

The County of Peterborough
Waste Management Committee

To: Chair and Members of Committee
From: Chris Bradley, Director of Public Works
Date: January 20, 2014

Subject: MOF/MPAC Landfill Assessment Update

Recommendation: Receive for Information

Financial Impact: Undetermined at this time

Background/Analysis:

At the meeting of Waste Management Committee of November 18, 2013, staff presented a report to Committee updating the status of the MPAC/MOF Landfill Assessment update.

As stated in that report, the Municipal Property Assessment Corporation, (MPAC), under the direction of the Ministry of Finance (MOF), is developing an assessment formula to apply to landfills throughout the Province of Ontario. Once implemented, these assessment values, and the subsequent taxes that the County and City would have to pay on the assessed value of the landfill could be significant.

County and City staff are members of a Working Group struck by the Ministry of Finance which is made up of stakeholders from the industry, both private and municipal, staff of the ministry, staff of MPAC, and representatives of a number of waste management associations.

This report updates the status of the process.

On December 17, 2013, staff received correspondence from Steven Del Duca, Parliamentary Assistant to the Minister of Finance. A copy of the correspondence is attached to this report as Appendix A, along with a copy of the Special Purpose Business Property Assessment Review Bulletin and the Special Purpose Business Property Assessment Review Report. An excerpt from the Landfills section of the report is below:

Landfills

Recommended Approach

Based on the input received during the consultations, it is clear that there is insufficient support for MPAC's capacity methodology, at least in the form in which it was introduced. As a result, it is recommended that MPAC's capacity approach should not be applied to any additional landfill properties before the 2016 reassessment.

It is also evident from input received during working group discussions that further consultation and analysis is required in order to develop a principled valuation methodology and to ensure that all facts and impacts are known and understood before changes are implemented. Continued consultations and analysis would also facilitate consideration of the proposals that were brought forward by stakeholders late in the review process.

It is recommended that Ministry staff continue the consultation process, working with stakeholders, to examine the methodologies presented during the review, consider impact analysis, focus on the policy principles articulated during the review, consider the applicability of the methodologies to all landfills province-wide, and arrive at a recommended valuation approach by the summer of 2014. This timeframe would ensure that preliminary values can be developed in 2015, providing sufficient time for MPAC to apply the approach in the development of values for the 2016 reassessment.

As part of the work in preparation for the review, it became apparent that there were issues with the accuracy of the information that MPAC has available for certain landfill properties. It is recommended that MPAC continue to closely review the data that it has on each landfill property with a view to ensuring that any factual errors and inconsistencies are corrected so that the most accurate valuations are produced for the 2016 reassessment.

Summary:

There is certainty that the Peterborough County/City Waste Management Facility will receive a re-valuation of the assessed value of the property for the 2016 tax year. Staff are unsure of what that value will be at this time.

As the Ministry of Finance and MPAC move forward with their reassessment initiative, staff will update the Waste Management Committee.

Respectfully submitted,

Attachment:

Appendix A – correspondence from Steven Del Deca

Special Purpose Business Property Assessment Review Bulletin

On December 17, 2013, the Parliamentary Assistant to the Minister of Finance presented a report containing the key findings of the Special Purpose Business Property Assessment Review to the Ministers of Finance and Municipal Affairs and Housing.

This report includes specific recommendations and proposed next steps for addressing issues in relation to the assessment of special purpose business properties such as, landfills, billboards, mills, farms, wind turbine towers and industrial lands. The Report also identifies recommendations for strengthening the property assessment system overall, including the following priorities:

1. The development of methodology guides and an advance disclosure protocol to create a credible and transparent process and reduce the number of appeals.
2. Creating a directive to clarify accountability frameworks, roles and responsibilities and appeals processes.
3. Conducting a comprehensive, independent performance evaluation of the Municipal Property Assessment Corporation (MPAC) focussed on special purpose business properties to assess business efficiencies and establish a baseline for gauging improved performance.

Over the past summer and fall the Parliamentary Assistant to the Minister of Finance worked with municipalities, MPAC, and business taxpayer representatives to undertake the Special Purpose Business Property Assessment Review.

