

City of Mississauga Corporate Report



<p>Date: January 12, 2023</p> <p>To: Chair and Members of General Committee</p>	<p>Originator's files: PO.13.HYD</p>
<p>From: Shari Lichterman, CPA, CMA, Commissioner of Corporate Services and Chief Financial Officer</p>	<p>Meeting date: January 25, 2023</p>

Subject

Tax Exemption for a Municipal Capital Facility, being a portion of lands owned by Lakeview Community Partners Limited, (PIN 13485-0771 identified as Part 1, 43R-40389) – Park Depot at Lakefront Promenade

Recommendation

1. That a by-law be enacted to classify the Commercial Lease Agreement (the "Lease") dated September 15, 2022 between Lakeview Community Partners Limited ("LCPL") and the City of Mississauga (the "City"), as a municipal capital facilities agreement made pursuant to section 110 of the Municipal Act, 2001, SO 2001, c.25, as amended, and to hereby exempt a portion of LCPL lands identified as PIN 13485-0771 and designated as Part 1 on 43R-40389 comprising a total area of approximately 4,129 square metres (44,444.19 square feet) of lands, as shown in Appendix 1 attached to this report (the "Leased Lands") from taxation for municipal and school purposes effective on September 15, 2022.
2. That the Clerk be directed to notify the Minister of Education, Municipal Property Assessment Corporation, the Regional Municipality of Peel and the secretary of any school board which includes the land exempted, of the enactment of the By-law.
3. That all necessary by-laws be enacted.

Executive Summary

- On September 15, 2022 the City entered into a five-year lease agreement with LCPL in order to occupy an area of approximately 4,129 square metres (44,444.19 square feet) PIN 13485-0771, described as Part 1 on 43R-40389, to operate a municipal parks depot building, including driveway access, to support the maintenance and operation of the Lakefront Promenade Park and other City parks within the surrounding community (the "Park").
- Section 110 of the Municipal Act, 2001, SO 2001, c 25, permits the council of a municipality to exempt from taxation for municipal and school purposes leased or

licensed lands on which municipal capital facilities are or will be located.

- By declaring the Leased Lands as a municipal capital facility, the City will not be required to pay property taxes as part of the additional rent payable under the Lease.

Background

LCPL is in the process of converting 71.63 hectares (177 acres) of land, formerly owned by Ontario Power Generation and operated as the Lakeview Generating coal burning station (the “LCPL Lands”) into a mixed use development. The Region of Peel owns certain lands (the “Region Lands”) adjacent to the LCPL Lands. The City leases a portion of the Region Lands to operate a Park and has built a park depot building (the “Existing Park Depot Facility”) to facilitate the maintenance and operation of the Park. In addition to the Existing Park Depot, there is also a private road access (the “Private Road”) to the Park and marina.

Under By-law 0179-2021, the City entered into a Memorandum of Agreement (a “MOU”) with the Region of Peel and LCPL to set out the actions necessary to conclude the agreements and conveyances of the parties. The MOU set out, among other obligations, that (i) LCPL purchase a portion of the Region Lands, comprising a portion of the Existing Park Depot Facility; (ii) build a new park depot facility for the City on a portion of the Lakeview Lands (the “New Temporary Park Depot Facility”); and (iii) remove and reinstate a portion of the Private Road to realign the existing trail, construct all necessary connections, including a round-about, to the new extension of the Park.

Subsequently, under a Commercial Lease Agreement dated September 15, 2022, the City will have use of the Leased Lands to continue operating the Existing Park Depot Facility, including driveway access, to support the maintenance and operation of the adjacent Park. The term of the Lease is for a period of five (5) years commencing on September 15, 2022 to September 14, 2027 with an option to extend the lease for successive one year periods provided that a notice is given sixty (60) days prior to the termination date. The Lease stipulates that the City has the right to an early termination on providing LCPL 30 days’ written notice. LCPL shall have the right to terminate the Lease subject to the following terms:

- (i) an occupancy certificate has been issued to permit for the occupation and use of the New Temporary Park Depot Building
- (ii) LCPL has delivered a written notice of termination providing for 6 months’ notice period specifying the early termination date
- (iii) LCPL’s termination date shall not fall during the exclusionary periods of May 1 to August 31 and December 21 to January 5, of any calendar year.

Property that is owned and occupied by the City is exempt from taxation pursuant to section 3(9) of the Assessment Act, RSO 1990, c A.31. However, this exemption does not flow through automatically where the City leases or licenses space for municipal purposes from a person or corporation that is subject to taxation.

Section 110 of the Municipal Act, 2001, SO 2001, c 25, permits the council of a municipality to exempt from taxation for municipal and school purposes leased or licensed lands on which municipal capital facilities are or will be located. Municipal capital facilities are defined by the O. Reg. 603/06, as amended, and include among other things facilities used for the general administration of the municipality and facilities used for cultural, recreational or tourist purposes.

When municipal capital facilities are located on just a portion of land, the remainder of the lands that are not designated as municipal capital facilities continue to be taxed for municipal and school purposes. The Lease is effective as of September 15, 2022.

Comments

The City entered into the Lease with LCPL commencing on September 15, 2022 for the Leased Lands comprising a total area of approximately 4,129 square metres (44,444.19 square feet) as shown in Appendix 1. Under the terms of the Lease, the City is to be exempt from taxation, provided that a by-law is enacted declaring the Leased Lands a municipal capital facility for the purposes of the Municipal Act, 2001, and O. Reg. 603/06, as amended. Should Council adopt the recommendations herein, the Leased Lands would become tax exempt. This exemption is applicable until such time as the bylaw is amended or repealed to remove the Leased Lands from the list of Municipal Capital Facilities. It is noted that as the Leased Lands were only recently sold by the Region of Peel to LCPL, they have not yet been assigned a Roll Number.

Designating the lands as a municipal capital facility will only exempt the Leased Lands from property taxes. The remainder of the LCPL's property will continue to be subject to property taxes.

Financial Impact

Should Council adopt the recommendations of this report and exempt the Leased Lands from taxation for municipal and school purposes, the City will not be required to pay property taxes on the Leased Lands. While the Lease contemplates the possibility of the Leased Lands as being a municipal capital facility, the enactment of a by-law declaring it as such is required under the Municipal Act, 2001, as amended.

Conclusion

While ordinarily exempt from taxation, the City is obligated to pay its proportionate share of property taxes on properties which have been leased from private parties. Tax exempting the Leased Lands in accordance with the municipal capital facilities provisions of the Municipal Act, 2001, as amended, would result in savings to the City.

Attachments

Appendix 1: The Leased Lands – The Proposed Tax Exempt Portion of Part 1 on 43R-40389



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