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TO AUTHORIZE THE FUNDING OF PROPERTY TAX CAPPING PROTECTION FOR THE 2008 TAXATION YEAR

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, May 26, 2008, from the Commissioner of Finance:

1. RECOMMENDATIONS

It is recommended that:

1. The Regional Treasurer be authorized to determine, for the 2008 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, industrial and multi-residential 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 Property Tax Write-off Reserve; and

3. The Regional Solicitor be authorized to prepare the necessary by-law to give effect to the above noted recommendations.

2. PURPOSE

This report recommends that the Regional Treasurer be authorized to determine the percentage of tax decreases to be withheld for the 2008 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

3.1 Approved Capping and Clawback Policy

The *Municipal Act, 2001* was revised in 2005 in order to provide that reassessment related property tax increases for the commercial, industrial, and multi-residential property classes be limited to either 5% of the previous year's taxes (the "default option"), or an amount determined by other property tax capping options approved by the Province.

Pursuant to the Act, Council approved a combination of capping tools for the 2005 and subsequent taxation years, which will accelerate the progress of all protected properties towards reaching their full CVA level of taxation.

In order to fund the cost of the capping protection, Council has maintained a long-term policy of withholding an equivalent amount of available tax decreases within each of the protected classes. As a result, the Region must annually determine a clawback percentage for each of the protected property classes prior to the issuance of final property tax bills by local municipalities.

Table 1 illustrates the approved clawback percentages for each of the protected classes for the 1998 through to the 2007 taxation years.

TABLE 1
Approved Clawback Percentages 1998 to 2007

Year	Commercial clawback Percentage	Industrial clawback Percentage	Multi-Residential clawback Percentage
1998	88.88	88.88	7.56
1999	68.89	68.89	3.94
2000	52.36	52.63	2.95
2001	81.16	51.11	87.77
2002	92.36	99.07	1.45
2003	99.34	100.00	1.52
2004	84.03	81.56	100.00
2005	73.59	81.13	99.05
2006	69.24	61.90	42.71
2007	74.20	72.27	30.40

Source: York Region Finance Department

The clawback rates for the multi-residential property class has a number of historical anomalies. This class was significantly undervalued at the time of tax reform in 1998 and with the 2000 reassessment for the 2001 taxation year there was an attempt by MPAC to bring this class to its true CVA. However, with less than 200 properties in this class, some large value changes and subsequent adjustments created the dramatic swing from the year 2000 through 2002. The 2003 reassessment reset the property values at CVA and subsequent years show the trend downward consistent with the application of the new tax tools in 2006.

3.2 Online Property Tax Analysis (OPTA)

OPTA Provides the Basis for Determining 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 ARB decisions, supplementary and omitted assessments from the Municipal Property Assessment Corporation (MPAC) up to and including a predetermined cut-off date. Including this information on 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, 2008 has been requested of OPTA which will result in the final information being available to the Region in late June or early July.

4. ANALYSIS AND OPTIONS

4.1 Need for Delegation of Authority to Determine 2008 Clawback Rates

Final data required by the Region to set the clawback rates for the purpose of 2008 taxation will not be available to the Region until after the commencement of Council's recess for the summer. Therefore, in order for local municipalities to proceed with 2008 property tax billing 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 commercial, industrial and multi-residential classes.

4.2 Current Clawback Percentages

Table 2 indicates the current clawback percentages for each of the protected property classes at the time of the preparation of this report. These are calculated at a recent point in time and may vary at the cut-off date of June 1. The current clawback percentages at this point in time serve primary as a quality assurance check and as a warning of a potential shortfall in a property class.

Generally, the percentages shown below would be close to the final clawback results; however, several area municipalities have not yet finalized their 2008 municipal tax rates and there are properties for which the 2007 assessment is unresolved, both of which are required by OPTA to accurately model the final 2008 clawback impacts. Consequently, in addition to being based on preliminary notional local tax rates as calculated by OPTA, the results indicated in this report do not take into account properties for which the 2007 assessment must be determined by the Municipal Property Assessment Corporation (MPAC).

TABLE 2
2008 Current Clawback Percentages

Commercial Clawback Percentage	Industrial Clawback Percentage	Multi-Residential Clawback Percentage
62.7%	34.9%	36.1%

Source: OPTA, May 26, 2008

4.3 Funding of 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 2008 taxation year, this report also recommends authorizing the Regional Treasurer to fund the Region's portion of the resulting shortfall from the Property Tax Write-off Reserve.

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 Province, through the education portion of property taxes, 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 the capping tools adopted by Council, it is anticipated that there will be no shortfall in any of the affected property classes. Staff will report to Council in September with respect to the amount of capping protection afforded the business class properties.

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. Additionally, the funding of capping protection may cause inter-municipal shifting of the funding burden within the Region.

The Regional Treasurer will report to Council on the effect of inter-municipal shifting and the Region's bankering role subsequent to the final calculation of the required capping protection.

7. CONCLUSION

The effect of the capping provisions under section 329.1 of the *Municipal Act, 2001* will be calculated using the OPTA system subsequent to the cut-off date of June 1, 2008. This calculation will occur during the period of Council's summer recess, at a time when the local municipalities usually prepare their business class property tax billings. This report recommends that the Regional Treasurer be authorized to determine the percentage of tax decreases for the 2008 taxation year that must be withheld to fund the capping protection for each of the commercial, industrial and multi-residential classes.

Further, should the amount of tax increases exceed the tax decreases available to fund the capping protection, this report also recommends that the Regional Treasurer be authorized to fund the Region's portion of the resulting shortfall from the Property Tax Write-off Reserve.

For more information on this report, please contact Brian Parrott, Manager, Fiscal Policy at Ext. 1667 or Edward Hankins, Director, Policy, Risk and Treasury at Ext. 1644.
The Senior Management Group has reviewed this report.