Clause No. 9 in Report No. 12 of the Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on June 26, 2014.

9
2014 PROPERTY TAX CAPPING AUTHORIZATION REPORT

Committee of the Whole recommends adoption of the recommendation contained in the following report dated June 5, 2014 from the Commissioner of Finance with the addition of Recommendation 5 as follows:

> *5. The Regional Chair send a letter to the Premier of Ontario and the Minister of Finance requesting that the Province address the issue of property tax capping and the related legislation.*

1. RECOMMENDATIONS

It is recommended that:

1. The Regional Treasurer be authorized to determine the percentage of property tax decreases to be withheld in order to fund the cost of capping on reassessment-related tax increases within the commercial and industrial classes for the 2014 taxation year.

2. Should the amount of property tax decreases available from any of the protected 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.

3. Council approve a bylaw to give effect to these recommendations.

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

2. PURPOSE

The Regional Treasurer requires Council authorization to determine the percentage of tax decreases that need to be withheld for the 2014 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 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 as a result of the change in assessment valuation. To alleviate this 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 approved the application of all available capping options for business and multi-residential properties to date, with the goal of maximizing the movement of properties to CVA level taxes, while minimizing 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 10 per cent of the previous year's annualized capped taxes, or 5 per cent of the previous year's annualized full CVA taxes;

2. Capped or clawed back properties that are within $250 of their full CVA taxes are moved to the CVA 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 CVA for the 2009 and subsequent taxation years;

4. A property that reached its CVA tax level in the previous year is excluded from the capping program in the current and subsequent taxation years;

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 CVA tax levels in the current year and remain at CVA 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 final 2014 property tax bills by the local municipalities. The Act requires the Region to ensure that decreases and increases are equalized across the lower tier municipalities through a process called *bankering*. Bankering 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 due to reassessment for all property classes. 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 continue to create inequity

While there has been movement of properties to their CVA level taxes since 1998, 920 properties in the Region continue to pay more (and in some cases, significantly more) than their CVA level of taxes to mitigate tax increases for 1,068 capped properties. In the absence of a change to provincial tax policy, the current approach is expected to result in long-term inequity for some commercial and industrial property owners.

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. Although the Region was affected by a shortfall in 2004, the preliminary results for 2014 do not indicate a funding shortfall.

4. ANALYSIS AND OPTIONS

Setting clawback rates requires delegation of authority

To allow local municipalities to proceed with their 2014 property tax billings and, consistent with past practice in the Region, it is necessary 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 within the commercial and industrial property classes.

Table 1 illustrates the final clawback percentages approved by Council over the last five years.

Table 1
Final Clawback Percentages, 2009 to 2013

Year	Commercial Clawback Percentage	Industrial Clawback Percentage	Multi-Residential Clawback Percentage
2009	79.96	76.94	12.92
2010	66.32	77.74	0.00
2011	58.49	69.58	0.00
2012	63.80	68.80	0.00
2013	49.67	62.72	0.00

Source: Online Property Tax Analysis (OPTA) System, April 1, 2014

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

Table 2 shows the distribution of capped, clawed back and at CVA-level properties in 2013.

Table 2
Property Tax Capping Protection Summary, 2013
Number of Properties

	Multi-Residential properties	Commercial properties	Industrial properties	Total properties
Capped	0	950	118	1,068
Clawed Back	0	678	242	920
At CVA level taxes	283	16,182	2,342	18,807
New construction/New to class	11	98	54	163
Total	**294**	**17,908**	**2,756**	**20,958**

Source: OPTA, April 1, 2014

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

The Region uses the OPTA system provided by the Province to calculate the appropriate clawback percentages. Local municipalities also use OPTA 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 OPTA use an assessment update cut-off of May 30, 2014. 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 OPTA system will mean that local municipalities need to make fewer post-billing adjustments.

A cut-off date of May 30, 2014 is expected to result in the final clawback percentages being available to the Region in late June.

The OPTA system generated preliminary clawback percentages for 2014

Using the capping options previously approved by Council, Table 3 identifies the estimated clawback percentages for each of the protected property classes as at May 22, 2014. The preliminary values below may change.

No shortfall is expected for 2014.

