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FUNDING OF 2011 PROPERTY TAX CAPPING REQUIREMENTS

The Finance and Administration Committee recommends the adoption of the recommendation contained in the following report dated September 12, 2011, from the Commissioner of Finance.

1. RECOMMENDATION

It is recommended that this report be received for information.

2. PURPOSE

At its June 23, 2011 meeting, Council authorized the Regional Treasurer to set the “clawback” rates for 2011. This report confirms the clawback percentages that were determined to fund the capping protection on reassessment-related property tax increases for each of the business property classes during the 2011 taxation year.

3. BACKGROUND

The *Municipal Act, 2001* (“the Act”) requires that municipalities limit the amount of reassessment-related property tax increases for properties in the Commercial, Industrial and Multi-residential classes in accordance with property tax capping options provided to municipalities by the Province in 2005 and 2009.

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 within 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 a long-standing policy of funding the cost of capping protection by withholding an equivalent amount of available tax decreases (clawbacks) within each of the protected classes. Therefore, revenue neutral “clawback” rates for each protected class must be set prior to the issuance of final 2011 property tax bills by the local municipalities in order to avoid a revenue shortfall.

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.

Provincial capping legislation has been in place since 1998. Many York Region properties continue to pay less than (and, in some cases, significantly less than) their current value assessment (CVA) level taxes. The issue is one of taxpayer fairness: the cost of protection afforded to these protected properties is borne first by taxpayers in the same tax class that are eligible for tax reductions (“decreasers”) and then by all taxpayers when a shortfall of decreasers exists.

4. ANALYSIS AND OPTIONS

The calculation of the clawback percentages is based on assessment data provided by the Online Property Tax Analysis (OPTA) system administered by the Province. Table 1 below confirms the clawback percentages and other pertinent information for 2011 following the June 1, 2011 OPTA data freeze.

Table 1
Clawback Percentages and Funding Amounts for 2011

Property Class	Clawback (%)	Funding Required for Cap ($)	Decreasers Utilized ($)	Shortfall ($)
Multi-Residential	0.00	0	0	**0**
Commercial	58.49	4,318,383	4,318,383	**0**
Industrial	69.58	1,526,201	1,526,201	**0**

Source: OPTA June 24, 2011

As shown in Table 2 below, the clawback rates for Commercial and Industrial property classes have decreased since 2009, while the rate for the Multi-residential property class has remained at zero per cent since 2010.

Table 2
Capping Funding and Clawback Percentages: 2009 to 2011

Category	Year	Funding Requirement ($)	Clawback (%)
	2009	3,641	12.92
Multi-Residential	2010	0	0.00
	2011	0	0.00
	2009	6,501,920	79.96
Commercial	2010	5,371,671	66.32
	2011	4,318,383	58.49
	2009	1,844,942	76.94
Industrial	2010	1,719,497	77.74
	2011	1,526,201	69.58

Source: OPTA June 24, 2011

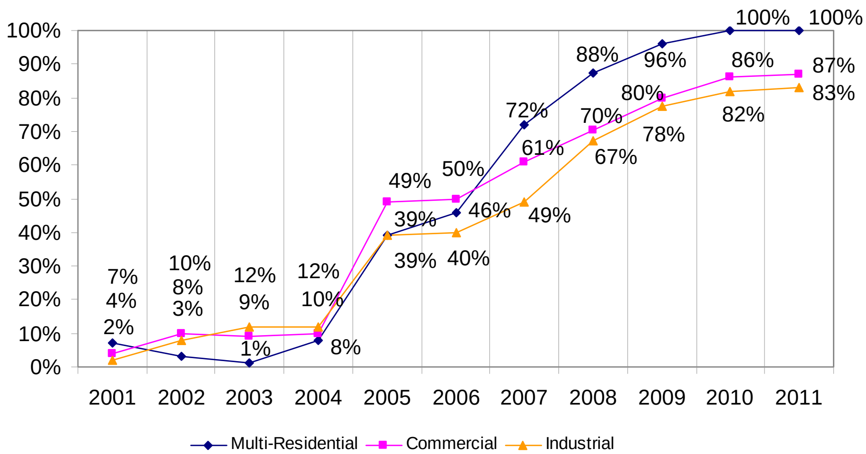
The funding requirement for capped properties decreases in 2011

The adoption of all capping tools and tax protection options has resulted in an ongoing reduction in the amount of tax decreases required to fund reassessment related tax capping. Total capping protection in the Region has decreased from about $8.4 million in 2008 to less than $5.9 million in 2011.

