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Committee Report 18-002
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Bill No. 134

CITY OF HAMILTON

BY-LAW NO. 18-134

A By-law to Provide Deferral of Tax Increases to Low Income Seniors and Low Income Persons with Disabilities who are Owners of Real Residential Property in the City of Hamilton

WHEREAS for the purposes of relieving financial hardship, section 319 of the *Municipal Act, 2001*, requires the City of Hamilton to pass a by-law providing for deferrals or cancellations of, or other relief in respect of all or part of the tax increases on property in the residential property class for persons assessed as Owners who are, or whose Spouses are Low Income Seniors or Low Income Persons with Disabilities as defined in the by-law;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

A. Definitions

1) In this By-law,

- a. "Aggregate Total Income" means the total income from all sources as set out in the Notice of Assessment prepared by Revenue Canada for an Eligible Person and the Eligible Person's Spouse for the taxation year immediately preceding the City Taxation Year in which a credit is claimed under this By-law.
- b. "Application" means an application for a property tax Deferral pursuant to this By-law in a form and content as determined by the Treasurer;
- c. "Assessment Cap" means 40% of the assessed value of the Eligible Property;
- d. "City Taxation Year" means the calendar year during which real property tax is levied within the City;
- e. "Common Law Spouse" means either of two persons who are not married to each other and have cohabited continuously for a period of not less than three years;
- f. "Current Value Assessment" means the assessed value of a property determined by the Municipal Property Assessment Corporation (MPAC) pursuant to section 19 of the Assessment Act;

- g. "Deferral" means a deferral or deferrals granted pursuant to the provisions of this By-law of the Eligible Amount of property taxes;
- h. "Deferred Amount" means the accumulated Eligible Amounts deferred pursuant to a Deferral and added to a Deferral Account for an Eligible Property;
- i. "Deferral Account" means the general ledger account where the Deferral Amount is accumulated for accounting purposes;
- j. "Eligible Amount" means the property tax increase for any single City Taxation Year including municipal and education taxes and excluding other charges such as but not limited to local charges, water arrears, property standards charges;
- k. "Eligible Person" means the Owner for a period of not less than one year immediately preceding their Application of an Eligible Property, who is a Low Income senior, a Low Income Person with Disabilities or, or the Spouse of such person, who is not participating in any other City of Hamilton tax relief program;
- l. "Eligible Property" means property which or of which:
 - i) for the purposes of the *Assessment Act*, is classified in the residential property class;
 - ii) is the principal residence within the meaning of the Income Tax Act (Canada), of the Owner of the property or of the Spouse; and
 - iii) is located within the City of Hamilton;
- m. "Guaranteed Income Supplement" means the monthly non-taxable benefit payable by the Government of Canada to Old Age Security pension recipients who have a low income and are living in Canada;
- n. "Low Income" means an Aggregate Total Income of the Owner and if applicable the Owner's Spouse that does not exceed 150% of the Guaranteed Income Supplement Maximum Annual Income (combined), as published by the Government of Canada for the 4th quarter of the previous taxation year for individuals whose Spouse receives the full Old Age Security;
- o. "Low Income Person with Disabilities" means a person who is in receipt of assistance paid under the Ontario Disability Support Program or a disability amount paid under the Guarantee Income Supplement or an amount paid under the Canadian Pension Plan disability benefit;
- p. "Old Age Security Pension" means the monthly payment available from the Government of Canada to seniors aged 65 and older who meet the Canadian legal status and residence requirements established by the Government of Canada;

- q. "Owner" means a person liable to assessment, in accordance with the provisions of the *Assessment Act* in respect of real property located within the geographic boundaries of the City of Hamilton;
 - r. "Senior" means a person who is 65 years of age or older in the year preceding the City Taxation Year in which the Deferral would be granted;
 - s. "Spouse" has the same meaning as in subsection 1(1) of the Family Law Act, R.S.O. 1990 c.F.3 and shall include Common Law Spouse as defined in this By-law; and
 - t. "Tax Account" means the account corresponding to the roll number of the Eligible Property in the City's tax billing system;
 - u. "Treasurer" means the City's General Manager, Finance and Corporate Services or his or her designate;
- 2) In this By-law,
- a. words importing the masculine gender shall include the feminine and neutral genders and vice versa.;
 - b. a word defined in or importing the singular number has the same meaning when used in the plural number, and vice versa; and
 - c. a reference to any Act, bylaw, rule or regulation or to a provision thereof shall be deemed to include a reference to any Act, bylaw, rule or regulation or provision enacted in substitution therefore or amendment thereof.
- 3) An Application may be made, (a) at any time during the City Taxation Year to which the Deferral would apply, and (b) until the last day of February in the following City Taxation Year to which the Deferral would apply.;
- 4) An Application shall only apply for the Eligible Amount for the City Taxation Year in which the Application is made or if the Application is made within the time period permitted in subsection 3(b) it shall only apply for the preceding City Taxation Year. In order to receive a Deferral for any other or subsequent City Taxation Year an Eligible Person must make a separate Application in accordance with the provisions of this By-law. If a Deferral or Deferrals have previously been granted for a previous City Taxation Year or City Taxation Years and a renewal Application is not received for the subsequent City Taxation Years, any Deferred Amount will remain in the Deferral Account until the Eligible Property to which the Deferred Account applies is transferred to a different Owner at which time the Deferred Amount will be transferred to the Tax Account for the Eligible Property and become payable as provided for in section 20.
- 5) If a Deferral or Deferrals have previously been granted for a previous City Taxation Year or City Taxation Years and an Application is not received for the subsequent City Taxation Years the property taxes for the subsequent City Taxation Years are payable in accordance with all applicable City of Hamilton By-laws and the *Municipal Act, 2001*.

