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CANADA

Tribunal ruling means Wellington County pit operators owe millions in back taxes

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WELLINGTON COUNTY – Gravel pits in southern Wellington County owe millions in backdated property taxes after an Ontario court ruled they were assessed too low by the Municipal Property Assessment Corp. (MPAC).

An interim decision from the Tribunals Ontario Assessment Review Board dated March 29 ruled six aggregate operations in Puslinch and Erin need to be reassessed for the 2017 to 2020 taxation years.

The six pits named in this ruling are: the Dufferin Pit, Capital Pit and Roszell Pits Nos. One and Two in Puslinch and the Hillsburgh/Huxley Pit in Erin.

The ruling states MPAC previously reached an agreement with the Ontario Stone, Sand and Gravel Association to set the value of land gravel pits operated on at the class 5 farmland rate to resolve outstanding appeals.

However, the county argued this classification was not applied correctly in accordance with regulations and failed to recognize these properties are host to industrial operations.

The tribunal sided with the county's position and have given an interim order to re-calculate the assessed value for the mentioned taxation years.

There are approximately 50 licensed gravel pits in Puslinch, Erin and Guelph/Eramosa and this ruling has implications for those not mentioned in this specific ruling.

County treasurer Ken DeHart explained the appeals on these six aggregate operations were considered “representative cases” and will be implemented to the remaining 44 operations under appeal in Puslinch, Erin and Guelph/Eramosa that are also under appeal for the same tax period.

The properties under appeal were previously assessed at \$9,200 per acre and the decision will increase that to \$15,080 per acre. This also applies to the 2021 assessment.

Like all property taxes in the county, the additional amount would be owed to three parties — the County of Wellington, the host municipality and to education.

DeHart couldn't say how much exactly would be owed as the decision also increases the acreage assessed at this value and there is an implementation and negotiation process to follow.

“When you consider this decision comes over a five-year period, the back taxes owed will be in the (low) millions,” DeHart estimated.

Reached by email, warden Kelly Linton said this decision goes in the right direction but still falls short of true value for operations located close to the 401 in Puslinch.

“It doesn’t go far enough because aggregate operations in prime industrial areas near busy transportation routes and close to urban centres are still vastly undervalued,” Linton said.

“These properties do not reflect market value, meaning that these properties are still being subsidized by small businesses and residents in these areas. Many large multinational aggregate producers are paying a small fraction of taxes of neighbouring properties.”

In the ruling, the Dufferin and Capital Pit are in the Puslinch Economic Development Area identified in the County Official Plan.

Comparing industrial properties nearby, such as Nestle beside the Dufferin Pit, the county submitted the correct current value to be approximately \$137,000 per acre.

The tribunal did not agree with this position partly because the comparable properties submitted were not aggregate operations.

DeHart said this particular case has been going on since 2017 but disputes over gravel pit assessments have taken place for over 20 years.

He said the last round of appeals were initiated by the aggregate industry, which required the county to pay back almost \$6 million in back taxes from 2009 to 2016.

“This decision doesn’t quite get us back to the taxes they were paying with the 2012 assessment cycle...not even accounting for inflation,” DeHart said.

There is a chance for the operators to appeal but only on the basis of law and not because they don’t like the decision.

“They need to apply to a higher court on the basis that the board got it wrong because they made an error in the application of law,” DeHart said.

Linton said Wellington County will continue to seek fairer assessments through existing legislation but also through a more permanent policy change to eliminate future disputes.

“The bottom line is that the property being used by aggregate corporations is not even close to actual market value,” Linton said.

“As a result, other county businesses and our residents are paying more than their fair share of property taxes—in fact they are subsidizing the gravel pits.

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