




INFORMATION REPORT

TO:	Chair and Members Audit, Finance & Administration Committee
COMMITTEE DATE:	September 19, 2024
SUBJECT/REPORT NO:	Annual Assessment Appeals as of December 31, 2023 (FCS24021) (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:	Shelley Hesmer, Acting Director Financial Services and Taxation and Corporate Controller Corporate Services Department
SIGNATURE:	

COUNCIL DIRECTION

N/A

INFORMATION

Introduction

Report FCS24021 is intended to keep Council apprised of the trends in assessment growth and offsetting losses due to assessment appeals over the last five years. As shown in Report FCS24021, both assessment growth and appeals can significantly vary year over year. There are factors affecting these results in which the City has limited control. These factors include the timing of when Municipal Property Assessment Corporation (MPAC) captures and reflects growth on the assessment roll, the number of assessment appeals initiated by taxpayers, the outcome of these appeals as well as the timing of when the appeal is ultimately settled and reflected on the tax roll. Staff make every effort to minimize these factors by following up with MPAC to ensure large developments are captured on the roll as soon as possible and actively participating in appeals where there is potential for significant municipal property tax losses.

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The 2023 taxation year saw a favourable net benefit in municipal property tax revenue of \$11.4 M. This net benefit far exceeds the results seen over the last five years. Contributing to this favourable outcome includes:

- Supplementary / omitted revenues of \$15.5 M in 2023, being the highest over the last five years;
- Municipal property tax losses of \$4.1 M in 2023 due to appeals and assessment changes, being the lowest over the last five years.

It should be noted that staff cannot measure the extent that the continued postponement of the reassessment may have on these results. Although it cannot be quantified, it is safe to assume that it does have an impact, both favourably and unfavourably.

With respect to the City's active participation in appeals, 2023 results show continued mitigation of potential municipal property tax losses. In 2023, the City participated in 65 *Assessment Act* and *Municipal Act* appeals, of which, 39 appeals were closed in 2023, while 26 remain open.

The estimated potential municipal property tax loss of the 39 appeals that were closed in 2023 totalled \$13 M. The results from these closed appeals are as follows:

- 11 appeals were settled totalling a municipal property tax loss of \$1,175,920;
- Three appeals were settled totalling a municipal property tax gain of \$533,050;
- 25 appeals were withdrawn or dismissed resulting in no municipal property tax loss;
- Total external costs incurred (in current and prior years) to participate in these 39 closed appeals totalled \$243,630;
- Net of the external costs, \$12.1 M (or 93%) of the total estimated potential municipal property tax loss was mitigated.

It is evident from the City's involvement in these appeals and the positive outcome of the closed appeals, that the actual municipal property tax revenue losses would have been significantly higher, had the City not initiated its program to actively participate in appeals.

Assessment Base Growth

Assessment growth is the change in the assessment base due to the addition of new developments, as well as changes in the assessment of existing properties.

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Table 1 shows the positive gains over the last five years due to supplementary / omitted property tax revenues. Under the *Assessment Act* and *Municipal Act*, assessments and property taxes can be retroactively billed after the final roll is returned for the current year (referred to as supplementary taxes) and the prior two years (referred to as omitted taxes).

**Table 1
Five-Year Analysis of Supplementary / Omitted Municipal Property Tax Revenues**

	12/31/2023	12/31/2022	12/31/2021	12/31/2020	12/31/2019
Supplementary / Omitted Revenues	\$15,475,500	\$14,059,800	\$10,831,700	\$13,093,600	\$10,525,700
Loss due to Appeals*	-\$4,076,900	-\$6,503,100	-\$15,831,800	-\$8,460,200	-\$5,462,200
Net – Supplementary Revenues less Appeals	\$11,398,600	\$7,556,700	-\$5,000,100	\$4,633,400	\$5,063,500

* Municipal property tax revenue losses resulting from Assessment Review Board (ARB) appeals, MPAC Request for Reconsideration (RfR), Post Roll Amended Notices (PRAN) and *Municipal Act* tax applications (under section 357/358 of the *Municipal Act*).

The five-year average for supplementary / omitted municipal property tax revenue is approximately \$12.8 M. This revenue is contingent on the volume of new development, the type of development, the length of construction and ultimately MPAC's ability to timely reflect the new development on the assessment roll. As shown above, the 2023 supplementary / omitted revenues of \$15.5 M were the highest over the last five years. The last time this revenue surpassed \$15 M was in 2015.

