



cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item 3
September 12, 2011

SUBJECT: Consideration of a Public Act 210 of 2005 Commercial Rehabilitation Act, Tax Abatement Policy as recommended by the Ordinance Review Committee.

SUBMITTING DEPARTMENT: City Manager's

CITY MANAGER APPROVAL:

BACKGROUND INFORMATION:

On July 12, 2011 Governor Snyder signed Public Act 82 of 2011 into law amending Public Act 210 of 2005, the Commercial Rehabilitation Act. The original act was an economic development incentive to assist rehabilitating commercial buildings in order to create or retrain jobs and increase commercial activities. The incentive comes in the form of abated property taxes. The act offers qualified properties a real property tax abatement for a period of 1 to 10 years, as determined by the local community. The abatement freezes the taxable value of the building only as it was before the improvement, but does not affect the taxable value of the land itself, or personal property taxes. School taxes are also not affected. The cost of rehabilitation must be a minimum 10% of the true cash value of the property at the beginning of the project.

As originally enacted, PA 210 applied primarily to commercial buildings at least 15 years old. The Act was amended in July 2011 to expand that coverage to most commercial parcels, and to add to the definition a qualified building a hotel or motel with meeting space that is attached to a convention and trade center that is over 250,000 square feet in size and is located in a county of a certain size (like Oakland County); particularly pertaining to the Suburban Collection Showplace and their efforts to construct an adjoining hotel to the expo center.

Per Council direction on July 12, 2011 the Ordinance Review Committee (ORC) met on two different occasions to develop a policy to outline an application process and criteria for a Commercial Rehabilitation Tax Abatement. The recent amendment also made a slight change that allows more commercial entities to make application for abatement; the enclosed proposed policy only deals with the forthcoming application for the Suburban Collection hotel. The ORC will convene again in September to deliberate on a policy that addresses applications for other commercial locations in the City.

The enclosed proposed policy stipulates the process in which the applicant, Mr. Bowman, will follow in order to be considered by City Council for a tax abatement under Public 210. The proposed policy provides stipulations to be met in the forthcoming application. Additionally the policy clearly lists criteria to be used to evaluate specific requests for a tax abatement in terms of the net benefit to the City and its residents and businesses, and to determine the number of years of the abatement.

RECOMMENDED ACTION: Approve the Public Act 210 of 2005 Commercial Rehabilitation Act, Tax Abatement Policy as recommended by the Ordinance Review Committee

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Fischer				
Council Member Margolis				

	1	2	Y	N
Council Member Mutch				
Council Member Staudt				
Council Member Wrobel				

City of Novi
Tax Abatement Policy
Commercial Rehabilitation Act PA 210
Hotel/Convention Center Only

Real Property Tax Abatement Statement of Purpose

The Commercial Rehabilitation Act, PA 210 of 2005, was amended in 2011 to provide that the construction of a hotel with meeting/convention space attached to an existing convention and trade center of a certain size and location can qualify for a tax abatement of 100% of the value of the hotel improvements (but not the land on which it is located) for a period of up to 10 years. There is a convention center in the City that meets the description in the amended act. This policy describes the City's objectives in considering an abatement for the construction of a hotel attached to a convention center; the criteria under which the City would review an application for an abatement; and the limitations on any abatement. This policy also sets forth the requirement that any abatement be accompanied by an agreement between the applicant and the City designed to ensure that the City's goals are being furthered by the abatement.

It is further the intention of this policy to state the City's general expectation that, while an abatement (if granted) can be expected to enhance the convention center by increasing its business opportunities (e.g., increasing the kind or number of shows, customers, or prospects), the net benefit to the City and its residents and existing business would have to greatly outweigh the costs to those same affected individuals and entities in order for it to be considered by the City. In other words, while the temporary tax relief for a given property will obviously result in the loss of revenue to the City for a specified period of time, the expectation in granting any such abatement is that at the end of the period the City will have an increased tax base resulting from investment in a development that would not otherwise have occurred without the tax incentive, and that the short-term costs to the City and its businesses and residents will clearly be exceeded by identifiable and quantifiable short-term and long-term benefits resulting from the new development.

