# INFORMATION REPORT

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| **TO:** | Mayor and Members<br>General Issues Committee |
| **COMMITTEE DATE:** | March 2, 2018 |
| **SUBJECT/REPORT NO:** | Annual Assessment Appeals as of December 31, 2017 (FCS18028) (City Wide) |
| **WARD(S) AFFECTED:** | City Wide |
| **PREPARED BY:** | Maria Di Santo (905) 546-2424 Ext. 5254 |
| **SUBMITTED BY:** | Rick Male<br>Director, Financial Services, Taxation and Corporate Controller<br>Finance and Corporate Services Department |
| **SIGNATURE:** | |

**Council Direction:**

Not Applicable.

**Information:**

Appeals of assessment value and classification have a large impact on the municipality's annual budgeted tax revenue. As property taxes are based on an assessment value multiplied by a tax rate, any reduction in the assessment value or classification (primarily a class change to a lower taxed property class) will have a negative impact on the municipality's tax revenues. Recent years have shown a continued upward trend in large commercial and industrial appeals that result in significant property tax reductions.

This report is intended to keep Committee and Council apprised of the trends over the last five years. Trends continue to show large industrial and commercial appeals that have off-set, in part, the growth in these property classes. Through the budget process, the City recognizes that assessments will be challenged and lost. As such, an annual budget is approved (2017 budget = $7.3 million) for regular, on-going losses due to appeals. In addition to this, an allowance is set up where there is a potential for a significant loss of assessment that covers multiple years.

As assessment appeals are not unique to the City of 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 province-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 the fact that large province-wide appeals are being delayed due to their complexity and the time it is taking to be heard at the Assessment Review Board (ARB). An appeal that takes five to seven years for a decision can lead to a significant cumulative tax revenue loss, if a reduction in assessment value is warranted.

The ARB introduced new Rules of Practice and Procedure which came into effect on April 1, 2017. The new rules were developed in consultation with Board stakeholders, which included representatives from both small and large municipalities, and member of the executive of Ontario Municipal Tax and Revenue Association (OMTRA). The changes impact all parties in the process, including municipalities, and were introduced to streamline the property tax appeal process and promote fairness and efficiency. The new rules will help to ensure that appeals, both old and new, will commence within the current four year cycle and be completed on a timely basis. Under the new rules, a commencement date is assigned to each appeal. This commencement date is when work is expected to begin as the appeal proceeds through the schedule of events. This is a robust and rigid schedule that must be complied with.

During the consultations, municipal stakeholders identified that a municipality may prefer that appeals respecting “sensitive” properties be heard earlier than later in the assessment cycle (2017-2020). As a result, municipalities were asked to provide the ARB with a short list of sensitive and priority properties which the Board would consider in the scheduling process. While the Board would attempt to accommodate a municipality’s preference, a number of factors would be considered and the final determination would remain with the Board. Municipalities were able to develop their own criteria in determining what appeals they considered sensitive or priority. Taxation staff provided a list of properties to the ARB in August, 2017. When compiling the list, Taxation staff considered factors such as political sensitivity, age of appeal, quantity of appeals for a property and properties with significantly high assessment value.

Table 1 below shows the number of properties with outstanding ARB appeals by Current Value Assessment (CVA) Cycle:

**Table 1**

**Outstanding appeals by Assessment Value and Number**

| | **2017 (Year 1 of new Assessment Cycle) (2016 CVA)** | **2016 – 2013 Assessment Cycle (2012 CVA)** | **2012 – 2009 Assessment Cycle (2008 CVA)** | **2008 – 2006 Assessment Cycle (2005 CVA)** |
|---|---|---|---|---|
| CVA under Appeal | 4,484,869,843 | 4,128,214,327 | 1,306,658,822 | 59,099,920 |
| # of properties by taxation year[1] | 707 | 381 | 96 | 4 |

[1]a property will be identified multiple times if the appeal extends multiple taxation years

Table 1 highlights the magnitude of the number of current outstanding appeals for properties within the City of Hamilton. 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 a loss of 1% to 30% of the value, leading 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 province-wide appeals 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, as a result of successful appeals. Expected loss of property tax revenues due to challenges to assessment values is budgeted annually, with additional allowances set aside for more significant multi-year appeals. 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 inevitably reduce the City's property tax revenues. For business properties, it is common practice for their appraisal consultants to automatically file appeals, regardless of the value returned by MPAC. As the valuation of business properties is complex, with multiple variables, appraisal consultants simply need to prove the inaccuracy of one of these multiple variables, which, in most cases, may ultimately warrant some type of reduction in the value returned by MPAC. Some of these variables, which are challenged, may include external factors such as the economy and the functional obsolescence of a process.

