M5G 1E5

Téléphone: (416) 212-6349
Sans Frais: 1-866-448-2248
Télécopieur: (416) 314-3717
Sans Frais: 1-877-849-2066
Site Web: www.elto.gov.on.ca



DECISION

**TO: 2084014 ONTARIO INC
12 DUNCAN MILL RD SUITE 12
TORONTO ON M3B 3N2**

Decision No.: 2655176

Region No.: 09

Hearing No.: 548364

Hearing Date: February 27, 2014

ROLL NO: 1904-082-050-00310-0000

APPEAL NO.: 1857527

00201 CARLAW AVE PLAN 96 PT LOT 1

Toronto, The City of

SECTION: 40 Assessment made in **2005** for taxation commencing **January 01, 2006**

THE ASSESSMENT REVIEW BOARD HAS MADE THE FOLLOWING DECISION:

CHANGE TOTAL VALUE FROM \$2,446,000 TO \$8,000,000

THIS DECISION WAS MADE ON CONSENT OF THE PARTIES

CHANGE COMMERCIAL (FULL) VALUE FROM \$845,450 TO \$2,768,000

CHANGE INDUSTRIAL (FULL) VALUE FROM \$1,600,550 TO \$5,232,000

APPELLANT: THE CITY OF TORONTO
ASSESSED: 2084014 ONTARIO INC
MPAC COUNSEL: CONWAY DAVIS GRYSKI

If the decision has changed the assessed value on the property, questions regarding tax refunds or adjustments should be made to the municipality.

A copy of this Decision has been mailed to the following parties or their representatives: the Appellant(s), the Assessed Person(s), the Municipal Clerk and the Municipal Property Assessment Corporation.

Registrar

Decision released on: October 10, 2014

Page 1 of 1
(Assessed's Copy)

**Environment and Land
Tribunals Ontario**

Assessment Review Board

655 Bay Street, Suite 1500
Toronto, Ontario M5G 1E5

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Toll Free: 1-866-448-2248
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Commission de révision
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Sans Frais: 1-877-849-2066
Site Web: www.elto.gov.on.ca



DECISION

Amended

**TO: THE PRINTING FACTORY LOFTS I
4250 WESTON RD SUITE 204
NORTH YORK ON M9L 1W9**

Decision No.: 2642902
Region No.: 09
Hearing No.: 560940
Hearing Date: May 02, 2014

ROLL NO: 1904-082-050-00310-0000

APPEAL NO.: 2048447

201 CARLAW AVE PLAN 96 PT LOT 1

Toronto, The City of

SECTION: 40 Assessment made in **2008** for taxation commencing **January 01, 2009**
THE ASSESSMENT REVIEW BOARD HAS MADE THE FOLLOWING DECISION:
TOTAL VALUE CONFIRMED AT \$9,675,000
CHANGE CLASSIFICATION FROM INDUSTRIAL (FULL) TO COMMERCIAL (VACANT LAND)
COMMERCIAL (VACANT LAND) VALUE CONFIRMED AT \$6,328,000
CHANGE CLASSIFICATION FROM COMMERCIAL (FULL) TO COMMERCIAL (VACANT LAND)
COMMERCIAL (VACANT LAND) VALUE CONFIRMED AT \$3,347,000
OTHER DISPOSITION:

APPELLANT: CITY OF TORONTO
ASSESSED: THE PRINTING FACTORY LOFTS I
MPAC COUNSEL: CONWAY DAVIS GRYSKI

If the decision has changed the assessed value on the property, questions regarding tax refunds or adjustments should be made to the municipality.

A copy of this Decision has been mailed to the following parties or their representatives: the Appellant(s), the Assessed Person(s), the Municipal Clerk and the Municipal Property Assessment Corporation.

