



Report to: General Committee

Meeting Date: September 9, 2015

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 titled “Cancellation, Reduction or Refund of Taxes under Sections 357 and 358 of the *Municipal Act, 2001*” be received; and,
2. **THAT** taxes totalling approximately \$151,610.54 be adjusted under Section 357 of the *Municipal Act, 2001* of which the City’s portion is estimated to be \$37,371.59; 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 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(1) stipulates that upon application to the Treasurer, 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) 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) a property has become vacant land or excess land during the year;
- c) a property has become exempt from taxation during the year;
- d) a building 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;
- e) a person was unable to pay taxes because of sickness or extreme poverty;
- f) a mobile unit on the land was removed during the year;
- g) a person was overcharged due to a gross or manifest error that is clerical or factual in nature, including the transposition of figures, a typographical error or similar type of error but not an error in judgment in assessing the property; or
- h) 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(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(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 9, 2015). The Notices of Hearing for these properties were mailed to affected taxpayers on August 19, 2015

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 Business Improvement Area share of taxes. There are four main reasons for these applications:

1. Razed 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. 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;
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 28 applications that have no recommendation, and as a result have no associated tax adjustment.

Of the \$151,610.54 in total tax adjustments, 79% or \$119,317.09 is attributable to seven properties, which are detailed below. With respect to the first two properties listed, on July 28th City staff received a letter from a property owner inquiring about the inclusion of 145 Main Street Unionville within the Unionville Business Improvement Area (UBIA); which resulted in a detailed staff review of the boundaries within the UBIA by-law. As a result of the review, it was determined that both 141 and 145 Main Street Unionville are not included within the UBIA boundaries, and should therefore not be subject to the BIA levy. As the UBIA board was not aware of this prior to approving the 2015 budget, staff recommends that both properties not be subject to the BIA levy for 2015, and the associated levies for both properties will be paid by the City to the BIA (\$5,465.74 and \$4,974.15 respectively). In addition, the City solicitor is currently investigating the possibility of retroactivity, and have met with both the property owners and UBIA chair to advise of the same.

1. **1936 020 180 64200 – 141 Main St. Unionville** - The property was subject to a gross or manifest error with respect to its inclusion in the Unionville Business Improvement Area (UBIA) boundary, therefore resulting in a reduction of \$5,465.74 for the 2015 tax year.
2. **1936 020 180 64400 – 145 Main St. Unionville**- The property was subject to a gross or manifest error with respect to its inclusion in the Unionville Business Improvement Area (UBIA) boundary, therefore resulting in a reduction of \$4,974.15 for the 2015 tax year.
3. **1936 030 233 05110 – 0 Battista Perri Dr** - The property was purchased by the City of Markham on March 25, 2013. The property was reclassified from commercial to exempt resulting in a recommended total reduction of \$36,555.85. This property is located south-west of Bur Oak Ave and Markham Road.
4. **1936 020 132 22800 – 8688 Woodbine Ave** - The property was subject to a building demolition on May 23, 2014, which was confirmed by MPAC, therefore resulting in a recommended reduction of \$15,370 for the 2014 tax year.
5. **1936 030 236 83800 – 10566 Highway 48** - The commercial business that was operating on the property left the premises on August 1, 2013. The property was reclassified from commercial to farm resulting in a recommended total reduction of \$9,409.87.
6. **1936 020 154 49350 – 0 Prince of Wales Dr** – The property was purchased by the York Region District School Board on March 14, 2014. The property tax classification changed from residential to exempt resulting in a recommended total reduction of \$31,556.50 for the 2015 tax year.

7. **1936 030 211 08175 – 2 Kevlin Road -** The property was subject to a house fire on March 18, 2015, which was confirmed by MPAC, therefore resulting in a recommended reduction of \$15,984.98 for the 2015 tax year.

FINANCIAL CONSIDERATIONS:

The City of Markham's portion of taxes to be adjusted is estimated to be \$37,371.59. The amount of taxes adjusted for the Region of York and School Boards will be reflected on the 2015 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	\$37,371.59
Region	\$53,360.04
Education	\$60,878.91
Total	\$151,610.54

The City of Markham annually budgets for tax adjustments, which come as a result of assessment appeals, vacancy rebates and from tax adjustments under Section 357 of the Act. Markham's annual adjustment budget will be impacted by \$37,371.59 resulting from the Section 357 tax adjustments in this report. The budgetary impact of the City share will be addressed in the 2015 July Year-To-Date Review of Operations and Year End Projection report to General Committee on September 21st, 2015.

HUMAN RESOURCES CONSIDERATIONS

Not applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:

Not applicable

BUSINESS UNITS CONSULTED AND AFFECTED:

None.

