

Corporate Policy & Procedure



DRAFT ONLY – March 27, 2023

Policy Title: Assessment Appeal and Tax Adjustment Application Management

Policy Number: [Policy No.]

Section: Finance and Accounting

Effective Date: [Effective Date]

Approved by:

Council

Subsection: Taxes

Last Review Date: [Last Review]

Owner Division/Contact:

**Finance Division, Corporate Services
Department**

Policy Statement

The City actively participates in appeals in order to protect the Assessment Base and to mitigate and manage potential revenue losses.

Purpose

This policy outlines the City's approach to Assessment Appeal Management and Tax Adjustment Application management and provides a framework for:

- The City's participation in appeals, and
- Ensuring the accuracy of the Assessment Roll

Scope

This policy applies to all staff and management involved in Assessment Appeal Management and Tax Adjustment Application management.

Legislative Authority

This policy complies with the *Municipal Act*, the *Assessment Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, associated Ontario Regulations, and the Rules and Procedures of the Assessment Review Board, as amended, as well as applicable City by-laws.

Related Policies

Assessment Base Management

Acquisition and Disposal of Interests in Real Property

Definitions

For the purposes of this policy:

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“Advisory Notice of Adjustment” (ANA) is a notification sent by the Municipal Property Assessment Corporation to a property owner and the City advising of changes to the Assessment Roll resulting from an ARB decision.

“Amended Property Assessment Notice” (PRAN) is a notification sent by MPAC to a property owner and the City to advise of a factual error in the Assessment Roll.

“Assessment” means the value attributed to land and property by MPAC to enable municipalities to levy property taxes.

“Assessment Appeal Management” (AAM) means tracking, monitoring and participating in property disputes in order to mitigate and manage potential revenue loss due to changes in Assessment and/or Property Classification.

“Assessment Base” means the aggregate value of all land and properties in the City of Mississauga as assessed by MPAC.

“Assessment Review Board” (ARB) is an independent adjudicative tribunal established under the *Assessment Act*, with a mandate to hear appeals about property Assessment and Property Classification.

“Assessment Roll” is a publicly available list, prepared annually by MPAC, of all assessable properties in Mississauga that includes the information the City requires to allocate property taxes.

“City” means the Corporation of the City of Mississauga.

“Commencement Date” means the date from which all due dates in an SOE issued by the ARB are calculated.

“Current Value Assessment” (CVA) means the current value of a property, as determined by MPAC.

“General Expert Report Proceeding” is the process, under a General Proceeding, where persons who are involved with an appeal can request an extension to due dates set out in the SOE to assemble and provide supporting documentation related to expert testimony.

“General Proceeding” is the process by which the ARB manages appeals related to all property classifications except for properties classified as residential, farm, conservation land and managed forest. The General Proceeding process is longer and more complex than the Summary Proceeding process.

“Mandatory Settlement Meeting” (MSM) is a compulsory meeting of all parties in an ARB proceeding, in an attempt to reach a full or partial settlement of the issues at appeal.

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“Mandatory Settlement Meeting Form” is a notice filed with the ARB advising on the outcome of the MSM.

“Market Value” means the notional highest price that a willing buyer would pay, and a willing seller would accept, both parties being fully informed.

“Minutes of Settlement” (MOS) is a legal document that is created by either MPAC (Request for Reconsiderations and *Assessment Act* appeals) or the City (*Municipal Act* appeals) which sets out the terms of a settlement when parties to an appeal have come to an agreement in settling an appeal.

“Municipal Property Assessment Corporation” (MPAC) is an independent, not-for-profit corporation, funded by Ontario municipalities, that administers property Assessments, Property Classification and associated appeals in the Province of Ontario.

“Non-Disclosure Agreement” (NDA) is a legal contract between two or more parties whereby the contracting parties agree that certain confidential information they may obtain from one another, typically during the course of a business relationship, will not be shared, used, or disclosed outside of that relationship.

“Omitted Assessment” (OMIT) means Assessment for land that should have been recorded but has been omitted from the Assessment Roll for the current taxation year and/or any part of the two preceding taxation years.

“Property Assessment Change Notice” (PACN) is a notice sent by MPAC to a property owner and the City when there is a change to a property that may affect Assessment or Property Classification.

“Property Assessment Notice” (PAN) is a notice issued by MPAC that indicates the assessed value and classification of a property as of a legislated valuation date.

“Property Classification” means the identification of a property or a portion of a property according to its use. The various Property Classifications are set out in Ontario Regulation 282/98 under the *Assessment Act*, as amended.

“Request for Reconsideration” (RfR) is an appeal process that allows a property owner who disagrees with the current value Assessment or Property Classification of their property to have MPAC review their property Assessment to determine if it is accurate.

