




CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Revenue Services Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	February 27, 2025
SUBJECT/REPORT NO:	Changes to the Municipal Property Assessment Corporation's Role in Municipal Tax Applications (FCS25011) (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:	Clayton Pereira Director, Revenue Services Corporate Services Department
SIGNATURE:	

RECOMMENDATION

- (a) That Taxation staff be directed to continue to receive and review applications submitted for the cancellation, reduction or refund of taxes and payment in lieu of taxes under sections 357(1)(d)(ii), 357(1)(g) on 357.1(1) of the *Municipal Act* (which pertain exclusively to damage by fire or demolition and repairs/renovations preventing normal use) and be responsible to determine the amount of property tax relief.
- (b) That the Municipal Tax Appeals Process (Sections 357, 357.1 and 358 of the *Municipal Act*) as outlined in Appendix "A" to report FCS25011 be approved.

EXECUTIVE SUMMARY

In follow up to the Council Communication Update "Changes to the Municipal Property Assessment Corporation's (MPAC) Role in Municipal Tax Applications" (item 10.1 (5), September 11, 2024 City Council), the purpose of this Report is to provide Committee with staff's recommendation on how best to address applications for the cancellation, reduction or refund of taxes and payment in lieu of taxes under sections 357(1)(d)(ii), 357(1)(g) and 357.1(1) of the *Municipal Act*, resulting from changes to the Municipal Property Assessment Corporation's (MPAC's) role in these applications.

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Effective July 2, 2024, MPAC will no longer provide adjusted assessments in response to applications for tax relief due to damage from fire, demolition, or repairs/renovations that prevent normal use. Instead, MPAC will simply provide a notional assessed value for the affected building which the municipality may use to assist in calculating the level of property tax relief to be provided for the eligible applications. There will be no changes to MPAC's response to applications for tax relief under the other subsections.

Staff reviewed three available options for handling the affected applications:

- Assume internally by Taxation staff.
- Delegate to the Assessment Review Board (ARB)
- Outsource to a third-party

At this time, staff are recommending that these applications be handled internally using existing resources within Taxation. To do so, Taxation staff will be required to develop a set of criteria to determine the appropriate amount of property tax relief as a result of damage by fire/demolition or repair/renovation preventing normal use of the property. Legal resources will only be required if the approved property tax relief is appealed to the ARB, which is consistent with current practice.

In addition to this and to facilitate a better understanding of the Municipal Tax Appeals process and ensure consistency and fairness to all applicants, staff are recommending the approval of the attached "Municipal Tax Appeals Process (Sections 357, 357.1 and 358 of the *Municipal Act*)" as outlined in Appendix "A" to report FCS25011. This will ensure transparency for all such applications seeking tax relief.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: No additional costs are required currently.

Staffing: No additional staffing is required currently.

Legal: Legal will continue to provide support to Taxation staff where required in the process.

HISTORICAL BACKGROUND

As outlined in Appendix "A", sections 357(1) and 357.1(1) of the *Municipal Act* allow taxpayers to make application for the cancellation, reduction or refund of property taxes and payment in lieu of taxes due to:

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- A change in property classification resulting from a change event (e.g. change in use from commercial to residential) – Subsection (a)
- Land has become vacant or excess land – Subsection (b)
- Property is now tax exempt– Subsection (c)
- Building razed by fire/demolition– Subsection (d)(i)
- **Building damaged by fire/demolition - Subsection (d)(ii)**
- Mobile unit removed – Subsection (e)
- Gross or Manifest error – clerical/factual, not an error in judgement – Subsection (f)
- **Repairs/renovations preventing normal use (minimum of three months) – Subsection (g)**

In 2019, City Council delegated the approval of these applications to staff. As part of the process, Taxation staff send these applications to MPAC, who in turn determines the impact, if any, on the property's assessed value. Taxation staff use MPAC's adjusted assessment to calculate the level of property tax relief (reduction in assessment multiplied by the applicable tax rate). It is important to note that MPAC does not have a legislative role in these applications with exception of confirming if a clerical/factual error was returned on the assessment roll. Historically, MPAC has been providing this information, which Taxation staff have relied on to facilitate the determination of an appropriate level of property tax relief.

