

**CITY OF HAMILTON**

**CORPORATE SERVICES DEPARTMENT**  
*Treasury Services Division (Taxation)*

<b>TO:</b> Chair and Members Audit, Finance and Administration Committee	<b>WARD(S) AFFECTED:</b> CITY WIDE
<b>COMMITTEE DATE:</b> March 19, 2012	
<b>SUBJECT/REPORT NO:</b> Tax Appeals under Section 357 and 358 of the Municipal Act (2001) (FCS12007(b)) (City Wide)	
<b>SUBMITTED BY:</b> Antonio D. Tollis Treasurer Corporate Services Department	<b>PREPARED BY:</b> Val Mitchell 905-546-2424 ext 2776
<b>SIGNATURE:</b>   	

**RECOMMENDATION**

- (a) That Appendix "A" attached to Report FCS12007(b) respecting the "Tax Write-Offs processed under Section 357 of the Municipal Act, 2001", in the amount of \$54,294 be approved;
- (b) That Appendix "B" attached to Report FCS12007(b) respecting the "Tax Appeals due to a Gross or Manifest Clerical Error, Pursuant to Section 358 of the Municipal Act, 2001", in the amount of \$7,743 be approved.

**EXECUTIVE SUMMARY**

Section 357 of the Municipal Act allows the taxpayer, through the Treasurer's Office, to submit an application to cancel, reduce or refund all or part of the taxes levied on the land in the year in respect of which the application is made as a result of a change of

use; damage to a property rendering it partially or totally unusable; or a gross or manifest error that is clerical in nature.

Examples of such applications are:

- mid-year purchase of a property by an exempt body
- fire or flood damage to all or partial property
- an assessment error in entering a property value

Section 358 of the Municipal Act, 2001 allows the taxpayer, through the Treasurer's Office, to appeal assessment as supplied by the Municipal Property Assessment Corporation (MPAC) they believe have been overcharged, due to gross or manifest clerical error, on the part of MPAC. They are allowed to appeal current, plus prior two years, in which the application is made. This section also allows for the reduction of taxes, due to such errors, once confirmed by the Regional Assessment Office of MPAC.

Examples of such applications are:

- a transposition of figures
- a typographical error
- a duplicate property created

***Alternatives for Consideration – Not Applicable.***

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS** (for Recommendation(s) only)

**Financial:** The taxes that will be written-off under Section 357, total \$54,294 and taxes that will be written-off under Section 358, total \$7,743 for a total amount of \$62,037 of which \$18,666 will be charged back to the local school boards, based on school support, indicated on each account. The City portion of \$43,371 will be charged to the operating budget (HAMTN 52108-21102).

**HISTORICAL BACKGROUND** (Chronology of events)

Appendix "A" to Report FCS12007(b) "Tax Write-Offs processed under Section 357 of the Municipal Act, 2001" and Appendix "B" to Report FCS12007(b) "Tax Appeals due to a Gross or Manifest Clerical Error, Pursuant to Section 358 of the Municipal Act, 2001" have been reviewed by MPAC and have been approved or denied by them. Taxation Division staff have calculated any refunds/reductions that are due which now require Council approval. Applicants have thirty-five days after Council has rendered its'

decision to appeal any Section 357 decision through the Assessment Review Board (ARB). Section 358 decisions are final.

### **POLICY IMPLICATIONS**

Section 357 and 358 of the Municipal Act.

### **RELEVANT CONSULTATION**

Municipal Property Assessment Corporation (MPAC).

### **ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

The Section 357 applications allow for the Municipality and MPAC to quickly rectify assessment classification changes since the return of the year end assessment roll.

The Section 358 applications allow the taxpayer to rectify prior year's errors through the municipality and the local assessment office.

Both processes allow errors to be quickly rectified without having to go through the formal assessment review process.

### **ALTERNATIVES FOR CONSIDERATION**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

None, this is a legislated process under the Municipal Act, 2001.

### **CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability,  
3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development,  
6. Environmental Stewardship, 7. Healthy Community

Skilled, Innovative & Respectful Organization

**APPENDICES / SCHEDULES**

Appendix "A" to Report FCS12007(b) - Tax Write-Offs Processed Under Section 357 of the Municipal Act, 2001.

