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OMEX SUPPLEMENTAL ASSESSMENT INSURANCE COSTS

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report dated March 3, 2010, from the Commissioner of Finance.

1. RECOMMENDATIONS

It is recommended that:

1. Council authorize a payment up to $4,936,016, plus any applicable taxes, to the Ontario Municipal Insurance Exchange ("OMEX"), to satisfy the obligation of the Region of York for its unfunded insurance liabilities associated with the period January 1, 2000 to December 31, 2008 to be funded from the 2009 General Surplus.

2. The payment be withheld until such time as the supporting documentation in calculation of the amount owed meets the satisfaction of the Regional Treasurer.

2. PURPOSE

This report discloses the supplementary insurance costs being assessed by OMEX for the period January 1, 2000 to December 31, 2008.

3. BACKGROUND

Reciprocal Insurance Exchanges ("Reciprocals") are Licensed and Governed by FSCO

Like traditional insurance companies, Reciprocals are licensed and governed through the *Insurance Act* and monitored by the Financial Services Commission of Ontario (FSCO). They operate similar to other insurance companies with a few notable exceptions:

- they are not incorporated, but rather are a collection of "members";
- members retain responsibility for funding all liabilities that occur during their membership period until all applicable claims are closed; and
- they operate through a principal attorney with an advisory board.

Provincial regulations dictate that all insurance companies, including Reciprocals, must maintain fully funded reserves in order to cover the cost of all known and potential claims for which it may be responsible. The adequacy of these reserves is determined from time to time by an independent actuarial review. Reciprocals will not usually maintain a large buffer of reserves to cover unexpected claims because of their ability to call upon its members to make up any funding shortfall through supplementary assessments. This has now changed with the enforcement of Minimum Capital Test (MCT); an initiative to ensure adequate capital exists to provide a cushion for financial institutions during difficult economic times. In the past, Reciprocals have had less stringent capital tests to meet, however FSCO is now exercising their option to enforce these same stringent tests on reciprocal carriers.

OMEX Operates as a Reciprocal

OMEX was licenced as a Reciprocal in 1989. It has grown from eight in 1998 to thirty member municipalities in 2006, principally from its ability to control escalating insurance costs. Four of the nine municipalities in York Region are now members of OMEX. The Region was a member from September, 1996 to December 31, 2009. Through OMEX, the Region purchased insurance coverage for property, transit, auto, crime, boiler and machinery, municipal liability and errors & omissions. The relationship between OMEX and each member municipality is governed by a Subscriber Agreement that was approved by Council and signed in September 1996.

Should a municipality decide to leave OMEX, it still remains responsible for any unfunded liabilities that arose during its membership period including supplemental assessments and any such assessments must be paid immediately upon withdrawal. Any payments made for liabilities that are not eventually realized will be paid back proportionately to each member of the underwriting group regardless of membership status. The Region left OMEX as a member effective January 1, 2010. Insurance coverage is now provided through our broker BFL Canada and our primary insurance company is Travelers/St. Paul's Fire and Marine Insurance Company.

OMEX Supplemental Assessments to the Region

In October 2006, Council reviewed a report that the Region had received a supplemental assessment of $ 3,365,766 from OMEX for the period 1998 to 2005. Council approved the staff recommendation that this assessment be paid in full immediately from 2006 surplus funds.

In 2008, Council approved payment of supplemental assessments to OMEX in the total amounts of $1,502,599. These payments were made to meet developed reserve requirements and to satisfy a FSCO requirement for OMEX to post higher reserve amounts than in the past.

FSCO has continued to diligently monitor insurance companies' stability with strict enforcement of reserve requirements. The strict adherence to provincial guidelines has been enforced for Reciprocals. Reciprocals reserve requirements were less strictly monitored in past due to ready source of cash on demand by the nature of their clientele.

In order to meet the reserve level obligations dictated by FSCO, and in accordance with OMEX's 2009/10 capital management plan authored by Ernst and Young, OMEX issued another Supplemental Assessment to its members in late December 2009. OMEX has advised that subscriber and ex-subscriber municipalities will be given the option to pay the supplemental assessments over three years starting in 2010. This current supplemental assessment from all current and past subscribers totals approximately $23M.

In order to provide a more wholesome view of the impact of the insurance premium costs in conjunction with the supplement assessments issued by OMEX to date, see table 1 below. The table illustrates the premiums paid plus the allocation to each year of the subsequent assessments based on actual experience.

Table 1
Details of OMEX Premiums and Supplemental Assessments

Year	Total Insurance Policy Premiums	Supplemental Assessments	Total Premiums & Assessments
2009	4,625,341	To date not assessed	$4,625,341
2008	4,441,003	683,714	$5,124,717
2007	3,830,363	1,246,971	$5,077,334
2006	4,920,795	1,137,146	$6,057,941
2005	3,092,006	2,848,699	$5,940,705
2004	2,642,599	2,133,306	$4,775,905
2003	1,459,129	856,137	$2,315,266
2002	829,957	70,080	$900,037
2001	638,269	402,855	$1,041,124
2000	506,494	73,506	$580,000
1999	554,657	21,463	$576,120
1998	479,088	91,996	$571,084
Reallocated Arbitration Amount		238,505	
Total Costs to date OMEX	$28,019,701	$9,804,378	$37,824,079

In 2010 we moved to traditional insurance premium coverage at a cost of $4,794,686.

4. ANALYSIS AND OPTIONS

Due to the late notice received by municipalities regarding this assessment many subscribers had concerns and issues. On January 18, 2010 the Region and Richmond Hill co-hosted an unofficial OMEX subscriber and ex-subscriber meeting to allow for open discussion of concerns regarding this third supplemental assessment. A professional facilitator was hired to ensure the meeting followed a positive and solution focussed agenda, with a full and well documented report produced at its conclusion. The meeting yielded a list of solutions, commitments and due diligence requirements from both the subscriber and OMEX perspectives.

This report was presented to the OMEX Board in February. Staff awaits the review and commitment. Of particular importance is the request for a full third party audit of claims reserves and the claim process on which the supplemental assessment is based. It is hoped that OMEX will agree to move this plan forward to provide due diligence in support of this most recent assessment.

It is recommended that York Region’s payments of the supplemental assessments be withheld until such time as the supporting documentation in calculation of the amount owed meets the satisfaction of the Regional Treasurer.

5. FINANCIAL IMPLICATIONS

No budgetary provision was made for this supplemental insurance assessment as it was unknown. The full supplementary assessment amount of $4,936,016 has been expensed in 2009 reducing the surplus that had been previously estimated.

6. LOCAL MUNICIPAL IMPACT

There is no direct local municipality impact with respect to the Region’s portion of the supplement. However as four of the nine municipalities are also members, they will also share in their individual portion of any supplemental assessment for their underwriting group.

7. CONCLUSION

This report recommends that the latest Supplemental Assessment charged to the Region by OMEX be paid in 2010 from 2009 General Surplus Funds, once the Regional Treasurer is satisfied with the due diligence conducted by OMEX as requested.

For more information on this report, please contact Tina Gardiner, Manager, Insurance and Risk at ext. 1656.

The Senior Management Group has reviewed this report.