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The Regional Municipality of Durham
Report

To:	Finance and Administration Committee
From:	Commissioner of Finance
Report:	#2022-F-3
Date:	February 8, 2022

Subject:

2022 Strategic Property Tax Study

Recommendation:

That the Finance and Administration Committee recommend to Regional Council:

A) For the 2022 property taxation year, the municipal property tax ratios for the following property classes for the Regional Municipality of Durham be set, consistent with the 2021 ratios, as follows, and the requisite by-law be prepared, and approval be granted,

New Multi-Residential	1.1000
Landfill	1.1000
Pipelines	1.2294
Farmland	0.2000
Managed Forests	0.2500

Commercial Broad Class
(including Shopping Centres, Office Buildings, Parking Lots and Residual)

Occupied	1.4500
Vacant Land	1.4500
Excess Land	1.4500
On Farm	1.4500

Industrial Broad Class
(including Large Industrial and Residual)

Occupied	2.0235
Vacant Land	2.0235
Excess Land	2.0235
On Farm	2.0235

B) To achieve greater fairness and equity in the Current Value Assessment (CVA) system and property taxation policy, the Province be requested to:

- update the Provincial statutory rate applicable to nuclear generating facilities;
- institute an annual mechanism to ensure the rate continues to be updated in the future, and;
- redirect proxy property tax payments currently paid by the Region's two nuclear generating facilities to the Ontario Electricity Financial Corporation (OEFC) for the Ontario Hydro stranded debt to the host municipalities and the Region following retirement of the stranded debt.

Report:

1. Purpose

1.1 The annual Strategic Property Tax Study accompanies the annual Business Plans and Budgets and provides an update on various property assessment and taxation items. As one of the Region's primary revenue sources, it is important to, where possible, ensure a sustainable property tax assessment base. To achieve this, property tax policy decisions must consider the long-term impacts on the assessment base and on all regional property taxpayers.

1.2 The following factors have historically been considered when evaluating potential property tax policy options or changes:

- **Taxpayer Equity** – property tax policy should treat similar regional taxpayers in a similar fashion regardless of geographic location or property tax class.
- **Market Effects** – tax policy should not unduly affect or distort business decisions.
- **Property Tax Competitiveness** – consideration should be given to the impact property tax policy has on the Region's overall competitiveness with respect to other jurisdictions.
- **Impact on Property Owners** – prior to adopting any new policy or policy change, a complete understanding of the properties affected, and the extent of the impact must be understood and considered.

1.3 In 2021, budgeted Regional property tax revenue was $726.6 million or 48.8 per cent of the total $1.488 billion gross expenditures for Regional property tax supported services.

1.4 The 2022 Strategic Property Tax Study provides information and analyses on a number of property tax items, including:

- assessment base trends including growth and the declining non-residential share of total taxes, placing upward pressure on the municipal residential property tax rates;
- the provincial postponement of the current value assessment (CVA) reassessment until at least the 2024 property taxation year;

- provincial policy changes announced in 2021 including strengthening the governance and accountability of the Municipal Property Assessment Corporation (MPAC);
- Update on the CVA at risk in assessment disputes;
- review and comparison of Durham's municipal property tax ratios;
- average residential home and non-residential property tax comparison;
- upper tier municipal taxation with respect to vacant residential homes; and
- looking forward and next steps.

1.5 There are no proposed changes to the municipal property tax ratios for the 2022 taxation year.

2. Previous Reports and Decisions

2.1 Strategic Property Tax Studies are prepared and presented annually. The 2021 Property Tax Strategy (Report #2021-F-04) was presented on February 9, 2021.

2.2 Regional Council considered the following two substantive property tax policy items in November of 2021.

- Report #2021-F-28 - Regional Council approved that the multi-residential municipal property tax ratio remains at 1.8665 for the 2022 property taxation year. The report provided information on Durham Region's residential sector assessment and taxation.
- Report #2021-F-29 - Regional Council approved not proceeding with the small business property subclass at this time. Information and analysis on the optional small business property subclass including impacts on other property owners and implementation and administrative challenges were outlined.

3. Background

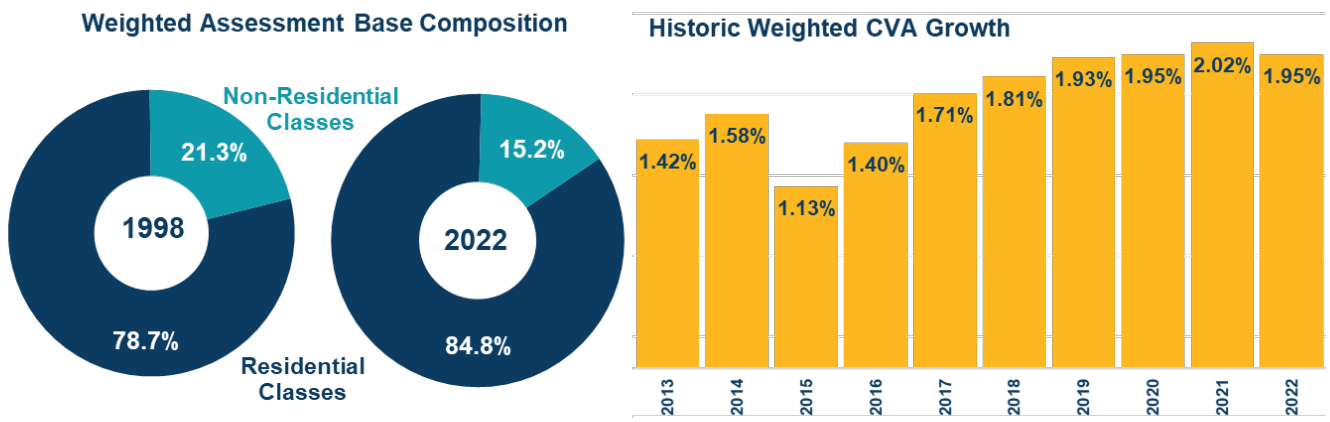
3.1 Property taxation is the single largest source of funding for the Region, averaging approximately 50 per cent of the annual funding required to deliver the property tax supported services. This study is produced annually to keep key stakeholders, including Regional Council, informed on recent developments in property assessment and taxation policy as well as long-term trends, risks, and financial impacts.

