



## STAFF REPORT ACTION REQUIRED

### 2008 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors

<b>Date:</b>	May 16, 2008
<b>To:</b>	Executive Committee
<b>From:</b>	Treasurer
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2008\Internal Services\Rev\ec08010rev (AFS#6830)

#### SUMMARY

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This report requests Council authority for the introduction of the by-law necessary to levy and collect taxes for the 2008 taxation year on railway roadways and rights of way and on land used as transmission or distribution corridors owned by power utilities.

#### RECOMMENDATIONS

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**The Treasurer recommends that:**

1. Council authorize the levy and collection of taxes for the 2008 taxation year on railway roadways and rights of way and on land used as transmission or distribution corridors owned by power utilities, in accordance with subsection 280 (1) of the *City of Toronto Act, 2006* and subsection 257.7(1) of the *Education Act*.
2. Authority be granted for the introduction of the necessary bill to give effect thereto; and
3. The appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

#### Financial Impact

The 2008 levy of taxes on railway roadways and rights of way and on power utility transmission or distribution corridors will raise approximately \$7.8 million in taxation

revenue, of which the municipal share is \$6.6 million and the provincial education share is \$1.2 million.

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

## **DECISION HISTORY**

At its meeting on June 19, 20 and 22, 2007, while considering a report entitled “2007 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors” (May 8, 2007) from the Treasurer, City Council recommended, among other things, that the City re-iterate its July 2006 recommendations and that the Mayor’s Office enter into discussions with the Province to advance the City’s submissions re:

- (i) Regulations 387/98 and 392/98 be amended to require an annual inflationary adjustment in the “mature rate”; and
- (ii) the “mature rate” prescribed by Regulation so as to phase in rate changes that more properly reflect the market value of the land over a period of time, be reviewed.

Council also recommended that the City request that those portions of railway properties that are leased to third parties be required to pay commercial tax rates.

This report can be accessed at:

<http://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-3804.pdf>

To date, the City has not received a response from the Minister, and no changes have been made to the legislative or regulatory provisions to incorporate Council’s requests for changes to the “mature” rates. Despite Council’s July 2006 and June 2007 resolutions, no legislative authority exists for the City to levy a tax rate other than that permitted by the provincial regulation for 2008.

## **ISSUE BACKGROUND**

Ontario Regulations 387/98 under the *Municipal Act, 2001* and 392/98 under the *Education Act*, as amended, have prescribed the applicable acreage rates for property tax levies on railway and power utility rights of way since 1998. Beginning in 1998 and ending in 2005, the Province prescribed what were termed “transition rates” each year, to phase-in changes to the taxation level of these right of way properties, until a uniform rate was reached in 2005. The acreage tax rates established in 2005 are called ‘mature rates’ and are intended to apply to all years beyond 2005.

## **COMMENTS**

Subsection 280(1) of the *City of Toronto Act, 2006* requires the City, in accordance with the regulations, to levy an annual tax for municipal purposes on railway roadways and

rights of way and on land used as transmission or distribution corridors owned by power utilities.

Subsection 257.7(1) of the *Education Act* requires the City to levy and collect taxes based on the rates prescribed for school purposes on the railway and power utility lands described in subsection 280(1) of the *City of Toronto Act, 2006*.

Ontario Regulations 121/07 under the *City of Toronto Act, 2006* and 392/98 under the *Education Act*, (as amended by O. Reg 123/07), prescribe the applicable rates for 2008 for the municipal portion and education portion of taxes respectively, for railway and power utility rights of way acreage levies.

To calculate the levy on acreage properties, the City of Toronto requires the area of each property and the applicable tax rates. The acreage figures are provided to municipalities by the Municipal Property Assessment Corporation (MPAC) on the returned assessment roll each year and are available for 2008.

The tax rates set out in Table 1 below are the applicable rates for 2008 for railway roadways and rights of way and power utility transmission and distribution corridors.

**Table 1**  
**Rates to be levied for 2008 on Railway Roadways or Rights of Way and on Power Utility Transmission or Distribution Corridors**

Company	Municipal Taxes Per Acre (iii)	Education Taxes Per Acre (iv)	Total Taxes Per Acre
Canadian National Railway	\$611.33	\$822.69	\$1,434.02
Canadian Pacific Railway	\$611.33	\$822.69	\$1,434.02
Greater Toronto Transit Authority –(GO Transit) (i)	\$611.33	\$0.00	\$611.33
Power Utility - Hydro One (ii)	\$834.02	\$1,208.66	\$2,042.68

- (i) *Greater Toronto Services Board Act, 1998* exempted the real property owned by the Greater Toronto Transit (GO Transit) from education taxes. Pursuant to the *GO Transit Act, 2001*, as of January 1, 2002, GO Transit became a Crown Agency of the Province. It is exempt from property taxes but subject to payment-in-lieu taxes.
- (ii) As certified by the Ministry of Consumer and Commercial Relations in May 2000, the name of the corporation 'Ontario Hydro Networks Company Inc.' was changed to 'Hydro One Networks Inc'.
- (iii) Based on O. Reg. 121/07 under the *City of Toronto Act, 2006*.
- (iv) Based on O. Reg. 392/98, as amended, under the *Education Act, 1990*.

The estimated revenue for 2008 from all the railway and power utility rights of way is approximately \$7.8 million, of which the municipal share is \$6.6 million and the education share is \$1.2 million. Of the \$6.6 million municipal share, \$81,202.96 will be received in the form of payment-in-lieu of taxes from GO Transit. Pursuant to the *GO*

*Transit Act, 2001*, as of January 1, 2002, GO Transit became a Crown Agency of the Province. It is now exempt from property taxes but subject to a payment-in-lieu of taxes.

### **Tax treatment on leased lands:**

The *Assessment Act* requires that railway companies provide the Municipal Property Assessment Corporation (MPAC) with an annual statement summarizing the company's lands listing the following information:

- a. the quantity of land occupied by the roadway, and a description sufficient to identify what land is so occupied;
- b. the vacant land owned by the company and not in actual use by the company;
- c. the quantity of land occupied by the railway and being a part of a highway, street, road or other public land, but not being a highway, street or road that is merely crossed by the railway; and
- d. the real property, other than that referred to in clause (a), (b) or (c), in actual use and occupation by the railway.

Where portions of the railway right of way are leased to a third party, the Municipal Property Assessment Corporation (MPAC) assigns a separate roll number and assesses the land as commercial on the return of the roll. On these portions, the railway company remains as the assessed owner and continues to be responsible for property taxes.

### **CONTACT**

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### **SIGNATURE**

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Cam Weldon  
Treasurer