

Recommended Tax Design and Steps to Implement a Vacant Home Tax in Toronto

Date: June 21, 2021

To: Executive Committee

From: Chief Financial Officer and Treasurer and Executive Director Housing Secretariat

Wards: All

SUMMARY

City Council, at its meeting of December 16-18, 2020, considered the report [EX19.3: Policy Analysis, Potential Design and Possible Implementation of a Vacant Home Tax in Toronto](#), which provided research and analysis on this form of policy tool as well as potential design issues and implementation steps for an effective and efficient vacant home tax program designed to improve housing affordability and availability in Toronto.

The direction from City Council was to develop key tax design features and administrative structures to support a vacant home tax (VHT) program and to report back with a recommended taxation design for a vacant home tax by the end of the second quarter of 2021 for implementation commencing in the 2022 taxation year. Council also directed that a report back address the public policy rationale for the tax and annual reporting requirements to measure the effectiveness of the tax, principal residence exemptions and the protection of snowbirds, the potential allocation of net tax revenues towards affordable housing initiatives, and coordination with other City property standards programs.

This report responds to the Council request and presents key tax design principles to be considered as part of a future tax by-law, including annual declaration responsibility of all homeowners, key definitions of vacant homes, principal residence exemptions, other exempting conditions, administrative matters, tax rate, and general information regarding audit and enforcement functions, complaints and appeals process, offences and penalties and annual reporting requirements.

The report also recommends that such design principles be presented for public and stakeholder consultation during third quarter of 2021. A further report with findings from the consultations plus any tax design modifications, along with a tax by-law, would then be presented to Council for consideration during the fourth quarter of 2021. The proposed by-law would become effective on January 1, 2022, with the first annual property declarations in respect of the 2022 taxation being due in 2023.

RECOMMENDATIONS

The Chief Financial Officer and Treasurer and Executive Director Housing Secretariat recommend that:

1. City Council approve in principle the proposed tax design features set out in Attachment 1 to this report;
2. City Council direct the Chief Financial Officer and Treasurer and Executive Director Housing Secretariat to:
 - a. Undertake public consultation and receive written comments from all stakeholders, on the proposed tax design; and
 - b. Report back during Q4 2021 with the findings from consultations and any modifications to a finalized tax design and an enabling tax by-law for Council consideration for implementation on January 1, 2022.

FINANCIAL IMPACT

There are no additional financial impacts associated with the adoption of this report.

As previously reported in [Item EX19.3](#), the detailed design work and full program start-up costs for a vacant home tax regime was estimated in the range of \$10 – \$13 million over a two year period.

The number of vacant homes in Toronto is unknown at this time and will not be known until after full implementation and performance of the tax declaration and audit process planned for early 2023. However, using metrics from Vancouver's collections on a similar tax as a proxy for Toronto, if 1 percent of Toronto's housing stock is vacant and subject to the tax, at a 1 percent tax rate on average Toronto CVA, the vacant home tax could yield \$55 to \$66 million in (gross) tax revenue per year. Actual revenues will be realized starting in 2023 based upon declarations for the 2022 calendar year.

It is estimated that total one-time start-up costs of \$11.0 million would be incurred in 2021 and 2022 to set up the necessary administrative structure and systems and programming to collect the tax as well as initial communications efforts. During the consideration of the 2021 Capital and Operating Budgets, funding for the Vacant Home Tax program was confirmed by City Council via approval of a one-time withdrawal of \$5.0 million in 2021 and \$6.0 million in 2022 from the Tax Rate Stabilization Reserve to provide start-up funding for the City's Vacant Home Tax program, with the Tax Rate Stabilization Reserve to be reimbursed with revenue generated from the implementation of Vacant Home Tax in the future.

Annual continuing operating costs are estimated at \$3.1 million per year, consisting of salary costs for a total of 25 staff positions, and direct operating expenses such as licensing and data storage/file server costs for systems, printing, postage and communications, banking and payment processing costs, as well as normal office expenditures, as set out in the Revenues and Expenditures section of this report.

The prevalence and reasons for homes being left vacant in Toronto may have been affected by the COVID-19 pandemic and its impact on the housing market. Revenue projections may similarly be affected in ways that cannot reasonably be estimated. In any event, the continuing operating costs of administering the program would be funded from the gross tax revenues, and any net surplus of revenues may be dedicated to affordable housing initiatives.

DECISION HISTORY

On April 20, 2017, the Ontario Government announced its sixteen-point Fair Housing Plan intended to help more people find affordable places to live, increase supply of residential units, protect buyers and renters, and bring stability to the real estate market. <https://news.ontario.ca/mof/en/2017/04/ontarios-fair-housing-plan.html>

On May 17, 2017, Bill 127 - Stronger, Healthier Ontario Act (Budget Measures), 2017, received Royal Assent in Provincial Legislature, which amended and repealed various Acts to implement the Ontario Government measures contained in the 2017 Ontario Budget, including the sixteen-point Fair Housing Plan. Associated amendments to the City of Toronto Act were subsequently proclaimed into force on January 1, 2018, providing the City with authority to implement a tax on vacant residential units. <https://www.ontario.ca/laws/statute/06c11#BK401>

On July 4, 2017, City Council adopted [EX26.4 Implementing a Vacant Home Tax in Toronto](#) which directed staff to undertake public consultation on the potential implementation of a tax on vacant residential units, identify possible public benefits of such a tax, and to consider possible administrative approaches to identifying vacant units.

