



Impact of the 2018 Creative Co-Location Facilities Property Tax Subclass and 2019 Implementation

Date: February 19, 2019
To: Executive Committee
From: General Manager, Economic Development and Culture
Wards: All

SUMMARY

The Creative Co-Location Facilities Property Tax Subclass (the "Subclass") was established by City Council and the Province of Ontario in 2018 to support the affordability and sustainability of cultural and creative spaces in Toronto. The Subclass provides property tax relief to qualifying properties housing a cluster of creative enterprises, and incentivizes the provision of below market rent and the retention of affordable spaces for the arts and culture sector.

The purpose of this report is to respond to direction from Council to review the impact of the Subclass within twelve months of its implementation, and recommend amendments to the eligibility criteria. In 2018, six properties representing 238,397 square feet of creative space were designated as qualifying properties under the Subclass, resulting in a total property tax savings of \$378,995, of which \$201,453 is municipal taxes and \$117,542 is education taxes. There were no requests for appeals.

This report recommends that City Council authorize the creation of a second category of eligible properties within the Subclass that will include membership-based co-working facilities for creative enterprises, operated by a non-profit organization. No changes are proposed to the existing criteria for tenant-based properties.

Membership-based co-working facilities act as incubators for start-ups and emerging creative enterprises. Under this operating model, creative enterprises purchase a membership which provides them with access to shared working space, equipment, technology, and professional development services such as training, workshops and access to a network of peers. These services are offered at discounted rates, and would otherwise be a cost barrier to many emerging creative businesses and professionals. As shared workspaces become more and more common, limiting access to this subclass to not-for-profit operators will ensure there is no unintended impact to City revenues from membership-based worksites.

RECOMMENDATIONS

The General Manager, Economic Development and Culture, recommends that:

1. City Council approve revised eligibility criteria for the Creative Co-Location Facilities Property Tax Subclass by creating a new membership-model category of eligible properties, outlined in Attachment 1 of this report.

FINANCIAL IMPACT

In 2018, City Council adopted tax relief for the Creative Co-location Facilities Property Subclass at up to 50% reduction in the commercial and industrial tax rates. It is anticipated that the six properties included in the Subclass for the 2018 taxation year will apply again in 2019, and the estimated amount of the municipal portion of their property tax relief will be \$208,500.

Based on currently available information, if the amendments to the eligibility criteria are adopted by City Council, it is anticipated that two additional properties will apply for the Subclass. If they are deemed to be eligible, their potential municipal tax relief for 2019 is estimated at \$7,500.

In 2019 and in future years, existing properties in the Subclass will be funded by corresponding rate increases within the class, while new additions to the Subclass will be treated as in-year changes included in the Supplementary Levy, to be funded through tax deficiencies.

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

DECISION HISTORY

On January 31, 2017, Toronto City Council requested that the Government of Ontario work with municipalities to explore opportunities to support not-for-profit arts and culture organizations and incubators, including property assessment tools and changes to the Ontario Culture Strategy to support the continued vibrancy of the sector.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.MM24.14>

Subsequently, at its meeting of October 2, 2017, City Council directed staff to develop policy objectives and a set of criteria for the creation of a new property tax subclass for arts and cultural facilities in Toronto and report back to Executive Committee by February 1, 2018.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.MM32.39>

At its meeting on December 5, 2017, City Council directed the General Manager, Economic Development and Culture, in consultation with the Interim Chief Financial Officer and the City Solicitor, to establish detailed eligibility criteria for inclusion of properties in the proposed Creative Co-Location Facilities tax class, together with a process to approve inclusion of such properties in this tax class, and a process to address appeals related to the City's eligibility criteria.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX29.17>

In February 2018, City Council adopted the Creative Co-Location Facilities Property Tax Subclass and directed the General Manager of Economic Development and Culture to report to the Economic Development Committee on (1) the impact of the subclasses and the status of its administrative process within twelve months of the provincial regulation coming into force; and (2) the implementation and impacts of the sub-class in 2019, subject to receiving the necessary authority by Provincial regulation.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX31.1>

In May 2018, City Council approved revised eligibility criteria based on new information provided to the City by stakeholders and on advice from the Municipal Property Assessment Corporation (MPAC).

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX34.21>

In July 2018, City Council designated six properties through Bylaw 1270-2018 that were deemed to have met the eligibility criteria for inclusion in the Subclass.

