

Staff Report

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Report To: Joint Committees

Date of Meeting: September 13, 2021

Report Number: FSD-039-21

Submitted By: Trevor Pinn, Director of Financial Services/Treasurer

Reviewed By: Andrew C. Allison, CAO

Resolution#:

File Number:

By-law Number:

Report Subject: Heritage Tax Incentive

Recommendations:

1. That Report FSD-039-21 be received;

Either:

Recommendation A - Maintain Existing Heritage Incentive Grant

2. That Staff include in the 2022 budget deliberations an enhanced Heritage Incentive Grant program for consideration including increased project limits and overall grant allocations; and
3. That all interested parties listed in Report FSD-039-21 and any delegations be advised of Council's decision.

Or

Recommendation B - Create Complementary Heritage Property Tax Rebate

2. That Staff be directed to create a Heritage Property Tax Rebate Program, in addition to the existing Heritage Incentive Grant, for an amount of 10 per cent of the Municipal portion of the property taxes for qualifying occupied residential properties designated under the *Ontario Heritage Act* beginning with the 2022 taxation year;
3. That Staff bring back to Council the required by-law(s) to implement the Tax Rebate Program;

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4. That Staff inform the local school boards and the Region of Durham of the intent to create the Tax Rebate Program; and
 5. That all interested parties listed in Report FSD-039-21 and any delegations be advised of Council's decision.

Report Overview

This report provides Members of Council with information regarding financial support tools available under the *Municipal Act* and *Ontario Heritage Act* to assist property owners of designated heritage properties. The Municipality of Clarington currently provides financial support to qualifying designated properties through the Heritage Incentive Grant Program which provides grants for eligible physical improvements to properties.

This report looks at four options for providing, or not providing, financial support and provides both the financial and planning considerations for each.

Two alternatives are recommended to Council. The first is to look at enhancing the existing grant program for physical improvements. The second option is adding a tax rebate program for eligible, occupied, residential properties. Any changes would be effective for the 2022 taxation year.

1. Background

- 1.1 At the Planning and Development Committee meeting of June 28, 2021, Committee amended resolution #PD-208-21 regarding a request to repeal heritage designation by-law 97-17 by adding “That Staff report back on a ‘Heritage Property Tax Relief Program’ as allowed for by the *Ontario Heritage Act*.”
- 1.2 At the Council meeting of July 5, 2021, the above-mentioned item from Planning and Development Committee was referred to the Joint Committee Meeting on September 13, 2021.
- 1.3 Given the complexity of establishing a tax rebate program and the requirement to have it in place before the start of the tax year to allow residents to apply, Staff have brought this report to Joint Committee today. The intent of the referral regarding the “Heritage Property Tax Relief Program” should Council wish to proceed would need to be included in the 2022 budget.

Legislative Authority

- 1.4 The *Municipal Act, 2001* (the Act) provides limited abilities for municipalities to reduce, refund or cancel property taxes. Section 365.2 allows a local municipality (i.e. a lower or single tier municipality) to establish a program to provide tax reductions or refunds in respect of eligible heritage properties.
- 1.5 The purpose of the heritage property tax relief tool is to enable municipalities to assist owners of designated heritage properties to maintain and restore their properties to the benefit of the overall community.

