

Consolidated Clause in Policy and Finance Committee Report 6, which was considered by City Council on July 25, 26 and 27, 2006.

17

**Heritage Property Tax Rebate Program
2006-2007 Program Implementation and Expansion (All Wards)**

City Council on July 25, 26 and 27, 2006, adopted this Clause without amendment.

The Policy and Finance Committee recommends that City Council adopt the staff recommendations contained in the Recommendations of the report (July 5, 2006) from the Deputy City Manager and Chief Financial Officer and the Chief Planner and Executive Director, City Planning Division.

The Policy and Finance Committee held a public meeting on July 18, 2006, in accordance with the *Municipal Act, 2001*, and notice of the proposed amendments to the Toronto Municipal Code, Chapter 103, was posted on the City's web site for a minimum of 5 days.

The Policy and Finance Committee submits the report (July 5, 2006) from the Deputy City Manager and Chief Financial Officer, Chief Planner, and Executive Director, City Planning Division.

Purpose:

In accordance with Council approval, this report outlines the procedure for implementation of the Heritage Property Tax Rebate Program in 2006, and details the financial implications, proposed eligibility criteria and application procedures for the expansion of the Program in 2007.

Financial Implications and Impact Statement:

In its October 2005 adoption of Clause 1 of Joint Report No. 2 of the Policy and Finance Committee and Economic Development and Parks Committee, "Final Recommendations - Enhancing Toronto's Business Climate – It's Everybody's Business", Council approved a Heritage Property Tax Rebate Program for eligible National Historic Sites for 2006. As such, Council approved \$718,300 in the 2006 Approved Operating Budget for Non-Program Expenditures.

For 2006, six properties are expected to qualify under the rebate program. The actual amount of rebates to be provided to eligible National Historic Sites in 2006 has not yet been determined, as the application process for 2006 has not yet been finalized, nor rebate amounts calculated to date, but the total of the rebates provided will not exceed the previously approved amount of

\$718,300. As such, the implementation of the Program in 2006 will not result in new or previously unidentified budgetary impacts in the current year.

If adopted, the recommendations within this report will see the expansion of the Heritage Tax Rebate Program in 2007, based on Council's earlier approval in principle to provide 40 percent tax rebates to all eligible heritage properties, up to a maximum annual limit of \$500,000 per property per year. Approximately 225 potentially eligible heritage properties are expected to meet the proposed eligibility criteria set out in this report. Assuming that all potentially eligible properties apply for and qualify for the rebate program, the total amount of rebates provided under the program is estimated to be \$8.8 million in 2007. Of this total, the municipal share of rebates would be approximately \$4.5 million (51.1 percent), with the Province contributing the remaining \$4.3 million (48.9 percent) for the education share of taxes.

If the Heritage Property Tax Rebate program is adopted as proposed in this report, funding in the amount of \$4.5 million would need to be included within the 2007 Operating Budget Estimates for Non-Program Expenditures to cover the anticipated costs of the municipal share of tax rebates provided. Other program options may be considered to reduce the total program costs including a phased increase to the rebate percentage.

The program as proposed also identifies costs of \$76,700 for an increase to the current staff complement within Heritage Preservation Services by one full-time position in 2007, and \$23,300 to cover the costs of up to two (2) temporary, seasonal staff within Revenue Services Division to process and issue tax rebates associated with this program. These costs will be identified within the 2007 Operating Budget submissions from both Divisions. The total costs for additional staffing of \$100,000 will be offset by one-time application fees of approximately \$100,000 to be collected under the Program. If the Program continues in 2008, the incremental impact will be \$100,000.

