3
2011 PROPERTY TAX CAPPING AUTHORIZATION REPORT

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report dated May 17, 2011, from the Director of Financial Services and Deputy Treasurer.

1. RECOMMENDATIONS

It is recommended that:

1. The Regional Treasurer be authorized to determine the percentage of property tax decreases that must be withheld to fund the capping protection on reassessment related tax increases for the Commercial and Industrial classes for the 2011 taxation year.

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 2011 taxation year ('clawback rate') so that local municipalities may issue their tax bills for the business property classes on a timely basis.

3. BACKGROUND

The Province of Ontario ('the Province') introduced Current Value Assessment (CVA) in 1998 with the goal of improving the consistency and equity of the assessment process in Ontario. At that time, there was concern that taxpayers in the business property classes would have to absorb extraordinarily high property increases as a result of the change in assessment valuation. To alleviate this impact, the Province enacted a number of transitional provisions through the *Fairness for Property Taxpayers Act*, *1998*, the *Continued Protection for Property Taxpayers Act*, *2000* and various legislative amendments and regulatory provisions under the *Municipal Act, 2001* ('the Act').

Council has approved the application of all available capping and tax protection options to date, with the goal of maximizing the movement of properties to CVA level taxes while minimizing the cost of capping and tax protection. A summary of these options is presented below.

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 CVA taxes.

2. Capped or clawed back properties that are within $250 of their full CVA taxes are moved to the CVA tax level in the current taxation year and are kept there for subsequent taxation years.

3. Eligible new construction/new-to-class properties are taxed at a minimum of 100% of their full CVA tax value for the 2009 and subsequent taxation years.

4. A property that reached its CVA tax level in the previous year is excluded from the capping program in the current and subsequent taxation years.

5. Properties that were in a capped or clawed back position in the previous year that, as a result of reassessment, would have crossed over in the current year (ie. move from clawed back to capped, or from capped to clawed back) are kept at the CVA tax level in the current and subsequent taxation years.

Council has adopted a long-standing policy of funding the cost of capping protection by establishing revenue neutral "clawback" rates for each protected class. These must be set prior to the issuance of final 2011 property tax bills by the local municipalities. The Act requires the Region to ensure that decreases and increases are equalized across the lower tier municipalities through a process called *bankering*. Bankering is the inter-municipal transfer of tax levy funds to offset capping protection.

The current phase-in of growth due to reassessment started in 2009

The Province established a date of January 1, 2008 for the revaluation of all properties in Ontario between 2009 and 2012. The current four year phase-in program applies to all property classes on assessment increases due to reassessment for this period. Any assessment decreases were fully phased-in back in 2009. For assessment increases, 25% of the valuation increase was added to the roll for each year beginning in 2009 and will be fully phased-in by 2012.

Progress to date

While the progress in moving properties to CVA level taxes has improved since 1998, a number of properties in the region continue to pay more (and in some cases, significantly more) than their CVA level of taxes to mitigate tax increases for capped properties. In the absence of changes to provincial tax policy, the current approach is expected to result in continued long-term inequity for some commercial and industrial property owners in York Region.

In addition, an imbalance continues to exist between capped and clawed back properties that may generate a future shortfall. A shortfall arises when the total capping protection afforded to a property class exceeds the decreases available for clawback in the property class. The Region has not been impacted by a shortfall since 2003 (in the industrial tax class) and 2004 (in the multi-residential tax class). As the timing and magnitude of any shortfall in 2011 are not known, this report recommends authorizing the Regional Treasurer to fund the Region's portion of any tax capping shortfall this year.

4. ANALYSIS AND OPTIONS

Setting 2011 Clawback Rates requires delegation of authority

In order for local municipalities to proceed with 2011 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 of property tax decreases to be withheld to fund the cost of capping protection for the commercial, industrial and multi-residential property classes.

Table 1 illustrates the approved clawback percentages over the last five years, as calculated via the Ontario Property Tax Administration System (OPTA).

Table 1
Final Clawback Percentages, 2006 to 2010

Year	Commercial Clawback Percentage	Industrial Clawback Percentage	Multi-Residential Clawback Percentage
2006	69.24	61.90	42.71
2007	74.20	72.27	30.40
2008	64.26	69.41	44.83
2009	79.96	76.94	12.92
2010	66.32	77.74	0.00

Source: OPTA, May 17, 2011

All protected multi-residential properties reached 100% of their CVA level taxes in 2010. Assuming that all capping and tax protection options continue to be employed, capping protection is no longer required for any properties in the multi-residential class.