4. The Assessment Base

Assessment Growth

4.1 Historically, Durham Region's residential growth and reassessment valuation changes have been strong relative to the non-residential clasess, contributing to a continual decrease in the proportionate share of non-residential assessment in the assessment base.

Figure 1
Assessment Base Trends



4.2 For 2022, the estimated total taxable weighted assessment growth is 1.95 per cent (Figure 1). While this is a decrease from the 2.02 per cent growth in 2021, the 2022 growth is higher than originally projected due, in part, to a few large commercial developments, including a portion of the Durham Live development in Pickering and the Amazon Fulfilment Centre in Ajax, which were added to the assessment roll late in 2021.

4.3 Of the 1.95 per cent weighted assessment growth for 2022, 0.10 per cent is attributable to weighted assessment in the Seaton community. Continuing Council's direction (Report #2018-COW-19), this 0.10 per cent of the 2022 weighted assessment growth has been deferred until the Region begins incurring annual operating expenditures related to the Seaton development.

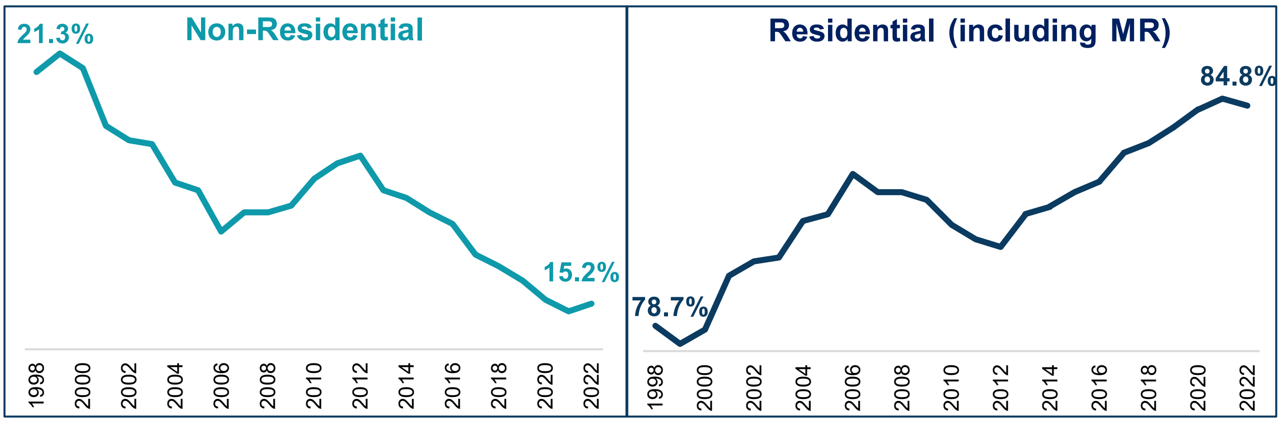
- This will ensure long term financial sustainability by better matching growth and the related property tax revenue from the Seaton community with the budgeted Regional operating costs to service this community.
- This treatment is unique due to the large scale of the Seaton community and the intense and rapid planned development that will have a measured impact on Regional expenditures in the near term.
- The proposed 2022 Business Plans and Budget recommends using a portion of this growth to offset the incremental net operating costs required to staff a new ambulance for the Seaton paramedic station.

Non-Residential Share of Regional Assessment and Taxation Base

4.4 Figure 2 shows the significant decline in the non-residential share of the Region's property tax base since 1998 and the corresponding increase in the residential share of the tax base.

Figure 2

Share of Regional Property Taxes 1998-2022

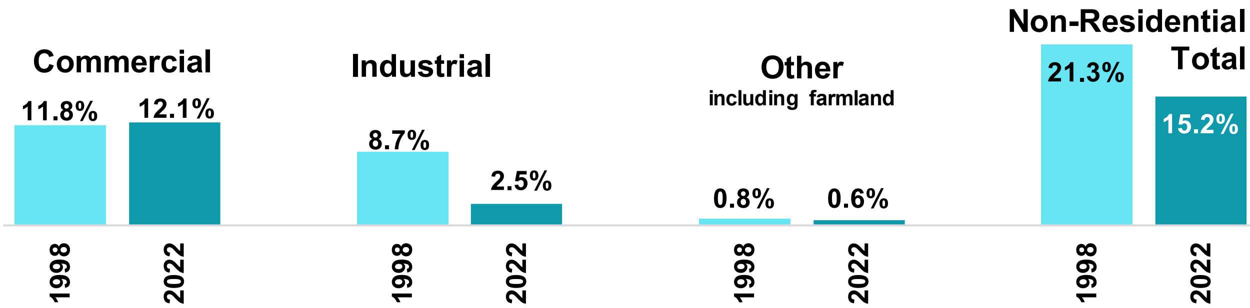


4.5 The only two exceptions to the decline in the non-residential share are explained below:

- Between 2006-2012 non-residential properties experienced higher valuation increases due to reassessments. A significant number of these were partially reversed through subsequent Assessment Review Board (ARB) decisions which contributed to the continued decreasing share from 2012.
- In 2022, the commercial property class grew by 4.3 per cent due in large part to the addition of two significant new developments, namely a portion of Durham Live Complex in Pickering and the Amazon Fulfilment Centre in Ajax. This is the highest annual increase in the commercial classes since 2007 and resulted in an increase in the non-residential Regional taxation share of 0.2 per cent (from 15.0 per cent in 2021 to 15.2 per cent in 2022).