During the course of the consultations, there was a consensus that the majority of the property assessment and tax system is working well. For this reason residential property assessment was not in scope. This review centred on issues associated with the assessment of specialized and unique types of business properties that often involve complex assessment methodologies and are not commonly bought and sold.

Link to:

- Bulletin
- Special Purpose Business Property Assessment Review Report

For specific questions related to the review can be sent via email or mail at the following address:

Mailing Address

Parliamentary Assistant to the Minister of Finance
Steven Del Duca
Ministry of Finance
7 Queen's Park Crescent 7th floor
Toronto, ON M7A 1Y7

Email Address

MPACreview@ontario.ca

Frequently Asked Questions about the Special Purpose Business Property
Assessment Review

MEMORANDUM TO:

Charles Sousa
Minister of Finance

Linda Jeffrey
Minister of Municipal Affairs and Housing

FROM:

Steven Del Duca
Parliamentary Assistant to the Minister of Finance

RE: Report-back on outcome and recommendations of Special Purpose Business Property Assessment Review

I am pleased to provide this Report presenting the key findings from the Special Purpose Business Property Assessment Review.

As you know, the 2013 Ontario Budget announced that I would lead an initiative to work with municipalities and business taxpayers to identify potential opportunities to further refine Ontario's property tax system. Over the past summer and fall I have worked with municipalities, the Municipal Property Assessment Corporation (MPAC), business taxpayer representatives and other relevant stakeholders. I would like to thank all the participants in the review for their contributions to this comprehensive process.

This Report includes specific recommendations and proposed next steps for addressing issues that have arisen in relation to the assessment of special purpose business properties as well as recommendations for strengthening the property assessment system in general.

During the course of our consultations, it became clear that the issues that have arisen relating to the assessment of specific property types point to overarching challenges within the governance and operations of the property assessment system as a whole. I would like to emphasize that the majority of the property assessment and tax system is working well. That said, I heard clearly that there are legitimate concerns about important aspects of the property assessment system.

In particular, there are valid concerns with the performance and accountability of MPAC. Therefore, I am recommending that a comprehensive performance evaluation of MPAC by an independent third party be conducted to assess its business efficiencies and establish a baseline for gauging improved performance, specifically as it pertains to special purpose business properties.

The recommendations coming out of this review build on existing efforts underway such as MPAC's Strategic Plan and a number of ARB initiatives. I believe that such a review must be undertaken in 2014 in order to ensure that required improvements to the property assessment system are in place in time for the next reassessment cycle, which begins in January 2016.

I also heard concerns about how the assessment appeals process is functioning. The current system in which appeals are filed as a protective measure or as a mechanism for obtaining information about methodology or data used to establish the value does not achieve the objective of a fair, accurate and most of all predictable assessment system. Relying on the appeal system for fact-finding leads to volatility in the assessment system and does not benefit the property taxpayer or municipalities. Clearly defining and publicly disclosing detailed assessment guides and data disclosure requirements for all parties well in advance of assessed values being established will change this practice and improve the efficiency of the system.

While issues have been identified with respect to the assessment authority, I recognize that all parties within the system share the responsibility to ensure that it is functioning effectively.

I believe that the action plan to strengthen the property assessment system should be developed within the context of the following:

- Ensuring transparency by requiring semi-annual, publicly available progress updates by all parties involved in implementation.
- Directing the Ministry of Finance to oversee the implementation of improvements to the property assessment system.
- Ensuring that municipalities are engaged as full partners with a clear role to play in the path forward.
- Ensuring compliance with recommendations by putting in place regulations and other accountability mechanisms.

I am confident that this report provides the appropriate recommendations that will, when implemented, provide all participants in the system with the fairness, accuracy and predictability that they deserve.