RECOMMENDED BY:

01/09/2015

01/09/2015

X 

Joel Lustig
Treasurer

X 

Kimberley Kitteringham
Acting Commissioner, Corporate Services

Appendix A
Tax Adjustments under Section 357 & Section 358 of the Municipal Act, 2001
October 7th, 2015 - General Committee Meeting
Finance Department
Report Total

Description	Adjusted Amount	Count
BECAME EXEMPT	\$90,189.54	18
RAZED, DEMOLISHED	\$37,653.59	5
RECLASSIFIED	\$13,327.52	3
GROSS OR MANIFEST ERROR	\$10,439.89	2
Grand Total	\$151,610.54	28

ATTACHMENTS:

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

Appendix B – Tax Adjustments Detailed List

Appendix B
Tax Adjustments under the *Municipal Act, 2001*
Tax Adjustments Detailed List

Tax Appeals: Section 357 - Residential					
Tax Year	Application #	Roll Number	Property Address	Remark	Total Amount
2013	4384	36-03-0-260-46501	0 Donald Cousens pky	BECAME EXEMPT	\$86.64
2013	4387	36-03-0-260-46504	0 Donald Cousens pky	BECAME EXEMPT	\$141.31
2014	4396	36-03-0-220-55200	0 Glenbar Gdns	BECAME EXEMPT	\$4,952.62
2014	4395	36-03-0-220-56200	0 Coboto Trail	BECAME EXEMPT	\$4,778.06
2014	4385	36-03-0-260-46501	0 Donald Cousens pky	BECAME EXEMPT	\$89.25
2014	4388	36-03-0-260-46504	0 Donald Cousens pky	BECAME EXEMPT	\$145.59
2014	4391	36-04-0-280-23100	76 Robinson St	RAZED, DEMOLISHED	\$198.81
2015	4377	36-02-0-127-96128	0 South Town Centre Blvd	BECAME EXEMPT	\$9.27
2015	4364	36-02-0-154-49350	0 Prince of Wales Dr	BECAME EXEMPT	\$31,556.50
2015	4410	36-03-0-211-08175	2 Kevlin Rd	RAZED, DEMOLISHED	\$15,984.98
2015	4378	36-03-0-221-03036	0 Caboto Trail S/S	BECAME EXEMPT	\$2,181.02
2015	4379	36-03-0-221-03037	0 Lane A	BECAME EXEMPT	\$193.11
2015	4380	36-03-0-221-03038	0 Lane A	BECAME EXEMPT	\$196.90
2015	4375	36-03-0-231-08427	0 William Berczy Blvd	BECAME EXEMPT	\$81.79
2015	4374	36-03-0-233-06174	100 Battista Perri Dr	BECAME EXEMPT	\$2,923.19
2015	4383	36-03-0-260-46498	4 Saddlebrook Dr	BECAME EXEMPT	\$2,726.28
2015	4386	36-03-0-260-46501	0 Donald Cousens pky	BECAME EXEMPT	\$92.39
2015	4389	36-03-0-260-46504	0 Donald Cousens pky	BECAME EXEMPT	\$150.70
Total				18 Properties	\$66,488.41

Tax Appeals: Section 357 - Non-Residential					
Tax Year	Application Number	Roll Number	Property Address	Remark	Total Amount
2012	4333	36-03-0-210-00300	4510 Steeles Ave E	RAZED, DEMOLISHED	\$3,106.69
2013	4334	36-03-0-210-00300	4510 Steeles Ave E	RAZED, DEMOLISHED	\$2,993.11
2013	4412	36-03-0-233-05110	0 Battista Perri Dr	BECAME EXEMPT	\$36,555.85
2014	4399	36-02-0-126-49570	3315 14th Ave	RECLASSIFIED	\$3,665.62
2014	4344	36-02-0-126-76700	350 Yorktech Dr	BECAME EXEMPT	\$3,329.07
2014	4402	36-02-0-132-22800	8688 Woodbine Ave	RAZED, DEMOLISHED	\$15,370.00
2014	4370	36-03-0-236-83800	10566 Highway 48	RECLASSIFIED	\$9,409.87
2014	4392	36-03-0-256-80001	2879 Bur Oak Ave	RECLASSIFIED	\$252.03
2015	4416	36-02-0-180-64200	141 Main Street Unionville	GROSS OR MANIFEST ERROR	\$5,465.74
2015	4417	36-02-0-180-64400	145 Main Street Unionville	GROSS OR MANIFEST ERROR	\$4,974.15
Total				10 Properties	\$85,122.13

Total For All Tax Appeals					
Total: Section 357			28 Properties		\$151,610.54
Total: Section 358			0 Properties		\$0.00
Total			28 Properties		\$151,610.54