

City of Mississauga Corporate Report



<p>Date: April 2, 2024</p> <p>To: Chair and Members of General Committee</p>	<p>Originator's files:</p>
<p>From: Shari Lichterman, CPA, CMA, City Manager and Chief Administrative Officer</p>	<p>Meeting date: May 8, 2024</p>

Subject

Delegation of Authority for Taxation Matters

Recommendation

1. That a new by-law be enacted to delegate authority to the Director, Finance and Treasurer or their designate to hold meetings, give notice and make decisions with respect to tax adjustment applications pursuant to Sections 334, 357 (excluding Section 357(1)(d.1)), 357.1, 358, 359 and 359.1 of the *Municipal Act, 2001* and report annually to Council as outlined in the report dated April 2, 2024 entitled "Delegation of Authority for Taxation Matter" from the City Manager and Chief Administrative Officer.
2. That By-law 0268-2006, as amended, be further amended to delegate authority to the Director, Finance and Treasurer or their designate to commence, maintain and settle appeal proceedings on behalf of the City at the Assessment Review Board regarding property assessment and classification pursuant to Section 40 of the *Assessment Act* and report annually to Council.
3. That all matters related to all appeals outlined in Recommendation 3 including execution of minutes of settlement, if appropriate, are settled in accordance with By-law 0268-2006, as amended.

Executive Summary

- Sections 334, 357, 357.1, 358, 359 and 359.1 of the *Municipal Act, 2001* provide for applications to request an adjustment in property taxes.
- Tax adjustment applications under Section 357(1)(d.1), compassionate appeals has previously been delegated to the Assessment Review Board (ARB).
- Decisions for tax adjustment applications are based on changes in assessment as provided by the Municipal Property Assessment Corporation (MPAC).
- Legislation requires Council to hold a meeting and give notice, where applicants may make representation to Council regarding their tax adjustment decision. The current

practice of presenting tax adjustment applications to Council for consideration is a procedural formality.

- Legislation provides for the delegation of the authority for rendering tax adjustment decisions.
- Section 40 of the *Assessment Act* provides Council with the ability to appeal to the ARB. All appeals received by the ARB are subject to review, consultation and / or settlement discussions between the owner, MPAC and the municipality.
- Where an appeal is not resolved, the ARB has the final determination on the settlement of an appeal. Decisions by the ARB are final and binding unless there is an error in law.
- Staff are recommending the delegation of authority of tax adjustment matters and City initiated appeals outlined above to the Director, Finance and Treasurer or their designate.

Background

Section 23.1(1) of the *Municipal Act, 2001* (the Act) provides that Council may delegate their powers and duties subject to certain conditions. Generally, administrative powers may be broadly delegated to committees, individual members of Council, or City staff. Further, Section 23.2 authorizes: “a municipality to delegate legislative and quasi-judicial powers...to an individual who is an officer, employee or agent of the municipality.” There are stricter requirements associated with delegation of legislative and quasi-judicial powers. Any delegation of legislative and quasi-judicial powers to staff (in contract to members of Council or a committee) is limited to minor matters.

Under Sections 334, 357, 357.1, 358, 359 and, 359.1 of the Act, tax adjustment applications can be made for the cancellation, reduction, refund or increase of taxes or payments-in-lieu of taxes if certain conditions occur or to correct an error in calculating the taxes.

Section 357 (1)(d.1) applications, compassionate appeals for extreme poverty or sickness are forwarded to the ARB through previous delegated authority under By-Law 0150-2021. This delegation provides for an independent decision process for compassionate appeals.

All other tax adjustment applications are forwarded to MPAC to provide a response detailing any changes to property value and/or classification. Revenue staff review all responses for reasonableness and where applicable, calculates any resulting adjustments to the property taxes. The Act requires Council to hold a meeting and give notice of the meeting to provide the applicant with an opportunity to make representation to Council regarding the decision on the applicable change in taxes. The current practice of presenting tax adjustment applications to Council for consideration is a procedural formality. Where legislation allows, applicants who disagree with the results of their tax adjustment application have the option to appeal to the ARB.

