



INFORMATION REPORT

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 13, 2020
SUBJECT/REPORT NO:	Criteria for Participation in Assessment Appeals (FCS20063) (City Wide)
WARD(S) AFFECTED:	City Wide
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INFORMATION

Property taxation is the City of Hamilton's (City) main source of revenue to fund its operations. As a property's assessed value and tax classification are important factors used in the calculation of property taxes, protecting and growing the assessment base is of utmost importance. As reported annually through staff reports on Annual Assessment Appeals, challenges to assessed value continue to exist and result in a negative impact on the Municipality's property tax revenues. Any reduction in a property's assessment or classification (primarily from a class change to a lower-taxed property class) lowers property tax revenues. As legislation permits the challenge of a property's assessment, it is inevitable adjustments will be made to property assessments, resulting in the reduction of municipal property tax revenues. A more active role by the City will not eliminate losses, however, would assist in mitigating such losses.

As reported in Report FCS20044 "Annual Assessment Appeals as of December 31, 2019", the five-year (2015-2019) average municipal property tax loss due to the combined impacts of Assessment Review Board (ARB) appeals, MPAC Request for Reconsideration (RfR), Post Roll Amended Notices (PRAN) and *Municipal Act* tax

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SUBJECT: Criteria for Participation in Assessment Appeals (FCS20063) (City Wide) - Page 2 of 5

applications (under section 357/358 of the *Municipal Act*) equates to approximately \$6.9 million per year, which represents just under 0.8% of the Municipal tax levy.

In 2019, the City of Hamilton's municipal tax revenue loss was approximately \$5.5 million. Over 1,500 appeals were outstanding by the end of 2019 of which 1,164 are scheduled to commence in 2020. Considering this type of volume, staff cannot participate in all appeals. Even with the City's participation, there is no guarantee that there will be no municipal property tax revenue losses, but by actively participating in the more significant, higher risk appeals, the City will be in a better position to mitigate losses.

One example is when the City participated in the appeal for Flamboro Downs, which resulted in a \$550,000 municipal property tax benefit to the City. The City has also filed an appeal as a result of the Municipal Property Assessment Corporation's (MPAC) significant reduction of Stelco's assessed value for the 2018 taxation year. MPAC's reduction of Stelco's 2018 assessed value translates into municipal property tax revenue losses of over \$2 million. The Stelco appeal is currently ongoing and projected to be completed sometime in 2021.

The purpose of this report is to advise Council of staff's criteria for participation in assessment appeals. Due to the significant volume of appeals, it is unreasonable for staff to participate in all appeals, however, the following criteria would allow for staff to focus on appeals with the largest risk and financial loss to the City. The goal is protecting the assessment base and ensuring any reduction in a property's assessment value, where warranted, is reasonable and based on the application of recognized valuation methodology.

With the approval of Report FCS20005 "Use of External Services for Tax Assessment & Appeals" staff are in a better position to allocate resources (both internal and external) to focus on these appeals. The roster for consultancy firms specializing in Tax Assessment and Appeals is expected to be set up by the end of 2020. The intent is for these external firms to supplement internal staff resources, where required, depending on the nature and complexity of the appeal.

Staff will review and determine the appropriate level of participation in an appeal, where financially prudent and:

- a) the assessed value of the property is \$30 million or higher, or
- b) there is known potential for precedent setting impacts

SUBJECT: Criteria for Participation in Assessment Appeals (FCS20063) (City Wide) - Page 3 of 5

a) Assessed Value of \$30 million or higher:

In arriving at the dollar threshold, staff considered the existing resources and the cost-benefit of obtaining external resources, if required, and feel that the threshold is reasonable, manageable and provides for the greatest return on investment. This threshold would mainly encompass a variety of commercial and industrial properties including Neighbourhood and Regional Shopping Centres, Big Box, Large Office Buildings, Steel Mills and Large Manufacturing/Processing. There are currently approximately 60 properties assessed at \$30 million or higher in the City of Hamilton.