- 1.6 Eligible properties include properties, or a portion of a property, that is
 - a. Designated under Part IV of the *Ontario Heritage Act* or is part of a heritage conservation district under Part V of the *Ontario Heritage Act*
 - b. Is subject to
 - i. An easement agreement with the local municipality in which it is located, under section 37 of the *Ontario Heritage Act*,
 - ii. An easement agreement with the Ontario Heritage Trust, under section 22 of the *Ontario Heritage Act*, or
 - iii. An agreement with the local municipality in which it is located respecting the preservation and maintenance of the property, and
 - c. That complies with any additional criteria set out in the by-law passed under this section by the local municipality in which it is located
- 1.7 The amount of the tax refund or reduction provided by the local municipality must be between 10 and 40 per cent of the taxes for municipal and school board purposes for the portion attributable to the portion that is an eligible heritage property.
- 1.8 If Council wishes to establish a heritage property tax rebate program it is required to pass a by-law that includes:
 - a. The percentage of the rebate
 - b. If there are different percentages for different property classes or different types of properties within a property class
 - c. If there is a maximum or minimum amount of taxes for a year to be reduced or refunded under the by-law
 - d. If there are additional criteria that must be satisfied in order for a property to qualify as an eligible heritage property and may specify different criteria for different property classes
 - e. Any specific procedures for applying for a tax reduction or refund for one or more years.
- 1.9 The Municipality must provide a copy of the by-law to the Minister of Finance within 30 days of passing and must notify the Region of Durham of the amount of taxes to be reduced or refunded for lower-tier purposes under the by-law.

- 1.10 The Region of Durham may pass a by-law similar to authorize a similar reduction or refund of taxes levied for upper-tier purposes. The Region may only pass a by-law if the lower-tier has also passed a by-law.
- 1.11 Unlike other rebates or tax reductions, the benefit of the rebate is to the owner of the property. Any refund under this program pertains to the owner despite any provision of a lease or other agreement relating to the property.

Current Financial Supports Provided by Clarington

- 1.12 The Municipality of Clarington currently offers the Heritage Incentive Grant Program to assist owners with properties designated under Part IV and V of the *Ontario Heritage Act (2005)* with the financing of costs of repair or restoration projects to maintain and restore a designated heritage property, for the features listed in the designation.
- 1.13 The program provides a grant up to 50 per cent of the project costs for eligible work per building to a maximum of \$2,000 for exterior work or \$1,000 for interior work for a maximum of \$3,000 per property owner, in any given year.
- 1.14 The program has been in place since 2013. It received an annual budget of \$6,500, for the years 2018 to 2020, annually the program utilizes approximately 50 per cent of its funding.
- 1.15 The Municipality currently does not provide a property tax rebate for heritage properties.

Current Supports Provided by Region of Durham Municipalities

- 1.16 The Region of Durham does not have any existing heritage property programs in place.
- 1.17 The following is a summary of heritage property programs in the other local municipalities in the Region of Durham:

Municipality	Amount of Tax Rebate	Comments
Ajax	10%	<ul style="list-style-type: none"> • No fees for application
Pickering	20% (proposed)	<ul style="list-style-type: none"> • Property owner is responsible for all costs to register the easement • No application fee

Municipality	Amount of Tax Rebate	Comments
Whitby	40%	<ul style="list-style-type: none"> \$160 application fee, includes cost of easement
Oshawa	40%	<ul style="list-style-type: none"> \$75 one-time registration fee (includes cost for easement)
Clarington	0%	<ul style="list-style-type: none"> Offers a Heritage Incentive Grant to assist owners with the cost of repairs and restoration projects Up to 50% of eligible costs \$2,000 maximum for exterior repairs \$1,000 maximum for interior repairs
Scugog	0%	<ul style="list-style-type: none"> No programs
Uxbridge	0%	<ul style="list-style-type: none"> No programs
Brock	0%	<ul style="list-style-type: none"> No programs

1.18 As noted above, only Ajax, Whitby and Oshawa have existing programs. Pickering is considering a program and the Municipality of Clarington has a grant program.

2. Establishment of Financial Supports

- 2.1 In reviewing the options to provide financial assistance for heritage property owners, Staff explored four options for consideration (not in order of preference).