4.6 The decrease in the non-residential share is primarily the result of declines in the industrial property class share as shown in Figure 3. The share of Other decreased as a result of Regional Council decision to phase-down municipal farmland taxes by 20 per cent between 2005 and 2007.

Figure 3
Non-Residential Share of Regional Property Taxes 1998-2022



4.7 The decrease in the non-residential share places upward pressure on the residential municipal property tax rate and has a direct impact when comparing relative tax load as discussed in Section 9 (Municipal Property Tax Comparisons) of this report.

4.8 The changes in Regional property class taxation shares are the result of:

- differences in assessment growth across the property classes;
- different valuation changes across the property classes from reassessments;
- ARB assessment appeal decisions; and
- changes to municipal tax ratios.

4.9 In collaboration with Ontario Tech University, through the CityStudio model, staff have initiated a project examining the anticipated impacts on Durham Region's non-residential property tax assessment as a result of the structural economic change expected to occur with the emergence of the 'e'conomy including the increasing prevalence of online retail and the decline in brick-and-mortar stores.

- This project focuses on reviewing the latest academic research and assessing national and international examples to gain an insight into the impact of these structural economic changes.
- The Finance Department is committed to leveraging these insights by continuing to engage with academic researchers, municipal partners, and relevant experts to provide enhanced analysis that supports proactive Regional specific responses to these structural economic changes.

5. Provincial Postponement of the MPAC Reassessment

5.1 In the November 2021 Economic and Fiscal Update, the Province postponed the property tax reassessment update for both the 2022 and 2023 property taxation years. As a result of this postponement, 2022 and 2023 taxes remain based on an updated return roll using the fully phased-in January 1, 2016 CVA.

5.2 As Council is aware, the current assessment cycle is four years with assessment increases phased-in evenly over four taxation years and any assessment decreases applied fully in the first year. Any changes in the phase-in parameters may impact the distribution of the annual tax shifts that can occur with reassessments.

5.3 The Province's decision to postpone the reassessment was due in part to the pandemic and additional concerns with respect to the volatility of the residential housing market. However, it is important that, once the economy and housing market stabilizes, the Province return to regular scheduled reassessments to ensure the assessment base remains up-to-date and to avoid future significant property tax shifts amongst taxpayers. This is a significant probability when the next reassessment occurs.

5.4 Regional staff will continue to provide updates to Council on the reassessment timing and any phase-in parameters changes when announced by the Province.

6. Provincial Business Education Tax (BET) Rate and PIL Properties

6.1 In 2021, the Province took a significant step towards uniform BET rates by instituting a common BET ceiling rate of 0.88 per cent. The Province has confirmed that the 2022 BET rates will remain at the same lower rate (see Attachment 1 for a listing of the 2022 provincial education property tax rates).

6.2 As illustrated in Table 4, these lower rates result in an estimated reduction of $15.6 million in property taxes for Durham Region taxable commercial and industrial property owners compared to the 2020 BET rates. This is of significant benefit for property owners, particularly with ongoing COVID impacts.

Table 4

Estimated 2022 Provincial Education Property Tax Reductions for Durham Commercial and Industrial Property Owners

Broad Property Class	2020 Education Tax Rate	2022 Education Tax Rate	Estimated 2022 Education Reduction $ millions	
Commercial	0.98%	0.88%	$10.0	10.2%
Industrial	1.25%	0.88%	$5.6	28.0%
Total			**$15.6**	

6.3 Concern was raised by municipalities that the BET reduction would negatively impact local municipalities who retain the education portion of property taxes on certain PIL (payment in lieu of taxes) properties. In response to this concern, the Ministry of Finance confirmed that the BET reductions would not negatively impact municipalities, indicating that the Province will maintain BET rates at the 2020 level for payment-in-lieu (PIL) properties where the education taxes are retained by single and lower-tier municipalities.

6.4 Despite this clarification, for the 2021 property tax year several federal organizations chose to pay the lower taxable education rate, rather than the higher PIL education rate. The federal commercial property presence is low in Durham Region and the resultant underpayment in education property taxes to the local municipalities was approximately $45,000. Ongoing efforts continue, particularly from municipalities with a large share of federal properties, to encourage the federal entities to maintain their previous support to municipalities.

7. Other Provincial Policy Initiatives in 2021

7.1 The Province introduced several other assessment and taxation policy initiatives in the November 2021 Economic and Fiscal Update. The following is a summary of those initiatives that are relevant to the Region of Durham and the local area municipalities.

- The incentive provided by the Provincial Brownfields Financial Tax Incentive Program (BFTIP) was increased by extending the period of matching education tax assistance from the current three year period to six years for business developments and ten years for residential developments.
- Extend the farm property tax treatment currently applied to the processing of maple sap to all edible tree saps – it is not anticipated this change will have a material impact in the Region.
- Increase the current limit of 20 acres to 30 acres for farm woodlots in light of the increasing farm size in Ontario – it is not anticipated this change will have a material impact in the Region.
- Streamline and simplify application process for the farmland property tax class. This will assist farm property owners in making applications to receive the lower farmland municipal and provincial education property tax rates.
- Improve MPAC Board governance by ensuring that a Board vacancy does not impede the Corporation activities provided that two-thirds (nine members) are filled, and municipal representation constitutes a majority.

8. Assessment at Risk Update

8.1 The calculation of property taxes is based on a property's CVA as included in the returned assessment roll provided by MPAC under the authority of the *Assessment Act* and the *Municipal Act, 2001* where:

- MPAC is responsible for the classification and CVA assignment for all individual properties in Ontario; and
- Municipalities must use MPAC information along with budgetary requirements and municipal taxation ratios (within provincial restrictions) to calculate annual property tax rates applicable to individual property tax classifications.

8.2 At any given point in time, a material percent of the Region's assessment base can be involved in an assessment or classification dispute. This can represent a significant financial risk to the Region and the local area municipalities.