Table 3
2014 Preliminary Clawback Percentages

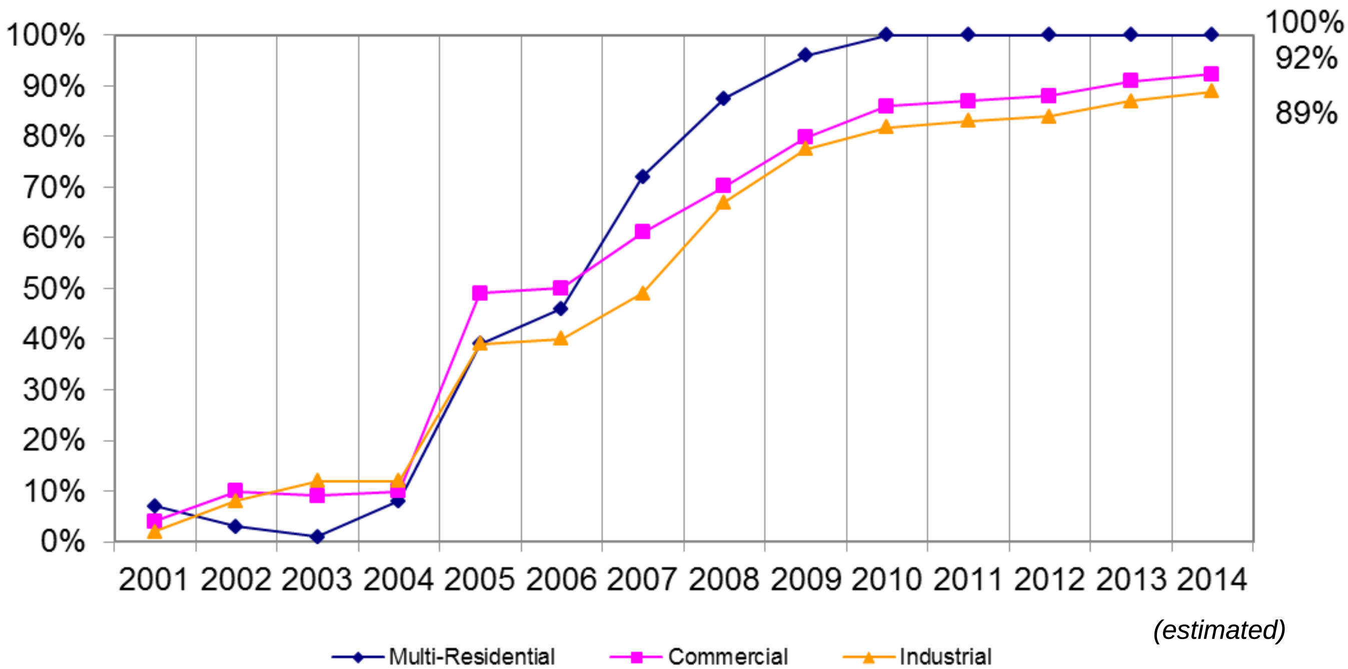
Year	Commercial Clawback Percentage	Industrial Clawback Percentage	Multi-Residential Clawback Percentage
2014	50.21	52.43	0.00

Source: OPTA, May 22, 2014

Using all capping options maximizes the number of properties moving to CVA level taxes

Chart 1 captures the percentage of properties at CVA each year since 2001, including estimated results for 2014:

Chart 1
Percentage of Properties at CVA



Link to key Council–approved plans

By determining the clawed back percentages for the 2014 business tax billings, the Region complies with Provincial legislation and increases the efficiency of property tax billings.

5. FINANCIAL IMPLICATIONS

At this time there are no financial implications anticipated for the Region; however, should there be a funding shortfall for 2014, staff recommends 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 bankering 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. The shortfall would be shared approximately 67 per cent by the Region and 33 per cent by the local municipalities. The Province does not participate in the funding of any shortfall.

7. CONCLUSION

As a result of the data not yet being available for Council to establish the necessary clawback percentages, it is recommended that, consistent with past practice, the Regional Treasurer be authorized to determine the percentage of property tax decreases to be withheld to fund capping protection costs. This will allow local municipalities to proceed with their 2014 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 also 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.