



**Ontario Catholic School Trustees' Association ("OCSTA")**

**- and -**

**Association Franco-Ontarienne des conseils scolaires Catholiques ("AFOCSC")**

**- and -**

**Association des conseils scolaires des écoles publiques de l'Ontario ("ACÉPO")**

**- and -**

**Ontario Public School Board Association ("OPSBA")**

**BRIEFING NOTE RE: MAINTENANCE  
OF AN ACCURATE ASSESSMENT BASE AND VOTERS LIST**

**August 11, 2009**

## **BACKGROUND**

Except for unorganized areas, every piece of real property in Ontario is identified on the assessment roll as supporting one of the five publicly funded school systems. Information that appears on each annual assessment roll is maintained by the Municipal Property Assessment Corporation ("MPAC") in a property database.

Since 1998 when the school support funding model was significantly changed, the school support status of property has not had an impact on a school board's ability to raise funds. As a result, school boards redirected their efforts away from their previous active monitoring and promoting of accurate school support information. In addition, school support information has not been as forthcoming from property owners and tenants as it once was. For these and other reasons, school support information on the assessment roll is not always current.

MPAC is also obliged to conduct an enumeration and prepare the preliminary voters' list for municipal and school board elections. The school support portion of the assessment system and voters' list depends on data collection methods that are expensive to operate and handicap MPAC's ability to maintain accurate information.

## **MPAC'S DUTIES UNDER THE ASSESSMENT ACT**

### **A. Prepare an Assessment Roll (Section 14)**

Section 36 of the *Assessment Act* requires MPAC to return an annual assessment roll. Section 14(1) of the *Assessment Act* requires various information to be included on the assessment roll including

- (a) whether the person is a French-language rights holder;
- (b) their religion if Roman Catholic; and
- (c) the type of school board the person supports under the *Education Act*.

Subsection 14(3) requires a division of a multi-residential building's assessment according to the support of all residents of the building.

Subsection 14(4) provides that MPAC will be guided by the applications received and approved under section 16 of the *Assessment Act* and by the notices received under section 237 of the *Education Act*.

**B. Prepare a Preliminary Voters' List, Which is Also the Basis for the Jury Rolls (Section 15)**

Section 15 of the *Assessment Act* requires MPAC to conduct an enumeration for purposes of the *Municipal Elections Act, 1996*. The information required includes:

- (a) address of resident;
- (b) Identification of citizenship;
- (c) age (ie. The resident is at least 18 years old).

An accurate and up-to-date voters' list ensures elections work well. The voters list, which includes birth dates and citizenship, is also the basis for the jury roll prepared in accordance with section 3 of the *Juries Act*.

Section 19 of the *Municipal Elections Act, 1996* requires MPAC to prepare a preliminary voters' list during the year of a regular election, and section 21 requires MPAC to deliver to the secretary of every school board an extract of the preliminary voters' list based on the school support of electors in that election. The preliminary list as amended by the municipal clerk constitutes the voters' list.

**C. Prepare Annual School Support Lists (Section 16)**

Section 16 of the *Assessment Act* requires that MPAC annually deliver to each school board:

- (a) a list of names of all persons entitled to support a school board; and
- (b) the type of school board each person supports. This section also states that the information should be based on the last enumeration and any subsequent updates thereto, including information received on a form approved by the Minister.

**D. Obtain Information from Landlord**

Section 16.1 of the Act requires landlords, for purposes of section 15 (B above), and section 16 (C above) of the *Assessment Act* on or before July in each year, to provide MPAC with a list of the names and address of those persons who have become residents and those who cease to be residents.

## **DISCUSSION:**

### **A. Policy Goal**

Maintaining an accurate public record for voter registration purposes is a matter of good public policy, consistent with the Provincial Government's stated commitment to democratic renewal and election reform. Improving the quality of the data in the municipal voters list would allow for a more effective electoral process and would result in more reliable school support data for public policy planning purposes.

The assessment data is important to Ontario's four publicly funded school systems for four reasons related to matters of governance.

1. Tracking demographic trends for educational planning purposes.
2. Determining the number of school trustees to be elected. \*
3. Maintaining a public record of level of support for the English Catholic and French-language Catholic and Public school systems.
4. Facilitating the calculation of some grants including Learning Opportunities Grant ("LOG"), and English as a Second Language ("ESL").

