

# MITIGATING ASSESSMENT LOSSES

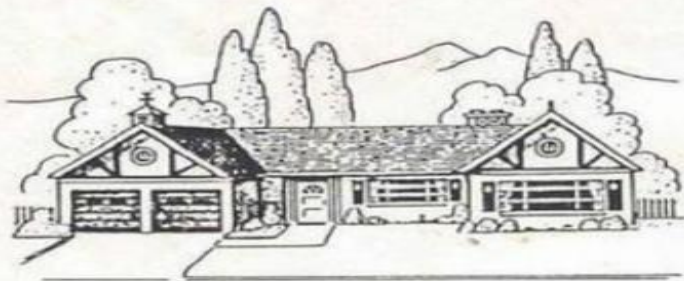
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Grace Marsh, Town of Newmarket

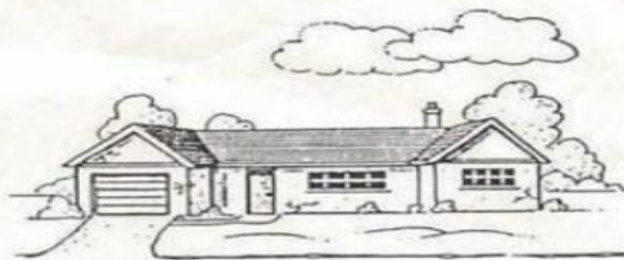
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# YOUR HOME AS SEEN BY



YOU



YOUR BUYER



YOUR LENDER



YOUR APPRAISER



YOUR TAX ASSESSOR

# Outline - Introduction

- This session offers practical advice and strategies for Treasurers to
  - support and assist their tax and assessment staff in the management of assessment appeals,
  - mitigate assessment losses and the resulting reductions in tax revenue, and
  - offers insights into some challenges arising from the ARB's new rules of practice and procedure.
- Mitigating Assessment Losses can be a material component of Municipal Budgeting with the right staff, approaches and programs in place.

# Assessment Appeals

- Assessment appeal activity within a municipality has direct consequences on municipal property tax revenues
- The resolution of appeals can have direct implications on current and future year operating budgets



# Overview

- Section 1 – Why put Resources into Assessment Management and Mitigation?
- Section 2 – Delegation of Authority
- Section 3 – What is needed
- Section 4 – Policies and Procedures
- Section 5- Successes!

# Section 1 - Why put Resources into Assessment Management and Mitigation

- The assessment roll changes daily. It is not a static document to be looked at once year.
- There are no less that 5 types of assessment notices your taxpayers may receive at anytime:
  - Property Assessment Notice,
  - Property Assessment Change Notice,
  - Amended Property Assessment Notice,
  - Advisory Notice of Assessment
  - Special Amended Notice.

# Why put Resources into Assessment Management and Mitigation

- The result for all these notices is a change in the assessment which may mean a loss in tax revenue or an increase in tax revenue. Assessment changes need to be managed consistently so you know how your revenue is affected (past, current and future years)

# Recent Case Studies

## \$4M tax refund to Domtar 'devastating': Espanola

Sudbury Star  
Friday, February 15, 2013 9:27:17 EST AM

Huge Domtar reassessment sends City  
back to drawing board on budget

Dryden Observer  
February 5, 2013 9:27:17 EST AM





# Rationale

- Assessment values are under attack. There is an entire industry that thrives on the money to be made from assessment challenges and appeals every year.
- Property owners can take 2 kicks at reducing every assessment. They can ask MPAC to reconsider the property (without any notice to the municipality) and if successful you lose revenue.

# Rationale

- If they are not successful with MPAC they can file an appeal with the Assessment Review Board and take another shot at reducing taxes.
- Time is your enemy! If challenges to the assessment are not managed they can take many years to resolve. The municipality must try to financially plan for the eventual outcome which can effect multiple taxation years and contingency budgets (appeal loss provisions) - and you may still have a short fall or you may have a surplus to deal with.

# Rationale

- It's not just the challenges to assessments that need to be managed. Perhaps you are losing revenue because of values that are too low or incorrectly classified – what then?
- Remember property tax is your single largest revenue source. It needs to be protected.

# Additional considerations

- Assessment challenges are just one of the things that can erode revenues.

