

<b>TO:</b>	<b>CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON MARCH 28, 2017</b>
<b>FROM:</b>	<b>MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER &amp; ACTING CITY MANAGER</b>
<b>SUBJECT:</b>	<b>VACANT UNIT REBATE AND VACANT/EXCESS LAND SUBCLASS TAX REDUCTIONS</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Managing Director Corporate Services and City Treasurer, Chief Financial Officer & Acting City Manager, the following actions **BE TAKEN** with respect to vacant unit tax rebates and vacant/excess land subclass tax reductions in the commercial and industrial property classes:

- a) A policy **BE ADOPTED IN PRINCIPLE** to phase out the current vacancy rebate program and eliminate the subclass tax reductions on vacant commercial and industrial land and excess land either immediately beginning with the calendar year 2018 or over a two year period beginning in the year 2018 with complete elimination before the 2020 calendar year, it being noted that any timing will be determined after consultation with the business community as described in (b) below.
- b) The City Clerk **BE DIRECTED** to send this report to the London Economic Development Corporation, the boards of management of Business Improvement Areas in the City and the London Chamber of Commerce in order to obtain comments on behalf of their clients and members in the commercial and industrial sectors with respect to the elimination or phase-out as described in (a) above with such comments to be returned to the City no later than August 31st 2017 for review by Council.

<b>BACKGROUND</b>
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Municipal Council at its meeting held on February 14, 2017 resolved the following:

*That the Civic Administration BE DIRECTED to report back on the proposal contained in the communication dated January 30, 2017 from Councillor M. van Holst, related to tax relief of vacant buildings.*

This reports sets out the legislative changes that have recently taken place with respect to vacant unit rebate and vacant/excess land subclasses, outlines the considerations for changes to the program and sets out a process to consult with the commercial and industrial sector prior to Council approval.

**Legislation Changes**

In December 2016, sections 313 and 364 of the *Municipal Act, 2001* were amended to provide more flexibility to municipalities to amend or eliminate subclass tax rate reductions for vacant land and vacancy rebates for vacant portions of buildings. The legislation changes were worded in such a way that any action to eliminate the rebates/reductions will require a further specific regulation by the Minister of Finance. The legislation changes only apply to land in the commercial and industrial property classes. Section 364 sets out the rules for rebates to vacant buildings. Section 313 sets out the rules for subclass tax rate reductions for vacant and excess land.

In January 2017, the Ministry of Finance issued a checklist of actions municipalities should take prior to changing or eliminating the vacancy rebates or vacant/excess land tax reductions previously mandated by the *Municipal Act, 2001*. A copy of the checklist is attached as Schedule "A". The checklist includes a recommendation to "engage" and "communicate" with the local business community. The Province requires a resolution passed by Council indicating approval of any changes to the existing vacancy rebate program and subclass reductions in the commercial and industrial property classes. If Council wished to make any changes affecting the payment of rebates in 2017 a Council resolution would be required to be submitted to the Minister of Finance prior to July 1<sup>st</sup>, 2017.

Recommendation (b) in the recommendations section of this report, addresses the issue of consultations with the business sector. Civic Administration recommends that the London Economic Development Corporation, Business Improvement Areas in the City and the London Chamber of Commerce obtain comments on behalf of their clients and members in the commercial and industrial sectors with respect to the elimination or phase-out of the vacancy rebate and reduction program. Comments from the engagement of the local business community should be returned to the City no later than August 31, 2017. After reviewing the comments from the business community, Council would then be in a position to send a resolution before the end of 2017 to the Minister of Finance requesting changes it considers appropriate to be effective for 2018.

### **Financial Impact on Property Taxpayers**

Currently the City of London expenses approximately \$1.8 million per year on its vacancy rebate program. The vacancy rebate program rebates 30% of the property taxes (municipal and education) on the portion of the property that is vacant. On an annual basis, the City is processing approximately 500 vacancy rebate applications every year. The vacancy rebate is calculated only on the portion of the building that is vacant for at least 90 days.

The subclass tax rate reduction for vacant and excess land does not involve any City expenditure but it does reduce the portion of the tax levy allocated to vacant and excess land in the commercial and industrial classes. Elimination of the reduction would reallocate \$1.2 million additional municipal taxes to vacant and excess commercial and industrial land in the City. Municipal taxation of vacant and excess land currently totals about \$2.9 million. The immediate elimination would result in an approximate 43% increase in municipal and education taxation of vacant land and excess land at improved commercial and industrial sites. The total municipal tax levy for the City for 2017 is approximately \$557 million.

### **Arguments for Eliminating the Vacancy Rebate and Reduction Program**

The arguments for elimination are as follows:

1. Normal vacancy and chronic vacancy do get included in the income valuation of commercial properties by the Municipal Property Assessment Corporation (MPAC). Obsolescence is included as a factor in the cost valuation of industrial properties by MPAC. It can be logically argued therefore that vacancy rebate programs duplicate the adjustments already included in the valuation done by MPAC.
2. Vacant and excess land valuations by MPAC already reflect the fact that there are no improvements on the land and it can be therefore argued that there is no need to also adjust the tax rate to a lower level for these properties.
3. Vacancy rebates may be providing some financial incentive to property owners who may be acquiring land for longer term speculation rather than immediate productive use.
4. The elimination of vacancy rebates may provide an incentive to more actively pursue productive use of vacant property by commercial and industrial property owners.

