



## Staff Report

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<b>Report To:</b>	Council	
<b>Date of Meeting:</b>	April 14, 2020	<b>Report Number:</b> FND-008-20
<b>Submitted By:</b>	Trevor Pinn, Director of Finance/Treasurer	
<b>Reviewed By:</b>	Andrew C. Allison, CAO	<b>Resolution#:</b>
<b>File Number:</b>		<b>By-law Number:</b>
<b>Report Subject:</b>	COVID-19 Financial Support Program Options	

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### Recommendations:

1. That Report FND-008-20 be received;
2. That Director of Finance continue to work with local area treasurers and the Region of Durham to develop a sustainable consistent approach for support of those impacted by the COVID-19 pandemic;
3. That the Director of Finance and the Director of Community Services create a new grant program, the "Community COVID Support Grant Program" modelled after the existing Community Grants Program specifically to target relief to businesses and residents effected by COVID-19;
4. That the Community COVID Support Grant Program be funded from the Tax Rate Stabilization Reserve Fund up to \$100,000; and
5. That staff report back to Council at the earlier of the first available meeting after the Province's emergency declaration is lifted or July 6, 2020.

## Report Overview

The COVID-19 pandemic has had an undeniable impact on our economy, residents and businesses. Council has asked for a “property tax relief program for both businesses and individuals.” The Municipality’s ability to provide tax relief is limited by the *Municipal Act, 2001* and bonusing rules limit our ability to provide support to businesses.

Staff are recommending that the Municipality provide relief to taxpayers through a new community grant program that will provide support to eligible organizations that are assisting those impacted by COVID-19. While the support does not directly impact the tax accounts of those impacted, it would provide other support which could ease the burden those impacted by COVID-19 are facing.

Staff will continue to work with other local area municipalities and the Region of Durham on other tax relief or financial support programs which may more directly impact taxpayers.

## 1. Background

### Property Tax Relief at March 23, 2020

- 1.1 At the Council meeting of March 23, 2020, Council approved the tax relief measures outlined in report [FND-007-20](#) which included a 60-day waiver of penalties and interest (May 1, 2020 and June 1, 2020) starting after the April 23, 2020 due date, waiving of service fees and delay in the due date for the June installment of taxes by one month.
- 1.2 Municipalities within the Region of Durham passed similar measures as mentioned above. Area treasurers, including the Regional Treasurer, met and continue to meet to ensure that municipalities are providing similar relief throughout the Region.
- 1.3 Historically, the Region of Durham will only provide tax relief or grants for its portion of taxes if all the local municipalities adopt similar programs. This prevents a shift of taxes from one municipality to another and treats all regional taxpayers equitably. This is a key reason why the area treasurers meet to discuss recommended responses to the COVID-19 pandemic to ensure that we are all taking similar approaches and maximizing the relief that can be sought.
- 1.4 At the March 23, 2020 meeting, Council requested that staff report back to Council on April 14, 2020 on a “Property Tax Relief Program for both businesses and individuals”.

### Legislative Ability to Write-off Taxes

- 1.5 Section 354 of the *Municipal Act, 2001* states that “Taxes shall not be written off except in accordance with this section.” The section goes on to provide three times when the Treasurer of a local municipality shall remove unpaid taxes from the tax roll:

