

For immediate release...

Toronto Port Authority responds to City of Toronto's application for a judicial review of property valuation recommendations

TORONTO (February 10, 2009) – The Toronto Port Authority (TPA) announced today it has received notice from the City of Toronto that the City has refused to accept the recommendations of the federal Dispute Advisory Panel regarding the TPA's appropriate Payment in Lieu of Taxes ("PILTs") and that it has formally applied for a judicial review by the Federal Court of Canada.

"The TPA is disappointed that the City of Toronto has chosen to prolong the dispute over the property values used to calculate a Payment in Lieu of Taxes," said Alan Paul, Acting President & Chief Executive Officer of the TPA.

The TPA has offered the City of Toronto a fair and equitable PILTs amount since it became subject to the PILTs Act on June 7, 1999. However, the City has decided to withhold funds payable to the TPA in accordance with its 2003 Settlement Agreement, which include past Operating and Capital amounts, ongoing Capital Payments and Harbour User Fees.

On April 13, 2006, the City of Toronto applied to the Dispute Advisory Panel. A hearing was held from February 25 to 28, 2008. On August 28, 2008, the City of Toronto advised the TPA in a letter that it was withholding "\$10 million" of funds it contractually owed to the TPA and that the funds "[have been] set aside pending resolution of the dispute". The City's letter continued: "As you know, the City is waiting for the decision from the Federal PILTs Dispute Advisory Panel regarding the PILTs issues on the TPA's major properties."

On January 5, 2009, the Dispute Advisory Panel released its Report on the value of four properties, including the Toronto City Centre Airport, that were in dispute between the TPA and the City of Toronto. As per the TPA press release dated January 21, 2008, Mr. Paul advised that "it has always been the TPA's intention to pay a PILTs amount to the City of Toronto, provided that it is fair and reasonable". For the four properties reviewed by the Dispute Advisory Panel, their recommendations would result in a PILTs payment of \$5.063 million for 1999 to 2008, inclusive. The City had been seeking \$37.342 million for the same period.

The City is alleging that the Panel was biased against its expert witness, that the panel incorrectly utilized certain information, and that the Toronto City Centre Airport should be analyzed as a commercial property and not as an airport.

“We’re disappointed that the City has put us on a path which could potentially result in many years of costly litigation.” added Mr. Paul. “The TPA is ready to pay its PILTs as part of an exchange of amounts owed between the parties, but we have no choice other than to reply to the City's Application to the Federal Court”.

“The City originally requested a hearing before the Dispute Advisory Panel, and are now challenging the findings of the Panel. This tactic will only cost all of our stakeholders additional and unnecessary legal fees. The City’s energy and financial resources could otherwise be put towards productive joint initiatives with the TPA, rather than using the Courts to settle simple matters,” added Mark McQueen, Chairman of the TPA Board of Directors. “This isn’t the only example. Just six weeks ago, an Ontario Superior Court Judge completely dismissed the City’s arguments as ‘unreasonable’ regarding the TPA’s 2006 request regarding queuing lanes at the Bathurst Street Ferry Terminal.”

In that December 23, 2008, Court decision, the Judge directed the City to immediately approve the TPA’s early 2006 request to perform basic work to the TPA’s Bathurst Street lot. In that matter, the City used the court system to delay a simple works project until early in 2009.

“The TPA would love to turn the page and move on from the historically fractious relationship between our two entities, but the City needs to meet us halfway,” continued Mr. McQueen. “It remains our expectation that the City has already formally set aside the more than \$10 million in payments they’ve withheld from the TPA, as per their written undertaking of August 2008.”

The Panels’ Report and a Backgrounder on PILTs were first made available on the TPA website (www.torontoport.com) on January 21, 2009.

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