Provincially Mandated Review of Regulations

Adam Zhelka
At the Community Annual General Meeting of May 15, 2008, TICA presented the updated recommendations resulting from the Provincial Mandated Review. There were five recommendations put forward by Day & Day Chartered Accountants (hired by the Province to study the matter) as well as an additional recommendation put forward by TICA. A vote followed the discussion of each recommendation, and all passed with near unanimous decision. As a follow up to that meeting, TICA would like to present a summary of those recommendations to the whole Community.

Background
The Toronto Islands Residential Community Stewardship Act was enacted in 1993 which set up the structure for the continuation of the Community. It returned ownership of the houses to us, allowed for 99 year land leases and created the Land Trust to administer the entire process.

In TICA’s submission to the Minister of Municipal Affairs and Housing in May of 2005, we stated the following: “The regulations governing the sale price of Island homes and leases are based on the principles that Island homeowners should not realize windfall profits on public land and should have only limited equity. The principles do not envision a punitive loss of value on the limited equity held. These principles ensure the long-term sustainability of the community as a mixed-income neighbourhood that evolves and changes slowly over time. This is in contrast to a market system that would exclude an economic mix and would result in the Island community rapidly becoming an enclave of the well-to-do.

Section 32(2) of the Act requires the Lieutenant Governor in Council to review the regulations that set out the formula for determining the transfer prices of Island homes and leases every tenth year after they were made ‘in light of the economic conditions at the time of the review’ and to amend them if necessary.

This requirement was intended to ensure that the formula would be re-evaluated every ten years in light of inflation and other factors. The formula in the current regulation reflects policy recommendations set out in the Richard Johnston Report and modified by the Ministry of Municipal Affairs. The periodic review was designed to test how the regulations were implementing the policy intentions based on ten years of experience and adjust them to any changes in economic conditions.”

Please note that the Mandated Review does not apply to other sections of the Act or to other lease items such as how a house is sold or to who a house may or may not be passed on to. These and any other substantive changes would require actual rewriting of the legislation itself.

If you remember (and you likely won’t) in 2002, the Provincial Government of the day proceeded with the Mandated Review under Mike Harris. The actual Review was conducted by MPP Morley Kells who attempted to expand the Review into areas that were highly political. However, actual analysis of the resale lease formulas in the Act was done by the non-political firm of Day & Day Chartered Accountants. They produced a 2002 report with six recommendations.

TICA responded, agreeing with most of the recommendations, but suggested two amendments. We never received a response, and although we have written the various Ministers as they have changed over the years, requesting action on the Mandated Review, all we ever received was polite acknowledgement of our letters. However, at our request, our new MPP, Rosario Marchese managed to facilitate a meeting with Ministry staff a few weeks ago. Much to our amazement, they were prepared to take action immediately, giving us the option to go
with our recommendations of 2002, or conduct a new review. We felt we needed to refresh our minds and requested some time to go over the recommendations again. They provided us with a complete copy of the Day & Day report and, upon receiving the documents, we were very surprised to learn that Day & Day had written a subsequent report in 2004, a copy of which we had never received or known about.

In 2002, Day & Day recommended that the 1.5% Equity Bonus Factor (part of the resale price of an Island house) no longer be permitted. TICA had objected to its removal, and in the 2004 report, that particular recommendation had been dropped leaving the Equity Bonus intact. The new 2004 report now contained only five recommendations.

TICA struck a sub-committee to look at the report. Much thanks is owed to Doryne Peace, John Flanagan, Tony Farebrother, Brent Rutherford and Graham Mudge who spent some considerable time crunching numbers and coming back to TICA with a report.

**Refresher**

Before reading the actual recommendations, please take a moment to recall what actually happens when an Island house is “sold”.

We do own the houses and the resale price of the building is determined by its replacement value at the time of sale. This is the cost of building that particular house (as new and to code) minus whatever wear and tear is evident. This is decided by an appraisal at the time of sale. This money, as well as an extra Equity Bonus Factor goes to the seller. The extra Equity Bonus Factor provides an additional 1.5% of the appraised house price extra for every year owned since the lease was assigned to that particular seller.