Recommendations:

It is recommended that:

- (1) Council reaffirm its intention to implement a Heritage Property Tax Rebate Program for the 2007 taxation year (subject to approval of the 2007 Operating Budget), pursuant to section 365.2 of the *Municipal Act* (to be later implemented under section 334 of the *City of Toronto Act, 2006*), to provide tax relief in respect of eligible heritage properties as defined in the *Act* and as further defined by by-law in accordance with the following program elements:
 - (a) a rebate percentage of 40 percent of taxes payable, net of any other applicable tax rebates, and a maximum annual limit of \$500,000 on the amount of tax rebates payable to individual properties under this Program;
 - (b) the Heritage Property Tax Rebate Program for 2007 be limited to all properties for which the City of Toronto holds a Heritage Easement Agreement, or for which Council has granted approval for execution of a Heritage Easement Agreement,

on or before September 30, 2006, which agreement shall be subsequently executed and registered on title; and

- (c) all National Historic Sites be exempt from the September 30, 2006 deadline of Recommendation (1)(b);
- (2) total program costs not to exceed \$4.6 million be included within the 2007 Operating Budget Estimates to cover the anticipated costs of the program and be referred to Budget Advisory Committee for consideration during the 2007 Operating Budget process;
- (3)
 - (a) Council approve application fees for the Heritage Property Tax Rebate Program in the amounts set out in Appendix A (the “Fees”), which Fees will be payable by first-time applicants under the Program;
 - (b) Council approve the waiver of the Fees for the following two properties, known municipally as 89 St. George Street and 106 King Street East;
 - (c) City of Toronto Municipal Code Chapter 441, Fees, be amended by adding the Fees.
- (4) authority be provided for the introduction of the necessary bills to give effect to the recommendations above; and
- (5) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Background:

Section 365.2(1) of the current *Municipal Act* provides the legislative authority for municipalities to pass a by-law to establish a program to provide tax reductions or refunds in respect of eligible heritage property. The legislation provides for tax relief through a rebate program for eligible heritage property to be administered by the municipality. The tax reduction applies to the building or structure (or portion of) that is the eligible heritage property, and the lands used in connection with the eligible heritage property. The rebate is calculated as a percentage of the total taxes for municipal and school purposes levied on the eligible portion of the property to a maximum of 40 percent of the property tax. Tax rebates may apply to property within any or all of the commercial, industrial, residential or multi-residential tax classes.

The *City of Toronto Act* (Bill 53), which was enacted on June 12, 2006 and which is expected to take effect commencing January 1, 2007, continues the authority for the City of Toronto to adopt, by by-law, a program to provide tax rebates for eligible heritage property, as set out in Section 334 of this Act.

The Act also gives the City the authority to specify additional eligibility criteria and further allows the City to specify different criteria for different property classes.

Previously, on February 13, 2002, City Council conditionally approved the adoption of a Heritage Property Tax Rebate Program to provide a 40 percent property tax rebate for qualifying heritage properties (Report 2, Clause 2 of the Policy and Finance Committee entitled “Heritage Property Tax Rebate Program”). Council’s approval, however, was conditional on the Provincial Government enacting legislation to enable Council to increase property tax rates in the commercial, industrial and multi-residential classes to the extent necessary to fund heritage tax rebates provided to heritage properties in these classes. This specific legislative amendment was not enacted, and therefore the rebate program was not implemented.

Beginning in the 2004 taxation year, the Province permitted municipalities to pass on a portion of municipal tax increases to properties within the commercial, industrial and multi-residential classes, which created the ability for the City to spread the costs of providing heritage tax rebates across all property classes. It is expected that this ability will be continued in 2007 and beyond.

On October 26, 2005, City Council considered Clause 1 in Joint Report 2 of the Policy and Finance Committee entitled, “Final Recommendations – Enhancing Toronto’s Business Climate – Its Everybody’s Business”, and approved the following recommendation:

“Council implement the program to provide property tax rebates to eligible designated heritage properties, on the basis and criteria previously approved by Council in 2002, and funding in the amount of \$718,300 be made in the 2006 Operating Budget to commence the program, initially limited to eligible National Historic Sites in 2006, and approval, in principle, to include all eligible heritage properties commencing in 2007; funding for this program be from general revenues.”

This approval allows for a 40 percent property tax rebate in 2006 to all designated National Historic Sites that are tax-paying properties and that are subject to a Heritage Easement Agreement (HEA), with a rebate maximum of \$500,000 per property per year. Council’s approval in principle further provides for the expansion of the Program in 2007 to include all designated heritage properties with Heritage Easement Agreements, subject to the approval of the Final Operating Budget for that year. Currently, this includes approximately 225 heritage properties with registered Heritage Easement Agreements or properties for which Council has granted approval for the execution of a Heritage Easement Agreement which will subsequently be executed and registered on title.

