



REPORT FOR ACTION

Implementing a Vacant Home Tax in Toronto

Date: June 5, 2017

To: Executive Committee

From: Deputy City Manager & Chief Financial Officer

Wards: All

SUMMARY

City Council at its meeting of May 24-26, 2017 requested a report on the feasibility of the City implementing a vacant home tax. Vancouver, facing similar housing affordability issues as Toronto, adopted an Empty Home Tax in late 2016.

The biggest challenge facing such an initiative is in identifying vacant residential units. Water or hydro meter data was originally collected for the purpose of determining appropriate billing amounts, and not for tracking the presence of individuals in specific residential units. The City would face significant restrictions due to individuals' privacy rights on the use of personal information contained in water or hydro meter to track the presence of individuals within a residential unit as a means of identifying potentially vacant units for tax purposes, as that was not the original purpose for the collection of the data.

Vancouver's administrative approach for identifying vacant units is to require all residential property owners to make a mandatory Status Declaration of their property on an annual basis. Owners are required to declare their property's occupancy status for the preceding year. Failure to declare status after a notice period would deem the property vacant and trigger tax liability ("negative billing"). Substantial penalties act as deterrence from making false declarations.

Other less intrusive administrative approaches to identifying vacant units could include a self-identification approach, and/or a complaint based approach. Under a self-identification approach, property owners would be encouraged to self-identify vacant units to the City for the purposes of the tax. A complaint based approach would have the City commence an investigation of a property where a complaint was received of suspected vacant units, to confirm compliance with the requirements of vacant unit tax by-law. Provision for substantial penalties could also be used as deterrence against failing to self-identify. These approaches, however, are likely to be less effective than requiring all property owners to complete a mandatory status declaration.

This report seeks Council direction on the potential implementation of a vacant residential unit tax in Toronto, and if so, which of the administrative approaches for identifying vacant units should be considered.

RECOMMENDATIONS

The Deputy City Manager & Chief Financial Officer recommends that:

1. City Council direct the Deputy City Manager & Chief Financial Officer to:
 - a. undertake consultation on the potential implementation and possible public policy benefits of a tax on vacant residential units in Toronto;
 - b. give consideration to tax design features that includes the following possible administrative approaches for identifying vacant units:
 - 1) The Vancouver Approach (i.e. mandatory declaration for all properties); or,
 - 2) Self-Reporting Model; and/or,
 - 3) Complaints Basis
 - c. report back to the September 26, 2017 Executive Committee meeting with the results of the public consultations, recommendations on whether to proceed with a Toronto tax on vacant residential units and, if such a tax is recommended, on detailed tax design.
2. City Council authorize the allocation of funding in the amount of \$75,000 from Non-Program Account NP2135 (Corporate Studies) for consulting and technical support to undertake public consultation regarding imposing a tax on vacant residential units in Toronto.

FINANCIAL IMPACT

Vancouver's principle objective for implementing their Empty Home Tax is to encourage owners to rent out empty units. Any net revenues raised from the tax will be dedicated to affordable housing initiatives. The tax by the City of Vancouver is not viewed as a revenue tool, rather, it is perceived as a public policy tool to incentivize the occupancy of vacant housing.

Funding in the amount of \$75,000 for consulting and technical support to undertake public consultation at this phase of this initiative is available in account NP2135 – Corporate Studies.

Funding to establish a city-administered program to levy an annual tax on vacant residential units will depend on City Council's direction in this regard, and will be reported on during the 2018 Operating and Capital Budget process if necessary.

DECISION HISTORY

On April 20, 2017, the Ontario Government announced a sixteen-point plan described as 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>

Prior to that announcement, at their meeting of April 3, 2017, the Affordable Housing Committee and the Tenant Issues Committee recommended to Executive Committee that the City Manager be requested to report to the Executive Committee in the second quarter 2017 on the number of vacant homes in Toronto, and in an effort to encourage the occupancy of these homes, the feasibility of the City implementing a vacant homes tax."

