

Background

Section 357 of the *Municipal Act, 2001*, provides authority for the cancellation, reduction or refund of all or part of the taxes levied on land under certain circumstances. There are eight of these circumstances that enable a taxpayer to make application to the treasurer as set out in subsection 357(1):

- (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.*

With the exception of claims under 357(1)(d.1), based on sickness or extreme poverty, the applications are related to change events that occur during the year and can be dealt with administratively. In these instances, staff evaluates the applications for completeness and accuracy and based on recommendations by the Municipal Property Assessment Corporation (MPAC) as to changes (if any) in the assessment of the property resulting from the identified events determine

whether a tax adjustment is required. The amount of any tax adjustment is dictated by the change to the assessed value. Any proposed tax adjustments arising from applications under s. 357 are approved by Council before processing. Applicants have an opportunity to attend a hearing before the Hearing Committee to resolve any disputes regarding their application(s).

Applications under Subsection 357(1)(d.1) for cancellation, reduction or refund of all or part of the taxes levied on the land are based on the applicant's claim of inability to pay taxes because of sickness or extreme poverty. These applications are based on compassionate grounds and cannot be determined in the same manner as the remaining sections which are based on whether a specified event resulted in a change in the assessed value of the land. While applications under this clause are rarely received, staff wish to ensure that there is a policy framework for addressing such applications.

Council may choose one of two paths moving forward.

The *Municipal Act, 2001*, subsection 357(11), provides Council with the ability to delegate to the Assessment Review Board, its decision making authority for claims for tax cancellation, reduction or refund, found in subsections 357(1) and 357(5), based on claims under 357(1)(d.1), of sickness or extreme poverty.

Alternatively, if Council wishes to retain the authority to remain the decision maker with respect to applications under 357(1)(d.1), a framework for decision making should be established. This is important as The *Municipal Act, 2001*, provides no definition or specific criteria as to what constitutes "sickness or extreme poverty" and does not establish the evidentiary requirements to successfully support such applications. To provide a level playing field to applicants, guidelines should be established.

Options/Discussion:

Delegate Authority to ARB

The Assessment Review Board is an independent adjudicative tribunal established under the Assessment Act, with a mandate to hear appeals about property assessment and classification that also deals with some Municipal Act appeals. Members hear appeals and make decisions based on the law and the evidence presented at the hearing. Decisions by the ARB are final and binding, subject only to appeal to Divisional Court on questions of the law when the Court grants leave to appeal.

A by-law delegating authority to the Assessment Review Board to make decisions regarding tax cancellation, reduction or refund based on sickness or extreme poverty [357(1)(d.1)] allows for applicants to make application directly to the ARB. The ARB has experience as a hearing body, so applicants can expect:

- a consistent approach by an independent body that has experience with this particular type of appeal
- a set of strict evidentiary standards, including the administration of oaths
- effective guidelines for confidentiality of personal information and
- formal rules for proceeding to be applied in accordance with legislation related to the ARB

Information from the Assessment Review Board regarding tax relief due to sickness or extreme poverty is attached to this report as Appendix 'A' and a guide to the Assessment Review Board is Appendix 'B'.

Staff have researched and determined that this is a standard practice by municipalities around the Province such as the City of Toronto, City of Mississauga, City of Hamilton, Town of New Market and many more to have authority delegated to the Assessment Review Board to evaluate and decide on behalf of the municipality whether a property owner(s) should receive tax relief due to sickness and extreme poverty.

If this is Council's preferred approach, Council will need to pass a by-law to delegate its decision making authority under s. 357(1)(d.1) to the Assessment Review Board.

It is important to note that there are no fees to the applicant associated with applications under subsection 357(1)(d.1) to the Assessment Review Board should Council choose to delegate its authority as described.

A by-law delegating authority to the Assessment Review Board can always be repealed by Council, and its authority under 357(1)(d.1) restored.

Retain Authority

If Council's preference is to retain its decision making authority under 357(1)(d.1) regarding appeals for tax relief based on sickness and extreme poverty, it is recommended that a policy and guidelines be developed to establish the requirements and supporting material to be submitted by the applicant; a process to be followed; and guidelines to assist Council in assessing entitlement to relief, the amount of relief to be granted, and any conditions.

Past experience with applications of this type has shown that applicants have not provided the additional information requested to assess the applications. It is possible that even with a detailed policy and guidelines, applicants may be hesitant to make application and/or provide their personal information due to the sensitive nature of their circumstances. Since all applications are brought forward to the Hearing Committee for recommendation to Council, reports are prepared and certain information (property roll numbers) may be made public or the applicant may have to attend an open public meeting to have their application heard.

Decisions on applications would have to be made by Council by September 30 of each year in accordance with statutory guidelines.

The applicant would be entitled to file an appeal with the Assessment Review Board if the applicant disagreed with Council's decision or if Council failed to make a decision by September 30th. Unlike the situation where the applicant applies directly to the ARB, fees could be applicable where the applicant appeals to the Assessment Review Board regarding a decision of Council or Council's failure to make a decision by the deadline.

Summary:

It is recommended that in accordance with Subsection 357(11) of the *Municipal Act, 2001*, Council delegate their powers and functions under subsections 357(1) and (5) to the Assessment Review Board relating to applications made under subsection 357(1)(d.1) and that the appropriate by-law be passed.