**Table 2**

**5 Year Analysis of Appeals/Tax Reduction by Property Type**

| | 12/31/2017 | 12/31/2016 | 12/31/2015 | 12/31/2014 | 12/31/2013 |
|---|---|---|---|---|---|
| Loss due to Appeals | -$19,842,700 | -$9,799,900 | -$7,680,900 | -$11,404,300 | -$8,146,600 |
| **Taxes Lost by Property Type** | | | | | |
| Commercial | -$4,095,000<br>20.6% | -$1,946,600<br>19.9% | -$3,982,500<br>51.8% | -$958,500<br>8.4% | -$2,025,100<br>24.9% |
| Taxable to Exempt | -$12,646,400[1]<br>63.7% | -$1,024,900<br>10.5% | -$315,600<br>4.1% | -$58,700<br>0.5% | -$133,500<br>1.6% |
| Farm/Managed Forest | -$217,000<br>1.1% | -$305,400<br>3.1% | -$330,400<br>4.3% | -$145,900<br>1.3% | -$277,000<br>3.4% |
| Industrial | -$1,506,500<br>7.6% | -$5,176,400<br>52.8% | -$1,136,800<br>14.8% | -$8,705,500<br>76.3% | -$4,099,500<br>50.3% |
| Residential | -$1,377,800<br>6.9% | -$1,346,600<br>13.7% | -$1,915,600<br>24.9% | -$1,535,700<br>13.5% | -$1,611,500<br>19.8% |

[1]primarily due to City Housing properties now exempt from taxation (via Municipal Capital Facility by-law)

As can be seen from Table 2, appeal numbers can vary widely from year to year and by property class. As such, it is difficult to predict annual losses, as the loss would depend on when the appeal is ultimately settled. The longer it takes for appeals to settle, the more significant the potential loss (due to multiple years). An increase in the municipal tax revenue loss is typically experienced in the year in which significant multi-year appeals are settled. As stated previously, to account for this volatility, 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.

The 2017 total loss, due to appeals identified in Table 2, is skewed due to City Housing properties being made exempt from taxation. Exclusive of the City Housing exemptions, the 2017 total municipal loss due to appeals would equate to approximately $7.2 million, a decrease compared to 2016, however higher than 2013-2015. The five year average municipal loss due to appeals (factoring out the 2017 exemption of City Housing properties) equates to approximately $8.9 million per year. This average annual loss represents approximately 1% of the municipal tax levy.

The more significant appeals settled in 2016 include; Max Aicher North America (for taxation years 2011-2012 and 2014-2016), various gravel pits (for taxation years 2009-2016), Lowes (for taxation years 2013-2016), Siemens (for taxation years 2013-2015), Rona (taxation years 2013-2016) and Parrish and Heimbecker (for taxation years 2011-2013). Also occurring in 2016, were non-profit long-term care homes being made exempt from taxation (Ontario Regulation 429/15). To offset the resulting negative impact of this exemption, the City of Hamilton was provided with a one-time Provincial grant of $972,300.

Of significance, in 2017, was the CityHousing Hamilton Municipal Housing Project Facilities Tax Exemption By-law 16-335 passed by City Council, thereby making the over 500 properties operated by CityHousing Hamilton Corporation eligible municipal capital facilities, and therefore exempt from taxation. The CityHousing property tax budget was used to fully offset the municipal tax reduction of approximately $12.6 million in 2017, while the savings in education taxes will be re-invested for infrastructure improvements.

The more significant appeals settled in 2017 include; Max Aicher North America (for taxation year 2013), Home Depot (for taxation years 2009-2016), ArcelorMittal (for taxation year 2017), Canadian Tire (for taxation years 2009-2016) and a landfill property (for taxation years 2010-2016).

