

Clause 9 in Report No. 9 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on May 19, 2016.

9

2016 Property Tax Capping Authorization Report

Committee of the Whole recommends adoption of the following recommendations contained in the report dated April 28, 2016 from the Commissioner of Finance:

1. Council adopt all of the new property capping options, prescribed by Bill 144, *Budget Measures Act* as amended, as shown in Table 1
2. The Regional Treasurer be authorized to determine the percentage of property tax decreases to be withheld in order to fund the cost of capping reassessment-related tax increases in the commercial and industrial classes for the 2016 taxation year.
3. Should the amount of property tax decreases available from any of the property classes be insufficient to fund the capping requirement, the Regional Treasurer be authorized to fund the Region's share of the resulting shortfall from the Tax Stabilization Reserve.
4. The Regional Clerk circulate the report to the local municipalities.

Report dated April 28, 2016 from the Commissioner of Finance now follows:

1. Recommendations

It is recommended that:

1. Council adopt all of the new property capping options, prescribed by *Bill 144, Budget Measures Act* as amended, as shown in Table 1
2. The Regional Treasurer be authorized to determine the percentage of property tax decreases to be withheld in order to fund the cost of capping reassessment-related tax increases in the commercial and industrial classes for the 2016 taxation year.
3. Should the amount of property tax decreases available from any of the property classes be insufficient to fund the capping requirement, the Regional

Treasurer be authorized to fund the Region's share of the resulting shortfall from the Tax Stabilization Reserve.

4. The Regional Clerk circulate the report to the local municipalities.

2. Purpose

This report seeks authorization for the Regional Treasurer to determine the percentage of tax decreases to be withheld for the 2016 taxation year to fund "capped" properties, so that local municipalities may issue their final tax bills for the business property classes on a timely basis.

3. Background

The Province originally introduced the capping program to alleviate the impact of current value assessment on the business property class

The Province of Ontario introduced Current Value Assessment (CVA) in 1998, with the goal of improving the consistency and equity of the assessment process in Ontario. At that time, there was concern that taxpayers in the business property classes would have to absorb extraordinarily high property tax increases due to the change in their assessment valuation. To alleviate that impact, the Province enacted a number of transitional provisions through the *Fairness for Property Taxpayers Act, 1998*, the *Continued Protection for Property Taxpayers Act, 2000*, and various legislative amendments and regulatory provisions under the *Municipal Act, 2001* ('the Act').

Council has historically adopted all available options to reduce the impact of the capping program

Historically, Council has approved the application of all available capping options for business and multi-residential properties that would maximize the movement of properties to their Current Value Assessment level taxes, while at the same time minimize the cost of capping. A summary of these options is presented below:

1. Assessment-related property tax increases for capped properties are limited to an amount that is the greater of ten per cent of the previous year's annualized capped taxes, or five per cent of the previous year's annualized full Current Value Assessment taxes;

2. Capped or clawed back properties that are within \$250 of their full Current Value Assessment taxes are moved to the Current Value Assessment tax level in the current taxation year and are kept there for subsequent taxation years;
3. Eligible new construction/new-to-class properties are taxed at 100 per cent of the property tax associated with their Current Value Assessment for the 2009 and subsequent taxation years;
4. A property that reached its Current Value Assessment tax level in the previous year is excluded from the capping program in the current and subsequent taxation years; and
5. Properties that were in a capped or clawed back position in the previous year that, as a result of reassessment, cross over in the current year (i.e., move from clawed back to capped, or from capped to clawed back) would instead move to Current Value Assessment tax levels in the current year and remain at Current Value Assessment tax levels in subsequent taxation years.

Council has adopted a long-standing policy of funding the cost of capping protection by establishing “clawback” rates for each protected class. These rates must be set prior to the issuance of the final 2016 property tax bills by the local municipalities. The Act also requires the Region to ensure that decreases and increases are equalized across the lower tier municipalities through a process called banking. Banking is the inter-municipal transfer of additional tax levy funds raised from clawback properties to offset the underfunding received from the capped properties.

The phase-in of changes due to reassessment started in 2013

The Province established a date of January 1, 2012 for the revaluation of all properties in Ontario, to be phased in between 2013 and 2016. The current four-year phase-in program applies to assessment increases. Any assessment decreases were fully phased in in 2013. For assessment increases, 25 per cent of the valuation increase is added to the roll for each year beginning in 2013, resulting in full phase-in in 2016.

Capping and clawing-back of business properties continues to create inequity

While there has been movement of properties to their Current Value Assessment level taxes since 1998, results for 2015 show that 672 properties in the Region continued to pay more (and in some cases, significantly more) than their Current Value Assessment level of taxes to mitigate the tax increases for 901 capped properties.