8.3 There are two processes by which taxpayers can pursue assessment disputes.

- The first process, which is mandatory for residential properties, is the Request for Reconsideration (RfR) process. This is an informal process whereby the property owner requests MPAC review the file and the owner ensures that MPAC has up-to-date and correct property information. Through this review, one of the following two outcomes could occur.
  - MPAC may offer to revise the returned assessment based on more current/accurate information or may confirm the returned assessment as accurate. Should the property owner not agree with the outcome of MPAC's review, they have 90 days to file an appeal to the ARB.
  - If a change in the assessment is proposed by MPAC, a Minutes of Settlement Offer would be provided to the owner and, if it is agreed to by the owner, then the assessment is adjusted. The owner has 90 days to accept the Minutes of Settlement or advance to the next stage of the dispute process (ARB appeal).
- The second process is an appeal to the ARB, which is an independent adjudicative body within the Ministry of the Attorney General that decides assessment and classification complaints in Ontario. It can take several years for disputes to reach settlement at the ARB, with many of the more complex commercial and industrial-type complaints resulting in processes that stretch far beyond the current four-year assessment phase-in period.

Pandemic Not Relevant in Current Assessment Disputes

8.4 MPAC, the ARB and some municipalities have reported an increase in the number of assessment disputes filed by non-residential property owners claiming a decrease in the market value of their property as a result of the ongoing pandemic.

8.5 MPAC supports the returned assessment in these instances as the valuation date used in the current taxation cycle (2017-2023) is January 1, 2016 and, in principle, is not be subject to appeal for pandemic related impacts that occur four years later. Staff are actively monitoring settlement and assessment board decisions to assess whether there is an increased risk to the Region as a result of this increase in assessment appeals.

Significant Reduced Assessment Dispute Risk in the Near Term

8.6 MPAC and the ARB, through both rule and procedural changes over the last several years and the postponement of the property reassessment scheduled for 2021, have made considerable headway in eliminating the backlog of assessment appeals at the ARB.

8.7 Since 2006, there have been four reassessment cycles with valuation dates as of January 1st, 2005, 2008, 2012 and 2016. During this period there have been 42,756 assessment disputes of which 51 per cent had the assessment confirmed or the dispute withdrawn and 3 per cent remain outstanding as shown in Table 5.

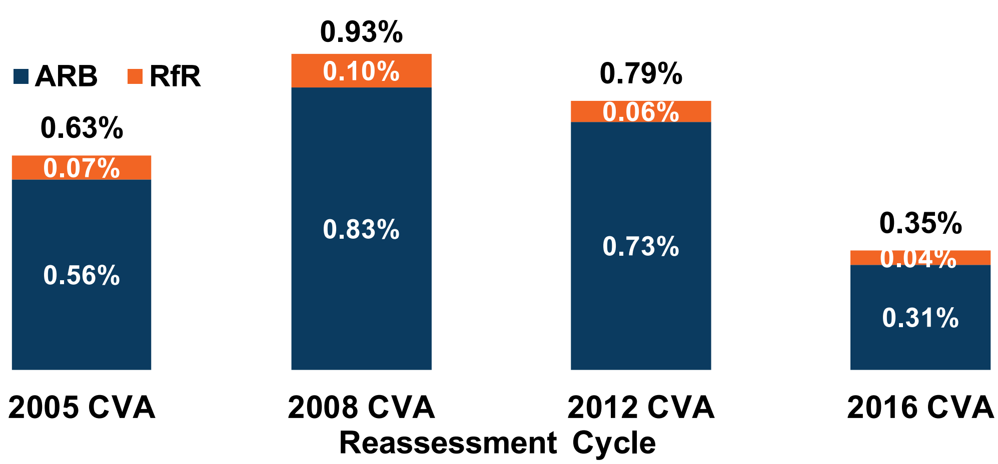
Table 5
Number of Assessment Disputes from 2006 to 2021

	Request for Reconsideration (RfR)	Assessment Review Board (ARB)	Total	
CVA confirmed or dispute withdrawn	11,637	10,043	21,680	51%
Dispute settled	10,066	9,706	19,772	46%
Dispute outstanding	320	984	1,304	3%
	22,023	**20,733**	**42,756**	

8.8 The 19,772 settled assessment disputes between 2006 to 2021 have resulted in Regional property tax losses of $59.2 million. Over half of these disputes (51.5%) were settled through the informal RfR process and resulted in total Regional property tax losses of $5.6 million. The more complex non-residential disputes were settled at the ARB and account for 90.5 per cent of Regional property tax losses totalling $53.6 million.

8.9 Figure 6 illustrates the percent of total Regional property tax losses by reassessment cycle and dispute type for the settled disputes. There is an immaterial amount of disputed CVA outstanding in the 2012 CVA cycle and approximately 20 per cent of the disputed CVA in the 2016 CVA cycle remains outstanding.

Figure 6
Total Regional Property Tax Losses Resulting from Settled Assessment Disputes



Current Regional Risk in Outstanding Assessment Disputes

8.10 As of December 17, 2021, there were 521 properties with 1,304 outstanding assessment disputes in the Region of Durham for the taxation years 2017 to 2021. These disputes involve $7.3 billion in total CVA and a total of $58.8 million in Regional property taxes as detailed in Table 7. The majority of the regional taxation risk (92.4 per cent) is with properties located in Pickering, Ajax, Whitby, and Oshawa.