Effective July 2, 2024, MPAC will no longer provide adjusted assessments for applications made solely under subsections 357(1)(d)(ii), 357(1)(g), and 357.1(1) (bolded above for emphasis). Instead MPAC will provide a notional assessed value for the affected building which the municipality may use to assist in calculating the level of property tax relief.

MPAC's rationale for this change is to "improve consistency across the organization when responding to municipal tax applications and eliminate any subjectivity that may have previously been provided as to what degree a building is substantially unusable." As a result, municipalities are faced with the task of determining the amount of property tax relief to be provided to applicants for which there is no standard approach nor formula. It will be crucial to ensure that the criteria to determine the appropriate amount of property tax relief is fair, equitable and consistent, as well as defensible, should it be appealed to the ARB.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Sections 357(1) and 357.1(1) of the *Municipal Act* allow municipalities to cancel, reduce or refund property taxes and payment in lieu of taxes for applications made for a variety of reasons as identified under "Historical Background".

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In accordance with the *Municipal Act*, on or before September 30 of the year following the year in respect of which the application is made, municipalities are required to hold a meeting at which applicants may attend and make representations with respect to their application. In 2019 through passage of By-Law 19-098, Council delegated its authority to staff to give notice and make decisions for these applications. Applicants are notified of the meeting by mail at least 14 days in advance of the meeting date. Following review of the application and completion of delegate presentations, a decision must be made as to the amount of property tax relief to be provided. Within 14 days, applicants are notified of the decision by mail. Applicants may appeal the decision to the ARB within 35 days from the date of decision.

Appendix "A" to report FCS25011 provides for more detailed information on the Municipal Tax Appeals Process as it relates to Sections 357, 357.1 and 358 of the *Municipal Act*.

RELEVANT CONSULTATION

- The Municipal Property Assessment Corporation (MPAC)
- Assessment Review Board (ARB)
- Surveyed other Ontario municipalities.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Staff have examined three available options for handling these applications:

- Assume internally by Taxation staff.
- Delegate to the ARB
- Outsource to a third-party

All three available options require some degree of staff involvement.

Assume internally by Taxation staff:

As identified in staff report "Annual Assessment Appeals as of December 31, 2023 (FCS24021)", staff processed 195 municipal tax applications in 2023, resulting in total municipal tax relief granted of \$529,400. This equates to an average municipal property tax relief of approximately \$2,715 per application. This is inclusive of all tax applications under Sections 357 and 358 of the *Municipal Act*, not just the sections affected by MPAC's change.

Due to the relatively small dollar value of the resulting property tax relief for these types of applications, it would not be financially prudent to incur additional external costs to assist with these applications or dedicate more Taxation and Legal resources required to fully participate in an ARB appeal process for all applications. These external costs

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and internal resources are better directed to continue to assist in mitigating the more significant municipal property tax losses resulting from Assessment Appeals.

Staff are therefore recommending that the affected applications continue to be handled internally by existing Taxation staff. This requires staff to develop a set of criteria to assist in determining the appropriate amount of property tax relief because of damage by fire or demolition and repairs/renovations preventing normal use of the property. More specifically, Taxation staff will continue to receive and review applications submitted for the cancellation, reduction, or refund of taxes under sections 357(1)(d)(ii), 357(1)(g) and payment in lieu of taxes under section 357.1(1) of the *Municipal Act*; however, will now be required to calculate an appropriate amount of property tax relief. All applications (inclusive of applications under the affected subsections) will proceed for consideration at the required public meeting for approval and still allow applicants the right to file an appeal with the ARB should they disagree with the decision.

