



TO: GENERAL COMMITTEE

SUBJECT: NEW ASSESSMENT REVIEW BOARD RULES OF PRACTICE AND PROCEDURE

WARD: ALL

PREPARED BY AND KEY CONTACT: M. MASLIWEC, ACTING SENIOR MANAGER OF ACCOUNTING AND REVENUE, EXT. 4428

SUBMITTED BY: C. MILLAR, DIRECTOR OF FINANCE AND TREASURER

GENERAL MANAGER APPROVAL: D. MCALPINE, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES

CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That the Director of Finance and Treasurer or his/her designate(s) be delegated the authority as required, to:
 - a) Initiate and file notices of assessment appeal, for any property in the City of Barrie, with the Assessment Review Board;
 - b) Withdraw any appeal filed by The Corporation of the City of Barrie, should it be determined that it is not in the City's best interest to proceed;
 - c) Attend any Mediation or Settlement Conferences on property tax or assessment matters as a party to all appeals whether filed by The Corporation of the City of Barrie, or another person, entity or agent;
 - d) Attend before the Assessment Review Board on property tax or assessment matters as party to all appeals whether filed by The Corporation of the City of Barrie or another person, entity or agent; and
 - e) Execute settlement agreements, on behalf of The Corporation of the City of Barrie, reached in the course of a taxation or property assessment appeal, mediation or settlement conference.
2. That the delegated authority previously provided in accordance with motion 07-G-128 – Delegate Authority for Property Assessment Appeals, be repealed.

PURPOSE & BACKGROUND

Report Overview

3. The purpose of this report is to provide an update to Council on the Assessment Review Board's (ARB) new Rules of Practice and Procedure that became effective April 1, 2017. As well, based on the new rules, the report seeks to update the delegated authority provided to the Director of Finance and Treasurer.

4. The ARB is an independent adjudicative tribunal established under the Assessment Act, with a mandate to hear appeals about property assessment and classification. The provincial government, through the Ministry of Finance, sets the laws regarding property assessments. The Municipal Property Assessment Corporation (MPAC) assesses and classifies all properties in Ontario. If there is a dispute between a property owner and MPAC, the property owner can file an appeal with the ARB.
5. The ARB has historically experienced many challenges moving assessment appeals through their process as a result of timing and procedural delays. According to the ARB, the intent of the new rules and administrative practices is to promote fairness and efficiency with appeals being completed on a timely basis.
6. A secondary purpose of this Staff Report is to provide an overview of a proactive assessment base management framework, and the City's evolving approach.

ANALYSIS

ARB's New Rules of Practice and Procedure

7. The ARB introduced new Rules of Practice and Procedure effective April 1, 2017. These new rules bring major process changes that are intended to improve the efficiency and speed with which property assessment appeals will be processed. If a municipality wishes to participate in an appeal, it must file a Statement of Response within the standard time frames that have been established. This means municipalities will now be active participants in the appeal process. A new element of this process is mandatory mediation and/or settlement conferences. The new procedural rules include the following elements:
 - a) For each appeal proceeding, a Municipality must file a Statement of Response if it wishes to actively participate in an appeal;
 - b) Other parties will be required to serve the Municipality with all disclosure, Statements of Issue, Statement of Response, and Reply; and,
 - c) Municipalities can request appeal hearings be advanced in situations whereby property is considered "sensitive".
8. The new Rules require administrative changes in early 2018 to ensure the City is prepared to deal with its new roles and responsibilities. The most significant change in the rules is the requirement that all parties participating in an appeal have full binding authority to negotiate, settle, and execute minutes of settlements. Without this authority, representatives will not be able to participate in any aspect of the appeal process. The intent of this change is to significantly streamline the flow of appeals by improving the ability of all parties to make timely decisions.
9. The City, and all other municipalities, will play a much more active and important role in the protection of their assessment base and property taxes than ever before under the ARB's new Rules of Practice and Procedure. Many procedural changes are still pending and staff will continue to monitor the implications of these changes to assess how the new appeals process will affect current resource levels.
10. Motion 07-G-128 – Delegated Authority for Property Assessment Appeals – currently provides the City Treasurer with limited delegated authority. It states "That the City Treasurer be given the delegated authority to appeal property assessments and sign ARB Minutes of Settlement and recommended Request for Reconsideration on behalf of The Corporation of the City of Barrie."

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11. The authority delegated to the Director of Finance and Treasurer, and his/her designate(s), needs to be updated to allow for the effective management of assessment appeals in accordance with the ARB's new Rules of Practice and Procedure. The expanded authority would allow the Director of Finance and Treasurer and his/her designate(s) to:
- a) Initiate and file notices of assessment appeal, for any property in the City of Barrie, with the ARB;
 - b) Withdraw any appeal filed by The Corporation of the City of Barrie, should it be determined that it is not in the City's best interest to proceed;
 - c) Attend any Mediation or Settlement Conferences on property tax or assessment matters as a party to all appeals whether filed by The Corporation of the City of Barrie, or another person, entity or agent;
 - d) Attend before the ARB on property tax or assessment matters as party to all appeals, whether filed by The Corporation of the City of Barrie or another person, entity or agent; and,
 - e) Execute settlement agreements, on behalf of The Corporation of the City of Barrie, reached in the course of a taxation or property assessment appeal, mediation or settlement conference.
12. City Staff have recently procured the services of Municipal Tax Advisory Group (MTAG) to provide support in analyzing assessment values, and if needed, to support or represent the City in mediation and/or appeal hearings. In more complex property assessment appeals, where appropriate, staff recommend having the option of delegating to Municipal Tax Advisory Group (MTAG) to represent the position and interests of the City. The proposed recommendation would allow the Director of Finance and Treasurer to determine whether it would be appropriate to have MTAG represent the interests of the City.