Table 7
Outstanding Assessment Disputes by Local Municipality from the 2016 Reassessment Cycle (2017 to 2021)

	Properties		CVA		Regional Taxes ($m)	
	#	**%**	**$m**	**%**	**$m**	**%**
Pickering	54	10.4%	1,394.4	19.1%	12.2	20.7%
Ajax	37	7.1%	1,053.6	14.4%	10.3	17.5%
Whitby	60	11.5%	1,904.5	26.1%	16.5	28.1%
Oshawa	287	55.0%	2,458.8	33.8%	15.4	26.1%
Clarington	24	4.6%	297.2	4.1%	2.8	4.8%
Scugog	11	2.1%	51.3	0.7%	0.5	0.9%
Uxbridge	42	8.1%	125.4	1.7%	1.0	1.7%
Brock	6	1.2%	6.2	0.1%	0.1	0.2%
Region	**521**	**100.0%**	**7,291.4**	**100.0%**	**58.8**	**100.0%**

8.11 As illustrated in Figure 8, while the majority of the outstanding disputes are in the RfR process (57.2 per cent), the assessment and Regional taxes at risk are almost entirely in the ARB process (97.8 per cent).

Figure 8
Outstanding Assessment Disputes by Type from the 2016 Reassessment Cycle (2017 to 2021)

	Properties		CVA ($m)		Regional Taxes ($m)	
	#	**%**	**$m**	**%**	**$m**	**%**
Request for Reconsideration (RfR)	298	57.2%	177.9	2.4%	1.3	2.2%
Assessment Review Board (ARB)	223	42.8%	7,113.5	97.6%	57.5	97.8%
	521	**100.0%**	**7,291.4**	**100.0%**	**58.8**	**100.0%**

8.12 The Region's modelling suggests that, under a medium-risk scenario, the Region could see a further reduction of $5.5 million in Regional tax losses from the outstanding assessment disputes. Under a low-risk scenario, this is reduced to an estimated $4.2 million and increases to $6.9 million under a high-risk scenario. The Region's financial risk inherent in outstanding assessment disputes is adequately covered by the Region's Assessment Appeal Reserve.

8.13 Over 80 per cent of the Regional risk and estimated tax losses are concentrated in the four types of properties below and this risk is primarily in Ajax (29 per cent) and Whitby (26 per cent)

- Large commercial retail properties (35 per cent)
- Multi-residential properties and associated land (29 per cent)
- Standard industrial and industrial malls (9 per cent)
- Vacant land (9 per cent)

Significant Assessment Review Board Decision in 2021

8.14 In March of 2021, the ARB released an interim decision on a test case involving the valuation of gravel pits in the County of Wellington. The ruling significantly increased MPAC's land value and also reclassified various residential land parcels to the industrial property tax class. The interim decision supported the municipal position and was well received by municipalities. The ARB released an amended decision on October 19, 2021 confirming the adjustment amounts.

8.15 All parties had 30 days to serve and file notice of motion for leave to appeal the ARB decision to a higher court. On or about November 12, 2021, MPAC sought leave to clarify the land classifications. It is not known when, or if, MPAC's appeal of the ARB decision will be heard by the higher court.

8.16 MPAC has stated that they are awaiting direction on the appeal before making any adjustments to gravel pit assessments with respect to the ARB decision on the County of Wellington appeal.

8.17 As illustrated in Table 9, there are 97 gravel pit properties in the Region of Durham with the majority located in the Township of Uxbridge, Municipality of Clarington, the Township of Scugog and the Township of Brock. In 2021, all gravel pit properties in the Region contributed approximately $770,000 in Regional property taxes.

Table 9

Gravel Pit Properties by Local Municipality

	Properties	2021 CVA	2021 Regional Taxes
	#	**$m**	**$m**
Pickering	1	0.96	0.007
Ajax	-	-	-
Whitby	-	-	-
Oshawa	1	0.60	0.004
Clarington	26	20.01	0.147
Scugog	11	11.91	0.067
Uxbridge	45	61.02	0.393
Brock	13	20.16	0.151
Region	**97**	**114.66**	**0.769**

8.18 In response to the initial Wellington decision, the Township of Uxbridge appealed the assessment of its gravel pit properties. The Region has been working collaboratively with the Township of Uxbridge on these appeals and has offered support to other local municipalities should they wish to appeal the assessment of the gravel pit properties located in their respective municipalities. The proposed 2022 Business Plans and Budgets includes a provision of up to $200,000 to be provided from the property tax appeal reserve for these defense initiatives. Staff will continue to update Council on the status of the gravel pit appeals.

9. Municipal Property Tax Comparisons

Municipal Tax Ratios

9.1 A municipal tax ratio is the degree to which an individual property class is taxed relative to the Residential class. If the Commercial municipal tax ratio is 1.45, then its municipal property taxation rate will be 1.45 times the tax rate for the residential class property tax class. Since municipal tax ratios show the degree to which the non-residential classes are taxed relative to the residential class, the ratios have a direct impact on the competitiveness of municipal non-residential property taxes.

Table 10
2021 Municipal Tax Ratio Comparison

	Multi-Residential		Commercial		Industrial		Farmland	
	Ratio	Rank	Ratio	Rank	Ratio	Rank	Ratio	Rank
Durham:	1.8665	4	1.4500	2	2.0235	4	0.2000	2
Toronto	2.0838	9	2.6398	10	2.6135	8	0.2500	5
Peel Region (Mississauga)	1.2656	2	1.5170	4	1.6150	1	0.2500	5
Halton Region	2.0000	7	1.4565	3	2.0907	5	0.2000	2
York Region	1.0000	1	1.3321	1	1.6432	2	0.2500	5
Ottawa *	1.3900	3	1.8400	6	2.5200	7	0.2000	2
Niagara Region	1.9700	6	1.7349	5	2.6300	9	0.2500	5
Waterloo Region	1.9500	5	1.9500	7	1.9500	3	0.2500	5
Hamilton **	2.4407	10	1.9800	8	3.2493	10	0.1767	1
Windsor ***	2.0000	7	2.0140	9	2.3158	6	0.2500	5
Average	1.7967		1.7914		2.2651		0.2277	

Ratios in table have been rounded to four decimal places.
* Ottawa has special classes, the residential commercial and industrial are shown
** Hamilton has a Large Industrial class with a ratio of 3.801
*** Windsor has a Large Industrial class with a ratio of 2.932

9.2 As illustrated in Table 10, Durham Region has a competitive Multi-Residential ratio of 1.87. Durham's ratio is marginally above the average of the similar municipal comparators.

