Attachment 2 EX25.10

From:	Johanne Delaney on behalf of Gérald Gauthier
To:	Mayor Tory
Cc:	Gérald Gauthier
Subject:	M2017-928 Vacant Unit Rebate and Vacant/Excess Land Subclasses
Date:	Wednesday, March 22, 2017 3:39:03 PM
Attachments:	Municpalities Ltr_City of Toronto.pdf

Good Afternoon,

Please find an important letter attached from Mr. Gérald Gauthier, Vice President of the Railway Association of Canada regarding Ontario's Ministry of Finance's recent announcement on the Vacant Unit Rebate and Vacant/Excess Land Subclasses Review.

Regards,

Johanne Delaney
Senior Administrative Assistant to/
Adjointe Administrative Principale pour
M. Gérald Gauthier

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RAILWAY ASSOCIATION OF CANADA

YEARS/ANS 2017

ASSOCIATION DES CHEMINS DE FER DU CANADA

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March 22, 2017

His Worship Mayor John Tory
City of Toronto
100 Queen Street W.
Toronto, ON
M5H 2N2

Dear Mr. Mayor Tory,

The Railway Association of Canada ("RAC") represents some 60 freight and passenger railway companies that move 75 million people and $280 billion worth of goods in Canada each year.

Our members are very concerned by changes recently announced by the Ministry of Finance of Ontario in the context of the Vacant Unit Rebate and Vacant/Excess Land Subclasses Review. The rail sector understands the desire of Ontario and local taxing authorities to "enable municipalities to better tailor the vacant and rebate programs to reflect community needs and circumstances and to reduce the perceived negative impact on neighbouring property of vacant land". However, this review could have unexpected consequences on railway land.

Railways are a land-intensive industry which requires large tracts of land that are mostly unoccupied due to the nature of our operations but are essential for local, provincial and national purposes. The proposed removal or phasing out of the existing tax rebate and reduction programs will not alter the land requirements for railways activities, since they will remain unoccupied. In fact, any changes to the existing tax treatment of our property may have negative impacts to our business operations and, as well create additional passed on costs to our customers.

Our situation is totally different from any municipal efforts or desires to encourage landlords/owners to reduce and/or eliminate vacant space in unoccupied buildings in the commercial and industrial sectors. We urge municipalities to recognize this uniqueness and make adjustments in any proposal to address the removal of the Vacant Unit Rebate and Vacant/Excess Land Subclasses when they are submitting formulas to Ontario Ministry of Finance Ontario.

To deal with the specific nature of railway operations and their use of land, the *Ontario Assessment Act Regulation 282/98* included railway yards in a different subclass of property: Vacant Land or Excess Land subclasses. This recognized that land-intensive nature of our industry, and minimized the additional property tax burden that the railways were facing when the Ontario eliminated business taxes for the provincial 1998 reassessment.

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Railways are an economic enabler providing a vital link to movement of people and freight, they increase the competitiveness of their customers. Railways build, finance, maintain and operate their rights-of-way, and pay considerable tax in this regard. In fact, they paid $120 M in taxes to the provincial government in 2015, including in $30M in property tax. Moreover, in 2015 alone railways invested approximately $345M in their infrastructure in Ontario, benefitting local service providers and suppliers. They also contribute to the quality of life of Ontarians through their reduced energy consumption and pollution, lower greenhouse gas emissions, reduced highway gridlock, and lower costs to taxpayers of highway construction and maintenance.

To ensure railways continue to contribute to the economic prosperity of Ontario and its citizens, we strongly recommend your municipality not to make any drastic changes to the tax treatment of railway property. Any municipal proposal to the Province of Ontario and its implementation should be done in a way such as to maintain the existing tax treatment for railway lands.

Regards,

Gérald Gauthier
Vice President
The Railway Association of Canada

Mailing Address:
The Toronto Industry Network
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The Toronto Industry Network

EMAILED

April 4, 2017

Mr. Michael Williams, General Manager,
Economic Development & Culture,
8E - City Hall,
100 Queen Street West,
Toronto, Ontario,
N5H 2N2,

and

Mr. Casey Brendan,
Director, Revenue Services,
North York Civic Centre,
5700 Yonge Street,
Toronto, Ontario,
M2N 5V7.

Gentlemen:

Re: Vacant Unit Rebate (VUR) Program Consultation

Al Brezina and I appreciated the opportunity to meet with you and Sal Vivona to learn more about the city's plans to wind down the VUR program.

