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FUNDING OF COMMERCIAL, INDUSTRIAL AND MULTI-RESIDENTIAL PROPERTY TAX PROTECTION FOR THE 2007 TAXATION YEAR

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, May 7, 2007, from the Commissioner of Finance:

1. RECOMMENDATIONS

It is recommended that:

1. The Regional Treasurer be authorized to determine, for the 2007 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 2007 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 revised 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. (Report 4, Clause 2, Finance and Administration Committee, April, 2005).

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 specifies the approved clawback percentages for each of the protected classes for the 1998 through to the 2006 taxation years.

TABLE 1
Approved Clawback Percentages 1998 to 2006

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

Source: York Region Finance Department

3.2 Online Property Tax Analysis (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 accurate property tax billings, the Region annually requests that OPTA process 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, 2007 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 2007 Clawback Rates

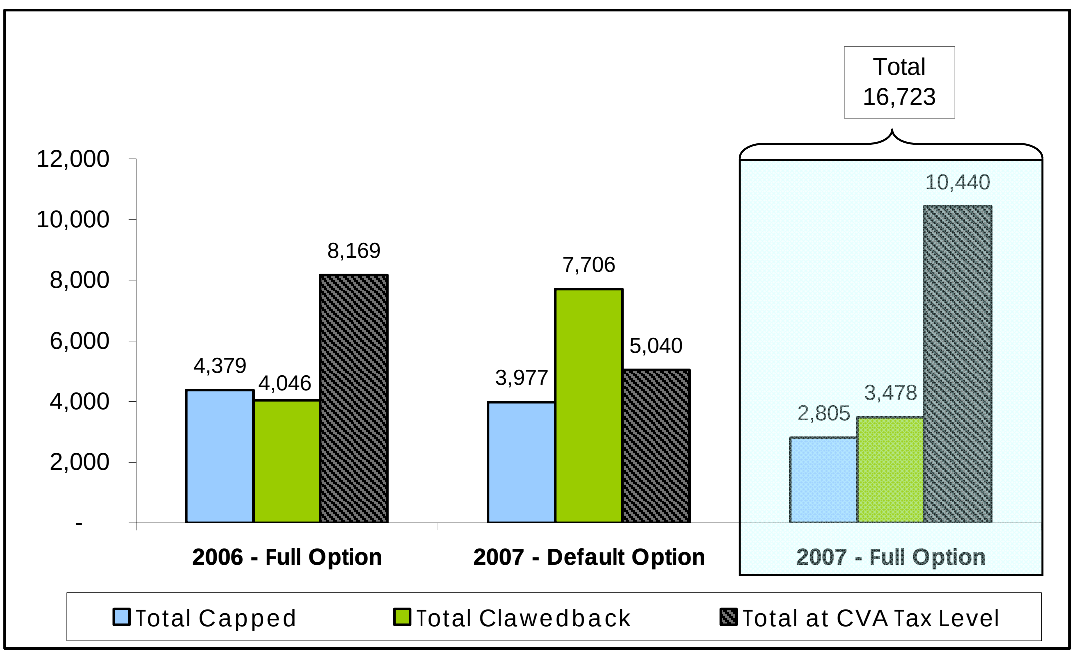
Final data required by the Region to set the clawback rates for the purpose of 2007 taxation will not be available to the Region until after the commencement of Council's recess for the summer. Therefore, in order for local municipalities to proceed with 2007 property tax billing for the protected classes 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 Estimated Impact of Capping Options Adopted By Council

Based on preliminary estimates, the continued application of the capping tools adopted by Council in 2005 will again accelerate a significant number of properties to their full CVA level of taxation.

Table 2 illustrates the distribution of properties across the capped, clawback, and CVA tax level categories projected for the 2007 taxation year.

TABLE 2
Distribution of Capped, Clawedback and CVA Level Properties
– Comparison of 2006 and 2007 Taxation Years

