

Date 8 November, 2011



City Council Committee Report

To: Mayor & Council

Fr: Pat Geisel

**Re: Section 357 – Cancellation and Refund of Taxes – Abitibi
Application**

Recommendation: THAT the Section 357 Application from AbiBow Canada Inc. for buildings deemed “Damaged and Substantially Unusable”, effective January 1st 2010 to December 31st, 2010, be denied.

Background: A Section 357 application for 2010 has already been processed, (in December 2010), in order to bring the 2010 assessments in the roll to the correct value as left off at year-end 2009 from the demolitions that had occurred. The Section 357 was brought forward by Ducharme McMillen & Associates, who were the tax consultants for Abitibi at the time. They accepted the Section 357 decision and there was no appeal.

AbiBow Canada Inc. have retained a different tax consultant, (Ryan ULC), who have submitted a further Section 357 for 2010, stating the buildings were damaged and substantially unusable. The property has since been sold, (in early 2011), and in fact, some of the buildings are currently occupied.

MPAC has returned the application to the City, with “no recommendation”, i.e., they do not agree that further reduction is applicable. They have however, supplied the information as to what the reduced assessed value would be if valid. The total tax reduction would be \$96,410.71, of which the Municipal portion is \$69,560.48.

Ryan ULC has the right to appeal any denial of the Section 357 to the Assessment Review Board, should their client choose to proceed. If

an appeal goes forward to the ARB, any amount of reduction may be awarded, or, the ARB could agree with Council.

It should be noted that Ryan has also filed a Vacancy Rebate application for 2010, as a "protective measure", in case the Section 357 was denied. If they accept the vacancy rebate, with no appeal to the 357, the cost to the City is \$37,054.32, of which \$26,637.05 is the Municipal portion. The City does not dispute that a vacancy rebate is applicable.

At this time, the City is in consultation with the firm of MTE, who are researching the application further, and an opinion/strategy is pending from them, prior to the November 21st meeting. Accordingly, further details and reasons regarding the recommendation to the application may be forthcoming, and be added to this Report.

Budget: The 357 is being denied, therefore there would be no related budget impact. The City has accommodated the municipal portion of a vacancy rebate for this property within the municipal budget process.

Communication Plan/Notice By-law Requirements: Ryan ULC has been sent a "Notice of Hearing" for the November 21st meeting. Once a decision has been reached by Council, notification of the decision will be sent to the tax consultant on behalf of their client. No further communication is required.