9.3 Durham Region has a competitive commercial ratio of 1.4500. Durham's ratio is 19 per cent below the average of the comparators (1.7914). Durham has the second lowest ratio.

9.4 Durham Region's 2021 industrial municipal ratio is 11 per cent below the average of the comparators (2.2651) in the table. At fourth lowest, Durham is higher than Mississauga, York Region and Waterloo Region.

9.5 The Province has mandated a maximum farmland municipal tax ratio of 0.25. Several Ontario municipalities (Durham included) have lowered their ratio from this provincial maximum as a support to the agricultural industry within their jurisdiction.

9.6 There are no recommended changes to the Region's municipal property tax ratios for 2022.

9.7 The remainder of this section provides a summary of the property tax comparisons across comparable municipalities adjusting for the varying market values. This comparison highlights the degree to which market values affect tax rates and not property taxes.

9.8 Caution should be used in interpreting the results of any municipal property tax comparison as these comparisons do not consider municipal services or service levels and a whole range of other unique municipal characteristics (non-residential assessment levels, urban/rural compositions, geographical density and size, financial sustainability, etc.).

Residential Home Comparison

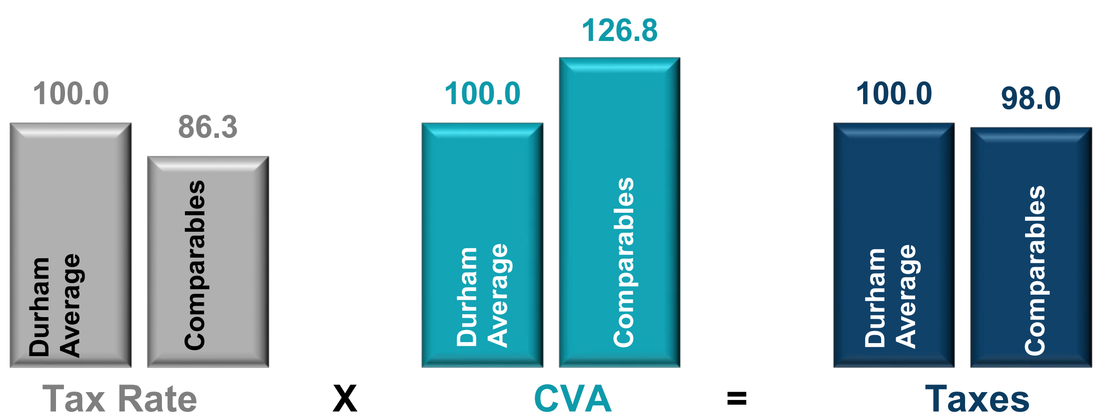
9.9 The following residential home property tax comparison is based on 10 "average" homes from across each of the local municipalities in the Region. The homes were chosen to reflect, as closely as possible, the municipality's average home in terms of assessment, age, size and building quality.

9.10 MPAC provided the CVAs for the comparator municipalities on which the following analysis is based. The comparison uses 2021 CVA and tax rates as 2022 municipal tax rates are not yet available.

9.11 Tax rates and assessments vary significantly between municipalities. In general, they are inversely related (higher assessments allow for a lower tax rate to generate the same tax dollars).

9.12 The residential home comparison found that the comparable municipal average residential tax rate was 13.7 per cent lower than Durham's. However, assessment values for the comparators were 26.8 per cent higher. The resultant average property tax ($) difference between Durham and the comparator's average is very minor, at approximately 2.0 per cent, as illustrated in Figure 11.

Figure 11
Residential Home Sample Average: Tax Rate, Assessment and Taxation



9.13 The majority of the large gap in tax rates can be explained by Durham's much lower market values (assessments) compared to our comparator municipalities. The gap of 13.7 per cent in tax rates is reduced to 2.0 per cent in tax dollars when Durham's lower assessments are considered. The geographical size of Durham would be an example of a unique characteristic as a causation factor for this small differential.

Non-Residential Property Tax Comparisons

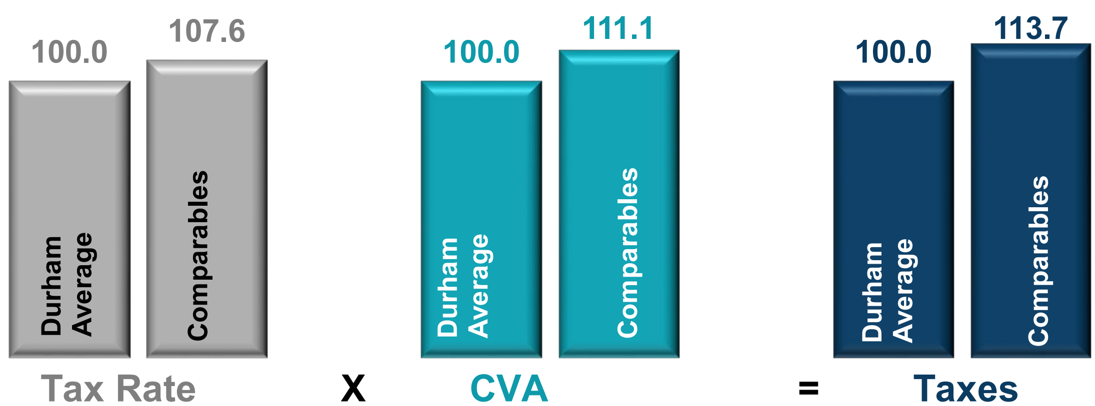
9.14 It is difficult to provide a valid non-residential property tax comparison. The primary issue is the uniqueness of the individual properties and the lack of robust sales transactions on which MPAC can base the assessments.

