Staff Report 2019-24

Meeting Date:	Tuesday, March 19, 2019
Subject:	Annualized Tax Adjustments under Section 359.1(1) of the Municipal Act, 2001
Submitted By:	Hillary Bryers, Manager, Revenue/Deputy Treasurer, Finance and Infrastructure Services

RECOMMENDATION

That the Treasurer's application, pursuant to Section 359.1(1) of the Municipal Act, 2001, to use the Revised 2018 Annualized Taxes amounts for the affected property as outlined in Table 1 of Staff Report 2019-24, for the use in the calculation of the 2019 taxes be approved.

REPORT HIGHLIGHTS

- Section 359.1 (1) of the Municipal Act, 2001 allows Council to hear applications made by the Treasurer of a municipality.
- The local municipality may, if satisfied there was an error in the calculation of taxes, authorize the use of an amount of taxes referred to in paragraph 1 of subsection 329(2) for the year in which the application is made.
- This reflects what the taxes would have been on the land for the previous year if the error had not been made.
- Staff regularly review the property tax calculations made and has identified one property where the provided annualized taxes provided by OPTA was incorrect and requires correction.
- The taxes for previous years for the affected property will not change.

DISCUSSION

Provincial Capping Program

In 1998, the Province of Ontario introduced the Tax Capping Program to protect commercial, industrial and multi-residential properties from significant property tax increases that may have resulted from the introduction of a new current value assessment (CVA) system. The general formula to calculate property taxes under the CVA system is to multiply the assessed value of a property by the applicable tax rate.

To shield non-residential and multi-residential property owners from the full impact of the CVA system in one year, the Provincial program established capping limits which resulted in landowners paying less tax than if they calculated their taxes using the tax rate multiplied by assessment per the general property tax formula. To help offset the shortfall in tax revenue for "capped" properties, paying less than their fair share of property taxes, the Province also established a "clawback" concept for some properties that would have otherwise seen a decline in property taxes with the introduction of the CVA system.

This program was introduced as a temporary program more than twenty years ago and was designed to transition properties to full CVA taxation as the Province introduced the new assessment system that is still currently in use. Accordingly, for the past 20+ years, some non-residential and multi-residential properties:

1) Are paying less than their fair share of property taxes as their rates are capped while they progress towards paying their fair share;

2) Are paying more than their fair share of property taxes as their rates are clawed back to help pay for the phasing-in known as "capping".

Capping is calculated by looking at the previous year's taxes, otherwise known as the "Annualized taxes" and applying a percentage increase, typically 10%, to those annualized taxes to calculate the maximum taxes a capped property owner can pay. These properties pay less than the typical amount of taxes that would otherwise be calculated. The other properties that are clawed back have to pay more taxes to make up the short fall. This program can cause inequities between similar properties as they could be paying differing amounts of property taxes even though they have the same property assessment and is administratively burdensome on municipalities required to facilitate the program.

"Annualized Tax" is a term used in reference to the previous year's taxes for properties within the provincially mandated capping program (Multi-residential, Commercial and Industrial), to which any changes or events in assessment have to be applied as if it happened for the whole year. The current year's tax calculation for these protected classes start by using the "annualized taxes" and then applying the approved capping/clawback options to determine the current years billing amount. The annualized taxes used by the Town of Caledon are delivered annually from the Ontario Property Tax Analysis (OPTA) system provided by the Ministry of Finance and used in the calculation for all commercial, industrial and multi-residential properties.

<u>Simple Capping Example:</u>

Assumptions:

- Property A has prior year annualized taxes of $10,000.
- The municipality has a 10% capping rate.
- The amount of property taxes payable are impacted by changes in current value assessment (CVA), capping and clawback only.

If, based on a property re-assessment, the property taxes calculated using the general formula of CVA multiplied by tax rate results in property taxes otherwise payable of $20,000 (e.g. incremental $10,000 of property taxes for Property A):

a) Property A, with capping, will only pay an incremental of $1,000 or a total of $11,000 (=$10,000 + 10% capping) vs the full $20,000 this year.

b) Other properties will have to pay additional property taxes to make up the $9,000 shortfall (= $20,000 taxes less $11,000 paid by Property A) as part of the offsetting clawback calculations.
c) The incremental $1,000 in (a) due to capping means that the remaining $9,000 in (b) is collected from other property owners that would have, otherwise, paid ($9,000 collectively) less.
d) In total the incremental $10,000 (= $1,000 + $9,000) is still collected by the Town.

