

Town of Whitby

Staff Report

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Report Title: Update on Property Tax Assessment Appeals and Adjustments

Report to: Committee of the Whole

Date of meeting: May 8, 2023

Report Number: FS 15-23

Department(s) Responsible:

Financial Services Department

Submitted by:

Fuwing Wong, Commissioner Financial Services & Treasurer

Acknowledged by M. Gaskell, Chief Administrative Officer

For additional information, contact:

Janet Battersby, Manager of Revenue
ext. 2815

1. Recommendation:

1. That Report FS 15-23 be received as information.

2. Highlights:

The Town of Whitby is required to process adjustments to the assessment values of properties where such adjustments are warranted as a result of one of the following: Assessment Review Board Decision, Minutes of Settlement, Post Roll Amended Notice or one of the other adjustments allowed for under legislation and confirmed by the Town. These adjustments are necessary to maintain fair current value assessments between property owners within the Town of Whitby.

A listing of properties with adjustments processed in 2022 is provided in Schedule A to this report. The Town portion of these adjustments processed in 2022 is \$855,635.14.

At the end of December 2022, there were approximately 36 outstanding property tax appeals for previous years at the Assessment Review Board representing approximately 17 properties.

3. Background:

Changes to the property tax class or property assessment can be initiated by the Municipal Property Assessment Corporation (MPAC), property owners and/or the municipality using one or more of these methods.

Under 19.1(5) and (7) of the Assessment Act, if a change is made to the current value other than a change resulting from a general reassessment, the assessment corporation shall make any adjustment required and notify the person whom the land is assessed and the municipality. These are processed as an Advisory Notice of Adjustment (ANA).

Under Section 32.(1) of the Assessment Act, despite the delivery of any notice provided for under this Act, the assessment corporation at any time before the time fixed for the return of the assessment roll may correct any defect, error, omission, or misstatement in any assessment and alter the roll accordingly. These are processed as a Post Roll Amended Notice (PRAN).

Under Section 32.(3) of the Assessment Act, if a property becomes exempt from taxation for a year or for part or all of the preceding year, the assessor shall make any assessment necessary to change the tax liability for the property. These are processed as a Special Amended Notice (SAN).

Under Section 33.(1) of the Assessment Act, if land liable for assessment has been in whole or part omitted from the tax roll for the current year or for all or part of either or both of the last two preceding years the assessment corporation shall make any assessment necessary to correct the omission.

Under Section 39.1 of The Assessment Act, the owner of a property or a person who has received or would be entitled to receive a notice of assessment under this act may request the assessment corporation to reconsider the assessment including the classification of the property by the dates as specified in the legislation.

Under Section 40.1 of The Assessment Act, any person, including a municipality or a school board, may appeal in writing to the Assessment Review Board (ARB) that,

- (a) the current value of the person's land or another person's land is incorrect;
- (b) the person or another person was wrongly placed on or omitted from the assessment roll;
- (c) the person or another person was wrongly placed on or omitted from the roll in respect of school support;
- (d) the classification of the person's land or another person's land is incorrect;
- (e) for land, the portions of which are in different classes of real property, the determination of the share of the value of the land that is attributable to each class is incorrect.

These requests for appeals are resolved through the ARB process which results in resolutions either through Minutes of Settlement between the parties or by an Assessment Review Board Decision. Along with the board chairperson, the parties

involved in this process would include the property owners and/or their representatives, the Municipal Property Assessment Corporation (MPAC) and the Town.

Under Section 357 of The Municipal Act, upon application to the Treasurer, the local municipality may cancel, reduce, or refund all or part of the taxes levied in the year if:

- (a) the property or portion of the property is eligible to be reclassified in a different class of property;
- (b) the land has become vacant land or excess land;
- (c) the land has become exempt from taxation;
- (d) a building on the land was razed or damaged by fire, demolition or otherwise;
- d(1) the applicant is unable to pay taxes because of sickness or extreme poverty;
- (e) a mobile unit on the land was removed;
- (f) a person was overcharged due to a gross or manifest error in assessing the property;

Under Section 358 of The Municipal Act, upon application to the Treasurer, the local municipality may cancel, reduce, or refund all or part of the taxes levied on land in one or both of the two years preceding the year in which the application is made for any overcharge caused by a gross or manifest error in the preparation of the assessment roll.

In the situation where the adjustment is a result of either a Section 357 or Section 358 application then MPAC would advise the Town on the impact(s) the change would have on the assessment value(s) and tax class(es) of the property.

