

Authority: Item 11(b), General Issues Committee
Report 12-032 (PED12202)
CM: November 14, 2012

Bill No. 257

CITY OF HAMILTON

BY-LAW NO. 12-257

BEING A BY-LAW TO EXEMPT FROM TAXATION FOR MUNICIPAL AND SCHOOL BOARD PURPOSES THE LEASEHOLD INTEREST OF TRADEPORT INTERNATIONAL CORPORATION IN THE LANDS COMPRISING HAMILTON INTERNATIONAL AIRPORT AS A MUNICIPAL CAPITAL FACILITY PURSUANT TO THE PROVISIONS OF SUBSECTION 110(6) OF THE MUNICIPAL ACT, 2001 AND ONTARIO REGULATION 603/06

WHEREAS subsection 110(6) of the Municipal Act, 2001 provides that the council of a municipality may exempt from taxation for municipal and school board purposes, land or a portion of it on which municipal capital facilities are or will be located;

AND WHEREAS pursuant to subsection 2(1) of Ontario Regulation 603/06, two of the classes of municipal capital facilities that are eligible municipal capital facilities for the purposes of a tax exemption under subsection 110(6) of the Municipal Act, 2001, are

- “5. Municipal facilities related to the provision of telecommunications, transit and transportation systems.

13. Parking facilities ancillary to facilities described in any of paragraphs 1 to 12.”

AND WHEREAS the Regional Municipality of Hamilton-Wentworth and TradePort International Corporation entered into an agreement for the provision of municipal capital facilities at Hamilton International Airport (the “Airport”);

AND WHEREAS the Region and TradePort International Corporation have agreed that the TradePort tenancy of the Airport would not give rise to liability for taxation for municipal and school board purposes except as described in the

agreement between them, which agreement was executed on July 19, 1996, effect to which is intended to be continued by the terms of this By-law;

AND WHEREAS the City of Hamilton is the successor to The Regional Municipality of Hamilton-Wentworth as a party to said Agreement pursuant to The City of Hamilton Act, 1999, being Schedule "C" to the Fewer Municipal Politicians Act, 1999, S.O. 1999, Chap. 14;

AND WHEREAS this by-law is to replace By-law No. R96-092, passed and enacted by The Regional Municipality of Hamilton-Wentworth on December 3, 1996, upon the expiry of By-law R96-092 on December 31, 2012.

NOW THEREFORE, the Council of the City of Hamilton enacts as follows:

1. In this By-law:

"Airport" means the lands and premises comprising Hamilton International Airport as currently described in Schedule "A" hereto, together with all future lands acquired from time to time by the City of Hamilton for the purposes of the Airport;

"Air Terminal Building" means facilities, buildings and structures at the Airport utilized to facilitate passenger traffic at the Airport, both enplaned and deplaned, and related passenger services, including adjacent or attached parking garages, concession and retail services, restaurants, licensed liquor establishments, duty free shops, baggage handling, customs and security clearance;

"Agreement" means the agreement between the Region and TradePort International Corporation, executed on July 19, 1996, for the provision of municipal capital facilities at the Airport within the meaning of s. 110(6) of the Municipal Act, 2001 and any subsequent amendments thereto.

"City" means the geographical area of the City of Hamilton or the municipal corporation as the context requires;

"Clerk" means the City Clerk; and

"Land" means all lands and premises comprising the Airport from time to time.

“Person” means any individual, company, corporation, partnership, firm, trust, sole proprietorship, government or government agency, authority or entity, however designated or constituted.

Municipal Capital Facility

2. The Airport continues to be subject to an Agreement between the City and TradePort International Corporation for the provision of municipal capital facilities with the meaning of subsection 110(6) of the Municipal Act, 2001.
3. This By-law shall exempt from taxation for municipal and school board purposes the leasehold interest of TradePort International Corporation in the Airport and shall not operate in any manner whatsoever so as to exempt from taxation for municipal and school board purposes any other leasehold interest, tenancy, sub-lease, sub-tenancy, occupancy, license, user or other interest held by any other tenant, lessee, sub-tenant, sub-lessee, occupant, licensee, user or any other Person at the Airport.
4. This by-law, and the treatment of TradePort International Corporation hereunder, shall not be construed to affect the liability to assessment and taxation for municipal and school board purposes of any other Person, tenant, occupant, user or land at the Airport which is occupied or used by any other Person.

