



Report to: General Committee

Report Date: November 12, 2018

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**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

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**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 \$26,831 be adjusted under Section 357 of the *Municipal Act, 2001* of which the City's portion is estimated to be \$4,733; 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* allow 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;
- e. mobile unit that was removed from the land during the year;

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- f. 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
  - g. 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 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.

Section 358 of *The Act* 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 property 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 an error of fact. 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. These applications relate to taxes levied in each or either of the two years preceding the year in which the application is made.

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.

#### **OPTIONS/ DISCUSSION:**

In accordance with *The Act*, the Notices of Hearing for the properties listed in Appendix B, were delivered to the applicants not less than fourteen days before the date upon which the applications are to be dealt with November 12<sup>th</sup>, 2018. The notices of hearing for these properties were mailed to affected taxpayers on October 12, 2018.

The schedules attached identify the associated year of taxation, the assessment roll number of each property, the reason for the tax appeal and the tax adjustment. The tax values include the City, Region, and School Board.

There are three main reasons for these applications:

1. Razed by Fire or Demolished relating to the demolition of a building on a property that reduced the tax burden. All such applications include a City Demolition Permit;
2. Became Exempt representing properties that were assessed on the assessment roll as taxable, but became exempt during the year; or
3. Gross or Manifest Error that are as a result of errors by the Municipal Property Assessment Corporation (MPAC) on the assessment roll, which result in an overcharge of taxes.

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 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 are 7 applications that have no recommendation, and as a result have no associated tax adjustment.

Of the \$26,831 in total tax adjustments; 58% or \$15,537 is attributable to one property, which is detailed below.

1. 1936 020 125 47302 – 7755 Warden Avenue Unit 3: This commercial plaza is located along Alden Road and Warden Avenue. The property is owned by 1726410 Ontario Inc.

Upon review of the valuation and property details, MPAC has determined that the property assessment is overstated as a result of utilizing an incorrect square footage for the building. MPAC has amended the property assessment for the 2015, 2016 and 2017 taxation years to reflect the correct square footage information on the property. The resulting total tax adjustment is \$15,537, with the City portion being \$2,097.

#### **FINANCIAL CONSIDERATIONS:**

The City of Markham's portion of taxes for the taxation years between 2015 and 2018 is estimated to be \$4,733. The amount of taxes adjusted for the Region of York and School Boards will be reflected on the 2018 payment submissions to these bodies.

**Figure 1 - Tax Adjustments by Levying Body**

<b>Tax Adjustments under Section 357 of the <i>Municipal Act, 2001</i></b>	
City	\$4,733
Region	\$9,624
Education	\$12,473
<b>Total</b>	<b>\$26,831</b>

The City of Markham annually budgets for property tax adjustments, which come as a result of assessment appeals and from tax adjustments under Section 357 and 358 of the *Municipal Act, 2001*. The 2018 property tax adjustment budget is \$1,056,000 and will be impacted by \$4,733, resulting from Section 357 and 358 tax adjustments in this report. The balance of the funds will be used for other tax adjustments in 2018.

#### **HUMAN RESOURCES CONSIDERATIONS**

Not applicable

#### **ALIGNMENT WITH STRATEGIC PRIORITIES:**

Not applicable

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**BUSINESS UNITS CONSULTED AND AFFECTED:**  
None.

**RECOMMENDED BY:**

2018-10-15

2018-10-15

X 

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Joel Lustig  
Treasurer  
Signed by: cxa

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Trinela Cane  
Commissioner, Corporate Services  
Signed by: cxa

**ATTACHMENTS:**

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

Appendix B – Tax Adjustments Detailed List

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

## Report Total

Description	Adjusted Amount	Appeal Count
Gross or Manifest Error	\$15,537	3
Razed by Fire	\$7,264	6
Demolition	\$3,092	2
Became Exempt	\$938	1
<b>Grand Total</b>	<b>\$26,831</b>	<b>10</b>

## 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	Subsection	Total Amount
2017	4696	36-02-0-136-62478	14 HARTWELL PL	Razed by Fire	\$2,184
2017	4718	36-04-0-350-52300	28 PARAMOUNT RD	Demolition	\$1,712
2018	4720	36-02-0-144-55200	16 CACHET PKY	Razed by Fire	\$774
2018	4721	36-03-0-230-51930	98 LARKIN AVE	Razed by Fire	\$1,418
2018	4716	36-04-0-290-42600	8 GRENFELL CRES	Demolition	\$1,380
2018	4697	36-02-0-136-62478	14 HARTWELL PL	Razed by Fire	\$2,888
Total S.357 Residential				6 Appeals	\$10,356
Tax Appeals: Section 357 – Non-Residential					
Tax Year	Application	Roll Number	Property Address	Subsection	Total Amount
2017	4699	36-02-0-125-47302	7755 WARDEN AVE 3	Gross Manifest Error	\$5,410
2018	4695	36-04-0-300-61400	5762 HWY 7	Became Exempt	\$938
Total S.357 Non-Residential				2 Appeals	\$6,348
Tax Appeals: Section 358 – Non-Residential					
Tax Year	Application	Roll Number	Property Address	Subsection	Total Amount
2015	4701	36-02-0-125-47302	7755 WARDEN AVE 3	Gross Manifest Error	\$4,339
2016	4700	36-02-0-125-47302	7755 WARDEN AVE 3	Gross Manifest Error	\$5,788
Total S.358 Non-Residential				2 Appeals	\$10,127
Total (Sections 357 and 358)				10 Appeals	\$26,831