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TO AUTHORIZE THE FUNDING OF CAPPING PROTECTION FOR 2005

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, May 11, 2005, from the Commissioner of Finance:

1. RECOMMENDATIONS

It is recommended that:

1. The Regional Treasurer be authorized, for the 2005 taxation year, to determine the percentage of tax decreases that must be withheld to fund the cap on assessment related tax increases for each of the Commercial, Industrial and Multi-Residential classes;

2. In the event that the amount of tax increases exceed the available tax decreases needed to fund the cost of capping the 2005 reassessment related tax increases for any of the protected property classes, the Regional Treasurer be authorized to fund the resulting shortfall from the Property Tax Write-off Reserve Fund; and

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

2. PURPOSE

In order for local municipalities to issue their final 2005 property tax bills for the protected business classes, the Region must set the clawback percentages needed to fund the cost of capping reassessment related tax increases. However, the data needed for this calculation is not expected to be available from the Ontario Property Tax Analysis (OPTA) system until Council's summer recess. The purpose of this report is to authorize the Regional Treasurer to set the percentage of tax decreases to be withheld for the 2005 taxation year ("clawback" rate) to allow the local municipalities to issue property tax bills for the business property classes on a timely basis.

3. BACKGROUND

3.1 Capping Policy

The *Municipal Act, 2001* requires that reassessment related property tax increases for the protected classes be limited to 5% of the previous year's taxes. Legislation introduced by the Province in 2004 gives municipalites additional tax capping options with respect to the determination of the maximum taxes. On April 21, 2005, Council approved a range of capping options that are projected to reduce or eliminate any capping shortfalls and reduce the clawback rates (Report 4 of the Finance and Administration Committee, Clause 2).

Council has adopted a long-term policy to fund the cost of the cap through the withholding of an equivalent amount of available tax decreases within each of the protected classes. As a result, the Region must set annually a clawback percentage for each protected class prior to the issuance of final property tax bills by local municipalities.

Table 1 shows the approved clawback percentages for each of the protected classes for the 1998 taxation year through to the 2004 taxation year.

Table 1
Approved clawback Percentages 1998 to 2004

Year	Commercial clawback Percentage	Industrial clawback Percentage	Multi-Residential clawback Percentage
1998	88.8783	88.8783	7.5560
1999	68.8912	68.8912	3.9364
2000	52.3601	52.6301	2.9481
2001	81.1552	51.1080	87.7705
2002	92.3558	99.0672	1.4471
2003	99.3418	100.00	1.5182
2004	84.0267	81.5553	100.00

Source: York Region Finance Department

3.2 OPTA

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 current property tax billings, the Region requests that OPTA process adjustments such as ARB decisions, supplementary assessments and omits from the Municipal Property Assessment Corporation (MPAC) up to and including a predetermined cut-off date. More up-to-date information means that there will be fewer manual adjustments required by the local municipalities in preparing their property tax bills. In consultation with the local municipal treasurers, a cut-off date of June 1, 2005 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

The 2004 Provincial Budget amendments to the *Municipal Act* provided additional options in calculating the maximum taxes applicable to the protected property classes. On

April 21, 2005 Council approved the adoption of the full range of capping options (Report 4 of the Finance and Administration Committee, Clause 2). If the Region had chosen not to apply the capping options available, a 100% clawback and a shortfall of approximately $220,000 was projected for the Multi-residential class.

Table 2 presents the projected clawback percentages for the protected property classes. This is calculated at a recent point in time and may vary at the cut-off date of June 1.

Table 2
2005 Projected Clawback Percentages

(Excluding impacts due to new construction/new to class properties)

Commercial Clawback Percentage	Industrial Clawback Percentage	Multi-Residential Clawback Percentage
72.4	82.8	98.3

Source: OPTA, May 2, 2005

4.1 Delegation of Authority
In order for local municipalities to proceed with 2005 property tax billing for the protected classes during the summer recess, it is recommended that Council delegate to the Regional Treasurer the authority to determine, in consultation with local municipal treasurers, the percentage of tax decreases to be withheld to fund the cost of the cap for each of the Commercial, Industrial and Multi-Residential classes.

4.2 Capping Shortfall
A shortfall arises when the total capping protection afforded a property class exceeds the decreases available for clawback in the property class. While it is not contemplated, should the amount of decreases available for clawback be insufficient to cover the cost of the cap in the 2005 taxation year, this report also recommends authorizing the Regional Treasurer to fund the resulting shortfall from the Property Tax Write-off Reserve Fund. The Region and local municipalities share the cost of the cap 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 funding the shortfall.

4.3 New Construction
Eligible properties that are often termed “New Construction/New-to-Class” are subject to taxation at the average tax level derived from six comparable properties, usually at a level of taxation below the CVA level which then increases the capping protection for the property class. Concurrent with the other capping option approvals, Council has authorized that properties becoming eligible in 2005 shall be subject to a minimum of 70 percent of CVA level taxes. The updating of comparable taxation levels for the

outstanding properties is on-going and the full effect will not be evident until the cut-off date.

5. FINANCIAL IMPLICATIONS

Should a capping shortfall occur in the protected property classes at the time of the cut-off, it is recommended that the Region's portion of such a shortfall be funded from the Tax Write-off Reserve Fund.

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 in which a shortfall occurs. Additionally, the funding of capping protection may cause the inter-municipal shifting of the funding burden within the Region. The Regional Treasurer will report to Council on the effect of intermunicipal shifting and the Region's bankering role subsequent to the calculation of the capping protection.

7. CONCLUSION

The effect of the capping provisions of the *Municipal Act, 2001* will be calculated using the OPTA system subsequent to the cut-off date of June 1, 2005. This calculation will occur during the period of the summer recess of Council, at a time when the local municipalities generally prepare their business class property tax bills. It is therefore recommended that the Regional Treasurer be authorized to determine the percentage of tax decreases for the 2005 taxation year that must be withheld to fund the cap on assessment related tax increases for each of the Commercial, Industrial and Multi-Residential classes.

Further, should the amount of tax increases exceed the available tax decreases needed to fund the cap on assessment related tax increases for any of the protected property classes, the Regional Treasurer be authorized to fund the resulting shortfall from the Property Tax Write-off Reserve Fund.

The Senior Management Group has reviewed this report.