In 2023, the Province announced a further postponement of the province-wide reassessment while it conducts a review of the accuracy and fairness of the property tax and assessment system. As a result, properties will continue to be assessed at a January 1, 2016 valuation date for the 2024 tax year. This on-going postponement of the province-wide general reassessment may have had some positive impact, allowing MPAC staff more time to concentrate on growth. The City typically experiences a reduction in supplementary / omitted revenue the year prior to the reassessment, when MPAC resources are focussed on reassessing properties (for example, the 2016 supplementary / omitted revenues was only \$7.9 M).

In addition to the higher supplementary / omitted revenues, further benefiting the 2023 results were lower municipal property tax losses. The combination of the two factors resulted in the most favourable overall net benefit experienced over the last five years, being an overall net gain of \$11.4 M. This net gain reported in 2023 is significantly higher than in prior years.

Assessment Base Erosion

Assessment base erosion is the depletion of the assessment base due to assessment appeals, requests for reconsideration and *Municipal Act* tax applications.

The figures reflected in Table 2 are municipal property tax revenue losses resulting from the following processes: Assessment Review Board (ARB) appeals, MPAC Request for Reconsideration (RfR), Post Roll Amended Notices (PRAN) and *Municipal Act* tax applications (under section 357/358 of the *Municipal Act*).

**Table 2
Five-Year Analysis of Appeals / Tax Reduction by Property Type**

	12/31/2023	12/31/2022	12/31/2021	12/31/2020	12/31/2019
Municipal Tax Loss	-\$4,076,900 ²	-\$6,503,100	-\$15,831,800	-\$8,460,200 ¹	-\$5,462,200
Taxes Lost by Property Type					
Commercial	-\$1,183,900 29.0%	-\$4,180,700 64.3%	-\$9,893,400 62.5%	-\$2,593,800 30.7%	-\$3,384,600 62.0%
Taxable to Exempt	-\$124,800 3.1%	-\$84,000 1.3%	-\$321,400 2.0%	-\$586,800 6.9%	-\$164,000 3.0%
Farm / Managed Forest	-\$791,400 19.4%	-\$212,500 3.3%	-\$490,500 3.1%	-\$526,600 6.2%	-\$247,400 4.5%
Industrial	+\$84,700 -2.1%	-\$1,245,900 19.1%	-\$3,605,000 22.8%	-\$1,898,900 22.4%	-\$560,400 10.3%
Residential	-\$2,061,500 ² 50.6%	-\$780,000 12.0%	-\$1,521,500 9.6%	-\$2,854,100 ¹ 33.7%	-\$1,105,800 20.2%

¹ inclusive of \$1.1 M loss due to retirement of roll number for large residential development (this amount was offset through Supplementary / Omitted tax revenue).

² inclusive of \$1.5 M loss due to retirement of roll numbers for three large residential development (this amount was offset through Supplementary / Omitted tax revenue).

Appeals on a property's value is a constant risk to the City's assessment base. As such, through the budget process, the City recognizes that assessments will be challenged and lost. The expected loss of property tax revenue due to the reduction of assessment values is budgeted annually (2023 budget = \$7.5 M), with additional allowances set aside for more significant, multi-year appeals. The five-year average municipal property tax revenue 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 applications (under section 357/358 of the *Municipal Act*) equates to approximately \$8.1 M, or 0.8% of the 2023 Municipal tax levy.

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This five-year average municipal property tax revenue loss considers the higher-than-normal amount of appeals processed in 2021, the losses due to the retirement of rolls for large residential developments that are subsequently fully offset by supplementary / omitted tax revenues and the atypical increase in municipal property taxes for several appeals processed in 2023.

As can be seen from Table 2, the actual loss in municipal property tax dollars 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 / request for reconsideration is ultimately resolved. As appeals often carry over and apply to tax years which follow the year which the appeal was filed, an increase in the municipal property tax revenue loss is typically experienced in the year in which significant multi-year appeals are settled.