Registrar

Decision released on: June 13, 2014

Page 1 of 1
(Assessed's Copy)

APPENDIX B

**ASSESSMENT
REVIEW BOARD**

**HEARING NOTICE
CONFIRMATION**

Region: 09 Tax Year: 2008 Roll#: 1904 082 050 00310 0000
Complaint#: 2003857 Address: 201 CARLAW AVE PLAN 96 PT LOT 1
Hearing#: 548364 Hearing Date: 2/27/14 09:30:00
Hearing Type: **Full Hearing** Amended:
Hearing Location: **12th Floor, Room 12-4, 655 Bay Street Toronto**
Date Notices Printed: 05 Dec 2013 Notice Mailing Date: 20 Dec 2013

Notices sent to the following:

ASSESSED

THE PRINTING FACTORY LOFTS I 4250 WESTON RD SUITE 204
NORTH YORK ON M9L 1W9

COMPLAINANT

THE PRINTING FACTORY LOFTS I 161 PENNSYLVANIA AVENUE
SUITE 5
VAUGHAN ON L4K 1C3

MPAC OFFICE

MANAGER OF CASE MANAGEMENT MUNICIPAL PROPERTY ASSESSMEN
PO BOX 485 STN D
SCARBOROUGH ON M1R 5T5

MUNICIPALITY

TORONTO CITY OF TORONRO
ASSESSMENT AND APPEALS SECTION 112 ELIZABETH
STREET
TORONTO, THE CITY OF ON M5G 1P5

**ASSESSMENT
REVIEW BOARD**

**HEARING NOTICE
CONFIRMATION**

Region: 09 Tax Year: 2007 Roll#: 1904 082 050 00310 0000
Complaint#: 1947119 Address: 00201 CARLAW AVE PLAN 96 PT LOT 1
Hearing#: 548364 Hearing Date: 2/27/14 09:30:00
Hearing Type: **Full Hearing** Amended:
Hearing Location: **12th Floor, Room 12-4, 655 Bay Street Toronto**
Date Notices Printed: **05 Dec 2013** Notice Mailing Date: **20 Dec 2013**

Notices sent to the following:

ASSESSED

THE PRINTING FACTORY LOFTS
INC

4250 WESTON RD SUITE 204
TORONTO ON M9L 1W9

COMPLAINANT

THE PRINTING FACTORY LOFTS I

161 PENNSYLVANIA AVENUE
SUITE 4
VAUGHAN ON L4K 1C3

MPAC OFFICE

MANAGER OF CASE MANAGEMENT

MUNICIPAL PROPERTY ASSESSMEN
PO BOX 485 STN D
SCARBOROUGH ON M1R 5T5

MUNICIPALITY

TORONTO

CITY OF TORONRO
ASSESSMENT AND APPEALS SECTION 112 ELIZABETH
STREET
TORONTO, THE CITY OF ON M5G 1P5

**ASSESSMENT
REVIEW BOARD**

**HEARING NOTICE
CONFIRMATION**

Region: **09** Tax Year: **2006** Roll#: **1904 082 050 00310 0000**
Complaint#: **1880828** Address: **00201 CARLAW AVE PLAN 96 PT LOT 1**
Hearing#: **548364** Hearing Date: **2/27/14 09:30:00**
Hearing Type: **Full Hearing** Amended:
Hearing Location: **12th Floor, Room 12-4, 655 Bay Street Toronto**
Date Notices Printed: **05 Dec 2013** Notice Mailing Date: **20 Dec 2013**

Notices sent to the following:

ASSESSED

2084014 ONTARIO INC

12 DUNCAN MILL RD SUITE 12
TORONTO ON M3B 3N2

COMPLAINANT

THE PRINTING FACTORY LOFTS I

161 PENNSYLVANIA AVENUE
SUITE 5
VAUGHAN ON L4K 1C3

MPAC OFFICE

MANAGER OF CASE MANAGEMENT

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MUNICIPALITY

TORONTO

CITY OF TORONRO
ASSESSMENT AND APPEALS SECTION 112 ELIZABETH
STREET
TORONTO, THE CITY OF ON M5G 1P5



MUNICIPAL PROPERTY ASSESSMENT CORPORATION

RICHARD MAUNTAH, A.I.M.A.
Property Valuation Specialist
Assessment Standards & Mass Appraisal
Business Properties

5255 Yonge Street, Suite 400
Toronto, Ontario M2N 6P4
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MELISSA E. VANBERKUM, C.S.

