



Report to: General Committee

Meeting Date: September 13, 2021

SUBJECT: Cancellation, Reduction, or Refund of Taxes under Sections 357 and 358 of the Municipal Act, 2001

PREPARED BY: Shane Manson, Senior Manager, Revenue & Property Tax

RECOMMENDATION:

1. That the Report for the Cancellation, Reduction or Refund of Taxes under Sections 357 and 358 of the *Municipal Act, 2001* be received; and,
2. That taxes totalling approximately \$539,344 be adjusted under Section 357 and 358 of the Municipal Act, 2001 of which the City's portion is estimated to be \$41,040; and,
3. That the associated interest be cancelled in proportion to the tax adjustments; and,
4. That the Treasurer be directed to adjust the Collector's Roll accordingly; and,
5. That staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

The purpose of this report is to authorize the Treasurer to adjust the Collector's Roll under Section 357 and 358 of the *Municipal Act, 2001 (The Act)*.

BACKGROUND:

Sections 357 and 358 of *The Act* allows for the reduction, cancellation or refund of taxes. Section 357 subsection (1) states that: upon application to the Treasurer of a local municipality, the local municipality may cancel, reduce or refund all or part of taxes levied on land in the year in respect of which the application is made if:

- a. if a property or portion of a property is eligible to be reclassified in a different class of property, and that class has a lower tax ratio for the taxation year than the class the property or portion of the property was in before the change, and if no supplementary assessment is made in respect of the change under subsection 34(2) of the *Assessment Act*;
- b. property that has become vacant land or excess land during the year;
- c. property that has become exempt from taxation during the year;
- d. building that during the year was razed by fire, demolition or otherwise, or was damaged by fire, demolition or otherwise so as to render it substantially unusable for the purposes for which it was used immediately prior to the damage;
- d.1. person who was unable to pay taxes because of sickness or extreme poverty;

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- e. property overcharged by reason of any gross or manifest error that is a clerical error, the transposition of figures, a typographical error or similar type of error, but not an error in judgment in making the assessment upon which the taxes have been levied; or
 - f. in respect of a property which by reason of repairs or renovations could not be used for its normal use for a period of at least three months during the year.

Pursuant to Section 357 subsection (3), an application must be filed with the Treasurer on or before the last day of February of the year following the year in respect of which the application is made.

Pursuant to Section 358 subsection (3), an application must be filed with the Treasurer between March 1 and December 31 of a year and may apply to taxes levied for one or both of the two years preceding the year in which the application is made and the application shall indicate to which year or years it applies. This section permits applications for tax adjustment, related to taxes levied in each or either of the two years preceding the year in which the application is made, by owners who are overcharged by reason of any gross or manifest error in the preparation of the assessment roll by the Municipal Property Assessment Corporation (MPAC) that was factual in nature. This may include, but is not limited to; clerical errors, the transposition of figure or typographical errors, but not an error in judgment in making the assessment upon which the taxes have been levied.

OPTIONS/ DISCUSSION:

In accordance with *The Act*, the notices of hearing for the properties listed in Appendix B, were mailed to the applicants fourteen days before the date of which the applications are heard. The notices for these properties were mailed to applicants on September 4, 2020.

The schedules attached identify the associated year of taxation, the assessment roll number of each property, the reason for the tax appeal, the resulting tax adjustment along with the proportionate share for the City, Region, and School Board. There are four (4) primary reasons for a property tax appeal application to be filed:

1. Razed by Fire / Demolition / Pool Removal: representing properties that have experience a structural fire, structural demolition or a pool removal. All such applications include a copy of the applicable permit and associated documentation.
2. Became Exempt: representing properties that were assessed on the assessment roll as taxable, but became exempt from taxation during the year;
3. Gross or Manifest Error: representing properties that require the property assessment to be amended due to errors identified in the overall valuation of the property.
4. Change in Tax Class: representing properties that were assessed on the assessment roll as one tax class, but became eligible to be reclassified into a different property during the year.

Applications received by the City are sent to MPAC for review and are returned with either a recommendation for tax adjustment or with no recommendation; which results in no associated tax adjustment. Applications that receive this type of recommendation indicate that the tax appeal does not meet the specified criteria under *The Act*. These applications have been reviewed and it was determined that they are not eligible for relief. There was twenty-seven (27) applications that were returned with a no recommendation, and therefore have no associated tax adjustment.

