

**Report To:** Finance Committee, Board of Health  
**Submitted by:** Dr. Nicola Mercer, Medical Officer of Health & CEO  
**Subject:** WDGPH MUNICIPAL FUNDING SPLIT

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**RECOMMENDATION(S):**

- (a) That the Finance Committee recommends that the Board of Health send a letter to the three obligated municipalities, as defined under the *Health Protection and Promotion Act*, R.S.O. 1990 (HPPA), requesting that the municipalities clarify whether Wellington-Dufferin-Guelph Public Health (WDGPH) is to continue to use the most accurate municipal population numbers as produced by the Statistics Canada Census, or MPAC enumeration as the basis for the municipal funding split.
- (b) That the Finance Committee makes recommendation to the Board of Health to receive this Report, for information.

**BACKGROUND:**

In May 2017, WDGPH management provided a Finance Committee Report (Finance Committee Report BH.04.MAY2917.R10 – 2016 Census Budget Impacts) on the impact of updating to the 2016 Census (from the 2011 Census) as the basis for the municipal funding split for the 2018 budget year. WDGPH has used the Statistics Canada Census as the foundation for the funding split within the current administrative staff memory. Upon review of the Finance Committee Report, the Finance Committee requested that a reference be added to the Finance Committee Report to identify the legal foundation for using the Statistics Canada Census as the basis for the funding split.

**PUBLIC HEALTH AND/OR FINANCIAL IMPLICATIONS:**

Staff took this direction from the Committee, and upon researching this request, found the following:

- The *HPPA*, section 72(3) specifies that the obligated municipalities shall pay the proportion agreed upon among them; or
- In the absence of an Agreement among the municipalities, the proportion to be paid by each municipality shall be determined in accordance with the regulations (*HPPA*, section 72(4)).
- O. Reg. 489/97, section 1, specifies population as the basis for determining the proportion. However, section 2 defines population as being determined by the most recent enumeration conducted under section 15 of the *Assessment Act*, R.S.O. 1990, c.A.31 (“*Assessment Act*”).
- The *Assessment Act* says that the assessment corporation shall conduct an enumeration of the inhabitants of a municipality and locality at the times and in the manner prescribed by the Minister.

- The Municipal Property Assessment Corporation (MPAC) carries out an enumeration every three years to create the Ontario Population Report.
- Please refer to Appendix “A”, a letter from the Leeds, Grenville & Lanark District Health Unit to the Minister of Health and Long-Term Care, Dr. Eric Hoskins, outlining the problems associated with relying on the Ontario Population Report as the basis for the municipal funding split.

WDGPH staff then investigated whether or not an Agreement existed among the three municipalities in Wellington-Dufferin-Guelph, and found that:

- A January 23, 1997 Agreement existed;
- This Agreement refers to the proportion expenses to be divided on the basis of the Triannual Ontario Population Reports by the Ontario Ministry of Finance – Assessment Division;
- The Ontario Ministry of Finance – Assessment Division is the predecessor of MPAC, and as such, the population report referred to in the Agreement is the same one that is referred to in the *HPPA* regulations;
- This Agreement was contested in court in 2011;
- An August 9, 2011 Superior Court of Justice – Ontario finding specified that the 1997 Agreement is now simply a funding agreement amongst the constituent members of the health unit; and
- As a result, it appears that this Agreement is still in force or in the absence of an agreement the same outcome will occur.

Staff requested confirmation from Miller Thomson that this analysis is correct. Please refer to Appendix “B” for Miller Thomson’s advice to WDGPH on this matter.

WDGPH has used the Statistics Canada Census for budgeting for many years with any correction to the funding split occurring in the year following the release of the new census. The 2018 draft budget is also using this approach as the basis for the funding split. MPAC also acknowledges that “The most accurate municipal population numbers are produced by Statistics Canada based on the most recent census.” (see Appendix “A”). The decision to use MPAC over the current Statistics Canada Census will result in under reporting of some segments of population particularly those in the 20 to 25 year age group and those who are tenants. WDGPH staff are requesting that each of our three funding municipalities provide direction to WDGPH as to whether to continue to use the most accurate municipal population numbers as produced by the Statistics Canada Census or MPAC enumeration as the basis for the municipal funding split.

