

**CITY OF HAMILTON**

**CORPORATE SERVICES DEPARTMENT**  
**Taxation Division**

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| <b>TO:</b> Chair and Members<br>Audit, Finance and Administration<br>Committee  | <b>WARD(S) AFFECTED:</b> CITY WIDE                           |
| <b>COMMITTEE DATE:</b> September 10, 2012   |  |
| <b>SUBJECT/REPORT NO:</b><br>Tax Appeals under Section 357 and 358 of the Municipal Act (2001) (FCS12007(f))<br>(City Wide) |  |
| <b>SUBMITTED BY:</b><br>Roberto Rossini<br>General Manager<br>Finance & Corporate Services Department                       | <b>PREPARED BY:</b><br>Val Mitchell (905) 546-2424 ext. 2776 |
| <b>SIGNATURE:</b>   |  |

**RECOMMENDATION**

- (a) That Appendix "A" attached to Report FCS12007(f) respecting the "Tax Write-Offs processed under Section 357 of the Municipal Act, 2001", in the amount of \$89,811 be approved;
- (b) That Appendix "B" attached to Report FCS12007(f) respecting the "Tax Appeals due to a Gross or Manifest Clerical Error, Pursuant to Section 358 of the Municipal Act, 2001", in the amount of \$69,400 be approved.

**EXECUTIVE SUMMARY**

Section 357 of the Municipal Act allows the taxpayer, through the Treasurer's Office, to submit an application to cancel, reduce or refund all or part of the taxes levied on the land in the year in respect of which the application is made as a result of a change of use; damage to a property rendering it partially or totally unusable; or a gross or manifest error that is clerical in nature.

**SUBJECT: Tax Appeals under Section 357 and 358 of the Municipal Act (2001)  
(FCS12007(f)) (City Wide) - Page 2 of 4**

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Examples of such applications are:

- mid-year purchase of a property by an exempt body
- fire or flood damage to all or partial property
- an assessment error in entering a property value

Section 358 of the Municipal Act, 2001 allows the taxpayer, through the Treasurer's Office, to appeal assessment as supplied by the Municipal Property Assessment Corporation (MPAC) they believe have been overcharged, due to gross or manifest clerical error, on the part of MPAC. They are allowed to appeal current, plus prior two years, in which the application is made. This section also allows for the reduction of taxes, due to such errors, once confirmed by the Regional Assessment Office of MPAC.

Examples of such applications are:

- a transposition of figures
- a typographical error
- a duplicate property created

***Alternatives for Consideration – Not Applicable***

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS** (for Recommendation(s) only)

**Financial:** The taxes that will be written-off under Section 357, total \$89,811 and taxes that will be written-off under Section 358, total \$69,400 for a total amount of \$159,211 of which \$38,353 will be charged back to the local school boards, based on school support, indicated on each account. The City portion of \$120,858 will be charged to the operating budget (HAMTN 52108-21102).

**HISTORICAL BACKGROUND** (Chronology of events)

Appendix "A" to Report FCS12007(f) "Tax Write-Offs processed under Section 357 of the Municipal Act, 2001" and Appendix "B" to Report FCS12007(f) "Tax Appeals due to a Gross or Manifest Clerical Error, Pursuant to Section 358 of the Municipal Act, 2001" have been reviewed by MPAC and have been approved or denied by them. Taxation Division staff have calculated any refunds/reductions that are due which now require Council approval. Applicants have thirty-five days after Council has rendered its' decision to appeal any Section 357 decision through the Assessment Review Board (ARB) Section 358 decisions are final.

**POLICY IMPLICATIONS**

Section 357 and 358 of the Municipal Act.

**RELEVANT CONSULTATION**

Municipal Property Assessment Corporation (MPAC).

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

The Section 357 applications allow for the Municipality and MPAC to quickly rectify assessment classification changes since the return of the year end assessment roll.

The Section 358 applications allow the taxpayer to rectify prior year's errors through the municipality and the local assessment office.