The Land Lease money is handled separately. Since the 99 year leases were paid for up front, the seller gets refunded the value of the lease still remaining (paid by the buyer in inflation adjusted dollars). As well, a certain sum gets paid to the City of Toronto by the buyer. This money is paid by all lease purchasers (including present day leaseholders) and is meant to compensate the municipality for historic debts related to unpaid ground rents. The actual sum paid to the City is determined by a complex formula and this amount increases as time goes by due to inflation. The seller does not receive any money for the lease but is compensated for the unused time remaining.

Lastly, all sellers must sell to the waiting list via the Trust. Houses may be transferred only to children or spouses (Permitted Transfers). *No other transfers are permitted.*

**The Recommendations**

The Day & Day report of September 2004 makes these five recommendations for changes to the resale regulations. Any changes must ultimately be accepted by the Province who would amend the appropriate regulations in the Act.

**Day & Day Recommendation #1**

In connection with the calculation of the adjusted purchase price of a land lease, that the formula be adjusted to reflect a change in the interest rate from 10 percent to 8 percent; and also that the formula be adjusted to reflect the inclusion of leap years.

This recommendation covers the formula that determines the current value of the land lease on the date of a sale. The actual formula breaks down the 99 lease period into days hence the need to amend it to factor in accidentally omitted leap year days. It also adjusts the interest rate amount used in the formula to better reflect average rates of the past ten years. In 1993, a 10 percent rate was selected for the land lease resale formula but at this time, it is recommended to amend this to an 8 percent.

- A motion to accept this recommendation was passed at the recent AGM

**Day & Day Recommendation #2**

In connection with the calculation of the adjusted discounted purchase price of a land lease, that the formula be adjusted to reflect a change in the interest rate from 10 percent to 8 percent; and also that the formula be adjusted to reflect the inclusion of leap years.

The same as Recommendation #1, only this applies to the discounted senior lease rate which was available to the original leaseholders in 1993. At the time of writing the Day & Day report (September 2004), not all the original leases had yet been signed although at this time they finally are completed and this recommendation is no longer applicable.

- Recommendation is no longer applicable therefore no
Day & Day Recommendation #3

In connection with the calculation of the distribution of proceeds from the sale of a land lease, that the formula be adjusted to recognize that the second and subsequent purchasers of a land lease benefited by the use of such lease only for the period that it was held by them.

When a lease is resold (or reassigned) to a new owner, the original formula had the start date as being 1993. This works for the first sale, but subsequent transactions should reflect the start date of the then current seller, not the original owner. By always having the start date as 1993, subsequent owners would be paying very unnecessarily large sums to the City of Toronto. The formula has been amended to reflect this and the financial calculations are based only on the actual period of ownership by the then current seller.

- A motion to accept this recommendation was passed at the recent AGM

Day & Day Recommendation #4

In connection with the calculation of the payment to be made to the City of Toronto where the land lease is devised to a child, that the formula be adjusted to recognize that the second and subsequent transferees (children) of the land lease benefited by the use of such lease only for the period that it was held by them.

This corrects the same formula as Recommendation #3 only this would apply to lease charges where a Permitted Transfer has occurred to a child. No actual sale has occurred but the lease must be reassigned to the new leaseholder (the child) at which time the regulations dictate that the City of Toronto must be paid their sum as determined by the formulas at the date of transfer. Arrangements regarding the actual house (inheritance or transfer to child) are handled privately as no sale has occurred. This is not to be confused with the TICA Recommendation (see the corresponding section for more discussion)

- A motion to accept this recommendation was passed at the recent AGM

Day & Day Recommendation #5

In connection with actual property sales, sufficient documentation supporting the calculation of the house price, lease price and the payment to the City of Toronto be retained by the Trust.

The various formulas used to calculate lease resales and distribution of funds are rather complex. Currently they are with the Trust lawyer who calculates the appropriate values at the time of a sale. This recommendation calls for a set of the formulas to be kept at the Trust office (in the computer) and that values be checked back and forth at sale time to ensure that the correct calculations are being made.

- A motion to accept this recommendation was passed at the recent AGM

In addition to the above five Day & Day recommendations, TICA put forward an additional recommendation to be included in this Provincial Review.

TICA Recommendation

That in the case of a Permitted Transfer to a child, there be no payment to the City of Toronto, or that a cap be placed on that amount, so as to not create an undue financial burden in due time.

