



MUNICIPAL PROPERTY ASSESSMENT CORPORATION

Assessment of Permanent Trailers

The assessment of trailers in campgrounds has been a controversial and unresolved issue for many years. The issue centres on whether trailers meet the definition of 'land' and 'real property' in section 1 of the *Assessment Act* and are, therefore, assessable. One test the courts have used to decide if a structure falls within the definition of land and real property is whether the structure was placed on the land permanently or with the intention of permanence.

In 1987, the Supreme Court of Ontario upheld the assessments that had been placed on trailers by the then Ministry of Revenue. The Court concluded that recreational trailers permanently attached to land are considered to be structures under the definition of 'land' in section 1 of the *Assessment Act* and are, therefore, subject to assessment and taxation.

A subsequent appeal to the Ontario Court of Appeal by the Ontario Private Campground Association (OPCA), which represented both campground owners and trailer unit owners, was abandoned as a result of a decision made in 1990 by the then Minister of Revenue. This ministerial decision held in abeyance the assessments of any trailers in seasonal campgrounds pending a resolution that would be acceptable to all parties (municipalities, the OPCA and the Ministries of Tourism and Recreation and Municipal Affairs).

As a result of the moratorium, those trailers in seasonal campgrounds which had been assessed before the moratorium continued to be assessed, but other trailers were not assessed. However, the moratorium policy was never reflected in legislation. This led to challenges against the Municipal Property Assessment Corporation (MPAC) and its inconsistent treatment of trailers. In one situation, referred to as the Bluewater decision, the municipality brought action against both the property owner and MPAC because the trailers (park model home units) were not assessed and consequently, taxes were not being paid. All parties consented that the trailers were permanent and assessable. Subsequent to this, a settlement was made between the municipality and the property owner regarding the taxes. To put the settlement into effect, MPAC determined the assessments for the trailers, as required under the *Assessment Act*.

In 2002, MPAC began inspecting campgrounds in Ontario. During the inspection period and prior to determining the assessments of the campgrounds, MPAC advised the OPCA that it was preparing assessments on permanent trailers. The main factors MPAC considers in the determination of the degree or intent of permanence are:

- **Is the trailer greater than 8'6" wide?**

Modular, manufactured, mobile home or park model units generally fall within this category.

- **Is the trailer 8'6" wide or less, but has an attachment making the trailer immobile without its removal?**

Examples include enclosed porches, sunrooms (Florida rooms) or garages.

As further indicators of the degree or intent of permanence, MPAC gathers and reviews the following information: the existence of a foundation or supporting structure; whether the undercarriage has been removed; permanent connections to water, electricity and waste disposal; whether the unit's tow tongue has been removed; and whether the unit would require an oversize permit for road travel.

Travel trailers, fifth-wheel trailers, and motor homes have not been assessed, unless they have the same types of attachments as described above for the trailers less than 8'6" wide. Camper vans, folding camping trailers or truck campers are generally not permanent and, therefore, are not assessable.

MPAC has been working with the OPCA and the RV industry to gather relevant information such as depreciation allowances of trailers. As a result, the values derived from the cost approach are an accurate reflection of the value of the trailers.

Under subsection 33(1) of the *Assessment Act*, MPAC is required to issue an omitted assessment for any land that has been omitted in whole or in part from the tax roll for the current year or for any part or all of the two preceding years. Based on this, MPAC should have issued omitted assessments for all assessable trailers for 2001, 2002 and 2003. However, on October 30, 2003, the Minister of Finance filed a regulation prescribing an exception to this requirement, giving MPAC the statutory authority to not issue omitted assessments for the 2001 and 2002 taxation years. Therefore, as required by the *Assessment Act*, MPAC prepared and mailed Omitted Property Assessment Notices for the 2003 taxation year. These notices were mailed early in November 2003 for those campgrounds where assessments had been completed.

After the Notices were mailed advising of the omitted assessments, campground owners and trailer owners expressed their concerns about the challenges and hardships that they faced due to the 2003 omitted assessments and the resulting tax bills being issued at the end of the tax year after many of the parks had closed for the season. In response to these concerns, on March 10, 2004, the Ministry of Finance issued a news release announcing that it was cancelling the omitted assessments for the 2003 taxation year. Ontario Regulation 55/04 was filed, amending Ontario Regulation 390/03, cancelling the omitted assessments for the 2003 tax year and requiring MPAC not to issue any further omitted assessments for 2003. In the Government's 2003 Budget Bill, municipalities were directed to make the appropriate tax adjustments to reflect the cancellation of the 2003 omitted assessments.

These announcements only affected the 2003 omitted assessments. The Ministry of Finance stated that trailers exhibiting characteristics of permanency will continue to be assessed and liable for property taxation for 2004 and future years. Therefore, MPAC has inspected the remaining campgrounds and is calculating the revised assessments, indicating the breakdown for individual trailers. This breakdown is being forwarded by letter to the campground owners as the work is completed.

Omitted Property Assessment Notices to campground owners will be issued in 2004 with the assessments taking effect on January 1, 2004. If any trailers were moved onsite during the year and are found to be permanent, Supplementary Property Assessment Notices will be issued effective the date the trailers were permanently placed on the land.

MPAC is also reviewing the assessments of those campgrounds that were first assessed in 2003 and that continue to be assessed in 2004. Although the omitted assessments were subsequently cancelled, there are outstanding Requests for Reconsideration and complaints to the Assessment Review Board related to the current tax year. Where warranted, adjustments are being made as more information is made available to MPAC by the campground owners.

For additional information, you may contact MPAC toll free at 1 866 296-MPAC (6722).