



STAFF REPORT ACTION REQUIRED

Redesigning the Vacant Commercial and Industrial Tax Relief Program – Activity Update Report

Date:	November 9, 2015
To:	Economic Development Committee
From:	General Manager, Economic Development and Culture
Wards:	All
Reference Number:	AFS: 21744

SUMMARY

Historically in Ontario, commercial and industrial property owners that experience periods when space within their property is vacant have been reimbursed for some of the property taxes billed. The current provincially legislated commercial/industrial vacant property tax rebate program continues this past practice under the Current Value Assessment tax regime. This program was not intended to address the negative impacts on the surrounding businesses and community resulting from poor rental market conditions or provide an incentive to encourage temporary productive uses that would create employment benefiting the property owner, local business area, and community. Provincial consideration is now being given to alter the program to target these issues.

City Council in endorsing its economic growth and job creation strategy in February 2013, *Collaborating for Competitiveness*, adopted Recommendation C.1.2 directing City staff to request that the Province of Ontario consider amending the legislation governing the Property Tax Rebate for Vacant Commercial and Industrial Buildings (aka Vacant Unit Rebate or VUR) that would permit municipal Councils to establish eligibility criteria and time limits that align with the municipality's economic growth and job creation objectives.

The purpose of this report is to update Council on progress on implementing its direction to examine the possibility of re-designing the VUR to encourage re-use of vacant commercial and industrial buildings, primarily focusing on vacant neighbourhood and street front retail.

RECOMMENDATIONS

The General Manager, Economic Development and Culture recommends that:

1. City Council receive this report for information.

Financial Impact

There are no financial impacts with the adoption of the recommendation in this report but possible actions discussed in this report, if subsequently recommended and adopted could have an impact on rebate costs to the City. Total rebates (municipal and education portions) paid each year for the period 2001 to 2014 range between \$28 and \$40 million.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

City Council at its July 12, 13 and 14, 2011 meeting, referred the following motion by Councillor Mike Layton, seconded by Councillor Mary Fragedakis to the Economic Development Committee:

City Council request the General Manager of Economic Development and Culture to report to the Economic Development Committee at its meeting on January 26, 2012 on the financial impacts of Toronto's current Vacant Commercial Tax Relief program and possible changes required to use this tax incentive program to stimulate economic development, including through an Enterprise Incubation alternative program for small businesses and not-for-profits.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.MM10.10>

At its meeting of September 14th 2011, the Economic Development Committee referred the above motion to the General Manager of Economic Development and Culture Division.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.MM10.10>

At its meeting of February 20th 2013, City Council adopted the recommendations contained in the report entitled ***Collaborating for Competitiveness – A Strategic Plan to Accelerate Economic Growth and Job Creation in Toronto*** including the following action:

Action C.1.2:

Request the Province of Ontario to amend legislation respecting the Vacant Unit Rebate provision for commercial and industrial properties to permit municipal councils to establish graduated vacant unit rebates to induce and incent owners and tenants to meet eligibility criteria that align with the municipalities economic growth and job creation objectives; and further,

request the General Manager, Economic Development and Culture, to report on options for changes to the Vacant Unit Rebate by the 4th quarter of 2013.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.ED19.4>

At its meeting on May 6, 2014, City Council adopted the amended recommendations in the report "Re-designing the Vacant Commercial and Industrial Tax Relief Program to Stimulate Economic Growth (Collaborating for Competitiveness, Implementation Action 8)":

