

**New York City Economic Development Corporation**  
**New York City Council Hearing:**  
**Industrial and Commercial Abatement Program Testimony**  
**David Ehrenberg, Executive Vice President, Real Estate Transaction Services**  
**June 25, 2013**

Good morning Chair Koslowitz and members of the Committee. My name is David Ehrenberg, I am an Executive Vice President at the NYCEDC and am co-head of the Real Estate Transaction Service division. Thank you for the opportunity to speak today on the Industrial and Commercial Abatement Program, better known as ICAP. Before I get started, please note that while NYCEDC was involved in the analysis of ICIP and its reform into ICAP five years ago, we do not have an administrative or monitoring role in ICAP.

As the committee knows well, ICAP was preceded by the Industrial and Commercial Incentive Program or ICIP, established in the 1980s to grant short to medium-term reductions in real estate taxes for investments in new construction, modernizations and rehabilitations of industrial and commercial developments as an incentive for owners to invest in their properties and our City.

When used effectively, tax abatements are a valuable tool in encouraging economic development. However, they should do so at the lowest possible cost to the city. Despite costing nearly \$390 million in foregone real estate tax revenues in 2006 alone, by far the largest commercial incentive program in the City, ICIP had never been rigorously studied nor amended other than to make it more generous. Therefore, in 2007 and 2008, EDC, OMB and DOF undertook a rigorous and unprecedented review of the ICIP; the analysis revealed:

- 1) As then currently configured, the program operated at a fiscal loss for the City;
- 2) Based on the analysis, we also calculated that if benefits were made less generous and more targeted, the program would operate as at a significant fiscal benefit to the city, in addition to creating jobs and investment in our neighborhoods;

Specifically, our analysis focused on and led to the reform of four aspects of the program:

- 1) **Depth of Benefits:** To ensure areas most in need for commercial and industrial development saw the greatest benefits, at the least cost to the city, we recommended two reforms:
  - a. Limiting the length of time midtown Manhattan commercial projects are eligible for tax abatements from 12 to 10 years.

- b. In addition, ICIP provided “inflation protection” that exempted recipients from normal tax increases over time. This had the effect of providing more generous benefits farther out in the future despite the fact that private actors are less sensitive to taxes in future years. The City therefore proposed a significant reduction in this inflation protection;
- 2) **Retail Benefits:** The City found that new retail establishments that received ICIP led to less net new economic activity and thus less new tax revenue and jobs when compared to other commercial project types. This is because, as a general matter, new retail options do not create new economic activity, but rather serve to move expenditures around a neighborhood or the City. To address this concern we recommended two reforms:
- a. Reduce retail benefit levels across the City from 25 to 15 years;
  - b. Much more dramatically reduce retail eligibility in midtown Manhattan.
- 3) **Utilities:** Over time, utilities had become major beneficiaries of the ICIP program. Because ICIP was as-of right, these significant benefits could not be used to incentivize greener utility projects. We recommended transferring utility projects to a discretionary program that could be targeted to the greenest projects possible;
- 4) **Administration:** Finally, substantive steps were taken to improve the administration, management and transparency of the program.

In 2008, these reforms were implemented and ICIP became ICAP. The new ICAP is better designed to induce construction activity and incentivize dispersal of industrial and commercial development from highest-value areas to secondary and tertiary markets across the City.

Complementary to the reform, a number of amendments—some of which were sponsored by Council members James, Reyna and Weprin—were also signed into law in 2008. Those amendments included a measure to suspend ICAP benefits if recipients were found in violation of the law as it relates to the safety of workers and the public, and to encourage utilization of New York City-certified Minority and Women-owned Business Enterprises, or MWBEs, for the construction phase of projects that receive ICAP benefits.

**I will now turn it over to my colleagues at DOF to discuss the performance of ICAP in the last five years.**

As indicated at the time of the reforms, our expectation is ICAP will now:

- 1) More equitably benefit the outer boroughs and targeted sections of Manhattan;
- 2) Focus benefits on project types that create new economic activity;
- 3) Provide the minimum benefits necessary to induce the greatest amount of new economic activity;
- 4) And, finally, provide greater opportunities for MWBEs.

However, at the time of our analysis and the reforms, we could not have foreseen that the new legislation would coincide with the economic crisis that began in 2008. Unfortunately, this makes an analysis of the reform package infeasible at this point for two main reasons:

- 1) It would be misleading to compare existing data from ICAP, which exclusively represents economic conditions during the heart of the downturn, to figures from before the economic collapse.
- 2) Emblematic of the fact that investment activity of all types decreased significantly during the downturn, currently only 110 properties receive a total of \$6mm of ICAP benefits. At the time of our analysis of ICIP, more than 8,000 properties received nearly \$400mm of benefits. Simply put, we do not have a sufficient sample size to evaluate the new program.

At this time, we are unable to make a substantive determination regarding the efficacy of ICAP generally or the reforms, more specifically. Scrutinizing ICAP prematurely would not offer a complete picture of the impact from reforms instituted in 2008.



Oversight: Industrial and Commercial Abatement Program  
Testimony of Theodore Oberman, Director, Commercial Exemptions  
Committee on Economic Development  
June 25, 2013 – 11:00A.M.

Good morning, Chair Koslowitz and members of the Committee on Economic Development. My name is Theodore Oberman, and I am Director of Commercial Exemptions and Abatements at the Department of Finance — the agency that administers the Industrial and Commercial Abatement Program.

As David outlined, ICAP started in 2008. However, because of the nature of construction projects and the timing of the application process, benefits have been provided under the program only since FY2012. Generally, it takes at least three years from the submission of the preliminary application to the effective date of the first benefit year. Here is a hypothetical example:

A property owner filed a preliminary ICAP application in September of 2008, as soon as the bill creating ICAP was enacted. They then:

- Filed their first Department of Buildings permit in November 2008,
- Filed their final application in September 2009,
- Completed construction in November of 2009, and
- Received their Certificate of Occupancy in March of 2010.

The first taxable status date that would indicate benefit eligibility would be January 5, 2011, so their first benefit year would be FY2012, starting July 1, 2011.

There were a total of 42 properties that started to receive benefits in Fiscal 2012, and in 2013, there were 110 properties receiving benefits — a 161 percent increase. In Fiscal 2012 awarded benefits totaled approximately \$2.7 million, and in Fiscal 2013, benefits totaled approximately \$6.3 million — a 133 percent increase. For ICAP in the current Fiscal Year (FY2013), Queens has the highest number of properties receiving benefits (37), and Manhattan has the highest amount of abated taxes (\$2.7 million).

We have received more than 2,400 preliminary applications for the ICAP program. There are an additional 400 applications that were originally filed under ICIP but did not receive a DOB permit in time to qualify for that program and were transferred to ICAP.

Under Local Law 67 of 2008, ICAP applicants must reach out to City-certified Minority and Women-owned Business Enterprises to promote contracting opportunities on the project. For contracts that are valued below \$1.5 million, applicants are required to search the Online Directory of Certified Firms. For contracts valued above \$1.5 million, applicants are required to search online and solicit bids from at least three certified M/WBEs for each subcontracting project. Applicants are directed to maintain records demonstrating compliance with this provision and to submit the "ICAP M/WBE Compliance Report" to the Department of Finance during the Final Application for Benefits stage. A copy of the report is also submitted to SBS. Of these approximately 2,800 properties eligible for ICAP, 687 have a project cost over \$1.5

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