During the summer and early fall 2017 staff conducted public consultations on a potential vacant home tax in Toronto and subsequently presented the findings in a staff report to Executive Committee. On April 19, 2018, Executive Committee received the report EX33.5 Public Consultation Results and Update – Vacant Home Tax which directed staff to undertake further research on a vacant home tax program and report through Executive Committee, as appropriate, following the start of the 2018 to 2022 term of Council.

On November 14, 2019, Executive Committee, in adopting [Item EX10.7: Update on the Review of a Potential Vacant Property Tax in Toronto](#), directed staff to bring forward a report with the 2020 Budget on Implementing a Vacant Home Tax in Toronto including: specific information on the consultation process to date; the public policy benefits as assessed to date; the potential tax design features of a vacant home tax; and an assessment of the Vancouver approach.

On February 19, 2020, as part of the consideration of the [2020 Capital and Operating Budgets](#), City Council directed staff to report to the April 2020 Executive Committee meeting with various key policy analyses of a vacant home tax as well as a potential design and possible implementation of an effective and efficient vacant home tax program and with recommendations on key features, should City Council wish to proceed with a vacant home tax.

On December 16, 2020, City Council adopted [EX19.3: Policy Analysis, Potential Design and Possible Implementation of a Vacant Home Tax in Toronto](#) which directed staff to undertake steps to develop a vacant home tax program and to report back with a recommended taxation, collection and enforcement design for a vacant home tax by the end of Q2 2021 for implementation commencing in the 2022 taxation year.

COMMENTS

In December 2020 a report was presented for Council consideration on the concept and applicability of proceeding with the implementation of a Vacant Home Tax in Toronto. Council adopted the recommendations as amended and directed staff to proceed with the detailed tax design and features for further Council consideration.

Public Policy Rationale for a Vacant Home Tax

City Council's direction requested that staff report back with a clear statement of the public policy objective of the Vacant Home Tax, and requested that staff report annually in a format designed to demonstrate the achievement of this public policy objective.

As previously reported to City Council, a Vacant Home Tax is a policy tool to address the housing market disparities between the lack of rental housing on one hand and readily available empty homes on the other, by encouraging the conversion of units that are being held vacant into ones that are occupied.

The effect of the tax in the marketplace is that of a signal that housing stock and supply is important for people as homes, and not primarily as a buy-hold speculative commodity without any public regulation.

The prime objective of the tax as a tool is to reduce the prevalence of residential properties left vacant that might otherwise be used to increase housing availability and affordability. The tax could create more rental homes in a short time horizon, but as a secondary outcome, the tax imposed on those who do not choose to occupy their homes, provides some revenue to the City, that net of costs, could fund additional affordable housing initiatives.

The desired effect of the tax is that homeowners either continue to occupy their homes, or change their behaviour of leaving homes vacant as the case may be, in order to avoid incurring the tax.

The effectiveness of the tax should be analyzed based on the trends of annual VHT declarations. Annual reporting and monitoring will be required to effectively measure the effects of the tax and ensure the VHT is continuing to achieve the public policy objectives.

It can be reasonably assumed that by simply announcing the tax and its effective taxation date of January 1, 2022, some owners of vacant properties may seek out tenants in 2021 to avoid paying the tax. This would help the City in achieving its objective of releasing housing stock, but will be difficult to measure quantitatively.

Conversely, for example, simply collecting the vacant home tax without reducing the number of vacant homes would not necessarily indicate the success of the tax program.

With the collection of the tax and associated valuable related data, staff note that in particular, the following issues should be evaluated on an ongoing basis:

- Changes and evolution of vacancy rates over time
- Relationship between vacancy rates and market rents
- Higher number of secondary rentals, but at what affect to average market rents
- Optimal split between conversions and revenues

Tax Design Fundamentals

This section of the report sets out a recommended framework and fundamental aspects of how the tax will operate and how it will be administered and collected. The recommended design elements are set out in summary form in Attachment 1 to this report and are explained below.

Objectives

Fundamentally, the tax on vacant homes in Toronto will apply to residential units (i.e., self-contained units on property classified within the residential property tax class) that are capable of being occupied, and that are neither the principal residence of the owner, their permitted occupier (such as a family member or friend), nor of a tenant or sub-tenant, for more than six months of the past calendar year, unless one of an established exemption reason applies.

The overall objective of the tax is to impose an additional levy on owners of residential units that are capable of being occupied but which the owner has decided to maintain vacant, thereby keeping these otherwise available housing units unoccupied. By designing the tax to only apply to residential units that are *not* the owner's principal residence, or not occupied by the owner's permitted occupier or a tenant, the vacant home tax will only be payable by individuals who do not occupy the unit themselves as their principal residence, and who have chosen to purposefully maintain the unit as vacant, and unavailable for occupation

Legislative Authority

The Provincial government amended the City of Toronto Act, 2006 (COTA), in 2017 allowing the City to impose an optional tax on vacant residential units.

Specifically, the City may pass a by-law in the year to which it relates, to impose a tax in the City on the assessed value, as determined under the Assessment Act, of vacant units that are classified in the residential property class and that are taxable under that Act for municipal purposes.

