

Payment-in-Lieu of Taxes (PILTs)

Why are PILTs a Challenge for the Toronto Port Authority ?

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Toronto Port Authority

❖ Port Operations



Toronto Port Authority

- ❖ Port Operations
- ❖ Over 2 million tonnes annually since 2004
- ❖ Bulk cargo
 - salt, sugar, cement, aggregate
- ❖ Project cargo
 - windmills, locomotives

Toronto Port Authority

❖ Toronto City Centre Airport



Toronto Port Authority

- ❖ Toronto City Centre Airport
- ❖ Porter Airlines
 - 5 destinations
 - More to come
- ❖ Medevac flights over 3,000 flights

Toronto Port Authority

- ❖ Toronto City Centre Airport
 - TCCA 1 Ferry



Toronto Port Authority

❖ Toronto City Centre Airport

- TCCA 1 Ferry

- 400 feet between mainland and Island Airport
- transports 100 people and 15 cars



Toronto Port Authority

❖ Outer Harbour Marina



Toronto Port Authority

- ❖ Outer Harbour Marina
- ❖ 636 slips
- ❖ Full service marina
- ❖ Winter storage



Payment-in-Lieu of Taxes (PILTs)

- ❖ What are PILTs?
- ❖ Property taxes apply to Third Party Leases
- ❖ Why is it applicable to Canadian Port Authorities (CPAs) ?
- ❖ Canada Marine Act (CMA)
 - Schedule III of the PILTs Act
 - Sec 28 of the CMA limits CPAs to engage in port activities and other activities as deemed necessary in the Letters Patent issued to such CPAs.

Payment-in-Lieu of Taxes (PILTs)

- ❖ Fair and equitable
- ❖ Relevance of the Crown Corporation payment regulations
- ❖ “Property value” x “Effective tax rate”

PILTs - “The Players”

- ❖ **Assessing Authority**
 - Municipal Property Assessment Corporation (MPAC)
- ❖ **Taxing Authority**
 - City of Toronto
- ❖ **Federal Agency**
 - Toronto Port Authority
- ❖ **Federal Department**
 - Public Works Canada
- ❖ **Dispute Resolution Authority**
 - Dispute Advisory Panel (DAP)



Why are PILTs a challenge to the TPA?

- ❖ Value assigned by MPAC to the TPA property
- ❖ No settlement with the City unlike other Canadian Port Authorities in Ontario
- ❖ Negotiations with the City of Toronto for the last 4 years and still ongoing

Why are PILTs a challenge to the TPA?

