



# INFORMATION REPORT

<b>TO:</b>	Chair and Members Audit, Finance and Administration Committee
<b>COMMITTEE DATE:</b>	December 10, 2020
<b>SUBJECT/REPORT NO:</b>	Criteria for Participation in Assessment Appeals (FCS20063(a)) (City Wide) – Outstanding Business List Item
<b>WARD(S) AFFECTED:</b>	City Wide
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<b>SUBMITTED BY:</b>  <b>SIGNATURE:</b>	Rick Male Director, Financial Services and Taxation & Corporate Controller Corporate Services Department

## COUNCIL DIRECTION

On August 13, 2020 Audit, Finance & Administration Committee approved the following motion:

That Report FCS20063, respecting the Criteria for Participation in Assessment Appeals, be referred back to staff for an additional report to include revised levels of participation respecting an appeal not being dependant on the assessed value of a property.

## INFORMATION

To address the on-going challenges to the assessed value of properties which ultimately results in a negative impact on the Municipality's property tax revenues, staff are taking a more active role to protect the City of Hamilton's (City) assessment base. As legislation permits the challenge of a property's assessment, it is inevitable adjustments will be made to property assessments that reduce the City's municipal property tax revenues. A more active role by the City will not eliminate losses, however would assist in mitigating such losses.

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Criteria for Participation in Assessment Appeals (FCS20063(a)) (City Wide) - Page 2 of 5 – Outstanding Business List Item**

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Considering the high volume of appeals, it is not possible for staff to be able to participate in all appeals. Although the City cannot actively participate in all appeals, nor does the City's active participation guarantee that the City will not experience Municipal property tax revenue losses, by actively participating in the more significant, higher risk appeals, the City will be in a better position to mitigate significant losses.

The ultimate goal is protecting the assessment base and ensuring any reduction in a property's assessment value or change in the tax classification, where warranted, is reasonable and based on the application of recognized valuation methodology and in accordance with legislation. Although a criteria for participation in an assessment appeal does not restrict staff in participating in any appeal, should the circumstances warrant it, the criteria is meant to ensure resources dedicated to participating in the appeal are focussed primarily on appeals with the largest risk and financial loss to the City.

In a typical month, staff receive anywhere between 10 to 20 Statement of Issues. The Statement of Issues identifies the reduction in assessment being sought by the Appellant and the corresponding rationale for such reduction. The required time dedicated to thoroughly reviewing the Statement of Issues varies, depending on the valuation approach, the type and number of issues, as well as the complexity of the property type.

Due to the volume of Statement of Issues received per month and existing resources and workload, it may not be possible to thoroughly review every Statement of Issues received, however, staff should, at a minimum, calculate an estimated municipal property tax loss for all Statement of Issues received. As such, the following modified criteria will be used by staff to determine which Statement of Issues warrant more detailed analysis and determination of the level of participation the City will take.

Staff will thoroughly review, respond and determine the appropriate level of participation in an appeal, generally where:

- (a) the estimated annual municipal property tax loss is \$50,000 or greater, or
- (b) the estimated annual municipal property tax loss is less than \$50,000, however:
  - there is known potential for precedent setting impacts (i.e. have the potential to affect additional similar properties and may have a combined estimated annual municipal property tax loss of \$50,000 or greater), or

**SUBJECT: Criteria for Participation in Assessment Appeals (FCS20063(a)) (City Wide) - Page 3 of 5 – Outstanding Business List Item**

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- internal and/or external resources are available, and proceeding is financially prudent (i.e. cost to participate in appeal does not exceed estimated benefit)

Appendix “A” to Report FCS20063, provides a flow chart to be used by Taxation staff in determining when participation in an appeal is warranted in adherence to the criteria.

As per Council direction, the assessment threshold of \$30M has been removed from the criteria. This modification to the criteria would ensure that properties valued less than \$30M would be investigated further, based on the significance of the estimated annual municipal property tax loss. The higher the potential municipal property tax loss, the more resources will be warranted in participating in the appeal. These resources would include one, all or a combination of internal Taxation staff, internal Legal staff and external tax consultants. The set up of the roster of external consultants, originally expected to be completed in 2020, has been delayed due to other priorities as a result of COVID-19. Once the roster has been set up, staff will be in a better position to plan and allocate resources (both internal and external) effectively to focus on these appeals. The intent is that roster will be used to supplement internal staff resources, depending on workloads and the nature and complexity of the appeal.

The above criteria are intended to ensure staff focus mainly on commercial and industrial properties including Neighbourhood and Regional Shopping Centres, Big Box, Large Office Buildings, Steel Mills and Large Manufacturing/Processing.

The \$50,000 threshold has been set as a starting point and will be reviewed on an on-going basis. Participating in appeals requires a significant amount of time and resources, and as such, it is imperative that the cost of participating in an appeal does not exceed the financial benefit.

**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 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.

**SUBJECT: Criteria for Participation in Assessment Appeals (FCS20063(a)) (City Wide) - Page 4 of 5 – Outstanding Business List Item**

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After providing a Response 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.

Other Potential Measures:

In addition to mitigating property tax loss through staff's involvement in assessment appeals, there are other potential measures and actions which can be taken to help ensure the accuracy and consistency in property assessments across the City. Some of these other measures may include:

- proactively monitor building permit activity, with a focus on commercial and industrial properties, and tracking the progress of the permits to ensure MPAC is assessing new construction on a timely basis

**SUBJECT: Criteria for Participation in Assessment Appeals (FCS20063(a)) (City Wide) - Page 5 of 5 – Outstanding Business List Item**

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- monitor subdivision activity to ensure that residential growth is being picked up actively and assessment class and value changes are captured where property is being developed
- undertake a thorough and ongoing review of properties with tax exempt status to ensure that the applicable properties are changed to a taxable classification where a change in ownership or change in use should cause removal of the tax exemption, whole or in-part
- undertake a more specific and detailed review of targeted areas throughout the City to ensure there are no potential errors or inconsistencies in property assessments and/or property tax classifications.

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 is reasonable with the existing resources available and the potential use of external resources once the roster is set up. More active participation in appeals, coupled with the other potential measures that may be taken by staff, will benefit in the protection of the assessment base and reduce municipal property tax losses. 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**

Appendix "A" to Report FCS20063(a) - Flow Chart for Participation in Appeals

MD/DJ/dw