Capping Program in the Region of Peel

Capping and clawback programs are a Regional responsibility and are administered on a Regional basis. For 2016, municipalities were provided the option to phase-out the capping program in order to move all properties towards paying taxes in line with their current value assessment. Capping and clawback rates are established by the Region of Peel for the Cities of Brampton and Mississauga and the Town of Caledon and are calculated collectively across the entire Region. In 2017, properties in the Industrial and Multi-Residential tax class have already begun a phase-out of the capping program over four years.

Upon Regional review of the Commercial capping program, the subject property at roll number 2124.030.001.16600.0000, municipally known as 20424 St. Andrew's Road, was flagged as having the lowest level of taxation in the Region's commercial capping program. As a result, this property was preventing the Region from starting a phase-out of the Capping program for commercial properties.

Consequently, staff at the Town, along with Municipal Tax Equity (MTE) Consultants, undertook a review of the capping calculations for this property to understand why it was an outlier. As such, an error in the annualized taxes that are the underlying basis for the capping calculation was found. Municipal Tax Equity (MTE) Consultants have provided their analysis and calculations which are found in Appendix A to this report.

As a result of the analysis, it was identified that there was one Caledon property that requires correction as an incorrect 2017 Annualized Tax amount for the property was used in determining what the final 2018 property taxes would be. This property is in Table 1 below.

When previous year taxes are annualized due to an assessment or class change, the billable taxes for the previous year are not changed; however, the current-year taxes will be affected. This property will have a correction for the calculation of the 2019 property taxes. A complete analysis of the error and calculation of property taxes for this property is found in Appendix A.

As required, notices have been mailed to the affected property owner advising them of the Town's analysis as well as the associated adjustments.

This error has resulted in the affected property paying less than its fair share of property taxes in 2018. In order to promote equity and fairness amongst all taxpayers, it is recommended that Council approve the revised annualized taxes in order that the 2019 property taxes are calculated correctly.

Table 1: Summary of Affected Property

Roll Number	2018 Taxes Billed	2018 Revised Annualized Taxes
2124.030.001.16600.0000	$6,010.28	$12,215.69

FINANCIAL IMPLICATIONS

The recommended corrections to the 2019 annualized taxes will result in the property tax capping and clawback calculations for the Region of Peel being stated correctly for all properties within the Town of Caledon. No tax bill will be issued for 2018 or 2017 as a result of this update to the 2018 Annualized taxes.

After this correction, the commercial property capping program for the entire Region of Peel will be phased out over four years. This will help to ensure that commercial properties pay their fair share of property taxes by the end of the four year phase out period. Specifically, this will result in commercial property owners that are now paying more than their fair share of property taxes (via a clawback amount) seeing a decrease to their property tax bill over the four years of the phase out of the commercial property capping program.

COUNCIL WORK PLAN

Not relevant to the Council Work Plan.

ATTACHMENTS

Schedule A - Historic Business Tax Capping Adjustments

HISTORIC BUSINESS TAX CAPPING ADJUSTMENTS
ROLL NUMBER 2124 030 001 166 00

Prepared For:
THE TOWN OF CALEDON

By:
MUNICIPAL TAX EQUITY (MTE) CONSULTANTS INC.
GEORGETOWN, ONTARIO
WWW.MTE.CA

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INTRODUCTION AND PURPOSE

Since 1998, property in the multi-residential, commercial and industrial tax classes have been subject to mandatory tax impact mitigation measures that were implemented to protect them from year-over-year increases in taxation above maximum thresholds. These protection (capping) measures are set out under Part IX of the *Municipal Act, 2001 (The Act)* and involve a complex set of business rules and calculations. These capping calculations and adjustments are undertaken and applied on a property by property basis and in some instances decisions must be made as to which rule or treatment applies to a property's circumstances. These decisions are dictated by Provincial statute and regulation, but if the calculation protocol is not matched correctly to the property circumstances, an error in the final taxes can materialize.

The Town of Caledon relies on the provincially funded Online Property Tax Analysis (OPTA) website to perform its annual and property specific capping calculations. The calculations derived from the OPTA system are very reliable and almost always accurate, however, errors in judgement, missing information and/or incomplete data can lead to errors on occasion.