<http://www.toronto.ca/legdocs/mmis/2017/ex/bgrd/backgroundfile-102617.pdf>

<http://www.toronto.ca/legdocs/mmis/2017/ex/bgrd/backgroundfile-102641.pdf>

During consideration of this item on May 16, 2017, Executive Committee added to the request "including the feasibility of a tax on vacant residential lots."

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX25.11>

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 plan referred to earlier.

http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&Intranet=&BillID=4778

COMMENTS

Ontario's housing market has experienced unprecedented growth in recent years, with prices and rents in Toronto and the Greater Golden Horseshoe experiencing double-digit increases in each of the last several years. The average house price in Toronto has increased over 30% from a year earlier.

Many economists agree that this strong growth is supported by economic fundamentals, including a growing population, rising employment, higher incomes and very low borrowing costs. According to some analysts, there is also some evidence of speculation and foreign investment driving up prices. This experience is not unique to Toronto. Vancouver has been experiencing similar growth pressures, forcing the Government of British Columbia to take action last year through the introduction of a foreign buyer's home tax and amending the Vancouver Charter to permit an empty home tax, which has had some effect in slowing the growth rate of prices in the Greater Vancouver Region.

Ontario Government's Response to Housing Affordability

The Ontario Government has announced a number of actions including a sixteen-point plan to address a number of housing issues. These actions include:

- an increase in the refund of the Provincial Land Transfer tax (PLTT) to first time home buyers;
- an increasing in the PLTT rate for homes over \$2 million;
- the consideration of inclusionary zoning as part of residential developments;
- legislative amendments to encourage second suites;
- a new 15-per-cent Non-Resident Speculation Tax (NRST) on the price of homes in the Greater Golden Horseshoe purchased by individuals who are not citizens or permanent residents of Canada or by foreign corporations;
- permitting designated municipalities to introduce a vacant homes property tax to encourage property owners to sell unoccupied units or rent them out, to address concerns about residential units potentially being left vacant by speculators;
- permitting municipalities to impose a higher tax on vacant land that has been approved for new housing;
- addressing practices that may be contributing to tax avoidance and excessive speculation in the housing market; and,
- partnering with the Canada Revenue Agency to explore more comprehensive reporting requirements so that proper taxes are paid on purchases and sales of real estate in Ontario.

Vacant Homes Represent a Readily Available Source of Housing

Vacant housing represents a source of supply that could be made available immediately. The overarching objective of Vancouver's Empty Home Tax is to encourage owners to make these units available for rent.

There is no reliable estimate for the number of residential units that may be vacant in Toronto. Privacy legislation precludes access to personal information for purposes other than for the reason it was collected for, namely billing. Accordingly, water meter and hydro meter data cannot be used to identify potentially vacant residential units. In many instances properties are bulk metered rendering consumption data less useful in estimating vacancy levels. However, anonymized or aggregated consumption data may be used to provide a general estimate of potentially vacant units.

Statistics Canada 2016 census provides a count for Toronto for private dwellings (1,179,057) as well as a count for private dwellings occupied by usual residents (1,112,929), the difference being approximately 65,000 units, a figure reported in the media as the potential number of vacant units in Toronto. However, under the census definition, private dwellings include rental apartment units, which are not eligible to be taxed under the new legislation, so this figure is an inherent overstatement. This figure also includes units that are available for rent but were unrented at the time of the census, or whose occupants may have been temporarily absent at the time of the census.

Vancouver, during their pre-implementation phase, commissioned a consultant study which examined anonymized BC Hydro consumption data. The study found 4.8 percent of housing units were unoccupied for 12 months or more, representing potentially 10,000 empty units (of which 90 percent were condominium and apartments). Vancouver has approximately 200,000 residential units, approximately half being condominiums and the other half being single family homes.

Toronto has approximately 752,000 residential units, of which approximately 300,000 are condominium units. Analysis of aggregated water data and aggregated Toronto Hydro data suggests, if consumption is an indicator of vacancy, there may be in the order of 15,000 to 28,000 vacant residential units in Toronto (2% - 4% incidence rate).

