3
FUNDING OF 2012 PROPERTY TAX CAPPING REQUIREMENTS

The Finance and Administration Committee recommends the adoption of the recommendation contained in the following report dated September 5, 2012, from the Commissioner of Finance.

1. RECOMMENDATION

It is recommended that Council receive this report for information.

2. PURPOSE

At its June 28, 2012 meeting, Council authorized the Regional Treasurer to set the "claw back" rates for 2012. This report confirms the claw back percentages that were applied to fund the capping protection on reassessment-related property tax increases for each of the business property classes during the 2012 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 current value assessment (CVA) tax levels, 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 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 (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 a long-standing policy of funding the cost of capping protection by withholding an equivalent amount of available tax decreases (claw backs) within each of the protected classes. Therefore, revenue neutral “claw back” rates for each protected class must be set prior to the issuance of final 2012 property tax bills by the local municipalities in order to avoid a revenue shortfall.

The Region funds the cost of capping in each of the protected classes by retaining (clawing back) tax decreases from those properties in the class that are currently paying more than their CVA tax levels. The Act also requires the Region to ensure that decreases and increases are equalized across all the lower-tier municipalities through a process termed “bankering”. Bankering indirectly results in an inter-municipal transfer of tax levy funds to offset capping protection.

If there are insufficient tax decreases available within a given class to fund the amount of protection to the capped properties, there is deemed to be a shortfall in the class that must be funded jointly by the upper and lower-tier municipalities.

4. ANALYSIS AND OPTIONS

The calculation of the claw back percentages is based on assessment data provided by the Online Property Tax Analysis (OPTA) system administered by the Province. Table 1 below confirms the claw back percentages and other pertinent information for 2012 following the June 1, 2012 OPTA data freeze.

Table 1
Claw back Percentages and Funding Amounts for 2012

Property Class	Claw back (%)	Funding Required for Cap ($)	Decreasers Utilized ($)	Shortfall ($)
Multi-Residential [1]	N/A	N/A	N/A	N/A
Commercial	68.80	3,833,914	3,833,914	**0**
Industrial	63.80	1,363,890	1,363,890	**0**

1. All multi-residential properties have been at CVA tax levels since 2010
Source: OPTA June 29, 2012

The funding requirement for capped properties decreases in 2012

The adoption of all capping tools and tax protection options has resulted in a reduction in the amount required to fund reassessment-related tax capping. Total capping protection for the Region has decreased from about $8.4 million in 2009 to less than $5.2 million in 2012.

Table 2 shows the funding requirements and the claw back rates for the 2009 to 2012 CVA phase-in period. While these have significantly declined for all classes during this period, the claw back rate for the Commercial class jumped from 58.49% in 2011 to 63.80% in 2012.

Table 2
Capping Funding and Claw back Percentages: 2009 to 2012

Category	Year	Funding Requirement ($)	Claw back (%)
Multi-Residential	2009	3,641	12.92
	2010	0	0.00
	2011	0	0.00
	2012	0	0.00
Commercial	2009	6,501,920	79.96
	2010	5,371,671	66.32
	2011	4,318,383	58.49
	2012	3,833,914	63.80
Industrial	2009	1,844,942	76.94
	2010	1,719,497	77.74
	2011	1,526,201	69.58
	2012	1,363,890	68.80

Source: OPTA June 29, 2012

The 2012 increase in the claw back rate for the Commercial property class reflects the higher rate of movement among properties in the decreaser pool to their CVA tax levels, particularly for those within $250 of their full CVA taxes. About 8% of the pool of decreasers from 2011 moved to CVA tax levels in 2012. With fewer clawed back properties available in 2012, the clawed back rate rises and places an increased burden on the pool of decreasers.

Table 3 below highlights the number of properties that remain in the capping program and the number of properties at CVA tax levels in the Commercial and Industrial classes.