Other areas to be managed include:

- Vacant unit rebates
- Tax Reduction applications
- Exempt property reviews
- Development triggers for assessment changes
- New and renovated buildings
- Change of use
- Pre consultations on the assessment

## Section 2 – Delegation of Authority

- The Treasurer and/or their designated staff must have authority to deal with the various components of a proactive assessment management program.

### **Newmarket's approach:**

- Newmarket worked with the Clerk's Department to amend the Master Delegation By-law for the municipality. The update provided the Treasurer and his/her designate with 'authority for Property Assessment and the Collection of Taxes'. This authority is interpreted broadly to include all matters relating to assessment appeals and tax applications.
- A very important factor in an effective process is the authority to negotiate and settle appeals on behalf of the municipality. This can be established with or without dollar value limits.

# Delegation of Authority

## Toronto's approach

- **2005:** Toronto Council delegates authority to the Treasurer to file/initiate assessment appeals, and, in consultation with the City Solicitor, to *“take all steps appropriate ... including authority to withdraw appeals filed by the City or end its participation or execute Minutes of Settlement or other settlement documentation”*
- **2006:** Council adopts criteria to determine when the City should actively participate in ARB appeal proceedings (City-initiated or taxpayer initiated).
  - Where MPAC has acknowledged the error and no solution exists to correct the error
  - Where CVA > \$100 million and/or potential loss is > 50% of CVA
  - Where tax revenue implications > \$100,000 or > \$1,000,000
  - Where appeals may have precedent-setting or legislative implications
- **2014:** Council delegates full standing authority to Treasurer for appeals.

# Delegation of Authority

## Guelph's approach

- With changes in the ARB rules a mandatory settlement conference must be held prior to a hearing. At the settlement conference all statutory parties in attendance must have the authority to bind the party. Thus in order for municipal staff to be in attendance they must have the authority to bind the municipality on that issue.
- March 2018 - Staff have been delegated authority to represent, negotiate and legally bind the City in these settlement conferences. Additionally staff have been delegated authority to allow for filing of Municipal Act, and Assessment Appeals or Requests for Reconsideration as well as the authority to sign any document for taxation and assessment related purposes.

## Section 3 – What is Needed

Foremost the understanding from the Treasurer / Senior Executive Team and Council on the positive impact Assessment Base Management can make on your Municipality.

This understanding must also be supported by appropriate budget allocation to achieve the following four points:



## Section 3 – What is Needed

1. Consider dedicated staff resources – managing assessment appeals is a full-time job, and requires specialized knowledge and expertise:

- Assessment theory and MPAC's valuation approaches, relevant legislative provisions, familiarity with RfR and appeal processes, ARB rules and submission requirements, financial impact analysis on municipal tax revenues.
- Assessment knowledge, Licenced Paralegal
- Professional designations and reputation
- Ability to work with the other parties is key

# What is Needed

2. Clear definition of staff responsibilities:
  - Conduct detailed analysis of annual assessment roll and supplementary/omitted rolls to identify properties that are significantly under-valued, misclassified, missing, or otherwise incorrectly assessed.
  - Staff review planning applications, zoning by-laws, building permit data to identify properties that have changed, but the assessment value and/or classification has not been revised appropriately.
  - There is no substitution for field work/visits/drive by

## What is Needed

3 . Consider external professional resources where necessary:

- Develop a roster of pre-qualified assessment expertise where warranted (RFP process) – law firms, specialized Tax Consultant, Expert Witness, retired assessors/valuators, etc.
- Ensure funds are budgeted each year to acquire/retain professional expertise – funding may be earmarked from actual or projected mitigation of assessment appeal losses.

## What is Needed

### 4. Equip staff with necessary resources:

- On-line sources of property/realty information (Municipal Connect)
- Building permit and development application data (internal)
- Case management and analytical software
- Sales and assessment data for the region/province
- Invest in training – assessment/taxation courses offered through universities/colleges and accredited associations (MFOA, OMTRA, IMA, AMCTO)

## Section 4 – Policies and Procedures

- Develop policies and procedures to enable effective assessment base management:
  - Funding for dedicated assessment base management staff
  - Delegated authority vs. adhoc reporting to Council (timing may be an issue)
  - Clear criteria for municipal participation (City-initiated appeals and taxpayer-initiated appeals)
  - Quantifying and establishing annual budgetary provision for appeal losses
  - Factoring in assessment appeal losses in calculation of annual assessment growth and notional rate determination (OPTA)
  - Procedures for identification and case management under new ARB rules

