

**GARDINER MILLER ARNOLD LLP**  
BARRISTERS & SOLICITORS

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February 18, 2015

Dear Manager:

**Re: Eliminate Taxes for Your Condo's Common Amenity Service Units  
GMA's 2015 RfR Program with MPAC**

**Imminent RfR Deadline**

If a 2015 Property Assessment Notice has been issued by the Municipal Property Assessment Corporation ("MPAC") for an amount more than \$9 pertaining to any Common Amenity Service Unit (a "CASU") such as a superintendent's unit, a guest unit, parking unit or other unit owned by your condominium client, consider participating in Gardiner Miller Arnold's streamlined 2015 Request for Reconsideration Program ("**2015 RfR Program**") well before the imminent March 31<sup>st</sup> filing deadline. By doing so, you can expect to reduce assessment to \$9 per CASU pursuant to Minutes of Settlement, resulting in elimination of taxes for your CASU (even if you have already paid any taxes to the municipality).

**No Tax for Supers' Units & CASUs**

During 2012 – 2014, we have successfully eliminated municipal realty tax for well over 300 superintendent units, guest units and various other CASUs owned by their condominium corporations. The elimination of municipal realty taxes with respect to such CASUs resulted from our successful appeal at the Assessment Review Board in a landmark realty assessment taxation Decision which will eliminate millions of dollars' worth of taxation of condo-owned CASUs now and in future. A 1-page press release summarizing this important Decision is attached.

**Tax Rebate**

Even if the condominium corporation has already paid all or part of the 2015 realty tax for the unit, the Corporation can participate in GMA's 2015 RfR Program. Once we receive and forward to you Minutes of Settlement executed by MPAC and GMA on your condo's behalf, that will mean that only nominal assessment in the amount of \$9 commencing in the year of the RfR and thereafter will be applicable to your CASU. Once we forward those executed Minutes of Settlement to you, you will then become entitled to apply for a tax rebate from the municipality by forwarding a copy of the Minutes to Settlement and the CASU's tax bill to the municipal tax department.

**Enrolment Documents**

If you choose to enroll in GMA's 2015 RfR Program, please forward the attached documents, accurately completed for each participating CASU as soon as possible, but preferably no later than

March 21<sup>st</sup>, 2015 to our Program Administrator, Chris Dominaux:

1. Scan the 2015 Property Assessment Notice for the unit and email it to [chris.dominaux@gmalaw.ca](mailto:chris.dominaux@gmalaw.ca);
2. Email GMA's attached 2015 RfR Enrolment Form, duly completed, to [chris.dominaux@gmalaw.ca](mailto:chris.dominaux@gmalaw.ca); and
3. Subsequently, mail the condominium corporation's cheque payable by April 20<sup>th</sup>, 2015 in the total amount of \$785 (or if paid thereafter, in the amount of \$885.00) payable to Gardiner Miller Arnold LLP to our offices at Suite 1202, 390 Bay Street, Toronto, Ontario M5H 2Y2 (Attention: Chris Dominaux). Please include a reference on the cheque to "2015 RfR for \_\_ CC # \_\_, Unit \_\_, Level \_\_".

### **RfR Fees**

GMA will only accept responsibility for a unit enrolment upon receipt of each of Items 1 and 2 above, accurately completed and received by GMA by March 21<sup>st</sup>, 2015. However, we also expect to accommodate a last-minute enrolment of a number of participating units between March 22<sup>nd</sup> – March 30<sup>th</sup>, 2015. Your condo will receive a reduced fee in the amount of \$785 inclusive of HST if your client signs and returns GMA's attached 2015 RfR Enrolment Form by March 21<sup>st</sup>. We will accept enrolments up to March 30<sup>th</sup>, but any such last-minute pressure after March 21<sup>st</sup> increases the enrolment fee and HST to a total of \$885.00. If your cheque is not received by April 30<sup>th</sup>, 2015, the fee increases by an additional amount of \$100. In view of the streamlined system GMA has organized for a large number of participating condominiums, we have established a low-price, fixed-fee RfR Program applicable to the standard processing requirements. No fee reductions can be accorded to any condominium or management company that enrolls more than one common amenity unit, provided that when a corporation enrolls more than one parking unit, the RfR Fee will encompass each group of 1–3 visitor parking units.