Certified by the Law Society as a specialist in Municipal Law - Local Government

Christopher J. Henderson, M.P.A., LL.B.
Solicitor
Litigation Section

Region #, Municipality Name, Firm and/or Company:
à : avec n° de la région, nom de la municipalité, société



*VanBerkum Conway Davis Griffiths
D MAUNTAH
Richard Mauntah for Toronto
Sara Baxter Rep for Toronto*

Legal Services
Metro Hall, 26th Floor, Ssn. 1260
55 John Street
Toronto, Ontario M5V 3C5

Tel: 416-397-7106
Fax: 416-397-5624
chenderc@toronto.ca

USE : Include Firm and/or Company Name
D'IMPRIMERIE : Avec nom de la société



Sara Baxter
Supervisor
Assessment Review & Taxation

Revenue Services
North York Civic Centre
5100 Yonge Street
Toronto, Ontario M2N 5V7

Tel: 416-395-1290
Fax: 416-696-3605
sbaxter@toronto.ca

Call **3 1 1** toronto.ca

	Property Location (Street Address or Lot Number) Emplacement du bien-fonds (adresse ou n° de lot)
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**ASSESSMENT
REVIEW BOARD**

**HEARING NOTICE
CONFIRMATION**

Region: 09 Tax Year: 2009 Roll#: 1904 082 050 00310 0000
Complaint#: 2048447 Address: 201 CARLAW AVE PLAN 96 PT LOT 1
Hearing#: 560940 Hearing Date: 5/02/14 09:30:00
Hearing Type: Full Hearing Amended: F
Hearing Location: Hearing Room 1, 8TH Floor, 425 Adelaide Street West Toronto
Date Notices Printed: 18 Mar 2014 Notice Mailing Date: 18 Mar 2014

Notices sent to the following:

ASSESSED

THE PRINTING FACTORY LOFTS I 4250 WESTON RD SUITE 204
NORTH YORK ON M9L 1W9

COMPLAINANT

CITY OF TORONTO 5100 YONGE ST LOWER LEVEL
ATTN: SARA BAXTER TORONTO ON M2N 5V7

MPAC COUNSEL

CONWAY DAVIS GRYSKI 181 UNIVERSITY AVE
MELISSA E. VANBERKUM SUITE 1901
TORONTO ON M5H 3M7

MPAC OFFICE

MANAGER OF CASE MANAGEMENT MUNICIPAL PROPERTY ASSESSMEN
PO BOX 485 STN D
SCARBOROUGH ON M1R 5T5

MUNICIPALITY

TORONTO CITY OF TORONRO
ASSESSMENT AND APPEALS SECTION 112 ELIZABETH
STREET
TORONTO, THE CITY OF ON M5G 1P5



HEARING DATE / DATE D'AUDIENCE :

MAY 2 2014



HEARING NUMBER / NUMÉRO D'AUDIENCE:

560940

PRINT ONLY PLEASE: Include Region #, Municipality Name, Firm and/or Company:
EN CARACTÈRES D'IMPRIMERIE : avec n° de la région, nom de la municipalité, société

MPAC ASSESSOR/REP: ÉVALUATEUR/REPR. DE LA SEFM :	RICHARD MAUNTAH Melissa VanBerkum CONWAY DAVIS GRYSKI
MUNICIPALITY/REP: MUNICIPALITÉ/REPR :	Chris Henderson, Lawyer for Toronto Sara Barker, Rep for Toronto

PRINT ONLY PLEASE : Include Firm and/or Company Name
EN CARACTÈRES D'IMPRIMERIE : Avec nom de la société