Any such City by-law must satisfy the following criteria:

1. It must state the tax rate.
2. It must set out a definition for what is a vacant home, for the purposes of the tax, i.e., a by-law must state the conditions of vacancy that, if met, make a unit subject to the tax.

Any such City by-law may provide for such matters as City Council considers appropriate, including,

- (a) exemptions from the tax;
- (b) rebates of tax;
- (c) audit and inspection powers; and
- (d) except as otherwise provided for in the regulations, the establishment and use of dispute resolution mechanisms.

Additionally, provincial regulations governing the municipality's authority to impose a tax also preserve the right of the Minister of Finance to make regulations pertaining to the tax, including any conditions or limits on how the tax is imposed, persons and entities who are not subject to the tax (exemptions), defining "vacant unit", powers and processes for tax collections, processes to apportion assessments attributable to vacant units, and dispute resolution. As of the date of this report, no such regulation has been filed by the Minister of Finance.

This report recommends tax design principles that will be incorporated into a by-law that is consistent with the aforementioned requirements of COTA. Such a by-law will be presented to City Council before the end of 2021.

Recommended Tax Rate

To satisfy the requirements of COTA, a tax rate and the conditions of vacancy must be established.

The enabling Provincial legislation allows that the City may, through passing a by-law, impose a tax on the assessed value, as determined under the Assessment Act, of vacant units that are classified in the residential property class and are taxable under that Act for municipal purposes. Such a by-law must state the tax rate and must state the conditions of vacancy that, if met, make a unit subject to the tax.

In setting the rate, consideration should be given to the purpose of the tax which is to reduce the prevalence of residential units left vacant that might otherwise be used to increase housing availability. At an optimal rate, the tax will create a cost high enough that it leads to a property owner choosing either to sell or rent the residential unit, while

not creating an undue burden on owners who have to pay the tax, or increase the likelihood of unintended non-compliance with the tax.

The recommended initial tax rate for Toronto's vacant home tax is 1.0% of the property's Current Value Assessment (CVA) for the reference year. In comparing those municipalities that have implemented such taxes, a rate of 1% of property value was selected as the initial tax rate. Reasons for the standard 1% rate included the ease of use of such a rate and the opportunities to further evaluate and adjust if necessary after review of first year outcomes. Additionally, a 1% tax rate allows for a positive revenue stream, while providing an incentive to change home owners' behaviour but not enough to cause noncompliance.

In the Toronto context, a 1% tax rate would equate to a rate higher than the current property tax burden on residential properties. At this rate it would make the effective rate imposed on a vacant unit approach the commercial rate. The rate will be reviewed periodically and can be adjusted as appropriate to ensure effectiveness of the program. Staff considered the potential impact of varying levels of taxation on the effectiveness of the program. The ultimate impact of the program will be determined by a number of variables in addition to the tax rate, such as exemption rates, compliance levels, behavioural changes (e.g., conversions to occupied housing) and possible market changes, including those market changes already experienced as a result of the COVID-19 pandemic.

Tax Revenues and Expenditures

Gross Tax Revenues:

The number of vacant homes in Toronto will not be accurately known until after full implementation and performance of the tax declaration and audit process planned for early 2023. However, using metrics from Vancouver's collections on a similar tax as a proxy for Toronto, if 1 percent of Toronto's housing stock is vacant and subject to the tax, at a 1 percent tax rate on average Toronto CVA, the vacant home tax could yield \$55 to \$66 million in (gross) tax revenue per year.

Start-Up and Implementation Costs:

Based on the Vancouver experience with the tax as a proxy for start-up costs for Toronto (which is approximately four times the size of Vancouver), the start-up costs can be expected to be higher than Vancouver's. A conservative estimate that provides for an additional 50% over the start-up costs experienced by Vancouver would imply start-up costs for Toronto of approximately \$11.1 million. These costs would likely be incurred over the course of the implementation period.

It is anticipated, therefore, that start-up costs of \$11.0 million would be incurred in 2021 and 2022 to set up the necessary administrative structure and systems and programming to collect the tax as well as initial communications efforts. During the consideration of the 2021 Capital and Operating Budgets, funding for the Vacant Home Tax program was confirmed by City Council via approval of a one-time withdrawal of \$5.0 million in 2021 and \$6.0 million in 2022 from the Tax Rate Stabilization Reserve to provide start-up funding for the City's Vacant Home Tax program, with the Tax Rate

Stabilization Reserve to be reimbursed with revenue generated from the implementation of Vacant Home Tax in the future.

Ongoing Annual Costs:

Given the novel nature of a vacant home tax in Toronto, a large portion of ongoing costs of operation would be spent to ensure compliance to the tax regulations and to educate property owners about their roles and responsibilities in regards to responding to the tax. Relevant operating costs would include salaries for inspectors and audit staff, IT services, and any hard costs associated with print, postage, and electronic services.