## **APPENDICES:**

*Appendix “A”* – Letter from Leeds, Grenville & Lanark District Health Unit

*Appendix “B”* – September 12, 2017 Memorandum from Gillian Tuck Kutarna, Miller Thomson

**REFERENCES:**

None.

*Original Signed Document on File*

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Prepared by:  
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Interim Director of  
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Approved by:  
Dr. Nicola Mercer,  
Medical Officer of Health &  
CEO

June 1, 2017

**VIA EMAIL**

The Honourable Eric Hoskins  
Minister – Minister's Office  
Ministry of Health and Long-Term Care  
Hepburn Block, 10th Floor  
80 Grosvenor St  
Toronto, ON M7A 2C4

Dear Minister Hoskins:

**RE: Municipal Levy Apportionment**

The Health Protection and Promotion Act (appended) stipulates that municipalities must decide how to apportion the municipal component of the expenses of the Board of Health among obligated municipalities. All of the obligated municipalities will have to agree with this change before it can be implemented according to the Health Protection and Promotion Act, and Ontario Regulation 489/97 (*See Appendix #1*). The regulations state that the default is to use the Ontario Population Report of the Municipal Property Assessment Corporation (MPAC) which is the current method being used to apportion the levy.

Recently, the Board of Health for the Leeds, Grenville and Lanark District Health Unit received information from the Municipal Property Assessment Corporation (MPAC) (*See Appendix #2*) that stated:

“The Ontario Population Report (OPR) is based on information contained in MPAC's Names Database and is produced upon conclusion of each municipal enumeration which correlates with the timing of regular municipal and school board elections that now occur every 4 years. The Report is distributed to all municipalities, certain provincial ministries and other stakeholders.

“The OPR figures are developed from information gathered for assessment and enumeration purposes. These figures should not be confused with population data published by Statistics Canada that are produced from dedicated population counting and estimating processes conducted every 5 years.”

“The most accurate municipal population numbers are produced by Statistics Canada based on the most recent census.”

APPENDIX "A"

The Honourable Eric Hoskins  
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Given MPAC states that the population numbers produced by Statistics Canada are more accurate than those produced by MPAC, the Board requests that Ontario Regulation 489/97 Allocation of Board of Health expenses be amended as follows:

1. (1) If the obligated municipalities in a health unit fail to agree on the proportion of the expenses referred to in subsection 72 (1) of the Act to be paid by each of them, each obligated municipality in the health unit shall pay the proportion of the expenses that is determined by dividing its population by the sum of the populations of all the obligated municipalities in the health unit. O. Reg. 489/97, s. 1 (1).

(2) In this section,

“population” means, with respect to an obligated municipality, the population of the obligated municipality as determined from the most recent Census conducted by Statistics Canada.

The Board of Health looks forward to hearing from you regarding this important issue.

Sincerely,



Anne Warren, Board Chair  
Leeds, Grenville and Lanark District Health Unit

AW/hb

cc: Steve Clark, MPP Leeds-Grenville  
Randy Hillier, MPP Lanark-Frontenac-Lennox and Addington  
John MacLaren, MPP Carleton-Mississippi Mills  
Ontario Boards of Health

**HEALTH PROTECTION AND PROMOTION ACT****Payment by obligated municipalities**

**72.** (1) The obligated municipalities in a health unit shall pay,

(a) the expenses incurred by or on behalf of the board of health of the health unit in the performance of its functions and duties under this or any other Act; and

(b) the expenses incurred by or on behalf of the medical officer of health of the board of health in the performance of his or her functions and duties under this or any other Act. 1997, c. 30, Sched. D, s. 8.

**Agreement**

(3) The obligated municipalities in a health unit shall pay the expenses referred to in subsection (1) in such proportion as is agreed upon among them. 1997, c. 30, Sched. D, s. 8.

**If no agreement**

(4) If the obligated municipalities in a health unit fail to agree on the proportion of the expenses referred to in subsection (1) to be paid by each of them, each obligated municipality in the health unit shall pay the proportion of such expenses that is determined in accordance with the regulations. 1997, c. 30, Sched. D, s. 8.