Table 3
Property Tax Capping Protection Summary, 2012
Number of Properties

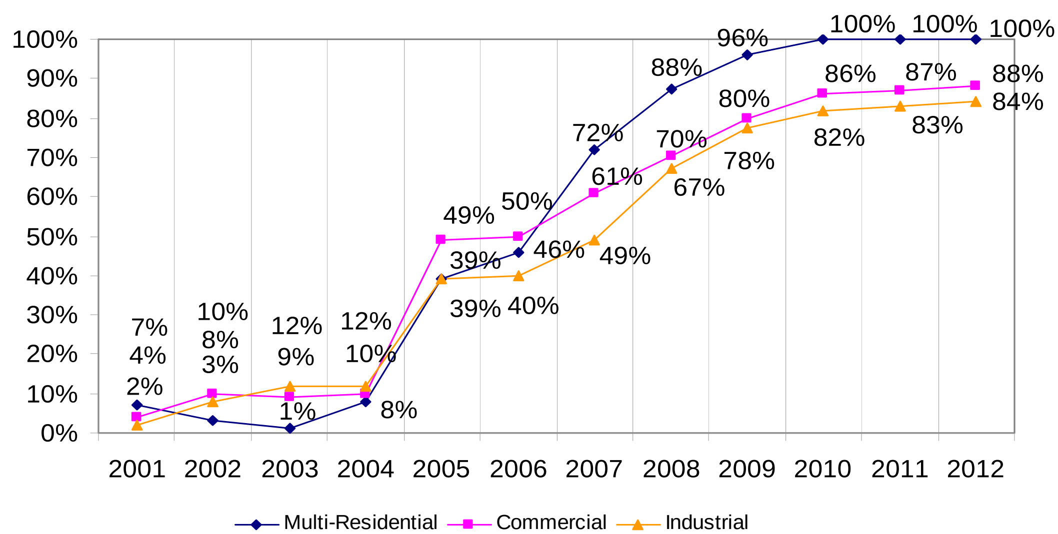
	Multi-Residential properties	Commercial properties	Industrial properties	Total properties
Capped	0	1,159	123	1,282
Clawed Back	0	903	311	1,214
At CVA level taxes	287	15,684	2,311	18,282
Total	287	17,746	2,745	20,778

Source: OPTA, June 29, 2012

More properties paying CVA level taxes in 2012

Chart 1 below shows the impact on properties as a result of applying 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.

Industrial property class unlikely to have a revenue shortfall in the future

The Industrial property class has ample clawed back properties and dollars available for its capped properties. As demonstrated in Table 3 above, for every capped property there were approximately 2.5 times the number of clawed back properties available for funding in 2012.

Commercial property class may be in a revenue shortfall as early as 2013

The application of capping options as well as the phase-in of assessment since 2009 has resulted in a decline in the number of properties being capped by 29%. On the other hand, the number of properties still available for claw back has declined by 35%. Furthermore, once a property has reached its CVA tax level it is no longer eligible for capping protection, nor can it be subject to future claw backs. These factors mean that there will be fewer properties available for claw back going forward than in the past.

Chart 2 shows the number of properties in each capping and claw back band for the commercial class in 2012. It should be noted that in the largest band, $2,000 - $3,000, there are approximately 700 capped properties that are mainly commercial condominiums.

Chart 2

Frequency Distribution of Capped and Clawed back Commercial Properties in York Region for 2012

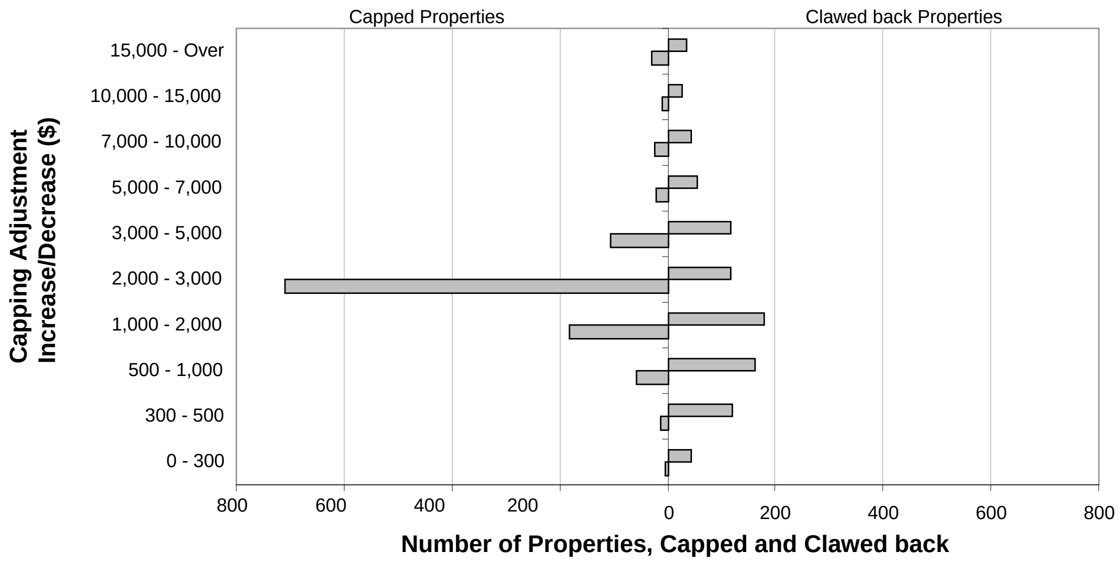
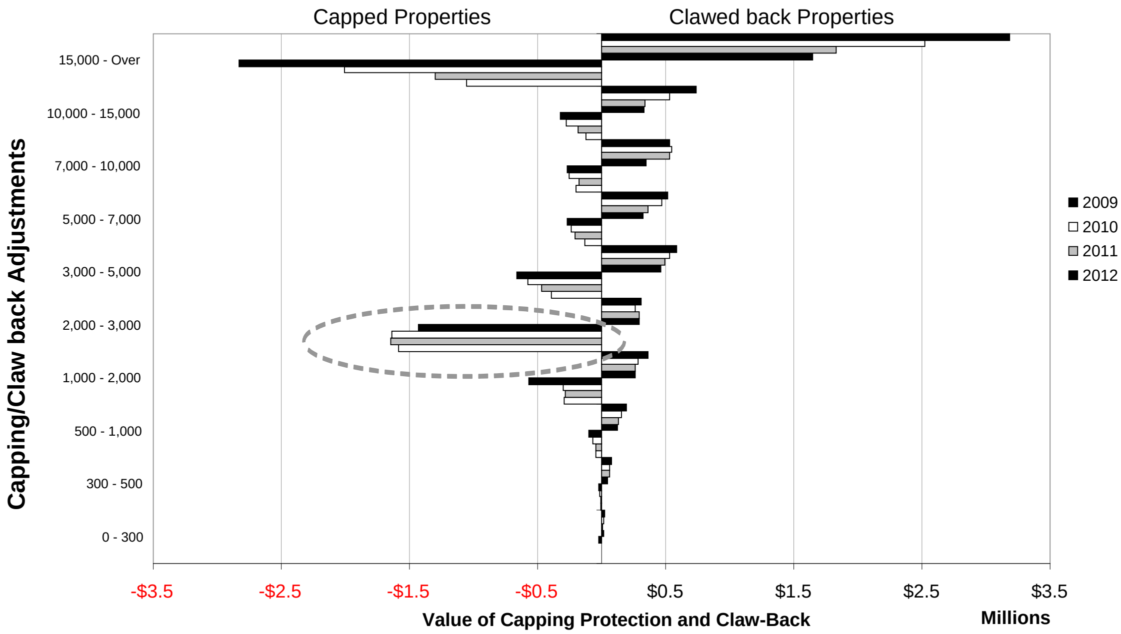