In this instance, the Town of Caledon identified a potential concern with the historical capping treatment of a commercial class property, which is identified for assessment and taxation purposes by roll number 2124 030 001 166 00. Having identified this concern the Town enlisted the assistance of Municipal Tax Equity (MTE) Consultants to review the historical calculations. MTE's specific mandate was to determine if the capping protection for this property was warranted, or if an error had been made at some point in time. Further, if an error was identified, to suggest options for correction. This report has been prepared to summarize our findings and to recommend appropriate remedial actions.

Specifically, this report will systematically address the following:

1) The nature and specifics of the capping calculation error, including what the taxes would have been had this error not been made; and
2) The mechanism set out under section 359.1 of *The Act,* which allows the Town to limit the impact of the error to prior taxation years (2018 and earlier).

PART 1: ERROR IN CAPPING CALCULATION

MTE reviewed the assessment, tax and tax capping treatment of the subject property starting with 2018 and working backwards. In doing so we identified an error in the capping calculations for the 2017 taxation year. This error was related to how a reapportionment between the property's residential portion and its commercial portion was treated at the time that OPTA undertook the calculations that were relied upon for the Town's final billing in 2017.

Ontario Regulation 73/03 made under *The Act,* sets out the rules for dealing with changes in apportionment among property portions for the purposes of capping. Boiled down to common terms, the rules state that if the assessment apportionment is updated to reflect a different division of use, then the resulting tax change is not subject to capping. Apportionment changes resulting from reassessment (ie value only) are subject to capping. In this instance, an apportionment change that should have resulted in a tax increase flowing through was not treated properly and resulted in the capping protection being overstated for 2017. This error carried forward through to the 2018 taxation year due to the mechanics of the cap. These property circumstances and the error in treatment are set out more precisely in the following tables.

Subject Property Assessment Changes

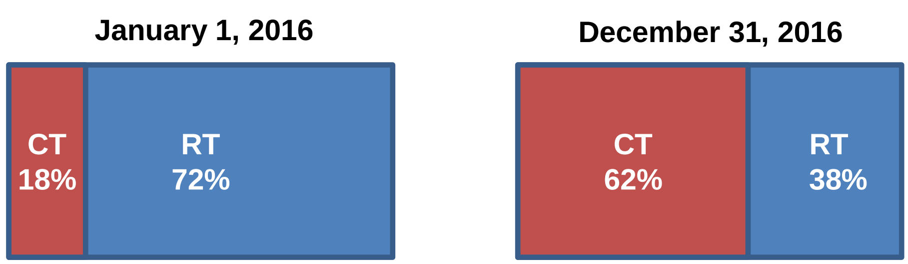
We will begin with the change in assessment, which ultimately drives that tax change but also helps us distinguish between reassessment (equity) changes and changes made to reflect a property's statue use or condition (physical).

Table 1
Subject Property Assessment Changes: 2016 to 2017 Roll Return

Assessment Record	**CT**		**RT**		**Total**	
2016 CVA as Returned	234,000	19%	1,012,000	81%	1,246,000	100%
2016 CVA as Revised	771,056	62%	474,944	38%	1,246,000	100%
Change before Reassessment	**537,056**	**+230%**	**-537,056**	**-53%**	**0**	**+/- 0%**
2017 CVA as Returned	581,850	62%	358,400	38%	940,250	100%
Reassessment Change	**-189,206**	**-25%**	**-116,544**	**-25%**	**-305,750**	**-25%**

As can be seen in Table 1, the assessment for this property was updated to reflect two separate and distinct changes. The first, which was processed by the Municipal Property Assessment Corporation (MPAC) for 2016 year-end was made to reflect how much of the property was being used for commercial purposes and how much was being used for residential purposes. This change did not involve any update to market value, the update was made solely to capture the way the property was being used. This change is not subject to capping protection.

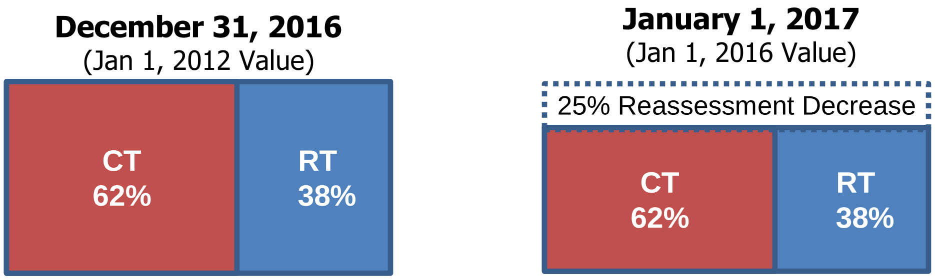
Figure 1
Update to Reflect Apportionment of Use



In addition to this update the property experienced a reassessment related assessment decrease between 2016 and 2017 as part of the province-wide reassessment. The reassessment exercise involved updating the market value estimate (CVA) for all properties to reflect market conditions as of January 1, 2016 from the previous valuation point of January 1, 2012. For this property, MPAC estimated that its market value had decreased by approximately 25% between these two points in time.