The ARB also hears property assessment appeals to ensure properties are assessed and classified in accordance with the provisions of the *Assessment Act*. Section 40 of the *Assessment Act* provides the City with the ability to appeal properties to the ARB if the

assessment value or classification is incorrect or if other information is incorrect pursuant to the *Assessment Act*.

Council previously approved delegation for the Director, Finance and Treasurer to file complaints to the ARB relating to requests for reconsideration of assessment, to settle assessment appeals and requests for reconsideration of assessment, and execute minutes of settlement, pursuant to Section 39.1 of the *Assessment Act* (By-law 0268-2006, as amended).

Delegation of authority in the municipal context is well established as both a necessary and useful tool to allow the effective and efficient management of municipal affairs. It allows staff to exercise judgement where appropriate based on their professional training, accreditation, and expertise.

Comments

Tax Adjustment Applications

Tax Adjustments under Sections 334, 357, 357.1, 358, and 359 and 359.1 of the Act, are routine and minor in nature. Staff calculate the adjustment based on the response received from MPAC. Currently, as a procedural formality, staff must report the adjustments to Council for approval of the adjustment decisions to meet the requirements of holding a meeting and give notice of the meeting to provide an opportunity for the applicant to address Council on the decision. Therefore, the power to hold meetings and give notice under the subject sections of the Act can be delegated to staff.

Through delegation of authority, staff would be responsible for approval of the adjustment decisions, holding a meeting and give notice of the meeting to the applicant to provide an opportunity for the applicant to address staff on the decision. Where legislation allows, applicants who disagree with the results of their tax adjustment application have the option to appeal to the ARB. A streamlined practice for administering tax adjustment applications will improve productivity.

Delegated authority to the Director, Finance and Treasurer will facilitate efficient resolution of tax adjustments. The fiscal benefits will include accurate and consistent revenue collection while taxpayers will benefit from improved response times to tax adjustments along with refunds of overpayments. The proposed by-law is attached as Appendix 1.

Section 40 Assessment Act Appeals

Annually, staff prepare a list of properties to be appealed under Section 40 of the *Assessment Act* to the ARB for Council approval prior to submitting the appeal application. All appeals received by the ARB are subject to review, by consultation and / or settlement discussions between the owner, MPAC and the municipality. Where an appeal is not resolved, the ARB has the final determination on the settlement of an appeal.

The delegation of filing complaints with the ARB has similar benefits as delegating authority for tax adjustments. It will allow staff the ability to file complaints as they are identified and in advance of the annual deadline. This change will improve organizational efficiency, eliminate unnecessary reporting and process and enable more effective time management.

All matters related to City initiated Section 40 *Assessment Act* appeals including execution of minutes of settlement, if appropriate, would be settled in accordance with By-law 0268-2006 as amended. The proposed by-law amendment is attached as Appendix 2.

The Director, Finance and Treasurer, or their designate will keep Council apprised of all tax adjustments and City initiated assessment appeals by providing annual financial reporting.

Financial Impact

There is no financial impact as a result of this report.

Conclusion

Council may delegate the authority to make decisions, pursuant to the subject sections of the Act and delegate authority to submit appeals to the ARB under the *Assessment Act* to the Director, Finance and Treasurer or their designate provided that the Director, Finance and Treasurer or designated staff comply with all provisions of the applicable sections of the Act and the *Assessment Act*.

The efficient management of these processes and the ability to respond to issues in a timely manner can be accomplished by granting authority, pursuant to Section 23.1(1) of the Act, to the Director, Finance and Treasurer or their delegate to approve tax adjustments under section, 334, 357, 357.1 358, 359 and 359.1 of the Act and submit appeals under Section 40(1) of the *Assessment Act*.

Attachments

Appendix 1: Proposed new delegated authority By-law

Appendix 2: Proposed Amendment to By-law 0268-2006, as amended



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