



Report to: General Committee

Meeting Date: February 21st, 2017

SUBJECT: Vacant Unit Property Tax Rebate Program

PREPARED BY: Shane Manson, Senior Manager, Revenue & Property Tax
Ext. 7514

RECOMMENDATION:

- 1) THAT the report entitled Vacant Unit Property Tax Rebate Program be received; and,
- 2) THAT Council authorize Staff to undertake a business consultation process with the local business community to discuss the vacancy rebate program; and,
- 3) THAT Staff be directed to participate in ongoing discussions with the Region of York and area municipalities; and,
- 4) THAT Staff report back to Council on the final recommendations that will be made to Regional Council; and further,
- 5) THAT staff be authorized and directed to do all things necessary to give effect to these resolutions.

PURPOSE:

The purpose of this report is to:

1. Provide Council background information on the current program in place which provides annual property tax rebates to vacant commercial and industrial properties; and further,
2. To inform Council on the current policy changes being considered for the Vacant Unit Property Tax Rebate Program.

BACKGROUND:

In 1997 the Province of Ontario implemented property assessment reform which result in significant changes to the methodology of assessing and taxing of commercial and industrial properties. In 1998, following the legislative changes and assessment reform, all commercial and industrial properties were assessed and taxed at the same rate as other properties within the same property class regardless of whether the building was occupied or wholly/partially vacant.

Owners of commercial and industrial buildings expressed concern to the Province regarding the property tax increases resulting from assessment reform. In response the Province amended the Assessment Act in 2001 to introduce the new vacant unit property

tax rebate provisions which provide owners of eligible commercial / industrial properties a rebate on property taxes for the vacant portions of the property.

Vacant Unit Property Tax Rebate Program

For commercial or industrial buildings to be considered for eligibility under this program, the property or a portion of property must be vacant for a period of at least ninety (90) consecutive days. Vacancy rebates apply for the whole or portions of commercial and/or industrial buildings, and cannot be made with respect to land alone.

Provincial eligibility requirements

1. Being an entire commercial or industrial building/structure that is vacant and completely unused for a period of at least ninety (90) consecutive days; or
2. Being a portion of a commercial or industrial building/structure that is vacant and completely unused for a period of at least ninety (90) consecutive days, provided that the unused portion is clearly delineated or physically separated from the used portions of the building.

Seasonal and/or leased properties are not eligible for a vacant unit property tax rebate program as well as buildings that are included in the vacant land property tax sub-class.

Municipal Eligibility Requirements (City of Markham)

In addition to the Provincial requirements, vacancy rebate applications may also be required to meet specific municipal evidentiary requirements that must be satisfied for the owner to be entitled to the rebate. Markham Council endorsed the Vacancy Rebate Policies and Procedures in 2003, which require an application to be accompanied by the following:

1. A diagram illustrating the vacant area(s) applied for;
2. Lease agreement(s) with the previous tenant(s) and rent roll(s),
3. A letter/affidavit from the property owner or authorized agent to certify that the eligible space was never tenanted or was previously owner occupied; and
4. MLS listings or equivalent rental advertisements

OPTIONS/ DISCUSSION:

The vacant unit property tax rebate program is administered by the lower-tier municipalities throughout the province. The current rebate is 30% of the property tax for vacant commercial space and 35% for vacant industrial space. This is consistent among the 9 area municipalities in the Region of York and for most municipalities in the Province.

Figure 1 below illustrates the average five year impact of the vacant unit property tax rebate program, including the average impact for the City, Region and Province.

Figure 1 – City of Markham - Vacant Unit Property Tax Rebate Program							
Application Year	# of Applications Submitted	# of Applications Approved	% of Applications Approved	Total Rebate (\$)	City Share (\$)	Region Share (\$)	Education Share (\$)
2011	290	229	79.0%	1,297,564	175,699	342,824	779,042
2012	368	254	69.0%	1,656,911	226,312	442,555	988,043
2013	321	253	78.8%	1,875,883	252,171	499,240	1,124,473
2014	311	255	82.0%	1,648,139	221,834	436,528	989,776
2015	337	272	80.7%	1,536,644	206,147	410,073	920,424
5 Yr. Average	325	253	77.9%	1,603,028	216,433	426,244	960,351

Note: Applications are received in the year following their effective date; therefore the impact of applications for the 2016 tax year will not be known until April of 2017.

As noted in figure 1 above, the City of Markham receives an average of 325 applications annually, of which approximately 78%, or 253 applications are approved, totaling \$1,603,028 in property tax relief for the applicants, across the three levying bodies (City, Region and Province). This has resulted in average annual impact of \$216,433 to the City. The average approved application receives \$6,346 per year in property tax relief.

Provincial Program Review

In 2016, the Province, in consultation with municipal and business stakeholders, undertook a review of the vacant unit property tax rebate program. The review was initiated in response to municipal concerns regarding the appropriateness of the lower tax level provided through the program and any unintended implication this may have for local economies. The Ministry of Finance has reported that on a Provincial basis the impact of the rebate program varies from year to year, but has generally been increasing and has nearly doubled from \$31.1M in 2003 to \$60.1M in 2014.