Vancouver's Approach to Developing the Empty Home Tax

In July 2016, the Vancouver Charter was amended to give the city the authority to enact a by-law to impose a tax on empty homes. The recent amendment to the City of Toronto Act, 2006 (and Municipal Act for other Ontario municipalities) was largely informed from the Vancouver legislation.

Vancouver's learning in implementing the empty home tax is of benefit for other jurisdictions contemplating such a tax.

To ensure the tax would be appropriately targeted and fair, the City of Vancouver undertook significant consultation with property owners and the general public, and with subject matter experts in the real estate, academic and government fields. Outreach vehicles included open houses, workshops, direct mailings, and surveys.

Feedback from their stakeholder engagement indicated strong public support for an empty home tax. Support from renters was considerably higher than from owners.

Vancouver also engaged technical expertise on legal and administrative matters related to the empty home tax. They also reached out to other international jurisdictions that have adopted policies taxing vacant residential properties for their approaches and lessons learned.

Based on all the information and feedback, an approach for taxing empty homes emerged for Vancouver in the fall of 2016, which was presented to their Council for endorsement in principle, and further public consultation was undertaken before the empty home tax program was finalized and adopted by Vancouver Council in November 2016. That report can be viewed at:

<http://council.vancouver.ca/20161116/documents/cfsc6.pdf>

Effective January 1, 2017, homeowners in Vancouver will be liable for the empty home tax if their property meets the conditions of vacancy during the 2017 tax period. The vacancy tax is determined as 1% of assessed value. The actual billing will take place early in 2018 for residential units vacant or deemed vacant during 2017.

Vancouver estimated their start-up cost to implement the tax at \$4.7 million over the first 3 years, and thereafter normal annual operating costs of \$1.5 million. Vancouver's initial estimate of revenues is \$2.2 million annually.

City of Toronto to Consult on a Potential Residential Vacant Unit Tax

As a first step, this report seeks Council direction to undertake consultation on whether the City should pursue the implementation of a vacant residential unit tax and on the possible public policy benefits of such a tax. If implemented, a policy decision will need to be made on the choice of administrative tools to identify vacant units, having regard to the privacy rights of individuals and the degree to which the City wishes to examine the whereabouts of property owners for the purpose of administering this tax.

In addition to the administrative approaches for identifying vacant units, other questions to be asked as part of the consultation process should include:

- what are the conditions of vacancy that should be subject to the tax?
- what should the tax rate be?
- should there be exemptions from the tax?
- what is the best process for administering and collecting the tax?
- what should the audit and enforcement powers be?
- what is the appropriate dispute resolution mechanism?

This report recommends the City undertake public consultation on the potential implementation of a tax on vacant residential units, and such consultation will include consideration of options around program detail.

Vancouver's Empty Home Tax Program

The following section describes the details of Vancouver's Empty Home Tax Program.

1. Administrative approach to identify vacant units - mandatory declaration by all property owners

Vancouver's approach to identify vacant units is to mandate that all residential property owners declare their property status annually. Property owners that declare their properties were vacant for more than 180 days in the preceding year and did not meet the defined requirements for exemption will be subject to the tax. A property will 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, or provides false information.

All Vancouver residential property owners will be required to submit a Status Declaration for the 2017 period by February 2, 2018.

2. Principal residence of the owner will not be taxed if occupied for at least six months of the year

The Vancouver tax on empty homes does not apply to a residential property that is the principal residence of the owner or their permitted occupier (e.g. a family member), or occupied by a tenant or subtenant, so long that it is occupied for more at least six months of the year. If the property has been unoccupied for more than 180 days during the year, the tax applies even if it is a principal residence.

3. Tax Rate

The empty home tax rate was set at 1% of a residential property's assessed value. This tax rate is approximately the difference between Vancouver's residential and business tax rates.

The table below illustrates the impact in Toronto of a 1% tax on the average home and average condominium.