While TIN members have had limited but very positive experiences with the VUR program. Here are some examples:

1. A large food processing company lost a product mandate to a sister plant in the United States. A decision was made to keep the building idle rather than tear it down due in part to a predecessor to the VUR program. Today, the building is fully occupied with another product line. This would not have happened if a new building had to be constructed.

....2

2. A oil processing plant was shut down and production moved out of Ontario. While trying to sell the facility, the company used the VUR program in part to avoid demolishing the specialized equipment. Another Toronto oil processing company bought the site because it is bigger and had the right equipment and zoning in place.
3. A company purchased a facility larger than it needed with a view to taking up the entire space with organic growth. The VUR program helped make this investment decision.

TIN believes this program has real value because it encourages companies experiencing slow business cycles to keep buildings intact rather than demolish them which almost certainly means that manufacturing will not occur again on that site. Further, the program encourages companies that plan to grow to buy a large site and mothball part for use later.

If you have any questions or comments, please feel free to contact me.

Sincerely,

Paul Scrivener

Paul Scrivener,
Director of External Relations

MEMORANDUM

TO: **Vacancy Rebate Program and Vacant and Excess Land Sub Classes**

Date: **May 2 2017**

FROM: **Toronto Real Estate Industry Coalition**

RE: **Commercial Real Estate Industry Perspectives on Proposed Alterations to the Vacant Rebate Program (VRP) and Vacant and Excess Land Sub-classes**

In 2016, the Province of Ontario signalled its intention to extend flexibility to municipalities to make changes to the Vacancy Rebate Program ("VRP"). The commercial real estate industry has been an active participant in the Ministry consultation process since its inception in 2015. Since that time, we have consistently advocated for the maintaining of the VRP province wide. Through the 2017-2018 Toronto Budget process, the City established its policy direction on the Vacancy Rebate Program – ultimately electing to phase out the program by 2018. We maintain that the elimination or reduction of the program will lead absolutely to a direct tax increase on commercial and industrial properties currently receiving property tax rebates through the program.

We respectfully submit herein our current requests with respect to remaining concerns with the Vacancy Rebate Program and Vacant and Excess Land Sub-class policy. These include the following;

1. Reconsider Vacancy Rebate Program phase-out timeline.
2. Do not make changes to municipally-provided Vacant and Excess Land Sub-classes policy.

Background

The VRP was originally intended as a partial mitigation for landowners when business and realty taxes were combined in the 1990s. Prior to reform, vacant commercial and industrial premises had a lower tax burden than occupied premises. The vacant premises were not subject to Business Occupancy Tax (BOT), and paid property taxes at the residential mill rate which was 15% lower than the commercial rate. The lower tax rate for vacant premises applied for the actual (entire) period of the vacancy.

Under the new system, the BOT was eliminated and the lost revenue was added to the property tax. All property taxes were billed to the property owners. The intent of the VRP program was to partially offset the inclusion of the former BOT into the commercial and industrial realty tax by not imposing higher taxes (sometimes in the vicinity of 25% to 50%) on vacant premises that were historically not collected. There is no further reduction to reflect the 15% differential between the residential and commercial tax rates. The elimination of the BOT removed huge administrative burdens on both MPAC and municipalities and passed collection problems from municipalities to commercial landlords.

Misconceptions about the VRP

- Property owners are intentionally leaving their space vacant.

Public discussion of this issue has been somewhat inaccurate and misleading. A number of municipalities have asserted that property owners at times intentionally leave premises vacant in order to collect vacancy rebates that amount to about one third of the property tax on the vacant space. Landlords still pay two thirds of the regular tax burden for their vacant space. The theory that it makes any economic sense to keep premises vacant, in order to collect a 'partial tax break', is counterintuitive.

- The industry is 'double dipping' since vacancy is included in property assessments.

The VRP is concerned with the property tax treatment of vacant business property. The valuation treatment is a completely separate issue altogether. Tax reform efforts made in 1998 did not change the methodology for valuing commercial and industrial properties. The assessment methodology is based on the market value of buildings, whether that is measured by income, cost or market comparisons. All three approaches considered normal vacancies expected as part of the general economic churn, and MPAC values vacant premises similarly to occupied premises. Actual vacancy is, therefore, not reflected in MPAC's valuations.

