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2010 PROPERTY TAX CAPPING AUTHORIZATION REPORT

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report dated May 5, 2010, from the Commissioner of Finance.

1. RECOMMENDATIONS

It is recommended that:

1. The Regional Treasurer be authorized to determine, for the 2010 taxation year, the percentage of property tax decreases that must be withheld to fund the capping protection on reassessment related tax increases for each of the Commercial, Multi-Residential and Industrial classes.

2. Should the amount of property tax decreases available from any of the protected property classes be insufficient to fund its capping requirement, the Region's share of the resulting shortfall be funded from the Tax Stabilization Reserve Fund.

3. A by-law be presented to Council to give effect to these recommendations.

2. PURPOSE

This report recommends that the Regional Treasurer be authorized to determine the percentage of tax decreases to be withheld for the 2010 taxation year ("clawback rate") in order that local municipalities may issue their tax bills for the business property classes on a timely basis.

3. BACKGROUND

The *Municipal Act, 2001* ("the Act") requires that municipalities limit the amount of reassessment related property tax increases for properties in the commercial, industrial and multi-residential classes to the maximum prescribed 5% increase over the previous year's annualized capped taxes, or an amount determined by other property tax capping options provided to municipalities by the Province. Since 2005 Council has adopted the following capping options:

1. Assessment-related property tax increases are limited to an amount which is the greatest of 10% of the previous year's annualized capped taxes, or 5% of the previous year's annualized full Current Value Assessment (CVA) taxes.

2. Properties, for which tax increases are capped (protected) but are within $250 of their full CVA taxes, are moved to the CVA tax level within the current taxation year.

3. Properties, for which tax decreases are clawed back but are within $250 of their full CVA taxes, are moved to the CVA tax level within the current taxation year.

4. Eligible new construction/new-to-class properties within the meaning of subsection 331(20) of the Act, are taxed at a minimum of 100% of their full CVA tax value for the 2009 and subsequent taxation years.

Furthermore, in June 2009 Council adopted the following additional tax protection options:

A. Business properties reaching their CVA level taxes
A property that reached its CVA tax level in 2008 can be excluded from the capping program in 2009.

B. Business properties crossing their CVA level tax position from capped to clawed back
A property that was in a capped position in 2008 and as a result of reassessment would have been in a clawed back position in 2009 can be excluded from the capping program in 2009.

C. Business properties crossing their CVA level tax position from clawed back to capped
A property that was in a clawed back position in 2008 and as a result of reassessment would have been in a capped position in 2009 can no longer be eligible for the protection program starting in 2009.

Council has adopted a long-standing policy of funding the cost of capping protection by withholding an equivalent amount of available tax decreases (clawbacks) within each of the protected classes. Therefore, revenue neutral “clawback” rates for each protected class must be set prior to the issuance of final 2009 property tax bills by the local municipalities.

Table 1 below illustrates the approved clawback percentages over the last five years.

Table 1
Approved Clawback Percentages 2005 to 2009

Year	Commercial clawback Percentage	Industrial clawback Percentage	Multi-Residential clawback Percentage
2005	73.59	81.13	99.05
2006	69.24	61.90	42.71
2007	74.20	72.27	30.40
2008	64.30	69.40	44.80
2009	79.26	76.94	12.92

Province's Online Property Tax Analysis (OPTA) is used to determine clawback percentages

The Region uses the OPTA system provided by the Province in order to calculate the appropriate clawback percentages. Local municipalities also use OPTA to prepare the property tax billings for the protected classes. In order to allow the local municipalities to prepare the most accurate property tax billings, the Region annually requests that OPTA process prior year adjustments such as Assessment Review Board decisions, and supplementary and omitted assessments from the Municipal Property Assessment Corporation (MPAC) up to and including a predetermined cut-off date. Including this information in the OPTA system before the commencement of billing will allow for fewer post-billing adjustments required by the local municipalities.

In consultation with the local municipal treasurers, a cut off date of June 1, 2010 has been requested of OPTA which will result in the final information on clawback percentages being available to the Region in late June or early July.

4. ANALYSIS AND OPTIONS

2010 clawback rates requires delegation of authority

The final data will not be available to the Region until after the cut off date of June 1, 2010. Therefore, in order for local municipalities to proceed with 2010 property tax billings for the protected classes prior to the Fall, it is recommended that Council delegate to the Regional Treasurer the authority to determine the final clawback rates on property tax decreases to be withheld to fund the cost of capping protection for each of the business property classes based on the tax protection options recommended in this report.

Preliminary OPTA generated 2010 clawback percentages

Using the capping options and the recommended tax protection options, Table 2 indicates the clawback percentages for each of the protected property classes as at the time of this report. The current clawback percentages at this point in time serve primarily as a snapshot and may vary substantially at the time of data cutoff, June 1, 2010.