In addition, the imbalance between the number and size of capped and clawed back properties may generate future funding shortfalls. A shortfall arises when the total capping protection afforded to a property class exceeds the decreases available for clawback in the property class in a given year. The estimated results for 2016 do not indicate a funding shortfall.

The Province is providing new options to reduce the number of business properties that remain in the capping program

Council has previously advocated for ending property tax capping. The most recent correspondence from the Regional Chair to the Premier of Ontario on this subject was on July 25, 2015. York Region has long held that capping entrenches taxpayer unfairness.

The Ontario Ministry of Finance initiated a Municipal Reference Group in August 2015 to review the business tax capping program. The purpose of the business tax capping review was to build on past collaborative work, and consider additional enhancements that could be made to the program.

In November 2015, the Ministry proposed new options for the capping program as part of *Bill 144, Budget Measures Act*. Beginning on January 1st, 2016, municipalities can pursue one or more of the options shown in Table 1.

Table 1
New Property Capping Options from Bill 144

	Description
Option 1	Increase the maximum annual increase for capped properties from its current level of 5 per cent of previous year's Current Value Assessment level taxes up to a new maximum of 10 per cent
Option 2	Move properties directly to Current Value Assessment level taxes if they are within \$500 of Current Value Assessment level taxes – up from the current \$250 threshold
Option 3	Properties are eligible for a four-year phase-out beginning in the year after the property class has no capped properties below 50 percent of Current Value Assessment level taxes

On December 10th, 2015, Bill 144, an Act to amend the *Municipal Act, 2001*, received Royal Assent. Its subordinate legislation, Ontario Regulation 102/16, containing the new and amended provisions were filed and published on April 21st, 2016 allowing municipalities to exercise any or all of the options in Table 1.

4. Analysis and Options

Setting clawback rates requires delegation of authority

To allow local municipalities to proceed with their 2016 property tax billings and consistent with past practice in the Region, staff are requesting that Council delegate to the Regional Treasurer the authority to determine the final clawback rates for property tax decreases to be withheld to fund the cost of capping protection in the commercial and industrial property classes.

Table 2 illustrates the final clawback percentages approved by Council over the last five years.

Table 2
Final Clawback Percentages, 2010 to 2015

Year	Commercial Clawback Percentage	Industrial Clawback Percentage	Multi-Residential Clawback Percentage
2015	45.64	54.17	0.00
2014	48.28	50.60	0.00
2013	49.67	62.72	0.00
2012	63.80	68.80	0.00
2011	58.49	69.58	0.00
2010	66.32	77.74	0.00

Source: Online Property Tax Analysis system

All multi-residential capped properties started to pay their Current Value Assessment level taxes in 2010, so no multi-residential properties have had to be clawed back since then.

Table 3 shows the distribution of capped, clawed back and at Current Value Assessment level properties at the end of 2015.

Table 3
Property Tax Capping Protection Summary, 2015
Number of Properties

	Multi- Residential properties	Commercial properties	Industrial properties	Total properties
At Current Value Assessment level taxes	284	18,560	2,382	21,226
Capped	0	812	89	901
Clawed Back	0	495	177	672
New construction/New to class	12	154	22	188
Total	296	20,021	2,670	22,987

Source: Ontario Property Tax Analysis system

The Online Property Tax Analysis (OPTA) system provides the basis for determining clawback percentages

The Region uses the Ontario Property Tax Analysis system provided by the Province to calculate the appropriate clawback percentages. Local municipalities also use the Ontario Property Tax Analysis system to prepare the property tax billings for the capped properties.

For tax billing purposes, the Region and its local municipalities have agreed to request that Ontario Property Tax Analysis system use an assessment update cut-off of April 15, 2016. Assessment updates include prior year adjustments such as Assessment Review Board decisions, and supplementary and omitted assessment from the Municipal Property Assessment Corporation. Including updated assessment information in the Ontario Property Tax Analysis system will mean that local municipalities need to make fewer post-billing adjustments.

A cut-off date of April 15, 2016 is expected to result in the final clawback percentages being available to the Region in late May. As of April 18, 2016, the financial impact of the 2016 capping program to clawed back properties is estimated to be \$1.2 million.

The Ontario Property Tax Analysis system generated preliminary clawback percentages for 2016

Using the capping options previously approved by Council, Table 4 identifies the estimated clawback percentages for each of the protected property classes as of

April 18, 2016. Although the values below may change, no shortfall is expected for 2016.