“Response to Statement of Issues” (RSOI), also known as a Statement of Response or SOR, is a document prepared by the parties responding to an appeal communicating their position on the issues.

“Schedule of Events” (SOE) is a set of due dates and processes that applicable parties must comply with when participating in ARB appeals.

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“Settlement Conference” means a confidential meeting between an ARB member and parties to an appeal to address unresolved issues in the appeal.

“Special Amended Property Assessment Notice” (SAN) is a notification sent by MPAC to a property owner and the City when there is a change in legislation or regulation affecting the property.

“Statement of Issues” (SOI) is a document outlining the reasons for the appeal, supported by evidence and analysis, prepared by the appellant and submitted to all parties to the appeal.

“Summary Proceeding” is the process by which the ARB manages appeals related to property classified as residential, farm, conservation land and managed forest. The Summary Proceeding process is shorter and less complex than the General Proceeding process.

“Supplementary Assessment” (SUPP) is issued by MPAC when there is a change/improvement to a property for the current year. A SUPP results in a change in the value attributed to land and property and/or the Property Classification.

“Tax Adjustment Application” is a request, through a process established in Sections 357, 357.1 and 358 of the *Municipal Act*, to have property taxes cancelled, reduced or refunded.

“Tax Incentive Approval” (TIA) is a notification sent by MPAC to a property owner and the City when MPAC changes the Property Classification to farm, conservation land or managed forest.

Roles and Responsibilities

Commissioner, Corporate Services

The Commissioner of Corporate Services is accountable for:

- Approving the annual City-initiated assessment appeal corporate report and submitting the report for consideration by Council, and
- Approving corporate reports for qualified Tax Adjustment Applications and submitting the reports for consideration by Council

Director, Finance and Treasurer

The Director, Finance is accountable for:

- Initiating City objections to RfRs, as appropriate; for further information, reference By-law 0268-2006, as amended
- Approving negotiated settlements and executing MOS for ARB appeals related to the *Assessment Act* where the CVA is greater than \$50 million, in compliance with By-law 0215-2017, as amended
- Approving negotiated settlements and executing ARB MOS for all appeals related to the *Municipal Act*, in compliance with By-Law 0082-2019, as amended
- Reviewing and validating corporate reports for qualified Tax Adjustment Applications, and

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- Ensuring all applicable managers/supervisors are aware of this policy and any subsequent revisions

Manager, Revenue and Taxation

The Manager, Revenue and Taxation is accountable for:

- Approving negotiated settlements and executing MOS for ARB appeals related to the Assessment Act where the CVA is no greater than \$50 million, in compliance with By-law 0082-2019, as amended from time to time, and
- Reviewing and validating corporate reports for qualified Tax Adjustment Applications

Supervisor, Assessment Review and Analysis

The Supervisor, Assessment Review and Analysis, is accountable for:

- Approving negotiated settlements and executing MOS for ARB appeals related to the Assessment Act where the CVA is no greater than \$25 million, in compliance with By-law 0082-2019, as amended from time to time
- Ensuring an annual City-initiated assessment appeal corporate report is generated
- Ensuring a corporate report is generated for qualified Tax Adjustment Applications
- Ensuring all resolved Assessment appeals and Council-approved tax adjustments are actioned (i.e. entered into the City's tax system)
- Ensuring this policy reflects current legislation, and
- Ensuring all records related to Assessment Appeal Management and Tax Adjustment Application management are maintained in accordance with the City's Records Retention By-law 0097-2017, as amended

Assessment Review and Analysis Staff

Assessment Review and Analysis staff are responsible for:

- Complying with applicable legislation and with the ARB Rules of Practice and Procedure
- Updating the City's tax system to reflect applicable changes pertaining to resolved appeals and approved tax adjustments
- Reviewing and analyzing property information to identify changes or corrections, and
- Reviewing all documentation pertaining to appeals and Tax Adjustment Applications, and validating where applicable

Legal Services, City Manager's Office

As required/appropriate, applicable Legal Services staff are responsible for:

- Providing legal advice, representation and support for Assessment appeals, Tax Adjustment Applications, and taxation matters before the court
- Interpreting federal and provincial legislation and municipal by-laws, and
- Retaining and supervising external counsel

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MPAC

MPAC utilizes specialized methodologies to calculate Assessment values and defines Property Classification based on legislative requirements. Assessment values and Property Classification are provided to the City for taxation purposes.

The City relies on MPAC's expertise and resources to validate the accuracy of information related to appeals.

Requests for Reconsiderations (RfR)

RfRs may be filed with MPAC, in accordance with Section 39.1 of the *Assessment Act*, by a property owner, an individual who received a PAN or by the property owner's representative.