The City of Vancouver hired approximately 10 individuals specifically for audit as part of their Empty Homes Tax review and compliance department – this was in addition to the administrative and IT resources required for operations and administration. The ongoing costs for operations for Vancouver’s Empty Homes Tax amounts to approximately \$2.9 million, annually. Using a similar approach to estimating the upfront costs, and factoring in Toronto’s larger size would suggest annual initial estimated operating costs of approximately \$3.1 million per year, consisting of salary costs for a total of 25 staff positions (involved in auditing and compliance, customer service response and administration), and direct operating expenses such as licensing and data storage/file server costs for systems, printing, postage and communications, banking and payment processing costs, as well as normal office expenditures, as shown in Table 1 below:

Table 1 Vacant Home Tax: Annual Estimated Operating Costs

Expenditure Type	Annual Operating Costs (\$ millions)
Notices and correspondence mailed	\$0.7
Compliance Auditing staff	\$1.3
IT operating (staff, licencing fees/data storage)	\$0.2
Program support staff and administration	\$0.9
TOTAL	\$3.1

The prevalence and reasons for homes being left vacant in Toronto may have been affected by the COVID-19 pandemic and its impact on the housing market. Revenue projections may similarly be affected in ways that cannot reasonably be estimated. In any event, the continuing operating costs of administering the program would be funded from the gross tax revenues, and any net surplus of revenues may be dedicated to affordable housing initiatives, if Council so directs.

Staffing Requirements:

The Vacant Homes Tax Program will require the creation of new roles and positions within the Revenue Services division starting in 2022 and 2023. The organization design work will be completed in early 2022 resulting in a people plan for the required roles, performing business units and reporting relationships. The positions will likely be both union and exempt covering administration, audit, appeal review, adjudication and IT operations.

Approvals for annual operating costs and future tax revenues will be brought forward through the 2023 operating budget process. The start-up and annual operating costs will be funded by the future tax revenues collected from the tax program when fully operational.

Implementation Timelines

Successful implementation of a vacant home tax, noted from Vancouver's experience, was based upon a lengthy implementation and lead-in period, consisting of a public awareness and education campaign to advise of the new tax, and the designation of a reference period that is used to establish whether the residential property is subject to the vacant home tax. An adequate lead-in period of time is necessary, prior to the start of the proposed one-year reference period, to give property owners an appropriate period of time in which they may take action to avoid the tax, i.e., either by leasing or selling the property.

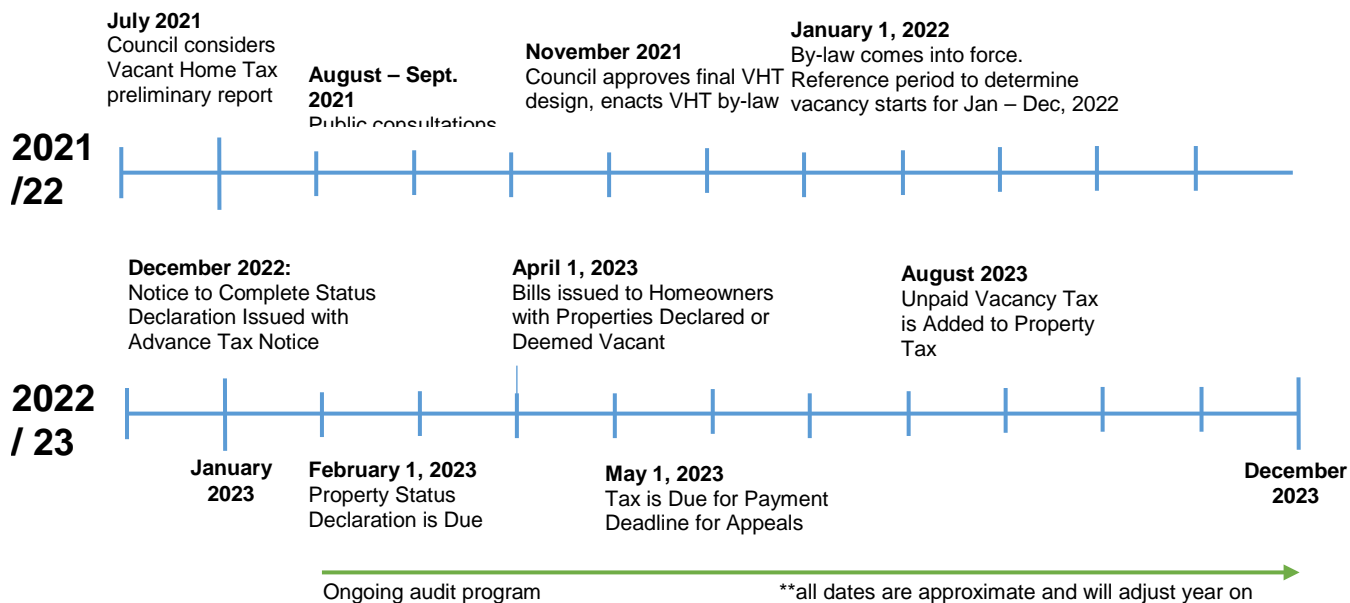
Once City Council has approved in principal the design elements of a new vacant home tax in mid-2021, staff would recommend the opportunity for public and stakeholder consultation to solicit input on this important new policy initiative. Following that input, staff could refine and present the revised and complete principles, confirm any necessary Provincial regulations and prepare a by-law for Council adoption prior to the end of 2021.

It is proposed that a by-law would come into effect on January 1, 2022, and that date would also become the start of the first tax reference year. Staff would continue to develop, implement and test the required administrative structure and systems during 2022. Public awareness of the new tax would also continue throughout 2021-2023.

First declarations would be due in early 2023, based on property status for the previous 2022 calendar year (the reference year).