Assessed Person/Complainant/ Representative Personne évaluée/Plaignant/Représentant	Property Location (Street Address or Lot Number) Emplacement du bien-fonds (adresse ou n° de lot)
<p>1</p>  <p>MUNICIPAL PROPERTY ASSESSMENT CORPORATION RICHARD MAUNTAH, A.I.M.A. Property Valuation Specialist Assessment Standards & Mass Appraisal Business Properties CUSTOMER SERVICE ENQUIRIES 1.866.886.5722 T(416) 1.877.886.8722</p> <p>5255 Yonge Street, Suite 400 Toronto, Ontario M2N 6P4 T: 416.250.2150 ext. 6072 F: 1.877.886.8584 E: richard.mauntah@mpac.ca www.mpac.ca</p> <p>Christopher J. Henderson, M.P.A., LL.B. Solicitor Litigation Section</p>  <p>Legal Services Metro Hall, 26th Floor, Stn. 1280 55 John Street Toronto, Ontario M5V 3C6 Tel: 416-397-7106 Fax: 416-397-5624 chander3@toronto.ca</p>	
<p>10</p> <p>MELISSA E. VANBERKUM CONWAY DAVIS GRYSKI 130 ADELAIDE STREET WEST, SUITE 601 TORONTO, ONTARIO M5H 3P5</p> <p>DIRECT: (416) 214-9925 MAIN: (416) 214-4554 FAX: (416) 214-9915</p> <p>VANBERKUM@CDGLAW.NET WWW.CONWAYDAVISGRYSKI.COM</p>	
15	
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APPENDIX C

Assessment Review Board Apportionment Case Law:

Case	Tax Year(s)	Release Date	Result	Decision
<p><i>Toronto (City) v. Heather Downs Developments</i>, 2008 CarswellOnt 1797. (Assessment Review Board)</p>	<p>2000</p>	<p>March 17, 2008</p>	<ul style="list-style-type: none"> • no "special circumstances" under s. 356.(1)(b) of the <i>Municipal Act, 2001</i> • Unpaid taxes apportioned based on a statement of the relative value of the condo units prepared by MPAC, not on the basis of calculations provided by the condo developer 	<ul style="list-style-type: none"> • The subject property is a 144 unit residential condominium building constructed by Heather Downs Developments. All of the units were sold and occupied by July 1999. Taxes on the omitted assessments were billed to the "parent roll number" of Heather Downs for the 1999 and 2000 taxation years. Heather Downs paid the full 1999 taxes and most of the 2000 taxes, leaving \$18,970.87 unpaid for the year 2000. • The Board concludes that before it can apportion on a basis other than a statement of relative value, it must first determine that an apportionment based on relative values is "not appropriate due to special circumstances". • The Board is unable to find "special circumstances" on the evidence presented, and in the absence of a statement of relative value, is unable to make any apportionment of the unpaid taxes.
<p><i>Toronto (City), Re</i>, 2007 CarswellOnt 6020. (Assessment Review Board)</p>	<p>2002</p>	<p>Sept. 14, 2007</p>	<ul style="list-style-type: none"> • Unpaid taxes apportioned equitably among the 22 child roll numbers in proportion to their relative values as determined by MPAC. 	<ul style="list-style-type: none"> • The subject lands are 22 parcels of land ("child roll numbers") created out of the land which had roll number 1904-094-240-00200-0000 ("parent roll number"). • Unpaid taxes for taxation year 2002 on the parent roll number should be apportioned among the twenty-two subject parcels created out of the parent roll number ("child roll numbers"), in proportion to their relative value