Original signed by

Steven Del Duca
MPP (Vaughan)
Parliamentary Assistant to the Minister of Finance

Download Full version of the Report (PDF only)

Report Highlights

Review Mandate

The mandate of the Special Purpose Business Property Assessment Review (SPBPAR) was to develop recommendations to ensure Ontario's property assessment system is fair, accurate and predictable. Through the summer and fall of 2013, the review focused on areas in which municipalities and taxpayer representatives had expressed an interest in working with the Province on issues including:

- Clarifying and refining the assessment methodologies applied to special-purpose business properties, such as mills, landfills, industrial lands, billboards, farms and wind turbine towers;
- Reviewing the timelines for the assessment appeal process; and
- Considering other opportunities to strengthen the Municipal Property Assessment Corporation (MPAC).

Over the course of the consultations, the importance of transparency was highlighted as critical to achieving the objectives of ensuring a fair, accurate and predictable property assessment system.

Strategic Context and Challenges

There is broad recognition that the majority of the property assessment system is working well – specifically the assessment of residential properties. However, significant problems have been identified pertaining to specialized and unique types of business properties that often involve complex assessment methodologies. Discussions relating to specific special purpose business property types (e.g. billboards, landfills, and mills) have revealed overarching challenges within the system and underlying problems within MPAC. These challenges relate to accountability, defining roles and responsibilities, assessment processes, and the appeals system.

This review has identified the need to take action to:

- Strengthen the operations and governance of the property assessment system generally;
- Clarify MPAC's accountabilities within the overall property assessment system;
- Establish specific protocols to ensure MPAC performs according to expectations; and
- Improve documentation in assessment methodologies and processes to increase transparency and predictability for all parties in the system.

Key Recommendations

There are three groups of recommendations which are key to addressing the overarching challenges:

1. Creating methodology guides and an advance disclosure protocol to create a credible and transparent process and reduce the number of appeals.
 - This is a significant change to the current process as it will ensure that discussions about methodology and data occur prior to the assessment roll being returned.
2. Creating a directive to clarify accountability frameworks, roles and responsibilities, and appeal processes.
 - Put policies, procedures and standards in place to allow for provincial direction to MPAC, including consequences for non-compliance
3. Conducting a comprehensive, independent performance evaluation of MPAC, focused on special purpose business properties to assess business efficiencies and to establish a baseline for gauging improved performance. A component of this evaluation would determine if MPAC has the capacity to implement recommendations regarding business operations, leadership and culture. • While this evaluation will build on the work already done through MPAC's Strategic Plan, additional improvements are required.

Recommendations were also identified for each of the specific special purpose business property types that address the immediate issues raised through the review and are aligned with the overarching challenges.

Path Forward

The property tax and assessment system is a shared responsibility – municipalities, MPAC and the Province must work together to implement the recommendations. Implementing the recommendations should be undertaken in the context of ensuring:

- A consultative and collaborative approach with all stakeholders;
- Transparency by requiring semi-annual, publicly available progress updates by all parties involved in implementation;
- Municipalities are engaged as full partners with a clear role to play in the path forward;
- Practicality, reasonableness and feasibility are considered when establishing a more detailed action plan; and
- Compliance with recommendations by putting in place regulations and other accountability mechanisms.

It is recommended that the Ministry of Finance oversee the implementation of improvements to the property assessment system.

Overarching Recommendations

Recommendations: Accountability

1. The Province should undertake an initial, arms-length performance evaluation of MPAC's governance and operations, and then implement regular reviews of MPAC's performance.
2. The Province should direct MPAC to develop and refine in collaboration with taxpayers and municipalities:
 - a. key performance indicators (KPIs), and
 - b. tools to annually measure, evaluate, and disclose achievement of KPIs (public performance report).
3. The Province should direct MPAC to work with municipalities to develop a standard form, two-way service level agreement (SLA) that makes transparent and accessible the accountability frameworks, service parameters, support needs, KPIs, and enforcement mechanisms.
4. The Province should direct and work with MPAC to review and make appropriate modifications to improve MPAC's leadership structures and corporate culture to improve transparency and responsiveness.
5. The Province should direct and work with MPAC to review and make appropriate modifications to improve MPAC's succession planning and staffing model.