Objectives to be Achieved by Granting a Hotel/Convention Center Tax Abatement

Applications for tax abatements in connection with the construction of a hotel attached to a convention or trade center will be evaluated in terms of the likelihood that they will achieve some or all of the following objectives of the City of Novi:

- A. To "phase in" long-term tax benefits to the City that result from the construction of a very high quality, highly reputable, and sustainable hotel that would not have been constructed absent the abatement.
- B. To assist in the economic viability of an existing convention and trade center in a manner that will provide significant economic benefits to the community and its businesses and residents, without creating a high demand for City Services and City-funded infrastructure improvements.
- C. To encourage and promote a significant capital investment that will serve as a catalyst for other substantial investments within the community, while not undermining the economic/financial viability of any existing City businesses.

- D. To create or retain a significant number of employment opportunities that offer competitive wages within the industry.
- E. To judiciously and prudently use all tools available to improve the quality of life in the City of Novi, in a manner that assures that the long-term benefits of such action outweigh the short-term costs and foregone revenue.

General or Minimum Requirements for Eligibility

Every applicant must satisfy the following

- A. The applicant must provide information establishing that, in relation to the other similar uses throughout the City, the project will be of exceptionally high-quality construction and service reputation, and value to the local community, given the cost to the City of foregone revenue.
- B. The project must be fully compatible with the City's zoning ordinance and master plan for land use and other ordinance requirements.
- C. The applicant must clearly and convincingly demonstrate that it would not construct or conduct the improvements in the City if tax abatement was not available. To satisfy this standard, the applicant must provide a written explanation of the need for the abatement, including a financial *pro forma* if requested.
- D. The applicant must clearly and convincingly demonstrate that the hotel will promote the convention center and that it will fill a need that will assist in the attraction of events and attendance to the center in order to ensure the center itself remains a viable operation as relates to other competitive uses. To satisfy this standard, the applicant must provide information regarding what types of additional or new users are expected to come to the facility following construction of the hotel, and evidence that they will come only if there is a hotel attached to the facility.
- E. The applicant must submit information to the City that:
 - i. identifies any existing hotels or other businesses within the same service area and with which the proposed hotel is expected to compete for business;
 - ii. describes the anticipated adverse effect (if any) on such existing hotels or other businesses; and
 - iii. explains why the grant of an abatement does not constitute the grant of a competitive advantage to the applicant
 - iv. quantifies, to the extent feasible, the net economic benefits of the project to the City and its businesses and residents
- F. The applicant—and the proposed end user/operator of the hotel—must be a viable, profitable, and highly reputable ongoing business concern.
- G. The applicant and proposed end user/operator must commit, in writing, to stay as a viable business concern for the entire term of the tax abatement and into the future.

Review Criteria Specific to Project

The following criteria will be used to evaluate specific requests for a tax abatement in terms of the **net benefit to the City and its residents and businesses**, and to determine the number of years of the abatement. The City Council reserves the right to modify the tax abatement criteria to reflect the changing objectives, priorities, or conditions of the community. The applicant shall provide **sufficient information** to the City to allow it to conduct a full and complete review of the stated criteria.

- A. The value or cost of the hotel improvement (i.e., the capital investment)

