

January 5, 2018



VIA ELECTRONIC TRANSMISSION

City of Hamilton
Hamilton City Hall
2nd floor - 71 Main Street West
Hamilton, Ontario L8P 4Y5

Attention: Lloyd Ferguson, City Councillor Ward 12

Re: 500 Eastport Blvd., Hamilton
Supplemental Taxes for 2013-2016
Assessment Complaints 2013-2018

Dear Councillor Ferguson,

This letter is further to your meeting with Mike McCalmont from Toronto Tank Lines (TTL) and his request for intervention and assistance with the above property. Mr. McCalmont is principal of Toronto Tank Lines (1040135 Ontario Inc.) who occupy 14.35 acres of Hamilton Port Authority land where they operate a Bulk Liquid Cargo and Transportation business. This business has been in operation on these lands since 2003 and now employs 112 people on its premise which contributes substantially to the local and basic employment of this municipality.

I have been retained by TTL and Mr. McCalmont to appeal supplemental assessments issued by MPAC. Appeals have been filed for 2013, 2014, 2015, 2016, 2017 and now 2018 taxation years.

The extent of our complaints in this matter is not limited to property assessment. Unfortunately under the new Board rules these complaints will not commence until April 2019 suggesting 2020 as the earliest relief date. I have been asked to update you on matters within the City's influence and the relevant considerations.

- 1) On October 8, 2015, TTL was served with a Supplemental Assessment Notice to reflect legally authorized construction of an industrial building and 3 bulk tanks that were added to the Port Authority Lands in 2003. The supplemental taxes were retroactive to 2013-2015 taxation years consistent with the limitations of the Assessment Act.
- 2) Two subsequent supplemental tax bills were received in November 2015 for the same period. Additional taxes were imposed on TTL for the period. On Aggregate, \$2,701,040 of CVA was phased-in and added to the original assessment of \$898,584.
- 3) Notwithstanding a revised CVA of \$4,344,900 determined for 2012 CVA, MPAC has revised the 2016 CVA to \$3,737,200 suggesting an overly aggressive valuation for the cycle initially appealed.

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In addition to having to deal with the appropriateness and equitable level of assessment, TTL takes particular issue on the following:

- 4) Building Improvements on the lands were actually completed in 2003 pursuant to a permit issued by City of Hamilton (Permit No. 032048960013);
- 5) The City of Hamilton endorsed the proposal to add 3 bulk tanks to the Lands on July 11, 2003.
- 6) Notwithstanding the assessability of these improvements TTL had always been under the assumption and understanding that they were assessed the appropriate CVA of their lands including all improvements. These improvements were lawfully processed with full knowledge of the municipality.
- 7) Based on TTL's reliance on the integrity of assessment and taxation system they had good reason to rely on the fairness of their property tax expenses.
- 8) Relying on normalized operating costs and assessment since 2004, TTL committed to additional labour and capital equipment over the years. Trucking supply and delivery pricing was routinely set relative to those costs.
- 9) Subleased area on site and tax recoveries have long since been reconciled with the tenants of TTL. These leases were also negotiated without consideration to the full tax burden of the sub-landlord.
- 10) The above matters suggest negligence by the City and MPAC to bring assessment forward in a timely manner which has contributed to the strife of our client's business, TTL.

Our client pleads that the responsibility for recovery of these tax dollars should be substantially curtailed under the circumstances on account of the following:

- A) Tax revenue for the years in question were never anticipated or budgeted for and as a result have already been absorbed and spread across the tax rate set by the municipality for those tax years;
- B) The City through its alliance with MPAC to deliver accurate and timely assessments should accept responsibility for the forfeiture of approximately \$700,000 in tax revenue between 2003-2013;
- C) The City through its assessment omission has indirectly misled TTL and prompted them to prematurely develop and expand their business. It has at the same time been enriched through the local employment created by TTL and the productivity of lands that may have otherwise sat dormant and assessable at substantially lower levels;

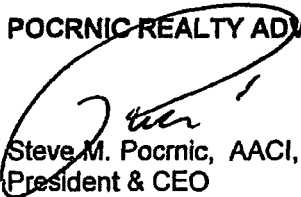
D) TTL understands its accountability to assessment and tax. It recognizes however, that these taxes are partly intended to pay for safe guards in the system and processes it should be able to rely upon for the purposes of running its business. TTL expects that in return for this consideration that there is reciprocal accountability from the stakeholders to insulate it from errors whether they stem from oversight or negligence. TTL does not believe it should be singled out to absorb past taxes without some contribution or relief from parties responsible. MPAC and the City have otherwise prevented TTL the ability to pass on its costs through its foodchain.

As residents of Ancaster who contribute substantially to the services supplied to this community, we ask for your assistance and appeal to your sense of equity and fairness to mitigate the impact of these taxes on TTL. All other matters of equity and valuation will be resolved by us through the Assessment Review Board.

Please feel free to contact me for further clarification is required relative to the technical matters of assessment or valuation.

Sincerely,

POCRNIC REALTY ADVISORS INC.



Steve M. Pocrnic, AACI, P.App., CCIM, A.I.M.A.
President & CEO

Copy: Mike McCalmont, Toronto Tank Lines
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[Faint handwritten notes]