Recommendations: Roles and Responsibilities

6. The Province should develop, document, and make publicly available a clear and transparent definition of the roles, responsibilities and accountability frameworks of all parties within the property assessment system (Province, municipalities, MPAC, ARB, and taxpayers).
7. The ARB, in collaboration with MPAC and the Province, should develop and implement an education campaign to increase awareness of the roles and responsibilities of all parties within the appeals process.
8. MPAC should clarify and make publicly available the existing roles and responsibilities of the MPAC board to articulate the oversight mechanisms and accountability frameworks. The Province should work with AMO and the City of Toronto to conduct further research to ascertain whether board structure changes or advisory support mechanisms are required.
9. The Province should work with MPAC to identify and adopt appropriate accreditation standards of assessors based on assigned roles and the types of property being assessed.

Recommendations: Assessment Methodology for Special Purpose Business Properties

1. MPAC and the Province should work collaboratively to ensure clarity in the drafting of legislation and regulations such that legislative interpretation and implementation of assessment methodology reflects policy intent.
2. The Province and MPAC should more strictly enforce existing legal authorities that mandate information sharing by taxpayers to facilitate accurate property valuation. MPAC should seek out and consider information shared by taxpayers, municipalities and the Province in the valuation process.

3. The Province should require MPAC to (a) carry out iterative discussions with taxpayers, municipalities, and key experts to develop and disclose the parameters and guidelines for assessment methodologies; and (b) comply with and apply with consistency the agreed-upon assessment methodologies. This process will first be applied to special purpose business properties considered in the Review.

4. The Province and MPAC should work together to develop an advance disclosure protocol that increases predictability. This protocol would require MPAC to share and discuss with taxpayers and municipalities the data parameters and calculations used to determine assessed values, respecting existing laws regarding disclosure of third-party data. The goal of the protocol should be to resolve issues regarding data and calculations in advance of the roll being returned. The Province should ensure MPAC's compliance with the advance disclosure protocol.

5. The Province and MPAC should work together to develop an assessment methodology change disclosure protocol that improves transparency. This protocol should include such requirements as analysis of impacted parties, analysis of scope of change, and a consultation and implementation plan. The Province should ensure MPAC's compliance with the assessment methodology change disclosure protocol.

Recommendations: Data Accuracy and Integrity

15. MPAC should develop suitable internal controls and approval mechanisms to ensure data integrity and accuracy, to track in-year changes of assessed values, and to report such changes to taxpayers and municipalities in a timely manner.

16. The Province should work with MPAC to review and make appropriate modifications to MPAC's internal approvals processes to improve quality assurance of assessed values.

17. MPAC should work with stakeholders to identify and remedy data system interfacing limitations.

Recommendations: Appeals

18. MPAC should work with stakeholders to improve appeal tracking and reporting mechanisms to alert municipalities to immediate and potential assessment risks to municipalities and relevant property types. This tracking mechanism should include an inventory of appeals and their status.

19. MPAC and the Province should consider the expanded use of the RfR process to special purpose business properties.

20. MPAC and the Province should advocate for the increased uptake of ADR prior to appeals and once appeals have been filed for special purpose business properties. The ARB should implement processes to improve access to ADR.

21. The Province should work with municipal organizations to increase municipalities' awareness of best practices in financial mitigation strategies and to support municipalities' use of existing authorities to develop tools to mitigate financial risk.

22. The Province should work with the ARB to identify mechanisms to improve all parties' compliance with ARB disclosure requirements.

23. The Province should work with MPAC and the ARB to develop a process to expedite appeals with the greatest impact on the municipal assessment base and improve efficiencies.

24. The Province should direct MPAC to work with taxpayers and municipalities to develop and implement a protocol that requires MPAC assessors and legal counsel to adequately prepare for ARB hearings in a timely fashion and to communicate regularly with all parties (taxpayers and municipalities), prior to and throughout ARB processes.

25. The Province should direct MPAC to work with municipalities to develop and implement a protocol to increase early and ongoing municipal engagement in ARB and settlement processes to reduce the current imbalance in the level of engagement of parties in the appeals process.