Pending Council approval of the tax design described herein, the 2022 Interim Tax Bill issued in January 2022 and the final billing in May 2022, will include a notification that the vacant home tax program will become effective starting January 1, 2022 with initial declarations due in 2023. A proposed timeline for the implementation of the vacant home tax is provided in Figure 1 below.

Figure 1 Vacant Home Tax - Proposed Implementation Timeline



Key Tax Concepts

Building on the significant development, implementation and results of other vacant home taxes, the following foundational terms are set out in Attachment 1 and explained below.

Principal Residence

For the purposes of the VHT, a Principal Residence is a residential unit occupied by an individual person, either alone or jointly with others, where the individual person is ordinarily resident. A person may only have one principal residence.

A principal residence will serve the function of being the centre of the occupant's affairs and therefore evidence to support this should be easy to provide or obtain. Applying the concept of principal residence provides for considerable flexibility for owners to leave their homes for extended periods of time without being subject to the tax.

For homeowners who own more than one home, one of their homes will be considered their principal residence (based on a prescribed definition in the By-law). In any event, homes that are principal residences have no minimum occupancy time requirements and are not subject to the tax.

All other homes owned by an owner are considered to be Non-Principal Residences (second homes). This type of home is subject to the tax unless it is either designated as the principal residence of a family member or friend for at least 6 months of the tax reference year, or rented out to an arm's length tenant, for a minimum consecutive term of 30 day terms for at least 6 months of the tax reference year.

Tenant

For the purposes of the VHT, a Tenant is a person who occupies a residential unit pursuant to a written tenancy or sub-tenancy agreement, respecting possession of the residential unit for a consecutive term of at least 30 days.

Unoccupied

For the purposes of determining vacancy, a residential unit is "unoccupied" when the residential unit is not the principal residence of either its registered owner, a tenant, or any other person who occupies the dwelling unit as their primary residence with the permission of the registered owner.

Vacant

A residential unit is "vacant" if:

- a) it has been unoccupied for more than six months during the prior calendar year; or
- b) it is deemed to be vacant in accordance with a by-law.

Six months is considered a reasonable amount of time to require rental occupancy, as it provides new landlords with significant flexibility and time to find a suitable tenant both initially and in cases of tenant turnover. The minimum 30 days consecutive and 6 months in aggregate requirement would also address the requirements for the corporate rental sector which provide worker accommodations for industries such as film and technology.

Tax Protection for Snowbirds

Owners of homes who typically leave their principal residences for extended periods of time are likely to fall into one or more of these categories:

- Snowbirds, typically retirees, who leave their home in Toronto for a period of time every year in winter months but return during warmer months of the year;
- College or University staff who take a sabbatical leave;
- Toronto residents who take leave temporarily to care for an ill family member elsewhere but maintain their principal residence in Toronto.

As noted in the preceding section, Principal Residences may be left unoccupied for periods of time without being subject to the tax, which would offer protection from the tax to most Snowbirds, and to other owners in the circumstances described above.

Process for Determining Vacancy Status

Self-Declaration of Property Status Method

A universal annual self-declaration method, similar to the approach used in Vancouver, is the recommended approach to identify vacant residential units, as reported to Council in Dec 2020. The forthcoming tax by-law will require that the status of the property will

be determined by means of an annual property status declaration to be completed by every residential property owner for the previous calendar year.

Other than self-declaration, a residential unit could also be deemed to be vacant and subject to the tax if the owner fails to make a property status declaration, makes a false declaration, fails to provide information or evidence as required by the City to support the declaration, or provides false information.

For the purposes of the declaration, there are three categories of property status:

1. Principal Residence of registered owner, of a tenant, or of a person with the owner's permission;
2. Eligible Exemption; or
3. Vacant Property

Exemptions

As previously reported in December 2020, and based on the Vancouver experience, there are several reasons why, based on owner circumstances, a home may become unoccupied for extended durations, such as pending sale and ownership change, major renovations, extended medical care or death.

For these reasons, municipalities with vacant home taxes have defined certain exemptions from the tax. Exemptions were considered and evaluated for reasonable administrative practicality and impact on the effectiveness of the tax program.

The following list of exemptions is provided, with additional details on the qualifying criteria for these exemptions set out in Attachment 1 to this report.

- Death of a Registered Owner
- Property undergoing redevelopment or major renovation
- Property of owner in care
- Rental Restriction or prohibition
- Transfer of legal ownership of property
- Occupancy for full time employment
- Court order

Data Collection/Consent

Staff were directed to study the feasibility of collecting, as part of the property status declaration system, information on whether the home is used as a primary, secondary, or investment property.

As part of the declaration system the property owner will be required to declare, as previously noted, one of the three status categories, principal residence, , eligible exemption or vacant. It can be assumed that by virtue of not being a principal residence, the property would be a secondary or investment property.

In any event, owners providing information to the City would have to be advised of the purpose for which the data is being collected, i.e., to determine whether a home is normally vacant and subject to the tax. Owners would also be required to provide their consent for the information to be collected, to ensure compliance with MFIPPA provisions for the collection of data.

Collection of pertinent data for the tax is expected to be retained by the City according to best practice of a 7-year retention period for records that support financial data.