Town staff are proactively managing the assessment base, monitoring properties that were assessed too low or have had a recent “change in use”. This information is provided to MPAC and result in more accurate values being placed on the assessment roll. This has included regular communication and information flow with MPAC, as well as proactive consultation to help ensure accuracy. In some cases when timing does not allow for any other options, the Town will file assessment appeals with the ARB directly.

4. Discussion:

Staff have delegated authority related to property tax and assessment matters heard by the ARB pursuant to the Uninsured Claims and Legal Matters Policy (Town Policy # CA 240). The delegated authority includes authority to settle/execute documents to settle ARB property tax or assessment matters on behalf of the Town. The policy also requires an annual report to Council outlining the status of outstanding and resolved claims.

1) Property Tax Appeals and Adjustments Processed in 2022:

Schedule A, attached to this report, lists the properties with tax adjustments that were processed in the 2022 calendar year under Sections 19.1(5) and (7), 32.(1), 32.(3), 33.(1), 39.1, and 40.1 of the Assessment Act, and Sections 357 and 358 of the Municipal Act.

2) Impact of Province-wide Assessments and Outstanding Property Tax Appeals:

Properties in Ontario are normally re-assessed by the Municipal Property Assessment Corporation (MPAC) every four years. The last two province-wide Assessment Updates/re-assessments took place in 2016 and 2012, based on a January 1, 2016 valuation date and a January 1, 2012 valuation date, respectively. Due to the COVID19 pandemic, the Province postponed the planned 2020 province-wide Assessment Update and 2016 assessment values were/will continue to be used for the taxation years 2021, 2022, and 2023.

Typically, with each MPAC province-wide reassessment cycle, there is an increased number of new appeals started by property owners and their tax agents. The Assessment Review Board (ARB) adjudicates assessment appeals on behalf of municipalities in Ontario and had a significant backlog of outstanding appeals for several years.

While there is some concern with having MPAC assessment values from 2016 (approximately 7 years old) as the basis of calculating current property taxes, the one benefit is that there were fewer new assessment appeals filed in recent years. The ARB has continued hearings (virtual vs. in-person) on assessment appeals during the pandemic and all assessment appeals related to the 2012 and prior re-assessment cycles were settled by the end of 2021. Accordingly, all of appeals that remain outstanding relate to the 2016 base year.

At the end of December 2022, there were approximately 36 outstanding appeals at the Assessment Review Board representing approximately 17 Whitby properties. These outstanding appeals (in addition to any new appeals filed in 2023) will continue to be scheduled by the ARB in 2023 and may impact the Town's tax adjustment budget and on-going property tax assessment base.

5. Financial Considerations:

Schedule A is a list of all of the tax adjustments that were processed in 2022. These adjustments are for the years 2009 to 2022, inclusive.

The Town's portion of the Schedule A adjustments is \$855,635.14. Of this total, \$80,296.99 is related to the 2022 taxation year with the remainder (majority) of the write offs processed in 2022 related to previously outstanding appeals at the ARB. The 2022 annual budget for write offs was \$750,000. The unfavourable variance in property tax write-offs in 2022 was offset by supplementary property tax revenue (e.g., additional property tax revenue from new assessment growth) in 2022.

Although the Town will continue to manage the assessment base to maintain equity and fairness, the annual write off totals will fluctuate depending on the accuracy of the assessment roll, decisions rendered by the Assessment Review Board, approved

Requests for Reconsiderations (RfRs), Post Roll Amended Notices (PRANs), Advisory Notices of Adjustment (ANAs), Special Amended Notices (SANs) and changes to legislation. The annual budget for write offs is based on estimated annual impacts over several years, as well as the special provision identified above to address the ARB backlog. The adjustments processed in 2022 will not affect the 2023 write off budget.

Variances may occur in both reassessment and non-reassessment years and significant write offs are offset by other operating budget surpluses where possible. In the event other operating budget surpluses are not available to fund material write offs and refunds in a year, the contingency reserve will be utilized to fund the shortfall. The contingency reserve may also be used to phase-in a higher write off budget, if required, in the future.

6. Communication and Public Engagement:

All affected property owners have been notified of these cancellations, reductions, adjustments, and/or refund of taxes through a personalized letter.

7. Input from Departments/Sources:

N/A

8. Strategic Priorities:

The processing of these Applications for Cancellation, Reduction, Adjustments and/or Refund of Taxes will support Council's Goal to continue the Whitby's tradition of responsible financial management and respect for taxpayers.

9. Attachments:

Schedule A – Town of Whitby 2022 Tax Write-Off Listing