



INFORMATION REPORT

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	October 13, 2015
SUBJECT/REPORT NO:	Annual Report on Assessment Appeals as of December 31, 2014 (FCS15069) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Larry Friday (905) 546-2424, Ext. 2425
SUBMITTED BY:	Larry Friday Acting General Manager Finance & Corporate Services Department
SIGNATURE:	

Council Direction:

Not Applicable.

Information:

Appeals of assessment value and classification have a large impact on the municipalities budgeted tax revenue on a yearly basis. As taxes are based on an assessment value multiplied by a tax rate, any reduction in the assessment value or classification will have a negative effect on the municipality's tax revenues. Recent years have shown an upward trend in large commercial and industrial appeals that may result in significant tax refunds.

This annual information report, FCS15069, is intended to keep committee and council apprised of the trends over the last five years. Recent trends have seen large industrial and commercial appeals that have off-set in part the growth in those classes, while gains continue to be seen in the residential class. Through the budget process the city recognizes that assessments will be challenged and lost. Whenever there is a potential for a large loss of assessment that covers many previous years, we also set up an allowance account to offset any expected losses

As this issue is not unique to Hamilton, the Province has been looking at this issue and ways to strengthen the assessment end of valuations for the larger commercial and industrial type properties. The issue of the loss of commercial and industrial assessments is country wide. The attached Appendix "A" is a recent article by Mr. Greg Keenan of the Globe and Mail that talks about some of the issues being faced

by Canadian Municipalities. As the Municipal Property Assessment Corporation (MPAC) is responsible for the property valuations, municipal tax revenues hinge on how well their valuations hold up when challenged by taxpayers and highly trained appraisal consultants. Further complicating matters, is that large Province wide appeals are being delayed due to their complexity and the time it is taking to be heard at the Provincial Assessment Review Board (ARB). An appeal that takes 5 to 7 years for a decision can lead to a significant cumulative tax refund, if a reduction in assessment value is warranted.

It should be noted that assessments are now done on a four year assessment cycle with increases phased in over the four years. This was done in 2008 as a Provincial measure to stabilize the assessment system versus yearly assessments. It is also hoped that this will allow MPAC to better prepare when valuing properties to reduce some of the challenges to their values. There also have been changes made in the ARB processes which hopefully will allow appeals to be heard quicker and rectified sooner. Both MPAC and the ARB have committed to hearing all appeals within the four year assessment cycle. Time will tell if they are able to achieve this lofty goal.

The following Table shows the appeals that are still outstanding and awaiting hearings with the Assessment Review Board:

Table 1

Outstanding appeals by Assessment Value and Number

	2014	2013	2012	2011	2004 - 2010
Assessment under Appeal	\$3,171,226,901	\$3,027,803,889	\$587,525,490	\$465,069,565	\$926,541,689
Number of Outstanding appeals	415	371	88	47	50

Table 1 highlights the magnitude of the number of current outstanding appeals in our municipality. There are two properties that have appeals dating back to 2004 that may be settled in 2015. Staff have been vocal in trying to get the ARB, MPAC and the tax consultants to get these appeals settled. The assessment values in Table 1 above are the cumulative property values under appeal. Some of these appeals will be withdrawn or settled for no reduction, while others may be settled anywhere from the loss of 1% to 30% of the value which then leads to a corresponding loss in City Tax dollars.

Table 2 highlights the loss of municipal tax dollars over the last five years. Budgets are set aside yearly for the expected loss of tax revenues due to challenges to assessment values. As legislation permits the challenge of a property's assessment, and as there are a number of highly trained appraisal consultants, it is inevitable that adjustments will be made to property values that reduce the City's tax revenues. External factors such

as the economy and the functional obsolescence of a process can also warrant a reduction in value, and these tend to be the larger appeals we have been experiencing. Funds are set aside in an allowance account where staff feel the potential for a higher than average reduction may be warranted, or where an appeal for a group of properties is on-going for a number of years.

Table 2

5 Year Analysis of Appeals/Tax Reduction by Property Type

	12/31/2014	12/31/2013	12/31/2012	12/31/2011	12/31/2010
City Taxes Lost due to Appeals	-\$11,404,332	-\$8,146,599	-\$11,558,298	-\$8,272,360	-\$3,986,467
Breakdown of Loss due to Appeals					
Commercial	-\$958,450 8.40%	-\$2,025,046 24.86%	-\$5,476,640 47.38%	\$4,273,729 51.66%	-\$1,666,028 41.79%
Taxable to Exempt	-\$58,688 0.51%	-\$133,512 1.64%	-\$278,143 2.41%	-\$257,683 3.11%	-\$8,234 0.21%
Farm/Managed Forest	-\$145,998 1.28%	-\$277,043 3.40%	-\$374,472 3.24%	-\$144,798 1.75%	-\$194,863 4.89%
Industrial	-\$8,705,482 76.33%	-\$4,099,482 50.32%	-\$3,742,266 32.38%	-\$2,224,293 26.89%	-\$1,526,500 38.29%
Residential	-\$1,535,715 13.47%	-\$1,611,516 19.78%	-\$1,686,507 14.59%	-\$1,371,856 16.58%	-\$590,842 14.82%

As can be seen from Table 2, our appeal numbers can vary widely from year to year and by class. Based on the numbers, for the last 5 years, the refunds represent anywhere from 0.5% to 1.1% of our current tax levy.