### **Arguments for Not Eliminating the Vacancy Rebate and Reduction Program**

The arguments against elimination of the program are as follows:

1. Prior to 1998, business tenants paid taxes directly to the City in respect of their tenancy (a % of the property tax e.g. 30%). The property owner was liable for the property taxes

on the building. With the tax reform that occurred in 1998, the business occupancy tax was added to the property tax and became a liability of the property owner. The vacancy rebate was created for the landlord so that taxes did not increase significantly on vacant areas that would not have paid business occupancy tax prior to 1998. Property owners can therefore argue, that their share of the property tax should not be increased from what it was in 1998 because of the elimination business occupancy tax.

2. Property owners can argue that the vacancy rebate can provide some tax relief to depressed areas and provide funds to encourage productive use and occupancy.
3. The primary argument by property owners who own vacant land and excess land would be that their share of the tax burden should not be increased from what it was historically prior to the 1998 tax reform.

The Arguments for and against the elimination of the vacancy rebate and reduction program are summarized below:

<b>For Elimination</b>	<b>Against Elimination</b>
<ul style="list-style-type: none"> <li>• May duplicate adjustments already included in MPAC valuation</li> </ul>	<ul style="list-style-type: none"> <li>• Share of Property tax shouldn't be increased as a result of 1998 elimination of business occupancy tax</li> </ul>
<ul style="list-style-type: none"> <li>• Valuations already reflect no improvements on land</li> </ul>	<ul style="list-style-type: none"> <li>• Provides tax relief to encourage productive use</li> </ul>
<ul style="list-style-type: none"> <li>• Incentive for longer term speculation</li> </ul>	<ul style="list-style-type: none"> <li>• Share of the tax burden should not be increased</li> </ul>
<ul style="list-style-type: none"> <li>• Incentive to pursue productive use</li> </ul>	

### **Comments on Arguments For and Against Program Changes**

The arguments against eliminating the vacancy rebate and the subclass rate reduction appear to be based primarily on maintaining the allocation of taxes as they existed prior to 1998. The primary arguments for elimination would appear to be that MPAC is already reflecting the factor of vacancy and the absence of improvements in the valuations that it is doing. The argument for elimination of the program would therefore seem to be more persuasive in that it is based on the logic of valuation rather than simply maintaining past practice. The incentives for encouraging or discouraging occupancy because of the continued existence or the elimination of the vacancy rebate program appear to offset each other and would not seem to be significant relative to issues related to valuation and equity.

### **Considerations for the Timing of Implementing Changes**

If Council approves eliminating the vacancy rebate program and the subclass rate reduction, it may want to carefully review feedback from the business community on the issue of timing. As referenced above the immediate elimination of the subclass rate reduction would result in an approximately 43% increase in municipal and education taxes on vacant commercial land. The effect on excess land would be far less significant since the excess land component of a parcel in general is a small portion of the total value. The effect of the elimination of the vacancy rebate will be dependent on the portion of the building that is vacant. For a totally vacant building, the tax adjustment would be a 43% increase if the vacancy rebate is eliminated. For properties where only a portion of the building is vacant, the tax adjustment will be significantly less.

In 2016, there were 211 taxable vacant industrial land parcels in the City and 201 taxable vacant commercial land parcels that would be subject to the 43% increase in taxes. The total taxes including education on the vacant industrial land in the City was approximately \$826,000. The total taxes including education on the vacant commercial land in the City was approximately \$2.0 million. The average total taxes on a vacant industrial parcel was approximately \$3,900 in 2016. The average total taxes on a vacant commercial parcel were approximately \$9,000.

If Council wished to change or cancel the vacant unit rebate or the tax rate reduction for vacant/excess land subclasses effective for 2017 calendar year vacancy applications, a Council resolution would be required to be submitted to the Minister of Finance on or before July 1, 2017. The City of London expenditure for 2017 vacancy claims for the vacant unit rebate has already been included in the Council approved 2017 budget. In addition, most corporations would have

completed their budgets and business plans for the 2017 calendar year.

Therefore, the recommendation in this report is not to completely eliminate or start to phase out until the calendar year 2018. If Council wanted to modify the program for the 2017 calendar year the comments back from the business community would have to occur before the July 1, 2017 deadline for submission to the Minister of Finance.

<b>SUBMITTED BY:</b>	<b>CONCURRED BY:</b>
<b>JIM LOGAN DIVISION MANAGER, TAXATION &amp; REVENUE</b>	<b>ANNA LISA BARBON DIRECTOR, FINANCIAL SERVICES</b>
<b>RECOMMENDED BY:</b>	
<b>MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES &amp; CITY TREASURER, CHIEF FINANCIAL OFFICER &amp; ACTING CITY MANAGER</b>	

Attachments:

Schedule A – Vacancy Rebate and Reduction Program Changes Checklist

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**VACANCY REBATE AND REDUCTION PROGRAM CHANGES  
CHECKLIST  
January 2017**

**BUSINESS COMMUNITY ENGAGEMENT**

- ✓ Have you engaged the local business community?
- ✓ Can you provide details on how and when you have engaged the local business community?
- ✓ Have you considered the potential impacts the proposed changes may have on local businesses?
- ✓ Have you communicated potential impacts of proposed changes to the business community?
- ✓ Has Council been made aware of the potential impacts on the business community?

**PROGRAM DETAILS**

- ✓ Have you outlined details of program changes in your submission?
- ✓ For municipalities in a two-tiered system, have you discussed proposed changes with lower-tier municipalities?
- ✓ Have you considered how you will implement or administer any potential changes to the vacancy programs?
- ✓ Have you considered these changes as part of a multi-year strategy?
- ✓ Has Council passed a resolution indicating approval of these changes?

**FURTHER INFORMATION**

If you have any questions about implementation of changes to the vacant rebate and reduction programs, please contact the Ministry of Finance at [info.propertytax@ontario.ca](mailto:info.propertytax@ontario.ca).