Option 1 – Status Quo

- 2.2 This option would maintain the current Heritage Incentive Grant Program which provides subsidization to qualifying property owners for repair and restoration project costs incurred on heritage properties specifically related to designated features.
- 2.3 This option provides financial support to property owners in recognition of the added costs associated with maintaining designated properties to the standard, condition and character of a heritage property. This program provides incentive to keep properties in a proper state of repair, while only providing partial funding for actual expenditures.
- 2.4 If this option is chosen, it may be reasonable to expand the grant program budget and increase the grant levels to recognize increasing costs and provide further incentive while only reimbursing for actual costs.
- 2.5 This program would not provide support for day-to-day expenses such as insurance, routine maintenance or other “operating” costs that may be higher than the average home as a result of the heritage designation.
- 2.6 This program does not and would likely continue to not receive matching funding from the Region of Durham as it is unique to Clarington.

Option 2 – Eliminate Heritage Incentive Grant and Establish Heritage Property Tax Rebate Program

- 2.7 This option would replace the existing financial support with a new Heritage Property Tax Rebate Program, similar to those in place in Ajax, Whitby, Oshawa and Pickering.
- 2.8 The program would provide support for both capital and day-to-day expenses, through one mechanism which is not based on actual outlays of funds by the owner. There is no guarantee that rebates will be reinvested into the properties to maintain them; however, this could be controlled through additional criteria in the by-law requiring certain regular maintenance and repairs to be carried out which would require staff resources to inspect and confirm compliance with the requirements of the program.
- 2.9 This option follows the argument that there are additional non-capital costs of ownership of a heritage property that owners are subject to. These could include higher insurance costs, or higher operating costs for routine maintenance as a result of the heritage nature of the property.

- 2.10 The downside with this option is that the Municipality loses control on how the funds are spent, there is no correlation between the rebate and the added incremental costs associated with the property. The Planning and Development Services Department has highlighted a concern that properties could be in a state of disrepair and receive the property tax rebate, depending on how the rebate is structured. If this approach was chosen, it is recommended that criteria be included to set minimum standards of repair that are required to be met in order to qualify for the subsidy, Planning and Development Services would be responsible for the determination of eligibility under these criteria.
- 2.11 There are two key-ways that the program could be administered. The first would be solely based on the designation, every property qualifies if they are designated. The second would be an application based program, this is the more common approach. The application-based program could be a one-time application or annual application. The one-time application is less administrative work; however, mechanisms would need to be included in the program to ensure that properties maintain their eligibility year over year.
- 2.12 In either case, the Municipality has the right to develop additional criteria such as:
- a. Minimum maintenance and repair standards which ensure that the properties are kept in good repair;
 - b. Minimum or maximum assessment values. This would target the program to specific types of properties, it could scope out small ancillary buildings and larger homes;
 - c. A requirement that the property tax accounts be in good standing;
 - d. Specific property tax classes that would be eligible, this could ensure that commercial or industrial buildings are not included in the program;
 - e. A requirement that residential properties must be occupied; and
 - f. Any other criteria that Council deems appropriate.
- 2.13 It is suggested that the above-mentioned additional criteria be included in any property tax program to ensure that properties are kept in good repair, property owners remain in good standing with their tax accounts and that the programs are scoped to properties where Council wants to provide assistance.

Option 3 - Establish a Heritage Property Tax Rebate Program to Complement Grant Program