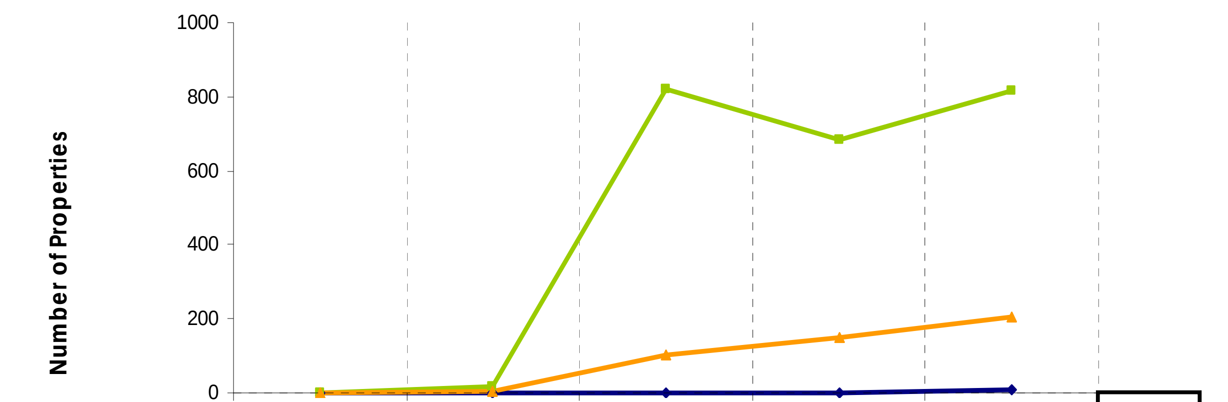


Out of the approximately 17,000 total protected properties across the Region, close to 10,500 (or 62%) properties are projected to reach their full CVA level of taxation due to the application of the approved capping tools; that is almost 2,300 more than what was achieved in 2006. It should be noted, however, that the Province has not yet authorized municipalities' request to retain properties at their CVA tax level once they have reached that level; as such, the status of these properties may change in the future years due to assessment value increases or decreases resulting from future reassessments. Consequently, only 2,800 (17%) properties are projected to remain capped for 2007 taxation. The resulting decrease in the protection requirement significantly reduces the required clawback rates applied to the estimated 3,500 (21%) affected properties. Preliminary results indicate clawback rate reductions of approximately 17% for the multi-residential class, and 11% for the commercial and 7% for the industrial class over what would have resulted without the application of the approved capping tools. These clawback rate reductions directly translate into property tax decreases that will be retained by the affected taxpayers as a result of the capping tools adopted by Council.

4.2.1 Frequency Distribution of Capped Property

Further, Table 3 illustrates the various levels of taxation applicable to properties remaining capped for the purposes of 2007 taxation. Based on preliminary data, this year the application of the capping tools will result in accelerating about 37% of the 2,800 remaining capped properties to at least 75% of their full taxation liability. The continued application of the capping tools in future years will result in the level of taxation on those properties to continue to increase progressively, subject only to the unforeseen assessed value changes due to future reassessments, which may further increase the protection requirements on those properties and delay their progress to CVA level of taxation.

TABLE 3
Levels of Taxation Payable by Properties Remaining Capped in 2007



	Level of Taxation >0 <= 10%	>10% <= 25%	>25% <=50%	>50% <75%	>=75%	TOTAL
Multi-Residential	0	0	0	1	9	**10**
Commercial	0	17	819	685	816	**2337**
Industrial	0	4	101	150	203	**458**
	0	**21**	**920**	**836**	**1028**	**2805**

4.2.2 New Construction/New-to-Class

Properties eligible for "New Construction/New-to-Class" treatment for property taxation purposes, are taxed at an average tax level derived from six comparable properties, usually at a level below their full CVA taxes, increasing the requirement for capping protection for affected property class.

As part of the capping tools adopted by Council in 2005, Council has also authorized that properties becoming eligible in 2007 be subject to a minimum level of taxation set at 90 % of CVA level taxes. Preliminary data indicates that 631 new construction and new-to-class properties will be subject to the minimum rate of taxation set at 90 % of their full CVA taxes for 2007 taxation. However, 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.

4.2.3 Estimated Clawback Rates

Table 3 indicates the estimated 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.

While, generally, the percentages shown at this point in time would be close to the final clawback results, due to the 2006 municipal election, several area municipalities are facing delays in finalizing their 2007 municipal tax rates, as well as in completing the assessment update kit process on newly protected properties, both of which are required by OPTA to accurately model the final 2007 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 approximately 58 properties for which municipal kits have not yet been submitted by the area municipalities and/or the Municipal Property Assessment Corporation (MPAC).

TABLE 4
2007 Estimated Clawback Percentages

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

Commercial Clawback Percentage	Industrial Clawback Percentage	Multi-Residential Clawback Percentage
67.50%	62.02%	26.83%

Source: OPTA, May 1, 2007

4.3 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 2007 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.

4.4 An Illustration of Property Tax Capping

As an illustration of the effect of the property tax capping legislation, assume that there are only two commercial properties in a municipality. One commercial property, Property #1 (an "increaser") has 2007 CVA level taxes of $17,000, but paid taxes of only $13,000 in the prior year – a year over year difference of $4,000. However, for the 2007, the municipality, using the same tax policy as York Region, could only collect an increase in taxes of just $1,300 (an increase of 10%) with the balance of $2,700 being protected as a result of the mandatory capping requirements.

The second commercial property, Property #2 (a "decreaser") qualifies for a reduction in taxes due to a decrease in its relative assessment. If its 2006 taxes were $12,000 but the 2007 CVA level taxes are $8,000 (again a year over year difference of $4,000), the commercial property class clawback for the year must be set at 67.5% to satisfy the capping protection offset requirement. In this case, $2,700 of the decrease must be withheld (i.e. clawed back) by the municipality in order to fund the cost protection given to Property #1. As a result Property #2 would receive a reduction of only $1,300, not the $4,000 anticipated.

TABLE 5
An Illustration of the Impact of Capping Protection

	Property #1 Increaser ($)		Property #2 Decreaser ($)	
2007 CVA Taxes	17,000		8,000	
2006 Taxes Paid	13,000	(A)	12,000	(A)
Yr/Yr Change in Taxes Prior to Cap and Clawback	4,000		-4,000	
Maximum Tax Increase Due to Cap – 10%	1,300	(B)		
Capping Protection To Be Funded	2,700			
Clawback Withheld To Fund Cap – 67.5%			-2,700	
Decrease Retained (tax reduction)			-1,300	(B)
2007 Taxes Paid After Cap and Clawback (A + B)	$14,300		$10,700	

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, 2007. 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 2007 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.

The Senior Management Group has reviewed this report.