- The council of the local municipality, on the recommendation of the treasurer writes off the taxes as uncollectible;
  - The taxes are no longer payable as a result of tax relief under section 319, 345, 357 358, 362,364,365,365.1 or 365.2 or a decision of any court; or
  - The taxes are no longer payable because the tax liability arose as result of the assessment of land under subsection 33(1) of the *Assessment Act* for a period during which a regulation made under subsection 33 (1.1) of that Act provides that subsection 33(1) of that Act does not apply to land.
- 1.6 At this point, it is too early to tell if there are any taxes which are uncollectible given the variety of tools that are available for collection and the allowed timeframe for collection. Historically in Clarington, the provision for uncollectible taxes has been used for small value write-offs where the cost to try and collect outweighs the actual amount outstanding.
- 1.7 **Section 319** of the *Municipal Act, 2001* does not apply to the Municipality of Clarington as it applies to a municipality other than a lower-tier municipality. This section provides relief to low-income seniors and low-income persons with disabilities. The relief is in the form of a tax deferral or cancellation of a tax increase on residential property. Any relief under this section is determined by the Region of Durham.
- 1.8 **Section 345** of the *Municipal Act, 2001* relates to late payment charges for the non-payment of taxes or any instalment by the due date. The local municipality shall cancel or refund late payment charges for penalties and interest on overcharges of taxes arising as a result of errors or changes (an assessment change, property class change or allocation of property class change). Relief as a result of COVID-19 would not be applicable under this section of the Act.
- 1.9 **Section 357** of the *Municipal Act, 2001* allows the local municipality to cancel, reduce or refund all or part of taxes levied on land in respect of which the application is made if:
- a. As a result of a change event, as defined by the *Assessment Act*, during the tax year, the property or portion of the property is eligible to be reclassified in a different class of real property which has a lower tax ratio for the taxation year (e.g. a commercial property becomes a residential property during the year taxes may be written off);
  - b. The land has become vacant land or excess land during the year or the preceding year;
  - c. The land has become exempt from taxation during the year or preceding year after the return of the assessment roll for the preceding year;

- d. During the year or during the preceding year after the return of the assessment roll
    - i. a building on the land was razed by fire, demolition or otherwise, or
    - ii. was damaged by fire, demolition or otherwise so as to render it substantially unusable;
  - d.1 The applicant is unable to pay taxes because of sickness or extreme poverty;
  - e. A mobile unit on the land was removed during the year or during the preceding year after the return of the assessment roll for the preceding year;
  - f. A person was overcharged due to a gross or manifest error that is clerical or factual in nature, including the transposition of figures, a typographical error or similar error but not an error in judgment in assessing the property; or
  - g. Repairs or renovations to the land prevented the normal use of the land for a period of at least three months during the year. (this was removed for years after 2007)
- 1.10 From the above, the only authority under section 357 would be due to sickness or extreme poverty. This would be on a case by case basis and would not be, in my opinion, justification for a broad write-off of taxes. This section could allow for an application based program for relief, this could be administratively burdensome and potentially subjective which is why this section is not typically used for tax relief.
- 1.11 **Section 358** of the *Municipal Act, 2001* relates to overcharges. Upon application to the Treasurer of a local municipality, the local municipality may cancel, reduce or refund all or part of taxes levied on land:
- a. In one or both of the two years preceding the year in which the application is made for any overcharge caused by gross or manifest error in the preparation of the assessment roll that is clerical or factual in nature;
  - b. In the year or years in respect of which an assessment is made under section 33 or 34 of the *Assessment Act* for any overcharge caused by a gross or manifest error in the preparation of the assessment that is clerical or factual in nature.
- 1.12 Relief under section 358 would not be applicable in the current situation.
- 1.13 **Section 362** of the *Municipal Act, 2001* does not apply to lower-tier municipalities and is therefore not applicable to the Municipality of Clarington. This section relates to relief for those properties which are subject to capping on property taxes.
- 1.14 **Section 364** of the *Municipal Act, 2001* no longer applies as it related to vacant unit rebates. This program was ended within the Region of Durham, as well as many

municipalities throughout the Province of Ontario, in 2019. This program was available to commercial and industrial properties which had vacancies of at least 90 consecutive days.

