

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the “Act”), subsections 78(1) and 79(3);

AND IN THE MATTER OF the Metropolitan Toronto Pension Plan, Registration Number 0351577 (the “Plan”).

NOTICE OF INTENDED DECISION

TO: City of Toronto
Metro Hall
55 John Street
13th Floor
Toronto ON M5V 3C6

Attention: Hatem Belhi
Director, Pension, Payroll & Employee Benefits

Employer & Applicant

AND TO: Paul W Litner
Osler, Hoskin & Harcourt LLP
1 First Canadian Place
P.O. Box 50
Toronto ON M5X 1B8

Legal Counsel for the Applicant

AND TO: Anthony Guindon
Koskie Minsky LLP
900-20 Queen St. W.
Toronto ON M5H 3R3

Legal Counsel for the retired members, survivors and the Member Committee.

TAKE NOTICE THAT pursuant to subsection 78(1) of the Act, and by delegated authority from the Chief Executive Officer of the Financial Services Regulatory Authority of Ontario (the “Chief Executive Officer”), the Head, Pension Plan Operations and Regulatory Effectiveness (the “Head”), intends to make an order to consent to the payment of surplus in respect of the Plan to the City of Toronto in the amount of \$43,055,995 as at January 31, 2020, plus investment earnings and adjusted for expenses to the actual date of payment. Details of this intended decision are described below.

SI VOUS DÉSIREZ RECEVOIR CET AVIS EN FRANÇAIS, veuillez nous envoyer votre demande par courriel immédiatement à: contactcentre@fsrao.ca.

YOU ARE ENTITLED TO A HEARING BY THE FINANCIAL SERVICES TRIBUNAL (THE “TRIBUNAL”) PURSUANT TO SUBSECTION 89(6) OF THE ACT. A hearing by the Tribunal about this Notice of Intended Decision may be requested by completing the enclosed Request for Hearing Form (Form 1) and delivering it to the Tribunal within thirty (30) days after this Notice of Intended Decision is served on you. The Request for Hearing Form (Form 1) must be mailed, delivered, faxed or emailed to:

Address: Financial Services Tribunal
25 Sheppard Ave W., 7th Floor
Toronto, ON, M2N 6S6

Attention: Registrar

Fax: 416-226-7750

Email: contact@fstontario.ca

TAKE NOTICE THAT if you do not deliver a written request for a hearing to the Tribunal within thirty (30) days after this Notice of Intended Decision is served on you, an order will be issued as described in this Notice of Intended Decision.

For additional copies of the Request for Hearing Form (Form 1), visit the Tribunal's website at www.fstontario.ca.

The hearing before the Tribunal will proceed in accordance with the *Rules of Practice and Procedure for Proceedings before the Financial Services Tribunal* (“Rules”) made under the authority of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22. The Rules are available at the website of the Tribunal: www.fstontario.ca. Alternatively, a copy can be obtained by telephoning the Registrar of the Tribunal at (416) 590-7294, or toll free at 1-800-668-0128 extension 7294.

REASONS FOR INTENDED DECISION

1. The City of Toronto is the employer as defined in the Plan (the “Employer”).
2. The Employer wound up the Plan on January 31, 2020, after the transfer of the Plan's assets and liabilities relating to all pensioners and other beneficiaries of the Plan into the OMERS Primary Pension Plan, Registration Number 0345983, effective January 8, 2020. After the above said asset transfer, there remain certain outstanding refunds that are payable to the estates of 18 deceased members as described as the ‘Fifty Percent Rule Refund’, and surplus assets. The Employer's application defines the “Fifty percent Rule Refund” as it is described in section 39(4) of the Act.

3. A Committee comprising three individual members of the Surplus Sharing Group (the “SSG”) known as The Pension Committee for the Metropolitan Toronto Pension Plan Surplus Distribution (the “Member Committee”) was established in October 2017, to engage legal counsel to negotiate an agreement with respect to the distribution of surplus remaining in the plan between the Employer and members of the SSG. The SSG is defined in the Employer’s application as 1,877 persons who were receiving a pension or entitled to receive a pension from the Plan as of January 31, 2018.
4. The Member Committee retained the law firm of Koskie Minsky LLP to negotiate an agreement regarding the distribution of surplus with the Employer. As a result of negotiations between the Member Committee Counsel and the counsel for the Employer, the principal terms of the proposal relating to the surplus were agreed upon by the Member Committee and in principle by the management staff at the Employer.
5. The Member Committee engaged the law firm of Koskie Minsky LLP to negotiate an agreement between the Employer and the SSG. 303 members of the SSG are not represented by Koskie Minsky. These members are defined in the application by the Employer as “Unrepresented Members”. The surplus notice was distributed to the 303 unrepresented members of the SSG by regular mail on August 20, 2020. 1,574 members of the SSG who authorized Koskie Minsky to negotiate and accept the Surplus Sharing Agreement (Agreement) on their behalf are defined in the application by the Employer as the ‘Represented Members’.
6. Following the negotiations, the Agreement was executed by the Employer, the Member Committee and the Represented Members.
7. The Agreement entered into between the City and the legal counsel for the Member Committee, provides for the surplus remaining in the Plan, less eligible expenses in connection with the administration and the wind up of the Plan (the “net surplus”) to be divided between the Employer and SSG by providing the SSG with 50% of the net surplus and to the Employer with 50% of the net surplus.
8. The Agreement provides that upon the wind up of the Plan, the Net Surplus will be allocated between the Employer and the members of the SSG as follows:
 - (a) an estimated amount of \$43,297,970 to members of the SSG
 - (b) an estimated amount of \$43,055,995 to the Employer
9. As at the wind up date of January 31, 2020, the assets remaining in the Plan fund are comprised of \$344,159 of the Fifty Percent Rule Refunds with the remainder being Surplus. As of the date of the Employer’s application there were 11 deceased pensions who are entitled to Fifty Percent Rule Refunds.
10. As indicated in the Employer’s application for payment of surplus (the “Application”) as at January 31,2020, the surplus, after adjustments and expenses is \$86,353,965, and the surplus payable to the Employer in accordance with the Agreement, is estimated to be \$43,055,995 as at January 31, 2020.

11. Subsequent to the date of Surplus Sharing Agreement, the Employer agreed to reallocate an additional amount of \$616,974.91 of Surplus from its share of the Net Surplus to the Plan's fund. Therefore, the resulting distribution between the SSG and the Employer will be \$43,297,970 (50.14%) and \$43,055,95(49.86%) respectively.
12. The Employer has applied pursuant to paragraph 77.11(7)2, section 78 and subsection 79(3) of the Act for consent to the payment of \$43,055,995 from the pension fund for the Plan as at January 1, 2020, adjusted for investment earnings and expenses to the actual date of payment.
13. The Application appears to comply with paragraph 77.11(7)2, section 78, subsection 79(3) and all other applicable requirements under the Act and Regulation 909, R.R.O. 1990.
14. Such further and other reasons as may come to my attention.

DATED at Toronto, Ontario, March 8, 2021.



Jennifer Rook
Head, Pension Plan Operations and Regulatory Effectiveness

By delegated authority from the Chief Executive Officer