Comments:

Process for Calculating Rebate Amounts:

Following Council approval in October 2005, staff initiated discussions with the Municipal Property Assessment Corporation (MPAC) to develop a process to establish how rebate amounts would be calculated for qualifying properties. It was agreed that MPAC would determine the portion of the total current value assessment (CVA) of the property attributable to the heritage elements of the property, based on information provided by Heritage Preservation Services that identified the eligible heritage attributes, as specified within the Heritage Easement Agreement for each property.

Once MPAC provides the percentage of the total CVA of the property that is attributable to the eligible heritage elements, City staff in Revenue Services Division can then calculate the amount of the rebate payable, by applying this percentage to the total current property taxes paid by the owner, and then determining the 40 per cent rebate amount. Rebate amounts will be issued as credits on the tax account for the property, or through the issuance of a cheque where required.

Eligibility Criteria:

In adopting a Heritage Property Tax Rebate Program to apply to National Historic Sites in 2006, Council enacted By-law No. 1043-2005 on December 7, 2005. This by-law stipulates that the Heritage Tax Reduction shall be 40 percent of the annual taxes for municipal and school purposes levied on the Eligible Heritage Property, up to a maximum annual amount of \$500,000, that are attributable to:

- (1) the building or structure or portion of the building or structure that is the Eligible Heritage Property; and
- (2) the land used in connection with the Eligible Heritage Property, as determined by the City.

Additionally, in order to be eligible for a Heritage Tax Reduction, the property must:

- (1) be designated under Part IV or Part V of the *Ontario Heritage Act*;
- (2) be subject to a heritage easement agreement in good standing under section 22 or 37 of the *Ontario Heritage Act* registered on title to the Eligible Heritage Property by December 31 of the taxation year for which the Heritage Tax Reduction is sought;
- (3) not be subject to any contraventions, work orders, outstanding municipal fines, arrears of taxes fees or penalties;
- (4) be classified as a National Historic Site; and
- (5) be paying taxes and not a payment in lieu of tax.

In order to expand the Heritage Property Tax Rebate Program in 2007 to include all eligible heritage properties, item (4) of the eligibility criteria above must be amended to provide that all designated heritage properties in the City of Toronto are eligible, provided that these properties have a Heritage Easement Agreement (HEA) that has been fully executed and registered on title or an HEA that has been approved by City Council on or before September 30, 2006, and which is subsequently executed and registered on title. This would include some 225 heritage properties that would be expected to qualify for the program in 2007.

Staff are further recommending that National Historic Sites that are otherwise eligible be exempt from the September 30, 2006 cut-off date. At present, there are six tax paying designated National Historic Sites within Toronto. Only three of these are presently subject to an HEA

(those marked with an asterisk). The remaining three sites will become eligible for the program upon registration of a Heritage Easement Agreement.

252 Adelaide Street East, Bank of Upper Canada*;
444 Yonge Street, College Park (Carlu);
400 Eglinton Avenue, Eglinton Theatre;
50/60/70 Mill Street, Gooderham and Worts Distillery*;
260 King Street West, Royal Alexandra Theatre; and
71 Front Street, Union Station (Canadian Pacific and Grand Trunk)*.

Additionally, it is proposed that where a heritage property is currently receiving property tax rebates under other city programs (e.g., commercial/industrial vacancy rebates, or rebates for charities), that the amount of the heritage rebate be calculated on the adjusted taxes, after other rebates have been taken into account.

Special provisions will also be required within the implementing by-law to allow applications for tax rebates to be made by a third party, on behalf of the owner of a property, and to permit the payment of rebates in such cases, with the consent of the property owner or owners, to address situations where the Heritage Easement Agreement has been executed by the third party, (e.g., a lessee), or where multiple owners are a party to the HEA. This latter situation would apply to condominium properties that are subject to a Heritage Easement Agreement. In these cases, the condominium corporation would submit an application for and receive the rebate, on behalf of and by agreement with the individual unit owners.