Assessment Base Management Program

13. The objective of an Assessment Base Management (ABM) program is to ensure that the assessment roll is complete, accurate, predictable and stable. The following principles will guide both MPAC and all municipalities as we proceed through the four year assessment cycle:
- a) Maximizing the amount of revenue available for collection by municipalities;
 - b) Enhancing and protecting the assessment base;
 - c) Ensuring fair and equitable treatment; and,
 - d) Stabilizing the assessment role.
14. An ABM Program must be tailored in response to each municipality's structure, priorities and needs. As a best practice, a comprehensive ABM program includes a range of assessment projects and initiatives that fall within three primary categories:
- a) Maintenance – two-way sharing of information to enhance overall state of the assessment roll (accurate, complete, current);

- b) Mitigation – Targeted involvement and mitigation to preserve the assessment base and/or plan for assessment at risk; and,
 - c) Active management to understand change and develop a position(s) on key taxation objectives.
15. Approaches will vary by jurisdiction in response to assessment base demographics and municipal resources, which will in turn influence the philosophy about involvement and level of participation in the program.
16. Municipalities may choose to participate in ABM at three different levels:
- a) Passive – monitoring only;
 - b) Intermediate – moderate participation; desire to comply or contribute where possible/interested; and,
 - c) Active – full participation; willing and able to engage in all aspects of the assessment and/or appeal processes.
17. The City currently participates at an intermediate level in the maintenance of the assessment roll and management of taxation objectives. Plans are being implemented to move the City from a passive to intermediate level of engagement in the mitigation area. Existing levels of engagement align with resources that are currently available.
18. Enlisting the appropriate type and level of expertise is critical to a successful ABM program. Staff are undertaking these activities using a combination of internal resources and external consultants. Municipal property tax experts Municipal Tax Advisory Group (MTAG) were awarded a contract in mid-2017 to assist with the development of the City's ABM program to respond more effectively to the increasing number and complexity of property assessment appeals in Barrie.
19. The following table provides a summary of the financial impact of ARB Decisions from 2014 to 2017:

ARB Decisions

	2014	2015	2016	2017
Budget	\$350,000	\$500,000	\$500,000	\$500,000
Actual	\$623,202	\$1,719,077	\$2,544,242	\$1,530,641
Variance	(\$273,202)	(\$1,219,077)	(\$2,044,242)	(\$1,030,641)

20. Several of the larger appeals settled in 2017 include: Home Depot - \$368,000; Penady Ltd. (various properties) - \$251,000; Woods Park Care Centre - \$468,000; and, Calloway Real Estate (several properties) - \$241,000. In 2016, Canadian Tire's appeal was settled, resulting in a refund of almost \$552,000 for appeals covering 2009-2016. Molson Park was also settled in 2016 for the same period, with a municipal impact of \$191,000. In each of the years from 2014 to 2017, the resulting unfavourable budget variances were managed at the corporate-wide level.
21. There are still several province-wide centralized appeals that are ongoing involving Costco and Loblaws. Other ongoing significant appeals dating back several years include Park Place, 175 Essa Road, and 612 Welham Road (Cogeco).

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22. Work is currently underway to develop criteria to strategically target key properties where exposure or return on investment is greatest. Selection criteria includes:
- a) Certain tax classes or property codes only;
 - b) Properties with a Current Value Assessment above a set threshold;
 - c) Properties where a tax agent or property management group is involved;
 - d) Multiple years under appeal; and,
 - e) Outcome has the potential to set a precedent.
23. During 2017, staff and MTAG proactively collaborated on an assessment review, to identify missing or incorrect assessments, and work with MPAC to have them added to future assessment updates. Based on a review of the final 2017 tax roll, approximately \$750,000 in additional municipal tax revenue was added to the property tax base as a result of this review and follow-up. These additions to the tax rolls greatly assisted in mitigating tax pressures within the 2018 budget.
24. Staff also continue to proactively monitor pending and/or ongoing development activity. As raw unused or farm land moves to a completed development, there are stages that trigger an assessment or classification change. Staff work with MPAC to capture these changes in a timely manner. As development activity in the annexed lands expands, both the City and MPAC will face work load challenges and the timeliness of updates will start to be impacted. Future business plans will identify the additional resources required to deal with these upcoming challenges that are on the horizon.

ENVIRONMENTAL MATTERS

25. There are no environmental matters related to the recommendation.

ALTERNATIVES

26. The following alternatives are available for consideration by General Committee:

Alternative #1 General Committee could maintain the existing policy, with respect to the delegation of authority for property assessment appeals (i.e. status quo).

This alternative is not recommended, as it will essentially prevent the Director of Finance and Treasurer, and Finance staff from effectively managing and participating in assessment appeals in accordance with the ARB's new Rules of Practice and Procedure.

Alternative #2 General Committee could alter the proposed recommendation by delegating authority to only the Director of Finance and Treasurer.

Although this alternative is available, it is not recommended as it would require that the Director be present on all occasions that may require a decision. In the Director's absence, other Finance staff and /or the City's consultant would be unable to represent the City. This would not be an efficient or effective utilization of staff and consultant resources.

FINANCIAL

27. There are no immediate financial implications for the Corporation resulting from the proposed recommendations to delegate additional authority to the Director of Finance and Treasurer. There will, however, continue to be financial implications from property assessment appeals. As previously noted, one of the objectives of the ABM program is to maximize the amount of property tax revenue available for collection.

LINKAGE TO 2014-2018 STRATEGIC PLAN

28. The recommendations included in this Staff Report are not specifically related to the goals identified in the 2014-2018 Strategic Plan.