Agenda - Council - March 22, 2006

Report "A" – Executive Policy Committee – March 15, 2006

Item No. 3 City of Winnipeg Board of Revision
File AA

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 15, 2006, the Executive Policy Committee concurred in the administrative recommendation and submits the following to Council:

1. That a change in practice and procedure that requires the Board of Revision to provide written reasons on request for its decisions, prior to the end of the Board of Revision appeal period be approved.

2. That a change in practice and procedure that requires written submissions for appeals by commercial properties by all parties, at least fourteen (14) days prior to a scheduled commercial hearing, and that this information be exchanged between parties, be approved.

3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report "A" – Executive Policy Committee – March 15, 2006

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 15, 2006, the Executive Policy Committee concurred in the administrative recommendation and submitted the matter to Council.

Further, on March 15, 2006, the Executive Policy Committee considered a communication dated March 15, 2006, from David M. Sanders, Senior Manager, Property Tax Services, Deloitte & Touche LLP, in opposition to the recommendations to amend practices and procedures at the City of Winnipeg Board of Revision.

Report

Re: City of Winnipeg Board Of Revision

For Submission To: Executive Policy Committee

Original Report Signed By: R. Kachur, City Clerk

Report date: February 20, 2006

Recommendation(s):

1. That City Council approve a change in practice and procedure that requires the Board of Revision to provide written reasons on request for its decisions, prior to the end of the Board of Revision appeal period.

2. That City Council approve a change in practice and procedure that requires written submissions for appeals by commercial properties by all parties, at least 14 days prior to a scheduled commercial hearing, and that this information be exchanged between parties.

Report Summary

Key Issues:

The Assessment Task Force, established by the Executive Policy Committee on December 05, 2001, prepared a report recommending a number of changes for the Board of Revision.

Implications of the Recommendation(s):

General Implications

- ☐ None
- ☐ For the organization overall and/or for other departments
- **X** For the community and/or organizations external to the City of Winnipeg
- ☐ Involves a multi-year contract

Comment:

Policy Implications

☐ No

X Yes

Comment: While the recommendation of this report does not, by itself, have policy implications, should there be direction provided to move ahead and implement some or all of the specific recommendations responded to within this report, the implementation of these recommendations will have policy implications.

Environmental Implications

X No

☐ Yes

Comment:

Human Resource Implications

X No

☐ Yes

Comment:

Financial Implications

X Within approved current and/or capital budget

☐ Current and/or capital budget adjustment required

Report

Reason for the report:

At its meeting of December 05, 2001, the Executive Policy Committee convened an Assessment Task Force comprised of Councillor O'Shaughnessy, Martin Hak, Sandy Shindleman and Lorne Weiss which prepared a report dated September 16, 2002 recommending a number of changes for the Board of Revision.

History & Discussion:

The Board of Revision is an independent tribunal established to hear applications for revision (commonly referred to as “appeals”) respecting assessment issues on liability and quantum in a fair, efficient and judicious manner with consideration given to the City of Winnipeg’s fiscal time frame. Members of the Board of Revision for the City of Winnipeg are appointed by City Council. The Board of Revision reports to the City Clerk’s Department.

Property owners who disagree with the assessed value attributed to their property by the Property Assessment Department are entitled to apply for revision of the assessment roll with respect to the amount of an assessed value. The Board of Revision is also empowered to hear applications for revision with respect to liability to taxation, classification of property or the refusal by an assessor to amend the assessment roll in such particular circumstances as are described in the Act. Historically the Board will hear an average of 11,000 appeals during a reassessment period, which results in over 500 sittings.

Where an applicant fails to attend a scheduled sitting of the Board of Revision, the Board may dismiss the application without a hearing in the absence of the applicant. There is no fee associated with filing an application for revision and the Board does not have jurisdiction to award costs.

The Assessment Task Force, comprised of Councillor O’Shaughnessy, Martin Hak, Sandy Shindleman and Lorne Weiss, prepared a report dated September 16, 2002 recommending a number of changes for the Board of Revision. The City Clerk’s Department has reviewed the report and responds with the following:

1 <u>Written Reasons for Decision on Request</u>

The Board of Revision issues written decisions but does not provide reasons for these decisions. Written reasons should be provided on request prior to the end of the Board of Revision appeal period. The current notification simply indicates what assessed value has been arrived at without any explanation. Providing written reasons along with decisions will likely have an impact on the quality and consistency of decisions.

