




CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Policy Division

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| TO: | Mayor and Members General Issues Committee |
| COMMITTEE DATE: | February 2, 2022 |
| SUBJECT/REPORT NO: | Vacant Home Tax in Hamilton (FCS21017(b)) (City Wide) |
| WARD(S) AFFECTED: | City Wide |
| PREPARED BY: | Gloria Rojas (905) 546-2424 Ext. 6247 |
| SUBMITTED BY: | Mike Zegarac General Manager, Finance and Corporate Services Corporate Services Department |
| SIGNATURE: |  |

RECOMMENDATION(S)

- (a) That the Mayor and the General Manager, Finance and Corporate Services, be authorized and directed to request to the Minister of Finance that the City of Hamilton be a designated municipality under Part IX.1 Optional Tax on Residential Vacant Units, of the *Municipal Act, 2001* starting in the 2022 taxation year;
- (b) That the 2022 implementation costs estimated at \$2,600,000 for the Vacant Home Tax be funded through an internal loan plus interest from the Investment Stabilization Reserve (110046) to be repaid from revenues collected from the program over a 5-year term;
- (c) That the estimated gross annual operating costs of \$2,200,000 for administration of the Vacant Home Tax Program and related 16 Full Time Equivalents (FTE), to be funded from revenues generated by the program, be referred to the 2022 Budget Process.
- (d) That the matter respecting Vacant Home Tax, be removed from the Outstanding Business List.

EXECUTIVE SUMMARY

Following direction from City Council, staff prepared Information Reports (FCS21017, “Considerations to Implement a Vacant Home Tax in Hamilton” and FCS21017(a) / PED21114, “Considerations to Implement a Vacant Home Tax in Hamilton”) regarding the possibility of implementing a tax on properties that have been left unoccupied for a period of time (Vacant Home Tax or VHT). A motion was approved for staff to report back with a draft by law, guidelines and framework for public consultation and consideration (GIC July 5, 2021, Report 21-014. Report FCS21017(b), “Vacant Home Tax in Hamilton”, presents the results of the public engagement conducted from September 7 to 30, 2021, as well as, a high level estimate of the financial implications of imposing the tax and a draft framework of the program and makes recommendations on next steps for Council’s consideration.

Under Ontario’s Fair Housing Plan of 2017, the Province announced a series of measures to address a number of housing issues including permitting designated municipalities to impose a tax on vacant homes in order to “encourage property owners to sell unoccupied units or rent them out, to address concerns about residential units potentially being left vacant by speculators”. A tax on vacant houses is, therefore, designed primarily as a housing tool rather than a revenue tool. The main objective of implementing a VHT is to encourage owners to rent out empty properties in order to increase the supply and affordability of housing.

The only jurisdiction in Canada that has a similar tax is Vancouver, with the Cities of Toronto and Ottawa currently working on implementing this tax starting in 2022. Staff has prepared analysis on the possible implementation of a VHT in Hamilton following the experience and previous analysis from these municipalities.

Part IX.1 of the *Municipal Act, 2001* contains provisions permitting municipalities to impose a tax for vacant units that are classified in the residential property class and that are taxable under that Act for municipal purposes. However, a municipality has to be designated by the Province in order to be able to impose such tax. Therefore, if the City of Hamilton would like to impose a Vacant Home Tax, the first step would be to submit a request to the Minister of Finance for this purpose.

Staff is estimating that approximately 1,135 properties would be taxed for the first year of this program, which would result in a revenue of \$4.3 M based on a 1% rate at the current average residential assessment of \$381,000. Initial upfront implementation costs

are estimated at \$2.6 M and ongoing operating costs are estimated at \$2.2 M annually. For 2022, costs are prorated as not all of the required staff need to be hired immediately. Some resources, such as IT analysts, may be needed earlier in the implementation while other staff could be hired later.

It is estimated that upon full implementation of the program, 16 Full Time Equivalents (FTEs) will be required to support the implementation and ongoing operation of the VHT program. Staff is recommending that the one-time implementation costs be funded through an internal loan from the Investment Stabilization Reserve (110046) to be repaid with a portion of the revenues collected. Over the next six years, it is estimated that the program will provide the City with a net revenue of \$3.3 M to be invested in City priorities as identified by Council.

Appendix “A” to Report FCS21017(b) – City of Hamilton Vacant Home Tax Draft Framework contains the draft details including the proposed definition of a vacant home, identification of the properties, the proposed tax rate and possible exemptions to the tax.