Both processes allow errors to be quickly rectified without having to go through the formal assessment review process.

**ALTERNATIVES FOR CONSIDERATION**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

None, this is a legislated process under the Municipal Act, 2001

**CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability,  
3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development,  
6. Environmental Stewardship, 7. Healthy Community  
Skilled, Innovative & Respectful Organization

**APPENDICES / SCHEDULES**

Appendix "A" to Report FCS12007(f) - Tax Write-Offs Processed Under Section 357 of the Municipal Act, 2001.

Appendix "B" to Report FCS12007(f) - Tax Appeals due to a Gross or Manifest Clerical Error, Pursuant to Section 358 of the Municipal Act, 2001.

City of Hamilton  
Corporate Services Department  
Taxation Division  
Section "357" Appeals of the Municipal Act, 2001

| Appeal No. | Property Address               | Roll Number     | Explanation   | YEAR | Amount            |
|------------|--------------------------------|-----------------|---|------|-------------------|
| 357-09-233 | Sulphur Springs                | 140130344500000 | Exempt does not meet criteria   | 2009 | 0.00              |
| 357-09-236 | Calvin St                      | 140360219000000 | Exempt does not meet criteria   | 2009 | 0.00              |
| 357-09-237 | Harmony Hall                   | 140380438020000 | Exempt does not meet criteria   | 2009 | 0.00              |
| 357-10-009 | 293 Wellington St N            | 020182094100000 | Exempt leased by Hamilton Health Sciences                             | 2010 | -221.73           |
| 357-10-205 | 28-34 Ottawa St N              | 040311010300000 | Exempt - Hamilton Regional Indian Centre                              | 2010 | -18,612.43        |
| 357-10-329 | 1462 Upper Sherman             | 070751065100000 | Exempt - group home   | 2010 | -103.54           |
| 357-11-058 | 1562 Rymal Rd E                | 060761001600000 | Exempt - place of worship   | 2011 | -918.89           |
| 357-11-124 | 145 Emerald St S               | 030204015100000 | Tax Class Conversion converted from 7 to 6 units now RT               | 2011 | -3,150.77         |
| 357-11-140 | 693 Barton St E                | 030265525100000 | Renovations - denied inspection did not reveal any renovations        | 2011 | 0.00              |
| 357-11-164 | 267-271 King St E              | 020181040900000 | Tax Class Conversion upper floor converted to residential             | 2011 | -4,423.15         |
| 357-11-225 | 171 Locke St S                 | 010095515700000 | Tax Class Conversion 2nd floor converted to residential               | 2011 | -1,219.47         |
| 357-11-234 | 1835 Burlington St E           | 050391037500000 | Tax Class Conversion from ITN to CTN - new tenant                     | 2011 | -13,085.07        |
| 357-11-236 | 759 Concession St              | 060621000700000 | Tax Class Conversion - house converted back to residential            | 2011 | -2,767.03         |
| 357-11-237 | 1462 Upper Sherman             | 070751065100000 | Exempt - group home   | 2011 | -1,556.92         |
| 357-11-241 | 70 Innovation Dr               | 302270717100000 | Tax Class Conversion new tenants are commercial                       | 2011 | -16,684.81        |
| 357-11-251 | 240 Beach Rd                   | 040287522900000 | Tax Class Conversion entire property now used as commercial           | 2011 | -7,037.49         |
| 357-12-041 | 1 Amanda St                    | 080931072900000 | Tax Class Conversion converted back to residential                    | 2012 | -3,831.63         |
| 357-12-042 | 3618 Governors Rd              | 140110428000000 | Demolition of structures on city property                             | 2012 | -903.47           |
| 357-12-043 | 49 Ravina Cres                 | 140350100000000 | Demolition of original house  | 2012 | -1,690.41         |
| 357-12-053 | 1334 Main St E                 | 040305005800000 | Demolition of old service garage                                      | 2012 | -2,544.10         |
| 357-12-070 | 450 Sherman Ave N-Timmerman    | 030272024300000 | Tax Class Conversion tenant moved out revert back to PILT             | 2012 | 796.41            |
| 357-12-070 | 450 Sherman Ave N-Timmerman    | 031243000350000 | Tax Class Conversion tenant moved out revert back to PILT             | 2012 | -796.40           |
| 357-12-072 | 1625 Burlington St E-Globalive | 040323083400000 | Tax Class Conversion tenant moved out revert back to PILT             | 2012 | 63.46             |
| 357-12-072 | 1625 Burlington St E-Globalive | 041834000300000 | Tax Class Conversion tenant moved out revert back to PILT             | 2012 | -63.45            |
| 357-12-088 | 9300 Airport Rd                | 902310322000000 | Tax Class Conversion UPS reduced space revert back to Exempt          | 2012 | -5,849.07         |
| 357-12-089 | 166 Cleghorn                   | 901410619880000 | Gross or Manifest Error MPAC billed omit on wrong roll -error on deed | 2012 | -2,011.86         |
| 357-12-108 | 145 Emerald St                 | 030204015100000 | Tax Class Conversion converted from 7 to 6 units now RT               | 2012 | -3,156.26         |
| 357-11-238 | 51 Flamingo Dr                 | 070833086330000 | Gross or Manifest Error - the basement is not finished                | 2011 | -42.47            |
|            |                                |                 | <b>Total</b>  |      | <b>-89,810.55</b> |