The following table illustrates the municipal property tax impacts of a 10% reduction in assessment on a \$30 million assessed commercial and industrial property. This illustration confirms the potential for a significant municipal property tax loss and supports staff's participation in these appeals to help mitigate potential losses.

Property Assessed at \$30M

	2020 Municipal Taxes¹	Annual \$ Impact of 10% reduction	Potential \$ Impact of 10% reduction over Phase-in Period
Commercial	\$ 615,200	\$ 61,520	\$ 246,080
Industrial	\$ 1,030,000	\$ 103,000	\$ 412,000
Large Industrial	\$ 1,207,800	\$ 120,780	\$ 483,120

¹ 2020 Hamilton Urban tax rate

The percentage reduction in assessment resulting from a successful appeal will vary from property to property and will depend on the issues pertaining to the property under appeal. For illustration purposes, the above table reflects a 10% reduction in assessment (both annually and over the 4-year assessment phase-in period).

b) Precedent setting:

Appeals with the potential for precedent setting impacts have the potential to affect additional similar properties and may have a significant impact on municipal property tax revenue. Where known, staff will consider participation in an appeal even where the assessed value is less than \$30 million. A historical example of precedent setting appeals would be the golf course appeals. These appeals began in 2003 and resulted from the sudden change in the approach to valuing these types of properties by MPAC for assessment purposes in 2003. Historically, golf courses had been valued on a Cost

approach, however, the valuation was changed to an Income approach which led to a significant increase in the assessed values and property taxes of these properties, not only within Hamilton, but across the Province. Most of these appeals spanned multiple valuation base years and were not resolved until 2012, nearly 10 years later. The settlements resulted in significant reductions and changes to the property assessments and, due to the number of properties and tax years involved, this led to hundreds of thousands of dollars in municipal property tax write-offs. Participation in these types of appeals would allow the City to provide input and be better prepared to allow for any potential anticipated loss, as was the case with the Golf course appeals. These properties cannot be identified by a specific criterion; however, staff would consider participating in such appeals that are known to have potential to be precedent setting.

Level of Participation:

Where it is determined that the City will participate in an appeal, staff will respond to the Appellant's Statement of Issues, which is the first step in ensuring the opportunity to participate throughout the appeal process. Responding to the Statement of Issues provides staff with the opportunity to review the reason(s) an appeal was filed and allows the City an opportunity to provide greater input as the appeal proceeds. Should staff not submit a response, this would preclude the City from active involvement in the appeal process going forward and would prevent staff from partaking in settlement discussions.

After responding to the Statement of Issues, Staff will manage the appeals using two levels of increasing engagement:

1. Monitoring Proceedings
2. Active Participation

1. Monitoring Proceedings:

Staff may choose to take a less active role and monitor the proceedings of an appeal in situations where taking a more active role would not likely make a significant difference in the anticipated outcome of an appeal. Examples would be where, in the opinion of Staff through analysis, review of property data, market sales and comparable properties, the assessment value would appear to be overstated or may not be defensible and where a change or reduction would result in a more fair, equitable and accurate assessment. Staff would monitor the appeals throughout the process to ensure a reasonable outcome.

2. Active Participation:

Staff would be expected to take a more active role in the proceedings of an appeal where the matter is known to be precedent setting or where the City's position, as it relates to the issues and assessment, differs with that of the Appellant and where it's anticipated that there is the potential for significant tax loss which could be mitigated through active involvement. This level of engagement would require the most Staff time and possibly external resources depending on the issues and complexity throughout the appeal process.

This streamlined approach will allow staff to balance existing responsibilities and cost-effective use of external services. Staff would complete a high-level cost-benefit analysis to determine which level of engagement would be most appropriate for each appeal where it is determined that some level of engagement is warranted.

In summary, due to the municipal property tax revenue losses experienced annually, a more proactive approach is required. The criteria for participating in assessment appeals identified in this report are reasonable with the existing resources available. Staff will continue to monitor appeals and the impacts of the City's more active participation and report back to Council annually through the Assessment Appeals report.

APPENDICES AND SCHEDULES ATTACHED

N/A