9.15 This difficulty has increased over the last few years, as a result of significant assessment appeals launched by the non-residential sector across Ontario for the previous three reassessment cycles and the resultant changes in both specific property assessments and MPAC methodology.

9.16 The 2021 municipal ratio analysis (see section 9.1) clearly showed that Durham's commercial ratio is very competitive with comparator jurisdictions. As well, it is believed that municipal taxation is a lesser consideration in a commercial location decision when compared to factors such as customer density and affluence. Further, commercial growth within the Region has kept pace with residential growth over the past two decades.

9.17 Similar to the residential comparison, a commercial comparison based on 18 properties was conducted. As illustrated in Figure 12 tax rates and assessment vary significantly between municipalities.

Figure 12
Commercial Sample Average: Tax Rate, Assessment and Taxation

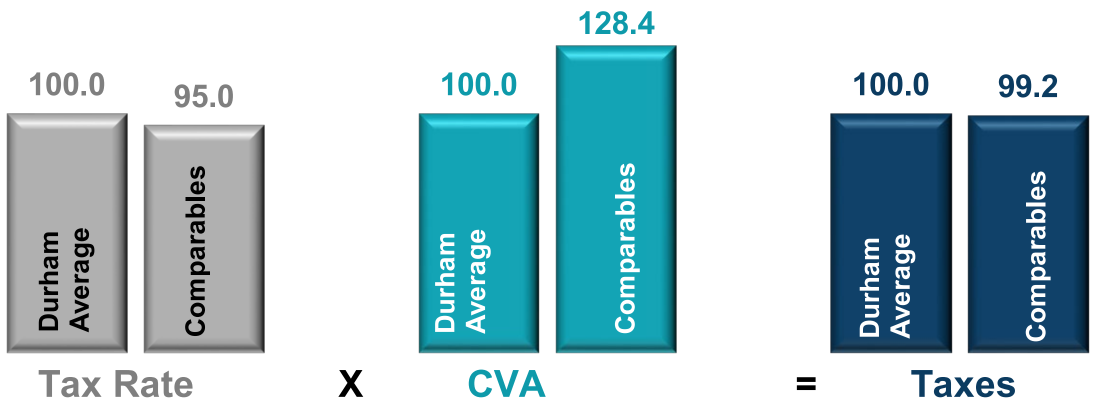


9.18 Although the commercial sample showed a high degree of variability, the average comparator municipal tax rates were 7.6 per cent higher than Durham's, while the average CVA was also higher by 11.1 per cent. The resultant property tax average of the comparators is approximately 14 per cent higher than in Durham Region.

9.19 An industrial comparison based on 12 properties was also conducted and the results are shown in Figure 13.

Figure 13

Industrial Sample Average: Tax Rate, Assessment and Taxation



9.20 A high degree of variability exists in the sample, however the averages show that the Durham Region tax rate is 5.0 per cent higher than the comparators', while the CVA is 28.4 per cent lower. The resultant property tax average on the comparators is approximately the same as Durham Region.

10. Property Tax Treatment of Nuclear Generating Stations

10.1 The two Ontario Power Generation (OPG) nuclear generating stations (NGS) provide a material amount of PIL revenues to the Region. In addition, the City of Pickering and the Municipality of Clarington are also able to retain the education tax portion of these PIL payments.

10.2 In December of 2021, Regional Council approved Durham's Nuclear Sector Strategy 2022-2032 (Report #2021-COW-37) which recognizes the importance of this sector to the Region's economy and the vital role it will play in helping the Region advance its strategic priorities.

10.3 In 2021 the Region, in collaboration with the City of Pickering and Ontario Power Generation, engaged a consultant to undertake a study of the socio-economic and fiscal impacts relating to the planned retirement and decommissioning of the Pickering NGS facility. It is anticipated that this review will be on-going through 2022 with periodic reporting to both Regional and City Councils.

Provincial Statutory Rate on Generating Facilities

10.4 The Province currently bases municipal payments for nuclear generating facilities on legislated statutory rates as outlined in the *Assessment* Act, rather than current value assessment.

- The prescribed statutory rate set by the Province for assessing nuclear generating facilities is $86.11/m^2 of inside ground floor area of the actual generating and transformer station buildings. This rate was set in 1968 and has not been updated.

- As such, the prescribed statutory rate does not consider increased Regional service costs, the time value of money or the reassessment valuation changes of all other properties since 1998.

10.5 Of all the provincial statutory rates, those that are applicable to nuclear generating facilities are particularly inequitable to Durham taxpayers due to the presence of the majority of the Province's nuclear generating capacity. This particular statutory rate continues to represent a financial inequity to the Region and its local area municipalities.

10.6 It is recommended that the Province, in consultation with the municipal sector, review and update the nuclear generating facility statutory rate of $86.11 and institute a process by which this rate is annually updated in the future.

Nuclear Generating Facilities Proxy Property Taxes

10.7 An additional property tax consideration for the nuclear generating facilities is the alternative assessment and proxy property taxes related to the payment of stranded debt.

- PIL payments on specific generating structures are based on a statutory assessment rate as defined per the *Assessment Act* and are paid to the hosting municipalities.
- Further proxy property taxes are levied and paid to the Ontario Electricity Financial Corporation (OEFC) and applied against the former Ontario Hydro stranded debt.
- Details of the alternative assessment are outlined in O. Reg. 423/11 under the Electricity Act, 1998. It is understood that proxy property taxes are the difference between the prescribed statutory rate for designated facilities and what would apply if taxed at its appropriate full CVA.

10.8 Given that proxy property tax payments to the OEFC are to be equivalent to what would have been payable by a private corporation based on an MPAC-derived alternative market valuation for these asset classes, Regional staff have previously requested confirmation from the Ontario Ministry of Finance that payments currently being made to the OEFC will instead be paid to the appropriate municipalities in respect of land located in those municipalities given Section 92(3) of the Electricity Act, 1998, which notes potential redirection of payment streams where it references tax treatment following the retirement of the stranded debt and repeal of Part V under Section 84.1 of the Act.