Table 4
Estimated 2016 Clawback Percentages

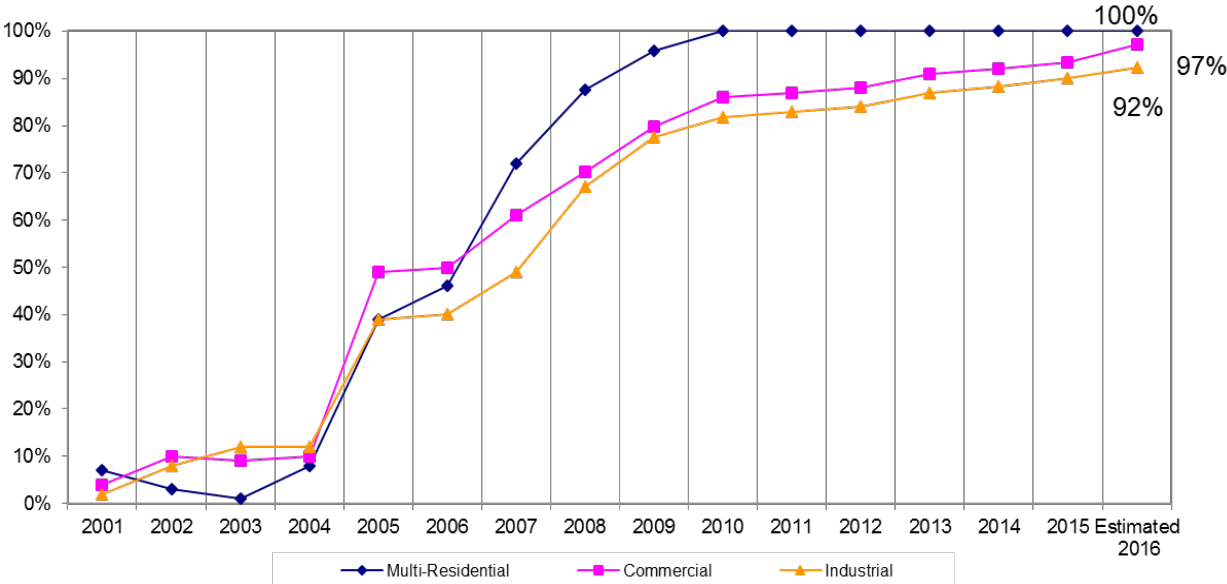
Year	Commercial Clawback Percentage	Industrial Clawback Percentage
2016	25.7634	38.9891

Source: Ontario Property Tax Analysis system

Using all capping options maximizes the number of properties moving to Current Value Assessment level taxes

Chart 1 captures the percentage of properties at Current Value Assessment each year since 2001. It is estimated for 2016, that slightly more than three per cent of all businesses properties in the Region are not paying Current Value Assessment level taxes.

Chart 1
Estimated Percentage of Properties at Current Value Assessment



Source: Treasury Office, Finance Department, as of April 25th, 2016

Tables 5 through 8 demonstrate the result of applying both option 1 (apply the maximum annual increase for capped properties from its current level of five per cent of previous year’s Current Value Assessment level taxes to a new maximum of ten per cent) and option 2 (move properties directly to Current Value Assessment level taxes if they are within \$500 of Current Value Assessment level taxes – up from the current \$250 threshold).

**Table 5
Commercial Class
Estimated Impact Using Options 1 and 2 on the number of
Capped Properties**

Municipality	2015 Thresholds	Proposed Thresholds	Impact
Markham	758	281	(477)
Vaughan	28	22	(6)
Richmond Hill	17	17	(0)
Newmarket	3	2	(1)
Georgina	3	2	(1)
Aurora	2	1	(1)
King	1	1	0
East Gwillimbury	0	0	0
Whitchurch-Stouffville	0	0	0
Total	812	326	(486)

Source: Ontario Property Tax Analysis system as of April 18, 2016

**Table 6
Commercial Class
Estimated Impact using Options 1 and 2 on the number of
Clawed back Properties**

Municipality	2015 Thresholds	Proposed Thresholds	Impact
Vaughan	150	106	(44)
Markham	133	82	(51)
Richmond Hill	89	45	(44)
Newmarket	30	21	(9)
Aurora	35	15	(20)
Georgina	28	6	(22)
Whitchurch-Stouffville	10	4	(6)
East Gwillimbury	11	3	(8)
King	9	2	(7)
Total	495	284	(211)

Source: Ontario Property Tax Analysis system as of April 18, 2016

It is estimated that 486 capped properties and 211 clawed back properties in the commercial class would immediately move to Current Value Assessment level in 2016, if Council adopts the new measures.