Municipal Assessment Liability

5. Land at the Airport leased, occupied or used by TradePort International Corporation shall be exempt from taxation for municipal and school board purposes, including assessment for vehicle parking lots, except when subject to a further tenancy, occupant or user agreement with any other Person.
6. TradePort International Corporation shall be exempt from taxation for municipal and school purposes including assessment for vehicle parking lots for Land at the Airport leased, occupied or used by TradePort International Corporation at the Airport, except to the extent that Land at the Airport is subject to a further tenancy, occupancy or user agreement with any other Person.
7. Any part of the Airport Terminal Building leased, occupied or used by TradePort International Corporation shall be exempt from taxation for municipal and school board purposes except when subject to a further tenancy, occupancy or user agreement with any other Person.

Effective Date

8. The tax exemption provided for herein shall take effect on January 1, 2013.

Notices

9. Upon passing this By-law, the Clerk, or his or her designate, shall give written notice of this By-law and of the Agreement to:

- (a) the Municipal Property Assessment Corporation; and
- (b) the secretary of any school board if the area of jurisdiction of the board includes the land exempted by this By-law.

10. This By-law shall not be considered to provide for a tax exemption in respect of a special levy under sections 311 or 312 of the Municipal Act, 2001, for sewer and water.

11. Section 357 of the Municipal Act, 2001, applies with necessary modifications to allow for a cancellation, reduction or refund of taxes that are no longer payable as a result of this By-law.

This By-law is deemed to come into force on January 1, 2013.

PASSED this 14th day of November, 2012.



R. Bratina
Mayor



R. Caterini
City Clerk

SCHEDULE 'A'

LEGAL DESCRIPTION

Firstly

LT20-21 PL 1230; PT LT 18-19 PL 1230; PT PCL B PL 1230; PT LT 46-49 CON 5 ANCASTER; PT LT 1-5 CON 3 GLANFORD; SAVE AND EXCEPT PARTS 3, 4 AND 5 ON 62R18932; PT LT 1-5 CON 4 GLANFORD; PT RDAL BTN LT 48 & 49 CON 5 ANCASTER; PT RDAL BTN TWP OF ANCASTER AND GLANFORD PT 2,4,5 & 8 62R11334 SRO EXCEPT PT 1 62R14613, PT 2 62R17188 S/T VM236902; S/T INTEREST IN VM236902 T/W VM236902 (FIRSTLY); S/T VM238143 CITY OF HAMILTON

Being all of PIN 17399-0480 LT

Secondly

PT LT 5 CON 3 GLANFORD; SAVE AND EXCEPT PARTS 3, 4 AND 5 ON 62R18932; S/T VM236902; S/T GL9651 PARTIALLY RELEASED BY GL10681; S/T INTEREST IN VM236902; T/W VM236902(FIRSTLY) SUBJECT TO AN EASEMENT AS IN VM238143 CITY OF HAMILTON

Being all of PIN 17399-0479 LT

Thirdly

PT LT 45 CON 5 ANCASTER PT 1 62R11334 SRO EXCEPT PT 18 62R14623 S/T VM236902; S/T AN26343, VM35953; CITY OF HAMILTON

Being all of PIN 17399-0331 LT

Fourthly

PT LT 4 CON 4 GLANFORD PT 4 62R17188; CITY OF HAMILTON

Being all of PIN 17399-0306 LT

Fifthly

PT LT 46 CON 5 ANCASTER BEING PTS 1 AND 2 ON 62R17517; CITY OF HAMILTON

Being part of PIN 17399-0293 LT