Typically, the commercial and industrial property classes experience the greatest amount of municipal property tax losses, as they have high assessed values, are subject to higher property tax rates and more commonly file appeals. As such, these are the properties staff are focussing on when determining which appeals to actively participate in. As shown in Table 2, the municipal property tax loss experienced in the Commercial property class in 2023 was the lowest over the last five years, while the Industrial property class actually saw a tax increase in 2023.

The most significant municipal property tax losses processed in 2023 include:

- 130-150 King Street East (for taxation years 2017-2023) – City actively participated in the appeal which was ultimately settled for a total municipal property tax decrease of \$706,160, mitigating over 60% of the original reduction being sought by the appellant.
- 130 Mud Street East (for taxation years 2017-2022) – City actively participated in the appeal which was settled in 2022 and reported on last year's staff report (mitigated almost 64% of the original reduction being sought by the appellant). The appeal was not processed until early 2023 for a total municipal property tax loss of \$411,930.
- 0 Industrial Drive (for taxation years 2021-2023) – City actively participated in the 2021 and 2022 appeals which was settled in 2022 and reported on last year's staff report (mitigated 30% of the original reduction being sought by the appellant). The 2021-2022 appeal and subsequent request for reconsideration for 2023 was not processed until 2023, with a total municipal property tax loss of \$393,940.
- 319 Sherman Avenue North (for taxation years 2021-2022) – combination of ARB appeal, request for reconsideration and *Municipal Act* application for a total municipal property tax loss of \$146,220 (or 41%).
- 1471 Upper James Street (for taxation years 2018-2023) – ARB appeal settlement resulting in a total municipal property tax loss of \$120,470 (or 16%).
- 751-777 Upper James Street (for taxation years 2017-2023) – ARB appeal settlement resulting in a total municipal property tax loss of \$112,560 (or 3%).

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- 640 Mohawk Road (for taxation years 2017-2023) – City actively participated in the appeal which was ultimately settled for a total municipal property tax decrease of \$94,280, mitigating 87% of the original reduction being sought by the appellant.
- 71-91 Wentworth Street South (for taxation years 2019-2023) – ARB appeal settlement resulting in a total municipal property tax loss of \$88,530 (or 14%).
- 225 Pritchard Road (for taxation years 2020-2023) – ARB minutes of settlement resulting in a total municipal property tax loss of \$88,510 (or 13%).

Offsetting the municipal property tax losses were several, uncommon increases in municipal property taxes that were processed in 2023, which include:

- Multiple Rolls (for taxation years 2022-2023) – MPAC issued Post Roll Amended Notices (PRAN) for properties that ceased to be farmed, causing a change to the property classification from farm to industrial vacant land based on the zoning, which resulted in a total net municipal property tax increase of \$1.5 M.
- 14 Martindale Crescent (for taxation years 2017-2023) – City actively participated in the appeal which was ultimately settled for a total municipal property tax increase of \$398,800 (or 9%).
- 610 South Service Road (for taxation years 2013-2023) – ARB decision resulted in a total net municipal property tax increase of \$358,900 (or 15%).
- 205 Coreslab (for taxation years 2022-2023) – City actively participated in the appeal which was ultimately settled for a total municipal property tax increase of \$67,130 (or 5%).
- 0 Concession 4 West (for taxation year 2023) – City initiated this appeal (as part of the broader appeal on gravel pits) which was ultimately settled for a total municipal property tax increase of \$67,120 (or 783%).

Municipal Act Appeals (Sections 357 and 358)

In 2023, staff held five virtual meetings, resulting in the processing of 195 tax applications under Sections 357/358 of the *Municipal Act*. These applications resulted in a total loss of \$676,800, of which \$529,400 was the municipal portion. This \$529,400 reduction in municipal taxes is included in the 2023 appeal loss of \$4.1 M in Table 2 of Report FCS24021. It is important to note that some of the assessment reductions under Sections 357/358 of the *Municipal Act* may, in turn, lead to assessment growth. Where a property's assessment is reduced due to a fire or demolition, assessment subsequently may increase due to a renovation or new development ultimately leading to an increase in property taxes. Some of these losses also pertain to City acquired properties changing from taxable to exempt.

Apportionments (Section 356)

Properties subject to a land severance may require the apportionment of land taxes levied for a particular year(s) from the larger parcel to the 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 or property tax loss to the City, 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 of assessment amongst the newly created lots.