As per Table 1 and the illustration below the market value change is uniform across the property, there was no change to how much of the property was being used for (classified as) commercial and how much for residential.

Figure 2
General Reassessment Update



Tax and Capping Implications

In sum, the commercial (CT) portion of this property was subject to two assessment changes between final billing in 2016 and final billing in 2017. The first change was made to ensure that the proportion of CVA classified as CT accurately reflected the proportion of the property utilized for commercial purposes. There was also a reassessment related value (CVA) reduction made within the context of the province wide general reassessment. The first change should not have been subject to capping protection, the second was not eligible for protection due to the fact that it was a decrease.

What complicates matters to some extent is that the first change was processed as a year-end update, which means that the property was reapportioned based on actual use but the mechanism used meant that there were no actual tax implications for 2016. When changes are processed in this manner, the updated CVA is used for the purpose of calculating future year assessment phase-in values, and future year capping limits, but the taxes already levied are not adjusted.

To understand this it is first necessary to understand that capping calculations rely on three expressions of tax for each taxation year and at each point it is necessary to define the property's CVA Tax (taxes before capping) and the capped tax.

Final Taxes as calculated and levied as of annual final billing;

Actual Net Taxes, which include the final taxes for each year plus any actual full or partial year account adjustments; and

Annualized Year-End Tax or what the full year taxes would have been if they were calculated based on the property's year-end circumstances.

For the overwhelming majority of properties these three sets of tax values are all the same. Differences only occur when either an actual in-year account adjustment is made, or a year-end adjustment is required. Year-end adjustments are hypothetical restatements of tax that help ensure capping limits and adjustments are set based on a year-over-year, *apples to apples* comparison.

For example, if a property's final taxes were $10,000 and then a further $5,000 were billed for the addition of a new building as of July 1; the actual net taxes paid for the year would be $15,000 but the annualized year-end taxes would be $20,000. This restating of the year-end is necessary whenever a property's assessment is changed based on state, use or condition as it ensures the associated tax changes are not capped or limited.

By failing to restate the 2016 year-end taxes to reflect the new physical apportionment, OPTA erroneously capped the impact this change had on the final 2017 taxes. Simply put, they treated it as part of the reassessment change when they should have treated it separately.

Table 2 documents the 2016 base taxes that were used for 2017 capping in comparison to what they would have been if properly re-stated to reflect the property's 2016 year-end status.

Table 2
Actual and Updated/Corrected 2016 Annualized Year-End Tax Position

Calculation Element	Actual	Correct
Final Billing		
2016 CVA	234,000	234,000
2016 CVA Tax (Rates X CVA)	$4,608.49	$4,608.49
2016 Capped Tax (Limits Applied)	$3,445.07	$3,445.07
2016 Capping Adjustment	-$1,163.42	-$1,163.42
Tax Level (Capped vs. Uncapped)	**74.75%**	**74.75%**
Year End		
2016 CVA Per Revised Roll	771,056	771,056
2016 CVA Tax (Rates X CVA)	$15,185.47	$15,185.47
2016 Capped Tax (Limits Applied)	$3,445.07	$11,351.88
Tax Level (Capped vs. Uncapped)	**22.69%**	**74.75%**

When a non-cappable change occurs, we must restate the taxes (actual or year-end) in a manner that maintains the pre-change tax level.

In order to ensure that capping limits are only placed on reassessment related tax change, it is necessary to update the base-year tax values to reflect any change that is not subject to capping. By doing this we ensure that the taxpayer continues to receive the same level of capping protection before and after the change. One's level of capping protection is expressed by the relationship between their full and capped taxes, not the dollar amount of the credit. This update is not optional and is mandated under Part VI of Ontario Regulation 73/03 made under *The Act.*

Because the base taxes were not restated to achieve an *apples-to-apples* comparison, the subject property received a significant capping adjustment even though its CVA was decreasing.

