

Municipal Act Appeals Process (Sections 357, s.357.1 and 358 of the *Municipal Act*)

The *Municipal Act* allows taxpayers to make application for the cancellation, reduction or refund of property taxes or payment in lieu of taxes due to:

Section 357 and 357.1 (change that occurred during the current taxation year or after the assessment roll is returned in the previous year):

- 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)
- Land has become exempt from taxation – 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 3 months) – Subsection (g)

Section 358 (error that occurred in one or both of the two years preceding the year in which the application is made):

- Gross or Manifest error – clerical/factual, not an error in judgement

Errors that qualify as a Gross or Manifest:

An error in the preparation of the assessment roll (full year) or supplementary/omitted assessment that is clerical or factual in nature, including transposition of figures, a typographical error, or similar errors, **but not an error in judgment in assessing the property.**

- Examples of what is considered "Gross or Manifest Error":
 - If confirmed by MPAC that the assessor meant to enter an assessment of 27,000 and in error entered 72,000.
 - If confirmed by MPAC that the assessor meant to enter an assessment of 100,000 and in error entered 1,000,000.
 - If confirmed by MPAC that the assessor meant to select Commercial as the property class and in error selected Industrial.
- Examples of what is **not** considered "Gross or Manifest Error":
 - Incorrect property classification, demolished buildings that continue to be assessed or damaged buildings believed to be assessed incorrectly (if not a result of a typographical error, as confirmed by MPAC).
 - These are considered an error in judgement and not clerical in nature, even though they may be factual.
 - Should instead apply under the appropriate subsection of Section 357 by the applicable deadline.

- Land has become exempt from taxation.
 - These are considered an error in judgement and not clerical in nature such as typographical or transposition of figures.
 - Should instead apply under Section 357(c) by the applicable deadline.

Application Deadline:

The deadlines to apply are prescribed in the Municipal Act, being:

- Section 357 and s.357.1 – an application must be filed no later than the last day in February of the year following the taxation year to which the application relates.
- Section 358 – an application must be filed between March 1 and December 31 of a year and may apply to taxes levied for one or both of the two years preceding the year in which the application is made, and the application shall indicate to which year or years it applies.

Applications received after the deadline to apply will not be accepted and returned to the applicant.

Applicant:

The applicant may be the current property owner, a tenant, occupant, or a person in possession of the land, a spouse of any of the aforementioned, or a person with an interest in the property as shown on the Land Registry records and the sheriff's office. The onus is on the Applicant to submit the completed application and supporting documentation by the due date. The onus is on the Applicant to provide sufficient supporting document to support their application. If additional information is required, it is the Applicant's responsibility to provide within the timelines granted on the request.

Application Submission:

The application form is available on the City's website under "Tax Assistance Programs", included within Building Service's Demolition Permit package or available upon request.

Completed applications can be emailed to taxappeals@hamilton.ca, dropped off in person at one of the City's Municipal Service Centres or mailed to:

City of Hamilton
Corporate Services Department, Taxation Section
71 Main St West, 1st Floor
PO Box 2040 STN LCD 1
Hamilton ON L8P 4Y5

The Applicant is responsible to ensure the completed application is received by the application deadline. Late applications will not be processed and returned to the applicant.

Application Process:

Applications received by the application deadline will be reviewed by the **Coordinator - Municipal Tax Appeals**. The **Coordinator - Municipal Tax Appeals** is responsible to review the application for completeness and to determine if it meets the criteria. The **Coordinator - Municipal Tax Appeals** will advise the Applicant if further information is required and provide for a deadline to receive the additional information. If the required additional information is not received by the required deadline, no tax relief will be recommended for the application. In reviewing the applications to determine eligibility under the Municipal Act, the **Coordinator - Municipal Tax Appeals** may consult with the **Tax Assessment and Appeals Advisor** and/or the **Tax Assessment and Appeals Administrator** and/or **Legal Services**.

For applications not meeting the criteria, the **Coordinator - Municipal Tax Appeals** will recommend a tax reduction of \$0.

For applications meeting the criteria, the **Coordinator - Municipal Tax Appeals** will calculate an appropriate tax reduction by use of various resources, not limited to the following, to ensure fairness and consistency:

- The Municipal Property Assessment Corporation (MPAC)
- Internal guidelines developed through review of past applications, Assessment Review Board (ARB) decisions, consultation with other municipalities.

Using the above resources the **Coordinator - Municipal Tax Appeals** will recommend an appropriate amount of tax reduction.

In adherence to the Municipal Act, the **Coordinator - Municipal Tax Appeals** will mail out letters to the applicants advising of the recommended tax reduction, if any, and the date of the meeting for approval at least 14 calendar days in advance of the meeting. The letter will include contact information should the applicant wish to discuss the recommended tax reduction further or how to register as a delegation at the meeting.

Required Meeting for Approval:

A meeting must be held to consider and approve the recommended tax reductions. By-Law 19-098 has delegated this authority to staff. The recommended tax reductions, as determined by the **Coordinator - Municipal Tax Appeals** will go before the **Tax Assessment and Appeals Administrator** and **Manager of Taxation** for approval. It is the responsibility of the **Tax Assessment and Appeals Administrator** and **Manager of Taxation** to approve the applications or pull the application if further review is warranted. At the conclusion of the meeting, the **Coordinator - Municipal Tax Appeals** will mail out letters advising Applicants of the approved tax reduction, if any. Information on the Applicant's right to appeal will be included in the letter.

Applicant's Appeal of Decision:

If the Applicant disagrees with the recommended tax reduction the following steps must be taken in advance of the application being approved at the meeting:

- Discuss with the **Coordinator - Municipal Tax Appeals** for clarification on the recommended tax reduction.
- If there are further concerns, the following escalation process, in the order presented, is recommended:
 - **Tax Assessment and Appeals Administrator**
 - **Manager of Taxation**
 - **Director of Revenue Services** which will have the authority for the final decision.

(Please note escalating concerns past the Director of Revenue Services or lobbying Elected Officials is prohibited.)

Once the tax reduction, if any, is approved at the required meeting, the Applicant may appeal the decision to the ARB within 35 days from the date of the decision. A decision of the ARB is final.