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

Presented To:	Hearing Committee
Meeting Date:	June 23, 2021
Type:	Public Hearing
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Recommended by:	General Manager of Corporate Services

Report Summary

This report provides a recommendation to authorize the Manager of Taxation to adjust the Collector's Roll under Section 357 and 358 of the Municipal Act, 2001, which authorizes the cancellation, reduction and/or refund of property taxes under certain circumstances.

Resolution

THAT taxes totaling $114,862.19 be adjusted under Sections 357 and 358 of the Municipal Act, 2001, of which the City's (municipal portion) is estimated to be $100,151.34, as outlined in the report entitled "Cancellation, Reduction or Refund of Taxes under Sections 357 and 358 of the Municipal Act, 2001", from the General Manager of Corporate Services presented at the Hearing Committee meeting on June 23, 2021;

AND THAT the associated interest be cancelled in proportion to the tax adjustments;

AND THAT the Manager of Taxation be directed to adjust the Collector's Roll accordingly;

AND THAT staff be authorized and directed to take appropriate action.

Relationship to the Strategic Plan / Health Impact Assessment

This report refers to operational matters.

Financial Implications

Of the total taxes to be struck from the tax roll, the City's portion is estimated to be $100,151.34 and the adjustment will be recorded in the 2021 financial records.

Figure 1 – Tax Adjustment by Levy Body
Tax Adjustments under Sections 357/358 of the Municipal Act, 2001

City (Municipal Portion)	$100,151.34
Education Portion	$ 14,710.85
Total	**$114,862.19**

Background

Sections 357 and 358 of the Municipal Act, 2001, provide the authority for the cancellation, reduction or refund of property taxes under certain circumstances. In the Municipal Act, 2001, provides for Council to hold a hearing at which applicants can make submissions regarding their applications. In accordance with the mandate of the Hearing Committee, this matter is before the Committee to hear any concerned applicants and to consider the recommendations arising out of the applications identified in this report.

Section 357:
Subsection 357(1) of the Municipal Act, 2001 (the "Act") identifies permitted grounds for an application for cancellation, reduction or refund of taxes as set out below:

Upon application to the treasurer of a local municipality made in accordance with this section, 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) as a result of a change event, as defined in clause (a) of the definition of "change event" in subsection 34(2.2) of the Assessment Act, during the taxation year, the property or portion of the property is eligible to be reclassified in a different class of real property, as defined in regulations made under that Act, and that class has a lower tax ratio for the taxation year than the class the property or portion of the property is in before the change event, and no supplementary assessment is made in respect of the change event under subsection 34(2) of the Assessment Act;

(b) the land has become vacant land or excess land during the year or during the preceding year after the return of the assessment roll for the preceding year;

(c) the land has become exempt from taxation during the year or during the preceding year after the return of the assessment roll for the preceding year;

(d) during the year or during the preceding year after the return of the assessment roll, a building on the land,

(i) was razed by fire, demolition or otherwise, or

(ii) 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) the applicant is unable to pay taxes because of sickness or extreme poverty;

(e) a mobile unit on the land was removed during the year or during the preceding year after the return of the assessment roll for the preceding year;

(f) 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 error but not an error in judgment in assessing the property; or

(g) repairs or renovations to the land prevented the normal use of the land for a period of at least three months during the year.

The time line for filing an application for cancellation, reduction or refund of taxes is found in Subsection 357(3) of the Act as set out below:

An application under this section 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.

Section 358:
Subsection 358 (1) the Act also provides for applications for cancellation, reduction or refund of taxes. Applicants under this section can apply for relief for a longer timeframe but face more restricted grounds, as set out below:

Upon application to the treasurer of a local municipality made in accordance with this section, the local municipality may cancel, reduce or refund all or part of the taxes levied on land,

(a) 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 that is clerical or factual in nature, including the transposition of figures, a typographical error or similar errors, but not an error in judgment in assessing the property; or

(b) in the year or years in respect of which an assessment is made under section 33 or 34 of the Assessment Act for any overcharge caused by a gross or manifest error in the preparation of the assessment that is clerical or factual in nature, including the transposition of figures, a typographical error or similar errors, but not an error in judgment in assessing the property.

Pursuant to Section 358 subsection (3) of the Municipal Act, 2001:

An application in respect of an error in the preparation of the assessment roll 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.

Options/Discussion:

The City forwards all applications for tax relief under Section 357 and Section 358 of the Act to the Municipal Property Assessment Corporation (MPAC) for consideration. MPAC conducts an internal review based on the information contained in the application against their records and recommends any necessary assessment and/or tax class changes. MPAC then issues a Response Form to the City and where applicable, makes a recommendation for a change to the assessment and/or tax class on the tax roll. This revised assessment and/or tax class provided by MPAC is what the City relies on to adjust the taxes.

In some instances, MPAC may determine that the application does not reveal any grounds to reduce assessment and/or change tax class. MPAC would provide a Response Form to the City with a notation of "No Recommendation" for these applications. Examples for MPAC to issue a "No Recommendation" may be that the assessment was already altered through some other mechanism such as a Request for Reconsideration, the situation described in the application was not significant enough to change the assessment, or it may be determined that there was no assessment relating to the change included in the roll returned roll (building was not assessed or was fully depreciated). If the assessment is unchanged, the properties identified in these applications are not eligible for a tax adjustment or reduction.

Upon the return of the Response Forms from MPAC, they are reviewed by staff and in accordance with the Act the property owners are notified of the recommendation and advised of their options to respond. Property owners have the right to appeal to Council, through the Hearing Committee process.

Of the applications included in the attachments for this report, MPAC advised there was 'No Recommendation' on 8 (eight) applications and as a result, no tax relief is being proposed. These applications are identified in Appendix 'C' and the reason for the 'No Recommendation' is included for your information. There is no tax adjustment to be made in these instances.

Of the applications on which MPAC did make recommendations, 47 applications were under Section 357 of the Act for relief of taxes. The chart contained in Appendix 'B' lists these showing the reason for and the estimated amount of the tax adjustment.

The main reason(s) for these applications was:

- Fire / Demolished - relating to the demolition or damage due to fire of a building on the property that reduced the assessed value;

- Became Exempt - representing a property that was assessed on the assessment roll as taxable, but became exempt during the year. This property was either transferred during the year from a taxable owner to the City or another non- taxable owner or tenant such as a school board, hospital or it become a place of worship;

- Class Change - a change event occurred that made the property or a portion of the property eligible to be reclassified in a different class that has a lower tax ratio/tax rate;

The remaining applications are for relief under Section 358 of the Act for:

- Gross or Manifest Error – an overcharge of taxes due to errors by the Municipal Property Assessment Corporation (MPAC) on the assessment roll that is clerical or factual in nature.

Appendix 'B' details the estimated tax changes resulting from these recommendations.

Appendix 'A' to this report sets out a breakdown of estimated total tax reductions by Municipal, Education and Business Improvement Area portions by of category of permitted reasons for the cancellation, reduction and refund.

The property owners were advised of the recommendations or no recommendations in writing on or before April 16, 2021. Staff were able to respond to all questions or concerns raised by the affected property owners. Applicants are encouraged to notify staff if they wish an opportunity to appear before the Hearing Committee to challenge the recommendations of this report. While no such requests were received, any of the applicants are entitled to attend before the Committee to make representations regarding their application.

Summary:

It is recommended that Committee approve the tax cancellations, reductions and refunds as shown for the rolls as set out on Appendix 'B' and summarized in Appendix 'A'.

Resources Cited

Municipal Act, 2001