

Report to Council

Report Title: Delegation of Authority – Sickness or Extreme Poverty
Prepared By: Jessica Pinkse, Tax Collector/Deputy Treasurer
Department: Finance
Date: February 14, 2023
Report Number: FIN2023-05 **File Number:** C11FIN
Attachments: Information Sheet from Assessment Review Board

Recommendation:

That the Council of the Municipality of Brockton hereby accepts Report Number FIN2023-05 – Delegation of Authority – Sickness or Extreme Poverty, prepared by Jessica Pinkse, Tax Collector/Deputy Treasurer for information purposes; and further that Council proceeds with Option 1 providing authority to delegate Council's authority to the Assessment Review Board to exercise Council's powers and functions with respect to applications made under subsection 357(1)(d.1) of the *Municipal Act, 2001* regarding applications for the cancellation, reduction or refund of taxes where the applicant is unable to pay taxes because of sickness or extreme poverty.

Report:

Background:

Section 357 of the *Municipal Act, 2001* provides authority for applications to be made for the cancellation, reduction or refund of all or part of the taxes levied on land under certain circumstances. One of the circumstances relates to when the applicant is unable to pay taxes because of sickness or extreme poverty. Staff is seeking approval for a by-law that would delegate Council's Authority under section 357(11) of the *Municipal Act, 2001* to the Assessment Review Board.

Analysis:

There are eight circumstances that enable a taxpayer to make an application to the treasurer or delegate to cancel, reduce, or refund taxes which include:

- a) As a result of a change event, such as change of use, or incorrect classification of land;
- b) The land or building becomes vacant during the year;
- c) The land becomes exempt from taxation;
- d) A building was razed or damaged by fire, demolition or otherwise;
 - d.1) The applicant is unable to pay taxes because of sickness or extreme poverty;

- e) A mobile unit was removed from the property;
- f) A person was overcharged due to a gross or manifest error that is clerical or factual in nature;
- g) Repairs or renovations to the land prevented normal use of the land for at least three (3) months of the year.

With the exception of claims under 357(1)(d.1), based on sickness and extreme poverty, the applications are related to change events that can be dealt with administratively. In these instances, staff evaluate applications for completeness and accuracy and based on recommendations by the Municipal Property Assessment Corporation (MPAC) and proposed tax adjustments are approved by the Tax Collector/Deputy Treasurer and processed. Applications under subsection 357(1)(d.1) are based on compassionate grounds and cannot be determined in the same manner as the others. While applications under this clause are rarely received, staff wish to ensure that there is a policy framework for addressing such applications.

Council may choose one of the two paths moving forward.

1. Delegate to the Assessment Review Board, the decision-making authority for claims based on claims of sickness or extreme poverty.
2. Retain decision-making authority with respect to applications under Section 357(1)(d.1). If Council chooses to retain this authority, a framework for decision making should be established as the Municipal Act, 2001 provides no definition or criteria as to what constitutes “sickness or extreme poverty”, nor does it establish the evidentiary requirements to successfully support such applications. To provide a fair, transparent, and timely service to applicants, guidelines should be established.

Option 1: Delegate Authority to the Assessment Review Board

- a. The Assessment Review Board (ARB) is an independent adjudicative tribunal established under the Assessment Act, with a mandate to hear appeals property assessment and classification that also deals with some Municipal Act, 2001 appeals. Decisions by the ARB are final and binding. Subject to Divisional Court on questions of the law.
- b. A by-law delegating authority to the ARB to make decisions regarding tax cancellation, reduction, or refund based on sickness or extreme poverty allows for applicants to make applications directly to the ARB. As a body with experience as a hearing body, applicants can expect:
 - A consistent approach by an independent body that has experience with this particular type of appeal;
 - A set of strict evidentiary standards, including the administration of oaths;
 - Effective guidelines for confidentiality of personal information; and
 - Formal rules for proceeding to be applied in accordance with legislation related to the ARB.
- c. Information from the ARB regarding tax relief due to sickness and extreme poverty is attached to this report for information purposes. There are no fees to the applicant associated with applications under subsection 357(1)(d.1) to the ARB should Council choose to delegate authority as described.
- d. A by-law delegating authority to the ARB can always be repealed by Council, and its authority under this section restored if Council wishes.

Option 2: Retain authority with the Municipality

- a. If Council prefers to retain its decision-making authority under 357(1)(d.1), it is recommended that a policy and guidelines be developed to establish the requirements and supporting material to be submitted by the applicant; the process to be followed; and guidelines to assist with assessing entitlement to relief, the amount of relief to be granted, and any conditions.
- b. Other municipalities have reported that their experience has been that applicants have been hesitant to provide the information needed to assess the applications due to the sensitive nature of their circumstances.
- c. An applicant would be entitled to file an appeal with the ARB if the applicant disagreed with the Municipality's decision or if the Municipality failed to make a decision.

Staff has had no experience dealing with applications under this section and does not recommend this option. The requirements of obtaining such sensitive information and making decisions or recommendations on an application from a person that could be a neighbour or friend is difficult.

Strategic Action Plan Checklist:

What aspect of the Brockton Strategic Action Plan does the content/recommendations in this report help advance?

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|-----------------------------------------------------------------------------------------|-----|
| • Recommendations help move the Municipality closer to its Vision | N/A |
| • Recommendations contribute to achieving Heritage, Culture, and Community | N/A |
| • Recommendations contribute to achieving Quality of Life | N/A |
| • Recommendations contribute to achieving Land Use Planning and the Natural Environment | N/A |
| • Recommendations contribute to achieving Economic Development | N/A |
| • Recommendations contribute to achieving Municipal Governance | N/A |

Financial Impacts/Source of Funding:

- Do the recommendations represent a sound financial investment from a sustainability perspective?
N/A

Reviewed By:



Trish Serratore, Chief Financial Officer

Respectfully Submitted by:



Jessica Pinkse, Tax Collector/Deputy Treasurer

Reviewed By:

A handwritten signature in black ink, appearing to read "Sonya Watson", with a long, sweeping horizontal stroke extending to the right.

Sonya Watson, Chief Administrative Officer