Chart 3 below shows the total value of capping protection and claw backs since 2009, using the same bands as Chart 2. For example, the 700 capped properties in the $2000 - $3000 band required approximately $1.6 million of funding in 2012.

Chart 3

Value of Capping Protection by Tax Adjustment, Commercial Properties in York Region, 2009-2012



Both Charts 2 and 3 highlight the pressure on the available pool of clawed back properties, especially for the properties in the $2,000 to $3,000 band. In 2012, a total of 903 clawed back properties provided $3.834 million of funding for the 1,159 capped properties in the commercial property class.

The movement of capped properties to their CVA level tax is based on the provincially prescribed options (e.g., the greater of 10% of previous year's annualized capped taxes or 5% of the previous year's annualized full CVA taxes). To the extent that the property tax capping requirements do not decline as fast as the funding from the claw back pool, a shortfall could occur, which would be borne by the Region and its local municipalities. The likelihood and magnitude of a shortfall is highly dependent on the outcome of the next four-year assessment cycle.

2012 general assessment may also further delay progress of capped and clawed back properties to their CVA tax levels

Since CVA was introduced in 1998, there have been reassessments in 2000, 2002, 2003, 2005, and 2008, and there will be one in 2012 that will be phased-in starting with the 2013 taxation year. As shown in Chart 1, changes due to reassessment have typically slowed the progress of business properties toward their CVA tax levels, as they generally increase the amount of capping and claw back required.

To the extent that the phase-in of reassessment on business properties increases their CVA tax levels (and therefore the amount of capping protection required), and these increases are not offset by commensurate decreases in the CVA level taxes for properties in the claw back pool, the claw back rate needed will increase.

With no further capping options expected for the next four-year assessment cycle (2013-2016), it is anticipated that the general reassessment will have a negative impact on the progress of businesses to their CVA level taxes.

Link to Key Council-approved Plans

The final 2012 claw back percentages for the business properties allows the Region to deliver programs and services that are deemed a priority in the 2011 to 2015 Strategic Plan.

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 claw back 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 2012 based on confirmed claw back rates.

Table 3
Local Municipal "Bankering" Accounts for 2012

Municipality	Net Amount of Bankering To/(From) the Region
Aurora	236,411
East Gwillimbury	58,517
Georgina	22,706
King	(28,164)
Markham	(2,030,604)
Newmarket	248,663
Richmond Hill	(12,662)
Vaughan	1,433,113
Whitchurch-Stouffville	72,020
Region of York	0

Source: OPTA June 29, 2012

Bankering adjustments are significant for some municipalities and are primarily attributable to the uneven distribution of capped and clawed back properties. The largest single bankering recipient in 2012, the City 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 28, 2012 meeting, Council authorized the Regional Treasurer to determine the "claw back" percentages related to the funding of the capping provisions of the *Municipal Act, 2001*. This report confirms the claw back percentages that were set by the Regional Treasurer. The "bankering" adjustments that arise from the application of the claw back 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 Ed Hankins, Director, Treasury Office, at Ext.1644.

The Senior Management Group has reviewed this report.