

Apportionment of Property Taxes – September 15, 2021 Hearing

Date: August 23, 2021
To: General Government and Licensing Committee
From: Controller
Wards: All

SUMMARY

This report deals with 7 apportionment applications made by or to the Treasurer pursuant to Section 322 of the *City of Toronto Act*. Under this section, Council is authorized to recover unpaid property taxes on land that has been severed and therefore no longer exists by apportioning those outstanding taxes onto the newly-created parcels that arise from the severance.

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

Staff have mailed Notices of Hearing to affected taxpayers advising of the upcoming September 15, 2021 General Government and Licensing Committee Hearing.

RECOMMENDATIONS

The Controller recommends that:

1. The General Government and Licensing Committee approve the apportionment of property taxes in the amounts identified in Appendices A and B, under the columns entitled “Apportioned Tax” and “Apportioned Phase-in/Capping.”

FINANCIAL IMPACT

Appendices A and B identify that \$239,551 (as of August 16, 2021) 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, Revenue Services. Funding for the write-off of the interest/penalty amount is provided for in the 2021 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 Chief Financial Officer and Treasurer 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 meeting 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 and 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 (now the General Government and Licensing 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, 2006. 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, current value assessment (CVA) 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 General Government and Licensing Committee. The General Government and Licensing Committee meeting that will hear the apportionment applications that are the subject of this staff report is September 15, 2021.

COMMENTS

Appendix A lists 3 non-Treasurer initiated apportionment applications. Appendix B lists 4 apportionment applications made by the Treasurer. 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 the developer 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.

If the General Government and Licensing Committee approves the apportioned taxes as recommended by this report, Notice of Decision letters 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 General Government and Licensing Committee meeting.

It is recommended that the General Government and Licensing Committee approve the recommended apportionment of taxes as identified in columns “Apportioned Tax” and “Apportioned Phase-in/Capping” for the properties listed in Appendix A and B.

CONTACT

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SIGNATURE

Andrew Flynn
Controller

ATTACHMENTS

Appendix A: Taxpayer Initiated Tax Apportionments

Appendix B: Treasurer Initiated Tax Apportionments