City of Hamilton  
Corporate Services Department  
Taxation Division  
Section "358" Appeals of the Municipal Act, 2001  
Realty Tax Applications for overcharges

B- overcharge (Assessment Roll)  
B1 -overcharged-application denied  
E - Exempt

| Appeal No. | Property Address    | Roll Number     | Reason | Explanation  | Year | Amount            |
|------------|---------------------|-----------------|--------|--|------|-------------------|
| 358-10-004 | 293 Wellington St N | 020182094100000 | E      | Space occupied by Hamilton Health Sciences   | 2009 | -233.07           |
| 358-11-058 | 625 Rymal Rd W      | 081101089800000 | B      | To change tax class missed in 09 changed for 08 & 10   | 2009 | -19,594.52        |
| 358-11-089 | 693 Barton St W     | 030265525100000 | B1     | Denied no indications of renovation to property  | 2010 | 0.00              |
| 358-12-053 | 1334 Main St E      | 040305005800000 | B      | Old service garage demolished but still reflected on the roll                                | 2010 | -430.42           |
| 358-11-129 | 51 Flamingo Dr      | 070833086330000 | B      | Property incorrectly valued as having a finished basement                                    | 2010 | -42.18            |
| 358-11-130 | 51 Flamingo Dr      | 070833086330000 | B      |  | 2009 | -41.50            |
| 358-11-131 | 70 Innovation Dr    | 302270717100000 | B      | New commercial tenants moved in owner not aware he had to notify city of change in tax class | 2010 | -2,376.83         |
| 358-11-131 | 70 Innovation Dr    | 302270717100000 | B      |  | 2010 | -10,383.36        |
| 358-12-12  | 343 East 28th St    | 070664070700000 | B      | In ground pool removed years ago   | 2011 | -187.08           |
| 358-12-015 | 86 Orchard Dr       | 140320392000000 | B      | Original structure still reflected on the roll   | 2011 | -631.80           |
| 358-12-021 | 28-34 Ottawa St N   | 040311010300000 | E      | Ham Reg Indian Centre - Indian Friendship Centre   | 2011 | -31,385.55        |
| 358-11-100 | 1334 Main St E      | 040305005800000 | B      | Old service garage demolished but still reflected on the roll                                | 2011 | -2,557.21         |
| 358-12-040 | 166 Cleghorn        | 901410619880000 | B      | Omit assessment issued on the wrong roll   | 2011 | -1,536.99         |
|            |                     |                 |        | <b>Total</b>   |      | <b>-69,400.51</b> |