- B. The quality of the proposed construction
- C. The expected economic life of the improvement
- D. The aesthetic value of the improvements – façade, materials, workmanship, etc.
- E. The total expected local abatement amount
- F. The amount of real and personal property taxes already paid by the existing development (the convention center)
- G. The total amount of real and personal property value that is expected to be added to the convention center (if any) during the abatement period
- H. The total amount of real and personal property value that is expected to be added to the entire development (convention center and hotel) at the *end* of the abatement period
- I. Any additional costs to the City, direct or indirect (e.g., additional required infrastructure, public safety impacts, traffic concerns, and the like)
- J. Direct or indirect public benefits to be provided by project (land donations, contamination clean-up, utility extensions, road improvements, recreational opportunities, other local “goodwill” to be offered by the end user)
- K. The number and kind of jobs to be retained by the existing development (the convention center) as a result of the improvement
- L. The number and kind of jobs to be created by the hotel improvement:
 - i. Permanent full time jobs
 - ii. Temporary jobs
 - iii. Part-time jobs
- M. The total projected annual payroll of the newly-created jobs
- N. The skill level of the newly-created jobs
- O. The extent to which the jobs are (i) minimum wage; (ii) above minimum wage; (iii) considered to be “high wage” within the industry; and (iv) provide health care and other benefits
- P. The extent to which the jobs are anticipated or projected to be filled by Novi residents
- Q. The extent to which the applicant commits to the use of local (City of Novi) vendors, suppliers, and contractors, expressed in a set amount or percentage of total construction costs and ongoing supply/service expenses.
- R. The extent to which the applicant would be in direct competition with other similar existing hotels or other businesses in the City of Novi
- S. The extent to which the hotel improvement would adversely affect such other existing hotels or businesses
- T. The extent to which the project will enhance opportunities for other existing or planned businesses in the City of Novi as part of the overall net economic benefits of the project to the City and its businesses and residents
- U. The extent to which the other public economic assistance is being provided to the applicant or the hotel by the City or other governmental agencies
- V. The extent to which other governmental agencies support the project.
- W. The environmental impact of the project and improvements—on woodlands, wetlands, storm water, air quality, etc.
- X. Any other factor deemed relevant by the City relating to the property, the project, the applicant, or any end user or hotel operator

Limitations

- A. The maximum time period for an abatement is six (6) years.
- B. Motels do not qualify for an abatement.

- C. A project must not have started more than 6 months before an application for abatement was received by the City, and must be located in a Commercial Rehabilitation District established before the commencement of the project.
- D. There must be no outstanding taxes, fines, or liens owed by the applicant or entity with regard to the property at issue.

Agreement Required

The City will require a written agreement with the applicant that will include, as a minimum:

- (1) The term of the abatement;
- (2) Any conditions required by the City Council in connection with the grant of the abatement, as to which the City reserves all rights to determine in the interests of the City;
- (3) Any reporting requirements established by the City with respect to the information stated above and/or provided by the applicant, whether required and described under PA 210 itself or established by the City as appropriate to the project and the agreement;
- (4) Events of default that will automatically terminate the agreement, including (by way of example only):
 - (a) Closure/abandonment/sale of building
 - (b) Change of use
 - (c) Failure to use local vendors.
 - (d) Failure to create new jobs as represented to the City.
 - (e) Failure to complete construction in a timely manner.
 - (f) Failure to meet any reporting requirements.
 - (g) Delinquency of either the hotel or the convention and trade center with regard to property taxes and/or to timely and properly follow legal procedures for contest.
 - (h) Failure to comply with local ordinances.
 - (i) Assignment without approval of the City
- (5) Any “claw back” or restitution provisions determined by the City to be necessary as appropriate to a specific project, under which the City will be paid back the amount of the abatement in the event of certain kinds of defaults

Procedures

The applicant must submit a submittal form prepared by the City and an application provided by the State of Michigan. The documents and the submission will be judged on its own individual merits, on a case-by-case basis, with respect to the achievement of the economic development goals of the City and satisfaction of the criteria outlined in this policy.

Applicants bear the burden of proof and must substantially satisfy conditions of the policy at initial application in order to be considered for abatement.

Review of applications shall be as required by statute. The City may approve, deny, or approve the proposal with conditions within the time specified by statute.

All procedures, rights, and obligations concerning such exemptions are subject to Act 210. The City reserves the sole discretion, to the fullest extent available under the law, to review each application and determine whether the project meets the City’s goals and the review criteria, and to determine whether the project would

be beneficial to the City, whether the applicant merits consideration, and whether any other conditions exist that affect the City determination to grant or deny an application.