If MPAC determines that a change to the Assessment value and/or Property Classification is required, the RfR MOS will be sent to the applicant. If the applicant agrees with the decision and signs the RfR MOS, MPAC will forward a fully executed copy to the City's Assessment Review and Analysis staff. Assessment Review and Analysis staff maintain an inventory of all RfR MOSs received from MPAC, organized by calendar year.

Upon receipt of notice of a settlement (detailed in the associated RfR MOS), Assessment Review and Analysis staff will review it for reasonableness and contact MPAC for supporting documents/information, where required. Assessment Review and Analysis staff will then either:

- Alter the tax roll based on the RfR MOS within 120 days, in compliance with the Municipal Act (if the RfR MOS is deemed accurate and reasonable), or
- File an appeal with the ARB within 90 days, objecting to the settlement detailed in the RfR MOS, in compliance with the Assessment Act and By-law 0268-2006, as amended (if the RfR MOS is materially inaccurate)

Assessment Review Board (ARB)

The ARB is one of four components to Ontario's Assessment System, along with MPAC, municipalities and the property tax payer. The ARB is an independent adjudicative tribunal that receives and hears appeals related to property Assessment and Property Classification (e.g. disputes related to CVA, Property Classification changes, property tax reductions). The ARB's jurisdiction and its authority are defined by the *Assessment Review Board Act*, the *Assessment Act*, the *Municipal Act*, the *Provincial Land Tax Act*, the *Education Act* and the *Statutory Powers Procedure Act*. ARB decisions, which are based on applicable law (e.g. the *Assessment Act*, the *Municipal Act*) and evidence presented by the parties to the appeal, are final and binding (subject only to appeal to Divisional Court on questions of law).

ARB Process

The ARB's Rules of Practice and Procedure govern how appeals proceed. Depending on the classification of the associated property, appeals are managed as either a Summary Proceeding or a General Proceeding. For all appeals, the ARB:

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- Issues an SOE, which establishes the Commencement Date, due dates and the procedural steps required for the appeal
 - Alterations to the SOE are only granted in exceptional circumstances
 - If an appeal requires the submission of expert testimony, the ARB may extend deadlines set out in the SOE (reference: General Expert Report Proceeding)
- Requires all parties to an appeal to submit an RSOI
 - Parties who fail to submit an RSOI are deemed not to oppose any future settlement of the appeal
- Requires all active parties to participate in a MSM
 - If a negotiated settlement is achieved within the timeline of the SOE, MOS are signed by all parties and sent to the ARB to issue a decision affirming the negotiated resolution
 - If a negotiated settlement is not achieved within the timeline of the SOE, a hearing is scheduled and, after the hearing, a decision is rendered by the ARB

Upon receipt of an ARB decision, Assessment Review and Analysis staff will review it for accuracy, and if required, will request an amended decision from the ARB (correcting any errors). Assessment Review and Analysis staff will then alter the tax roll based on the ARB decision and fully executed MOS within 120 days, in compliance with the Municipal Act.

Assessment Appeal Management

Level of Participation in Appeals

The City employs an AAM framework to track and monitor appeals and to determine when participation is prudent (i.e. to identify appeals which may place the Assessment Base at risk and/or result in potential revenue losses).

The City is a statutory party to every appeal filed with the ARB and has the ability to determine its desired level of involvement. The options include:

- Participation (the City provides evidence or arguments)
- Monitoring, or
- Non-participation (the City must accept the decision of the ARB or the resolution reached by the other parties to the appeal, without providing evidence or arguments)

Participation

The City will participate in appeals/applications commenced:

1. By the City
2. Under the Municipal Act, and
3. Under sections 43.1 and 46 of the Assessment Act

The City will review new appeals, and where appropriate, may choose to participate in appeals involving the following factors:

1. GTAA lands

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2. Precedent-setting or widely applicable facts or legal issues
3. Requests for exemption status
4. A potential change in Assessment, Property Classification, or other factor of a property that results in an increase in taxation
5. A potential Assessment loss equal to or greater than 50% of the CVA of any one property
6. A potential change in Assessment, Property Classification, or other factor of a property that results in \$10 million or more in lost tax revenue for the City
7. A potential change in Assessment, Property Classification, or other factor of a property with a CVA equal to or greater than \$75 million, and/or
8. Other reasons, as deemed appropriate by the Director, Finance or Manager, Revenue and Taxation

When the City elects to participate in an ARB appeal, staff:

- Must adhere to the ARB Rules of Practice and Procedure, which include the following:
 - Disclose evidence as required
 - Draft and serve SOIs and RSOIs
 - Participate in the MSM
 - Participate in any Settlement Conference, and
 - Attend the hearing, provide evidence, and make submissions as required
- May settle and execute MOS under delegated authority established in By-law 0268-2006

Monitoring

Staff may monitor ARB appeals in which the City is not participating. When prioritizing which appeals to monitor, staff will consider the magnitude of potential revenue loss and/or the potential for the appeal to be precedent-setting.