- 2.14 This option would provide multiple tools for the Municipality to support owners of heritage properties with overarching goal to preserve and maintain Clarington's heritage assets. The grant program provides the ability to support actual project costs of physical improvements to the interior and exterior of properties, to maintain the property in keeping with the designation. Complementing this program with a tax rebate program recognizing the potential added day to day costs, such as insurance and routine maintenance, that typically are higher for heritage properties.
- 2.15 If this option was chosen, Staff would recommend that property tax rebate percentage be on the lower end of the allowed range to recognize the fact that there are additional supports available. The heritage tax rebate program could be designed so that property owners would not be eligible for both the tax rebate program and the heritage incentive grant program in any given year. For example, a property owner could participate in the heritage tax rebate program on an annual basis to keep up with routine maintenance. However, should they wish to undertake a larger project in a certain year, they would apply for the grant program and forgo the heritage tax rebate for that year. This creates complexity as the timing of the incentive grant and the rebate do not necessarily match up, which could create issues where the property gets both in one year and neither in the following year. These details could be worked out in the creation of the by-law if this option is explored.
- 2.16 The heritage tax rebate program would be an additional tool to support Clarington's cultural heritage goals to promote the conservation of cultural heritage resources through the designation of property under the *Ontario Heritage Act*. The program would provide incentive for and acknowledgement of designated property owners' role as stewards of Clarington's heritage resources to the benefit of the greater community, and the achievement of its goals.
- 2.17 The rebate portion of the program would need to have the same considerations as identified in paragraphs 2.11 and 2.12 above.
- 2.18 The Municipality of Clarington would be the only municipality in the Region of Durham to provide both a tax rebate program and a grant program for heritage properties. As this program would be significantly different than the other three programs in place, it is unlikely that the Region of Durham would match this program.

Option 4 – Eliminate All Financial Support

- 2.19 An option available to Council would be to not provide financial support to heritage properties. This would eliminate the existing Heritage Incentive Program which provides up to \$6,500 annually to property owners whom apply to share in the cost of capital upkeep for designated properties.
- 2.20 This is not a recommended course of action by Financial Services nor Planning and Development Services. For a relatively minor investment, the Municipality is able to assist targeted properties maintain their heritage resource for the benefit of the community.
- 2.21 The Region of Durham is only able to match programs if there is a program established by the local municipality. If Clarington removes all financial supports, the Region of Durham would not be able to establish a program for Regional taxes.

Preferred Recommendation

- 2.22 There are competing philosophies and perspectives between departments within the Municipality as it relates to the provision of financial supports for heritage properties.
- 2.23 Provincial and Regional policy, and the Clarington Official Plan direct and support the conservation of cultural heritage resources. Planning and Development Services supports such heritage conservation goals to foster civic pride and a sense of place through well-designed built form, and the preservation of features that define heritage character and the recognize the Municipality's history to the economic, cultural, and social benefit of the community.
- 2.24 Financial Services wishes to ensure equitable treatment amongst taxpayers, limit subsidization of taxes to areas where the whole community benefits (such as community programming where part of the costs are funded by user fees and the rest by taxation), limit taxpayers funding private individuals, and maintain control of how disbursed funds are utilized.
- 2.25 These different views need to be considered to ensure that any financial support program is feasible, benefits the community at large, and meets the objectives of Council.

- 2.26 The existing heritage incentive grant program provides financial support to property owners based on the requirements to maintain their property associated with the heritage designation implemented by the Municipality. The existing grant program is designed to provide targeted support that can be controlled by the Municipality and is based on actual expenses rather than a general rebate that may have no quantifiable correlation to the heritage designation. The existing program also provides a community benefit as it supports the heritage property owners maintain their properties, which allows the community to enjoy the beauty and history these properties represent.
- 2.27 Financial Services Staff caution the appropriateness of rebating property taxes because of the added day-to-day costs of owning a heritage building. This creates a precedent where added costs for operating private property are taxpayer funded. It is felt that grants for tangible, community-benefiting work are more appropriate and consistent with how funds have been spent elsewhere in Clarington (for example, community gardens, parks, playgrounds, public art). The incentive grant is an objectives-based funding mechanism that ensures the use of public funds meet the desired objective.
- 2.28 For the reasons identified above, Option 1 (paragraph 2.2) is recommended by Financial Services. If Council agrees, the resolution identified in the report recommendation as Recommendation A would be appropriate to pass. The existing heritage grant provides the best correlation of financial support and the objectives that the Municipality are trying to meet. The program allows heritage property owners to maintain their property while ensuring that the funds are dedicated specifically to conservation of Clarington's cultural heritage resources.