Staff are currently developing best practices including methods and formulas for calculating appropriate amounts of property tax relief, with reference to past ARB Decisions, previous MPAC responses for similar applications (prior to MPAC's change in their role in these applications) and consultation with other Ontario municipalities. Where appropriate, the established criteria may differ based upon the property type and approach to value used by MPAC to determine the property's assessment. It is important to recognize that a one-size-fits-all approach will not apply in determining property tax relief and that best practices are expected to evolve with time, based on experiences and in alignment with new ARB Decisions.

In response to applications received, staff have recently proven their ability to recommend appropriate amounts of property tax relief. Staff have also been successful at both defending and mitigating potential property tax loss through the appeal process where applicants have filed an appeal of staff's decision to the ARB.

Existing resources within Taxation and Legal would be utilized for participation in the appeals, which is consistent with the current practice. Staff believe that having the ability to continue handling these applications internally will provide the highest level of efficiency, fairness and consistency for applicants while utilizing existing resources, ensuring the most efficient use of staff time, and eliminating the need to incur additional expenses. Staff will report back to Committee if there are challenges with capacity due to increased volumes of applications.

ALTERNATIVES FOR CONSIDERATION

Delegate to the ARB:

The first alternative for consideration that staff reviewed was to delegate authority to the ARB to make decisions for these specific types of applications. This would require a Council approved By-Law, similar to By-Law 07-103 which Council delegated its

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authority to the ARB for compassionate tax appeals due to sickness or extreme poverty under section 357(1)(d.1) of the *Municipal Act*.

Delegating to the ARB would require applicants to file their applications directly with the ARB along with the applicable application fee of \$25 (2024 \$). Decisions with respect to eligibility for property tax relief, as well as the amount of property tax relief granted, would ultimately rest with the ARB. ARB decisions are final, with no avenue to appeal, with exception of a Request for Review based on material error of law or fact or through an appeal to Superior Court on a question of law only.

While this option provides the ARB the authority to make decisions, municipalities are **required** to fully participate in the process for all these tax applications. A municipality's participation would be like the ARB assessment appeal process. These applications would be placed in the ARB's Summary Proceeding stream for which a Schedule of Events is produced, outlining requirements under strict and tight deadlines for the applicant and municipality. This process is time consuming and would likely require additional Taxation resources. In addition, this option would require increased assistance from Legal to fill the mandatory advocacy role for participation in these applications. When considering the time and resources required, in comparison to the minimal amount of municipal property tax relief often provided for applications, particularly for those pertaining to the residential property class, staff believe that this process would not result in the most effective or efficient use of City resources and therefore are not recommending this option.

Outsource to a third-party:

The second alternative for consideration would be to hire an external third-party to review these applications and determine both eligibility for property tax relief and the amount of property tax relief to be recommended for consideration. Public meetings would still be required to approve the third-party's recommendations for these applications.

This option would result in the City incurring costs associated with the work undertaken by the third-party which would be in addition to the amount of property tax relief granted. With respect to applications pertaining to residential properties, there is the potential for these costs to exceed the actual amount of property tax relief provided. It is important to note that unlike ARB assessment appeals, where more significant tax dollars are at stake and costs for external expertise often result in mitigation of potential municipal property tax losses, the use of a third-party for these types of applications would only result in additional costs, as there would be minimal to no mitigation of property tax losses. At this time, there is no information to suggest the amount of property tax relief determined by the third-party would be significantly different than the amount of tax relief that would be determined by staff.

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Although this option removes Taxation staff from any involvement in determining eligibility and the amount of property tax relief, Taxation staff would still be responsible for sending letters, holding meetings, and ultimately approving the third-party's recommended property tax relief for these applications. Applicants would also still have the right to appeal to the ARB, should they disagree with the decision. As such, additional costs would be incurred by the City as the third-party would be expected to participate in the appeal to defend their recommended property tax relief. In addition, Legal representation would be required to fill the advocacy role in an appeal.

Given that this option does not completely remove staff from the process and considering that the City would incur costs for third-party assistance in addition to any tax relief provided, and that it would not result in mitigation of municipal property tax loss, staff are not recommending this as a viable option.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report FCS25011 - Municipal Act Appeals Process (Sections 357, 357.1 and 358 of the *Municipal Act*)"