With the purpose of getting input on the need to implement the VHT, an online survey in the Engage Hamilton platform was launched from September 7, 2021 to September 30, 2021. A total of 3,860 responses were recorded in the webpage showing strong support for the tax (91.4%), with 80.7% supporting a mandatory declaration and 52.7% supporting a tax rate of 2% or more. Details of the survey are included in Appendix “B” to Report FCS21017(b) – Project Details and the response from the West End Hamilton Builders Association is included in Appendix “C” to Report FCS21017(b) – WE HBA Submission.

In Report FCS21017(a) staff is recommending that Council authorizes the initiation of the process in 2022 by seeking designation for the City of Hamilton to impose the Vacant Home Tax, by hiring the necessary staff (16 FTEs) to design and implement the VHT program.

Alternatives for Consideration – Page 12

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Staff is estimating that if a tax of 1% of the property assessed value of the property was imposed, the City could receive \$4.3 M in VHT revenue in the

first year the tax is imposed. Staff is recommending that the implementation costs estimated at \$2.6 M be borrowed from the Investment Stabilization Reserve (110046) and repaid from VHT revenue plus interest once the City starts collecting the tax in the 2023 tax year over five years. The annual program administration costs estimated at \$2.2 M annually will be funded from the VHT revenue. Two scenarios are illustrated in Tables 1 and 2 later in Report FCS21017(b).

Staffing: Staff is estimating that the program, once fully implemented, will need 16 FTEs to cover the annual administration of the VHT program including audit and appeals, IT support and maintenance and customer service.

Legal: In order to proceed with the program, the City will need to be designated under Part IX.1 of *the Municipal Act, 2001*. Other legal requirements of the program include an annual by-law.

HISTORICAL BACKGROUND

At its meeting of December 11, 2019, Council approved a motion directing staff to review the feasibility of imposing a tax, fee or charge to the owners of vacant properties (GIC Report 19-026, Item 12.1).

Staff prepared Report FCS21017, “Considerations to Implement a Vacant Home Tax in Hamilton” which presented information on the implications of imposing a vacant home tax in the City of Hamilton. Staff received further direction to prepare a report on using the Vacant Building Registry as a means to identify vacant homes (GIC February 25, 2021, Report (Budget) 21-002(j)).

Report FCS21017(a) / PED21114, “Considerations to Implement a Vacant Home Tax in Hamilton” provided information on the Hamilton Vacant Building Registry, as well as, additional information on the implementation of a vacant home tax in Vancouver, Ottawa and Toronto, the housing information from the 2016 Census and an update on Hamilton’s rental market. A motion was approved for staff to report back with a draft by-law, guidelines and framework for public consultation and consideration (GIC July 5, 2021, Report 21-014).

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Part IX.1 of the *Municipal Act, 2001* contains provisions permitting municipalities to impose a tax for vacant units that are classified in the residential property class and that are taxable under that Act for municipal purposes. To be able to impose such tax, a municipality must be designated by regulation. Currently, the only municipality in Ontario that has the power to impose the tax is the City of Toronto, through the *City of Toronto Act, 2006*.

If the Council of the City of Hamilton would like to impose a Vacant Home Tax, the first step would be to submit a request to the Minister of Finance that the City be designated under Part IX.1 of the *Municipal Act, 2001*. The designation would have to be in place no later than the year in which the tax is imposed. Other provisions needed to impose the tax include a by-law passed in the year to which it relates stating the tax rate, definition of a vacant home, exemptions, rebates, as well as, audit and inspections powers.

RELEVANT CONSULTATION

The Financial Planning, Administration and Policy Division with the support from Corporate Communications conducted a “Vacant Home Tax” online engagement project with the goal of getting input from interested stakeholders on the need to implement a tax on properties that are left vacant for a certain period of time, as well as, the issues to consider in implementing such a tax.