			<p>when the assessment roll for taxation year 2002 was returned as opposed to any other manner.</p>
<p><i>Toronto (City) v. Brockman,</i> 2010 CarswellOnt 1137. (Assessment Review Board)</p>	<p>1998 1999</p>	<p>Feb. 12, 2010</p> <ul style="list-style-type: none"> • no “special circumstances” under s. 356.(1)(b) of the Municipal Act, 2001 	<ul style="list-style-type: none"> • The subject property is a two-storey, residential portion of a four level mixed-use commercial, residential and parking complex located at the corner of King Street East and Fredrick Street in downtown Toronto. • For the 1998 and 1999 taxation years, the property was assessed and taxed as one parcel under the Roll Number 1904-064-310-00080-0000, which for purposes of ease of identification is designated as the “Grandparent Property/Roll Number”. • The Board apportions the unpaid taxes levied on the subject property in the sum of \$43,626.09 for the 1998 taxation year and \$33,914.56 for the 1999 taxation year between the Children Roll Numbers on the basis of their relative value as provided in the Municipal Property Assessment Corporation’s (MPAC) statement of relative values.
<p><i>Toronto (City) v. 1213440 Ontario Corp.,</i> 2011 CarswellOnt 1635. (Assessment Review Board)</p>	<p>2000</p>	<p>March 9, 2011</p> <ul style="list-style-type: none"> • no “special circumstances” under s. 356.(1)(b) of the Municipal Act, 2001 • The Board apportions the unpaid taxes levied on the subject property in the sum of \$9,054.22 for the 2000 taxation year between the Children Roll Numbers on the basis of their relative values as provided in the 	<ul style="list-style-type: none"> • For the 2000 taxation year, the property was assessed and taxed as one parcel under the Roll Number 1904-062-450-00700-0000, which for purposes of ease of identification is designated as the “Parent Land/Roll Number”. Taxes in the amount of \$9,054.22 for the 2000 taxation year remain unpaid. • Since the Board has before it no proposed basis to apportion the unpaid taxes other than

<p><i>Dhakai v. Toronto (City)</i>, 2013 CarswellOnt 984. (Assessment Review Board)</p>	<p>2005</p>	<p>Jan. 14, 2013</p>	<p>Municipal Property Assessment Corporation's (MPAC) statement of relative values and more particularly as set out in the attached Appendix.</p>	<p>on the basis of relative value, (as set out in the City's Submissions (Exhibit 1, Appendix A, Tab 2) the Board apportions the unpaid taxes for Roll Number 1904-062-450-00700-0000 (the Parent Roll Number) in the sum of \$9,054.22 for the 2000 taxation year between the fifty-nine Children Roll Numbers on the basis of their relative value as provided in MPAC's statement of relative values and as set out in the Appendix below.</p>
		<ul style="list-style-type: none"> • Yes - "special circumstances" under s. 356.(1)(b) of the <i>Municipal Act, 2001</i> • The Board reduces the apportionment to the Child Property Units of the unpaid taxes for taxation year 2005 against the Parent Property at 1246 Yonge Street, in the City of Toronto, from the amounts shown in the City's Original Apportionment to the amounts shown in the City's Amended Apportionment, all as set out in Appendix "A" attached. 	<p>on the basis of relative value, (as set out in the City's Submissions (Exhibit 1, Appendix A, Tab 2) the Board apportions the unpaid taxes for Roll Number 1904-062-450-00700-0000 (the Parent Roll Number) in the sum of \$9,054.22 for the 2000 taxation year between the fifty-nine Children Roll Numbers on the basis of their relative value as provided in MPAC's statement of relative values and as set out in the Appendix below.</p>	<ul style="list-style-type: none"> • The Appellants do not dispute the amount of the assessment apportioned to the subject property, but submit that the use of the subject property is commercial and residential and that MPAC should have shown its apportioned assessment in the Commercial Property Class and the Residential Property Class, instead of in the Commercial Property Class and the Office Building Property Class. • Accordingly, all the Board can do is to change the apportionment from the amounts shown in the City's Original Apportionment based on 2005 tax arrears of \$279,871.94 being apportioned among the Child Property units to the amounts show in the City's Amended Apportionment based on tax arrears of \$164,856.08 being apportioned among the Child Property units, and this it will do not only in respect of the subject property, but in respect of all the other Child Property units as their owners have been given notice of this appeal pursuant to s. 356.(7) of the Act.

