

## ASSESSMENT REVIEW BOARD BYLAW AMENDMENTS

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### EXECUTIVE SUMMARY

Council has directed Administration to bring forward amendments to the Calgary Assessment Review Boards Bylaw to establish a new appointments cycle, as well as transitional provisions to extend the appointments of current Calgary Assessment Review Board (ARB) members to March 2017.

Also proposed in this report are bylaw amendments to establish a 12-year cumulative term limit, which are being brought forward in the interests of the sustainability and stability of the ARB membership and operations.

### CITY CLERK'S RECOMMENDATION(S)

That the Priorities and Finance Committee recommend that Council:

1. Give three readings to the proposed bylaw (Attachment 1) to amend the Calgary Assessment Review Boards Bylaw, Bylaw 25M2010, as amended, to:
  - a. establish a new appointments cycle and transitional provisions to extend the appointments of current ARB members to March 2017; and,
  - b. establish a 12-year term limit for members of the Calgary Assessment Review Boards.

### RECOMMENDATION OF THE PRIORITIES AND FINANCE COMMITTEE, DATED 2016 SEPTEMBER 20:

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That Council give three readings to **Proposed Bylaw 37M2016** to amend the Calgary Assessment Review Boards Bylaw, Bylaw 25M2010, as amended to:

- a. establish a new appointments cycle and transitional provisions to extend the appointments of current ARB members to March 2017; and,
- b. establish a 12-year term limit for members of the Calgary Assessment Review Boards.

### PREVIOUS COUNCIL DIRECTION / POLICY

Members of the Calgary Assessment Review Board are appointed under terms of the *Municipal Government Act* (MGA) and the Calgary Assessment Review Boards Bylaw, Bylaw 25M2010, as amended.

The *Matters Relating to Assessment Complaints Regulation* (MRAC) establishes that assessors, tax agents and municipal employees cannot be ARB members.

At its 2016 April 25 Regular Meeting, Council adopted a new Council policy on Governance and Appointments of Boards, Commissions and Committees (CP2016-03). Members of the ARB must meet the requirements of that new policy and therefore must be 18 years of age or older, and a current resident of Calgary. The policy also established that, "a Public Member may serve

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up to a maximum of six consecutive years on a [Board, Commission or Committee (BCC)], unless otherwise outlined in a BCC's Governance Document(s)."

At its 20 June 2016 Regular Meeting, Council directed Administration to draft amendments to the Calgary Assessment Review Boards Bylaw, Bylaw 25M2010 as amended, for Q3 2016, in order to establish a new appointments cycle and establish transitional provisions to extend the appointments of current Board members to March 2017.

### **BACKGROUND**

Changes to the timing of the appointment cycle for the Calgary ARB are being proposed to provide better alignment between the number of ARB member appointments made by Council and the resources required to address the complaints that are actually filed with the Board.

Appointments to the ARB were not subject to term limits until Council established a new policy to govern its appointments to BCCs, which established a six-year consecutive term limit as a default term limit, absent other indication in a Governance Document (eg. bylaw or terms of reference). Board members are appointed for one-year terms.

### **INVESTIGATION: ALTERNATIVES AND ANALYSIS**

#### *Appointments Cycle and Transitional Provisions*

As directed by Council, a proposed amending bylaw has been prepared to carry out Council's direction arising from its consideration of report PFC2016-0502 (Attachment 2). The proposed changes to the appointment cycle for the ARB will provide better alignment of human resources, in this case appointed members, with the business demand presented by fluctuating volumes of assessment complaints.

#### *Term Limits*

The Calgary ARB's decisions can have a material impact on local businesses and property owners, as well as an indirect yet significant impact on tax revenue. The Board reviews assessment complaints which encompass approximately 61% of Calgary's taxable non-residential assessment base, and 3% of the taxable residential base. As of the writing of this report, 4,601 assessment complaints have been filed so far in 2016, reflecting over \$67 billion of assessable tax base, against which The City collects approximately \$1 billion in tax revenue.

As constituted by its 39 members, the Calgary ARB is the largest assessment review board in Alberta. Given the scope and potential impact of its decisions, the ARB needs to have members who have appropriate subject-matter expertise in areas such as: assessment, property management, development, appraisal, real estate, and law. Its members are required to successfully complete a prescribed training program, as well as complete refresher training every 3 years. The ARB's decisions are final, subject to appeal in the Court of Queen's Bench.

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The six-year term limit which currently applies to the Calgary ARB would likely have a detrimental impact on the sustainability of the Board's membership and operations. Of the 39 members currently appointed to the ARB, 22 (56 percent) would be excluded from future service. This would represent a loss of 245 of the 294 years of experience (83 percent) that the Board's current members have accumulated serving on the ARB. In addition, of the 22 members who would be excluded from consideration for future participation, 9 (41 percent) are presiding officers. These 9 presiding officers are 64 percent of the Board's 15 currently serving presiding officers. Finally, one of the members who would be impacted by the imposition of a six-year term limit is a Vice-Chair who has been trained and developed as part of the Board's succession planning practices over the past two years.

A 12-year cumulative service term limit is being recommended and is reflected in the proposed amending Bylaw (Attachment 1).