The data collected and recorded by the assessment authority ("MPAC") is essential to guarantee significant basic rights established by section 93 of the *Constitution Act* and section 23 of the Charter of Rights and Freedom:

1. The right of Catholics to attend Catholic schools, and French-language rights holders to attend French-language Catholic or public schools.
2. The right of Catholic school supporters to vote for trustees of the local English Catholic School Board, and of French-language school supporters to vote for trustees of the local French-language Catholic or public school board.

*\* If passed by the Ontario legislature, proposed amendments to the Education Act included in Bill 177 would reduce but not eliminate the importance of an accurate list of electors for determining the number of trustees to be elected.*

## **B. The Default Mechanism**

Section 16(4) of the *Assessment Act* and section 236 of the *Education Act* work together to establish the built-in “default” mechanism which provides that unless a Catholic school supporter takes positive action to assert his or her support for the Catholic School system, then MPAC must indicate a person is a public school supporter on the assessment roll.

Unless a French-language rights holder takes positive action to assert his or her support for the French-language system, either Catholic or public, then MPAC must indicate a person is an English language public school supporter.

French-language Catholic school supporters are confronted with a double default because a supporter must attest to French-language rights and to Catholic school attendance rights.

## **C. Low Information Return Rate**

Additional factors that, in conjunction with the legislated default, lead to deficiencies in MPAC's school support information, include:

1. MPAC reports that up to 50% of the Application for Direction of School Support forms received from school boards as completed by parents do not have assessment roll numbers on them and, therefore, cannot always be processed on a timely basis or not at all, in some cases. Moreover, only 22% of tenants and 50% of owners return occupancy questionnaires to MPAC.
2. The separate school or French-language school supporter is required to provide notice in respect of each property for which they are a tenant or owner. There is no legislative authority for automatically assigning all of an individual's property in the school board's jurisdiction to the same school support. This can result in situations where a person is an owner or tenant of properties in more than one municipality but that are all within single school board jurisdictions, voting for trustees of more than one school board.
3. When a taxpayer moves from one property to another in the same jurisdiction, their school support designation defaults to English Public unless, or until, that person applies to change it. This is because the applications under section 236 of the *Education Act* are site-specific. The assessment support for a particular property can only be directed in its entirety to one board or the other, even if ownership is held jointly or as tenants in common.
4. Assessment from a property owned by a public school supporter cannot be directed to a Catholic school board unless a separate school lease is in effect, whereby the Catholic school supporter leases the property or a portion thereof, from the public school supporter. The “separate school lease” solution is a cumbersome process and not well understood by the public.
5. In 2006, over 1/3 of all municipalities used either vote-by-mail, internet, or telephone, or a combination of two or more of these methods. Electronic revisions were received from

185 municipalities (42%). Paper-based revisions were submitted by 177 municipalities (40%), although a few municipalities submitted both electronic and paper.

As a result of the 2006 elections, there were 274,909 paper revisions submitted to MPAC, of which 99.88% were processed. Revisions included name additions (42%), name deletions (6%), name/address corrections (28%), with an additional 18% deemed 'no change' (in other words, MPAC already had the same information). The remaining 0.12% could not be processed for one reason or another and were returned to their respective municipalities. The majority of school support changes would have been contained in the 28% 'corrections' category. Because of MPAC's change-over to its new database, the electronic files had to be manually processed and stats for those are not yet available.

### **DISCUSSION: SINGLE FAMILY RESIDENCES**

Over the years, efforts have been made to find an easier way for Catholics and French-language rights holders to direct school support to the school system of their choice when they move from one residence to another. The Land Transfer Tax Statement, in both paper and electronic form, permits the school support status of new purchasers to be identified. The requirement to complete the declaration is optional, not compulsory. Regrettably, few lawyers make use of this mechanism, if they are even aware of it. MPAC reports that only about 10% of the Land Transfer Tax Statements contain school support information. Conversely, it is mandatory that the deed/transfer must include the birth date of the new owner(s).

Once MPAC receives the Affidavit of Value registered with the Transfer/Deed in the Land Registry Office, it sends out an Occupancy Questionnaire. MPAC believes that its Occupancy Questionnaire is sufficient for the purposes of the Application for the Direction of School Support form referred to or referenced in section 16 of the *Assessment Act*, since it asks for the same information. The Occupancy Questionnaire, however, is returned by only 50% of owners. There is currently no sanction for failure to return the form.