2014 saw a significant jump in the loss of city tax dollars mainly due to the successful appeal of US Steel which covered the years 2009 to 2014. This appeal alone accounted for \$7.5 million of our \$11.4 million loss. The only other appeals of significance in 2014 were approximately \$500,000 for Arcelormittal Dofasco and \$260,000 for Canada Bread. An allowance had been budgeted for the expected US Steel settlement.

Going forward, province wide appeals continue to be an issue in getting resolution due to the number of municipalities, tax agents and property owners involved. In 2015, the major appeals we are expecting are for big box stores and shopping plaza's which cover a number of years. A \$9 million dollar allowance has been set aside for these appeals.

The Municipal Property Assessment Office, along with the Province, are working towards setting some standard rules and procedures around assessment methodologies that hopefully will take some of the volatility out of the assessment

challenges we have seen to date. The next four year assessment cycle begins in 2017 based on values as of January 1, 2016. MPAC has committed to providing the larger property holders comprehensive guides that explain assessment methodology and how the methodology was applied to value their property, as well as the detailed information used to value the property. They will make this data available in early 2016, and then, through consultations with those taxpayers, hopefully have agreed upon values before issuing the final assessment roll numbers to us in December 2016. If they get co-operation of the other parties, then our returned roll in 2017 should be fairly accurate with less appeals of significant value.

Important Notes to the above Analysis

Staff closely monitor the outstanding appeals and are actively involved in the larger commercial and industrial appeals. Before appeals are signed off on any Minutes of Settlement, staff discuss the reasons for any reductions with MPAC staff to ensure there are valid reasons for the reductions. Staff also attend many of the settlement meetings between MPAC staff, property owners and/or their agents to ensure the reasons for an appeal are valid, and to challenge any potential settlements based on facts.

Appeals that flow through the Assessment Review Board will commence with a Statement of Issues indicating the reason for the reduction request followed up by MPAC's response to those issues. At this time, the City can also chose to respond to the issues and take an active role in the appeal. At the very least, we do read the statement of issues to see what is being asked, and flag properties we feel we may be at risk for large losses. Staff will then monitor those issues and deal with MPAC or the appellant for clarification on any issues. This is then followed up with a number of telephone conference calls, chaired by the ARB and attended by the appellant, MPAC and municipal staff to keep the process moving along. If a settlement cannot be reached by the parties during this process, then the ARB will schedule meetings of all parties as to discoveries, which includes the various expert witnesses, and is again attended by City staff. If, after this has taken place and there still is no consensus, the ARB will schedule a hearing and eventually make a decision. Staff also work with any other municipalities where an appeal is province-wide, such as, the recently completed golf course appeals.

While the above analysis shows how we account for our losses, due to assessment reductions, some of the reductions identified above actually lead to potential assessment growth. In many cases, we show losses on a property due to an appeal or demolition, only then to have growth on the same property due to development of the property. An example would be where the old centre mall was wound down and demolished. We had seen value reductions due to appeals and demolitions, only to then see growth due to the new development of the property reflected in supplementary assessments and taxes.

On the industrial side, while we show losses due to tenants or structures at the Port Authority, the gains again are shown in our supplementary revenues with new tenants moving in and new buildings being built to accommodate larger tenants. Staff work closely with the Port and the Airport to ensure all tenant information is correct and picked up, on a timely basis by MPAC. Staff also work closely with Building Services, Development Planning and MPAC to ensure developments are picked up through MPAC's supplementary assessment process, or for the year end assessment file.

Table 3 shows that positive gains have been made over the same period due to increased supplementary revenues. Under the Assessment and Municipal Acts, assessments and taxes can be retroactively billed after the final roll return for the current year (referred to as supplementary) and prior two years (referred to as omitted). Some of our recent record building permit revenues are now translating into increased assessments and taxes where new taxable construction has been completed.

Table 3

5 Year Analysis of Supplementary/Omitted Tax Revenues

	12/31/2014	12/31/2013	12/31/2012	12/31/2011	12/31/2010
Supplementary/ Omitted Revenues	\$12,095,990	\$9,355,499	\$8,899,212	\$9,530,229	\$9,177,281
Loss due to Appeals	-\$11,404,332	-\$8,146,599	-\$11,558,598	-\$8,272,360	-\$3,986,467
Net – Supplementary Revenues less Appeals	\$691,658	\$1,208,900	-\$2,659,386	\$1,257,869	\$5,190,814

The above table shows that our supplementary and omitted assessments have, for the most part, resulted in a net positive increase in taxes. This increase is further supplemented by growth only reflected on the year-end assessment return, which is not part of this report, and is reported yearly during the budget process.

Appendices Attached

Appendix "A" to Report FCS15069 - Globe & Mail Assessment Article, July 24, 2015.