Audit, Compliance and Penalties

As evidenced from Vancouver's experience, a component of an effective universal self-declaration program is a robust audit program. Since the inception of the Empty Homes Tax in Vancouver, almost 24,000 audits have been performed on declarations. This equates to 3% in 2017 increasing to 5% of the total declarations received. Non-compliance rates in Vancouver have varied from the low of 5.3% in 2017 to a high of 10.5% in 2018. The audits have generated a total of \$46.5M in additional tax revenue.

Declarations may be selected for audit on a random or specific criteria basis. If selected for audit, the City will require the owner to provide information and evidence to substantiate:

- the identity and address of the owner or occupant, and
- the nature of occupancy of the property during the vacancy reference period.

The administration of the vacant home tax in Toronto will include regular auditing to ensure compliance with the VHT by-law, as well as compliance with other City programs and standards, including compliance with the City's Short Term Rental by-law and regulations, administered by Municipal Licensing and Standards division.

Revenue Services will be working with Internal Audit Division and other affected divisions to develop and implement the compliance auditing function.

In order to ensure compliance with the vacant home tax, and to ensure that remittances of the tax are made as required, the vacant home tax will include provisions that include penalties for failure to pay, and fines for various offences that will be set out in the VHT by-law.

Annual Reporting

An annual report will be prepared prior to the end of year following the reporting tax year. The report will address the public policy rationale of the Vacant Homes Tax and link the program purpose to the City's Corporate Strategic Plan priorities (Maintain and create housing that's affordable) and HousingTO. The program will determine as part of implementation, performance measures that can be tracked to monitor the success of the program in achieving its goals and comparisons thereof over time.

Federal Budget 2021 - Implications of National Vacancy Tax

Recently, the government of Canada announced plans for a Tax on Unproductive use of Canadian Housing by Foreign Non Resident Owners.

Within the Budget 2021 launch, the Federal Government announced its intention to implement a national, annual 1 per cent tax on the value of non-resident, non-Canadian owned residential real estate that is considered to be vacant or underused, effective January 1, 2022. The tax will require all owners, other than Canadian citizens or permanent residents of Canada to file a declaration as to the current use of the property, with significant penalties for failure to file.

The advent of such a tax would not preclude the City from implementing a VHT under authority of COTA. The City retains authority to tax vacant units regardless of an owner's citizenship or residency status in Canada.

It would be expected that both City and National taxes would co-exist, with some vacant property owners being subject to both taxes. The effects of the dual taxation may include a more concentrated incentive to sell or rent out a vacant home. Effects on potential revenue cannibalization are unknown at this time.

The City will be monitoring the development of the national tax once a consultation paper is released and government seek input from the provinces and municipalities in the coming months ahead.

The Canadian government estimates this measure will increase federal revenues by \$700 million over four years, starting in 2022-23. These revenues will help to support the government's significant investments to make housing more affordable for all Canadians.

Next Steps

There has been significant detail in developing the tax design principles to this point. There has also been Council requests for information on other potential impacts of the tax which are addressed in Attachment 2 - Additional Tax Considerations - to this report.

Should the principles and concepts be considered appropriate by Council, staff would recommend a final opportunity for public and stakeholder consultation and comment on this important new policy initiative during the next few months.

Following that input, staff will refine and complete and present the revised principles, confirm any necessary Provincial regulations and prepare a by-law for Council adoption prior to the end of 2021.

Following Council's approval of the Vacant Home Tax, staff will prepare and implement a comprehensive communications plan to:

- consistently and regularly notify owners about the new VHT and the requirements for declarations, applicability and exemptions;

- educate and provide support for property owners who wish to convert their vacant properties to rental.

The communication strategy will mail inserts in regular property tax notices, on-line resources and a dedicated phone-line that connects owners to a city staff resource that would be available to explain the program to owners. Support for owners could also include links to landlord assistance services.

Conclusion

This report builds on previous Council direction and presents a recommended tax design for Council consideration. Budget has previously been identified and confirmed in this report.

Principles for a by-law have been laid out in this report. If Council approves, a by-law will be presented for adoption prior to year-end, with an effective date on January 1, 2022. This would begin the first VHT reference year for Toronto. Other implementation features will be finalized and put in place during 2022. Public awareness of the new tax would also continue throughout 2021-2023.

First declarations would be due in early 2023, based on property status for the previous 2022 calendar year (the reference year).

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ATTACHMENTS

Attachment 1: Proposed Tax Design Features

Attachment 2: Additional Tax Considerations

ATTACHMENT 1: Proposed Tax Design Features for VHT

1.0 Key Concepts for the purposes of the VHT

1.1 A Residential Unit is a self-contained unit which includes a dedicated washroom and kitchen, located on property classified as residential property on the assessment roll.

1.2 A Principal Residence is a residential unit occupied by an individual person, either alone or jointly with others, where the individual person is ordinarily resident. A person may only have one principal residence.

1.3 A Tenant is a person who occupies a residential unit pursuant to a written tenancy or sub-tenancy agreement, respecting possession of the residential unit for a consecutive term of at least 30 days.