Of the 31 properties receiving tax adjustments totalling \$539,344, 86.5% or \$466,369 is attributable to four properties described below.

1. 1936 030 233 68100 (9999 Markham Road)

This property is located on the southeast corner of Markham Road and Major Mackenzie Drive East. The applicant filed a tax appeal application to change the tax class from Industrial Vacant Land to Multi-Residential class due to the Council's approval of draft plan subdivision 19TM-18007 on December 20, 2019. The resulting total tax adjustment for 2020 is \$275,396, of which the City's proportionate share is \$3,351.

2. 1936 020 121 42270 (115 Torbay Road)

This property is located northeast of the Woodbine Avenue and Steeles Avenue East intersection. The property was purchased by the City of Markham in August 2018, which has changed its tax class to exempt. The resulting total tax adjustment for the 2019 and 2020 taxation years is \$80,453, of which the City's proportionate share is \$10,876.

3. 1936 020 121 42280 (135 Torbay Road)

This property is located northeast of the Woodbine Avenue and Steeles Avenue East intersection. The property was purchased by the City of Markham in August 2018, which has changed its tax class to exempt. The resulting total tax adjustment for the 2018 and 2019 taxation years is \$57,712, of which the City's proportionate share is \$7,757.

4. 1936 020 126 59781 (3300 14th Avenue)

This property is located northeast of the Rodick Road and 14th Avenue intersection. The property was purchased by the City of Markham in August 2019, which has changed its tax class to exempt. The resulting total tax adjustment to the 2020 taxation year is \$52,808 of which the City's proportionate share is \$5,823.

FINANCIAL CONSIDERATIONS

As illustrated in figure 1 below, Markham's portion of the total tax adjustments is \$41,040. The remaining proportionate amounts noted in figure 1 below will be charged back accordingly to the levying bodies.

Figure 1: Tax Adjustments by Levying Body	
City of Markham	\$41,040
Region of York	\$85,476
Province of Ontario (<i>Education</i>)	\$412,828
Total Tax Adjustment	\$539,344

The City of Markham annually budgets for property tax adjustments, which come as a result of assessment appeals and from tax appeals filed under Section 357 and 358 of the *Municipal Act, 2001*. The 2020 property tax adjustment budget is \$1,301,000 which will fund the City's portion of the total tax adjustments noted in figure 1 above. The remaining property tax adjustment budget will fund other tax adjustments received throughout 2020.

Staff anticipate the property tax adjustment budget will be in a favourable position at year-end as a result of the current COVID-19 situation and the delays experienced by both the Assessment Review Board (ARB) and the Municipal Property Assessment Corporation (MPAC) during the provincial emergency closure period. Staff will report back with additional details through the year-end results of operations report.

HUMAN RESOURCES CONSIDERATIONS

Not applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:

Not applicable

BUSINESS UNITS CONSULTED AND AFFECTED:

Not applicable

RECOMMENDED BY:

Joel Lustiq
Treasurer

Trinela Cane
Commissioner, Corporate Services

ATTACHMENTS:

Appendix A – Tax Adjustments under Section 357 and 358 of the *Municipal Act, 2001*

Tax Adjustments under Section 357 and 358 of the *Municipal Act, 2001*
September 13, 2021 - General Committee Meeting

Report Total

Appendix B – Tax Adjustments Detailed List

Appeal Reason	Total Adjusted Amount	Total City Share	Appeal Count
Tax Class Change	\$275,933	\$3,381	2
Became Exempt	\$238,550	\$31,882	10
Razed by Fire / Demolition / Pool Removal	\$21,471	\$4,943	14
Gross or Manifest Error	\$3,390	\$834	5
Total	\$539,344	\$41,040	31

APPENDIX B

Tax Adjustments under Section 357 & Section 358 of the *Municipal Act, 2001*
Tax Adjustments Detailed List