As can be seen in Table 3, by not restating the year-end tax to match the year-end CVA, the capping protection on the property jumped from $1,163 or 25% of the full taxes in 2016, to over $7,300 or 65% of the full taxes in 2017.

Table 3
Actual and Updated/Corrected 2017 Capping Calculation Summary
(Simplified[1])

	Calculation Element	Notes	Actual	Correct
A	2016 Year-End Base Tax	(See Table 3)	$3,445.07	$11,351.88
B	2017 CVA Taxes	CVA X Tax Rates	$11,342.15	$11,342.15
C	2017 Pre-Levy Tax	Levy Increase Removed	$11,068.41	$11,068.41
D	**Tax Change Subject to Capping**	C - A	**$7,623.34**	**-$283.47**
E	**Eligible for Capping Protection?**	Only if D is Greater than $0	**Yes**	**No**
F	Tax Increase Limit	(See Appendix A for Detail)	$460.85	N/A
G	Levy Change Flow-Through	Municipal Levy Change	$96.60	N/A
H	**2017 Final Capped Taxes**	Lesser of B or (A + E + F)	**$4,002.52**	**$11,342.15**
I	Capping Adjustment	G - B	-$7,339.63	$0.00
J	2017 Tax Level	G / B	35.29%	100.00%

As the property actually decreased as a result of reassessment, its status should have changed from being an increasing/protected property in 2016 to being a decreasing property in 2017. A reversal of this nature results in a property being immediately and permanently excluded from the capping program in accordance with Part III.1 of *The Act* and the Municipal By-Law opting for those rules to apply for any taxation year.

The subject property should not have received any capping protection in 2017.

Carry-Forward Error in 2018

As there were no change events in 2017, and the error was not corrected, the actual final taxes for 2017 became the year-end base taxes for 2018 capping calculations. In this way, the error made in 2017 created a *carry-forward* error in 2018.

Table 4 has been prepared to summarize this carry-forward error and show what the taxes would have been for 2018 had the error not been made, or was corrected before final 2018 taxes were billed.

[1] Both tables 3 and 4 set out simplified summaries of the capping calculation. Please refer to Appendix A for full and detailed capping calculations.

Table 4
Actual and Updated/Corrected 2018 Capping Calculation
(Simplified[2])

	Calculation Element	Notes	Actual	Correct
A	2017 Year-End Base Tax	(See Table 3)	$4,002.52	$11,342.15
B	2018 CVA Taxes	CVA X Tax Rates	$12,215.69	$12,215.69
C	2018 Pre-Levy Tax	Levy Increase Removed	$11,895.93	N/A
D	**Tax Change Subject to Capping**	C - A	**$7,893.41**	N/A
E	**Eligible for Capping Protection?**	Only if D is Greater than $0	**Yes**	**Excluded**
F	Tax Increase Limit	(See Appendix A for Detail)	$1,869.67[3]	N/A
G	Levy Change Flow-Through	Municipal Levy Change	$138.08	N/A
H	2018 Final Capped Taxes	Lesser of B or (A + E + F)	$6,010.28	$12,215.69
I	Capping Adjustment	G - B	-$6,205.41	$0.00
J	2018 Tax Level	G / B	49.20%	100.00%

2019 Projections

If the error made in 2017 and perpetuated in 2018 is not corrected, the maximum 2019 taxes for the subject property will likely be limited to approximately $8,000. This would leave it subject to erroneous capping protection equal to over 25% of the actual, correct taxes.

The application to be made under Section 359.1 of the *Municipal Act, 2001* must ask Council to authorize the use of $12,215.69 as the based tax for the purposes of 2019 capping exercise rather than $6,010.28.

[2] Both tables 3 and 4 set out simplified summaries of the capping calculation. Please refer to Appendix A for full and detailed capping calculations.
[3] This amount includes both the 10% of Prior Year CVA Tax increase and the Current Cycle Increase Flow-Through.

PART 2: CORRECTION OF HISTORICAL CAPPING ERRORS

Although it is clear that the capping adjustments, and therefore the final taxes for the subject property were incorrect in both 2017 and 2018, there is no mechanism by which those errors can be corrected. Section 334 of *The Act* allows for an application to be brought forward to rectify a capping error that resulted in a taxpayer being overcharged, but that section does not allow for corrections that result in a tax increase.