### **Board Resolution**

Managers of a participating condominium corporation may wish to require its board of directors to pass the attached form of Board Resolution approving various criteria, including instructions to prepare, file and sign the 2015 RfR and to sign Minutes of Settlement on behalf of the Corporation. We do not require a copy of that resolution, because it is inherently included as one of the criteria in the above Application Form and we are simply relying upon the authority of most Managers to incur expenses less than the limit specified in your management agreement, especially in time-restricted circumstances such as these when the Manager has to make a decision based upon a deadline.

### **Processing 2015 RfRs**

Once we have received the duly completed documents by email, we will commence to prepare the 2015 Request for Reconsideration and we will sign it on behalf of your condo client, file it with MPAC and provide a copy to you. Likely nothing will happen for many months thereafter, but we would hope to be advised by MPAC of the outcome of each RfR before December, 2015.

### **Streamlined Processing**

The low pricing for the RfR Program is designed to efficiently process a large volume of RfRs on a streamlined, standardized basis, in our expectation to avoid repeated phone calls and emails

which would increase the administrative time and expense involved. The writer will not be able to promptly address individual questions or comments, but please forward them to Chris Dominaux, our Program Administrator, at [chris.dominaux@gmalaw.ca](mailto:chris.dominaux@gmalaw.ca). We intend to respond on a generic basis and report to all participants when any significant issue or event occurs. If your management company can appoint a single contact person for this project on behalf of your participating condominium corporations, that will enable efficient communications. If, in an unusual case, a significant additional amount of time is required to be spent, we will warn you ahead of time, whereupon the participating unit's condominium corporation may be asked to reimburse GMA for any excess time spent thereafter at a reduced fee at the rate of \$100/hr.

### **If RfR is Rejected**

During the past two years, a number of different MPAC appraisers had rejected some of our CASU RfRs, in roughly 30 out of more than 300 cases. By now, we believe we have educated those MPAC appraisers by using GMA's standard RfR Rejection Response System at an additional cost of \$395. While that initially was a problem, we succeeded in 28 of those 30 cases to obtain Minutes of Settlement for the \$9 assessment after educating the various MPAC officials. Two cases involved unusual factual circumstances which made it not economically worthwhile to proceed to an appeal to the Assessment Review Board. Now that most MPAC officials have been educated, we would expect a substantially higher success rate at this point, except when unusual circumstances are applicable.

### **Conclusion**

If your corporations wish to participate in GMA's 2015 RfR Program, the Manager should complete and forward to GMA the documents referred to under the heading **Enrolment Documents**, set out on page 2 of this letter.

Yours truly

**GARDINER MILLER ARNOLD LLP**

*J. Robert Gardiner*

Per: J. Robert Gardiner

JRG:it

Encls. 2015 RfR Enrolment Form  
Board Resolution  
Press Release re ARB Decision

**GARDINER MILLER ARNOLD LLP**  
BARRISTERS & SOLICITORS

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**GMA's 2015 RfR Enrolment Form**  
**Re: Common Amenity Service Units - \$9 Assessment**

**Participating Unit**

..... Condominium  Corporation No. ....	Type of Unit <input type="checkbox"/> Super Unit <input type="checkbox"/> Guest Suite <input type="checkbox"/> Parking Unit <input type="checkbox"/> Visitor Parking <input type="checkbox"/> Recreational Unit <input type="checkbox"/> Gatehouse <input type="checkbox"/> Other:
Participating Unit's Municipal Address:  ..... .....	Assessment Roll No. ....  Unit .....      Level .....      Suite No. ....

**Contact Particulars**

Property Mgmt Co.	Manager's Name
Mailing Address:	Phone  Cell  Email

**Authorization**

On behalf of the above Condominium Corporation, its Manager hereby authorizes and directs Gardiner Miller Arnold LLP ("GMA"), by its representatives, J. Robert Gardiner, Chris Dominaux, Irene Thrush and its agents as follows:

1. **RfR Services:** To process the Request for Reconsideration (RfR) with respect to the above designated Participating Unit (being a common amenity service unit owned by the above Condominium Corporation) in accordance with the following services to be rendered by Gardiner Miller Arnold LLP and its agents:
  - a) Undertake all administration required to complete the RfR Program referred to herein;
  - b) Prepare and maintain a separate sub-file for the Participating Unit, receive its applicable RfR Retainer and account for it;
  - c) Prepare, complete and file with MPAC the RfR for the Participating Unit before the March 20, 2015 Assessment RfR deadline, subject to compliance by the Condominium Corporation and GMA with the provisions set out in the letter from GMA dated February 18, 2015;
  - d) To act as the agent and representative of the above Condominium Corporation for all purposes relating only to the RfR, including this authorization for GMA's representatives to complete, sign, deliver and file the RfR with MPAC, undertake any RfR processing and discussions with MPAC and to receive, negotiate and sign Minutes of Settlement with MPAC on behalf of the Condominium Corporation, intended to result in an assessment for the Participating Unit reduced to \$9 per annum;

e) GMA shall report to the Manager the results of any Minutes of Settlement, Amended Property Assessment Notice or MPAC’s refusal to amend the assessment applicable to the Participating Unit;