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ORDINANCE REVIEW COMMITTEE
July 22, 2011 | 7:30 a.m.
Council Chambers | Novi Civic Center | 45175 W. Ten Mile Road

Mayor Landry called the meeting to order at 7:30 a.m.

ROLL CALL: Mayor Landry, Council Members Margolis, Mutch

ALSO PRESENT: Victor Cardenas, Assistant City Manager
Thomas Schultz, City Attorney
Ara Topouzian, Economic Development Director

APPROVAL OF AGENDA: Agenda was unanimously approved as presented.

AUDIENCE COMMENT: None

MATTERS FOR DISCUSSION:

1. Commercial Rehabilitation Tax Abatement
 - a. Policy as it relates to construction of a hotel attached to a convention center
 - b. Policy as it relates to shopping centers and other commercial locations
2. Public Act 198 – Plant Rehabilitation And Industrial Development Districts
 - a. Application Fee for Tognum and future potential projects
 - b. Consider qualifications for identifying types of high wage jobs
 - c. Current Novi PA198 policy addresses real property abatement, but not personal.
Consideration to modify policy to include whether or not personal property can be abated.

Mayor Landry opened the meeting to public comments.

Michael O'Callaghan, Detroit Metro Convention and Visitors Bureau, stated they were in favor of the potential hotel connected to Suburban Collection Showplace. It would encourage regional, state and local conventions to be held in Novi and would be a competitive location with larger communities such as Grand Rapids and Lansing. He said the addition of the hotel to the convention center would make it a more attractive location.

Blair Bowman, Suburban Collection Showplace, stated the hotel was part of the original plan even back when it was the Novi Expo Center. He said he knew Council was dealing with

making a policy decision. He said in the past, a hotel would typically not be given a tax abatement; however he felt this was a unique situation. It will be a significant investment in Novi and would provide approximately 120 rooms. He said many avoid utilizing the facility because there is not a hotel attached. He provided letters of support for Council to view.

Tim Lotito, Hotel Investment Services, Inc., stated his company manages the Staybridge Suites at Providence Park. He said he understood the need for Suburban Collection Showplace to have a hotel on their premises; however he felt the legislation created an unfair playing field. He said there was already a method to negotiate a tax reduction with the Michigan Tax Tribunal and it would be unfair to allow a full abatement.

Mayor Landry stated there were three separate issues the Ordinance Review Committee was tasked to address. First was the policy as it relates to construction of a hotel attached to a convention center, second was the policy as it relates to shopping centers and other commercial locations and third was to review the current industrial tax abatement and recommend any changes. Mayor Landry wanted to clarify that since the legislation has expanded the Act, if an abatement was granted that it would be 100% of the improvement to the property. Mr. Schultz stated it generally froze the taxes at what they were prior to the improvement taking place and the intent was to abate taxes on the rehabilitated portion. Mayor Landry asked if there was a limit on how long the abatement could last. Mr. Schultz said the maximum was ten years. Mayor Landry stated they could decide to make it any amount of years, with the maximum being ten years.

Mayor Landry asked if an agreement was allowed under the legislation to provide clawbacks if certain criteria wasn't met. Mr. Schultz stated the law did not specifically prohibit an agreement to be signed between the City and the applicant; however he felt an agreement could be created and executed. Mayor Landry asked if the City could execute the agreement stating the applicant must meet certain criteria and terms, and if those are not met, the City could then take away the abatement. Mr. Schultz said that was correct but added that the County and State Tax Commission also have to approve the entire application, which would then include said agreement. Mayor Landry wanted to point out that there was a difference between having a clawback in the agreement, which would mean the applicant would have to pay back the taxes they saved during the abatement whereas a rescission would end the abatement and levy the full taxable amount for that point forward.