Industry position

1. Reconsider Vacancy Rebate Program phase-out timeline.

Rushing the implementation of Council's decision will have significant impacts on the commercial real estate industry in Toronto. The six month phase out, as currently proposed, would end the rebate program mid-fiscal year, and dramatically impact the budgets of companies who have included the full 2017 rate in their planning. As the City is aware, major changes to an annual budget can be very difficult to accommodate mid-year and would result in cuts to other areas. To address this issue, we are proposing a 'Three Year Declining Benefit' to slowly phase out the VRP. This length of phase out would have a less drastic impact on property owners and would allow budgets to gradually adjust to the change. The following table outlines the financial impact of VRP elimination per certain property types. Based on the data below, which indicates heavy tax increases as a result of the elimination of the policy, we believe that a longer phaseout timeline is not only fair for the industry but also necessary as it will prevent extremely significant changes in discretionary spending expected to occur also as a result of elimination.

Vacancy Rebate Elimination Annual Impacts

Downtown AAA Office
2016 Occupied tax = $13.50 psf
Vacancy rebate @ 30% = $4.05 psf
City still collects 70% or $9.45 psf
Full floor vacancy of 25,000 sf = annual vacancy rebate of $101,250

Downtown Class A Office
2016 Occupied tax = $11.55 psf
Vacancy rebate @ 30% = $3.47 psf
City still collects 70% or $8.08 psf
Full floor vacancy of 25,000 sf = annual vacancy rebate of $86,750

Downtown Retail (less than 15,000 sf)
2016 Occupied tax = $59.61 psf
Vacancy rebate @ 30% = $17.88 psf
City still collects 70% or $41.73 psf
Vacancy of 2,500 sf = annual vacancy rebate of $44,700

Downtown Retail (17,500 sf)
2016 Occupied tax = $28.95 psf
Vacancy rebate @ 30% = $8.69 psf
City still collects 70% or $20.26 psf
Vacancy of 17,500 sf = annual vacancy rebate of $152,075

Downtown Retail (34,346 sf)
2016 Occupied tax = $25.40 psf
Vacancy rebate @ 30% = $7.62 psf
City still collects 70% or $17.78 psf
Vacancy of 34,346 sf = annual vacancy rebate of $261,716

Suburban Regional Mall Retail (less than 15,000 sf)
2016 Occupied tax = $25.74 psf
Vacancy rebate @ 30% = $7.72 psf
City still collects 70% or $18.02 psf
Vacancy of 2,500 sf = annual vacancy rebate of $19,300

Suburban Regional Mall Restaurant (5,106 sf)
2016 Occupied tax = $16.51 psf
Vacancy rebate @ 30% = $4.95 psf
City still collects 70% or $11.56 psf
Vacancy of 5,106 sf = annual vacancy rebate of $25,275

Suburban Regional Mall Store (149,552 sf)
2016 Occupied tax = $2.79 psf
Vacancy rebate @ 30% = $0.84 psf
City still collects 70% or $1.95 psf
Vacancy of 149,552 sf = annual vacancy rebate of $125,624

2. Do not make changes to municipally-provided Vacant and Excess Land Sub-classes policy.

Recently, we have become aware that the City of Toronto is actively considering further amendments to the Vacant and Excess Land Sub-Classes policy. Currently, lands assessed by MPAC in the Vacant Commercial or Industrial Excess Land Sub-Class are discounted at 30% (Commercial) and 35% (Industrial) respectively compared to the full Commercial and/or Industrial tax rate. The elimination of the policy would result in further property taxes on land held by members of the industry. Just as the VRP is tantamount to a de facto property tax increase for vacant space, elimination or scale back of this policy would result in further taxes. We have outlined below the potential impact of the elimination of this policy.

Commercial Vacant Land Tax % Increase	**Industrial Vacant Land Tax % Increase**
42.86%	53.85%

Hundreds of affected properties in the Commercial Vacant Land Sub-Class would see a 42.86% property tax increase and properties in the Industrial Vacant Land Sub-Class would see a 53.85% property tax increase.

Municipal policy makers should carefully consider the effect that elimination of the VRP and Vacant and Excess Land Sub-classes policy may have on the economic vitality of cities. Specifically, the de facto property tax increases and escalating operating and carrying costs resulting from VRP elimination could mean that some smaller landlords step back from building ownership, leading to higher vacancy rates or potential property standards issues. We believe that these issues could be prevented by the above-noted solutions.

Contact:
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