TAX APPEALS: SECTION 357 - RESIDENTIAL					
Tax Year	Application	Roll Number	Property Address	Appeal Reason	Amount
2020	4864	36-01-0-022-36300	20 PHEASANT VALLEY CRT	Demolition	\$1,727.10
2020	4880	36-01-0-089-47400	16 FOREST PARK CRES	Razed By Fire	\$745.38
2020	4892	36-01-0-089-47600	18 FOREST PARK CRES	Razed By Fire	\$826.95
2020	4869	36-02-0-110-01216	24 WOOLSTHORPE CRES	Pool Removal / Fill-in	\$196.08
2020	4894	36-02-0-136-97042	22 SCHOONER CRT	Razed By Fire	\$7,758.15
2020	4895	36-02-0-170-77300	1 SPIREA CRT	Demolition	\$802.64
2020	4882	36-03-0-211-26250	10 GALBRAITH CRES	Razed By Fire	\$433.81
2020	4890	36-03-0-212-07374	107 GUINEVERE RD	Razed By Fire	\$925.47
2020	4868	36-04-0-280-16050	25 A WILSON ST	Razed By Fire	\$2,315.69
2021	4948	36-02-0-170-79900	19 WILDROSE CRES	Demolition	\$2,317.65
2021	4938	36-03-0-220-87832	0 UNITY GARDENS DR	Became Exempt	\$111.19
2021	4940	36-03-0-231-58300	0 LAKESIDE VISTA WAY REAR	Became Exempt	\$273.89
Total S.357 Residential				12 Appeals	\$18,434.00

TAX APPEALS: SECTION 357 - NON-RESIDENTIAL					
Tax Year	Application	Roll Number	Property Address	Appeal Reason	Amount
2019	4886	36-02-0-136-53010	0 CACHET WOODS CRT	Became Exempt	\$33,088.07
2020	4896	36-03-0-233-68100	9999 MARKHAM RD	Tax Class Change	\$275,396.21
2020	4899	36-04-0-290-72000	189 BULLOCK DR	Demolition	\$2,737.01
2021	4950	36-04-0-270-59300	80 PETER ST	Tax Class Change	\$537.01
Total S.357 Non-Residential				4 Appeals	\$311,758.30

TAX APPEALS: SECTION 358 -RESIDENTIAL					
Tax Year	Application	Roll Number	Property Address	Appeal Reason	Amount
2018	4934	36-03-0-234-32122	41 RALPH CHALMERS AVE	Gross Manifest Error	\$745.87
2019	4902	36-01-0-043-52947	239 ROMFIELD CIRCT	Pool Removal / Fill-in	\$261.97
2019	4947	36-03-0-231-10274	8 BECKETT AVE	Gross Manifest Error	\$291.97
2019	4935	36-03-0-234-32122	41 RALPH CHALMERS AVE	Gross Manifest Error	\$1,063.97
2019	4870	36-03-0-239-01550	69 COBBLER CRES	Pool Removal / Fill-in	\$152.68
2020	4903	36-01-0-043-52947	239 ROMFIELD CIRCT	Pool Removal / Fill-in	\$270.13
2020	4942	36-02-0-160-01005	1 DELFT DR	Gross Manifest Error	\$917.16
2020	4946	36-03-0-231-10274	8 BECKETT AVE	Gross Manifest Error	\$370.64
Total S.358 Residential				8 Appeals	\$4,074.39

TAX APPEALS: SECTION 358 - NON-RESIDENTIAL					
Tax Year	Application	Roll Number	Property Address	Appeal Reason	Amount
2018	4878	36-02-0-121-42280	135 TORBAY RD	Became Exempt	\$17,122.19
2019	4874	36-02-0-121-42270	115 TORBAY RD	Became Exempt	\$40,163.81
2019	4872	36-02-0-121-42280	135 TORBAY RD	Became Exempt	\$40,590.05
2019	4906	36-02-0-160-67000	11242 WARDEN AVE	Became Exempt	\$2,514.04
2020	4877	36-02-0-121-42270	115 TORBAY RD	Became Exempt	\$40,288.93
2020	4905	36-02-0-126-59781	3300 14TH AVE	Became Exempt	\$52,807.74
2020	4907	36-02-0-160-67000	11242 WARDEN AVE	Became Exempt	\$11,589.92
Total S.358 Non-Residential				7 Appeals	\$205,076.68

Total				31	\$539,343.37
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