

COMMITTEE OF THE WHOLE OCTOBER 21, 2002

COMMERCIAL AND INDUSTRIAL PROPERTY TAX CAPPING & CLAWBACK - RESOLUTION

Recommendation

The Director of Finance, in consultation with the Commissioner of Finance & Corporate Services and the Manager of Property Tax & Assessment recommends that City of Vaughan Council pass the attached resolution.

Purpose

The purpose of this report is to provide Council with a suggested resolution to the Province of Ontario relating to the mandatory property tax capping and clawback program.

Background - Analysis and Options

As outlined in a previous report to Committee of Whole, areas with significant growth, such as York Region will continue to have additional properties coming into the capping formula. We will therefore have to continue to withhold decreases from property owners to fund these caps. It is also possible that in future years there may not be enough properties with decreases to fully fund the capping of increases and municipalities will therefore be required to fund the shortfall through the operating budget.

Option "A" as presented in the attached resolution, would achieve the following:

- Continue to protect property taxpayers from large increases (5% per year), but would eliminate the need for clawback to fund the cap.

Option "B" would achieve the following:

- Impose a limited life on the capping and resulting clawback that would allow businesses to budget for the impacts based on fixed percentage, for example a 3 year program would be 33% per year, or a five year program at 20% per year.
- Properties being penalized by the withholding of their decreases would have a reasonable time frame when they will finally realize their deserved decreases.
- Properties that are new to the capped classes or new construction would pay taxes calculated at their current value so as not to further burden existing properties.
- Have all properties absorb increases of at least \$1000 per year, to eliminate low value increases being phased-in. For example, under the current program, a small property with base taxes of \$1000 and current value taxes of \$2000 will receive increases of between \$50 and \$100 per year (5%) and will take 15 years to reach current value taxes.
- The Province of Ontario has set "Ranges of Fairness" for the property tax ratios. When a class of property is being taxed within that range of fairness there should be no need for further protection.

Conclusion

The introduction of current value assessment in 1998 resulted in some very significant increases and decreases in all property classes. Mitigation of large increases was needed. Subsequent amendments to the capping legislation have served to complicate the program to the point where businesses throughout the province can no longer predict from year to year their tax responsibility. It is appropriate that the Province realize the capping and clawback of property taxes needs to have a reasonable end point, so that the original intention of a simple system of property tax based on current value assessment can be achieved.

Attachments

Resolution & Extract from Council Meeting Minutes of October 15, 2002

Report prepared by:

Grace L. Marsh
Manager of Property Tax & Assessment
Extension: 8268

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Barry E. Jackson", with a long horizontal flourish extending to the right.

Barry E. Jackson, CGA
Director of Finance

Resolution:

Whereas the Ontario Government passed Bill 140, *The Continued Protection for Property Taxpayers Act, 2000* that results in a mandatory tax capping program for commercial, industrial and multi-residential properties (business), which limits assessment related tax increases to 5% per year, and

Whereas the result is that assessment and taxation reforms, implemented in 1998, are being delayed to perpetuity, and

Whereas this legislation continues significant inequities in the taxation of the business properties across the Province, and

Whereas this legislation protects newly constructed and new to class properties, at the expense of other property owners, and

Whereas the result is a difficult and complicated system of property taxation.

Now therefore be it resolved that the City of Vaughan Council urge the Ontario Government and the Premier to either:

- A. Provide the appropriate funds to each municipality to finance the cost of the capping program as determined by the 5% limit on tax increases, so that decreases can be passed on to property owners;

OR

- B. Amend the Municipal Act to change the tax capping program to be a phase-in program that will;
 - Be effective beginning in the 2004 taxation year and end preferably in 3 years, but not more than 5 years,
 - ii. Be a fixed annual adjustment in each year, which will be, for increasing properties, the 2003 cap adjustment divided by the number of years provided in the preceding point,
 - iii. Not include any properties that are new construction or new to class beginning in 2004,
 - iv. Continue to allow municipalities the choice to fund the program by with-holding decreases or municipal budgets,
Require that the minimum yearly phase-in increase be the greater of the fixed annual adjustment or \$1,000, and
 - vi. Remove a property class from the phase-in program when its tax ratio is within the Provincially established range of fairness.

And further that a copy of this resolution be forwarded to the Premier of Ontario, the Minister of Municipal Affairs & Housing, the Minister of Finance and the Regional Municipality of York, the local municipalities in York Region and other municipalities with a population of greater than 50,000.