### **DISCUSSION: MULTIPLE RESIDENTIAL UNIT BUILDINGS**

Under section 16.1 of the *Assessment Act*, owners of property with 7 or more residential units are required to annually advise MPAC by July 31, of the names of their tenants, as of July 1. Since most landlords frequently record only one name per unit on their leases, MPAC usually receives only one tenant name for each unit.

To obtain the names of other occupants living in each unit and their personal information (including school support), MPAC sends to each unit where a tenant name change has been identified by MPAC, a Request for Occupant Information form (occupancy questionnaire). This form is pre-populated with the new tenant's name and asks that the names of all other residents in that unit be added.

For each person in the unit MPAC requests their gender, year-of-birth, confirmation of Canadian citizenship, occupancy status (owner, tenant, spouse or boarder), and religion if Roman Catholic. MPAC also requests that for each name, they indicate if they have French

Language Education Rights, their school support, and if they actually reside at this location or somewhere else in the same municipality or in a different municipality. This last question helps MPAC identify non-resident electors and ensures that these persons are not selected for jury duty.

For purposes of section 16.1, MPAC's Tenant Information Program (TIP) targets the more than 14,000 properties that are classed as 'multi-residential'. These properties can experience as much as a 20% annual tenant turnover rate and collectively house between 800,000 and 1 million persons. Unfortunately, just over 20% of tenants respond to MPAC's Request for Occupant Information (ROI).

The annual collection of multi-residential tenant names combined with the low ROI response rate conspire to reduce the overall count of persons younger than 20 years of age. Since the TIP was introduced in 1998, the counts of children in multi-residential buildings has decreased each year. This situation has a negative effect on the Ontario Population Report and distorts MPAC's demographic information provided to Ontario's school boards for planning purposes. The information collected by MPAC is also used for preparation of the voters list (section 15 of the *Assessment Act* and the jury roll under the *Juries Act*.

The proposed solution is to make mandatory the completion of the occupancy questionnaire by tenants.

Sections 10 and 11 of the *Assessment Act* relate to information requests by MPAC. Section 10 permits on-site inspection and information requests relating to the assessment roll and voters list. Section 11 permits written requests relating to the assessment roll only. The assessment roll does not contain the birth date of an owner or occupant, however, the voters list and the jury roll require that information. The information with respect to the voters list and the jury roll are collected under section 15 of the *Assessment Act*.

It is important to note that sections 10 and 11 of the *Assessment Act* which describe the information gathering powers of MPAC are enforced by section 13 of the *Assessment Act* which describes the offense for not furnishing information, which is punishable on conviction with a fine of not more than \$1,000; and an additional fine of \$100 for each day during which default continues.

However, in order for this offence provision to apply to written requests for information relating to the voters list (in addition to the assessment roll), then section 11 needs to be amended to include reference to section 15 information (ie. the voters list).

More recently, a number of these multi-residential properties have been converted to condominium developments but continue to operate as tenanted buildings. In all other respects these buildings remain as typical high-rise apartment buildings, but as condo units, the properties do not qualify under section 16.1. Hence, the TIP no longer targets these locations for updated tenant names because it relates to buildings with seven or more residential units - where a condominium building is deemed not to be in the multi-residential class, but rather a number of independent residential units.

The absence of any enforcement of the information return requirements means a distorted assessment roll, a distorted voters list and a distorted jury list.

**PROPOSED SOLUTIONS:**

1. An amendment to Ontario Regulation 19/99 made under the *Land Registration Reform Act* requiring inclusion of the transferees' school support designation on the Affidavit of Value which is registered in the Land Registry system and given to MPAC. The birth date of the purchaser is already required information contained in the deed/transfer which is registered in the Land Titles system.
2. Section 11 of the *Assessment Act* requires a person, who receives a letter from MPAC requesting information relating to the assessment of land, to complete and return the form. This solution requires an amendment to section 11(1) to include the words:

". . . and to provide any information for the purpose of section 14(1.1) and for the purpose of the enumeration required by section 15. Failure to comply is punishable under section 13".
3. An amendment to section 16.1 of the *Assessment Act* to expand the requirement for tenant information to owners of buildings with 2-6 residential units ('plexes'), in recognition of the large number of affected properties. This additional provision need not be an annual requirement (it relates to school support lists and voters' lists - not the assessment roll), but would be exercised at the discretion and timing of MPAC.
4. Unless and until directed otherwise by the occupant, school support should automatically follow a person when they move from one property to another, where applicable and technically feasible.