Member Margolis wanted to clarify that the abatement on a rehabilitated property would freeze the taxes at their current amount and not tax on any improvements, and an abatement on a vacant property would start with no taxes on the building. Mr. Schultz said that was correct. Member Margolis said she was interested in finding similar locations that have a convention center with attached hotel and knowing how many rooms, size of convention center and other things like that for comparison. Also, she wanted to know if those hotels were a public entity or privately operated. She felt the first thing that needed to be addressed was where the City wanted to go in terms of future abatements and what the benefit will be for the City. She was interested in seeing policy examples as well. Mr. Cardenas said to date the Act has not been utilized much. Member Margolis said she felt there was an overlap between the industrial district and the commercial district and wanted to know the difference. Mr. Schultz said there were distinctions in the legislation; however he did see that

there could be a potential overlap. Member Margolis said she would like more information on existing hotels that have obtained the abatement; specifically the occupancy levels, number of rooms, number and size of meeting rooms as well as the tax status of those facilities.

Member Mutch wanted to know if there were other convention facilities with an attached hotel and if the hotel was actually a true part of the convention center or if it was separately operated. He also asked how the County has dealt with this type of abatement and whether they were more apt to approve or disapprove of the abatement. He asked if administration could provide specific examples of where and how the abatement has been utilized in the real world, what type of impact there was and the process that was followed. He also asked if it would be possible for the Assessing Department to put something together regarding the financial impact of granting 100% abatement at Suburban Collection Showplace. He added that a policy needed to be in place in order for Council to make decisions in the future to protect the best interest of the City.

Mayor Landry said he thought the tougher question was how to address the commercial tax abatements because the possibilities are huge. He said their first task was to decide whether or not there should be a policy regarding the potential abatement for a hotel at Suburban Collection Showplace. If they chose to proceed with creating a policy, he said there should be general criteria for qualifying for the tax abatement and also provisions for clawbacks and rescission. He added the abatement should be analyzed annually by City Council and the abatement would be rescinded if necessary. He said the applicant should have to meet the following:

- 1) General criteria for qualification:
 - a. The applicant must provide evidence that without the abatement, the hotel could not be built.
 - b. The hotel would promote growth and sustainability.
 - c. Fiscal impact statement on the City.
 - d. Commitment to sign an agreement with the City.
 - e. Agree to operate for a certain amount of years, with certain rescissions or clawback.
 - f. A commitment to remain the entity who operates the hotel
 - g. The hotel construction would cost a certain percentage of the value of the convention facility.
 - h. The applicant must be current in payment of taxes.
 - i. List the specific number and types of full and part time jobs that would be created.
 - j. Use of local vendors.
- 2) Provisions for clawbacks and/or rescission:
 - a. If the facility closes.
 - b. Change of use
 - c. Failure to use local vendors.
 - d. Failure to meet the jobs promised.
 - e. Failure to complete construction in a timely manner.
 - f. Failure to meet the reporting requirements.
 - g. Failure to pay property taxes.
 - h. Failure to comply with local ordinances.
 - i. If the occupancy surpasses a certain percent.

Member Margolis asked if those types of conditions should be put into the policy or the actual agreement. She also asked what type of net impact it would have on the City and was concerned that we already have the types of facilities that would qualify. She asked for administration to find out what is typically located next to a convention center. She added that if allowing a hotel the abatement would cause other local hotels to go out of business, she did not approve.

Mayor Landry said that future meetings should focus on creating the criteria for a hotel being added to a convention center and then move on to the general commercial aspect.

Member Mutch asked if there was any way to figure out what properties would benefit from rehabilitation in Novi. He said they did not discuss the portion of the legislation regarding how the act listed multi-family residential, because that would technically qualify under the Act. He asked administration to put together a general list or map that detailed the potential properties that would qualify.

The meeting was adjourned at 8:22 a.m.

Recorded by: Cortney Hanson
Deputy City Clerk

ORDINANCE REVIEW COMMITTEE
August 26, 2011 | 7:30 a.m.
Council Chambers | Novi Civic Center | 45175 W. Ten Mile Road

Mayor Landry called the meeting to order at 7:30 a.m.