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF OCTOBER 15, 2002

Item 3, Report No. 64, of the Committee of the Whole (Working Session), which was adopted, as amended, by the Council of the City of Vaughan on October 15, 2002, as follows:

By approving that the Resolution to the Province be available for the Committee of the Whole meeting of October 21, 2002, in accordance with the memorandum from the Director of Finance, dated October 15, 2002.

3 COMMERCIAL AND INDUSTRIAL PROPERTY TAX CAPPING & CLAWBACK

The Committee of the Whole (Working Session) recommends:

- 1) That staff prepare a resolution to the Province of Ontario expressing concern related to the funding of the 5% property tax cap for commercial, industrial and multi-residential properties; and
- 2) That the recommendation contained in the following report of the Director of Finance, dated September 24, 2002, be approved.

Recommendation

The Director of Finance, in consultation with the Commissioner of Finance and Corporate Services and the Manager of Property Tax & Assessment recommends:

That the following report be received for information purposes.

Purpose

To advise Council of the 2002 clawback percentages required to fund the capping protection of 5% on commercial, industrial and multi-residential properties as outlined in Provincial legislation. Clawback is the amount of tax decrease withheld from properties that had decreases in assessments.

Background - Analysis and Options

Commercial, Industrial and Multi-Residential properties have been protected from reassessment increases since the introduction of current value assessment (CVA) in 1998. The funding of the capping protection is through the clawback of tax decreases from properties that have experienced an assessment decrease in 1998 or in the reassessment of 2001. Each year the Ontario Property Tax Analysis (OPTA) system recalculates, the amount of clawback required, on a region wide basis, based on the returned assessment roll and the capping requirements for that years property tax billing. The clawback rates for each year, including 2002 are:

AMOUNT OF DECREASE WITHHELD (CLAWBACK)

	Re-assessment Year			Re-assessment Year	
PROPERTY CLASS	1998	1999	2000	2001	2002
Multi-Residential	7.56%	3.94%	2.94%	87.77%	1.45%
Commercial	88.88%	68.89%	52.36%	81.16%	92.36%
Industrial	88.88%	68.89%	52.36%	51.11%	99.07%

In 1998 when the original clawbacks were calculated to fund the 10% cap, the municipalities in York Region did not have enough decreases in the industrial class to fully fund the caps, therefore special permission was granted by the Province to combine the commercial and

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF OCTOBER 15, 2002

Item 3, CW(WS) Report No. 64 – Page 2

industrial classes, for the purpose of clawback and set a rate that was the same for both classes. In the 2001 re-assessment this was not necessary and the clawback rates for each class were calculated independently resulting in rates of 81.16% for commercial and 51.11% for industrial.

The clawback rate for the multi-residential class increased significantly in 2001, from 2.94% to 87.77% due to some large assessment increases in the previously owned Ontario Housing properties, however in 2002 the rate decreased to 1.45%.

2002 Impact

The expectation is that clawback rates will drop from the previous year, in a non re-assessment year such as 2002, however you will note the commercial has increased from 81.16% to 92.36% and the industrial has increased significantly from 51.11% to 99.07%. Staff have analyzed the data to determine why these increases occurred and have found it is primarily the result of a provision in Bill 140, introduced in 2001. This legislation requires municipalities to review any property that is new construction or new to the capped class (including vacant land), and ensure it is not taxed at a level higher than comparable properties which already exist in the class. This results in an ever-increasing pool of commercial and industrial properties that will capped at 5%. With a limited number of properties experiencing assessment decreases the clawback rate will continue to increase.

Attached is an example of a new to class property that was farmland in 2000 and reassessed as commercial vacant in 2001. Rather than billing this new to class property its CVA tax level of \$83,105 legislation will only permit billing of \$37,292. In 2002 this means we must fund \$44,714 of new capping dollars from properties with decreases. This property will continue to be capped at 5% per year, until it eventually reaches the CVA taxes. Without a change in assessment, this will take approximately 13 years.

Conclusion

Areas with significant growth, such as York Region will continue to have additional properties coming into the capping formula and will therefore have to continue to withhold decreases to fund these caps. It is also possible that in future years there may not be enough decreases to fund the caps and municipalities will be required to fund the shortfall through the operating budget. The 2003 operating budget will include a consideration of funds for this purpose.

The final property tax bills for the commercial, industrial and multi-residential properties will be mailed by the end of the September. Properties that were expecting to see a continued decline in their clawback requirements will in fact see an increased clawback amount, and may see a final tax bill higher than last year.

Attachments

Sample New to Class Property

Report prepared by:

Grace L. Marsh, ext. 8268
Manager of Property Tax and Assessment

(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)