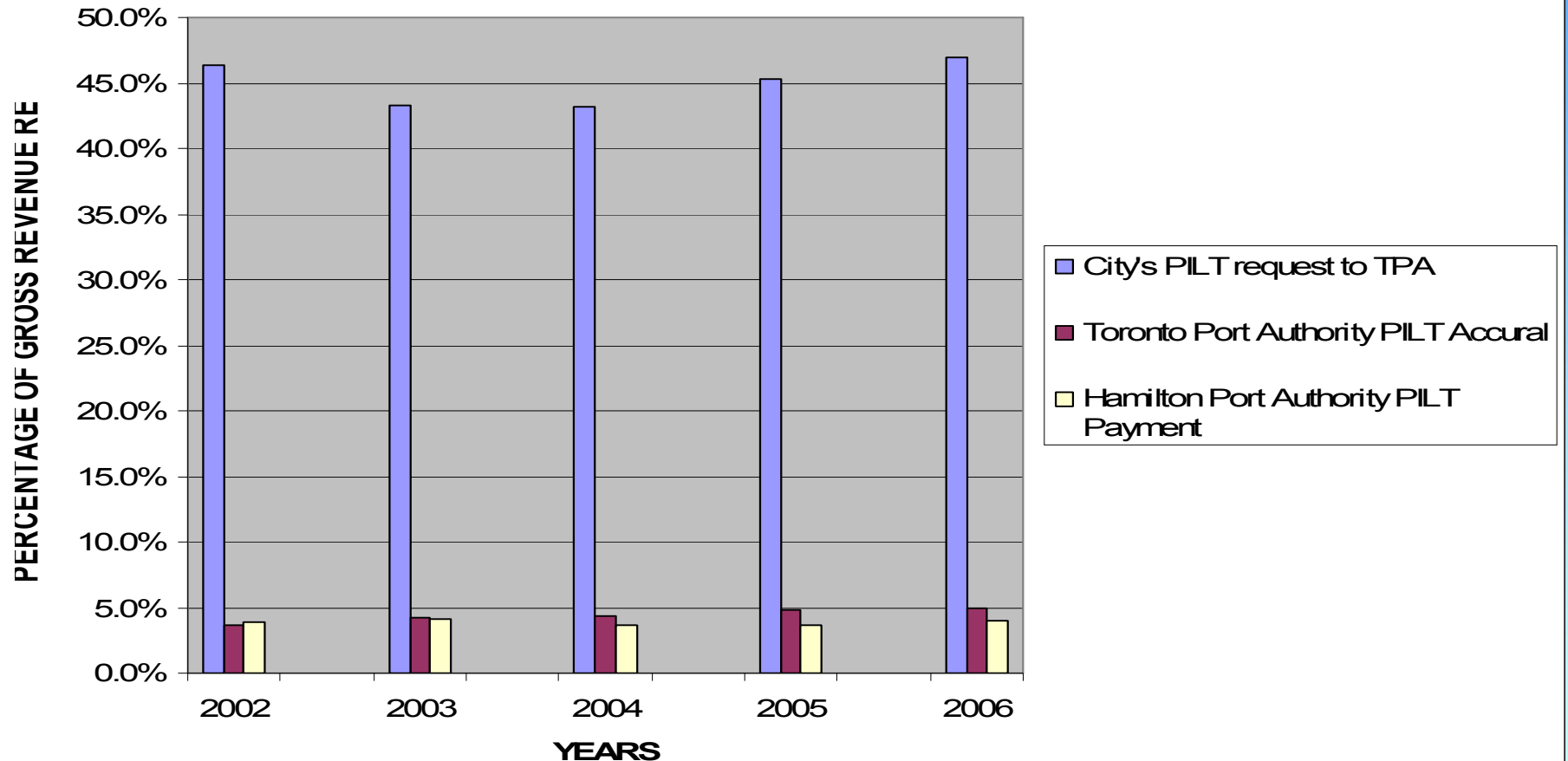
Issues:

- ❖ Effect of PILTs on the viability of the Port Authority
- ❖ Effect on competitiveness
 - TPA vs. other Canadian Port Authorities
 - vs. US Port Authorities
- ❖ Municipalities view PILTs as a funding device from the federal government

Difference in PILTs

City vs. Toronto Port Authority vs. Hamilton Port Authority

COMPARISON OF PILT 2002-2006



Toronto's Real Estate Market

❖ Past Trends

Land Values increased 70% over the last 5 years !

❖ Future Predictions

Land prices to remain stable with moderate increase due to tight supply

Toronto's Real Estate Market

What is a “Hot” Real Estate Market?

- ❖ Pressure for Port Lands to be redeveloped
- ❖ Organizations like Waterfront Toronto have a mandate to do this

Toronto's Real Estate Market Location...



Toronto's Real Estate Market Location...location...



Toronto's Real Estate Market Location...location...location...



Valuation Approaches

- ❖ The Cost Approach
- ❖ The Direct Comparison Approach
- ❖ The Income Approach

Valuation Approaches

❖ The Cost Approach

- Principle of Substitution
- Cost of acquiring an equally desirable property
- Estimate made on value of the site as if vacant and add depreciated replacement costs of the improvements

Valuation Approaches

❖ The Direct Comparison Approach

- Estimate of value made by comparing properties sold or offered for sale to the subject property
- Adjustments made to account for differences in the comparables

Valuation Approaches

❖ The Income Approach

- Assumption that income produced by the property determines its value
- Process of Capitalization (converting future income to an estimate of market value)
- Principle of Anticipation

Best Practices for Valuations of Specialized Federal Real Properties

❖ What are Best Practices?

