

<b>To:</b>	Warden Hicks and Members of Grey County Council
<b>Committee Date:</b>	March 25, 2021
<b>Subject / Report No:</b>	FR-CW-09-21
<b>Title:</b>	Tax Relief for Low-Income Seniors and Persons with Disabilities
<b>Prepared by:</b>	Kevin Wepler, Director of Corporate Services
<b>Reviewed by:</b>	Kim Wingrove, CAO
<b>Lower Tier(s) Affected:</b>	All
<b>Status:</b>	Adopted as presented by Committee through Resolution CW64-21;

## Recommendation

1. **That the current Tax Relief for Low-Income Seniors and Persons with Disabilities program be updated;**
2. **That staff be directed to prepare the necessary by-law to Provide for the Cancellation of Annual Tax Increases for the Purpose of Relieving Financial Hardship for Low-Income Seniors and Persons with Disability in accordance with Section 319 of the *Municipal Act, 2001*.**

## Executive Summary

- Upper-tier and single-tier municipalities must provide a program whereby low-income seniors and low-income persons with disabilities are able to seek financial relief from year-over-year increases in property tax burden.
- Relief can be in the form of a deferral or cancellation of tax increases.
- Municipalities may choose to provide additional or alternate support mechanisms through locally crafted and funded programs as long as they are administered within the limitations of the *Municipal Act, 2001*.

## Background and Discussion

Section 319 of the Municipal Act states that all upper and single-tier municipalities must maintain a program, ratified via by-law, to provide financial relief to low-income

seniors and low-income disabled persons from tax increases. Programs may and do vary from jurisdiction to jurisdiction, but all must be developed around the common elements defined within *The Act*, which may be summarized as follows;

*Eligible Property:* *The Act* states that relief under this program may only be made in respect of property within the residential class that is owned by the qualifying individual or that person's spouse.

*Eligible Persons:* Section 319 does not provide a definition of a "low-income senior" or "low-income persons with disabilities"; this is left up to the municipality to classify within its by-law. Each municipality is responsible with the task of establishing the tests that will determine who will be deemed to be eligible for relief under the program. It is believed that leaving the definition of these tests to local decision makers allows for the program to be designed in a more locally sensitive manner as appropriate parameters may vary from jurisdiction to jurisdiction.

*Forms of Relief:* Municipalities may choose to either cancel or defer an eligible amount; the form of relief must be ratified in a supporting by-law.

*Eligible Amounts:* Municipalities have the option to provide relief equal to either, all or a portion of an eligible taxpayer's year-over-year tax increase. Therefore, municipalities must provide some relief when a qualifying increase has occurred but cannot provide relief in excess of that increase under Section 319.

Section 319 (1) of *The Act* authorizes relief from tax increases in any tax year from and after 1998. Section 319 (3) of *The Act* identifies that increases for a tax increase beginning in a year of a general reassessment are the amount to be phased-in for that tax year. Section 319 (4) provides that the Minister of Finance may make regulations determining the amount of tax increase beginning in a year subsequent to the taxation year in which a general reassessment occurs, but staff are unaware of any applicable regulations.

Considering eligible amounts, the municipal norm is to offer these deferrals or cancellations on an annual basis, regardless of whether a general reassessment had occurred or not. This practice has become particularly prevalent when the current four-year assessment cycle and assessment phase-in program was introduced, which mimics an annual reassessment exercise with increases being phased-in each year for those properties that have increased in value. The ongoing practice of municipalities is offering tax relief on an annual basis.

*Administrative Details:* *The Act* also sets out a number of general administrative details on how deferred amounts will be accounted for, reported on, and attached to the subject properties. These elements include details with respect to:

- Application of upper-tier program to local and education levies;
- Adjustment of school board transfers and payment of cleared deferrals;
- Priority lien status and reporting deferred amounts on tax certificates; and
- Waiving interest on taxes once due and unpaid and subsequently deferred.

## Program Relief Structure

The scope of relief contemplated under Section 319 of *The Act* comes down to whether the municipality has opted to go with the cancellation or deferral of the eligible amount.

Some jurisdictions have cancelled the eligible amounts rather than defer and this is possibly the result of having minimal uptake and therefore the administrative staff time to account for these deferred amounts outweighs the costs associated with cancelling a few increase amounts on an annual basis.

There are some jurisdictions that have maintained a cap on the amount that may be deferred or cancelled. This has the benefit for those cancelling the taxes that it limits the potential scope of the program costs.

## Grey County's Current Deferral Program and Recommended Changes

As per many municipalities, the County's program relies on existing documented indicators as the core criteria of its eligibility criteria. This means that in evaluating applicant's financial status, the local municipality only needs to confirm that they have been qualified by the Provincial or Federal Governments.

The current by-law relies on the following definitions:

### ***Eligible Persons***

"low-income person with disabilities" means a person who is receipt of assistance paid under the *Ontario Disability Support Program Act, 1997*, as amended;

"low-income seniors" means a person who is at least 65 years of age and who is in receipt of payments under the Guaranteed Income Supplement (GIS), as established under Part II of the *Old Age Security Act (Canada)*; or who is in receipt of financial assistance under the *Ontario Works Act, 1997*.

### ***Eligible Property***

"eligible property" is defined as residential property in the County of Grey, including condominiums, that are the principal residence of the owner as defined in the *Income Tax Act (Canada)* but does not include condominium units forming part of or associate with a tourist commercial establishment.