1. *City Council request the City Manager, the Deputy City Manager and Chief Financial Officer and the General Manager, Economic Development and Culture to meet with the appropriate Provincial staff to discuss options, as articulated in the report (March 28, 2014) from the General Manager, Economic Development and Culture, to stimulate economic growth and job creation and enhance local retail and employment areas by amending the legislation and/or regulations governing the Vacant Commercial and Industrial Property Tax Rebate program and report back to the Economic Development Committee in the first quarter of 2015.*
2. *City Council request the City Manager, the Deputy City Manager and Chief Financial Officer and the General Manager, Economic Development and Culture to consult with commercial and industrial property owners and tenants, Business Improvement Area (BIA) representatives, incubator operators and other affected stakeholders in regard to potential amendments to Provincial legislation and/or regulations and related City policies and/or programs and to include the results of these consultations in the report back to Economic Development Committee referenced in Part 1 above.*
3. *City Council request the City Clerk to forward a copy of Council's decision to the Ontario Minister of Finance, the Minister of Economic Development, Trade and Employment, and the Minister of Municipal Affairs and Housing, as a basis for a review of the Vacant Commercial / Industrial Property Tax Rebate legislation and regulations*
4. *City Council request the General Manager, Economic Development and Culture to:*
 - a. *establish a working group with community groups, BIAs, other interested non-governmental organizations that are working on innovative initiatives to incubate small business and cultural activity in vacant storefronts, to further develop new models for the Property Tax Rebate for vacant commercial and industrial buildings that encourage community and local economic activity;*
 - b. *undertake analysis of the current utilization of the Property Tax Rebate for Vacant Properties and other research to examine any trends or patterns of use that would help inform the work underway on this policy;*
 - c. *differentiate, as appropriate, the small retail class of businesses from larger commercial industrial properties in further work on this policy issue, recognizing the different conditions and needs of these property owners and businesses; and*
 - d. *request consideration for a temporary exemption from the current legislative provisions in order to undertake pilot projects in the City of Toronto in further discussions with Provincial officials.*

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.ED30.6>

At its meeting on July 7, 2015, City Council adopted the following motion as amended upon consideration of the TO Prosperity – Interim Poverty Reduction Strategy.

That City Council request the Deputy City Manager and Chief Financial Officer, in consultation with the Executive Director, Economic Development and Culture to report to the Economic Development Committee together with the report previously requested in Item ED30.6 on re-designing the vacant commercial and industrial tax relief program to stimulate economic growth, in September 2015 on the legislative and financial implications of eliminating vacancy tax rebates and any required amendments to the Assessment Act as a result.

<http://app.toronto.ca/tmmis/viewagendaitemhistory.do?item=2015.ex7.2>

At its meeting of September 30, 2015, City Council confirmed the proposed amendments to the City of Toronto Act, 2006 ("COTA"). One of the proposed amendments to COTA is that the Province amend the Vacant Unit Rebate provisions for commercial and industrial properties to provide the City with flexibility to apply additional eligibility criteria or to alter other program requirements, with the following objectives:

- a) define eligibility criteria that may differ between commercial and industrial properties;
- b) set time limits on rebate eligibility, or to reduce rebate percentages where properties receive rebates in successive years;
- c) allow that short-term occupation of vacant properties does not disqualify property owners from receiving vacant unit rebates; and
- d) allow discretion to define special provisions that may apply to small storefront retail operations, where prolonged vacancies can lead to locally depressed rental potential.

<http://app.toronto.ca/tmmis/viewagendaitemhistory.do?item=2015.ex8.1>

ISSUE BACKGROUND

The current VUR Program is provincially mandated and legislated under section 331 of the *City of Toronto Act*. The eligibility criteria and the rebate percentages are set by provincial legislation. The City, and other municipalities, do not have the option to set their own eligibility criteria and/or address local needs and interests. The eligibility criteria and rebate percentages apply uniformly to all commercial/industrial properties throughout Ontario. Under the current program, the eligibility criteria requires that all or part of the property must be vacant/unused for a minimum of 90 consecutive days. Owners of the eligible properties can apply for and receive a rebate annually until such time as the vacant space is used or leased. Owners of properties with vacant space who permit artists or entrepreneurs to use their space temporarily, may jeopardize their potential eligibility for the tax rebate.

In order for municipalities to be able to use the VUR to achieve local economic objective the Province must change the existing legislation related to the VUR program. The City of Toronto along with other municipalities and business organization throughout the Province have requested that changes be made to the current VUR legislation. To amend the VUR, the Province must make legislative changes to the *City of Toronto Act*, the *Municipal Act* and possibly the *Assessment Act*, in order for it to be used as a tool to revitalize vacant and derelict

commercial and industrial properties. Total rebates (municipal and education portions) paid each year for the period 2001 to 2014 range between \$28 and \$40 million.

As mentioned, Economic Development and Culture staff were asked to report back on progress of the directive ED30.6 (see Decision History). The following section of the report provides status updates on this direction.