Table 7
Industrial Class
Estimated Impact using Options 1 and 2 on the number of Capped Properties

Municipality	2015 Thresholds	Proposed Thresholds	Impact
Vaughan	39	35	(4)
Markham	33	19	(14)
Richmond Hill	7	5	(2)
Georgina	8	4	(4)
Aurora	1	1	0
King	1	1	0
Newmarket	0	0	0
Whitchurch-Stouffville	0	0	0
East Gwillimbury	0	0	0
Total	89	65	(24)

Source: Ontario Property Tax Analysis system as of April 18, 2016

Table 8
Industrial Class
Estimated Impact using Options 1 and 2 on the number of Clawed back Properties

Municipality	2015 Thresholds	Proposed Thresholds	Impact
Vaughan	111	93	(18)
Markham	21	14	(7)
Richmond Hill	16	12	(4)
Georgina	14	7	(7)
Aurora	10	5	(5)
Newmarket	1	1	0
Whitchurch-Stouffville	2	1	(1)
East Gwillimbury	2	1	(1)
Total	177	134	(43)

Source: Ontario Property Tax Analysis system as of April 18, 2016

In the industrial class, it is estimated that 24 capped and 43 clawed back properties will immediately move to Current Value Assessment tax level in 2016.

The analysis shows that the new thresholds can help accelerate the movement of capped and clawed back properties in both classes to Current Value Assessment tax levels. These new thresholds allow for a total of 510 capped properties and 254 clawed back properties to be immediately transferred to Current Value Assessment tax levels in 2016.

Proposed four-year phase-out option allows for industrial properties in the capping program to begin exiting in 2017

The third option allows business properties in a property class to be eligible for a four-year phase-out from the capping program once the class has no capped properties below 50 per cent of Current Value Assessment level taxes.

Table 9 demonstrates that, in conjunction with options 1 and 2, option 3 will likely allow the remaining capped properties in the industrial class to begin phasing out in 2017, with the possibility for the commercial class to follow suit.

Table 9
Properties under 50 per cent of Current Value Assessment level taxes

	Number of properties under 50% of Current Value Assessment level taxes in 2016	Anticipated earliest eligibility date	Anticipated earliest phased-out date
Commercial	2	2018	2021
Industrial	0	2017	2020

Source: Ontario Property Tax Analysis system as of April 18, 2016

Based on the above analysis, it is estimated that the industrial class will be out of the capping program by 2020. There is also potential that the remaining two commercial properties could move to 50 per cent of Current Value Assessment level taxes or higher as early as 2018, thereby allowing a phase-out of capping in the commercial class.

Link to key Council-approved plans

By accelerating the phasing-out of the Business Tax Capping program, the Region helps promote equity between businesses in York Region. This policy aligns with the objective of “Fostering an environment that attracts, grows and maintains businesses”, as outlined in 2015 to 2019 Strategic Plan.

5. Financial Implications

At this time there are no financial implications anticipated for the Region. However, should there be a funding shortfall for 2016, staff recommend that the Region's share be funded from the Tax Stabilization Reserve.

6. Local Municipal Impact

The Region acts as a banker to balance out any shortfalls in the business classes

The *Act* requires that the Region act as a banker to balance out any capping shortfalls between local municipalities. The net effect of banking is that taxpayers eligible for property tax reductions in one municipality may be required to give up a portion of this reduction in order to fund tax protection in other municipalities.

An overall shortfall would be funded by the Region and local municipalities proportionately

Should a shortfall occur, local municipalities and the Region are required to fund the shortfall in the same proportion that they receive taxes for the property class(es) in which the shortfall occurs. Using 2015 actual data, a shortfall would have been shared approximately 62 per cent by the Region and 38 per cent by the local municipalities. The Province does not participate in the funding of any shortfall.

7. Conclusion

It is recommended that, consistent with past practice, that Council adopt all of the new property capping options, prescribed by *Bill 144, Budget Measures Act* as amended and shown in Table 1. By adopting these new options, it is anticipated that the industrial class will be phased out of the capping program as early as 2020, with the commercial class following suit in 2021.

It is also recommended that, consistent with past practice, the Regional Treasurer be authorized to determine the percentage of property tax decreases needing to be withheld to fund capping protection costs. This would allow local municipalities to proceed with their 2016 tax billings in a timely manner.

Further, should the amount of property tax increases requiring capping exceed the property tax decreases available to fund the capping protection, it is also

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recommended that the Regional Treasurer be authorized to fund the Region's portion of the resulting shortfall from the Tax Stabilization Reserve.

For more information on this report, please contact Edward Hankins, Director, Treasury Office, at Ext. 71644.

The Senior Management Group has reviewed this report.

April 28, 2016

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Accessible formats or communication supports are available upon request