In light of the new ARB rules, 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 the City has seen to date. 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. MPAC 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 to the City. If MPAC gets the co-operation of the other parties, future returned assessment rolls should hopefully be fairly accurate with less appeals of significant value. City staff will continue to monitor and report back to Council annually.

In light of Council's concerns with respect to the volatility of the assessment base, resources within the Taxation section have recently been realigned to dedicate more time both protecting the City's interests within ARB proceedings and holding MPAC more accountable to defend their values, as well as ensuring MPAC captures new growth within acceptable timelines.

Commencing in 2018, more staff time will be allotted to closely monitor the outstanding appeals and ensure the City is actively involved in the larger commercial and industrial appeals. Before appeals are signed off on any Minutes of Settlement, Taxation staff will continue to discuss the reasons for any reductions with MPAC 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.

It should be noted that, some of the assessment reductions identified in this report may, in fact, eventually lead to potential assessment growth. In some cases, there may be losses on a property due to an appeal or demolition, only to then have growth on the same property due to development of the property reflected in supplementary assessments and taxes.

On the industrial side, while the City may experience losses due to tenants or structures at the Port Authority, gains are then realized through supplementary revenues with new tenants moving in and new buildings being built to accommodate larger tenants. Staff work closely with the Hamilton Port Authority and the Airport to ensure all tenant information is correct and picked up on a timely basis by MPAC. Taxation staff also work closely with the City's Planning and Economic Development Department and MPAC to ensure developments are picked up through MPAC's supplementary/omitted assessment process, or updated for inclusion on the assessment roll for the following tax year.

Table 3 shows the positive gains over the last five years due to supplementary/omitted billing revenues. Under the Assessment and Municipal Acts, assessments and taxes can be retroactively billed after the final roll is returned for the current year (referred to as supplementary taxes) and prior two years (referred to as omitted taxes). Taxation 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 for new developments may be incorrect.

**Table 3**

**Five Year Analysis of Supplementary/Omitted Tax Revenues**

| | 12/31/2017 | 12/31/2016 | 12/31/2015 | 12/31/2014 | 12/31/2013 |
|---|---|---|---|---|---|
| Supplementary/ Omitted Revenues | $11,211,100 | $7,915,400 | $15,017,000 | $12,096,000 | $9,355,500 |
| Loss due to Appeals | -$7,229,500* | -$9,799,900 | -$7,680,900 | -$11,404,300 | -$8,146,600 |
| Net – Supplementary Revenues less Appeals | $3,981,600 | -$1,884,500 | 7,336,100 | 691,700 | $1,208,900 |

*Exclusive of City Housing properties exemption from property taxes in 2017 (Municipal Capital Facility by-law)

The above table shows that the City's supplementary and omitted tax revenues 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.

The five year average for supplementary/omitted revenue is approximately $11.1 million. Similar to the appeals, this revenue is also difficult to predict accurately. This revenue is contingent on the volume of new development, the type of development (due to the different valuation methods and tax rates depending on the property tax class), the period of construction (length of time between building permit and occupancy) and ultimately when MPAC reflects the new development on the tax roll.

In recent years, the City of Hamilton has experienced record building permit revenues which unfortunately do not always translate into increased assessments and property taxes. Some of the factors in reconciling building permits to assessment growth include:

- Construction value does not equate to assessed value – property taxes are calculated based on current value assessment (not construction value). Depending on the type of development, the difference between the two can be significant. This also does not take into account that the current value assessment determined by MPAC can then be challenged and subsequently reduced if the appeal is successful.

- Institutional/Government development may ultimately be exempt from taxation.

- Alterations, plumbing, sewage building permits that increase construction value, may not affect the assessed value.

- Demolition permits increase the over construction value, while having the opposite effect, for the most part, on assessed value.

- Timing – total construction value reported for one year (i.e. $1,364,145,418 for 2017) will not be added all at once to the tax roll. MPAC will only pick up the development (if it affects current value) when occupancy is granted. As such, it is more of a staggered increase over a period of 1 to 3 years.

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