Comparison of Toronto Property Taxes and Potential Vacant Home Tax based on Vancouver Rate

	Property Taxes \$'s				Empty Home Tax at 1%
	2017 CVA	City	Education	Total	
Average Single Family Home	790,000	3,832	1,414	5,246	7,900
Average Condominium	380,000	1,843	680	2,523	3,800

4. Long term rentals will not be subject to the tax

Properties that are rented long-term, or for at least 30 consecutive days and a minimum of six months in the aggregate will not be charged the tax

Six months was considered by Vancouver as 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/six months in aggregate requirement would also address the requirements for the corporate rentals sector which provide worker accommodations for industries such as film and technology.

5. Mixed-use properties and multi-unit residential properties will not be subject to the tax if at least one unit is occupied

In Vancouver, mixed-class properties are not subject to the empty home tax, and multi-unit properties are not subject to the tax if at least one unit is occupied. Under the Vancouver legislation, the tax applies to "Class 1 Residential Properties", which includes rental apartment buildings (under BC Assessment). In Vancouver, rental Apartment buildings are effectively exempt from the tax if one unit is rented.

Ontario legislation provides that the vacant residential unit tax can only be imposed on units in the Residential Property Tax Class. In Ontario, apartment

buildings are under a separate property class (the Multi-Residential Property Tax Class), and are not subject to the tax.

6. Exemptions from the Tax

In Vancouver, if any of the following conditions are met, the property would not be subject to the tax:

- vacancy is due to a court order prohibiting occupancy
- property is undergoing major renovations
- ownership changed during the calendar year
- property is subject to existing strata rental restrictions
- owner or other occupier is undergoing medical or supportive care
- owner is deceased and grant of probate or administration pending
- owner used home for six months of the year for work purposes but claims principal residence elsewhere

7. Vacant Residential Land

In Vancouver, vacant land in Class 1 Residential Properties would be subject to the tax, but not if in a mixed-class property.

Vacant residential land is not addressed in the Ontario legislative amendments dealing with the vacant residential unit tax. Ontario legislation was specific by referencing 'residential units'. Instead, Bill 127 also amended the Assessment Act to permit municipalities to impose a higher tax on vacant land that has been approved for new housing (through Provincial regulation).

8. Audit and Powers of Investigation

In addition to identifying vacant units, the ability to audit potentially vacant residential units was also a challenging issue for Vancouver. The City, like Vancouver, would need to respect any applicable privacy rights of individuals in water and hydro billing information, which would effectively preclude the City's use of this data as part of a wide-spread process of auditing of the general public to determine whether a residential unit is vacant for tax purposes.

Under the Vancouver program, audits will be conducted on a random basis or specific criteria basis (e.g. exemption claims). If selected for audit, the owner will be required to provide information and evidence in support of occupancy or conditions of a defined exemption. Examples of the types of evidence Vancouver requires if a declaration is selected for audit may include but is not limited to:

- vehicle insurance and registration
- government-issued personal identification, such as a driver's license or health card
- medical services plan
- income tax returns and notices of assessment

- tenancy agreements
- wills, grants of probate, or grants of administration
- employment contracts, pay statements or records of employment
- verification of residence in long term or supportive care
- verification of educational enrolment form
- separation agreements
- court orders
- insurance certificates for homeowners or tenants insurance
- strata by-laws, minutes of strata meetings or records prepared or maintained by the strata
- affidavits regarding the status of the property

If a tax is to be implemented in Ontario, the request for any information must comply with the requirements of the Municipal Freedom of information and Protection of Privacy Act, which would be generally similar to British Columbia legislation.

9. Penalties and Enforcement

Property owners who have been found through audit or other means to have falsely declared occupancy will be subject to penalties in addition to the tax owing on the unoccupied unit. Vancouver has set a fine of not less than \$250 to not more than \$10,000 for each offence against persons who commit an offence under their Empty Home Tax by-law.