As well, providing reasons will likely result in improved customer satisfaction. Currently, appellants may appeal the same property repeatedly for several years in a row. The lack of a reason for why a previous appeal was rejected may factor into this repetitive action. Providing a reason for a decision will help the customer understand the decision, and help them determine if it is worthwhile to pursue further appeals. This process does have some advantages, which

include uniformity and control. Different panels will hear properties with similar characteristics and the decisions must be of the same nature.
The Manager of Appeals and the Chairperson of the Board of Revision would have to review all decisions to provide consistency. The Manager and panels would require further education and training to ensure this process could be done in a professional, consistent basis.

Currently the cities of Calgary, Edmonton and Saskatoon all provide an explanation through written decisions in their appeal process (see Schedule 1).

2 Written Submissions for Commercial Properties

The Board of Revision does not currently require a full exchange of information from both parties involved in an appeal prior to the hearing. Frequently, an assessor is presented with a large brief of information at the hearing and has no opportunity for review and analysis. It is recommended that the Board of Revision require written submissions by all parties, at least 14 days prior to a scheduled hearing, and that this information be provided to both parties. Written submissions would assist board panels in terms of making decisions, and would eliminate appeals by encouraging communication and resolution.

Section 36(2) of the Municipal Assessment Act clearly states that the Board of Revision may determine its own rules of practice and procedure to govern the conduct of the business of the Board. If the Board of Revision wishes to establish rules of practice and procedure for appeals, these rules pursuant to Section 36(2) of the Municipal Assessment Act would have to be approved by City Council in order for those rules to come into force (see Schedule 2). Currently the cities of Calgary, Edmonton and Saskatoon all require exchange of information prior to a hearing (see Schedule 1). If approved by Council, The Board of Revision Administration would develop standard guidelines for applicants in regard to what is required for written submissions.

IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH, AND CONCURRENCE BY:

- Corporate Finance
- Corporate Services – Legal Services
- Property Assessment
- Audit

THIS REPORT SUBMITTED BY:
The City Clerk's Department

Financial Impact Statement:

Project Name: Board of Revision

Date: February 20, 2006 First Year of Program: 2006

	0	1	2	3	4
Capital					
Capital Expenditures Required					
Less: Existing Budgeted Costs					
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal					
Debt - External					
Grants (Enter Description Here)					
Reserves, Equity, Surplus					
Other - Enter Description Here					
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -				$ -
Less: Incremental Revenue/Recovery					
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts					
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -
Additional Comments:					

Marc Lemoine

Department Controller

Schedule 1 - Written Reason for Decisions – Survey of other Canadian Municipalities

	Vancouver	Calgary	Edmonton	Saskatoon	Regina	Winnipeg	Toronto
Organization	Property Assessment Review Board	Assessment Review Board	Assessment Review Board	Board of Revision	Regional Assessment Appeal Board	Board of Revision	Assessment Review Board
# of board members	12	28	15	11	12	33	Fluctuates
Members per sitting	3	3	1 or 3	3	3	3	1 or 2
Rate of pay	Members - $ 62.50 per half day Panel Chair - $80 per half day	Members - $225 per day Panel Chair - $260 per day	Members - $100 per half day Panel Chair - $124 per half day	All Members - $125 per day Panel Chair - $1500 annual honorarium Board Chair - $3000 annual honorarium	Members - $100 per half day Panel Chair - $125 per half day	All members - $50 per 2 hrs Chair - $75 per 2 hr Board Chair - $1250.00 bi-weekly	All members - $34 per hour Chair and (4) vice chairs on salary
Avg appeals filed following reassessment	1,500	9,000	8,000	1,000	1,000	11,000	24,000
Decisions	Written decision with explanation	Written decision with explanation	Written decision with explanation	Written decision with explanation	Written decision with explanation	Written decision with no explanation	Written decision upon request
Filing Fee	None	$20 - residential $50 - commercial	$30 - residential $47 - commercial	$30 – residential $500 - commercial	$50 – residential graduated - commercial	none	$50 – residential $125 - commercial
Training	Training provided on CD	2 days - administrative justice 1 day – Municipal affairs training	6 days – professional development	In-house	In-house	In-house	Training manuals
Require written submissions	No rationale required	Exchange of written material 21 days prior	An issue statement from the complainant is due 21 days before the hearing	All parties who intend to make use of any written materials must file copies with the secretary of the board at least 10 days prior	Written information supporting the basis of the decision	No rationale required	Oral decisions and in some cases written decisions

Schedule 2
Written reasons for Decisions

Section 36(2) of *The Municipal Assessment Act* states as follows:

Rules of practice
36(2) *A board may determine the rules of practice and procedure to govern the conduct of the business before the board or a panel of the board, but the rules do not come into force until approved by the council or the municipality.*