- Collaboration of Appraisal Institute of Canada & Ordre des Évaluateurs Agréés du Québec
- Input from various stakeholders (Port Authorities, Federation of Canadian Municipalities, Assessing Authorities etc.)
- Developed on the tenet of fairness and equity (section 2 of PILTs Act)



Best Practices for Valuations of Specialized Federal Real Properties

- ❖ What is its purported intent?
 - For estimating property value of Federal Port Facilities in the calculation of PILTs
 - Takes into consideration the federal use restrictions
 - Recognizes different categories of properties and different treatments using valuation approaches

Best Practices for Valuations of Specialized Federal Real Properties

❖ Current status

- In 4th draft
- Not agreed upon by the Federation of Canadian Municipalities

Value Differentials between TPA and the City of Toronto / MPAC

❖ MPAC's Approach

- “one size fits all”

❖ TPA's Approach

- value in use
- Federal restrictions
- income generating capacity of the properties

PILTs

- ❖ TPA's Experience at the Dispute Advisory Panel
 - City applied for a hearing
 - Four test properties were agreed upon
 - Three members on the Panel from various backgrounds
 - Written submissions
 - Hearing - Witnesses gave evidence and were cross-examined
 - Final written submissions

Marine Terminals

❖ MPAC's Approach

- highest & best use criteria

- use physically possible and probable
- use legally permissible
- use to be marketable & financially feasible
- use to be maximally productive

Marine Terminals

❖ MPAC's Approach (con't)

- Industrial Land Table
- Sale value of comparable properties
- Buildings valued at reproduction costs adjusted with an industrial "Market Adjustment Factor" (MAF)
- Assessed at \$19,960,000 (2007 tax year)

Marine Terminals

❖ TPA's Approach

- MPAC's value did not consider Federal restrictions
- Remove the speculative value on future developments in the downtown waterfront location
- Land tables used to value lands of the Hamilton Port Authority, a direct competitor of the TPA
- TPA valued Marine Terminals at \$6,317,000 (2007 tax year)

Toronto City Centre Airport

❖ MPAC's Approach

- Industrial Land Table
- Comparison of value to Buttonville Airport
- Assessed at \$52,824,000 (2007 tax year)

❖ TPA's Approach

- Land use restrictions
- Tripartite Agreement
- Future development restrictions
- Passenger count methodology

Outer Harbour Marina

- ❖ MPAC's approach
 - Industrial Land Table
 - Assessed at \$13,928,000 (2007 tax year)
- ❖ TPA's approach
 - Income approach based on income generating facility
 - Land use restrictions
 - Valued at \$1,051,927 (2007 tax year)

DAP Hearing

Outcome ??

- **Non-binding advice to the Federal Agency**
- **Political ?**

Solution ???

Need for Legislative Intervention

- ❖ Amount of PILT must be predictable
- ❖ Basis of PILT determination must be easily understood
- ❖ Payment of PILT must be simple

Proposed Amendment to the Provincial Assessment Act

- ❖ PILT to be payable based on gross revenue formula
 - gross revenue x 2.5% for the first \$10 million of gross revenue, plus
 - gross revenue x 1.5% for the next \$40 million of gross revenue, plus
 - gross revenue x 0.5% for over \$50 million
 - based on \$15 million in revenue PILT would be \$325,000 per annum.

Proposed Amendment to the Provincial Assessment Act

- ❖ **TCCA to be “designated airport authority” and PILT to be assessed based on revenue per passenger basis**

**(Passenger Rate x total number of
enplaned and deplaned passengers)**

Proposed Amendment to the Provincial Assessment Act

**Why should the Province approve this
amendment ?**

❖ Economic Impact

- Port of Toronto - \$ 500 million**
- Airport - \$ 200 million**
- Jobs**