An online survey in the Engage Hamilton platform was launched on September 7, 2021 and closed on September 30, 2021. The communication plan included the following:

- E-mail to City Council
- Media release
- Social media posts during the length of the survey
- Digital signage around the City
- Communication with external stakeholders (Realtor’s Association of Hamilton-Burlington, Hamilton and District Apartment Association and West End Home Builders' Association)
- Printed surveys were available at City Hall and the Municipal Service Centres

The Engagement Hamilton website had 5,400 visitors including:

- 5,043 visited a project or tool page
- 4,098 visited multiple project pages, downloaded documents or contributed to a tool
- 3,860 participated in survey
- 7 printed surveys were also received from the Municipal Service Centres

A summary of demographic findings is below:

- females represented 48.4% of the respondents while 44.5% were male, 7.1% non-binary or preferred not to answer
- the age groups with the highest representation were 25-44 (58.6%) and 45-64 (25.6%)
- the three wards with the highest representation in the survey were Ward 3 (21.1%), Ward 1 (14.6%) and Ward 2 (12.6%)
- 94.9% of respondents reside in the urban areas of the City while 5.1% reside in rural areas
- 66.8% of respondents own their residence while 33.2% rent

Some of the highlights in the findings of the survey are below:

- 91.4% of respondents support the idea of a vacant home tax
- 71.5% think that the number of vacant homes in Hamilton is negatively impacting the supply of affordable housing
- 80.7% support a mandatory declaration
- 52.7% support a tax rate of 2% or more
- there was strong support for the City to consider a variety of exemptions to the residential vacant unit tax

Detailed survey results can be found in Appendix “B” to Report FCS21017(b) – Project Report, 07 September 2021 – 30 September 2021 – Engage Hamilton – Vacant Home Tax.

As part of the engagement process, staff also met with representatives from the West Hamilton Home Builders Association who provided their input on the possible implementation of the tax. In their comments, which are included in Appendix “C” to Report FCS21017(b), WE HBA Submission, they express that “WE HBA does not

believe that the number of vacant homes in Hamilton is significantly impacting the supply of affordable housing in Hamilton and that the growth in the supply of new housing units is the best method to address the housing crisis, as new supply continues to lag behind our population growth in the GTHA”.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

Draft VHT Framework

Staff has developed an initial framework for the VHT. Should Council decide to implement the tax, staff will undertake further study and develop a complete framework which will be presented to the Ministry of Finance in order to support the City’s request to be authorized to impose the tax. Once the City has been designated by regulation, detailed policies and the supporting by-laws containing the details of the program as approved by the Ministry of Finance will be prepared for Council consideration.

If the recommendations are adopted, the first reference year could be 2022 and mandatory declarations regarding the status of the properties would have to be completed early in 2023. The properties that are deemed or declared vacant would be billed in June of 2023 at a rate determined by Council in addition to the applicable property tax rate.

The tax would apply to properties in the residential property class according to MPAC’s classification (RT) that have been unoccupied for more than six months during the preceding calendar year. Apartments (MT or NT property classes) and vacant land are not included.

There are a number of exemptions that could apply, based on exemptions identified by other jurisdictions including:

- A residential property that is undergoing renovations and has the appropriate building permits
- A residential property that is vacant due to the death of the owner(s)
- A residential property that is vacant because the occupant was residing in a healthcare facility for medical care
- A residential property that is vacant because it is under a court order prohibiting the owner from selling, occupying or renting the property
- A residential property that has been listed for sale and unoccupied during this time

- A property transferred under a non-arm's length sale in the previous calendar year
- A residential property that has been listed for rent and unoccupied during this time
- A federal or provincial court order prohibiting occupancy, sale or rental of a property

Appendix "A" to Report FCS21017(b), Draft Framework, contains additional details on some of the items that need to be considered and defined for the implementation of the tax.

Estimated VHT Revenue and VHT Program Costs

One of the most challenging components of implementing the vacant home tax is the unknown number of empty properties that would be eligible for the tax in the City. However, based on the experience from Vancouver, which is the only municipality in Canada that has already implemented the tax and has a similar number of residential properties to Hamilton but different and higher average residential assessed values, as well as, the analysis by the City of Ottawa's staff, which is in process of implementing the tax, staff estimated the number of properties that could be taxed under this regime.

In 2017, the year Vancouver imposed the tax, there were 186,038 total residential properties and based on the 2016 Census, there were 25,202 unoccupied properties. However, ultimately 2,538, which is 10% of the unoccupied properties, were actually deemed vacant and were charged the tax.

Hamilton has 176,000 residential properties and according to the 2016 Census, 11,350 dwellings were unoccupied. If Hamilton follows the same trend as Vancouver, the City would have approximately 1,135 properties that would pay the vacant home tax. Under this estimate of 1,135 residential units being subject to the VHT and based on the average residential assessment of \$381,000, the City could expect to receive \$4.3 M in revenue in the first year the tax is imposed, assuming a 1.0% tax rate.