1.4 For the purposes of determining vacancy, a residential unit is "unoccupied" when the residential unit is not the principal residence of either its registered owner, a tenant, or any other person who occupies the residential unit as their primary residence with the permission of the registered owner

1.5 A residential unit is "vacant" if:

- a) it has been unoccupied for more than six months during the prior calendar year;
- or
- b) it is deemed to be vacant (see Deemed Vacancy in Section 5.0)

2.0 Application of Tax and Tax Rates:

2.1 The Vacant Home Tax (VHT) will be an annual tax payable by the registered owner of a vacant residential unit within the City of Toronto, which is not exempt pursuant to any of the exemptions set out in section 3.0

2.2 The amount of the annual VHT payable for a taxation year will be calculated as 1 per cent of the Current Value Assessment (CVA) of the residential property

2.3 Further consideration is required to determine whether the VHT can be applied to individual vacant residential units on a residential property with multiple residential units on it. The residential property class includes properties with up to 6 residential units, but the assessment for the property is not divided between the units making it difficult to assess and tax individual units.

3.0 Proposed Exemptions:

If any of the following circumstances exist during the previous calendar year, a vacant residential unit will be exempt from the VHT for that year:

- a. Death of a registered owner – in year of death and one subsequent year only;

- b. Residential unit is undergoing redevelopment or major renovation that makes occupation impossible for a period of 6 months or longer - with permits issued, and actively being pursued;
- c. Register owner is in care, institutionalized or hospitalized– allowable for 2 consecutive years;
- d. Residential Unit is subject to a restriction or prohibition on rental – i.e., a condo building with restrictions on allowing condominium units to be made available for rental;
- e. Legal ownership of residential unit has been transferred to an arm's length transferee – during year of sale only;
- f. Occupancy for full time employment – the residential unit is occupied by a registered owner with a principal residence outside of a defined Greater Toronto Area, and the property is required for employment purposes in Toronto for an aggregate of at least 6 months per year; and
- g. Court order is in place – prohibiting occupancy of the residential unit.

4.0 Responsibilities of Registered Owners in Determining Vacancy

4.1 All registered owners of residential units will be required to make an annual property status declaration in respect of the previous calendar year, by the prescribed deadline, advising the City whether the residential unit was:

- (a) a vacant residential unit (as described above in 1.0); and
- (b) whether it met the criteria of any of the exemptions set out in 3.0 above..

5.0 Deemed Vacancy

5.1 A residential unit will be deemed vacant and subject to the VHT in a taxation year, if the owner:

- fails to make a property status declaration;
- makes a false property status declaration;
- fails to provide information or fails to submit required evidence to the City; or
- provides false information or submits false evidence to the City.

6.0 Administration and Collection of the Vacant Home Tax:

6.1 The VHT will be administered and collected by the Revenue Services Division of the City of Toronto, including:

Preparing and issuing communications to registered owners, including notifications with instructions on how to make annual property status declarations for the purposes of the VHT;

Preparing and mailing billings, (including electronic billings) for payment of the VHT;
Receiving and collecting all tax revenues, providing financial reporting and reconciliation of amounts collected;
Undertaking collection and enforcement activities.

7.0 Collection, Penalties, Offences:

7.1 The VHT By-law will:

- (a) impose late payment penalties on all overdue VHT amounts owing at the same rate as is imposed for late payment of property taxes;
- (b) create an appeal/dispute resolution mechanism for the VHT;
- (c) create offences and set fines for conviction of such offences; and
- (d) provide authority for various collection and enforcement mechanisms.

8.0 Audit

8.1 The administration of the VHT will include regular auditing to ensure compliance with the by-law.

9.0 Date and Transition

9.1 The VHT will be effective for the 2022 calendar year, with property status declarations and collections being made in the following year, based upon 2022 vacancy status.

ATTACHMENT 2: ADDITIONAL TAX CONSIDERATIONS

Implications for Federal Capital Gains tax and Proposed National Vacancy Tax

As of 2016, the Canada Revenue Agency requires that the sale of a principal residence be reported as part of capital gains reporting in the year of sale. Under this requirement, the owner can designate any owned property as their principal residence at the time of reporting, in order to obtain the principal residence exemption.

The Federal Budget 2021 announced the intention to implement a national, annual 1 per cent tax on the value of non-resident, non-Canadian owned residential real estate that is considered to be vacant or underused. The tax is expected to be effective January 1, 2022. The tax will require all owners, other than Canadian citizens or permanent residents of Canada, to file a declaration as to the current use of the property, with significant penalties for failure to file. This new national tax is described in greater detail in this report

The City of Toronto vacant homes tax will have its own separate and distinct definitions of vacant and Principal Residence which are specifically and solely defined for the purpose of declaring property status and assessing the tax

As a result, it is expected that individual property owners will be required to declare separately for each tax. (National tax and Toronto tax).

Vacant Home Tax to be administered for vacant residential units

The Provincial enabling legislation included in the City of Toronto Act allows the City to levy the optional tax on vacant units on taxable residential property (including strata lots) and does not consider secondary units within a dwelling, residential property with multiple units (the residential property class includes up to 6 units) or vacant land with no improvements.

For example a house with a basement apartment or laneway house would not be subject to the tax if at least one of the units is occupied. Similarly, purpose built rental buildings within the residential class (up to 6 units) are treated as one parcel (one property tax bill) so the tax would not apply if at least one unit in the parcel is occupied. In the latter example, the City also has no means by which to determine the appropriate portion of the property's assessed value to apportion to any particular unit.

Additionally it is important to note that the tax would not apply to vacant land that is assessed residential by MPAC, but excludes parcels that are assessed as multi-residential.