- 1.15 **Section 365** of the *Municipal Act, 2001* the Council of a local municipality may, in any year, pass a by-law to provide for the cancellation, reduction or refund of taxes levied for local and school purposes in the year by the council in respect of an eligible property of any person who makes an application in that year to the municipality for that relief and whose taxes are considered by the council to be unduly burdensome, as defined in the by-law.
- 1.16 Under section 365, eligible properties are those within residential, farm or the managed forest property class. This would not apply to multi-residential, commercial or industrial properties. Further, there is no requirement that the upper-tier have the same program, if they do not the lower tier municipality would be required to pay the upper tier for the full amount of the taxes.
- 1.17 **Section 365.1** of the *Municipal Act, 2001* provides for cancellation of all or a portion of taxes for municipal and school purposes levied on specified properties (a property for which a phase two environmental site condition has been conducted) in respect of the rehabilitation period and/or the development period of the property. This would not be applicable in this situation. This type of relief is common in attempts to redevelopment brownfield sites.
- 1.18 **Section 365.2** allows tax reductions for heritage properties outlined in the *Municipal Act, 2001*. Again, this would be a targeted relief for specified types of properties that are designated under the *Ontario Heritage Act*. This would not be COVID-19 related.
- 1.19 As can be demonstrated from the above, the situations in which a municipality may provide tax relief are highly prescribed. If Council wished to provide relief for taxpayers impacted by COVID-19 it would, in my opinion, need to be an application-based relief under section 357 d.1 or potentially section 365.
- 1.20 The difficulty with application-based programs would be that there would be an added layer of administration and this could be subjective unless it is are very clearly prescribed in who would qualify for assistance.

### **Ability to Provide Financial Support**

- 1.21 While the request from Council was specific to property tax relief, there may be other opportunities for the Municipality to provide fiscal support to individuals and businesses. These other supports are again limited, however in these times, looking outside the box may provide the best support for those in need.

- 1.22 Section 106 of the Act prohibits a municipality from assisting directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses for that purpose.
- 1.23 The *Municipal Act, 2001* provides municipalities general powers, notwithstanding section 106, to make grants in section 107 of the Act. Grants under this section includes several powers including guaranteeing loans, providing for use of property, staff, sales of property at a nominal price or the donation of foodstuffs and merchandise purchased by the municipality for that purpose. These would be to those organizations that are not considered a manufacturing business or commercial enterprise.
- 1.24 Using the above authority, the Municipality could provide financial or in-kind support to non-profit organizations that support the community. The Municipality's Community Grants Program is an example of this.
- 1.25 Providing support or services for small business counselling is permitted under section 108 of the *Municipal Act, 2001*. This service could include the ability to acquire land and buildings to provide leased premises to eligible small businesses, provide grants to corporations, lease land to small businesses.

## **2. Financial Support Provided by Other Governments**

### **Government of Canada**

- 2.1 Report [FND-007-20](#) outlined several steps that the Government of Canada was taking to assist taxpayers through COVID-19.
- 2.2 The Government of Canada further announced on March 27, 2020 that the previously announced 10% wage subsidy to help small businesses maintain their payroll will be increased to 75% and backdated to March 15, 2020. This measure is intended to help small and medium enterprises (SME) keep their staff employed during the COVID pandemic.
- 2.3 The Government will guarantee interest free loans of up to \$40,000 to businesses from banks.
- 2.4 Several tax filing dates have been deferred, including GST/HST returns.
- 2.5 The Government of Canada's economic response plan is available [online](#) and is changing as more information becomes available.

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**Province of Ontario**

- 2.6 Report [FND-007-20](#) outlined several steps that the Province of Ontario had announced it was taking to assist taxpayers through COVID-19.
- 2.7 Since that date the Province provided an economic update, originally intended to be the Provincial budget, which included a one-time \$200-per-child payment to offset school and daycare closures, doubling support to low-income seniors, deferring OSAP payments, lowering electricity rates, increasing the Employer Health Tax exemption and setting aside funds to absorb penalties and interest for businesses that can't cover the provincially-administered tax burden.
- 2.8 The Province followed the Government of Canada in deferring the due date for several taxes and fees including EHT, WSIB and income taxes.
- 2.9 Tax assessments for 2021 will be frozen at the 2020 assessment value. This provides stability for property owners in 2021 as there will not be an impact on taxes as a result of market value phase-in.
- 2.10 The Province also announced that starting with the June 30, 2020 the deadline for municipalities to pay the education portion of taxes collected would be pushed back 90 days. This coincides with many municipalities' move to defer due dates/waive penalties for 60 to 90 days.