2. **Authorization:** The Manager confirms that the Manager is authorized to retain GMA to provide its limited services as set out above, and to complete and process GMA’s 2015 RfR Enrolment Form and to act as the Condominium Corporation’s contact with GMA.

3. **Enrolment:** GMA shall be entitled to commence rendering its services upon receipt from the Manager of the following documents:

- a) MPAC’s Property Assessment Notice for the 2015 property tax year applicable to the Participating Unit, emailed to [chris.dominiaux@gmalaw.ca](mailto:chris.dominiaux@gmalaw.ca);
- b) This GMA 2015 RfR Enrolment Form, accurately completed and emailed to [chris.dominiaux@gmalaw.ca](mailto:chris.dominiaux@gmalaw.ca);
- c) The Manager agrees to mail or courier to Chris Dominaux at GMA’s above address the RfR Retainer cheque for the Participating Unit in the amount of \$785.00 (including HST), or in the amount of \$885.00 if items 3 a) and b) are forwarded after March 21<sup>st</sup>, but before March 30<sup>th</sup>, 2015. The Manager shall forward the RfR retainer cheque to GMA on or before April 30, 2015, failing which the amount of the RfR Retainer cheque shall be increased by the amount of \$100.00.

Please make your cheque payable to **Gardiner Miller Arnold LLP** and include a reference line on the cheque referring to “2015 RfR for \_\_\_ CC No. \_\_, Unit \_\_, Level \_\_”.

4. **GMA’s Letter:** The Condominium Corporation and GMA each agree to comply with the criteria set out in GMA’s February 18<sup>th</sup>, 2015 letter insofar as they apply to the 2015 RfR Program.

Dated the ..... day of March, 2015.

On behalf of the above Condominium Corporation  
By its duly authorized Manager

\_\_\_\_\_  
Property Management Company

Per: \_\_\_\_\_  
*Signature*

\_\_\_\_\_  
Print Name of Manager



## **Supers' Units \$9 Assessment Victory! - Your Filing Deadline Is March 31st.**

Condos would be wise to consider immediate filing of a 2015 Request for Reconsideration with MPAC for their superintendent's unit and any other Common Amenity Service Unit (a "CASU") before the imminent March 31st filing deadline, in order to take advantage of the new \$9 nominal assessment ruling.

The Assessment Review Board has ruled that 40 supers' units participating in the ARB case *TSCC 1496 v. MPAC* were subject to assessment for taxation at \$9 for their 2011 and 2012 tax years. That means no municipal tax.

That precedent is important because it extends to other common amenities service units, such as parking, guest, mechanical, gatehouse, recreational and other units owned by the corporation providing amenities or services to its unit owners. The ARB based its decision upon analysis of the easement aspects which merge s. 12 of the *Condominium Act* with s. 9 of the *Assessment Act* to enable an exemption from the full "current value" concept which otherwise governs assessment of realty parcels.

The ARB Decision also specifically concluded that the market value of the supers' units was minimal and already resided in the owners' residential, parking and locker units.

The ARB also concluded that it was inequitable to assess supers' units differently than guest units. In 2012, Bob Gardiner convinced MPAC to reduce the assessment of over 100 of his clients' guest and visitor parking units to a nominal assessment of \$9 each based upon his unique Request for Reconsideration arguments.

Bob has persistently spear-headed this initiative since 2005. Much of the language of the 35-page decision is based upon his written and oral argument explaining over 100 legal concepts to rationalize seven requested grounds for appeal, supported by 200 pages of documents in his Statement of Facts and 14 legal precedent cases.

If MPAC issues a Property Assessment Notice for any of your condominium's Common Amenity Service Units for an amount more than \$9, consider participating in GMA's streamlined 2015 Request for Reconsideration program well before the March 31<sup>st</sup> filing deadline, in the expectation of eliminating taxes now and hereafter for your CASU.