The amount paid to the City with a lease transfer grows as the years go by due to regular inflation. The result is that in due time, this fee to the City could grow to represent a significant financial burden when a house is left to a child. Although the house may be free to the child, the cost of transferring the lease may leave no option but to sell if the appropriate finances are not there. As no sale of the property has occurred, TICA feels that we should investigate the option of having the fee paid to the City either eliminated or capped at a certain value when a lease is passed on to child. Although the recommendation would be made to the Province, it most certainly would require City approval as it is their money that is being discussed.

Readers will note that the Day & Day Recommendation #4 does revise the formula that currently governs City payments in the case of Permitted Transfer to a child. It is good to have this revision should the TICA recommendation not be adopted by the Province.

This recommendation created much discussion. Some suggested that no money should be paid to the City when a house is transferred to a child while others argued that to try to renegotiate this may lead to bad politics or
COMMUNITY COMMUNICATIONS

Nina Nakajima

Thank you to Gaye Jackson and Glen Newbury for their three years of service on the TICA executive. They have retired and we warmly welcome Nicholas Bacon and Anna Prodanou, the newest members of the executive.

More thank yous are owed to all those who serve on committees but are not TICA executive members. Most recently, we benefited from the work of Doryne Peace, John Flanagan, Tony Farebrother, Brent Rutherford, and Graham Mudge, the committee struck to review TICA’s recommendations related to the Provincially Mandated Review. To find out the details of this process and what was voted on at the recent Community Meeting regarding this item, please see Adam’s informative synopsis on pages 1 to 4.

NOISE

Freya Godard for the Noise Committee (Peter Holt, Barry Lipton, Vivian Pitcher, Lynn Robinson, Bob Tanner, Freya Godard)

On Monday evening, June 2nd, some of you may have noticed the noise committee walking around the Island with several City people. Those people were the owners of Polson Pier, the new business that has started up in the nightclub and patio sections of The Docks.

As already reported, we’ve entered into a legally binding agreement with Polson Pier, which, we believe, will give us the peace and quiet that The Docks denied us for 10 years. The gist of the agreement is that we are not to hear ANYTHING from Polson Pier. And to make sure we don’t, they will have a monitor walking around on the Island during every concert and listening for noise. In fact, that started several months ago (some of you may have seen an unfamiliar young man at night and wondered who he was).

To further our good relations with the owners of Polson Pier, who, we want to stress, could not be more different from the people who ran The Docks, we invited them over to see what the Island is like (at least one of them had never been here before) and to meet a few Islanders. The tour began with wine and snacks outside Deenie and Freda’s at Channel and First and proceeded to the Danniels’ for some of Jean’s famous lemon squares, then to the Rectory to drink champagne with the TICA executive, which was meeting that evening, and finally to Vivian Pitcher’s.

Unfortunately, in spite of our friendly relations with Polson Pier, our troubles with The Docks may not yet be over, because Jerry Sprackman is operating a golf course on part of the land and he has applied for a liquor licence for the golf area, which is also used for a drive-in. The total licensed capacity would be around 350. Since more than 30 people have written to the AGCO (the Alcohol and Gaming Commission) to object, a public hearing has been scheduled. In the meantime, however, we’re considering an agreement with Sprackman like the one we have with Polson Pier. The negotiations are moving quickly, but we’ll let the community know of any important developments.

The noise committee (and in fact every Islander) is deeply indebted to Bob Tanner for representing us in the negotiations with both Polson Pier and Jerry Sprackman’s lawyer and for giving us many hours of help and advice.

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other unanticipated changes. Ultimately a motion to accept this recommendation was passed.

It should be noted that under current practice, lease transfer payments to the City are not incurred when a house is transferred to a spouse. This is where the named leaseholder has passed away and the lease is transferred into the spouse’s name as the new leaseholder. Presumably this is a continuation of the same household although this does not apply in the case of the lease being left to, or transferred to, a child.

These Day & Day recommendations and the additional TICA recommendation have now been submitted to the Province for them to implement as they see fit. As well, the Act will be subject to further such reviews – presumably in another 10 years – where we may have the opportunity to further tweak the formulas as the economic realities dictate.
TRANSPORTATION
Adam Zhelka
The ferry ticket office is now accepting credit and debit card payments for amounts over $50!

WATERFRONT: COMMUNITY AIR UPDATE
Pam Mazza
Fundraiser Success
The CommunityAIR Fundraiser was an enormous success, bringing in close to $11,000! A huge thank you to all of you who donated, bought tickets, helped out, and came to the event.