Current tax protection options remain effective in 2011

Chart 1 below shows the effect of the 2010 reassessment (for the 2011 taxation year) and the application of all capping and tax protection options.

Chart 1
Percentage of Properties at CVA by Property Class



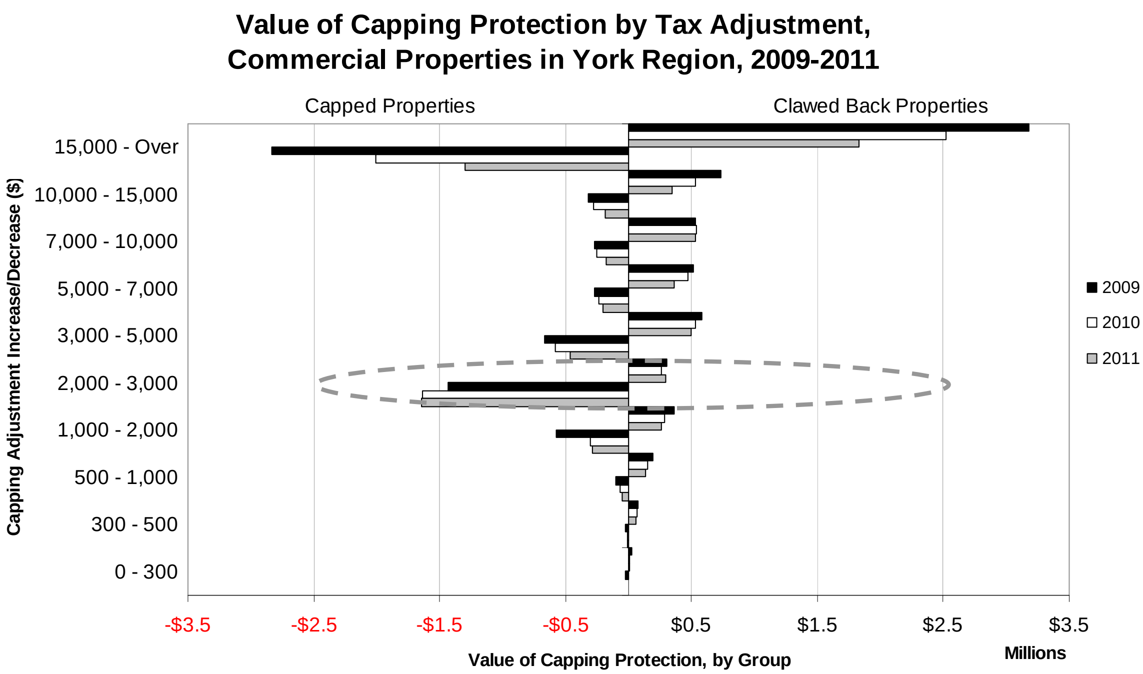
All properties in the Multi-residential class have attained and continue to pay their full CVA level taxes, while properties in the Commercial and Industrial property classes continue to progress towards 100% of CVA level taxes.

Insufficient clawed back properties in the Commercial property class beyond 2013 may generate a revenue shortfall

Without changes to existing policy options, a large number of capped Commercial properties are expected to generate a revenue shortfall. This is primarily attributable to an insufficient number of clawed back properties being available to provide offsetting protection as more properties move to CVA level taxes.

This can be observed in Chart 2, where the imbalance is particularly prominent in the highlighted areas i.e. in the $2,000 to $3,000 category. While it may seem that the highlighted category can be offset with potential surpluses in other categories, the general pool of clawed back properties continues to move to CVA level taxes at a faster rate than the capped properties. The relative movement of the pool of clawed back properties to the capped properties is important to monitor along with the inevitable general reassessment starting in 2013 and the likelihood of a shortfall.