As *The Act* clearly states that this program relates to properties in the residential property class, therefore it is felt that this definition can be simplified and improved. It is being recommended that the reference to “owner” be revised to associate the eligible property to the eligible person. The following is the revised language that is contained in the draft by-law attached to this report in *Appendix A*.

“eligible property” means residential class property within the County of Grey that is owned by, and is the principal residence of an eligible person as defined in the *Income Tax Act* (Canada).

### ***Amount of Relief***

In reviewing the County’s current deferral program, it references the old *Municipal Act* and therefore needs to be updated. It also needs to be revised to address the issue with the way the dollar threshold for eligible amounts is worded in the current by-law.

The wording in the current by-law suggest that relief will only be provided for increase amounts in excess of \$500. This means that in order to be eligible for a deferral under the County’s current program an applicant’s taxes would need to increase by more than \$500 and that the amount eligible for relief would be the total increase for the year, minus \$500.

Based on wording of subsection 319 (1) of *The Act*, which in regard to the contemplated relief reads: “...*providing for deferrals or cancellations of, or other relief in respect of, all or part of a tax increase...*”. Therefore, the current legislation clearly allows a municipality to limit the level of protection they provide under the program, it does not now appear to contemplate a minimum increase for eligibility.

It is therefore recommended that the County revise its program to eliminate the threshold or reword the by-law so that the threshold is a maximum, not a minimum. This would ensure that eligible applicants receive relief in respect of part or all of the tax increase for their property.

### ***Form of Relief – Cancellation or Partial Deferral - Section 319***

The scope of the relief contemplated under Section 319 of *The Act* is fairly narrow, but programs do vary. The most obvious variances among programs is whether the municipality opts to cancel or defer the eligible amount.

There are a number of municipalities that simply cancel the eligible amounts rather than defer them. When deferrals are made, it is necessary to track these over time, adjust school board and upper-tier payments, and then ultimately collect the deferred amounts. Depending on the uptake of the program, the administrative cost could be greater than the cost of cancelling amounts. This would also be impacted on the limits placed on the amount of relief.

In addition, when taxes are deferred, they represent a formal priority lien against the subject property. Despite the small dollar amounts involved, legal tax liens can limit a taxpayer's ability to borrow money against their home. This is generally thought to be one the reasons that participation in deferral programs is so limited.

In reviewing this item with the Local Treasurers Group, the consensus was to provide a cancellation model that the local municipality would just cancel the eligible amount, rather than defer them.

If Council wishes to move to a cancellation model, it is recommended that the County maintain a cap of \$500 on the amount that may be cancelled in order to limit the potential program costs.

The option to simply cancel the year-over-year tax increase would meet the relief contemplated under Section 319.

## Enhanced Deferral Program

The scope and application of relief provided under section 319 is quite narrow. It only captures marginal annual increases means that the eligible amounts are very limited. For example, assuming a total municipal levy increase of no more than 2%, the average single detached residential property within Grey County would be eligible for relief of less than \$100 in 2021.

In addition, the program only applies to low income seniors or low-income persons with disabilities, this is fairly narrow sub-set of the population and even smaller sub-set of homeowners.

To offer a greater benefit, some municipalities provide an enhanced deferral program outside that which is contemplated under section 319. For example, in addition to cancelling any tax increase to a maximum rebate limit, they are provided for minimum rebate amount (i.e. \$200) be granted to eligible applicants,

An enhanced deferral program outside that contemplated under section 319 is an option that Grey County could consider. If support exists for such a program, staff could report back to Council with some examples to support an optional, enhanced deferral program for Low-Income Seniors and Persons with Disability.

It may be beneficial before creating an enhanced deferral program, for County Council to implement the cancellation of annual tax increases for the purpose of relieving financial hardship for low-income seniors and persons with disability in accordance with section 319, and learn what uptake and the financial impact of this program is to the County and Local Municipalities, before considering an enhanced program.

## Legal and Legislated Requirements

Section 319 of the Municipal Act, 2001 provides that a municipality, other than a lower-tier municipality, shall for the purposes of relieving financial hardship, pass a by-law to provide relief of tax increases on property in the residential property class for owners who are, or whose spouses or same-sex partners are:

- (a) low-income seniors as defined in the by-law; or
- (b) low-income persons with disabilities as defined in the by-law.

Under O. Reg. 311/01, respecting the City of Owen Sound's tax ratios, the County is authorized to provide for different provisions respecting the City in a tax relief by-law. The relief contemplated in the proposed by-law would apply uniformly to any lower-tier municipality within the County of Grey, including the City of Owen Sound.

## Financial and Resource Implications

It is difficult to estimate the number of eligible persons with eligible properties in the County of Grey. The County of Wellington, which provides a cancellation of up to a maximum of \$500, and a minimum rebate amount of \$200 being granted to eligible persons experiencing an increase below the \$200 threshold, reported in 2019 that for the 2018 taxation year that 105 applications were approved, including 12 for disability relief. The average refund was estimated to be \$215, with tax relief of \$21,424 (includes Local, County and Education) being provided.

## Relevant Consultation

- Internal - Legal
- External – Local Municipal Treasurers and Staff, and Municipal Tax Equity Consultants

## Appendices and Attachments

[Draft By-law to Provide for the Cancellation of Tax Increases for the Purposes of Relieving Financial Hardship](#)