In response to municipal and other stakeholders' requests, the Province is now moving forward with providing municipalities broad flexibility for 2017 and future years. This change, announced in November 2016, is intended to allow municipalities to tailor the vacant rebate and reduction programs to reflect community needs and circumstances, while considering the interests of local businesses.

The Province has stated that any change to the rebate programs will be implemented through a regulation. Upper-tier and single-tier municipalities that decide to make changes to the program must notify the Minister of their intent to utilize this flexibility and provide details of the proposed changes along with a Council resolution to ensure that the amendments are included within a Provincial regulation in 2017. Municipalities will be notified when the regulation implementing the requested changes has been enacted.

To support the implementation of any proposed changes to the vacant unit property tax rebate program, the Province has requested that municipalities engage and consult with the local business community and communicate any potential impact of the respective proposed changes. In two-tiered municipalities such as York Region, any program changes to be implemented will be an upper-tier municipal decision. The Region of York in consultation with the lower tier municipalities will provide a Council resolution to the Minister of Finance by one of three dates provided for by the Province. (March 1, 2017, April 1, 2017 or July 1, 2017).

On January 27th, 2017, the York Region Area Treasurers and local municipal Staff met to discuss the new municipal flexibility measures outlined in the November 2016 Provincial announcement.

Topics of discussion

- Complete elimination of the program
- Reducing the percentage of tax that is rebated for all applicants
- Phasing down the percentage of rebates over 2-5 years
- Increasing the evidentiary documentation required with the application process in order to reduce the administration costs and enhance the reliability of the applications
- Funding Realignment - so that the residential class no longer shoulders the majority of the cost to provide rebates to the commercial/industrial class

At the meeting, it was agreed that both Regional and lower-tier Staff would convene and undertake the following;

- Review of the Provincial requirements regarding program changes;
- Establish a consensus and criteria amongst the local municipalities for the type of program change required; and
- Develop a consultation / engagement program for the business community
- Report back to the Regional Treasurer with recommendations

Current Program Challenges and Considerations

1. The current vacant unit property tax rebate program is a tax relief benefit only enjoyed by commercial and industrial properties. The rebate is being largely subsidized by the residential class, particularly in municipalities like the City of Markham where the residential class represents 85.43% of the overall taxable assessment base. This is not a benefit which is afforded to other property classes which may experience a form of vacancy from time-to-time, such as residential or multi-residential properties.

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2. Although very difficult to demonstrate, there is a belief that the program actually goes so far as to discourage the leasing of some vacant properties. The Provincial requirement requires a minimum period of 90 days continuous vacancy. This discourages some landlords from seeking and/or accepting short-term and/or seasonal rentals, as the property owner would lose eligibility for the rebate, as they would not meet provincial requirement of 90 days continuous vacancy.
 3. During each reassessment cycle, when the Municipal Property Assessment Corporation (MPAC) prepares the individual property assessments for business properties, chronic vacancy, reduced income and obsolescence (unused/unfit areas) are factors considered and adjusted for when establishing the current value assessment (CVA) for the business class properties. These types' valuation adjustments are also the most often targeted during the property assessment appeal process. When a vacancy rebate is granted, on top of the CVA considerations provided for within the valuation development of the property by MPAC, this can be viewed as "double-dipping", receiving a vacancy adjustment on both the CVA and the property taxes.
 4. Funding the vacant unit property tax rebate program is a significant expense for the City of Markham. Over the last five years, the rebate program has provided a total of \$8,015,141 in property tax relief to applicants of vacant commercial and industrial properties. The City's share of the program was \$1,082,163, the Regional portion \$2,131,220 and the Provincial share \$4,801,757.
 5. The vacant unit property tax rebate program is administratively labour intensive. With an average of approximately 325 applications per year, Staff must complete the review of each submission and supporting documentation. As a result of staff due diligence, on average 22%, or 73 applications are deemed ineligible, reducing the potential adverse municipal impact by \$461,997 for the three levying bodies (City's portion - \$62,376). With the elimination of the vacant unit property tax rebate program, staff time could be redeployed to more value-added functions.

Council endorsement of this report will provide staff with the direction to engage the local business community regarding the vacancy rebate options available and the authority to participate in discussions with staff at both the Region of York and lower-tier municipalities to formalize a recommendation to Region of York Council.

If Regional Council approves any changes vacant unit property tax rebate program, a resolution will be sent to the Minister of Finance indicating that the Region of York in consultation and agreement with its lower-tier municipalities, wish to modify or "opt out" of the vacant unit property tax rebate program.

FINANCIAL CONSIDERATIONS

The elimination or modification of the vacant unit property tax rebate program will result in an annual average savings to a maximum of \$216,433 per year to the Markham base budget. This would predominantly benefit the residential property class which has been largely subsidizing the program since conception.

RECOMMENDED BY:

2/15/2017

15/02/2017

X 

Joel Lustig
Treasurer

X 

Trinela Cane
Commissioner, Corporate Services