<https://www.toronto.ca/legdocs/bylaws/2018/law1270.pdf>

COMMENTS

The City of Toronto, working with the Province of Ontario, sought to support the continued viability of the city's creative sector by establishing a tax subclass for clustered creative enterprises. Such creative "hubs" – titled for these purposes Creative Co-Location Facilities – serve a broad public benefit by not only aiding in the sustainability of creative enterprises with below market rent and the provision of services, but also offering free public arts and cultural programming.

In 2018, the City received authorization to implement the Creative Co-Location Facilities Property Tax Subclass through a regulation enacted by the Province of Ontario. City Council then approved the creation of the program along with eligibility criteria for the Subclass. Subsequently, City staff undertook a review of applications for designation through the Subclass, outlined below, and submitted properties for approval by Council through a by-law.

Application Intake and Review Process

In spring 2018, following approval of the new tax subclass by City Council and the Province of Ontario, the City launched the application process for the Subclass, and published detailed eligibility criteria and application materials online.

EDC staff hosted two workshops to assist potential property owners with the application process; prepared detailed guidelines to help in completing the applications; and had dedicated staff to ensure that property owners had the support to fulfill the application requirements before a June 15, 2018 deadline.

Staff conducted an extensive due diligence process that included reviewing applications for completeness; verifying that all tenants are bona fide creative enterprises as defined by the Canadian Framework for Cultural Statistics; cross checking the floor plans/tenant information spreadsheets; conducting site visits; and reviewing executed leases, documentation of length of leases and proof of continuous full-time five-year occupancy by tenants.

Staff from Corporate Finance, Internal Audit, Legal Services, Real Estate Services and Revenue Services provided valuable input in the inaugural year's administration. Regular contact with Municipal Property Assessment Corporation (MPAC) before, during and after City staff's review assisted in clear communication in the processing of applications for the Subclass designation.

In July 2018, City Council passed By-law 1270- 2018 which designated properties at 401 Richmond Street West, 888 Dupont Street, 55 Mill Street, 601 Christie Street, 585 Dundas Street East and 180 Shaw Street as eligible for support through the Creative Co-Location Facilities Property Tax Subclass Program.

Further to City Council authorizing Bylaw 1270-2018, City staff engaged with the Municipal Property Assessment Corporation (MPAC) to allow for the City to recalculate property tax bills and send notice to eligible properties, discuss MPAC's communications with property owners, and determine how best to manage any inquiries on these properties.

To ensure ongoing monitoring of eligible properties, EDC staff held follow-up meetings with property owners to ensure open communication on any changes in tenants, proposed amendments to the eligibility criteria, 2019 timelines, and suggestions to improve the application process.

Impact of the Creative Co-Location Facilities Property Tax Subclass

Six (6) properties applied to be included in the Subclass for 2018, all of which had portions which were deemed to be eligible. These eligible properties are 888 Dupont Street, 585 Dundas Street East (Daniels Spectrum), 55 Mill Street (Artscape Distillery Studios), 601 Christie Street (Artscape Wychwood Barns), 401 Richmond Street West, and 180 Shaw Street (Artscape Youngplace).

The Subclass sustains affordable space for arts and culture by incentivizing Below Average Market Rent (BAMR). Each property must charge below average market rent to creative enterprise tenants to be considered eligible. The BAMR provided to tenants ranges from 30.1% to 96% below average, with 401 Richmond Street West offering up to 96% BAMR. The average net rent at 401 Richmond Street West is \$1 per square foot, as many units are subsidized and pay less than the net rent.

Creative enterprises are entities that produce cultural goods or provide cultural services, as defined by the Canadian Framework for Cultural Statistics. The six (6) eligible properties have an average of 69% of their tenancy as creative enterprises. The properties that were deemed eligible for the Subclass provide spaces for a variety of creative enterprise tenants, consisting of 65% visual and applied arts, 23% live performance, 5% sound recording, 3% audio-visual and interactive media, 2% heritage, 2% written and published works.

Cumulatively amongst the six properties, the amount of eligible space in 2018 under the Subclass equalled 238,397 square feet (22,147 square metres). The total tax relief for the eligible creative co-location facilities is \$378,995 to the property owners, which incentivizes the continued provision of below market rent and shared services to creative enterprise tenants.

