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2012 PROPERTY TAX CAPPING AUTHORIZATION REPORT

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report dated May 1, 2012, from the Commissioner of Finance.

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 2012 taxation year.

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

3. A bylaw 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 2012 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 that 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 (i.e., 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 rates must be set prior to the issuance of final 2012 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, to be phased in between 2009 and 2012. The current four year phase-in program applies to assessment increases due to reassessment for all property classes. Any assessment decreases were fully phased-in in 2009. For assessment increases, 25% of the valuation increase was added to the roll for each year beginning in 2009, resulting in full phase-in in 2012.

Progress to date

While the movement of properties to their CVA level taxes has progressed 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 in order to mitigate tax increases for capped properties. In the absence of a change to provincial tax policy, the current approach is expected to result in long-term inequity for some commercial and industrial property owners.

In addition, an imbalance between the number and size of capped and clawed back properties 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 in a given year. Although the Region has not been affected by a shortfall since 2003 for the industrial tax class and 2004 for the multi-residential tax class, the impact for 2012 is not known yet.

4. ANALYSIS AND OPTIONS

Setting 2012 Clawback Rates requires delegation of authority

In order for local municipalities to proceed with their 2012 property tax billings, 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 and industrial property classes.

Table 1 illustrates the final clawback percentages approved by Council over the last five years,

Table 1
Final Clawback Percentages, 2007 to 2011

Year	Commercial Clawback Percentage	Industrial Clawback Percentage	Multi-Residential Clawback Percentage
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
2011	58.49	69.58	0.00

Source: Ontario Property Tax Administration System (OPTA), April 10, 2012

As all protected multi-residential properties reached 100% of their CVA level taxes in 2010, capping protection is no longer required.

Table 2 presents the number of properties capped, clawed back and at CVA in 2011. A comparison of 2011 and 2012 will be provided in the Fall report.

Table 2
Property Tax Capping Protection Summary, 2011
Number of Properties

	Multi-Residential properties	Commercial properties	Industrial properties	Total properties
Capped	0	1,235	152	1,387
Clawed Back	0	983	338	1,321
At CVA level taxes	275	14,932	2,317	17,524
Total	275	17,150	2,807	20,232

Source: OPTA, April 10, 2012

Ontario Property Tax Administration (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 Assessment Review Board decisions, and supplementary and omitted assessment from the Municipal Property Assessment Corporation (MPAC), up to and including a pre-determined cut-off date. Including this information in the OPTA system before the commencement of billing will mean that local municipalities will need to make fewer post-billing adjustments.

In consultation with the local municipalities, a cut-off date of June 1, 2012 has been requested of OPTA, which will result in the final information being available to the Region in late June or early July.

Preliminary OPTA System Generated Clawback Percentages for 2012

Using the capping options previously approved by Council, Table 3 presents the interim clawback percentages for each of the protected property classes 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 to Council in a bylaw in the Fall of 2012.

Table 3
2012 Preliminary Clawback Percentages

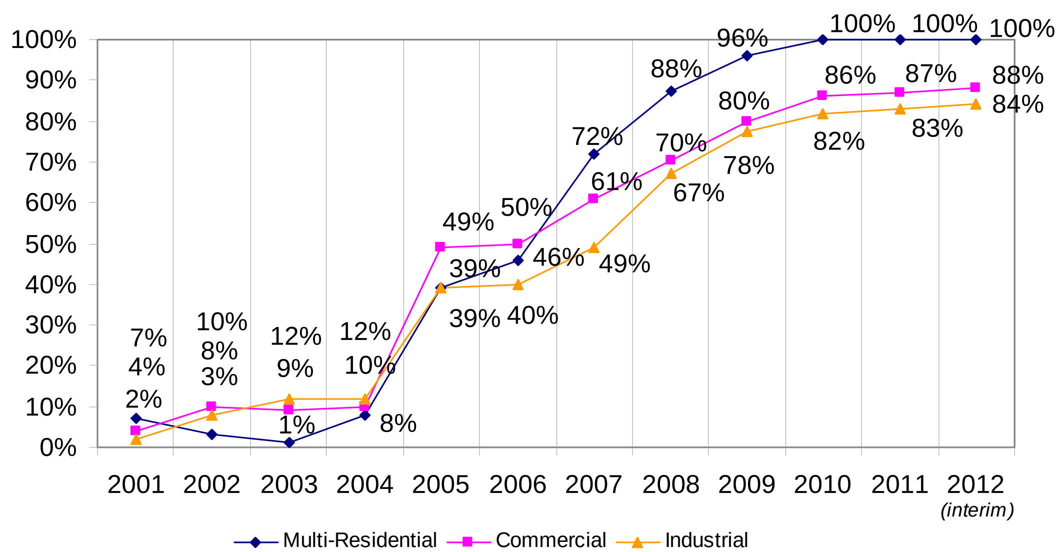
Year	Commercial Clawback Percentage	Industrial Clawback Percentage	Multi-Residential Clawback Percentage
2012	63.17	64.82	0.00

Source: OPTA, April 10, 2012

Using all capping and tax protection options maximizes the number of properties moving to CVA Level Taxes and is not expected to produce a shortfall in 2012

The following chart is shown for only illustrative purposes and the 2012 preliminary data is based on information in OPTA as at April 10, 2012. The actual 2012 clawback percentages will be finalized the Summer of 2012 and reported to Council in a Fall report. Chart 1 captures the estimated percentage of properties at CVA each year since 2001 using all available options, including interim results for 2012:

Chart 1
Percentage of Properties at CVA



Link to Key Council–approved Plans

By determining the clawback percentages for the 2012 business tax billings, the Region is better able to maintain continuity of operations and the delivery of programs and services that are deemed a priority in the 2011 to 2015 Strategic Plan.

5. FINANCIAL IMPLICATIONS

There are no anticipated 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. However, if it were to occur, it has been recommended that Region's share be funded from the Tax Stabilization Reserve Fund. Staff will report to Council in the Fall with respect to the amount of capping protection that was afforded to the business properties and the associated clawback rates.

6. LOCAL MUNICIPAL IMPACT

There are no anticipated financial implications for local municipalities. However, if a shortfall occurs, local municipalities and the Region are required to fund the shortfall in the same proportion that they receive taxes for the property class(es) in which the shortfall occurs. The 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 any capping shortfalls between local municipalities. 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 their 2012 tax billings in a timely manner.

Further, should the amount of property tax increases exceed the property 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 Tax Stabilization Reserve Fund.

Staff will report to Council in the Fall with an analysis of capping impacts and tax protection.

For more information on this report, please contact Ed Hankins, Director, Policy, Risk and Treasury at Ext. 1644.

The Senior Management Group has reviewed this report.