<p>Toronto (City) v. Arcadia Group, 2007 CarswellOnt 3248. (Assessment Review Board)</p>	<p>1998 1999</p>	<p>May 18, 2007</p>	<ul style="list-style-type: none"> • Yes - "special circumstances" under s. 356.(1)(b) of the <i>Municipal Act, 2001</i> • The Board concludes that it is appropriate to apportion the entire amount of the unpaid taxes back onto the property developer, by dividing the unpaid taxes and apportioning them evenly between those two roll numbers. The Board hereby apportions zero unpaid taxes to the other 18 child roll numbers for both 1998 and 1999. 	<ul style="list-style-type: none"> • The equities between the three parties are thus: the corporate property developer, absconding with its profit, which includes the unpaid taxes; a large municipal corporation getting a second chance to collect from someone else; and 18, innocent, working-class, townhouse owners. • The heart of the issue is whether a reasonable, fair-minded person would think it is "appropriate" that the legal responsibility for paying the commercial taxes of an absconding corporate developer, be now imposed on innocent homeowners, some nine years after the debt first arose. • The Board has no difficulty concluding that from the perspective of the "reasonable person", it not right, correct, proper, fair, equitable, just or suitable for the circumstances, to make the Dupont Street homeowners responsible for paying off that indebtedness, considering the circumstances. • In accordance with subsection 356(1)(b)(ii), the Board is of the opinion that an apportionment under subclause (i) is not appropriate due to the special circumstances of this case. • The Board emphasizes that because this decision is specifically based on particular circumstances, it should not be considered a precedent for any other apportionment applications.
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<p><i>Toronto (City) v. Cenpac Developments Inc.</i>, 2011 CarswellOnt 3073. (Assessment Review Board)</p>	<p>2001</p>	<p>April 21, 2011</p>	<ul style="list-style-type: none"> • no “special circumstances” under s. 356.(1)(b) of the <i>Municipal Act, 2001</i> • In the absence of evidence of special circumstances, the taxes should be apportioned pursuant to the Statement of Relative Values, as set out in Schedule "A". 	<ul style="list-style-type: none"> • The Board also considered whether it had sufficient evidence before it to determine that the apportionment was not appropriate due to special circumstances. • The Board received no submissions in this regard from the respondents, other than concerns regarding the manner in which MPAC arrived at its Statement of Relative Values. • In this regard, the Board agrees with the City that as it is the value of the land that is being apportioned, it is legally correct that the burden of the outstanding taxes be equally shared, with the exceptions calculated by MPAC.
<p><i>Toronto (City) v. Mill Street Co-operative Housing Corp.</i>, 2008 CarswellOnt 2739. (Assessment Review Board)</p>	<p>2000 2001 2002</p>	<p>May 9, 2008</p>	<ul style="list-style-type: none"> • Yes - “special circumstances” under s. 356.(1)(b) of the <i>Municipal Act, 2001</i> • The Board is of the opinion that, pursuant to subsection 356.(1)(b)(ii), an apportionment pursuant to the statement of relative values is not appropriate due to special circumstances for the taxation year 2000, and for January to September of taxation year 2001. The Board apportions zero unpaid taxes for the 144 child roll numbers for this period. • The Board apportions the unpaid taxes for October to December of taxation year 2001 and for the taxation year 2002 among the 144 	<ul style="list-style-type: none"> • The Board accepts the evidence... that 80 Mill Street was built to place home ownership within the reach of persons of modest means, and that the apportionment would be difficult for members of the child roll numbers who lived on fixed incomes. Given the nature of the development, the Board finds special circumstances exist that, in its opinion, would make it inappropriate for the homeowners to shoulder the tax liability in its entirety. • The Board concludes that pursuant to subsection 356.(1)(b)(ii), an apportionment pursuant to the statement of relative values is not appropriate due to special circumstances for the taxation year 2000, and for January to September of taxation year 2001. The Board apportions zero to the child roll numbers for the period prior to occupancy.