Non-Participation

Assessment Review and Analysis Staff may not participate in or monitor an appeal where:

- The anticipated change in Assessment is minor
- The cost or allocation of resources required for participation or monitoring are prohibitive, or
- The City is unable to validate MPAC's Assessment

Non-Disclosure Agreement (NDA)

Where applicable, in support of participation in or monitoring of an ARB appeal, the City can execute a NDA with parties to the appeal, allowing the disclosure of personal/confidential information that the City could not otherwise obtain (e.g. a rent roll, income/expense statement).

MOS Review

Regardless of the level of participation in an appeal, Assessment Review and Analysis staff always review the MOS. Where the reasonableness of MOS are in question, staff must contact MPAC to request back-up documentation as required/appropriate.

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Where MOS are accurate, staff:

- Execute the MOS
- Circulate the fully executed MOS to all parties to the appeal, and
- Upon receipt of the final ARB decision, amend the Assessment Roll, as appropriate, within 120 days

Where MOS contain factual error(s), staff:

- Contact all parties to the appeal to request correction(s), and
- Upon receipt of accurate MOS, staff:
 - Execute the MOS
 - Circulate the fully executed MOS to all parties to the appeal, and
 - Upon receipt of the final ARB decision, amend the Assessment Roll, as appropriate, within 120 days

In the course of reviewing MOS, Assessment Review and Analysis staff may calculate the tax impact of Assessment reductions and/or Property Classification changes to support effective Assessment Base management. For further information, refer to Corporate Policy and Procedure – Assessment Base Management.

City-Initiated Appeals

Assessment Review and Analysis staff initiate appeals, upon council approval, where necessary to protect and maintain the Assessment Base, with the goal of ensuring the City has a predictable, steady and sustainable property tax revenue stream. City-initiated appeals are governed by Section 40 of the *Assessment Act*. The City's deadline to file an appeal with the ARB is March 31 of the taxation year under appeal, unless MPAC has extended the time for returning the assessment roll.

Factors that warrant the City initiating an appeal may include, but are not limited to:

- Properties with incorrect or incomplete information on the Assessment Roll (e.g. Property Classification, lot size)
- Incorrect or absent Assessment (e.g. improvements not reflected on the Assessment Roll)
- An error in Assessment and/or Property Classification that MPAC has indicated cannot be corrected using other legislative processes (e.g. RfR, PRAN, SUPP, OMIT)
- New zoning by-laws that may result in a change in Property Classification and/or Assessment, and
- A Market Value sale indicating that a property is assessed too low
- Gross or manifest error under Section 359 of the *Municipal Act* which would result in an increase of taxes
- An error in calculating the taxes under Section 359.1 of the *Municipal Act*

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Amendments to the Assessment Roll

Assessment Review and Analysis staff, on behalf of the City Clerk, amend the Assessment Roll within 120 days of receiving notice of a(n):

- Amended Property Assessment Notice (PRAN)
- Property Assessment Change Notice PRAN (PACN PRAN)
- Advisory Notice of Adjustment (ANA)
- Special Amended Property Assessment Notice (SAN), and
- Tax Incentive Approval Notification (TIA)

Tax Adjustment Application Management

The City will actively participate in all Tax Adjustment Applications. Assessment Review and Analysis staff are responsible for processing Tax Adjustment Applications and ensuring deadlines set out in the *Municipal Act* are met.

All tax adjustments must be approved by Council, with the exception of applications submitted due to sickness or extreme poverty where delegated authority is given to the ARB for rendering decisions (reference *Municipal Act* Section 357(1)(d.1) and By-law 0150-2021).

Council's decisions with respect to Tax Adjustment Applications filed under Section 357 and 357.1 of the *Municipal Act* may be appealed to the ARB. Council's decisions with respect to Tax Adjustment Applications filed under Section 358 of the *Municipal Act* are final.

Reporting

The Supervisor, Assessment Review and Analysis, reports as required, to the Manager, Revenue and Taxation on the following:

- Assessments at risk
- Statistics on appeals in which the City is participating and the associated financial impact
- Data on active and closed ARB appeals
- Outstanding and closed RfRs
- Statistics and/or data on Tax Adjustment Applications, and
- Other reports as appropriate

Records Retention

All records pertaining to Assessment appeals and Tax Adjustment Applications must be maintained in accordance with the Records Retention By-law 0097-2017, as amended. Confidential records, whether maintained in paper or electronic format, must be appropriately secured.

Revision History

Reference	Description
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