

Memo to Council
From M. Smibert, Clerk

Subject: BIA Boundary (attachment to staff report)

5.3 Municipal Act Process to Expand B.I.A. Boundary

Sections 209 and 210 of the Act (see attachment) outline the process that a municipality must follow to expand the boundary of a B.I.A. and this process includes:

- Before passing a by-law the City must send a notice of the proposed by-law outlining the expansion to the B.I.A. by prepaid mail to each person who is assessed for rateable property that is in a prescribed business property class and that is located in the existing B.I.A. boundary as well as the proposed area of expansion;
- A person who receives the notice shall within 30 days after the notice is mailed give a copy of the notice to each tenant who is required to pay all or part of the taxes on the property and give the Clerk a list of every tenant in the said property and the share of the taxes each tenant is required to pay and the share that the person is required to pay;
- Not passing a by-law to expand the boundary of the B.I.A. if, within 60 days of the notice, at least one-third of the total number of persons entitled to notice and who are responsible for at least one-third of the taxes levied in either of the existing or the proposed expanded areas object to the expansion; and
- Passing a by-law, as appropriate.

Changes to boundary

209. The municipality may alter the boundaries of an improvement area and the board of management for that improvement area is continued as the board of management for the altered area. 2001, c. 25, s. 209.

Notice

210. (1) Before passing a by-law under subsection 204 (1), clause 208 (2) (b), subsection 208 (3) or section 209, notice of the proposed by-law shall be sent by prepaid mail to the board of management of the improvement area, if any, and to every person who, on the last returned assessment roll, is assessed for rateable property that is in a prescribed business property class which is located,

- (a) where the improvement area already exists, in the improvement area and in any geographic area the proposed by-law would add to the improvement area; and
- (b) where a new improvement area would be created by the proposed by-law, in the proposed improvement area. 2001, c. 25, s. 210 (1).

When notice received

(2) A person who receives a notice under subsection (1) shall, within 30 days after the notice is mailed,

- (a) give a copy of the notice to each tenant of the property to which the notice relates who is required to pay all or part of the taxes on the property; and
- (b) give the clerk of the municipality a list of every tenant described in clause (a) and the share of the taxes that each tenant is required to pay and the share that the person is required to pay. 2001, c. 25, s. 210 (2).

Objections

- (3)** A municipality shall not pass a by-law referred to in subsection (1) if,
 - (a) written objections are received by the clerk of the municipality within 60 days after the last day of mailing of the notices;
 - (b) the objections have been signed by at least one-third of the total number of persons entitled to notice under subsection (1) and under clause (2) (a); and
 - (c) the objectors are responsible for,
 - (i) in the case of a proposed addition to an existing improvement area,
 - (A) at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area, or
 - (B) at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed

business property classes in the geographic area the proposed by-law would add to the existing improvement area, or

- (ii) in all other cases, at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area. 2001, c. 25, s. 210 (3).

Withdrawal of objections

(4) If sufficient objections are withdrawn in writing within the 60-day period referred to in clause (3) (a) so that the conditions set out in clause (3) (b) or (c) no longer apply, the municipality may pass the by-law. 2001, c. 25, s. 210 (4).

Determination by clerk

(5) The clerk shall determine whether the conditions set out in subsection (3) have been met and, if they are, shall issue a certificate affirming that fact. 2001, c. 25, s. 210 (5).

Determination final

(6) The determination by the clerk is final. 2001, c. 25, s. 210 (6).

Repeal of by-law

211. (1) Council shall give notice in accordance with subsection 210 (1) of a proposed by-law to repeal a by-law under subsection 204 (1) if the municipality has received,

- (a) a resolution from the board of management requesting the repeal; or
- (b) a request for the repeal signed by persons who are responsible for at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area. 2001, c. 25, s. 211 (1).

Statement

(2) A person signing a request under clause (1) (b) shall state what amount of taxes on rateable property in the area that the person is required to pay. 2001, c. 25, s. 211 (2).

Time

(3) Council shall give the notice within 60 days after receiving the resolution or request. 2001, c. 25, s. 211 (3).

Repeal

(4) Council shall repeal the by-law under subsection 204 (1) if requests for the repeal are received by the clerk of the municipality within 60 days after the last day of mailing of the notices and,

- (a) the requests have been signed by at least one-half of the total number of persons entitled to notice under subsection 210 (1) and under clause 210 (2) (a); and
- (b) those who have signed the requests are responsible for at least 50 per cent of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area. 2001, c. 25, s. 211 (4).

Timing

(5) The repealing by-law must come into force on or before December 31 of the year in which it is passed. 2001, c. 25, s. 211 (5).

Requests withdrawn

(6) If sufficient requests are withdrawn in writing within the 60-day period referred to in subsection (4) so that either condition set out in that subsection no longer applies, the municipality is not required to repeal the by-law. 2001, c. 25, s. 211 (6).

Determination by clerk

(7) The clerk shall determine whether the conditions set out in clause (1) (b) and subsection (4) have been met and, if so, shall issue a certificate affirming that fact. 2001, c. 25, s. 211 (7).

Determination final

(8) The determination by the clerk is final. 2001, c. 25, s. 211 (8).

Restriction

(9) If the conditions of subsection (4) are not satisfied, council is not required to give notice under subsection (1) in response to a resolution or request for a period of two years after the last mailing of the notices. 2001, c. 25, s. 211 (9).

Non-application

(10) No requirement under this section or under section 210 applies to the repeal by a municipality on its own initiative of a by-law under subsection 204 (1). 2001, c. 25, s. 211 (10).

Effect of by-law

212. A by-law passed under subsection 204 (1), subsection 208 (2) or (3), section 209 or subsection 211 (4) is not invalid by reason only that,

- (a) a person required to give a copy of a notice to a tenant or other information to the municipality under subsection 210 (2) has not done so;
- (b) the objections referred to in clause 210 (3) (b) have not been signed by at least one-third of the total number of persons entitled to receive notice under

subsections 210 (1) and (2) because a person required to give a copy of the notice under subsection 210 (2) has not done so; or

- (c) the requests referred to in clause 211 (4) (a) have not been signed by at least one-half of the total number of persons entitled to notice under subsections 210 (1) and (2) because a person required to give a copy of the notice under subsection 210 (2) has not done so. 2001, c. 25, s. 212.

Tenants

213. For the purposes of clauses 210 (3) (c) and 211 (1) (b), subsection 211 (2) and clause 211 (4) (b), a tenant shall be deemed to be responsible for the part of the taxes that the tenant is required to pay under the tenant's lease or under sections 367 and 368. 2001, c. 25, s. 213.

Dissolution of board

214. (1) Upon the repeal of a by-law under subsection 204 (1), the board of management is dissolved and the assets and liabilities of the board become the assets and liabilities of the municipality. 2001, c. 25, s. 214 (1).

Liabilities exceed assets

(2) If the liabilities assumed under subsection (1) exceed the assets assumed, the council may recover the difference by imposing a charge on all rateable property in the former improvement area that is in a prescribed business property class. 2001, c. 25, s. 214 (2).

Regulations

215. The Minister may make regulations prescribing one or more classes of real property prescribed under the *Assessment Act* as business property classes for the purposes of sections 204 to 214. 2001, c. 25, s. 215.

DISSOLUTION AND CHANGE OF LOCAL BOARDS

Power to dissolve or change local boards

216. (1) Without limiting sections 9, 10 and 11, those sections authorize a municipality to dissolve or change a local board. 2006, c. 32, Sched. A, s. 90.