Compliance with Short Term Rental By-law and regulations

Another likely source of homes that have been left vacant for substantial periods of time are homes that were being used as short-term rentals (STR) in properties that were not

the principal residence (i.e. the residence where one lives and uses for bills, identification, taxes and insurance) of an operator or "host". Properties that are solely used as STRs may otherwise be vacant when they are not being actively rented. Under Toronto Municipal Code, Chapter 547, Licensing and Registration of Short-Term Rentals ("Short-Term Rentals Bylaw"), the City regulates short-term rentals (rentals that last for less than 28 days), and restricts the rentals to principal residences (where the operator primarily lives).

The Short-Term Rentals Bylaw allows both homeowners and renters to register as a short-term rental operator. Operators can rent up to three bedrooms in their principal residence for an unlimited number of nights per year or the entire home for a maximum of 180 nights per year. Units that are not principal residences (such as investment properties) are not permitted to be rented on a short-term basis (i.e. less than 28 consecutive days) or listed on short-term rental platforms. It is expected that such units that were active in the marketplace prior to the regulations, may either be converted to longer-term rentals or be sold by the owner. In this regard, the Short-Term Rentals Bylaw may assist in reducing the number of vacant homes and increase the supply of rental units in the marketplace.

There is evidence that properties previously rented on short-term rental platforms may be beginning to move onto the long-term market in Toronto. In February 2021, the City commissioned research from McGill University's Urban Politics and Governance Research Group to support a City Council request to explore the conversion of short-term rentals to long-term affordable housing. This research identified 3,476 unique STR listings that were posted as long-term rentals between March and December 2020, and estimates that 42.2% of these have fully transitioned back to the LTR market. The overwhelming majority of listings that have transitioned were considered "commercial" operations (i.e. not the principal residence of the operator).

It is difficult to distinguish whether these trends are due to public health measures and travel restrictions imposed during the COVID-19 pandemic, or the impact of the compliance and enforcement phase of the City's STR regulations that began in January 2021. It will be critical for the City to continue assessing these impacts as public health measures are lifted and travel resumes

Vacant Derelict and Illegally Occupied Homes

Despite a property becoming vacant, all owners are expected to maintain their property in accordance with occupancy and safety standards. These standards are outlined in the Ontario Fire Code, the Ontario Building Code, and Toronto Municipal Code Chapter 629, Property Standards and Chapter 632, Property, Vacant or Hazardous.

Toronto Municipal Code, Chapter 629, Property Standards (the "Property Standards Bylaw") sets out minimum standards for all properties, including occupancy standards. For example, the Property Standards Bylaw prohibits the use of non-habitable areas, and prescribes a maximum number of persons by permitted room sizes, or the minimum floor area of a habitable room required for sleeping. The Bylaw also prohibits any person from using, occupying or permitting the use of a property if it does not conform to the standards prescribed in the Bylaw.

Vacant properties that are left unattended for prolonged periods of time may subsequently fall into disrepair and become hazardous. These vacant-derelict properties pose dangers to the health and safety of any person, and may negatively impact neighbourhoods and individuals by becoming dilapidated, causing hazards, becoming unsightly, becoming infested with pests, attracting trespassers, and/or affecting streetscapes and overall community standards.

Once a property becomes vacant-derelict, it is also subject to regulations in Toronto Municipal Code, Chapter 632, Property, Vacant or Hazardous (the "Vacant or Hazardous Property Bylaw"). For example, the Bylaw requires property owners to ensure the property is protected against the risk of fire, accident or other danger by ensuring unauthorized people cannot enter. Typically, this is achieved through the locking of doors, and boarding of windows. In addition, if a property remains vacant for a period of 90 days or more, the owner must ensure that all utilities serving the building are properly disconnected or otherwise secured to prevent accidental or malicious damage to the property or adjoining premises.

Municipal Licensing and Standards (MLS) is responsible for the enforcement of the Property Standards Bylaw, and the Vacant or Hazardous Property Bylaw. If a matter is referred to MLS, Bylaw Enforcement Officers investigate, educate property owners and/or take enforcement actions. The goal of enforcement is to ensure compliance.

If needed, further enforcement action may be used, such as issuing an order to comply, or a summons to court. In some instances, the City may also undertake remedial action to bring the property into compliance. The costs of remedial action are then added to the property tax roll of the property.

Should Vacant-Derelict Residential Properties be Subject to the VHT?

In consultation with MLS, it is recommended that vacant-derelict residential units should be subject to the VHT. This is because the prime objective of the VHT is to reduce the prevalence of residential units left vacant that might otherwise be used to increase housing availability and affordability. If the residential unit and property is uninhabitable (i.e. it does not meet occupancy and/or safety standards) for a prolonged period of time, then the VHT is a tool (in addition to the Vacant and Hazardous Properties Bylaw) that may encourage the property owner to undertake the steps necessary to make the property habitable for occupation, or if needed, to encourage the property owner to sell.

Illegally Occupied Homes

When a vacant-derelict property is left unattended for a prolonged period of time, it may become occupied by a person seeking shelter. Although it is occupied, it is still a vacant-derelict residential property, and the policy intention of the VHT still holds. That is, the VHT may encourage the property owner to undertake the necessary steps to make the property habitable. Moreover, the City should not indirectly benefit property owners who fail to comply with occupancy and/or safety standards (such as by failing to secure the property) by exempting them from the VHT. Therefore, vacant-derelict residential properties that are illegally occupied should be subject to the VHT.