This may also apply in cases where property is leased by the owner to a tenant who is the holder of the Heritage Easement Agreement. It is anticipated that this would be the case for Union Station and the Roundhouse (both National Historic Sites), where, while the property is owned by the City, the holder of the ground lease would likely be the party to execute the HEA with the City respecting the preservation of the building, and the entity that incurs the costs associated with the maintenance of the heritage elements.

Projected Cost of 2007 Heritage Property Tax Rebates (Financial Implications):

A heritage tax rebate applies only to the building or structure (or portion thereof) that is the eligible heritage property. More specifically, the Act states that “the City may request information from the assessment corporation concerning the portion of a property’s total assessment that is attributable to the building or structure or portion of the building or structure that is eligible heritage property and the land used in connection with it”. As the rebate is based on the portion of the property’s current value assessment that is attributable to the eligible elements, MPAC must determine what percentage those elements make up of the total assessed value of the property.

In some cases this means that only a small portion of a property may be considered eligible for the heritage tax rebate, e.g., where the eligible heritage element consists of only a single building façade. In other cases, the eligible heritage portion may comprise a larger percentage of the total assessed value, if for example large interior portions of a building are identified in the HEA as among the heritage attributes of the property. This serves to provide additional incentive for the

preservation of whole buildings, and rewards those property owners who have undertaken to conserve more of the building's heritage fabric.

For the purposes of this report, the cost for implementation of the Heritage Property Tax Rebate Program beginning in 2007 is based on the estimated costs of the rebates for the qualifying portions of the 225 potentially eligible properties. The actual costs of the rebates to be provided will be determined following Council's approval of the Program, and after receipt of MPAC's detailed calculations for each of the qualifying properties.

For the purposes of estimating the costs of the rebate program in 2007, the calculations in this report are based on 2006 current value assessments and 2006 property tax rates (excluding any applicable capping/claw-back amounts). Capping/claw-back amounts will however be taken into account when property owners apply for the rebate. Information provided by MPAC to date for the determination of rebate amounts was provided for estimation purposes only. Ultimately, MPAC will determine the exact percentage of the building that is attributable to the heritage elements of the property, based on information provided by the applicant. The land value of the property is taken into account by MPAC when determining the percentage of the eligible heritage portions of the building.

Table A summarizes the total number of designated heritage properties that currently have HEA's with the City, or which have been granted approval for execution of an HEA by Council, by property class.

Table A: Breakdown of Potentially Eligible Heritage Properties by Property Class

Property Class	No. of Properties	Percent of Total
Exempt (non-tax paying)	30	11.8 percent
Residential	64	25.1 percent
Multi-residential	11	4.3 percent
Industrial	1	0.4 percent
Commercial with Residential, Multi-residential, or Industrial portion	61	23.9 percent
Commercial	88	34.5 percent
Total	255	100.0 percent
Total Tax Paying	225	

Table B outlines the maximum rebates payable in 2007 if all 225 potentially eligible heritage properties make application to and qualify under the Program.

Table B: Total Heritage Rebate Amounts by Property Class at 40 Percent Rebate Amount

Tax Class	Number of Properties	Total Municipal Rebate	Number of Properties for which the \$500,000 rebate limit applies
Commercial/Mixed	149	\$4,029,414	3 (2.0 percent of Commercial)
Industrial	1	\$35,412	0
Multi-Residential	11	\$276,739	0
Residential	64	\$214,954	0
Total	225	\$4,556,519	3 (1.3 percent of Total)

Staff advise that in addition to providing the maximum rebate achievable under the provisions of the legislation (40 percent), with no limit on property class, Table B illustrates that only 3 of the 225 properties would be subject to the \$500,000 limit on annual rebates. Based on a close examination of the heritage value of each of the 225 potentially eligible heritage properties, staff estimate the maximum amount of municipal heritage tax rebates payable in 2007 at approximately \$4.5 million.

