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To: Toronto Public Library Board – March 24, 2003

From: City Librarian

Subject: **Section 65 of the *Ontario Municipal Board Act***

Purpose:

To advise the Toronto Public Library Board of Section 65 of the *Ontario Municipal Board Act*.

Funding Implications and Impact Statement:

Not applicable.

Recommendation:

It is recommended that the approval of any “work”, as defined in section 65 of the *Ontario Municipal Board Act*, by the Toronto Public Library Board shall, to the extent that the cost of any such work is to be raised after the current term of Council, be subject to the approval of:

- (a) the Council of the City of Toronto; or,
- (b) where such approval function has been delegated by the Council, the approval of the appropriate City official.

Background:

At the end of 2002, staff in the City Legal Division advised Library staff of the effects of section 65 of the *Ontario Municipal Board Act* (the “Act”) on the Board’s ability to make financial commitments for matters beyond the term of the current City Council. A copy of section 65 is attached to this report as Attachment 1 for the convenience of the Board.

At its meeting held during the weeks of February 4 and 10, 2003, City Council approved a report addressing the provincial requirements for prior approval by City Council for local board spending commitments. A copy of the report as amended by Council is attached as Attachment 2 to this report.

Comments:

Subsection 65(1) of the Act essentially provides that a local board may not authorize or proceed with any work of any sort if any portion of the cost of the work will, or may be, raised after the

term for which the council was elected. Clause 65(3)(g) creates an exception to this general prohibition when the by-law or resolution of the board that authorizes the work contains a provision to the effect that the by-law or resolution shall not come into force until the approval of the municipality has been obtained.

“Work” is defined very broadly in subsection 65(5) of the Act as “any undertaking, project, scheme, act, matter or thing”. This would, therefore, appear to apply not only to large capital projects, but also multi-year supply arrangements that will continue beyond the current term of City Council.

The practical effect of section 65 is to require the Board, as a local board of the City, to obtain City Council approval for any undertaking where the next council would be required to raise funds to pay for the undertaking. The section does not affect the situation where funds are raised during the term of the current council even if the funds may be spent after the term of that council. From an operational perspective, section 65 of the Act imposes constraints on the Board’s ability to manage its affairs in a timely manner and obtaining Council approvals can result in delay in carrying out Library business.

The report adopted by City Council, attached as Attachment 2, was intended to address any “bottleneck” problem by delegating Council’s approval authority under section 65 of the Act to the City’s Chief Financial Officer & Treasurer. The Treasurer can give approval where:

- (a) the expenditure or commitment is within the City of Toronto’s debt and financial obligation limit; and
- (b) such expenditure or commitment is consistent with the budgets of the local board as then approved by Council.

The Board resolution recommended in this report is intended to ensure efficient Board compliance with the requirements of section 65 of the Act similar to the City’s efforts to streamline its compliance with its obligations under that section.

Conclusion:

Given the potentially wide ranging effects of this requirement and the fact that the end of the current term of City Council is fast approaching, it is recommended that the Board address the requirement set out in clause 65(3)(g) of the Act by passing a general resolution which will render all commitments made by, or on behalf of, the Board subject to the requirements of section 65 to the extent that it may be applicable.

In light of the recommendation contained in this report and City Council’s recent action, it is essential that the Library staff and third parties entering into multi-year commitments on behalf of, or with, the Board, are made aware of this approval requirement.

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City Librarian

List of Attachments:

- Attachment 1 Section 65 of the *Ontario Municipal Board Act*.
- Attachment 2 Section 65 of the *Ontario Municipal Board Act* report approved by City Council at its regular meeting held on February 4, 5 and 6, 2003.