ROLL CALL: Mayor Landry, Council Members Margolis, Mutch

ALSO PRESENT: Victor Cardenas, Assistant City Manager
Thomas Schultz, City Attorney

APPROVAL OF AGENDA: Agenda was unanimously approved as presented.

AUDIENCE COMMENT: None

MATTERS FOR DISCUSSION:

1. Commercial Rehabilitation Tax Abatement
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2. Public Act 198 – Plant Rehabilitation And Industrial Development Districts
 - a. Application Fee for Tognum and future potential projects
 - b. Consider qualifications for identifying types of high wage jobs
 - c. Current Novi PA198 policy addresses real property abatement, but not personal.
Consideration to modify policy to include whether or not personal property can be abated.

Mayor Landry stated the meeting would focus on 1.a. the policy as it relates to construction of a hotel attached to a convention center.

Mr. Schultz summarized the changes made to the policy since the last meeting. Those changes were made at the suggestion of the committee.

Member Mutch asked if the policy could be more specific under "Agreement Required" to indicate what the City will require for annual reports to the State.

Member Margolis said she was trying to figure out how to make the process quantifiable. She wanted to know how the proposed hotel would differ from the hotels we already have in Novi and what it will offer that is not already available. She had several suggestions on changes to wording throughout the policy. The last sentence in paragraph two of "Real Property Tax

Abatement Statement of Purpose" should state "City, businesses and residents" instead of "City and others". Also item "B" under "Objectives to be Achieved by Granting a Hotel/Convention Center Tax Abatement" should state "significant economic benefits" instead of "significant benefits". She also questioned whether there should be a specific dollar amount under "A" in "General or Minimal Requirements for Eligibility". Mayor Landry said he thought perhaps a percentage would work. Member Mutch asked how they would know what that percentage should be because he didn't feel they could gather enough information to make a decision on what the value should be. Mayor Landry suggested they remove the first sentence altogether and enhance the second sentence.

Member Margolis suggested under "General or Minimal Requirements for Eligibility" item "E" also state how the applicant would demonstrate net economic benefits to the City, businesses and residents. Also, to add under item "T" in "Review Criteria Specific to Project" that the applicant provide the net economic benefit to the City, businesses and residents in regards to existing or planned businesses in the City of Novi. Last, she asked if item "B" under "Limitations" was necessary to keep in the policy. Mayor Landry agreed that it should be removed.

Blair Bowman, Suburban Collection Showplace, said his overall view of the policy was that it was quantifiable and had reasonable standards. He was concerned about technical aspects and wondered if the City would be picky about minor things if the project was succeeding in general. He said what would make their hotel different was the fact that it was attached to the convention center. He was also concerned about claw backs and didn't want to unknowingly fall into a situation where the City took the abatement away.

Member Mutch asked Mr. Bowman if there were any specific provisions or review criteria that he felt would create problems moving forward. Mr. Bowman said no but he was concerned about minor things, for example if they only created 5 jobs instead of the 6 they predicted. Member Mutch asked if they would be able to provide an estimate for the number of rooms/night that would be generated if the hotel were to be built connected to the convention center. He said they needed to see that it would generate enough rooms to offset the business taken away from other hotels. Member Margolis agreed and said that was why they asked for the net economic benefit.

Member Mutch asked if there should be specific situations listed under item "6" in regards to claw backs under "Agreement Required". Mr. Schultz stated the final agreement could indicate specifics, but the policy only needed the general framework to create that agreement. Member Margolis said she liked the way it was presented because it would be up to Council to decide what should specifically be written into the agreement. Mayor Landry agreed that it should be specific in the final agreement, not the policy.

Member Mutch stated item "5" under "Agreement Required" should be removed as well.

Moved by Margolis, Seconded by Mutch: Carried Unanimously

Ordinance Review Committee Meeting
August 26, 2011

To recommend "Tax Abatement Policy for Commercial Rehabilitation Act PA 210 Hotel/Convention Center Only" to Council with suggested changes.

The meeting was adjourned at 8:30 a.m.

Recorded by: Cortney Hanson
Deputy City Clerk