**ONTARIO REGULATION 489/97****ALLOCATION OF BOARD OF HEALTH EXPENSES**

**Consolidation Period:** From April 1, 2005 to the [e-Laws currency date](#).

**1.** (1) If the obligated municipalities in a health unit fail to agree on the proportion of the expenses referred to in subsection 72 (1) of the Act to be paid by each of them, each obligated municipality in the health unit shall pay the proportion of the expenses that is determined by dividing its population by the sum of the populations of all the obligated municipalities in the health unit. O. Reg. 489/97, s. 1 (1).

(2) In this section,

“population” means, with respect to an obligated municipality, the population of the obligated municipality as determined from the most recent enumeration conducted under section 15 of the *Assessment Act*. O. Reg. 489/97, s. 1 (2).

(3) In this section,

“assessment”, with respect to real property, means the assessment for the real property made under the *Assessment Act* according to the last returned assessment roll;

“population” means population as determined from the most recent enumeration conducted under section 15 of the *Assessment Act*. O. Reg. 142/05, s. 1.

## MUNICIPAL PROPERTY ASSESSMENT CORPORATION

### ONTARIO POPULATION REPORT

#### What is the OPR?

The Ontario Population Report (OPR) is based on information contained in MPAC's Names Database and is produced upon conclusion of each municipal enumeration which correlates with the timing of regular municipal and school board elections that now occur every 4 years. The Report is distributed to all municipalities, certain provincial ministries and other stakeholders. The OPR is not an 'estimate'. The OPR (and any adhoc population count done between enumeration years and/or obtained through the Population Report option provided via Municipal Connect™) is based on actual point-in time counts of current names in MPAC's database.

**Note:** *The OPR figures are developed from information gathered for assessment and enumeration purposes. These figures should not be confused with population data published by Statistics Canada that are produced from dedicated population counting and estimating processes conducted every 5 years (see Factors Affecting Population Counts below).*

#### Information Sources and Collection Methods

The primary source of **owner names** is the land transfer process. This results in a high degree of accuracy and currency for owner information but does not include other family members. The primary source of **tenant names** has traditionally been through the Tenant Information Program (TIP) where landlords with seven or more residential units are obliged to annually supply MPAC with the names of the tenants in their buildings. Landlords usually supply MPAC with whatever names are on their rent roll, typically one name per unit. This source does not include children or other occupants. Beginning in 2014, tenant names are also being received from the National Register of Electors and during an enumeration event, via MPAC's voterlookup.ca online elector update/confirmation website. Name information is no longer collected through the mailout of 'Municipal Enumeration Forms' (MEFs) during municipal election years. To collect names of **children** and other occupants, including the missing birth dates, citizenship confirmations and school support of tenants and owners, MPAC traditionally mailed out 'Request for Occupant Information' (ROI) forms. Compliance is voluntary and returns as low as 20%. In addition, owners and tenants have the option of updating their household occupant information when calling MPAC's Customer Contact Centre.

#### Factors Affecting Population Counts

In comparison to Statistics Canada, MPAC typically under-reports population numbers for Ontario, primarily in the under 20 to 25 year-old range. The reasons for this are:

- There is no legislated requirement for owners of rental properties with fewer than seven units to supply MPAC with tenant names.
- Historically, although approximately **50%** of owners respond to Occupancy Questionnaires, compliance for tenants has been approximately **20%**.
- When in receipt of properly documented information, MPAC is obliged to change its database accordingly which usually requires the removal of existing names from a property record and replacing them with the new name(s). The process of removing names automatically includes

## APPENDIX "A"

any children or other occupants currently listed at the identified address. These names are recovered, only if they reappear at a future point through other source data/data-matching.

- Under instructions from Ontario's Deputy Registrar, municipal clerks no longer send MPAC the names of newborns. The cumulative effect since the early 90's has been the slow degradation of OPR numbers, particularly those under the age of 20.

The most accurate municipal population numbers are produced by Statistics Canada based on the most recent census.