10.9 However, there remains a lack of clarity around the future redirection of these proxy property tax payment streams assuming the eventual retirement of the stranded debt. Any future amendments to the regulation that reduce revenues to impacted municipalities should be addressed through alternative sources of funding by the Province.

10.10 It is recommended that the Region continue to seek confirmation from the province that all existing proxy property tax payments made to the OEFC will be redirected to hosting municipalities and the upper tier, where applicable, following retirement of the stranded debt.

11. Municipal Flexibility with Respect to the Tax Treatment of "Vacant" Properties

11.1 Vacant properties, especially within the residential sector, has been getting attention recently considering rising housing prices and the lack of affordable alternatives. Many ideas have been put forward as options for addressing housing challenges and are being studied by all levels of government. This area of research is fluid and being closely monitored by Region staff.

11.2 For the purpose of this study, only the existing flexibility granted to Ontario single and upper tier municipalities with respect to a vacant home property tax will be discussed.

11.3 In the Region of Durham, since 2020, all vacant properties receive identical property tax treatment as occupied properties.

- Over the period 2018 to 2020, Regional Council phased out the tax rate reduction provided to the vacant and excess land subclasses of the broad commercial and industrial classes that had existed since 1998.
- The increase in municipal taxes resulting from the phase out of the tax rate reduction for properties in the vacant and excess land commercial and industrial subclasses was used to finance a decrease in the industrial broad class municipal tax ratio by approximately 10 per cent over the same period.

11.4 Since 2018, under section 338.2 of the *Municipal Act, 2001*, upper and single tier municipalities have been provided the power to impose an additional property tax rate on residential properties that are vacant.

- The rate must be applied to the assessment value and the property must be both taxable (not PIL) and in the residential property class.
- The upper or single tier municipality, through by-law, must state the tax rate and provide a precise definition and conditions for the vacant rate to apply to an individual property.
- The Province will enact through regulation the authority for the upper or single municipal program and the lower tier municipalities in a two-tiered structure are responsible for administering the tax.
- The tax rate can vary between different geographical areas of a two-tiered structure.

11.5 A number of municipalities in Ontario are actively investigating this property tax policy option with both the City of Toronto and the City of Ottawa indicating an intention to implement such a tax in 2023 based on 2022 occupancy.

11.6 Similar to the optional small business subclass, this policy option provides municipalities with alternative tools to address their unique circumstances. Programs such as the vacant home tax involve substantial start-up and on-going administrative costs which require a substantial presence of vacant homes to ensure that net taxation revenues and program benefits would be realized.

11.7 Staff will continue to closely monitor the implementation of the vacant home tax in both Toronto and Ottawa over the coming year, study the residential sector and real estate market development in the Region and monitor other policy options being considered by senior governments to address housing affordability concerns.

12. Relationship to Strategic Plan

12.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:

- Goal 3.1 Economic Prosperity – to position Durham Region as the location of choice for business. Property taxation is a consideration in building a strong and resilient economy that maximizes opportunities for business and employment growth, innovation, and partnership; and
- Goal 5.1 Service Excellence – to provide exception value to Durham taxpayers through responsive, effective, and financially sustainable service delivery.

13. Conclusion and Looking Forward

13.1 While this report's focus is on tax policy matters and includes relative taxation comparisons, it is understood that COVID has had implications for taxation issues. Some policies, such as vacant home tax, may be more appropriate to consider once the reassessment occurs due to the potentially dramatic shifts that could occur at that time given the number of years that have passed without reassessments occurring. It is also worthy of note that the Province has announced interim supports for businesses affected that include property tax and energy rebate programs.

13.2 Staff will continue to monitor the following ongoing property taxation and assessment considerations and will provide updates to Committee and Council as additional information becomes available:

- Non-residential declining share of the assessment base and impacts of the "new digital economy";
- Vacant home tax;
- Timing of future reassessment cycles;
- Assessment disputes; and
- Nuclear generating facilities property tax treatment.

14. Attachments

- Attachment 1: 2022 Provincial Education Property Tax Rates

Respectfully submitted,

Original Signed By

Nancy Taylor, BBA, CPA, CA
Commissioner of Finance

Recommended for Presentation to Committee

Original Signed By

Elaine C. Baxter-Trahair
Chief Administrative Officer

Attachment 1
2022 Provincial Education Property Tax Rates

Property Class				Education Tax Rate
		Residential		0.00153000
		Multi-Residential & New Multi-Residential		0.00153000
Broad	Commercial	Commercial	Occupied, Vacant & Excess Land	0.00880000
		Shopping Centres	Occupied & Excess Land	0.00880000
		Office Buildings	Occupied & Excess Land	0.00880000
		Parking Lots (Commercial)	Occupied & Excess Land	0.00880000
		New Construction	Occupied, Vacant & Excess Land	0.00880000
Broad	Industrial	Industrial	Occupied, Vacant & Excess Land	0.00880000
		Large Industrial	Occupied & Excess Land	0.00880000
		New Construction	Occupied, Vacant & Excess Land	0.00880000
Payment-in-Lieu	(PIL)	Broad Commercial	Occupied, Vacant & Excess Land	0.00980000
		Commercial New Construction	Occupied, Vacant & Excess Land	0.00980000
		Broad Industrial	Occupied & Excess Land	0.01250000
		Industrial New Construction	Occupied, Vacant & Excess Land	0.00980000
		Pipeline		0.00980000
		Pipelines		0.00880000
		Farmland		0.00038250
		Small Scale On-Farm (Commercial & Industrial)		0.00220000
		Managed Forests		0.00038250
		Farmland Awaiting Development Phase 1		0.00114750