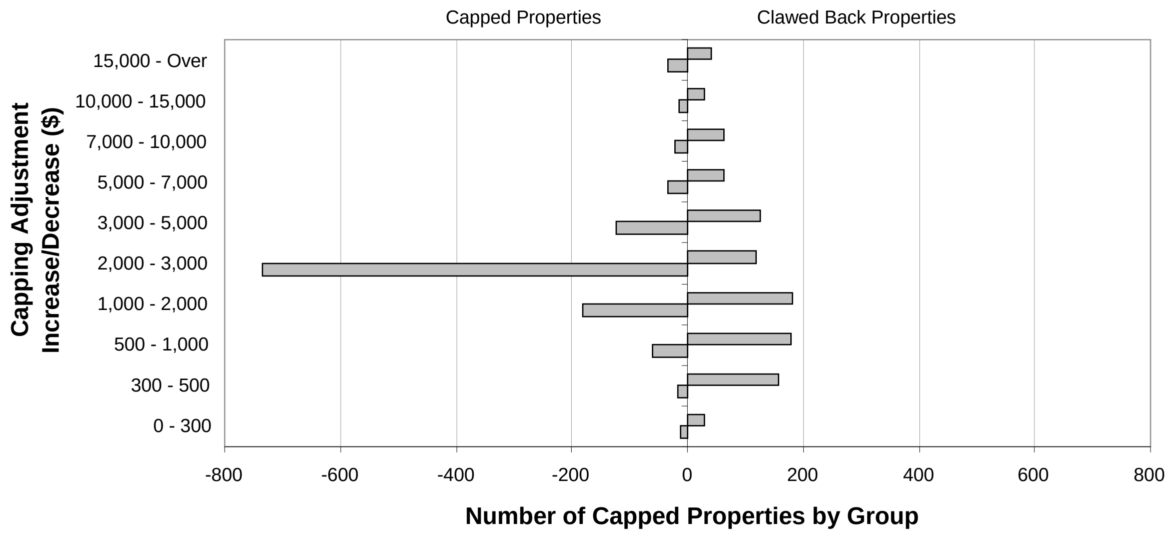
Chart 2



Additionally, Chart 3 provides another perspective to Chart 2 by profiling the number of capped and clawed back Commercial properties to its respective dollar magnitudes. While the Industrial property class has ample clawed back properties and dollars available for its capped properties, the Commercial property class appears to not. Chart 3 highlights that in the Commercial class, 983 clawed back properties in 2011 provided $4.318 million of funding to the 1,235 capped properties. The inequity of a diminishing pool of clawed back properties increases the likelihood of a shortfall beyond 2013.

Chart 3

Frequency Distribution of Capped Commercial Properties in York Region for 2011



Staff do not expect a shortfall to occur in 2012. The likelihood and magnitude of a capping shortfall occurring beyond 2012 is uncertain and is highly dependent on the next four-year assessment cycle that begins in 2013.

By employing all available tax capping options approved by Council to date, the 2013 general reassessment will not result in more properties being impacted by capping protection. However, existing capped and clawed back business properties are typically delayed in their movement towards CVA level taxes when a general reassessment occurs. Combined with the existing tax policy framework, this will prolong taxpayer inequity for many properties in York Region. Staff will continue to work with the Province to highlight the inequity and provide potential mechanics to accelerate the move of capped properties particularly in the highlighted areas of Chart 2.

5. FINANCIAL IMPLICATIONS

There is no net financial impact to the Region.

6. LOCAL MUNICIPAL IMPACT

Section 330 (6) of the Act requires that the Region act as a "banker" of the capping and clawback requirements, to ensure that the local municipalities do not experience shortfalls or surpluses resulting from the application of the capping legislation. Table 3 below outlines the "bankering" requirements for 2011 based on confirmed clawback rates.

Table 3
Local Municipal "Bankering" Accounts for 2011

Municipality	Net Amount of Bankering To/(From) the Region
Aurora	270,340
East Gwillimbury	91,450
Georgina	(7,502)
King	9,877
Markham	(2,138,550)
Newmarket	243,255
Richmond Hill	61,664
Vaughan	1,397,992
Whitchurch-Stouffville	71,474
Region of York	0

Source: OPTA June 24, 2011

Bankering adjustments are significant for some municipalities and are attributable to the current assessment phase-in as well as the application of all available capping protection options. The largest single bankering recipient in 2011, the Town of Markham, has a sizeable number of Commercial properties remaining protected. This increases the bankering contribution required from neighbouring municipalities to avoid a shortfall.

7. CONCLUSION

At its June 23, 2011 meeting, Council authorized the Regional Treasurer to determine the "clawback" percentages related to the funding of the capping provisions of the Act. This report confirms the clawback percentages that were determined by the Regional Treasurer. The "bankering" adjustments that arise from the application of the clawback rates are provided for information and have been communicated to each of the local municipal treasurers by correspondence.

For more information on this report, please contact Mikael Gariepy, Fiscal Policy Analyst, at Ext.1660.

The Senior Management Group has reviewed this report.