



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Services and Taxation Division

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| TO: | Chair and Members Audit, Finance and Administration Committee |
| COMMITTEE DATE: | May 2, 2019 |
| SUBJECT/REPORT NO: | Delegation Authority for Property Taxation Matters (FCS19039) (City Wide) |
| WARD(S) AFFECTED: | City Wide |
| PREPARED BY: | Maria Di Santo (905) 546-2424 Ext. 5254 David Janaszek (905) 546-2424 Ext. 4546 |
| SUBMITTED BY: | Rick Male Director, Financial Services and Taxation & Corporate Controller Corporate Services Department |
| SIGNATURE: | |

RECOMMENDATIONS

- (a) That delegated authority to hold meetings, give notice and make decisions under sections 110(17), 334, 356, 357, 357.1, 358, 359 and 359.1 of the *Municipal Act, 2001* be given to the Treasurer, Deputy Treasurers, Manager of Taxation, Tax Assessment and Appeals Administrator.
- (b) That the by-law attached as Appendix “A” to Report FCS19039, being a By-law for the Delegation of authority to Treasurer and Deputy Treasurers with respect to the adjustment of taxes and payments in lieu of taxes, which has been prepared in a form satisfactory to the City Solicitor, be approved

EXECUTIVE SUMMARY

Currently, staff reports for “Tax Appeals under Sections 357 and 358 of the Municipal Act, (2001)” and “Treasurer’s Apportionment of Land Taxes” are brought forward to the Audit, Finance and Administration Committee as consent items. In a typical year, approximately six to eight reports are prepared for Committee. Bringing these reports forward to Committee satisfies the requirement of the *Municipal Act, (2001)* of holding a meeting to allow applicants the ability to make a representation to Council, if they wish to do so.

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In adherence to the *Municipal Act, (2001)*, Taxation staff sends notice at least 14 days prior to the Committee meeting. In the notice, the applicant is encouraged to contact Taxation staff should they have any questions or concerns so that they can be addressed prior to the Committee meeting. Mostly, applicants do not contact Taxation staff or attend the Committee meeting and the Committee approves the report as submitted by staff. There have been some cases where the applicant does not contact Taxation staff and instead attends the Committee meeting requesting information/clarification that could have been provided in advance by Taxation staff. This sometimes leads to the item being pulled from the report, to then be added to the following staff report, once staff have had the opportunity to meet with the applicant. Staff do not feel this is an efficient use of the Committee's time, as most of the applicant's questions and concerns can be addressed by staff. Generally, these questions or concerns pertain to the applicant not understanding the process or the impact of the appeal/apportionment on their property taxes. Ultimately, similar to other appeals, the applicant has the right appeal to the Assessment Review Board.

A more efficient and effective process would be that this function be delegated to staff. Instead of a Committee meeting satisfying the *Municipal Act, (2001)* requirement, this meeting would be held by staff. This would give applicants a less formal setting to discuss the appeal or apportionment. Regardless of the meeting type, applicants would still have the right to appeal to the Assessment Review Board.

Staff are recommending scheduling a minimum of four meetings per year, of which applicants would be provided the required 14 days' notice. Staff would be available for the duration of the meeting time, should an applicant wish to attend to obtain further information or have their questions or concerns addressed. At the end of meeting time allotted, staff would approve the items and, in adherence to the *Municipal Act, (2001)*, send notice to all applicants within 14 days of the meeting of the resulting impact of the appeal / apportionment, as well as the appeal deadline should they wish to appeal to the Assessment Review Board.

The process described above for tax appeals under Section 357 and 358 of the *Municipal Act, (2001)* also applies for:

- appeals to limit taxes for certain property classes (Section 334)
- appeals to increase taxes levied that are believed to be undercharged because of a gross or manifest error as confirmed by MPAC (Section 359)
- appeals to correct an error in the calculation of taxes (Section 359.1).

It is important to note that appeals under these sections are extremely rare, however it is recommended that delegated authority be given to include these sections, as the basis for an appeal would pertain to property assessment and/or property tax calculation which staff can address like Section 357 and 358 appeals.

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Delegated authority would still ensure that Taxation staff continue to report annually to Council as part of the annual Assessment Appeals Report.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: There are no financial implications to delegate authority for Municipal Tax Appeals and Apportionment of Land Taxes to staff. Financial impacts of the Municipal Act appeal or Apportionment of Land, if any, will be included in the annual Assessment Appeals Report, rather than the various staff reports currently brought forward as consent items to Audit, Finance and Administration Committee throughout the year.