- 6) The Owner, the Owner's Spouse and all registered Owners must be identified in an Application at the time of the Application.
- 7) An Application shall be made to the Treasurer, and shall be in such form and provide such information as the Treasurer may determine from time to time.
- 8) An Application must include documentation establishing that the applicant is an Eligible Person and that the residential property with respect to which the application is made is Eligible Property. The Application shall include a copy of the Eligible Person and the Eligible Person's Spouse's Notice of Assessment issued by the Canada Revenue Agency for the City Taxation Year preceding the Application which will be used to verify their respective total incomes
- 9) An Application must include an authorization signed by the applicant authorizing the release by third parties of all information the Treasurer may require to verify the accuracy of any information submitted with the Application.
- 10) An Application shall not be approved if the property taxes for the prior City Taxation are in arrears on the date the Application is submitted to the City.
- 11) Upon receipt of an Application the Treasurer shall review the Application and determine whether or not the applicant and property are eligible.
- 12) This By-law shall be administered by the Treasurer and any questions as to the application of this By-law may be referred to the Treasurer whose determination shall be final.
- 13) The Treasurer may, at any time, request that an applicant for a Deferral provide such additional information or documentation or both as he or she may require to evaluate the Application and the Application shall not be further processed until the requested information or documentation or both has been received.
- 14) In the event that an applicant fails to provide the information or documentation or both requested by the Treasurer within one month of the date of the request, the Application shall be deemed to have been abandoned and shall not be further processed.
- 15) Upon the determination by the Treasurer that an applicant and the property to which the Application applies meet all the requirements for a Deferral, the Deferral shall be granted without interest.
- 16) All Eligible Amounts subject to a Deferral shall be added to the Deferral Account for the Eligible Property to which they apply and no interest shall accrue on the Deferred Amount until it becomes payable as provided for in section 20.
- 17) If an Eligible Person who submitted an Application ceases to be an Eligible Person no additional Deferral will be granted unless the person can meet the requirements

for Deferral and any Deferred Amount which applies to the Eligible Person's Eligible Property shall remain in the Deferral Account until the transfer of the Eligible Property which results in the Eligible Person no longer being the Owner at which time the Deferred Amount shall transferred to the Tax Account of the Eligible Property and shall be payable as provided for in section 19.

- 18) When the Deferred Amount accumulates in the Deferral Account for an Eligible Property to a value that equals the Assessment Cap no further Deferrals will be provided regardless of any changes to the Current Value Assessment for the Eligible Property and any Deferred Amount which applies to the Eligible Property will remain in the Deferral Account until the transfer of the Eligible Property to a different Owner at which time the Deferred Amount shall transferred to the Tax Account of the Eligible Property and shall be payable as provided for in section 19.
- 19) If an Eligible Property to which a Deferral applies is transferred to a different Owner the Deferral shall cease to apply to the Eligible Property for the City Taxation Year in which the Eligible Property is transferred and the Deferred Amount shall be payable and shall be added to the Tax Account for the Eligible Property to which Deferred Amount applies for the City Taxation Year in which the Eligible Property is transferred. When the Deferred Amount is transferred to the Tax Account for the Eligible Property to which the Deferral applied the Deferred Amount if not immediately repaid shall accrue interest and be subject to penalties in accordance with City of Hamilton By-law 13-136 and the *Municipal Act, 2001*.
- 20) A Deferral provided pursuant to this By-law for any City Taxation Year is limited to one dwelling unit on an Eligible Property.
- 21) Where an Eligible Person and the Eligible Person's Spouse each own an Eligible Property, collectively they shall only be permitted one Deferral in respect of one property and the Eligible Person and Eligible Person's spouse shall designate in the Application which Property shall be the subject of the Deferral..
- 22) Where a designation has been made under subsection 22, the designation shall not be changed without the consent of the Treasurer, which consent may be withheld for any reason.
- 23) No interest shall be charged on a Deferred Amount in the Deferral Account;
- 24) Where the Deferred Amount becomes payable under section 20 and is not immediately repaid, such outstanding Deferred Amount shall be subject to interest and penalties in accordance with City of Hamilton By-law 13-136 and the *Municipal Act, 2001*.
- 25) In accordance with subsections 319(14) and 349(3) of the *Municipal Act, 2001* the Deferred Amount is a special lien on the to the Eligible Property to which it applies *Municipal Act, 2001*

26)The Deferred Amount shall be shown on tax certificates in accordance with Section 319(8) of the *Municipal Act, 2001*.

B.

27)City of Hamilton By-law No. 10-117 is repealed.

28)This by-law is deemed to have come into force on January 1, 2018.

PASSED this 23rd day of May, 2018.

F. Eisenberger
Mayor

J. Pilon
Acting City Clerk