The Town may, however, rely on Section 359.1 to update the base taxes that will be used for 2019 capping calculations to what they would have been, had the 2017 error not been made. In this instance this means that the property will be subject to its full tax liability for 2019, but no adjustment will be made to either the 2017 or 2018 taxes. The taxpayer is entitled to retain the $13,545 in capping credits that they received for these two years.

The authority to utilize an updated/corrected base tax amount for capping purposes under Section 359.1 rests with Council and due process must be followed before any change is made. This process is set out below.

Step 1: Documentation of Error and Proposed Correction

If an error is suspected or even positively identified, it is critical to fully document the nature/source of the initial error and the immediate impact the error had in the year it was made.

Once this is complete, the carry-forward implications must be identified for each subsequent year up to and including the base tax for the year for which the actual correction is to be made. At a minimum, it is necessary to document the taxes, capping adjustments and final capping outcomes for each year based on actual historic figures and hypothetical alternate figures showing how the taxes would have progressed had the original error not been made.

If the actual and hypothetical taxes equal one another for any taxation year, no adjustment can be made to the current base year taxes. This is not the case in this instance.

This documentation exercise has been summarized and explained in Part 1 of this report. The detailed calculations supporting this summary are contained in Appendix A.

Step 2: Application

Upon identification of an error in the calculation of a property's capped taxes for any prior year, the Treasurer must make application to Council asking them to authorize the use of a base tax amount for the current year's calculation that would have applied to the property if the error had not been made.

This does not have to be overly formal or follow any predefined format but it should contain the following details.

- Information sufficient to identify the subject property and the taxpayer;
- A brief explanation of the error, when it was made and its historic impact;
- A clear statement as to what Council is being asked to do;
- A brief explanation as to what will, and what will not be impacted if the correction is made; and
- Identification of any individual who has been delegated the Treasurer's responsibilities and roles for the purposes of the matter at hand.

Step 3: Meeting to be Held

Once an application has been made, Council must schedule a meeting at which both the treasurer and the taxpayer will have the opportunity to make representation in respect of the application. The taxpayer must be notified of the meeting and their opportunity to speak to the matter at least 14 days before the meeting is to take place.

The taxpayer is not required to attend, or to speak at the meeting if they do attend but it is strongly recommended that the treasurer, or a representative of the treasurer be at the meeting and that they speak to the purpose and background of the application.

Step 4: Decision and Notice of Decision

While no specific timeline is set for Council's decision making, it is necessary for them to complete their deliberations and issue a decision well in advance of the annual final capping and billing campaign for the subject tax year.

Within 14 days of making its final decision in respect of an application, Council must notify the applicant of its decision and also identify the last day on which an appeal against the decision may be filed.

Step 5: Appeal Provisions

If the taxpayer objects to the any correction authorized by Council's decision, they have 35 days from the date of that decision to file a notice of appeal with the Assessment Review Board.

If an appeal is filed, the ARB will notify the taxpayer and the treasurer of the municipality of the hearing at least 14 days before the hearing. Both the municipality and the taxpayer will be able to make representation at the hearing. If no appeal is filed, the correction will stand.

Step 6: Base Tax Update Prior to Final Tax Calculation

If Council does authorize the use of an updated base tax amount for 2019 taxation, it is recommended that the municipality effect an update on the OPTA system right away so that accurate calculations can be made for final 2019 tax capping and billing. This is simply a matter of directing OPTA to make the change; the municipality is the taxing authority and ultimately has final say over tax and capping amounts. OPTA takes no responsibility for, and has no official authority in respect of these calculations.

It is recommended that the municipality proceed based on Council's decision regardless of whether an appeal is filed. This is consistent with broader conventions within Ontario's property tax regime, which require taxes to be calculated and levied based on the most current information and circumstances as of billing. If challenges are successful, adjustments are made retroactively.

SUMMARY AND NEXT STEPS

MTE suggests that the contents of this report and the appendices attached fully document the error and corrections that may be made in accordance with Section 359.1 of *The Act* in order to facilitate correct and accurate billing of the subject property for 2019 taxation.

Should the municipality wish, MTE would be pleased to prepare any of the application materials, and or draft correspondence noted above. We could also be available to speak to the error and corrections at a meeting of Council, should that be deemed necessary or appropriate.