Term limits are a best practice for governance of appointments to boards. In 2007, the Alberta government established a Board Governance Review Task Force to improve the transparency, accountability and governance of Alberta's agencies, boards and commissions. The Task Force recommended a term limit of ten consecutive years as a best practice. In the *Alberta Public Agencies Governance Act*, which arose from the work of the Task Force, ten consecutive years was established as a standard for most appointments made by the province; however, section 14(2) of that statute established an exception, which is that term limits are "... (a) 12 consecutive years, in the case of a public agency that is empowered to perform an adjudicative function...". This is the term limit which applies to members of the Alberta Municipal Government Board (MGB), who work alongside members of the ARB on a day-to-day basis, serving on Composite Assessment Review Boards.

The 12 year cumulative service term limit recommended in this report, and reflected in the proposed bylaw (Attachment 1), would put ARB members on a somewhat even footing with MGB members.

Assuming that the Board continues to require approximately the same number of members as it currently has (39), the Board would need to have an average of over 3 new capable and qualified members appointed each year under a 12-year cumulative term limit.

In May 2014, the City of Edmonton found it necessary to extend terms limits for its assessment review and subdivision and development appeal boards from six to nine years to avoid a critical loss of subject-matter expertise and ensure an adequate return on investment in training and development of their members.

ARB members are required to receive initial training prescribed by the *Matters Relating to Assessment Complaints Regulation* (MRAC), as well as receive refresher training every three years. The Board's administration also supports ongoing training and development by organizing sessions such as the annual Spring Training Conference for ARB members, co-funded and organized with the MGB, to ensure that board members have the training and knowledge necessary to carry out their roles. Providing for a 12-year term limit will help the Board extract a reasonable possibility of return over time from its investment in training and

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development, by providing members with a substantive opportunity to apply their accumulated expertise, knowledge and capacity.

A further benefit of extending term limits for ARB members would be to meet the challenge of developing and attracting interest of members to participate on the Board as presiding officers. Presiding officers preside over Local Assessment Review Board hearings and are also typically engaged to write decisions. These roles require greater degrees of experience, training and development, and members can take quite some time to develop the ability and confidence to step into this role. A 12-year term limit should provide reasonable time for members to develop into presiding officers, serve as in that capacity, and participate in the development of future presiding officers.

The Calgary ARB has sound succession planning practices and currently has two Vice-chairs who have been working with the General Chairman over the past two years to develop their abilities to carry out the leadership roles of the board (e.g. scheduling of Board hearings and members, leading training and development). The Board's administration has supported succession planning in part by documenting the Board's leadership practices and processes, and by supporting ongoing training and development of the Board.

The efforts of the Board and its administration to carry out adequate succession planning will also be reinforced with the clarity and certainty of a longer, 12-year cumulative service term limit, as it will provide an adequate time for members to receive the coaching and mentoring necessary to develop the significant subject-matter expertise, experience with operations of the Board, and institutional knowledge of the Board that are necessary to lead the Board.

A transition to establishing term limits for the ARB is proposed, through grand-fathering the service of current members of the Board prior to 01 April 2017. This approach is the same one taken by Council in introducing term limits to members of the Subdivision and Development Appeal Board, and should allow time to integrate appropriate changes to training, development and succession planning in the Board's practices and procedures going forward.

### **Stakeholder Engagement, Research and Communication**

The General Chairman has serious concerns about the potential impact of a six-year term limit on the sustainability and calibre of the Board's membership. The General Chairman is satisfied that a 12-year cumulative term limit, with grand-fathering of current members' past service, appropriately balances the need for a refreshing of members' perspectives and qualifications with the need to attract and retain capable and qualified members.

### **Strategic Alignment**

The recommendations in this report align with Council's priority relating to a well-run city, and also with Council's policy on the Governance and Appointments of Boards, Commissions and Committees (CP2016-03), which indicates:

- 5.10.3 A Public Member may serve up to a maximum of six consecutive years on a BCC, unless otherwise outlined in a BCC's Governance Document(s).

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### **Social, Environmental, Economic (External)**

There are no direct social, environmental, or external economic implications as a result of this report.

### **Financial Capacity**

#### **Current and Future Operating Budget:**

None

#### **Current and Future Capital Budget:**

None

### **Risk Assessment**

The term limit which currently applies to ARB members is that which is now specified in Council's new policy, six consecutive years. If no other term limit is put in place, there is a risk that capable and qualified members who may be excluded from further involvement with the ARB will seek to serve on other boards or in other jurisdictions. A term limit that is too short for an adjudicative body such as the ARB may result in a decline in the cumulative experience and ability of the ARB's member complement. If the quality of the Board's decisions decline, there is an increasing risk that they will be increasingly subjected to costly litigation in the Courts.

### **REASON(S) FOR RECOMMENDATION(S):**

The re-alignment of the appointment cycle for the ARB proposed in this report provides better alignment of human resources, in this case appointed members, with the business demand presented by fluctuating volumes of assessment complaints.

Establishing a 12-year term limit that is sensitive to the adjudicative mandate of the ARB, and allowing a period for transition to the application of a term limit, will support continuation of a sustainable and stable complement of ARB members, and help maintain a capacity to attract and retain qualified ARB members.

### **ATTACHMENT(S)**

1. Proposed Bylaw **37M2016**
2. PFC2016-0502 Assessment Review Board Member Appointment Cycle