Recommended Amendments to Eligibility Criteria

Based on a review of the property tax subclass applications submitted in 2018, and in-depth conversations with other not-for-profit organizations, this report recommends that future qualifying properties should include **facilities operated by non-profit organizations using a membership-based co-working model**. The recommended approach is to create a new category of eligible properties that operate using this model.

Membership-based co-working spaces have become much more common in recent years as entrepreneurs and start-ups seek to share spaces for both cost and flexibility reasons. Membership-based spaces operated by not-for-profit organizations are increasingly instrumental to addressing the affordability crisis of space in the creative sector. Co-working spaces that operate on a not-for-profit basis provide affordable space where collaboration, training and networking can occur among creative practices/businesses.

Members in a co-working model typically are individuals, sole proprietors, or small creative businesses. As emerging entrepreneurs or businesses, these members have very limited revenue streams, and renting traditional office space and purchasing the equipment needed to run and grow a business can be cost prohibitive. By accessing these otherwise expensive services at discounted rates, members can focus their resources on developing and expanding their creative practice, and can more easily experiment by having access to amenities and support. Generally, various membership types are available and can be selected based on an individual's needs (e.g. a "full access" membership, paid annually/monthly, that includes access to studios and workshops; annual/monthly desk rental; or "drop-in" memberships).

Once an emerging enterprise has "scaled up" sufficiently and built sustainable revenue streams, it can then expand beyond the limited office space offered in a co-working facility, and graduate to renting or owning a dedicated work space.

To help support these emerging professionals and start-ups, this report recommends that all types of creative enterprises (for profit and not for profit) as defined by the Culture Domains in the Canadian Framework for Culture Statistics be included in the

eligibility criteria for membership-based properties. This approach will encourage not-for-profit property owners to incubate a wide range of emerging creative professionals and creative businesses, including architecture and design, which are not otherwise eligible under the existing tenant model. The full listing of eligible creative enterprises in a membership model is included in Attachment 1.

As membership-based co-working spaces are becoming increasingly common, this report recommends restricting eligibility within the subclass to facilities that are operated by not-for-profit organizations. Doing so ensures that property tax relief is targeted to building operators that have a socially-focused mandate to provide affordable access to space and incubation services to creative enterprises. EDC has completed a scan of facilities operated using a membership-based co-working model, and identified only two potentially eligible properties operated by non-profits at this time. Eligibility will be determined if and when a property submits an application to the City for consideration.

Examples of successful membership co-working spaces operated by not for profit organizations include the Toronto Fashion Incubator and the newly opened Artscape Launchpad. These unique creative hubs offer multi-disciplinary studios, co-working space, meeting and event facilities, specialized creative entrepreneurship programs, services and support. With the growing popularity of the membership co-working model, additional new spaces may open in future years, and could become eligible for designation under the Subclass if they meet the criteria for a qualifying property.

Full recommended eligibility criteria for membership-based co-working facilities is included in Attachment 1. Proposed mandatory eligibility criteria include:

- Be operated by a non-profit organization;
- Meet minimum physical space requirements of 5,000 square feet of work and common space;
- Have at least 75% of members meet the definition of "creative enterprises";
- As part of the terms of membership, provide access to shared working space, meeting and conference space, equipment, technology, and other office resources during set facility operating hours (a minimum of 8 hours per day for at least 5 days per week); and
- Deliver a minimum of 25 professional development services, programs and events for creative businesses per calendar year, including workshops, training, mentorship and/or advisory support.

Portions of the property that are accessible by members, including work space and common areas, are eligible for designation under the Subclass. In addition, portions of the property occupied by the building operator for non-commercial activity are eligible for designation under the Subclass, up to a maximum of 10% of the total square footage of the property. Other portions of the property that are used for purposes other than co-working space and/or are not accessible by members are not eligible. This includes any ancillary retail, associated underground parking, connected residential units within the same building, venue rental spaces used for commercial activity, and/or other uses unrelated to co-working space for creative enterprise deemed ineligible by the City.

In the preparation of this report, EDC consulted with staff from Corporate Finance, Legal Services, and Revenue Services.

CONTACT

Sally Han, Acting Director, Arts and Culture Services, Economic Development and Culture, 416-392-4012, Sally.Han@toronto.ca

SIGNATURE

Mike Williams
General Manager
Economic Development and Culture

ATTACHMENT

Attachment 1: Detailed Eligibility Criteria for Inclusion in Creative Co-Location Facilities Property Tax Subclass