Table 2 presents the value of protection and number of properties affected by tax capping protection in 2010. A comparison of 2010 and 2011 results will be provided in the Fall report.

Table 2
Property Tax Capping Protection Summary, 2010

	Multi-Residential	Commercial	Industrial	Total
Capped	0	1,354	191	1,545
Clawed Back	0	1,100	362	1,462
At CVA level taxes	250	13,879	2,321	16,450
Total	250	16,333	2,874	19,457

Source: OPTA, May 17, 2011

Preliminary OPTA Generated Clawback Percentages for 2011

Using the Council-approved capping options and the recommended tax protection options, Table 3 presents the interim clawback percentages for each of the protected property classes as at the time of this report. The preliminary values below may vary substantially at the time of data cut-off. The actual values will be presented in a by-law to Council in Fall 2011.

Table 3
2011 Preliminary Clawback Percentages

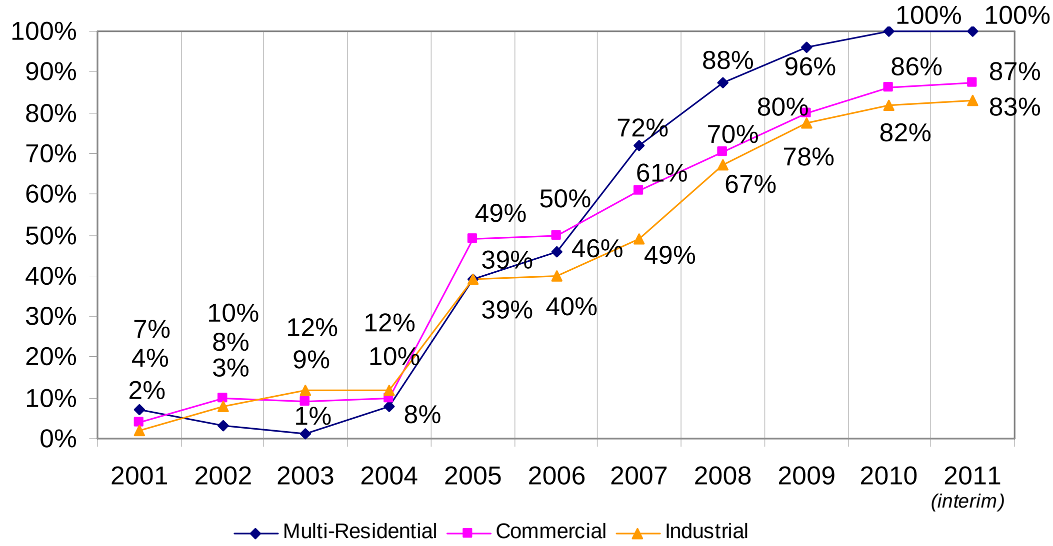
Year	Commercial Clawback Percentage	Industrial Clawback Percentage	Multi-Residential Clawback Percentage
2011	56.43	73.03	0.00

Source: OPTA, May 17, 2011

Using all capping and tax protection options will maximize the number of properties moving to CVA Level Taxes and is not expected to produce a shortfall in 2011

The following chart is shown for only illustrative purposes and is captured at a point in time to reflect their status prior to the OPTA cut off date of June 1, 2011. The analyses demonstrates that for each of the protected classes as of May 9, 2011, using the Council approved capping options as well as the tax protection options results in the greatest number of properties reaching CVA while minimizing the cost of capping protection. Chart 1 captures the estimated percentage of properties at CVA each year since 2001 using all available options, including interim results for 2011:

Chart 1
Percentage of Properties at CVA



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 business 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 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 any shortfall.

The 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 of this refund in order to fund tax protection in other municipalities. The actual results will be included in the Fall report.

7. CONCLUSION

As a result of the data not being available to have Council establish the necessary clawback rates, it is recommended that the Regional Treasurer be authorized to determine the percentage of property tax decreases to be withheld to fund capping protection costs. This will allow local municipalities to proceed with 2011 tax billings in a timely manner. Although there are unresolved properties currently, a shortfall is not expected by the cut off date of June 1, 2011. 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 final analysis of capping impacts and tax protection.

For more information on this report, please contact Mikael Gariepy, Fiscal Policy Analyst – Policy, Risk and Treasury at Ext. 1644.

The Senior Management Group has reviewed this report.