Penalties may also accrue to owners who have been assessed and billed the empty home tax for which payment has not been made within the prescribed due date. Vancouver has adopted a 5% penalty for failing to pay the tax on the due date. Further measures include adding the vacant home tax as a priority lien against the property, and ultimately to the City's collections procedures including tax sale.

The City of Toronto has special powers under the City of Toronto Act, 2006, to establish a system of fines for offences under by-laws that include the ability to establishing a minimum fine not exceeding \$500 and maximum fine not to exceed \$100,000 for each day the offence continues, as well as establishing escalating fines for subsequent convictions for the same offence. Also the City's system of fines allows for the establishment of "special fines" to be applied in addition to the other fines imposed for the offence. The purpose of the special fines would be to eliminate any economic advantage or gain achieved from contravention of the vacant home tax by-law.

10. Dispute Resolution

Homeowners who have been assessed the Empty Home Tax either through the audit process or through failure to self-declare, are afforded the opportunity to appeal the assessment. Vancouver will administer their dispute resolution process through a vacancy review panel created for this purpose.

Other Potential Administrative Approaches to Identify Vacant Units

Given the restrictions under privacy legislation, Vancouver's approach for administering the tax for the purposes of identifying vacant units is to require a mandatory declaration from every residential property owner. This affects 200,000 property owners in Vancouver.

Using Vancouver's administrative approach for identifying vacant units would mean requiring 752,000 residential property owners in Toronto to provide a declaration of their property status on an annual basis. Failure to declare would be deemed vacancy and trigger a tax liability. It is difficult to anticipate the significant administrative challenges associated with such an approach. In addition, it could be onerous for the City to administer and it may be felt to be intrusive by the majority of residential property owners who live in their homes as a principal residence. Volume, language and other barriers may lead to significant under reporting or misreporting by residents, which would then have to be corrected.

Other administrative approaches to identifying vacant units that could be considered include a self-identification reporting model and/or a complaints based approach. A self-identifying model would avoid the need for all property owners to report. Property owners would self-determine if their property meets the criteria of vacancy, and if so, to report such circumstance to the City for the purpose of the tax. Such an approach could be accompanied with substantial penalties, including special fines, to discourage tax avoidance. Identifying tax avoidance would however be challenging given the limited means by which a municipality can identify vacant units.

Responding to complaints regarding vacant properties is an option available under any approach. A municipality may use its general investigative powers to investigate any violations of its by-laws.

Program Alignment with Other Initiatives

- **Short-Term Rental Accommodation**

The City of Toronto is considering the regulation of short-term rental accommodation (e.g. AirBnB) through a concurrent initiative, including the possible imposition of a tax on such transient accommodation. Short-term rental accommodation is defined as stays of 28 days or less, and under the proposed zoning framework would be permitted only in the principal residence of the owner. The proposed framework also provides for a definition of principal residence.

Any consideration of a vacant residential unit tax in Toronto will need to align with the City's Short-Term Rental Accommodation initiative.

- **Derelict Homes**

The City's Municipal Licencing and Standards Division is currently investigating issues related to derelict properties in the City. A report back on vacant derelict properties is anticipated in the fall of 2017.

Next Steps

Consultation

As a first step, the City of Toronto will undertake consultation with property owners and the general public on whether Toronto should pursue implementing a tax on vacant residential units, and the possible public policy benefits of such a tax. Consultation methods will include open houses and surveys. Outreach will include social media and a dedicated website.

Toronto's Strategic Communications Unit and Public Engagement Unit will be supporting this consultation process. The feedback received through this process will be reported together with staff's recommendations pertaining to a possible city-administered program to levy an annual tax on vacant residential units at the September 26, 2017 meeting of Executive Committee.

Funding

This report recommends funding in the amount of \$75,000 for consulting and technical support and to undertake public consultation. Funding is available in account NP2135 – Corporate Studies – Corporate Finance.

Funding to establish a city-administered program to levy an annual tax on vacant residential units and related revenues will depend on City Council's direction in this regard, and will be reported on during the 2018 Operating and Capital Budget process if necessary.

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