26. The Province and MPAC should work with municipal organizations to develop tools to support municipalities so they can better understand assessment at risk, historical analysis of risk and to prioritize municipal involvement in appeals accordingly.

Billboards

Recommended Approach

It is recommended that all billboards should be assessed to ensure consistent treatment province-wide.

Based on the input that was received during the review, and having regard for the historic assessment treatment of signs in Ontario, it is recommended that billboards be assessed based on their structure cost without an added value for land rental. It is recommended that this valuation approach would apply starting in 2014. Consideration could also be given to retroactive application of this valuation approach for signs that have been newly-assessed since the 2008 reassessment.

It is further recommended that MPAC actively maintain an accurate and complete inventory of billboards with input from billboard operators and property owners.

Landfills

Recommended Approach

Based on the input received during the consultations, it is clear that there is insufficient support for MPAC's capacity methodology, at least in the form in which it was introduced. As a result, it is recommended that MPAC's capacity approach should not be applied to any additional landfill properties before the 2016 reassessment.

It is also evident from input received during working group discussions that further consultation and analysis is required in order to develop a principled valuation methodology and to ensure that all facts and impacts are known and understood before changes are implemented. Continued consultations and analysis would also facilitate consideration of the proposals that were brought forward by stakeholders late in the review process.

It is recommended that Ministry staff continue the consultation process, working with stakeholders, to examine the methodologies presented during the review, consider impact analysis, focus on the policy principles articulated during the review, consider the applicability of the methodologies to all landfills province-wide, and arrive at a recommended valuation approach by the summer of 2014. This timeframe would ensure that preliminary values can be developed in 2015, providing sufficient time for MPAC to apply the approach in the development of values for the 2016 reassessment.

As part of the work in preparation for the review, it became apparent that there were issues with the accuracy of the information that MPAC has available for certain landfill properties. It is recommended that MPAC continue to closely review the data that it has on each landfill property with a view to ensuring that any factual errors and inconsistencies are corrected so that the most accurate valuations are produced for the 2016 reassessment.

Industrial Land

Recommended Approach

Based on the input that was received through the review process, and having regard for the broader policies of protecting employment land in employment uses, it is recommended that MPAC develop clearly-defined valuation procedures for industrial properties located within designated employment areas. Under these valuation procedures, properties should be assessed based on the current permitted uses on the site where land use restrictions and current zoning designations limit the development potential of industrial land in an employment area. The assessment should not be based on speculative uses that are not currently permitted.

MPAC's valuation procedures should be prepared and made publicly available well in advance of the next province-wide reassessment of properties in 2016. Implementing clear rules for assessors would enhance the transparency and consistency of MPAC's assessment process.

Prior to the issuance of new assessments for the 2017 tax year, a process should be implemented for confirming that the approach outlined above has been successful in addressing the concerns.

It is also recommended that consideration be given, with municipal input, to providing greater regulatory clarity regarding the circumstances when a change or proposed change in zoning or official plan designation should impact the assessment approach.

It is further recommended that municipalities be reminded that they have an important role to play by making full use of their land-use planning tools to limit the potential for redevelopment in priority employment areas, thereby making the zoning and permitted uses clearer for property assessors when valuing sites.

Farms

Recommended Approach

To address the concerns that have been expressed about the accuracy of the assessment of farmland, it is recommended that clearly-defined processes and procedures be established to strengthen MPAC's assessment methodology for farm properties, including the following:

- Improve the sales verification process by ensuring that analysis of farm sales reflects only sales between bona-fide farmers, such as seeking enhanced information on the sales verification questionnaire and following up proactively with the new owners to obtain detailed and timely information;
- Strengthen the accuracy and equity of the valuation process by ensuring that an adequate sample size is used for farm sales analysis, such as having regard for a larger geographic area and expanding the sales analysis period.

The enhanced procedures should be in place for implementation with the next province-wide reassessment in 2016. MPAC should continue to work with the Ontario Federation of Agriculture, the Ministry of Finance and the Ministry of Agriculture and Food to identify the range of new procedures and discuss their effective implementation.