Application Process:

In order for the owner of an eligible heritage property to obtain the tax reduction the owner must apply to the local municipality no later than the last day of February in the year following the first year for which the owner is seeking to obtain the tax reduction or refund. Staff also propose that the implementing by-law for the Heritage Property Tax Rebate Program require owners to reapply annually.

The following information will be required to be submitted by the owner to the satisfaction of the Chief Planner when the initial application is made:

- (1) Name, address, telephone number, fax number and e-mail address of the owner or the owner's authorized representative;
- (2) Municipal address of the Heritage Property;
- (3) Most Recent Current Value Assessment of the Heritage Property;
- (4) Most Recent Amount of Property Tax Paid on the Heritage Property;
- (5) Number of Stories Above Grade;
- (6) Gross Building Area (in sq. ft.);
- (7) A photocopy of the registered Heritage Easement Agreement, together with particulars of registration;
- (8) Drawings of each individual floor of the property at an appropriate scale noting the individual perimeters of all external walls (in linear feet) and the area of each floor (in square feet).
- (9) Current photographs showing all possible elevations of the Heritage Property;
- (10) Application fee (paid in full);
- (11) A building condition assessment of the Heritage Property prepared by a qualified restoration architect assessing the maintenance of the Heritage Property in accordance with the provisions of the Heritage Easement Agreement; and
- (12) Proof of insurance on the Heritage Property.

This report recommends that items 5 through 10 only be required for the first year in which the owner applies for the rebate unless alterations are made to the building. Current copies of a building condition assessment (item 11), and proof of property insurance (item 12) will be required every five (5) years.

Two application forms will be created by staff and made available to the public to assist eligible property owners in applying for their rebate, one for first time applicants and another for owners seeking a renewal of their rebate. Applicants will be required to submit their application to the attention of the Manager, Heritage Preservation Services.

Application Fees / Administrative Costs:

Staff recommend that a portion of the administrative costs of the Program be paid for by application fees. The proposed fee schedule in Table C below, and attached as Appendix A to this report, recognises the majority of the properties are non-residential and will be more complicated than residential applications to process. In addition, the fee schedule for non-residential properties increases for properties with higher current value assessment, as properties with higher CVA values will generally receive greater rebates and have more complex applications to review. The fees for non-residential properties are thus divided into three categories, depending on the total CVA of the property. For residential properties, which generally have low CVA's relative to major non-residential properties, a flat fee is proposed regardless of the CVA value of the property. The level of the proposed fees is designed to not offset the monetary incentive of the Program.

The fee will be a one time cost to be paid at the time of the first application. Annual requests for renewal of previously successful rebate applications will not require a fee. However, the owner will be required to provide an application renewal form annually to confirm continued eligibility for the rebate program.

Table C illustrates the proposed fee schedule for implementation of the Heritage Property Tax Rebate Program beginning in 2006.

Table C: Proposed Heritage Property Tax Rebate Program Fee Schedule

Property Class	Application Fee	Potential Number of Properties	Potential Total Revenue
Residential	\$100	63	\$6,300
Non-Residential with Current Value Assessment (CVA) between \$0 and \$2,500,000	\$250	87	\$21,750
Non-Residential with Current Value Assessment (CVA) between \$2,500,001 and \$10,000,000	\$500	39	\$19,500
Non-Residential with Current Value Assessment (CVA) greater than \$10,000,000	\$1500	36	\$52,500
Total		225	\$100,050

There are two properties for which the application fee is higher than the rebate amount they would likely receive in the first year. For these two properties, 89 St. George and 106 King Street East, staff recommend that Council waive the application fee.

The Heritage Property Tax Rebate Program will require considerable staff time to administer. Heritage Preservation Services staff in the City Planning Division will continue to assume responsibility for the coordination of the Program. Specifically staff will be required to:

- (1) review applications received (review building condition assessment; verify eligibility; identify eligible heritage attributes as set out in Heritage Easement Agreements; calculate and forward to MPAC size and dimension of eligible heritage attributes from information received from applicant);
- (2) liaise with MPAC and Revenue Services to track payment of rebates, to undertake any request for re-evaluation of rebate amounts, and to monitor public response and take up of the Program;
- (3) forecast financial impact of continuation and subsequent phases of Program implementation, with particular emphasis on the development of criteria for the negotiation of new Heritage Easement Agreements; and
- (4) administer the Request for Review Process.

