



Report to: General Committee

Report Date: September 18, 2017

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 \$71,979.01 be adjusted under Section 357 and 358 of the *Municipal Act, 2001* of which the City's portion is estimated to be \$11,180.27; 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 further,
- 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 *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 September 18, 2017. The notices of hearing for these properties were mailed to affected taxpayers on September 1, 2017.

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, School Board and Federation of Agricultures share of taxes.

There are four main reasons for these applications:

1. 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. They are properties that either were transferred during the year from a taxable owner to the City and therefore became exempt from tax (generally lands as part of subdivision agreements) or lands purchased by a school board and became exempt;

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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; or
 4. Overcharge by Error that are as a result of errors by the Municipal Property Assessment Corporation (MPAC) on the assessment roll, which caused an overcharge of taxes in one or both of the years preceding the current 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 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 11 applications that have no recommendation, and as a result have no associated tax adjustment.

Of the \$71,979.01 in total tax adjustments; 91.32% or \$65,728.99 is attributable to three properties, which are detailed below.

1. 1936 030 213 36600 – 5300 14th Avenue: This property, also known as Father Michael McGivney Catholic Academy, is owned by York Catholic District School Board (YCDSB). The YCDSB entered into an agreement with First Service Tennis Management Inc. (FSTM) to be the service provider of an Athletic Complex located on the Father McGivney School property. The sports dome facility was completed and the tenant (FSTM) commenced operation October 3, 2015. The Municipal Property Assessment Corporation (MPAC) assessed the sports dome facility as a commercial property in the fall of 2016, resulting in the City of Markham issuing a Supplementary Tax Bill in the amount of \$87,342 in December 2016.

On March 28th, 2017, the YCDSB adopted a resolution to grant the portion of the property occupied by the Dome and Clubhouse a School Capital Facility as exempt from all property taxes as of the date of passing the exemption resolution. YCDSB's grant of the exemption of the school capital facility was made pursuant to section 110(12) of the *Municipal Act, 2001* and section 8 of *O. Reg 603/06*.

On May 23, 2017, FSTM submitted a tax appeal application to the City of Markham requesting a refund of property taxes resulting from a gross and manifest error in the preparation of the assessment roll that is factual in nature for the 2015, 2016 and 2017 taxation years. The applicant states the property owner (YCDSB) notified MPAC in the summer of 2016 of its intention to enact a resolution to declare the sports dome a School Capital Facility. The applicant further indicated that YCDSB intended to exempt the Facility all at one time and that the assessment and classification issued by MPAC is a factual error that has required the imposition of taxes that should never have been levied by the City.

Section 110(16) of the *Municipal Act, 2001*, clearly states that a by-law passed under subsection (6) or (7) or a resolution passed under subsection (12) or (13) shall specify

an effective date which shall be the date of passing of the by-law or resolution or a later date. The facility was designated a School Capital Facility exemption on March 28, 2017, and as such is eligible for a tax exemption from that day forward which results in a tax adjustment of \$58,299.40 with the City's share being \$7,736.11.

The 2015 and 2016 taxation years are not eligible for a tax exemption as the facility was only designated a School Capital Facility on March 28, 2017.

2. 1936 010 030 66080 – 41 Deanbank Drive: The property was demolished on April 3, 2017 to facilitate the construction of a new residential structure. The resulting total tax adjustment is \$4,210.89 and the City's share being \$1,057.94.
3. 1936 020 180 54400 – 88 Main Street: A portion of the Residential property was tenanted and used as a Chiropractor's office since 2007. The practice ceased operations February 20, 2016. The property owner filed an application to correct the classification of the property from Commercial to Residential, which resulted in a total tax adjustment of \$3,218.70. The City share of the tax adjustment is \$812.57.

FINANCIAL CONSIDERATIONS:

The City of Markham's portion of taxes for the taxation years between 2015 and 2017 is estimated to be \$11,180.27. The amount of taxes adjusted for the Region of York and School Boards will be reflected on the 2017 payment submissions to these bodies.

Figure 1 - Tax Adjustments by Levying Body

Tax Adjustments under Sections 357 of the <i>Municipal Act, 2001</i>	
City	\$11,180.27
Region	\$22,490.03
Education	\$38,308.70
Total	\$71,979.01

The City of Markham annually budgets for property tax adjustments, which come as a result of assessment appeals, vacancy rebates and from tax adjustments under Section 357 and 358 of the *Municipal Act, 2001*. The 2017 property tax adjustment budget is \$663,000 and will be impacted by \$11,180.27 resulting from the Section 357 and 358 tax adjustments in this report. The balance of the funds will be used for other tax adjustments in 2017.

HUMAN RESOURCES CONSIDERATIONS

Not applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:


Not applicable

BUSINESS UNITS CONSULTED AND AFFECTED:

None.

RECOMMENDED BY:

2017-09-06

X 

Joel Lustig
Treasurer

2017-09-06

X 

Trinela Cane
Commissioner, Corporate Services

ATTACHMENTS:

Appendix A – Tax Adjustments Report Total

Appendix B – Tax Adjustments Detailed Listing

Appendix A

Tax Adjustments Report Total

Description	Adjusted Amount	Appeal Count
Demolished	\$9,044.10	6
Became Exempt - City Owned	\$1,181.01	4
Gross Manifest Error	\$3,454.50	3
Became Exempt - School Board Owned	\$58,299.40	1
Grand Total	\$71,979.01	14

Appendix B

Tax Adjustments Detailed Listing

Tax Appeals: Section 357 - Residential					
Tax year	Application	Roll Number	Property Address	Subsection	Total Amount
2016	4532	36-01-0-010-31000-0000	35 Jewell St	Demolished	\$481.53
2016	4546	36-02-0-170-42400-0000	27 Limcombe Dr	Demolished	\$802.45
2016	4545	36-04-0-280-37400-0000	7 Grenfell Cres	Demolished	\$602.26
2016	4542	36-04-0-280-37500-0000	9 Grenfell Cres	Demolished	\$280.42
2016	4564	36-04-0-330-40910-0000	0 Main St S	Exempt – City Owned	\$43.05
2017	4565	36-04-0-330-40910-0000	0 Main St S	Exempt – City Owned	\$48.37
2017	4555	36-01-0-030-66080-0000	41 Deanbank Dr	Demolished	\$4,210.89
2017	4562	36-02-0-170-30100-0000	1 Huckleberry Lane	Demolished	\$2,666.55
Total				8 Applications	\$9,135.52
Tax Appeals: Section 357 - Non-Residential					
Tax Year	Application	Roll Number	Property Address	Subsection	Total Amount
2016	4550	36-02-0-160-65200-0000	11106 Warden Ave	Exempt – City Owned	\$260.30
2017	4551	36-02-0-160-65200-0000	11106 Warden Ave	Exempt – City Owned	\$829.29
2017	4558	36-03-0-213-36600-0000	5300 14 th Ave	Exempt – School Owned	\$58,299.40
Total				3 Applications	\$59,388.99
Tax Appeals: Section 358 - Residential					
Tax Year	Application	Roll Number	Property Address	Subsection	Total Amount
2015	4539	36-02-0-112-25278-0000	38 Charnwood Pl	Gross Manifest Error	\$102.73
2016	4559	36-02-0-112-25278-0000	38 Charnwood Pl	Gross Manifest Error	\$133.07
2016	4540	36-02-0-180-54400-0000	88 Main St	Gross Manifest Error	\$3,218.70
Total				3 Applications	\$3,454.50
Total					
Total: Section 357				11 Applications	\$68,524.51
Total: Section 358				3 Applications	\$3,454.50
Total				14 Applications	\$71,979.01