# Policies and Procedures

- Toronto has developed policies:

Revenue Services Division Policy

**Assessment Appeals: Appealing Your Property Assessment**

Policy #: RS-AP-02

Revenue Services Division Policy

**Review of Tax Exempt Properties**

Policy #: RS-TA-02

Revenue Services Division Policy

**Year End Assessment Roll Review**

Policy #: RS-TA-03

Revenue Services Division Policy

**Review of High Value Under-Assessed Residential Properties**

Policy #: RS-TA-04

Revenue Services Division Policy

**Identifying Under-Valued Payment-in-lieu of Tax Properties**

Policy #: RS-TA-05

- Consider policy examples/templates available through municipal associations and other municipalities

## Section 5- Successes!

### **Newmarket:**

- The most significant success we had between 2015 when we implemented the program and the end of assessment cycle in 2016 was that we resolved over 90% of our open appeals before the end of the year.
- This resulted in an opportunity to redeploy dollars that would have been needed in the budget for appeal losses into service or Council priority items.

# Successes!

## Toronto:

- Settlement agreement reached in November 2012 on 6 properties (12 office towers)
  - Affected taxation years: 2001 – 2012
  - Assessments reduced between 2.0% – 5.4%
  - Total tax decrease:
    - \$65.4 M recoverable education portion +
    - \$29.5M municipal portion (previously provided for)
    - \$94.9 M



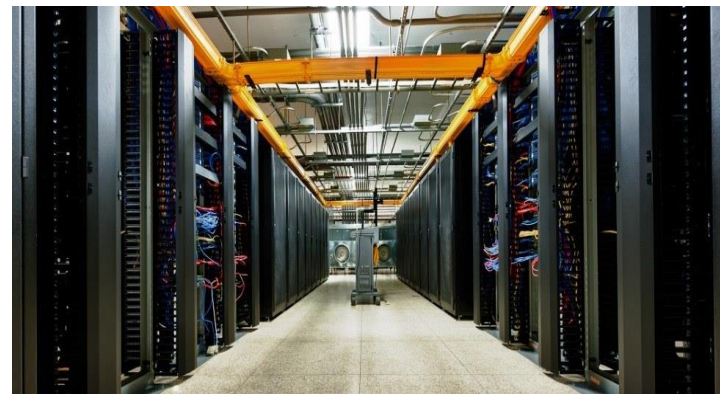
## Toronto Bank Towers

- Recent Bank Tower ARB settlement also resulted in surplus provision (savings) of \$72 M (+\$22 M for other property types)
- Council approved using the excess provision to establish Assessment Appeal Stabilization Reserve.



## Guelph:

- Large Data Center
- Assessment 2012 CVA of \$52M was appealed
- Cost to construct \$200M plus
- City suggested withdrawal, Agent refused
- Assessment Increase sought by City
- Lawyers involved, No Hearing, Min settlement - \$59M
- Also settled 2016 CVA
- Overall additional revenue
  - 2012 CVA = 563K
  - 2016 CVA = 246K



# Key take-aways

- **Newmarket:**
  - Hiring staff with the appropriate training such as a paralegal (as an advocate), and a person trained in assessment methodologies (as the expert) has provided a real dollar saving of approximately \$65,000 per year that was previously being paid to outside resources to manage assessment appeals. This was not additional staff, it was simply a matter of an updated skill set when hiring replacements for current FTE's

# Key take-aways

- **Toronto:**

- Budget provision established annually to reflect potential assessment appeal losses – based on historical appeal loss percentages by class
  - Commercial ~ 6.5%
  - Industrial ~ 13.1%
  - Multi-Residential ~ 10.3%
  - Residential ~ 5.3%
- Provision (potential at-risk percentages) reviewed annually
- Appeal losses are factored into assessment growth calculation used to determine notional tax rates

# Key take-aways

## Guelph

- Budget – Successful Assessment Base Management does not happen off the side of your desk with out resources.
- Professional knowledgeable staff / designations
- Solid Legal advice - Experience
- Access to data, property tax agents have significant access to data
- Pre consultation – a correct assessment is not appealed
- Rewards – while there can be financial rewards for your municipality when assessment base management is done right the most important part is Equity, ensuring EVERYONE is paying their fair share.

**Thank you and Further  
Questions**