Hamilton

INFORMATION REPORT

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	November 21, 2016
SUBJECT/REPORT NO:	Annual Assessment Appeals Report (FCS16091) (City Wide)
WARD(S) AFFECTED:	City Wide
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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 result in significant tax refunds.

This annual Information Report, FCS16091, 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. 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 five to seven 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.

The following Table 1 shows the appeals that are still outstanding (by Assessment Cycle) and awaiting hearings with the Assessment Review Board:

Table 1

Outstanding appeals by Assessment Value and Number

	2015 – 2013 Assessment Cycle	**2008 – 2012 Assessment Cycle**	**2004 – 2007 Assessment Cycle**
Assessment under Appeal	$2,018,222,390	$427,064,076	$25,457,000
# of Outstanding appeals	220	39	1

Table 1 highlights the magnitude of the number of current outstanding appeals in our municipality. There is one property that has appeals dating back to 2004. As it is a multi-tenanted property, each of the tenants under appeal must agree to a valuation before the appeal can be completed. Staff has been vocal in trying to get the ARB, MPAC, and the tax consultants to get these appeals settled. The assessment values in Table 1 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 can lead to a loss in City tax dollars. Currently the largest appeals are in the big box category along with the neighbourhood shopping plaza category. Many of these appeals are provincial wide as to the valuation issues being challenged and are cumbersome due to the number of owners, municipalities and tenants involved.

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 also 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

	12/31/2015	**12/31/2014**	**12/31/2013**	**12/31/2012**	**12/31/2011**
Loss due to Appeals	-$7,680,870	-$11,404,332	-$8,146,599	-$11,558,298	-$8,272,360
Taxes Lost by Property Type					
Commercial	-$3,982,495 51.85%	-$958,450 8.40%	-$2,025,046 24.86%	-$5,476,640 47.38%	$4,273,729 51.66%
Taxable to Exempt	-$315,644 4.11%	-$58,688 0.51%	-$133,512 1.64%	-$278,143 2.41%	-$257,683 3.11%
Farm/Managed Forest	-$330,360 4.30%	-$145.998 1.28%	-$277,043 3.40%	-$374,472 3.24%	-$144,798 1.75%
Industrial	-$1,136,808 14.80%	-$8,705482 76.33%	-$4,099,482 50.32%	-$3,742,266 32.38%	-$2,224,293 26.89%
Residential	-$1,915,562 24.94%	-$1,535,715 13.47%	-$1,611,516 19.78%	-$1,686,507 14.59%	-$1,371,856 16.58%

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

2015 saw a jump in the loss of City tax dollars in the commercial category mainly due to the successful appeal of Eastgate Square for the years 2003 to 2012 accounting for slightly more than $2 million of this amount. Shopping Centres, as a sub-category of Commercial, accounted for over $3 million of the $3.9 million in commercial tax dollars lost.

Taxable to exempt also rose in 2015 mainly due to the former Careport centre going to McMaster University as part of the Innovation Park ($62,000), the school board expropriation of the former Scott Park School ($43,000), the Downtown Mosque in a former commercial building ($86,000), and the City's lease with the Port Authority terminating for lands on Piers 7 and 8 ($72,600).

Of note, in the residential classification, was a change from multi-residential assessment to residential assessment for St. Elizabeth residences that accounted for $911,000 of the $1.9 million loss of residential taxes. MPAC had made a significant change in 2014 moving many of the residents to the higher taxed multi-residential tax category based on the life leases that were signed. This was challenged and subsequently reverted back to the residential category in 2015 affecting the 2014 and 2015 tax years.

Industrial appeals dropped in 2015 as most of the large industrial properties assessment appeals for the current assessment cycle have been settled.

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 2016, 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 continuing to work 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 have made this data available in mid-2016, and then through consultations with those taxpayers, hopefully will have agreed upon values before issuing the final assessment roll numbers to us. If they get the co-operation of the other parties, then our returned roll in 2017 should be fairly accurate with less appeals of significant value.

<u>Important Notes to the above Analysis</u>

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 ARB 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 choose 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 include the various expert witnesses and are, 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 current big box store and shopping centre 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 taxes) and prior two years (referred to as omitted taxes). Some of our recent record building permit revenues are now translating into increased assessments and taxes where new taxable construction has been completed.

It should also be noted that staff are pro-active in ensuring that large developments are picked up as quickly as possible, while also looking for areas where the tax classifications and values may be incorrect.

Table 3

Five Year Analysis of Supplementary / Omitted Tax Revenues

	12/31/2015	**12/31/2014**	**12/31/2013**	**12/31/2012**	**12/31/2011**
Supplementary/ Omitted Revenues	$15,017,049	$12,095,990	$9,355,499	$8,899,212	$9,530,229
Loss due to Appeals	-$7,680,870	-$11,404,332	-$8,146,599	-$11,558,598	-$8,272,360
Net – Supplementary Revenues less Appeals	7,736,179	691,658	$1,208,900	-$2,659,386	$1,257,869

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.

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