			<p>child roll numbers in proportion to their relative value, as set out in Schedule "A".</p>	<ul style="list-style-type: none">• The Board apportioned the unpaid taxes for the period when occupancy commenced, from October to December of taxation year 2001 and 2002 taxation years among the 144 children roll numbers in proportion to their relative value, as set out in Schedule "A".
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TSCC 2073 Timeline Re: Apportionment of Taxes (2006-2010)

	2004	2006	2010	May 12, 2010
Action	<ul style="list-style-type: none"> • The Printing Factory Lofts Inc. (“Developer”) purchases 201 Carlaw Avenue, a commercial/industrial building which housed a former printing press warehouse of Rolph Clark Stone (“Subject Property”) for \$8,000,000¹ with the intention of constructing a residential condominium project (the “Development”) • The Subject Property was assigned Parent Roll No.: 19-04-082-050-00310-0000 	<ul style="list-style-type: none"> • The City of Toronto approves construction of the Development by the Developer 	<ul style="list-style-type: none"> • Construction is completed on 256 residential condominium units, in addition parking and locker units, located within the original 2-storey building and a 5-storey tower addition • Developer no longer has interest in Subject Property following registration of the condo declaration 	<ul style="list-style-type: none"> • The Subject Property is registered as a condominium by the Developer and consists of 254 residential units, in addition to parking and locker units
	2006-2010	December 20, 2010	Mid-2011	July 25, 2013
Action	<ul style="list-style-type: none"> • City files appeals with the Assessment Review Board (“ARB”) for 2005 CVA (2006-2008 tax years) on basis Subject Property is assessed too low and incorrectly classified: <ul style="list-style-type: none"> • <u>2006</u>: Appeal No. 1857527 (filed March 31, 2006) • <u>2007</u>: Appeal No. 1943368 (filed April 2, 2007) • <u>2008</u>: Appeal No. 2002501 (filed March 31, 2008) • Developer files appeals with the ARB for 2005 CVA (2006-2008 tax years) on basis Subject Property’s assessment is too high: <ul style="list-style-type: none"> • <u>2006</u>: Appeal No. 1880828 (filed June 26, 2006) • <u>2007</u>: Appeal No. 1947119 (filed April 2, 2007) • <u>2008</u>: Appeal No. 2003857 (filed March 31, 2008) 	<ul style="list-style-type: none"> • ARB issues Notices of Hearing (Hearing No. 548364) to the Developer, MPAC’s Manager of Case Management, and City of Toronto • Residential unit owners are not included on Notices 	<ul style="list-style-type: none"> • The Developer no longer has any interest in the Subject Property, having sold all of the residential units to individual owners 	<ul style="list-style-type: none"> • Certain individual unit owners obtain clear tax certificates indicating no taxes owing by the Developer

¹ <https://leslievillehistory.com/2016/10/26/carlaw-avenue-roldph-clark-stone-the-building/>