Prior to the 2016 reassessment, it is recommended that MPAC closely review the existing assessments of farm properties. If analysis based on the application of the enhanced procedures outlined above indicates that an assessment reduction for individual properties may be warranted, changes should be made prior to the next reassessment.

It is further recommended that the farm property class administration issues that were raised during consultations by the Ontario Federation of Agriculture be discussed through the standing working group (referenced above) that is led by the Ministry of Finance.

Grain Elevators

Recommended Approach

It is recommended that the property class regulation under the Assessment Act be amended for the 2014 tax year based on the following criteria:

- Commercial classification to apply to licenced commercial grain elevators located off farms;
- Split commercial / farm classification to apply to grain elevators located on farms that are licensed for commercial use and store both the farmer's own grain and that of other producers (classification split to be based on the proportion of customer to farmer grain handled at the elevator); and
- Farm classification to apply to grain elevators located on farms that are used to store only the farmer's own grain.

It is recommended that MPAC be directed to collect any information they may require, including conducting site visits, to ensure that accurate assessed values and tax classification apportionments are determined for all grain elevators across the Province before the proposed new tax classification policy is implemented. The updated assessments would inform the determination of tax impacts of the proposed changes as part of the ministry's due diligence process.

Wind Turbine Towers

Recommended Approach

It is recommended that the increase in the assessment of wind turbine towers apply on a going-forward basis starting in 2014, not seeking to capture increases retrospectively to 2005.

It is recommended that the amount of the increase be based on the province-wide average increase in the assessed value of industrial properties. For the 2014 to 2016 tax years, the increase would be approximately 3% per year.

Beginning in 2017, and with every four-year reassessment, the amount of the increase for wind turbine towers would be updated to reflect the province-wide average assessment increase of the industrial property class, phased in over four years.

This approach is recommended to provide stability and to help mitigate tax shifts within the industrial property class between wind turbine towers and other industrial properties.

Mills

Recommended Approach

The recommended approach is based on the principle of "shared responsibility" which balances the objectives of ensuring that Ontario businesses remain

economically competitive and that municipalities have sustainable revenues to support their communities.

The Province should continue to support municipalities and mill property owners in arriving at a solution to the tax refund issue that is consistent with this “shared responsibility” principle.

In a limited number of cases, the Province will be providing one-time financial assistance that is targeted to municipalities most adversely affected by the reduced assessed values resulting from the recent ARB decisions. To qualify for one-time provincial assistance, the municipality must be northern and rural.

Further, the municipality must have an individual property which:

- is a large industrial pulp and paper or saw mill property.
- represented a significant portion of the municipality’s tax base prior to the assessment change (specifically 15 per cent or greater).
- has experienced a property assessment loss of a magnitude greater than 15 per cent of its original assessed value.
- is owed a tax refund for taxation years up to 2012, resulting from minutes of settlement or a final ARB decision, for which the municipality was not eligible for assistance under a prior program.

In order to facilitate this assistance, the Province has already initiated discussions on the assistance and specific details of the eligibility criteria with the small number of northern municipalities that may qualify for this one-time financial assistance.

The Province recognizes that additional municipalities with mill properties will see reduced values in their 2014 assessment rolls. In 2014, municipalities will be able to make use of property tax and other policy tools currently available to them to help to mitigate the impacts on their tax base. For example, in certain situations, municipalities could make use of tax flexibility tools to mitigate the impacts of assessment reductions going forward.

The Province should also further examine existing tax and policy tools available to municipalities to ensure they are effective in allowing municipalities to manage and adapt to changes in their tax base.

In preparation for the next reassessment in 2016, the Ministry should continue to work with municipalities, taxpayers and MPAC to clarify and refine the assessment methodology for mill properties.

Many of the overarching challenges within the property assessment system and issues regarding MPAC’s performance and services were highlighted in discussions relating to mill assessment. These challenges will be addressed through the overarching recommendations noted earlier in the report. The overarching recommendations reflect the advice and concerns of municipalities,

and the shared nature of the property assessment system. It will be important for municipalities to play a significant role in implementing these overarching recommendations.