Appendix A: Current and Corrected Business Tax Capping Calculations for 2017 and 2018

Table A-1
2017 Current vs. Corrected Capping Calculations

	Calculation Element	Formula	Current	Corrected	Description
Base Tax					
A	2016 CVA		234,000	771,056	
B	2016 CVA Tax	CVA x 2016 Rate	$4,608.49	$15,185.47	2016 Un-Capped Tax Amount
C	2016 Annualized Year-End Tax	B + 2016 Cap Adjustment	$3,445.07	$11,351.88	Base/Starting Point for 2017 Capping
CVA and Capped Tax					
D	2017 CVA		581,850	581,850	
E	2017 CVA Tax	CVA x 2017 Rates	$11,342.15	$11,342.15	
	Capping Status	Test of Eligibility	Capped	Excluded	Changed from Increasing Tax to Decreasing Tax
F	OLC Factor	Calculated Externally	2.4732%	2.4732%	Proportion of taxes attributable to budgetary change
G	2017 Pre-Levy Tax	E/(1+F)	$11,068.41	N/A	2017 CVA taxes before levy change
H	Tax Change Subject to Capping	G - C	$7,623.34	N/A	Eligible (cappable) year-over-year tax change
I	CVA Tax Increase Limit	B * 10%	$460.85	N/A	Increase limit based on prior year CVA tax
J	Annualized Tax Increase Limit	C * 10%	$344.51	N/A	Increase limit based on prior year capped tax
K	2017 Capping Adjustment	Greater of I or J	$460.85	N/A	Amount of Increase Flowed Through
L	Overall Levy Change Adjustment	(C + K) * F	$96.60	N/A	Levy Increase on Cap Adjusted Taxes
M	Threshold / Flow-Through Adjust		$0.00	$0.00	
N	**2017 Cap Adjusted Taxes**	Capped(C+K+L+M), Else E	**$4,002.52**	**$11,342.15**	**Final Tax Liability**
O	**Billing Adjustment**	N - E	**-$7,339.63**	**$0.00**	**Net Impact of Capping**
P	**Tax Level**	N / E	**35.29%**	**100.00%**	**Proportion of Capped vs. Uncapped Taxes**

Explanatory Note: If the appropriate year-end update had been made in accordance with Part VI of Ontario Regulation 73/03 the subject property would have changed from an increasing (capped) property in 2016 to a decreasing property in 2017. Were this the case, it would have been immediately excluded from the capping program under the Cross CVA Tax Exclusion Rule.

Appendix A: Current and Corrected Business Tax Capping Calculations for 2017 and 2018

Table A-2
2018 Current vs. Corrected Capping Calculations

	Calculation Element	Formula	Current	Corrected	Description
Base Tax					
A	2017 CVA		581,850	581,850	
B	2017 CVA Tax	CVA x 2017 Rate	$11,342.15	$11,342.15	
C	2017 Annualized Year-End Tax	B + 2016 Cap Adjustment	$4,002.52	$11,342.15	Base/Starting Point for 2018 Capping
CVA and Capped Tax					
D	2018 CVA		637,700	637,700	
E	2018 CVA Tax	CVA x 2018 Rates	$12,215.69	$12,215.69	
	Capping Status	Test of Eligibility	Capped	Excluded	Excluded - Base Tax at 100% (CVA Tax)
F	OLC Factor	Calculated Externally	2.6888%	N/A	Proportion of taxes attributable to budgetary change
G	2018 Pre-Levy Tax	E/(1+F)	$11,895.93	N/A	2017 CVA taxes before levy change
H	Tax Change Subject to Capping	G - C	$7,893.41	N/A	Eligible (cappable) year-over-year tax change
I	CVA Tax Increase Limit	B * 10%	$1,134.22	N/A	Increase limit based on prior year CVA tax
J	Annualized Tax Increase Limit	C * 10%	$400.25	N/A	Increase limit based on prior year capped tax
K	2018 Capping Adjustment	Greater of I or J	$1,134.22	N/A	Amount of Increase Flowed Through
L	Overall Levy Change Adjustment	(C + K) * F	$138.08	N/A	Levy Increase on Cap Adjusted Taxes
M	Threshold / Flow-Through Adjust	Varies	$735.46	N/A	Current cycle increase flow-through
N	**2018 Cap Adjusted Taxes**	Capped(C+K+L+M), Else E	**$6,010.28**	**$12,215.69**	**Final Tax Liability**
O	**Billing Adjustment**	**N - E**	**-$6,205.42**	**$0.00**	**Net Impact of Capping**
P	**Tax Level**	**N / E**	**49.20%**	**100.00%**	**Proportion of Capped vs. Uncapped Taxes**

Explanatory Note: 2018 updates shown in Table A-2 are based on the carry-forward implications of the 2017 corrections. If the property were subject to full CVA (uncapped) taxes in 2017, it would be ineligible for any adjustment in 2018. The application to be made under Section 359.1 of the *Municipal Act, 2001* must ask Council to authorize the use of $12,215.69 as the based tax for the purposes of 2019 capping exercise rather than $6,010.28.