(From Beverley Disney  
Account Manager, Municipal and Stakeholder Relations Department  
Municipal Property Assessment Corporation)



## APPENDIX “B”

# MEMORANDUM Guelph

### Private and Confidential

**To:** Elizabeth Bowden  
Wellington-Dufferin-Guelph Public Health

**From:** Gillian Tuck Kutarna

**Date:** September 12, 2017

**Subject:** Use of Census Population Data

**File:** 0067559.0002

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Thank you for asking for our assistance in clarifying the appropriate means of determining the apportionment of costs amongst the three obligated municipalities in the Wellington-Dufferin-Guelph Public Health (“**WDGPH**”).

You have advised that the WDGPH has relied on Census population data since at least 2011 to calculate the proportional obligation of each municipality. However, the WDGPH would like to understand the historical rationale for relying on this measure.

### Health Protection and Promotion Act

The *Health Protection and Promotion Act*<sup>1</sup> (“**HPPA**”) provides that obligated municipalities shall pay the expenses incurred by or on behalf of the board of health and the medical officer of health “**in such proportion as is agreed upon among them.**”<sup>2</sup>

### 1997 Agreement

In January, 1997 the Counties of Wellington and Dufferin and the City of Guelph entered into an agreement which listed the population of each municipality at Section 5(1), along with the municipality’s proportional share of costs.

The 1997 agreement provides at paragraph 5(2):

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<sup>1</sup> RSO 1990 c H7

<sup>2</sup> S.72(3).

The Parties' share of the annual expense shall be calculated in ratio of their populations as published in the Triannual Ontario Population Reports by the Ontario Ministry of Finance – Assessment Division.<sup>3</sup>

Our records indicate that an updated agreement was drafted in 2005, which similarly stated that the proportional share of expenses would be calculated on the basis of the “Triannual Ontario Population Reports by the Municipal Property Assessment Corporation”.

However, we assume that the 2005 agreement was never executed, as we do not have a signed copy in our files, and it was not considered in the 2011 decision of the Ontario Superior Court in *Guelph v Wellington-Dufferin-Guelph Health Unit*,<sup>4</sup> which specifically examined the application of the 1997 Agreement without reference to a 2005 amendment.

### **2011 Court Decision**

In the 2011 ruling, Justice Price held that although Section 8 of the 1997 Agreement allowing a municipality to withdraw from a board of health was null and void:

“... the Agreement continues to operate as the basis for allocating financial responsibility among the member municipalities for the expenses of the Health Unit...”<sup>5</sup>

In the analysis which followed, the Court noted that the 1997 Agreement allocated the proportional financial obligations on the basis of the population statistics from the **1995 census**. The Court then commented that if the 2006 Census had been applied, Guelph's proportional share of funding would have increased by only .9%.

It would therefore appear that evidence was led at trial as to the reliance on Census rather than Municipal Property Assessment Corporation (“**MPAC**”) population data, notwithstanding the Agreement's reference at section 5(2) to “Triannual Ontario Population Reports”, the predecessor document to MPAC's current “Ontario Population Report”.

Following the court decision, the obligated municipalities entered into a Financial Agreement for the limited purpose of allocating capital funding contributions for the Guelph and Orangeville facilities, wherein they agreed that the division of financial responsibilities would be based on the **2011 Census**.

WDGPH has advised that in recent corporate memory, annual budgets have also been funded by obligated municipalities paying their proportional share based on population as determined by the **Census data**.

### **Conclusion**

Our research would therefore suggest the 1997 agreement incorporated and applied Census data, while also referring to what is now MPAC's Ontario Population Report. This

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<sup>3</sup> Entitled “By-Law 2005-19”

<sup>4</sup> 2011 CarswellOnt 15190, 2011 ONSC 5981, [2011] O.J. No. 6396, 217 A.C.W.S. (3d) 204, 97 M.P.L.R. (4th) 70

<sup>5</sup> at para. 69

inconsistency has been resolved by the subsequent practice of the municipalities and the Board of Health, which has been to interpret the agreement as allowing for the use of the Census data, including for the annual budgets including the recent approved 2017 budget.

As the HPPA provides that in the absence of an agreement between the obligated municipalities MPAC data must be used,<sup>6</sup> it would be prudent for the municipalities in WDGPB to indicate their support the continued use of census data by signifying their agreement in writing.

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<sup>6</sup> At Section 72(4).