MA-D3-1

MUNICIPAL PROPERTY ASSESSMENT CORPORATION

September 30, 2009

LEGISLATIVE SERVICES			
COPY TO:		FOR:	
Chair	✓ ✓	Committee	
CAO	✓ ✓		
Corporate Services	✓ ✓	Council	
Environment, Transportation and Planning Services		Oct 22	
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Human Services			
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To: All Heads of Council
Ontario Municipalities

From: Debbie Zimmerman
Chair, MPAC Board of Directors

Subject: Toronto Bank Towers Decision – Divisional Court

On August 11, 2009, the Divisional Court released its decision regarding the Toronto Bank Towers. In a unanimous decision, the Court found that the Assessment Review Board's (ARB) interpretation of "current value" and "fee simple if unencumbered" is wrong in law. The decision confirms the approach that the Municipal Property Assessment Corporation (MPAC) has used in valuing commercial property across Ontario.

The issue arose in February 2008 as a result of a decision of the ARB related to the Toronto Bank Towers. The ARB ruled that "current value" for assessment purposes should be based only on the interest of the owner, not the tenant, and that the buildings must be valued as if vacant. MPAC and the City of Toronto appealed the decision to the Divisional Court.

In its decision, the Divisional Court found that the ARB's interpretation of the *Assessment Act* would significantly under-value these properties and would not result in a fair distribution of the property tax burden. The Court stated that the ARB's interpretation does not comply with long-standing common law dating back to 1907. The Divisional Court ordered that the matter be returned to a differently constituted panel of the ARB and will give that panel direction on the application of this decision.

However, on August 25, representatives for the property owners filed a motion requesting 'leave to appeal' to the Court of Appeal for Ontario. Unfortunately, we do not have a time line as to when the Court of Appeal will hear the leave application.

Background information about the decision has been posted on our website for your reference. If you have any questions, please feel free to contact Arthur Anderson, Director, Municipal Relations, 905 837-6993.

Yours truly,

"Original Signed by"

Debbie Zimmerman
Chair, MPAC Board of Directors

Copy: Carl Isenburg, President and Chief Administrative Officer, MPAC
Executive Management Group
Arthur Anderson

REFERRAL TO
RECOMMENDED
DIRECTION REQUIRED
RECEIPT RECOMMENDED ✓

Office of the Chair c/o Municipal Property Assessment Corporation
1305 Pickering Parkway, Pickering, Ontario L1V 3P2
T: 905.688.0990 ext 224 F: 905.831.0040 www.mpac.ca