

Throughout the months of November and December of last year (2010), there were a number of significant developments affecting the valuation of golf courses throughout the Province of Ontario. Of particular interest, was an agreement reached between the Municipal Property Assessment Corporation (MPAC) and the National Golf Course Owners' Association (NGCOA), regarding the application of valuation principles and parameters to arrive at current value assessments (CVA's) for these types of real property. A copy of this agreement and a proforma valuation example was previously provided to the municipal community under separate cover in December of 2010.

The purpose of the following communication is two-fold: (1) to summarize the implications of this agreement and next steps in the appeal process where complaints against golf courses are currently outstanding before the Assessment Review Board (ARB), and (2) to outline the other parties' expectations of municipalities with respect to satisfying their responsibilities in these matters.

Municipalities across the Province need to be aware that MPAC has assembled a specialized team to implement the substance of their agreement with NGCOA. At present, this group is creating an inventory of all financial information currently in their possession, which is essential to them applying the "income" approach to value. Any gaps or omissions in such information are also being identified, and targeted follow-up is being undertaken in an effort to obtain data from owners who have yet to provide complete information to MPAC.

Once MPAC has the required information assembled, valuation proposals in the form of Minutes of Settlement will be provided to specific property owners for their review and acceptance. Golf course owners have 30 days from receipt of MPAC's offer to settle and accept the offer in writing.

Where the offer is not accepted by the property owner, the matter will proceed forthwith to a hearing before the ARB.

Where the offer is accepted by the property owner, a copy of the Minutes, together with the details of the proposed new valuation, will be provided to the municipality for their review and consideration. It is imperative that municipalities react in these situations; a response from the municipality in question (either acceptance or rejection of the Minutes) is expected to be provided within 60 days of receipt of the Minutes of Settlement and proforma valuation. Where a municipality rejects the Minutes or fails to respond within the expected 60 day timeframe, the matter will subsequently be scheduled to be brought before the ARB for a hearing. Where this is the case, it will become the responsibility of the municipality to prove the assessed value of the property in question.

Because of the time sensitive nature of these matters, and their potential financial significance, municipalities should undertake a careful and detailed review of any Minutes received and the information contained in the proforma schedules accompanying them. Due diligence must be done to confirm that the basis of the proposed revisions in CVA comply with the agreed upon standard, and also that they accurately reflect each specific property's fact situation.

Additionally, depending on the highest and best use for the golf course property in question, the agreed upon income approach may not be appropriate. For this reason, MPAC needs to be advised by municipalities as soon as possible where there is an alternative highest and best use for any golf course currently under appeal. Municipalities are well advised to notify MPAC of any registered or draft plans affecting golf courses within their jurisdiction effective as of 2001 or later. Where this is the case, other valuation considerations may need to be factored into the assessment exercise.

The timing of this insight is particularly critical given that MPAC is currently in the process of preparing and/or circulating Minutes of Settlement where the requisite financial information has been provided by golf course owners.

MTE Paralegal representatives have been very actively involved in these matters on behalf of a number of client jurisdictions. In the course of this involvement, MTE has had access to the detailed information that underpins the agreement reached by MPAC and NGCOA, and which now forms the basis of the Minutes of Settlement being drafted in respect of these matters. As such, MTE Paralegal is uniquely informed and positioned to assist in these matters from the municipal perspective. Because this insight may prove helpful, municipalities who have questions about these proceedings or expectations, or who require technical assistance to evaluate Minutes of Settlement that are provided to them for their consideration and action, are encouraged to contact the undersigned for additional information and guidance.

Prepared by,

Carla Y. Nell  
Licensed Paralegal  
MTE Paralegal Professional Corporation  
(905) 878-7978  
carlan@mte.ca