Appendix B: Simplified Illustrated Explanation - Capping Treatment for Changes in State, Use or Condition vs. Reassessment/Phase-In Driven Tax Change

While a host of complex business rules apply to the calculation of these "capping adjustments", they are in essence based on limiting the magnitude of year-over-year tax change for a property. This means that capping limits are mainly based on the previous year's actual tax burden rather than the current year's uncapped taxes.

This is most easily conveyed via the following, simplified illustration, which shows that the current year's capped tax is determined mostly by the previous year's tax. The current year's uncapped tax mainly determines what direction the taxes are moving in; increasing or decreasing.

Illustrative Table B-1
Basic Mechanics of Capping Limits

	Base Tax	Current Uncapped Tax	Maximum Increase	Adjusted Tax	Capping Protection
	A	B	C (10% of A)	D (A + C)	E (D – B)
Property 1	$10,000	$12,000	$1,000	$11,000	-$1,000
Property 2	$10,000	$15,000	$1,000	$11,000	-$4,000

These "capping limits" are targeted exclusively at tax impacts resulting solely from reassessment, or annual assessment phase-in change. They are not intended to restrict tax changes related to municipal budgetary (levy) change or any change to a property's state use or condition (improvement, demolition, class change, etc.).

Levy Change Flow-Through

In order to ensure the capping exercise does not limit budgetary change, this is applied after the maximum tax increase based on the actual current year's uncapped taxes. The above example has been modified to demonstrate the general mechanics of this under a 1% levy increase scenario.

Illustrative Table B-2
How Levy Change is Flowed-Through

	Base Tax	Uncapped Tax	Maximum Cap Increase	Levy Change	Final Adjusted Tax	Capping Protection
	A	B	C (10% of A)	D (1% of B)	E (A+C+D)	F (E – B)
Property 1	$10,000	$12,000	$1,000	$120	$11,120	-$880
Property 2	$10,000	$15,000	$1,000	$150	$11,150	-$3,850

In this example, all properties carry a share of the net annual levy increase, regardless of whether they are capped, clawed back (decreasing cap) in a similar proportion to those properties that are not subject to capping.

Controlling for Physical Changes (Changes in State, Use and/or Condition)

The manner of controlling for tax changes related to changes in a property's state, use or condition is mainly managed by varying the value used for the base year tax. In most circumstances, the base tax is the actual previous year tax for a property, however, under certain circumstances a different value must be used.

For example, if the increase for Property 2 was due in part to a physical improvement to the property, the base tax would be adjusted so the improvement (or other change) was reflected in both the base and current taxes.

Illustrative Table B-3
Adjusting for Non-Reassessment Related Value/Tax Changes

	Prior Year Tax A	Base Tax B	Uncapped Tax C	Maximum Cap Increase D	Levy Change E	Final Adjusted Tax F	Capping Protection G
				(10% of B)	(1% of C)	(B + D + E)[4]	
Property 1	$10,000	$10,000	$12,000	$1,000	$120	$11,120	-$880
Property 2	$10,000	$13,000	$15,000	$1,300	$150	$11,150	-$3,850
Property 3	$10,000	$7,000	$9,000	$700	$70	$7,770	-$1,230
Property 4	$10,000	$10,000	$9,000	N/A	Captured in B	$9,000	$0

In this example, we have updated the base tax (B) so that the maximum cap increase (C) will only limit the reassessment / phase-in change for the property. These rules are set out under Ontario Regulation 73/03 made under *The Act* and ensure that the taxpayer does not receive capping protection for tax increases resulting from property improvements or property changes.

It is important to note that these rules also work to flow-through any tax decreases related to physical changes or changes in use. For Property 3 the base tax has been lowered to ensure the taxpayer is eligible for a proportional level of tax protection. If this decrease were reassessment related, the base tax would not have been updated and the taxpayer would have received no protection; as is the case with property 4.

[4] This formula only applies if the property is subject to capping. If excluded, current year CVA taxes apply.