COMMENTS

As per Council's direction the City Manager's Office sent a letter dated September 5, 2014 to the Deputy Minister of the Ontario Ministry of Municipal Affairs and Housing, requesting that the City and the Province explore the possibility of amending legislation around the VUR in order to allow municipalities to use the program to achieve their economic objectives. A copy of the 2014 Council decision was provided along with the letter as per Council direction.

An inter-divisional staff team has been established to review all aspects of the VUR, including analytical and intelligence gathering activities. At the May 6, 2014 meeting of Council, the General Manager of Economic Development and Culture submitted a report that provided statistical information on Toronto's current VUR program including a breakdown of vacancy rebate amounts paid by commercial vs. industrial properties, by property type, and by geographic area.

<http://www.toronto.ca/legdocs/mmis/2014/cc/bgrd/backgroundfile-68946.pdf>

Owners of office buildings and industrial properties received the greatest financial benefit from the VUR. On average, street level storefront retail properties located within a BIA tend to stay vacant for less time than similar retail properties not located within a BIA. The reasons for this is that a BIA is more attractive for retail operations than properties not located within BIAs that do not have the same foot traffic. BIA management organizations also carry list of tenants that are interested in moving into the BIA and so can market a vacant property to a select group of interested parties.

COTA Review and Proposed Amendments to VUR

The City has identified possible legislative changes to amend the VUR program as an item to be discussed during the City of Toronto Act (COTA) review process. As noted above City Council confirmed proposed legislative amendments to the VUR program to be included in the City's submission to the Province along with other issues to be discussed during the COTA review process.

The Province will address the City's proposed changes to the VUR program upon the completion of a wider review of the current VUR legislation, which is now underway.

Provincial Review of VUR Program

The Ontario Ministry of Finance has received requests from the City of Toronto, other Ontario municipalities, municipal professional associations and business organizations to make changes to the VUR program. In response, the Ontario Ministry of Finance has undertaken a review process to assess the current VUR program and has established a Municipal Reference Group (MRG) and a Business Reference Group (BRG) to receive feedback from stakeholders. City staff attended the initial MRG meeting on August 6, 2015 and a second meeting held on September 21, with representatives from the Ontario Ministries of Finance and Municipal Affairs and Housing along with representatives from other municipalities and municipal associations from across Ontario.

It was concluded after the MRG and BRG meetings that the Ministry of Finance should undertake an assessment on how the current VUR program is being used. The Ministry has asked municipalities to provide information and data on the current use of the program on a voluntary basis. The City of Toronto has provided data and information on the Toronto experience with regards to current use of the VUR program.

MRG Feedback

- Some municipalities felt that the program has expanded beyond the original policy rationale or that the original rationale is no longer applicable.
- Municipalities expressed the view that there is justification for a VUR program in some form or another to address temporary vacancies however, the program should include term limits.
- Municipalities should be given more flexibility in setting VUR eligibility and value of the rebate.
- Concerns arose that different eligibility criteria in different municipalities may cause regional economic disparities.
- The 90 day vacancy eligibility criteria was cited as limiting creative uses of vacant properties specifically "Pop-up" stores.
- Some municipalities expressed interest in adding criteria that require vacant properties be maintained at a prescribed standard.

BRG Feedback

- Business representatives questioned the notion that the VUR is an incentive to keep a property vacant.
- Certain business representatives emphasized the importance of the VUR to office buildings and large commercial spaces as significant renovation time is required between tenancies.
- It was suggested that renovation time be included in the VUR eligibility and not link the VUR to the lease date.
- It was suggested that some flexibility in the VUR program could help for certain property classes such as streetfront retail that are chronically vacant.
- Some business representative recognized possible issues for unlimited use of the VUR and are open to discussing term limits.

- Generally business representatives felt that the VUR was fair while others mentioned concerns with processing time and yet others suggested that the rebate should be increased to over 40%.
- It was generally felt that municipalities have other tools available to deal with maintenance issues i.e. Property Standards By-laws, and that these issues should not be address through the VUR.

Next Steps

- The Ministry of Finance will assess and analyse all available data and information regarding the current use of the VUR program.
- The Province will schedule the next MRG meeting after it has completed its assessment of the VUR program.
- City of Toronto Staff will report back to Council on the results of the Ministry of Finance's assessment once the information is made available.
- City of Toronto will reach out to local stakeholders to inform them of the findings of the Ministry of Finance's assessment, once the information becomes available.

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