In 2023, staff held two virtual meetings for the approval of tax apportionments, resulting in the processing of 13 tax apportionments into 98 newly created rolls (inclusive of the originating roll). Although there is no financial impact to the City following this process, property taxes often increase for the newly created parcels resulting from an increase in the property's assessment due to new construction or development that has occurred. Portions of properties that become public roadways are processed under the apportionment process as Land not Assessed. These have a minimum dollar impact. Apportionments processed as Land not Assessed in 2023 resulted in a minimal \$18,300 municipal property tax loss.

Current State of Assessment Appeals at the City

Assessment appeals are not unique to the City of Hamilton. The loss of commercial and industrial assessments due to appeals is province wide. As MPAC is responsible for the property assessment, municipal property tax revenues hinge on how well their assessment holds up when challenged by taxpayers and highly trained assessment consultants. It is a common practice for assessment consultants to automatically file appeals on business properties, regardless of the assessment returned by MPAC. As the assessment of business properties is complex, with multiple variables, assessment consultants simply need to prove the inaccuracy of one of these variables which in most cases, may ultimately warrant some type of reduction in the assessed value.

Table 3 shows the number of properties with outstanding ARB appeals by CVA (Current Value Assessment) Cycle:

**Table 3
Outstanding appeals by Assessment Value and Number**

	2023- 2017 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	2,756,098,078	369,000	0	0
# of properties by taxation year ¹	78	1	0	0

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

Table 3 highlights the number of current outstanding appeals for properties within the City of Hamilton, a significant reduction from what was reported in prior years. The assessment values in Table 3 are the cumulative property values under appeal. Since the same property can be appealed every year, it also includes the assessed value of the same property for every year an appeal is filed (i.e., four times in the four-year assessment cycle).

Due to the Province postponing the reassessment, current property values are still based on a valuation date of January 1, 2016. This has facilitated settled appeals, where the settled (mainly lower) value is carried forward to future years and, therefore, for the most part, subsequent appeals are not filed. However, due to the growing disparity between the current year and the valuation year, this has led to additional appeals in some cases. Once the next reassessment occurs, it is expected that most large non-residential properties will file an appeal, regardless of the outcome of the appeal on the 2016 value.

City’s Active Participation in Appeals

As approved by Council, the City is more actively participating in appeals. The results, to date, have shown that this program has been very successful in mitigating municipal property tax losses. Appendix “A” to Report FCS24021, Annual Assessment Appeals as of December 31, 2023, provides for a detailed listing of the appeals the City participated in during 2023, of which a summary of the 2023 results is provided in Table 4.

**Table 4
Results of 2023 Active Participation in Appeals**

	Closed Appeals	Open Appeals
# of appeals	39	26
Estimated Total Potential Municipal Tax Loss	\$13,007,700	\$16,243,000
Actual Total Municipal Tax Loss	\$642,870	TBD
External costs	\$243,630	TBD
\$ Loss Mitigated (net of external costs)	\$12,121,200	TBD
% Loss Mitigated (net of external costs)	93%	TBD

As shown above, in 2023, the City’s active participation in assessment appeals resulted in the mitigation of \$12.1 M (or 93%) of the original municipal property tax reduction being sought by appellants.

With respect to the 39 closed appeals, 25 were withdrawn / dismissed resulting in no municipal property tax loss. Of the remaining 14 closed appeals that were settled, 11 were settled at a total municipal property tax loss of \$1,175,920, while three were settled at a municipal property tax gain totalling \$533,050. Settling appeals at a gain is extremely rare. The values ultimately settled on, resulting in either a municipal property tax loss or gain, ensure the property was more accurately and equitably assessed.

With respect to the 26 open appeals, 12 pertain to gravel pits / quarries in which staff is of the opinion that the properties are incorrectly assessed and as such have initiated appeals seeking an increase.

The City incurred \$262,000 on external costs in 2023 to actively participate in appeals. Approximately 87% of these external costs were for consultants / expert witnesses who have the required knowledge and tools to provide an opinion in value. Minimal 2023 external costs were incurred for Outside Legal Counsel, as Legal staffing resources were approved in the 2023 budget. Of the \$262,000 external costs incurred in 2023, approximately \$109,000 was incurred for the appeals that were closed in 2023, while the remaining was incurred for appeals that are still open.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report FCS24021 – 2023 Assessment & Municipal Act Appeals Property Listing