Appendix "B" to Report FCS12007(b) - Tax Appeals due to a Gross or Manifest Clerical Error, Pursuant to Section 358 of the Municipal Act, 2001

City of Hamilton  
Corporate Services Department  
Taxation Division  
Section "357" Appeals of the Municipal Act, 2001

Appeal No.	Property Address	Roll Number	Explanation	YEAR
357-09-017	427 Aberdeen Ave	010083056700000	Demolition of old Tim Hortons - new condos under construction	2011
357-09-325	182 Barton St W	020125563000000	Exempt City owned	2010
357-09-326	182 Barton St W	020125563000000	Exempt City owned	2011
357-10-049	4 Tiffany St	020125576200000	Exempt City owned	2011
357-10-276	112-116 James St N	020153586400000	Exempt 100 % of property used in conjunction of place of worship	2009
357-10-091	112 John St n	020153586400000	Exempt 100 % of property used in conjunction of place of worship	2011
357-10-236	75 Mary St	020154039000000	Exempt City purchased from Province	2011
357-11-11	438 Hughson St N	020164031300000	Exempt does not meet criteria to be declared exempt	2010
357-11-11	65 Guise St	020166020600000	Gross or Manifest Error correct post roll assessment notice PRAN	2011
357-11-035	393 Main St E	030211004000000	Tax Class Conversion denied does not meet criteria for change	2009
357-11-073	1 Emerald St S	030211056900000	Tax Class Conversion vacant land owned by place of worship	2009
357-11-107	304 Victoria Ave N	030216016300000	Exempt Hamilton Health Sciences occupied space part of the year	2011
357-11-144	304 Victoria Ave N	030216016300000	Exempt Hamilton Health Sciences occupied space part of the year	2011
357-11-110	200 Gibson Ave	030235029200000	Fire on premises March 12/11	2011
357-11-174	664-666 Main St E	030245061800000	Tax Class Conversion administrative offices for non profit service organization	2010
357-11-107	755 Barton St E	030265517600000	Tax Class Conversion -1st floor converted into one bedroom apartment	2011
357-11-184	307 East 27th St	070677046000000	Gross or Manifest Error buildings demolished in 2007 still reflected on the roll	2011
357-11-199	741 Upper Wellington St	070822008300000	Demolition of old house new home under construction	2011
357-11-193	391 East 16th St	070823096500000	Gross or Manifest Error UFFI injected into the house	2011
357-11-185	1 Amanda St	080931072900000	Tax Class Conversion does not meet criteria vacant property	2011
357-11-188	894 Upper James St	080931087800000	Demolition of Tim Hortons new building with less sq ftge under construction	2011
357-11-180	70 Pleasant Ave	081014061700000	Demolition of in ground pool	2011
357-11-197	816 Montgomery Dr	140260244000000	Demolition of in ground pool and pool shed	2011
357-11-198	285 Fiddlers Green	140360002000000	Demolition of original structures	2011
357-11-209	109 South Crest	140370146000000	Demolition of original structures	2011
357-11-217	0 Garner Rd	140380037500000	Exempt City owned	2011
357-11-218	397 King St W	260140390000000	Tax Class Conversion denied does not meet criteria for change	2010
357-11-167	494 Westover Rd	301340600000000	Exempt Ministry of Transportation purchased property	2011
357-11-158	1824 Rymal Rd E	901130666500000	Exempt owned by Separate School Board	2011

Amount
-1,094.52
-1,436.31
-7,802.32
-4,238.91
-1,109.36
-1,130.08
-471.30
0.00
22.26
0.00
-1,625.10
-1,468.90
-3,829.94
-1,778.25
-4,298.98
-1,725.97
-2,795.59
-678.95
-239.55
0.00
-5,467.24
-88.57
-239.33
-2,339.16
-187.84
-128.08
0.00
-9,947.02
-194.77
<b>-54,293.78</b>

City of Hamilton  
 Corporate Services Department  
 Taxation Division  
 Section "358" Appeals of the Municipal Act, 2001  
 Realty Tax Applications for overcharges

B- overcharge (Assessment Roll)  
 B1 -overcharged-application denied  
 E - Exempt

Appeal No.	Property Address	Roll Number	Reason	Explanation	Year	Amount
358-11-106	112 John St N	020153586400000	E	reallocation of space now 100% exempt as place of worship	2010	-1122.63
358-10-052	664-666 Main St E	030245061800000	B	facility used for developmentally disabled should be RT class	2009	-1250.76
358-11-109	307 East 27th St	070677046000000	B	structures demolished in 2007 still reflected on the roll	2010	-2500.42
358-11-110	307 East 27th St	070677046000000	B		2009	-2169.59
358-11-080	391 East 16th St	070823096500000	B	owner not aware the foam insulation injected into the house had	2010	-236.69
358-11-081	391 East 16th St	070823096500000	B	Urea Formaldehyde product	2009	-231.52
358-11-115	816 Montmorency Dr	140260244000000	B	pool removed - not reported	2010	-231.72
				<b>Total</b>		<b>-7,743.33</b>