



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

# Implications of a request to amend the Victoria University Act

**Date:** February 6, 2017

**To:** Government Management Committee

**From:** Treasurer and City Solicitor

**Wards:** All

### REASON FOR CONFIDENTIAL INFORMATION

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This report contains advice or communications that are subject to solicitor-client privilege.

### SUMMARY

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This report responds to City Council's request from its June 2016 meeting that the Treasurer meet with representatives of Victoria University regarding the implications of requesting that the provincial government amend the *Victoria University Act* to make the tax exemption sections in that Act consistent with the *Assessment Act* and the enabling legislation for other public education institutions in Toronto and Ontario.

### RECOMMENDATIONS

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The Treasurer and City Solicitor recommend that:

1. City Council authorize the Treasurer, in consultation with the City Solicitor, to enter into negotiations with representatives of Victoria University to develop and execute an agreement that addresses the loss in property tax revenue arising from the broad tax exemption in the *Victoria University Act* that applies to land Victoria University owns but does not use or occupy as outlined in Confidential Attachment 1.
2. City Council authorize the Treasurer to request the provincial government to amend the *Victoria University Act* to make the tax exemption sections in that Act consistent with the tax exemption sections in the *Assessment Act* and the enabling legislation for other

public universities in Toronto and Ontario should the Treasurer, in consultation with the City Solicitor, fail to reach an agreement with Victoria University by September 30, 2017.

3. City Council direct that the Confidential Attachment remain confidential as it contains advice or communications that are subject to solicitor-client privilege.

## **FINANCIAL IMPACT**

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There are no immediate financial implications associated with the adoption of the recommendations in this report.

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

## **DECISION HISTORY**

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At its meeting held June 7, 8 and 9, 2016, City Council, in its consideration of item GM12.9: "Victoria University Act - Assessment Appeal of 131 Bloor Street West," adopted recommendations 1 and 2 of the staff report and referred recommendation 3 to the Treasurer with a request that the Treasurer meet with representatives of Victoria University regarding the implications of a request to amend the Victoria University Act and report back to the Government Management Committee on the results of the consultation.

Council's decision is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.GM12.9>

The staff report is available at:

<http://www.toronto.ca/legdocs/mmis/2016/gm/bgrd/backgroundfile-92560.pdf>

## **COMMENTS**

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In Ontario, the *Assessment Act* exempts from property tax land owned, used and occupied by universities, colleges, community colleges and schools. The enabling legislation for OCAD University, Ryerson University, and York University have nearly identical tax exemption provisions as the *Assessment Act*. Common to all of the provisions is that land OCAD U, Ryerson and York own but do not use or occupy are subject to property tax. In contrast, the Victoria University Act contains a broader exemption that applies to land Vic U owns even when it is not used or occupied by the university.

This inequity in tax liability resurfaced as an issue for the Treasurer and City Solicitor when they responded to assessment appeals filed by the tenants of 131 Bloor Street West. Also known as the Colonnade, the property is owned by Victoria University but is

not used by it. The Colonnade is comprised of rental residential apartments and luxury commercial retailers. Due to the *Victoria University Act*, in assessing the property the Municipal Property Assessment Corporation exempts the land from property tax and returns the Colonnade building, the tenant's interest in the property, as taxable. MPAC assesses all properties that Victoria University owns but does not use or occupy this way: the remainder land value owned by Victoria University is exempt from tax and the building is assessed as taxable reflecting the tenant's interest in the property.

In response to Council's request, the Treasurer, the Director of Revenue Services and counsel from the Legal Services Division met with representatives of Victoria University and their strategic and legal advisers on September 16, 2016 and December 8, 2016.

## **City's Position**

In our view, there is no principled justification for the difference in the tax exemptions between Victoria University and OCAD U, Ryerson and York. This inequity extends to properties owned by private landlords that compete for similar tenants as Vic U's because they are fully taxable. Vic U's tenants do not have to pay the same level of property taxes that they would if their leased premises were owned by other universities or private commercial landlords. A consequence of this is that the City receives significantly less in taxes than it would if Vic U were treated like the other universities. As a result, the Treasurer is of the view that the Province should amend the *Victoria University Act* to cure this inequity in tax treatment.

The *University of Toronto Act* contains effectively the same tax exemption to the *Victoria University Act*. However, since 1949 U of T has made voluntary annual payments to the City on their properties that are leased, not used by U of T and from which the university receives a fair market rent as compensation for lost taxes that would be paid if U of T was treated like the other universities. The City and U of T renewed this agreement in March 2015. No similar voluntary payment agreement with the City exists for Vic U's properties.

## **Victoria University's Position and Proposal**

Victoria University opposes amending its tax exemption provisions. Vic U advises that these provisions were deliberately enshrined in the *Victoria University Act* in 1951 as an incentive for Vic U to redevelop lands along the south side of Bloor Street West for non-university purposes. Vic U suggests this allowed them to enter into 99-year ground leases, resulting in the development of the Britannica Building at 151 Bloor St W (opened in 1961) and the Colonnade at 131 Bloor St W in 1963, which acted as catalysts for the redevelopment of the neighbourhood. Vic U's position is that leases it has with tenants for its properties on Charles Street West achieve similar "city building" redevelopment goals.

## Proposed Next Steps

This report recommends that City Council authorize the Treasurer, in consultation with the City Solicitor, to enter into negotiations with representatives of Victoria University to develop and execute an agreement that addresses the loss in property tax revenue arising from the broad tax exemption in the *Victoria University Act* that applies to land Victoria University owns but does not use or occupy. Vic U has submitted a confidential proposal that can be used as a starting point to enter into these negotiations. Should an agreement not be reached by September 30, 2017 between the City and Vic U, the Treasurer will report to Council for further direction and recommend that the Treasurer in consultation with City Solicitor request that the provincial government amend the *Victoria University Act* to make the tax exemption sections in that Act consistent with the tax exemption sections in the *Assessment Act* and the enabling legislation for other public universities in Toronto and Ontario.

## CONTACT

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## SIGNATURE

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Brian Haley  
Interim City Solicitor

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Mike St Amant  
Treasurer

## ATTACHMENTS

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Confidential Attachment 1 - Victoria University Proposal, December 20, 2016