



Hamilton

INFORMATION REPORT

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	May 2, 2019
SUBJECT/REPORT NO:	Vacancy Rebate – Delegation Request (FCS19037) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Maria Di Santo (905) 546-2424 Ext. 5254 David Janaszek (905) 546-2424 Ext. 4546
SUBMITTED BY:	Rick Male Director, Financial Services and Taxation & Corporate Controller Corporate Services Department
SIGNATURE:	

COUNCIL DIRECTION

At the February 21, 2019 Audit, Finance & Administration Committee, Voislav Bjelajac and James Hartl (2493957 Ontario Inc – owner of 540-542 Upper James Street; Roll # 080.912.00400.0000) appeared as a delegation, requesting the approval of a Vacancy Rebate for the 2016 taxation year which staff had denied. In follow-up to the delegation’s request, the Audit, Finance & Administration Committee approved the following motion:

(Clark/Pearson)

That staff be directed to contact the Municipal Property Assessment Corporation (MPAC) to determine what documents were submitted to MPAC from Voislav Bjelajac and James Hartl regarding the property, and report back to the Audit, Finance and Administration Committee.

INFORMATION

The Municipal Property Assessment Corporation (MPAC) confirmed that they did not receive a 2016 Vacancy Rebate application, intended for the City of Hamilton, from the property owners of 540-542 Upper James Street (Roll # 080.912.00400.0000). MPAC further confirmed that had they received the Vacancy Rebate application form in error,

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they would have returned it to the property owner. MPAC only accepts Vacancy applications as provided by the Municipality.

Instead, MPAC received a completed “Request for Property Information” form. This is an MPAC sales questionnaire, which is used to assist in determining an appropriate property valuation and assessed value. This has been further supported by Mr. Bjelajac in a follow-up e-mail to the City’s Clerks office. Following the February 21, 2019 Audit, Finance & Administration Committee, Mr. Bjelajac provided the completed “Request for Property Information” form which they completed and returned to MPAC. In his e-mail, Mr. Bjelajac confirmed that this MPAC form, and not the City of Hamilton Vacancy Rebate form, was mailed to MPAC. In addition to questions pertaining to the particulars on the purchase of the property, MPAC’s form also requested information with respect to the proposed use of the property and what percentage of the property was vacant when it was purchased. Although the form was completed to identify that 100% of the property was vacant at the time of purchase, the form does not mention any vacancy rebate and rather states that the information provided on the form “*will be used primarily for property valuation and assessment purposes*”.

The *Municipal Act, 2001* states that the Vacancy Rebate application is to be made to the local Municipality by the last day of February of the year following the taxation year in respect of which the application is made. In accordance to this, a vacancy application for the 2016 taxation year would then need to be submitted to the Municipality by February 28, 2017. Based on the information provided by both MPAC and property owner himself, it confirms that a Vacancy Rebate application form for the 2016 taxation year was in fact not completed and submitted by the property owner.

Below is a chronology of events leading up to staff’s denial of a 2016 vacancy rebate:

- August 2016 – MPAC issued Post Assessment Change Notices for the building effective January 1, 2016. These notices are mailed directly to the property owner.
- September 2016 - the City of Hamilton issued supplementary/omitted tax bills resulting from MPAC assessing the building back to January 1, 2016 (previously assessed as vacant commercial land). In the letter mailed out with the supplementary/ omitted tax bills, the City directs the property owner to MPAC, should they “*have any questions or concerns about the new assessed value, or the date the change occurred*”. The letter also provides information on enrolling in the pre-authorized payment plan to help spread the payment of the supplementary/omitted tax bills until June 2017 – of which the property owner agreed and provided the appropriate documentation to enrol in the pre-authorized payment plan.

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- December 2016 – the deadline to submit a Request for Reconsideration to MPAC for the 2016 supplementary/omitted assessment. The property owner submitted a Request for Reconsideration by the 120-day deadline, disputing the effective date of January 1, 2016 for the supplementary/omitted assessment.
- January 2017 – MPAC issued Minutes of Settlement, agreeing to change the effective date of the 2016 supplementary/omitted assessment from the original date of January 1, 2016 to the revised date of August 24, 2016. The Minutes of Settlement also reflected an increase in the assessment for additional data elements identified through an inspection that were not originally assessed by MPAC. Although the assessment was increased by 66,000, in light of new information obtained by MPAC during their inspection of the property, the benefit of maintaining the lower vacant commercial land assessment from Jan 1 – Aug 23, 2016, far outweighed the 66,000 increase in commercial assessment from Aug 24 – Dec 31, 2016 as follows:
 - Total taxes originally billed via the supplementary/omitted tax bills which added the value of the structure effective January 1, 2016 = \$28,674.71
 - Revised total taxes based on MPAC’s Minutes of Settlement which revised the effective date of the structure to August 24, 2016 and increased the assessment by 66,000 = \$16,238.57
- MPAC’s Minutes of Settlement would have resulted in the 2016 property taxes being reduced by \$12,436.14 (\$16,238.57 compared to the original amount of \$28,674.71) and therefore no vacancy rebate would have been warranted, as the property owner would have continued to be levied taxes at the lower vacant commercial land assessment up to August 23, 2016.
- March 2017 - The property owner rejected MPAC’s Minutes of Settlement and therefore the originally billed 2016 property taxes of \$28,674.71 was maintained. The property owner filled an appeal with the Assessment Review Board (ARB) within the required 90 days.
- November 2018 – the property owner contacts the City of Hamilton inquiring about their 2016 Vacancy Rebate. In their correspondence, they stated that they mailed the application on two separate occasions to 71 Main St W, once in early 2017 and a second time in early 2018. The City of Hamilton has no record of receiving either application, which the property owner has now confirmed was not the case.

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Information on the City's Vacancy Rebate is available on the City's website and included in the annual brochure mailed out with the property tax bills. It is the property owner's responsibility to familiarize themselves with the available rebate programs and ensure the application form is completed and submitted by the application deadline. This due date is stipulated in the Municipal Act, and as such, applications received past the deadline are not accepted by Taxation staff.

The property owner had the option to sign the Minutes of Settlement, and thereby continue to pay at the lower commercial vacant land assessment for the period the structure was vacant in 2016, however, they chose to reject the Minutes of Settlement. Taxation staff cannot go back and now allow a vacancy rebate which should have been submitted to the City in February 2017. The property owner can no longer apply for vacancy for 2016, as it is well passed the deadline. There is case law by the Assessment Review Board dismissing appeals of vacancy applications which were not made by the deadline on the basis that it does not have the authority to extend the statutory deadline for filing an application.

APPENDICES AND SCHEDULES ATTACHED

N/A

MD/DJ/dw