	<ul style="list-style-type: none"> • City files appeals for 2008 CVA (2009-2012 tax years) on basis the Subject Property is incorrectly classified: <ul style="list-style-type: none"> • <u>2009</u>: Appeal No. 2048447 (filed March 30, 2009) • <u>2010</u>: Appeal No. 2359661 (filed March 31, 2010) • <u>2010</u>: Appeal No. 2537157 (filed November 18, 2010) • <u>2010</u>: Appeal No. 2537158 (filed November 18, 2010) 			
	February 27, 2014	March 24, 2017	May 2, 2014	
Action	<ul style="list-style-type: none"> • Hearing No. 548364 is held at the ARB's offices at 655 Bay, Room 12-4 • Sign in sheet sets out parties in attendance: <ul style="list-style-type: none"> • <u>City of Toronto</u>: Christopher Henderson, Sara Baxter • <u>MPAC</u>: Melissa E. VanBerkum • <u>Developer</u>: no one in appearance • ARB gives oral decision increasing assessment for 2005 CVA (no written reasons are provided) <ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • ARB releases Decisions following Hearing No. 548364 (February 27, 2014): <ul style="list-style-type: none"> • Decision No. 2655176 re: 2006 tax year (Appeal No. 1857527) <ul style="list-style-type: none"> - CVA changed from \$2,446,000 to \$8,000,000 - <u>Commercial (Full)</u>: \$845,450 to \$2,768,000 - <u>Industrial (Full)</u>: \$1,600,550 to \$5,232,000 • Decision No. 2637516 re: 2007 tax year (Deemed Appeal No. 1943368) <ul style="list-style-type: none"> - Appeal withdrawn • Decision No. 2637517 re: 2007 tax year (Deemed Appeal No. 1947119) <ul style="list-style-type: none"> - Appeal withdrawn • Decision No. 2637513 re: 2008 tax year (Deemed Appeal No. 2002501) <ul style="list-style-type: none"> - Appeal withdrawn • Decision No. 2637514 re: 2008 tax year (Deemed Appeal No. 2003857) <ul style="list-style-type: none"> - Appeal withdrawn • Decision No. 2637493 re: 2010 tax year (Deemed Appeal No. 2537157) <ul style="list-style-type: none"> - Appeal withdrawn • Decision No. 2637495 re: 2010 tax year (Deemed Appeal No. 2537158) <ul style="list-style-type: none"> - Appeal withdrawn 	<ul style="list-style-type: none"> • Hearing No. 560960 is held at the ARB's offices at 655 Bay, Room 1 • Sign in sheet sets out parties in attendance: <ul style="list-style-type: none"> • <u>City of Toronto</u>: Christopher Henderson, Sara Baxter • <u>MPAC</u>: Melissa E. VanBerkum, Richard Mauntah • <u>Developer</u>: no one in appearance • ARB gives oral decision confirming Subject Property's assessed value but altering classification (no written reasons are provided) 	<ul style="list-style-type: none"> • ARB releases Decision No. 2642902 re: 2009 tax year following Hearing No. 560960 (May 2, 2014): <ul style="list-style-type: none"> • CVA confirmed at \$9,675,000 but classification changed from Industrial (Full) to Commercial (Vacant Land): <ul style="list-style-type: none"> - <u>Industrial (Full)</u> to <u>Commercial (Vacant Land)</u>: \$6,328,000 confirmed - <u>Commercial (Full)</u> to <u>Commercial (Vacant Land)</u>: \$3,347,000 confirmed

	2016	2017	October 6, 2017	November 3, 2017
Action	<ul style="list-style-type: none"> • City sues developer in Superior Court and is granted default judgment for the amount of unpaid taxes plus interest and penalties 	<ul style="list-style-type: none"> • City conducts a Notice of Examination (ie: a judgment debtor exam) of an officer of the Developer to determine whether the Developer had any assets that could be used to pay the judgment • The judgment debtor exam revealed that the Developer has no assets 	<ul style="list-style-type: none"> • City sends letters to each of the current residential unit owners advising that Government Management Committee (“Committee”) will consider an application by the Treasurer to apportion unpaid taxes for the Subject Property for 2006-2010 tax years • letter included Notice of Hearing re: Apportionment of Taxes for a November 13, 2017 Hearing before the Committee • City advised that amounts apportioned to each owner would be reduced if Committee approved the apportionment to account for payments that were made toward the original taxes before the increase became effective (payments cannot be applied prior to approving the apportionment) 	<ul style="list-style-type: none"> • Open House meeting hosted by City at North York Civic Centre (10:00am-12:00pm) for residential unit owners to voice concerns over proposed apportionment
	November 8, 2017	November 13, 2017		
Action	<ul style="list-style-type: none"> • Meeting at Subject Property with City Staff to discuss proposed apportionment and hear unit owners’ concerns 	<ul style="list-style-type: none"> • Hearing GM23.1 re: Apportionment of Taxes (2006-2010 tax years) before Committee 		