

# **Blue Mountains Attainable Housing Corporation**

Presentation of HST Memo dated May 12, 2020

# Facts and Assumptions

- Important as they determine the basis for conclusion
- Discuss the current structure and ownership
- Specific to this development → Other developments may result in different conclusions based on original ownership, type of units (commercial/residential mix), income-geared rentals, government funding, etc.

# HST registrant vs PSB rebate

- HST 13% (5% federal and 8% provincial)
- Registrants generally claim ITC – full 13%
- Municipalities and NPOs can register and claim ITCs on *commercial* activities
- Municipalities not registered / not performing *commercial activities* can claim PSB rebate – 11.24%

	ITC	Rebate Portion	Net rebate
Provincial	8.00%	78.00%	6.24%
Federal	5.00%	100.00%	5.00%
Total	13.00%		11.24%
			86.46%

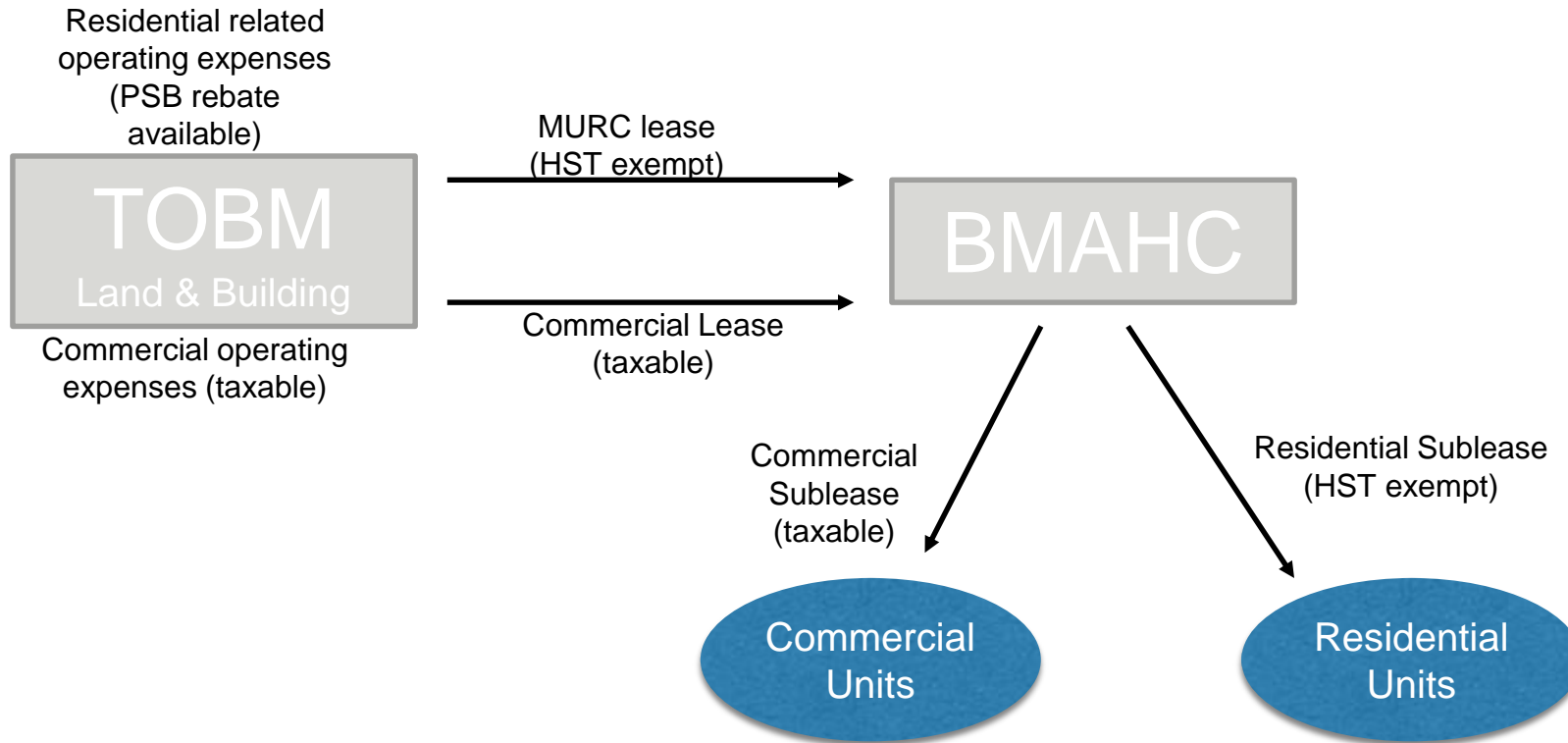
# Part 1 - Ownership of Real Property

- Ownership of the real property should remain with TOBM
- BMAHC cannot claim PSB rebates on ongoing operating expenses of residential units (Part 1 & 4 of memo)
- PSB rebate vs NRRP rebate limit amount of HST that can be claimed on acquisition and construction costs (Part 5 of memo)
- Land transfer tax is avoided by leaving ownership with TOBM

# Part 1 – Lease between TOBM and BMAHC

- Instead of selling the land, TOBM can lease the real property to BMAHC.
- Because the completed real property will consist of residential units and commercial units, the Act deems them to be two separate properties and two separate supplies. Therefore, there will be two leases from TOBM to BMAHC – one for the multiple unit residential complex (MURC) and a second for the commercial component.
- The lease of the MURC will be an exempt supply.
- The subsequent sublease of the residential units by BMAHC to tenants is exempt.
- The lease of the commercial component is taxable.
- The subsequent sublease of the commercial units by BMAHC to tenants is normally exempt since BMAHC is a NPO. However, they can file an election with the CRA to treat the supply as taxable. BMAHC needs to register for the GST/HST to do so.

# Lease Example



# Part 4 – HST Treatment on Operational Expenses

- Leases from BMAHC to individual tenants are HST exempt, including PSB rebates
- PSB rebates can be claimed on the MURC lease between TOBM and BMAHC
- TOBM can claim PSB rebates for ongoing operating expenses related to the MURC and can claim ITC's related to commercial component.
- BMAHC can claim ITC's related to the commercial component.
- TOBM is entitled to the landlord rebate.

# Part 2 – HST Treatment for Acquisition Costs and Construction Costs

- The land and building are not HST exempt until they are being used as the MURC
- TOBM can claim HST ITCs on acquisition and construction costs during construction
- Subject to self-supply rules on MURC – see Part 3



## Part 3 – Self-Supply Rules

- Upon completion and use as a MURC, a builder is deemed to have sold the property and immediately repurchased. HST has to be remitted on the sale
- Use as MURC – time of entering into the lease with TOBM (assuming substantial completion of construction)
- Self assess based on fair market value (FMV) of the MURC
- Purpose is to pay back ITCs that were claimed during the construction phase on buildings that will be leased to individuals, which are HST exempt

## Part 5 – HST New Residential Rental Property Rebate (NRRP)

- In lieu of the ITC not eligible to claim on MURC construction costs, the NRRP rebate
- Federal and Provincial NRRP rebates are available
- Amount of rebate dependent on a number of factors including FMV at time of self-supply and amount of PSB rebate already claimed

## Part 5 – NRRP Benefit

- TOBM can claim 100% of the federal part of the HST as a PSB rebate
- BMAHC is only able to claim the NRRP for the federal part of the HST, which is capped at \$6,300 per unit.
- Using the example in the memo, the federal rebate using the PSB rebate would be approx. \$1.3M
- Using the NRRP to claim the federal portion of the HST would be approx. \$750K ( $\$6,300 \times 118$  units).