

THE MUNICIPALITY OF LAMBTON SHORES

Report TR 09-2025

Council Meeting Date: February 25, 2025

TO: Mayor Cook and Members of Council
FROM: Rebecca Clothier, Director of Financial Services
RE: Section 358 Taxation Write Off Applications

RECOMMENDATION:

THAT Report TR 09-2025 regarding the Section 358 Tax Write Off Applications be received, and

THAT the Municipal Tax Applications under Section 358 of the Municipal Act, 2001 for the following Roll Numbers be denied:

- 1) 3845-520-010-47900-0000
- 2) 3845-520-010-48000-0000

SUMMARY

Lambton Shores received two tax adjustment applications under Section 358 of the Municipal Act for the 2022 and 2023 fiscal years. MPAC confirmed assessment errors but classified them as errors in judgment, not clerical or factual errors as required under Section 358. Since the applications do not meet the legislative criteria, staff recommend denial.

BACKGROUND

The *Municipal Act, 2001, S.O. 2001, c. 25* (the Municipal Act) includes a number of sections that allow for changes to the Taxation Roll that are not considered to be a change in assessment. These tax adjustments sections include Section 358 of the Municipal Act which addresses overcharges of tax in the two years prior to the current tax year.

Section 358 of the Municipal Act provides that applicants may apply for a reduction in assessment because of a gross or manifest error, in the preparation of the assessment roll, that is clerical or factual in nature, including the transposition of figures, a typographical error or similar errors, but not an error in judgement in assessing the property.

It is important to note that these sections are different than applications for assessment changes made under the *Assessment Act, R.S.O. 1990, c. A.31* (The Assessment Act), such as appeals to the Assessment Review Board (Section 40) and requests for

consideration submitted to MPAC (Section 39.1) that are made by property owners when they do not agree with the assessed value of their property.

When an application for a Section 358 tax adjustment is received by Lambton Shores, the application is sent to the Municipal Property Assessment Corporation (MPAC) for review and recommend assessment changes. MPAC's role in the process is to provide the municipality with the information it needs to enable Council to determine whether a tax adjustment is warranted. MPAC then advises Lambton Shores staff of assessment changes, if any, and staff calculate the application tax adjustments. As outlined in the Municipal Act, the jurisdiction to make decisions on applications for tax refunds or tax increases rests solely with a municipal council.

In accordance with the Municipal Act, a public meeting is required and final approval by Council to determine whether a property is eligible for a property tax adjustment before an adjustment can be processed to a property account.

In December of 2024, Lambton Shores received two applications for tax adjustments under Subsection 358(1)(a) of the Municipal Act – an overcharge cause by a gross or manifest error in the preparation of the assessment roll that is clerical or factual in nature, including the transposition of figures, a typographical error or similar errors, but not an error in judgment in assessing the property.

Staff have reviewed the applications and confirmed the following:

- 1) These applications were received in relation to the 2022 and 2023 fiscal years were received by the due date outlined in Subsection 358(3) of the Municipal Act.
- 2) that there are no outstanding appeals under the Assessment Act that would restrict the applications under Subsection 358(5) of the Municipal Act.
- 3) Copies of the applications have been submitted to the Municipal Property Assessment Corporation (MPAC) and the registrar of the Assessment Review Board (ARB) in accordance with Subsection 358(6) of the Municipal Act.
- 4) MPAC has provided a response and confirmed that an error was made in the determination of the assessment on both properties in both the 2022 and 2023 fiscal years and that the error was an error in judgment in assessing the property.
- 5) A meeting of Council is being held for Council to make a decision on the applications received. The applicant has been advised by mail of the meeting and may make representations to Council at this meeting in accordance with Subsection 358(9) of the Municipal Act.

Based on the staff's review of the explanation provided by the applicant and confirmed by MPAC, Lambton Shores staff have determined that the applications received do not meet the requirements of Section 358 of the Municipal Act. Therefore, staff do not

consider the reason for the application to be a gross and manifest error with the assessment that is a clerical or factual in nature; however, it is determined that the reason is an error in judgement in assessing the property. Therefore, the Treasurer does not recommend that Council approve the applications submitted.

ALTERNATIVES TO CONSIDER

Based on the staff's review of the explanation provided by the applicant and confirmed by MPAC, Lambton Shores staff have determined that the applications received do not meet the requirements of Section 358 of the Municipal Act. Therefore, staff do not consider the reason for the application to be a gross and manifest error with the assessment that is a clerical or factual in nature; however, it is determined that the reason is an error in judgement in assessing the property. Therefore, the Treasurer does not recommend that Council approve the applications submitted.

RECOMMENDED ACTIONS

It is recommended that both 358 applications for tax adjustments under Section 358 of the Municipal Act, be denied as the errors are errors in judgement rather than clerical or factual errors.

FINANCIAL IMPACT

There is no financial impact associated with this report as the applications do not qualify for a Section 358 tax adjustment under the Municipal Act.

CONSULTATION

Julie Wiseman, Deputy Treasurer