

Law, Legislative Services & Security Report to
Executive Committee
2024 June 11

ISC: UNRESTRICTED
EC2024-0506

Proposed Tax Incentive Appeal Board Bylaw

PURPOSE

This Report recommends the creation of a Tax Incentive Appeal Board to hear appeals of decisions made under the proposed Renewable Energy Non-Residential Tax Incentive Bylaw.

PREVIOUS COUNCIL DIRECTION

On 2023 October 17, Council adopted Council Policy CP2023-04 on Tax Incentives for Renewable Power Generation Developments on Brownfield Sites.

RECOMMENDATION:

That Executive Committee recommend that Council give three readings to the proposed Tax Incentive Appeal Board Bylaw (Attachment 1).

CHIEF ADMINISTRATIVE OFFICER/GENERAL MANAGER COMMENTS

The City Solicitor and General Counsel concurs with this Report.

HIGHLIGHTS

- Section 364.2(3)(d) of the *Municipal Government Act* (the “Act”) requires that, if Council provides that a designated officer can refuse to grant tax incentives in the form of an exemption from taxation or a deferral of the collection of tax, or can cancel an exemption or deferral, Council must also establish a process for the review of those decisions.
- The proposed Tax Incentive Appeal Board (“the proposed Board”) would allow applicants for tax incentives who disagree with the Municipal Assessor’s decisions regarding tax incentives to appeal the decisions to an independent and impartial tribunal.
- The proposed Board would be a committee of Council comprised of Public Members who are independent from The City of Calgary Assessment and Tax Business Unit.
- The appeal caseload for the proposed Board is expected to be low and eligibility for appointment to the proposed Board would be limited to members of the Assessment Review Board (“ARB”) and the Licence and Community Standards Appeal Board (“LCSAB”).

DISCUSSION

The Climate and Environment Business Unit of Planning and Development Services is proposing a Renewable Energy Non-Residential Tax Incentive Bylaw which would allow the Municipal Assessor to make decisions regarding tax incentives on non-residential properties. If Council enacts this Bylaw, it must also establish a process for those decisions to be reviewed. Administration is proposing that a Tax Incentive Appeal Board be established to hear appeals of such decisions. Section 203(2)(e) of the Act states that “a council may not delegate a duty to decide appeals imposed on it by this or another enactment or bylaw, whether generally or on a case-by-case basis, unless the delegation is to a council committee and authorized by bylaw.”

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The proposed Board would play a crucial role in ensuring a fair and transparent appeal process. The independence of the proposed Board from the decision-makers whose decisions would be appealed is critical to support public trust and confidence in the appeal process. The proposed Board would be made up of Public Members appointed by Council. Limiting eligibility of the proposed Board's membership to members of the ARB and LCSAB would ensure that the proposed Board has the necessary expertise and experience, while minimizing the workload associated with recruitment and appointments. The proposed Board would consist of between six to ten members who would be appointed for one- or two-year terms.

If Council establishes the proposed Board, the proposed Board will be included in the City Clerk's annual recruitment and advertising campaign for Boards, Commissions and Committees, and the City Clerk's Office will implement a process to solicit expressions of interest from candidates applying to serve on the ARB and LCSAB. Recommendations for appointment to the proposed Board will be brought forward by the City Clerk's Office to Council through Nominations Committee, beginning in Q4 of 2024.

EXTERNAL ENGAGEMENT AND COMMUNICATION

- | | |
|--|---|
| <input type="checkbox"/> Public engagement was undertaken | <input checked="" type="checkbox"/> Dialogue with interested parties was undertaken |
| <input type="checkbox"/> Public/interested parties were informed | <input checked="" type="checkbox"/> Public communication or engagement was not required |

The General Chair of the ARB and the Chair of the LCSAB were informed about the proposed Board. Both Chairs are supportive of having members from the ARB and LCSAB be eligible for participation on the proposed Board.

IMPLICATIONS

Social

The creation of the proposed Board will provide an appeal process for those who wish to have a decision of the municipal assessor reviewed.

Environmental

Not applicable.

Economic

Not applicable.

Service and Financial Implications

As the proposed Board's appeal caseload and related start-up costs are expected to be low, no additional budget is expected to be required to support the proposed Board. The City Clerk's Office will monitor caseload and may bring forward a budget request, if required.

RISK

None.

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ATTACHMENTS

1. Proposed Wording for a Tax Incentive Appeal Board Bylaw
2. Background and Previous Council Direction
3. Presentation

Department Circulation

General Manager/Director	Department	Approve/Consult/Inform
Jill Floen, City Solicitor and General Counsel	Law, Legislative Services and Security	Approve
Katarzyna Martin, Director/City Clerk	Law, Legislative Services and Security	Approve

Author: Lyndsay Morrison, City Clerk's Office