3. Financial Implications

Municipality of Clarington and School Boards

- 3.1 As with other rebate or refund programs, the funds for the program come from the tax base. As this is a tax program that could benefit all property classes, it would come from the entire tax base.
- 3.2 The Municipality would share the cost of the program with the school boards as it relates to the education portion. The Province of Ontario, through the school boards, would fund the portion related to education taxes. It should be noted funding for schools is not negatively affected by a heritage tax relief program, as overall funding for public education is protected through Provincial grants from fluctuations in property tax revenues.

3.3 The following table shows the estimated total annual rebate for eligible properties, assuming all taxable properties applied, based on the 2021 tax roll and rates:

Property Tax	10%	20%	30%	40%
Municipal Rebate	\$ 18,183	\$ 36,365	\$ 54,548	\$ 72,730
Education Rebate	8,419	16,839	25,258	33,677
Total Rebate	\$26,602	\$ 53,204	\$ 79,806	\$ 106,407

3.4 In the above table there are 74 properties, the municipal rebate averages \$246 (10%) to \$983 (40%). The average municipal tax bill was \$2,457 (\$180 rebate on an average bill of \$1,800 if the three largest heritage properties were excluded). The benefit to individual properties is not significant. In fact, the existing grant program provides potentially more support to property owners than a tax rebate program.

3.5 The Municipality's current incentive program is tax-funded to the amount of \$6,500 per year and should be added to the above totals if the program were to be continued. The municipal cost of doing both incentive programs (as it stands) and a tax rebate program could therefore be in the range of approximately \$24,700 to \$79,200.

3.6 The Municipality cannot have a rebate program that is less than 10 per cent; therefore any program that includes a tax rebate would be a minimum of approximately \$18,200 budgeted item on the levy.

3.7 Alternatively, and preferably, the program can be structured to only be available to occupied residential properties. This would remove commercial properties (which have financial support through other programs), unoccupied residential properties (such as Camp 30 and Belmont - Sam Wilmot House) and vacant properties with historical plants. If this occurs the costs dramatically decrease, as follows:

Property Tax	10%	20%	30%	40%
Municipal Rebate	\$ 11,798	\$ 23,595	\$ 35,393	\$ 42,190
Education Rebate	4,501	9,001	13,502	18,003
Total Rebate	\$16,299	\$ 32,596	\$ 48,895	\$ 65,193

- 3.8 By restricting the tax rebates to residential properties, the target audience is better addressed without supporting certain businesses that could be seen to be getting an advantage based solely on a historical designation.
- 3.9 Under the restricted eligibility program, the tax-supported costs for the tax rebate program would range from \$11,800 to \$42,190.

Region of Durham

- 3.10 The Region of Durham has indicated that they will not match a heritage property tax rebate program unless all local municipalities have a program in place. Unless all lower-tier municipalities developed programs there would be a shift of the tax burden, where non-participating municipalities would be funding the heritage rebate for participating municipalities. This is a consistent approach that the Region takes with their tax policies.

4. Concurrence

This report has been reviewed by the Director of Planning and Development Services who generally concurs with the recommendations. However, the Planning and Development Services Department prefers the option of adding the property tax rebate to the existing incentive grant program (paragraph 2.14); if Council desires to add the property tax rebate Recommendation B in the report recommendations would be appropriate to pass. Either of the proposed recommendations (Recommendation A – Option 1 or Recommendation B – Option 3) meet the goals of providing support to maintaining heritage properties for future generations. The Planning and Development Services Department would like to see, at a minimum, the continuation of the grant program with additional funding and a review of the maximum allocations.

5. Conclusion

While two alternatives have been provided to Council, from a Financial Services perspective it is respectfully recommended that Staff include an enhanced heritage incentive grant program in the 2022 budget. The creation of a heritage tax rebate program is acceptable; however, there are concerns with the correlation of the tax rebate and the heritage preservation objectives that Council has established.

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Attachments:

Not Applicable

Interested Parties:

The following interested parties will be notified of Council's decision:

- Clarington Heritage Committee
- Region of Durham
- Minister of Finance