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

Municipal Act Appeals:

Currently, Taxation staff report to the Audit, Finance and Administration Committee approximately 3 to 4 times a year on any Tax Appeals under Sections 357 and 358 of the *Municipal Act, (2001)*.

Section 357 of the *Municipal Act, (2001)* 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. Examples of such applications are:

- mid-year purchase of a property by an exempt body;
- fire or flood damage to all or partial property; and,
- an assessment error in entering a property value; and,
- tax exemptions and refunds for Municipal Capital Facilities under s.110(17).

Section 357.1 of the *Municipal Act, (2001)* allows for the same relief as provided under Section 357 however, it applies to Payment-in-Lieu of taxes. Lands that are exempt from taxation but subject to Payment-in-Lieu of taxes generally include Federal and Provincial lands.

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

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clerical error on the part of MPAC. They can 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 MPAC. Examples of such applications are:

- a transposition of figures;
- a typographical error; and,
- a duplicate property created.

The applications are forwarded to MPAC, which in turn provides the Municipality with confirmation of each application as either being approved or denied. Taxation staff then calculate any resulting adjustments to the property taxes, if any, and report these impacts to the Audit, Finance & Administration Committee. Applicants have 35 days after the Committee report is approved by Council to appeal any Section 357 decision through the Assessment Review Board. Section 358 decisions are final.

Apportionment of Land Taxes:

Current assessment, and therefore the resulting property taxes levied on some properties, may not recognize that they have been subject to a land severance. The apportionment of land taxes levied for a particular year(s) may need to be apportioned amongst newly created parcels of land. Section 356 of the *Municipal Act, (2001)* permits such an apportionment.

When original blocks of land are severed into newly created lots, there is no overall financial impact, as taxes owing against the original parcel of land are transferred to the new parcels. MPAC produces severance information forms for the assessment originally levied on the original parcels of land and identifies the split amongst the newly created lots.

Taxation staff proceeds to reallocate the taxes levied amongst the newly created lots in agreement with MPAC's severance information forms which identify the split in the assessment values due to land severance. Staff then report the resulting reallocation of taxes levied amongst the newly created lots to the Audit, Finance & Administration Committee.

Applicants have 35 days after the Committee report is approved by Council to appeal the apportionment through the Assessment Review Board.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The *Municipal Act, (2001)* allows for Council to delegate authority to staff.

RELEVANT CONSULTATION

Taxation staff canvassed other municipalities with respect to delegated authority. The City of Ottawa, Burlington, Oakville, Cambridge, and Guelph were some of those where Council has delegated authority to staff in this regard.

Taxation staff consulted with the City Solicitor, Legal Services to ensure the delegated authority adheres to the *Municipal Act, (2001)* and in the preparation of the required By-Law.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

To assist in the timely and efficient processing of tax adjustments under the recommended sections of the *Municipal Act (2001)*, staff are requesting Council's approval to delegate the authority to process these adjustments without the need for a separate report to Committee of Council.

As delegated authority, staff will continue to adhere to the *Municipal Act, (2001)* requirements of holding a meeting, providing notice of the meeting and providing resulting impacts to the applicant with identification of the appeal deadline, should the applicant wish to appeal to the Assessment Review Board.

There are typically no representations at the meetings, and if any, are done so for clarification of the process or the impact of the appeal/apportionment on their property taxes. Staff feel this is best dealt with in a less formal setting, as addressing these at a Committee of Council is not an efficient or effective use of Council's time.

Currently the staff reports going to Audit, Finance and Administration Committee do so as a consent item. These staff reports simply report on the tax impacts as a result of MPAC's decision of a *Municipal Act, (2001)* appeal or the resulting apportionment of taxes based on MPAC's severance information forms. Applicants will continue to have the right to appeal to the Assessment Review Board.

Staff will report annually to Council as part of the annual Assessment Appeals report.

ALTERNATIVES FOR CONSIDERATION

The alternative would be to maintain the status quo and continue to report to the Audit, Finance and Administration Committee prior to processing the resulting tax adjustments.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report FCS19039 - By-law “Delegation of authority to Treasurer and Deputy Treasurers with respect to the adjustment of taxes and payments in lieu of taxes”

MD/DJ/dw