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MEMBER COMMUNICATION

ALERT N°: 09/060

To the attention of the Clerk and Council
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ALERT

AMO Welcomes Court Decision on Bank Tower Assessment

Issue: On August 11, 2009, the Divisional Court released its unanimous decision regarding the Toronto Bank Towers. The Court found that the Assessment Review Board's interpretation of "current value" and "fee simple if unencumbered" is wrong in law.

Background:

The Court's decision upholds the Municipal Property Assessment Corporation's (MPAC) longstanding practice of including a tenant's leasehold improvements in determining office tower property values. Given the province wide implications of this decision, the municipalities of Atikokan, Brant, Ear Falls, Goderich, Lambton, Lincoln, Ottawa, Quinte West, Red Lake, Sarnia, South Bruce Peninsula, and Windsor were intervenors in the case.

In 2008, MPAC and the City of Toronto sought leave to appeal the interim decision of the Assessment Review Board on the City of Toronto Bank Tower ruling. On November 14, 2008, the Divisional Court granted leave to appeal the decision of the Assessment Review Board. In response to an appeal by the bank tower owners, yesterday's second Divisional Court decision.

The Court found the Board's determination that required buildings to be assessed as vacant, undermines the purpose of assessment. In reaching this conclusion, the Court states that, "to value these Bank Towers on the basis that they are vacant, when all (parties) agree that that is an entirely hypothetical scenario, is to significantly undervalue them compared to other real property...". The Court concluded that the Board's, "interpretation does not promote the legislative purpose".

If the Board's decision had been upheld, it would have significant implications for municipal assessment bases across the province. After the first Board decision, AMO wrote to the Minister of Finance urging that the government clarify assessment practices. Although a positive development at this time, a further appeal of this decision by those representing the bank towers is possible within the next 15 days.

Action: For your information.

This information is available in the Policy Issues section of the AMO website at www.amo.on.ca.

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