Bill Kime and Jack Layton shared the auctioneer’s podium, the music was fabulous (special thanks to Kathleen McDonnell, Cindy Jones and special guest Duncan Fraser showcasing our home-grown talent) and we had some really fabulous items, many donated by our own community members and artists. Thank you, all.

Internal Strife on the TPA Board
We continue to monitor the activities of the Port Authority, who are currently having some internal strife on their Board. The Chair, a Provincial appointee and a Liberal, has been fired, and a Federal Conservative is meant to have taken over. However, half the Board is claiming the process was illegal, and things are contentious. It looks like it might be an appropriate time for the City to appoint someone, a position that has remained empty for some years now, as the City has not wanted to legitimize the agency.

Overdue AGM
In the meantime, the Annual General Meeting has not been called due to the disarray at the Board. We are waiting with great curiosity to see how the financial figures play out this year with Porter up and running. Porter is required to not only “pay-per-passenger” to the TPA, but they are also required to pick up any shortfall in airport operating costs. It will be interesting to see how this is reported.

Toronto’s “Non-Ranking’ as a Port
In a recent list of Canada’s top 20 ports by tonnage handled, Toronto doesn’t even appear. Port Hawkesbury, Port-Cartier, and Sorel(!), are listed among the obvious big contenders: Montreal, Vancouver, Halifax and Quebec City. As a Federal Port, the TPA is mandated to be financially self-sufficient. They never have met that requirement, and are depending on the airport, not tonnage, to put them in the black. We wait with great interest, and lots of questions, for their AGM. It is open to the public and you are welcome to attend. We will let you know when it is happening.

Bill C-23
A few months ago, CAIR sent Bill Freeman as our representative to make a deputation to the Federal Transportation Committee regarding Bill C-23. Adam Vaughn also attended as City Councillor and Waterkeepers wrote a letter of opposition. All spoke against the Bill, which allows Port Authorities across the country to, among being given increased powers, access City infrastructure funds. Additional Federal monies would not be added to the City budget to cover Port Authority demands, and with all cities struggling to find money to maintain their infrastructures, this is of great concern.

Unfortunately, as reported in Waterkeeper’s Newsletter, “…Waterkeeper expressed concerns that the proposed amendments to the Canada Marine Act would further remove federal harbours from public hands and alienate non-commercial harbour users. The House of Commons passed the new legislation on May 6, 2008. It is currently at the Committee stage in the Senate.”

The Liberals, led by Volpe as Chair of the Committee and long-time supporter of the Toronto Port Authority, have supported the Conservatives on this Bill. It will result in this arms’ length agency being even more arms’ length.

Airport Complaints
The airport is meant to track and respond to complaints. If you are bothered by noise, overflights (they are not to fly over the community if they can visually see the airport) or from flights landing or taking off outside of their permitted hours of operation (6:45 a.m. to 11:00 p.m.) please file a complaint by going to www.torontoport.com/Airport_Cform.asp and cc me at mazzas@rogers.com. You may not get a response back, or it may be inadequate one (“no action taken” is typical), but it is important to document it, as their indifference to their Good Neighbour Policy has been long-standing.
**Gibraltar Point Lighthouse's 200 Year Anniversary**

Fran Ford

The official celebration of the 200th anniversary of the Gibraltar Point Lighthouse will take place on Saturday, July 5th from 1:00 p.m. to 4:00 p.m. Among the honoured guests will be Lord and Lady Simcoe. Mark your calendars. It is shaping up to be a fun event. Sandwiches and refreshments will be served. Look to "my neighbours" and notice boards for more information closer to the date.

**Grannies in Spirit Yard Sale**

Liz Amer, Mary Anderson, Sari Bercovitch, Penny Lawler, Pam Mazza, Eliza Moore, Mary Partridge, Paulette Pelletier-Kelly, Sharon Stephens, Lynne Stirling

Wow! Our yard sale made a whopping $3,924.30! What a fabulous result. We'll be sending a cheque to the Stephen Lewis Foundation soon. Anyone want to donate $75.70 to make it an even $4,000? Many people contributed to this success and Grannies in Spirit is deeply grateful to all: everyone who came out to shop; the many generous neighbours and friends who donated wonderful goods to the sale; our special friends who helped us transport goods to the site, set up, sell and cleanup at the end of the day. And, oh yes, the weather gods for a perfect day.