While the application fees will offset the administrative costs (staff time) of the Program, it will not provide the funding necessary to support the additional staff person needed to administer this Program over the longer term. Heritage Preservation Services does not have the resources to oversee a program of this magnitude at current staffing levels. To implement the Heritage Property Tax Rebate Program in accordance with this report, the 2007 Operating Budget submission for Heritage Preservation Services will need to include an increase in funding to cover the costs of one full-time position, with salary and associated benefits of approximately \$76,700 annually, to coordinate the implementation and continued operation of the Program.

Additionally, the requirement to calculate and issues rebate amounts associated with this program will require additional staff resources within the Revenue Services Division, and additional funding of \$23,300 to be included in the Revenue Services Division's 2007 Operating Budget submission to cover the costs of temporary staff required to process and issue tax rebates associated with this program.

The cost of both the full-time staff position within Heritage Preservation Services and the short-term seasonal staff required within Revenue Services will initially be offset by one-time application fees collected under the Program, which are projected to be approximately \$100,000 for all 225 potentially eligible heritage properties.

Penalties:

In accordance with the legislation, it is proposed that the by-law to implement this program continue to incorporate provisions to permit the City to apply all or part of any pending rebate against any outstanding tax liabilities on the property. Secondly, if the owner of the Eligible Heritage Property demolishes the property or breaches the terms of the HEA, the owner will be required to repay all or part of any heritage tax reduction provided to the owner as part of the Program.

Request for Review Process:

Staff are proposing that property owners who believe that the heritage tax rebate they have received has been incorrectly calculated may request that their application be re-evaluated by Heritage Preservation Services. Heritage Preservation Services will further liaise with Revenue Services and MPAC as necessary to determine if the rebate amount provided is correct and readjust the amount provided where it is determined that an error has occurred. This is not a statutory right of appeal.

Next Steps:

In order to ensure the administrative feasibility of the Program, staff are recommending that, in order to be eligible for 2007, properties must have executed a Heritage Easement Agreement with the City on or before September 30, 2006, or that an HEA must have been approved for execution by City Council on or before September 30, 2006 and which is subsequently executed and registered on title. This will limit uptake of the Program to a maximum of 225 properties currently on the City's Inventory of Heritage Properties. It also ensures the Program will benefit those property owners who entered into an HEA with the City before any financial incentive was offered to them.

Staff are recommending that the Program operate at this level for two years (2007-8), after which staff will report back on the success of the Program and any changes in the eligibility criteria, application process, or Program administration. Among the issues staff will be considering in 2007 is the development of criteria defining when the City will accept or request a Heritage Easement Agreement. This is to manage the financial costs of the Program for any subsequent phases staff may recommend to Council.

Conclusions:

The implementation of the Heritage Property Tax Rebate Program in 2006 and its expansion in 2007, will provide a welcome incentive to eligible heritage property owners that recognizes their efforts and the often significant financial investment made to preserve the City's built heritage. Inclusion of all eligible properties will reaffirm the City's commitment to protecting its heritage properties and will result in the implementation of the largest Heritage Property Tax Rebate Program in the Province.

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Attachment 1

Appendix A
Heritage Property Tax Rebate Program Fee Schedule

Property Class	Application Fee
Residential	\$100
Non-Residential with Current Value Assessment* (CVA) between \$0 and \$2,500,000	\$250
Non-Residential with Current Value Assessment* (CVA) between \$2,500,001 and \$10,000,000	\$500
Non-Residential with Current Value Assessment* (CVA) greater than \$10,000,000	\$1500

* Current Value Assessment refers to the total Current Value Assessment (CVA) for the property for which the application is made, as identified by the Municipal Property Assessment Corporation on the Assessment Roll as most recently amended for the taxation year for which the application is made.

Councillor Shiner declared his interest in this matter in that members of his family own heritage property.

City Council – July 25, 26 and 27, 2006

Councillor Shiner declared an interest in this Clause, in that his family owns property which has a heritage designation.