Table 2
2010 Preliminary Clawback Percentages

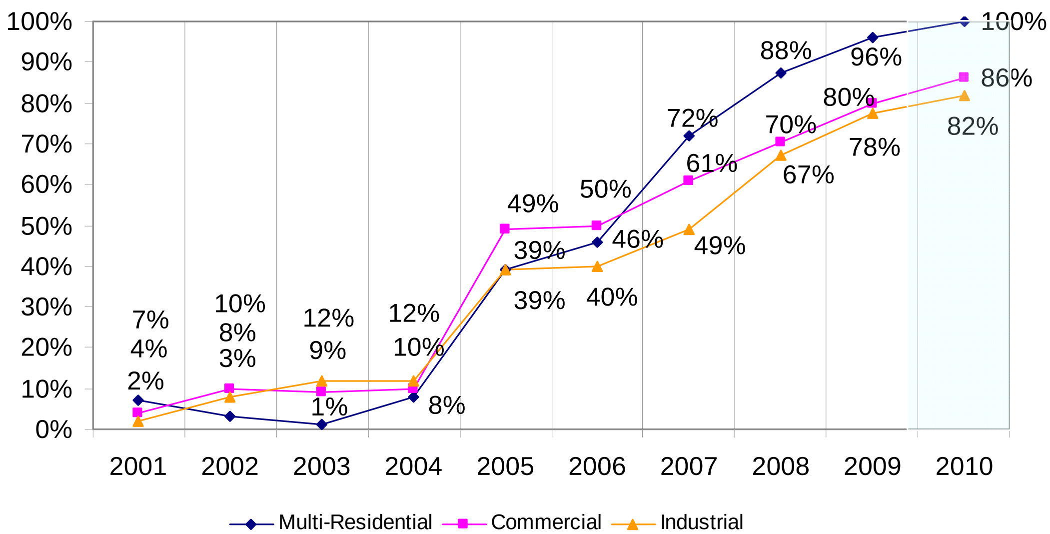
Commercial Clawback Percentage	Industrial Clawback Percentage	Multi-Residential Clawback Percentage
64.61%	80.89%	0%

Source: OPTA, May 27, 2010

Using all capping options and new CVA options currently results in no shortfall in 2010 and maximizes the properties moving to CVA

The following chart is shown for only illustrative purposes and is captured at a point in time to reflect their status prior to the cut off date of June 1, 2010. The analyses demonstrates that for each of the protected classes as of May 27th, 2010, using the Council approved capping options as well as the tax protection options results in the most number of properties reaching CVA while minimizing the cost of capping protection. Chart 1 captures the estimated percentage of properties at CVA in 2010 using all available options in comparison to historical results:

Chart 1
Percentage of Properties at CVA



The Region and local municipalities would fund a capping shortfall

A shortfall arises when the total capping protection afforded to a property class exceeds the decreases available for clawback in the property class. While we currently do not project a shortfall, should further adjustments to the assessment data result in insufficient

tax decreases available for clawback to cover the cost of capping protection in the 2010 taxation year, this report also recommends authorizing the Regional Treasurer to fund the Region's portion of the resulting shortfall from the Tax Stabilization Reserve Fund.
The Region and local municipalities share the cost of the capping protection in the same ratio as property tax revenues are shared for the class. The proportionate share of a shortfall would be approximately shared at 65% by the Region and 35% by the local municipalities. The Province does not participate in the funding of the shortfall.

5. FINANCIAL IMPLICATIONS

There are no projected financial implications for the Region. By continuing with the application of capping tools and the tax protection options, a shortfall is not expected at this time. Staff will report to Council in the Fall with respect to the amount of capping protection afforded to the business class properties and the associated clawback rates.

6. LOCAL MUNICIPAL IMPACT

There is no current projected requirement for the local municipalities to fund a capping shortfall. However, if a shortfall occurs, local municipalities and the Region are required to fund a shortfall in the same proportion that they receive taxes for the property class(es) in which a shortfall occurs.

The *Municipal Act* requires that the Region act as a "banker" to balance out shortfalls of decreases in one municipality with surpluses of decreases in another municipality. The net effect of bankering is that taxpayers eligible for refunds in one municipality may be required to give up a portion in order to fund tax protection in other municipalities. While there is no cost to the Region, when an overall shortfall exists in a property class, the Region and local municipalities share the shortfall proportionately. The actual results will be included in the Fall report.

7. CONCLUSION

As a result of the timing of this report, it is recommended that the Regional Treasurer be authorized to withhold a percentage of property tax decreases to fund the capping protection. Although there are unresolved properties currently, a shortfall is not expected by the cut off date of June 1, 2010. Should further adjustments lead to a shortfall, it is recommended that the Regional Treasurer fund the Region's portion from the Tax Stabilization Reserve Fund. Staff will report to Council in the Fall with a full analysis of the impact of the assessment phase in and the use of the recommended tax protections options.

For more information on this report, please contact Brian Parrott, Manager, Fiscal Policy at Ext. 1667.

The Senior Management Group has reviewed this report.