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2004 FUNDING OF CAPPED PROPERTY CLASSES

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, May 10, 2004, from the Commissioner of Finance:

1. RECOMMENDATIONS

It is recommended that:

1. The Regional Treasurer be authorized to determine for the 2004 taxation year the percentage of tax decreases that must be withheld to fund the 5% cap on assessment related tax increases for each of the Commercial, Industrial and Multi-Residential classes.

2. Should the amount of tax increases exceed the available tax decreases needed to fund the 5% 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.

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

2. PURPOSE

Local municipalities cannot issue their final 2004 property tax bills for the protected classes until such time as the Region sets the "clawback" percentages needed to fund the 5% cap on assessment related tax increases for businesses. Since 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 "clawback" percentages so that there will be no delay in the billing process.

The report also discusses the funding of any shortfalls that may arise as a result of insufficient available tax decreases to cover the cost of assessment related tax increases over and above the legislated 5% cap.

3. BACKGROUND

Bill 140 required that Council establish a permanent program to limit any annual tax increases resulting from reassessment to no more than 5% for the Commercial, Industrial and Multi-Residential classes, excluding farmland awaiting development, for the 2001 taxation year and beyond. However, budgetary increases in municipal tax levies which are outside of the legislated capping calculations can be passed onto property tax owners.

While legislation permits a municipality to fund the “cap”, in part or in whole, through the use of non-tax revenues, 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 2003 taxation year.

Table 1
Approved “Clawback” Percentages 1998 to 2003

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

Source: York Region Finance Department

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. The data in OPTA is continually updated to accurately reflect adjustments such as ARB decisions, supplementary assessments, omits, etc processed by 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 local municipal treasurers, a cut-off date of June 1, 2004 has been agreed to, which will result in the freezing of the data i.e. final information being available to municipalities, sometime in late June or early July.

In order for local municipalities to proceed with 2004 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.

In the event that a 100% “clawback” percentage is insufficient to cover the cost of the 5% cap for a property class in the 2004 taxation years this report also recommends authorizing the Regional Treasurer to fund the resulting shortfall from the Property Tax Write-off Reserve Fund.

4. ANALYSIS AND OPTIONS

Although final data is not yet available from OPTA, Table 2 shows an estimated "clawback" percentage for each of the protected classes for the 2004 taxation year based on the 2003 returned roll and the information in OPTA as of May 10, 2004.

Table 2
2004 Projected "Clawback" Percentages
(excluding impacts due to new construction/new to class properties)

Commercial "Clawback" Percentage	Industrial "Clawback" Percentage	Multi-Residential "Clawback" Percentage
85	80	100

Source: OPTA, May 10, 2004

Of particular concern for 2004 is the impact on the capping requirements associated with new construction/new to class properties which are not fully known yet.

Since new construction/new to class properties do not have a base year on which to apply the 5% cap, MPAC must establish one by comparing each new construction/new to class property to up to six other properties with like physical characteristics.

In high growth municipalities such as York, the impact of new construction/new to class can significantly increase the "clawback" percentage and/or the cost of the capping shortfall if comparable taxation levels of comparable properties are less than 100% of their CVA value. At this time, the data in OPTA indicates that "comparable" information is required for 133 Commercial properties and 93 Industrial properties.

Preliminary OPTA data projects a capping shortfall could exist in the Multi-Residential class. As there are no new to class properties in this class the shortfall of approximately $466,000 is expected to remain or increase slightly at the time of freezing the data in OPTA.

When capping shortfalls exist, the Region and its local municipalities are required to fund the capping shortfall in the same ratio as they receive taxation revenue from that particular property class (approximately 64% and 36% respectively for the Multi-Residential class). Municipalities are required to fund both the municipal and education portion of the property tax bill as shortfalls are not cost shared by the Province.

5. FINANCIAL IMPLICATIONS

Preliminary indications are that there will be a $466,000 shortfall in the Multi-Residential class for 2004, which if it occurs will be entirely funded by the Region and its local municipalities. The Region's share of the shortfall would represent approximately 64 % or approximately $298,000 of the total shortfall based on preliminary data.

As there has been no 2004 budget provided for a capping shortfall, should a shortfall occur it is recommended that the funding be provided from the Property Tax Write-off Reserve Fund.

6. LOCAL MUNICIPAL IMPACT

Should there be insufficient funds from a 100% ”clawback” percentage in the Multi-Residential class, it is estimated that 36% of the resulting shortfall is to be funded by local municipalities. Based on this percentage and preliminary data it is estimated that local municipal costs would be $168,000.

7. CONCLUSION

Bill 140 requires that property tax increases for the Commercial, Industrial and Multi-Residential property classes be capped at 5% for the 2001 taxation year and beyond. In order to ensure that property tax billing for these protected classes is not delayed, this report recommends that the Regional Treasurer be authorized to determine the “clawback” rates to withhold tax decreases to fund tax increases greater than 5% in each of the protected classes. Should the amount of tax increases exceed the available tax decreases needed to fund the 5% cap for any of the protected business classes, this report recommends that 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.