**Region of Durham**

- 2.11 The Region of Durham has delegated authority to the Regional Treasurer in order to address certain financial concerns. We are anticipating that the Region will defer the April 30, 2020 payment due date to June 30 to coincide with the lower tiers' waiver of penalties and tax on May 1, 2020 and June 1, 2020.
- 2.12 The Region announced on March 26, 2020 that all water and sewer bill late payment charges, collection notifications and water shut offs for non-payment have been suspended. This is like the support provided by other municipalities that have water and wastewater services.
- 2.13 The Region will be providing loans to chambers of commerce, including CBOT, to ensure that these organizations are able to assist businesses with accessing financial supports from both the Province of Ontario and Government of Canada.
- 2.14 Region staff have indicated that past practice is that support should only be made if it benefits and is available to all municipalities. To provide support in any other way would create a shift of the tax burden between municipalities. Region staff are supportive of a group response to financial support.

### **Other Municipalities**

- 2.15 A scan of support offered by other municipalities reveals that most are in line with what the Municipality of Clarington has already provided. It should be noted that some municipalities (such as the City of Toronto or the City of London) have included waivers/deferrals of interest and penalties on water/wastewater bills and utilities. The Municipality of Clarington does not have control over these utilities and is unable to provide relief for these services; however as noted above, the Region of Durham has suspended late payment charges for water and sewer services.
- 2.16 Most municipalities have waived penalties and interest for approximately 60 days. There are several where the waiver is 90 days, this is likely to do with timing of the instalment dates as each municipality sets their own instalment schedule. Durham municipalities also announced a delay in the first instalment of the final tax due date by one month which mitigated the potential of two due dates in the same month.
- 2.17 The City of Markham has announced that no penalties and interest will be charged until December 31, 2020. Although taxpayers are “urged” to pay on time. This length of time for a waiver is not advised by staff for several reasons. First, this could seriously jeopardize the Municipality’s cash flow as there would be no incentive for taxpayers to pay on time. Second, the Municipality budgets for approximately \$1.25 million in penalties and interest annually to offset the tax levy, a waiver for the remainder of the year could result in a significant draw from the tax rate stabilization reserve fund in 2020. It should be noted that no other municipality, that the writer is aware of, has announced this length of interest/penalty relief.

### **3. Suggested Support**

- 3.1 It is still very early to determine the full impact of the COVID-19 pandemic on the economy of Clarington which includes residents and businesses. As we are still within the pandemic, it is beneficial to defer a decision on further tax relief until we are better able to determine the financial constraints the Municipality is under.
- 3.2 Area municipalities, including the Region of Durham, are meeting regularly to determine the process for tax relief within our authority to do so. If we act on our own, we will not likely be able to leverage the Region of Durham for financial assistance.
- 3.3 As the Municipality is restricted in our ability to provide financial or other in-kind support to enterprises any support should be funneled through eligible organizations. The Municipality could provide financial support to CBOT to provide small business counselling services to assist small business in this time of need.
- 3.4 It is recommended that a new “Community COVID Support Grant Program” be established. The Director of Finance and Director of Community Services be directed to



create the framework and advertise for this program with recommended awards to be brought back to Council. Staff are suggesting that an initial program of \$100,000, funded from the Tax Rate Stabilization Reserve Fund be established. This program would provide funding to non-profit organizations to provide community support programs, including those supporting small-businesses, to those in need as a result of the COVID-19 pandemic.

- 3.5 While not directly tax support, by providing support for organizations to assist with providing food, meals, deliveries and other services we are able to allow the residents and taxpayers to avoid those costs which is an indirect financial support for our community.

#### **4. Concurrence**

This report has been reviewed by the Director of Community Services who concurs with the recommendations.

#### **5. Conclusion**

It is respectfully recommended that staff be asked to report back at the first available meeting after the lifting of the emergency declaration or July 6, 2020 whichever is earlier.

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Staff Contact: Trevor Pinn, CPA, CA Director of Finance/Treasurer, 905-623-3379 x.2602 or tpinn@clarington.net.

Attachments:

Not Applicable

There are no interested parties to be notified of Council's decision.