A portion of the revenues generated would be used to fund the administration of the program. Implementation costs include the development of the software for the taxation and collection systems, as well as, the mandatory declaration, the development of the administrative processes for the program, the audit and the appeals process and education and awareness campaigns. Staff is estimating that the implementation costs will be approximately \$2.6 M in 2022 and annual operating costs of \$2.2 M, which include 16 new FTEs, billing, printing, communication, audit and dispute resolution costs, as well as, interest on the loan. A significant portion of the operations is the

compliance function as every property that declares an exemption must be audited. Vancouver initially estimated 10 FTEs for the compliance function (audit) but this number has been increased to 15 FTEs. The City's estimate includes eight FTEs for this purpose.

In Ottawa, staff estimate that the start-up costs will be \$3.5 M over 2.5 years, after which, the ongoing operating costs would be \$1.3 M annually. In Vancouver, the start-up costs were \$7.5 M and after that, \$2.5 M for the ongoing annual operating cost of running the program.

Table 1 outlines a summary of the preliminary estimate on the net revenue that the program will generate in the first six years. Following Vancouver's experience, the estimate assumes a reduction of 20% in the number of eligible properties in the first year, followed by a gradual reduction of 5% every year. This annual reduction in the number of properties being taxed is a way to measure the success of the program.

Although the number of properties is expected to decrease every year, costs do not decrease as some of the costs are related to the maintenance of the IT solution and the printing and mailing of the declarations which do not depend on the number of properties paying the tax. The bulk of the associated costs are for the staff who will be administering the program and still have to review all the declarations (approximately 176,000 as of 2021), perform the audits, follow up on payments, etc. which are tasks that must be completed regardless of the number of properties that have to pay the tax in any given year.

Table 1
Estimated Total Vacant Units, Tax Revenues and Program Costs
(Assumed 1,135 Properties and 1% Tax Rate)

| | Number of Properties | Estimated Revenue | Estimated Expenses | Net Revenue |
|--------------|-----------------------------|--------------------------|---------------------------|---------------------|
| 2022 | | | \$ 2,556,427 | \$ (2,556,427) |
| 2023 | 1,135 | \$ 4,324,000 | \$ 2,201,000 | \$ 2,123,000 |
| 2024 | 908 | \$ 3,459,000 | \$ 2,227,000 | \$ 1,232,000 |
| 2025 | 863 | \$ 3,287,000 | \$ 2,255,000 | \$ 1,032,000 |
| 2026 | 819 | \$ 3,122,000 | \$ 2,284,000 | \$ 838,000 |
| 2027 | 778 | \$ 2,966,000 | \$ 2,313,000 | \$ 653,000 |
| Total | | \$ 17,158,000 | \$ 13,836,427 | \$ 3,321,573 |

The actual cash flow per year will depend on the schedule to repay the loan from the reserves. The remaining funds would be available for Council priorities. It is important to recognize that the residential market is strongly related to the composition of the population as properties owned by non-residents are more likely to be left vacant for speculative purposes. The 2016 Census showed that in Vancouver 15% of the population were non-Canadian citizens and 5% were not residents. In contrast, in Hamilton, only 6% of the population were non-Canadian citizens and only 1% were not residents. Based on these statistics, staff believes that having only 0.5% of the properties (880 properties) paying the tax is also a possibility. For additional context, Ottawa has 307,000 residential properties and is estimating that only 1,500 properties, which is 0.5% of total, would be subject to the tax.

Table 2 shows the net revenue over the next six years of the program with an estimate of 880 properties paying the tax, which is equivalent to 0.5% of the total residential properties and is the parameter that Ottawa is using for their estimates.

**Table 2
Estimated Total Vacant Units, Tax Revenues and Program Costs
(Assumed 880 Properties and 1% Tax Rate)**

| | Number of Properties | Estimated Revenue | Estimated Expenses | Net Revenue |
|--------------|-----------------------------|--------------------------|---------------------------|---------------------|
| 2022 | | | \$ 2,556,427 | \$ (2,556,427) |
| 2023 | 880 | \$ 3,353,000 | \$ 2,201,000 | \$ 1,152,000 |
| 2024 | 704 | \$ 2,682,000 | \$ 2,227,000 | \$ 455,000 |
| 2025 | 669 | \$ 2,548,000 | \$ 2,255,000 | \$ 293,000 |
| 2026 | 635 | \$ 2,421,000 | \$ 2,284,000 | \$ 137,000 |
| 2027 | 604 | \$ 2,300,000 | \$ 2,313,000 | \$ (13,000) |
| Total | | \$ 13,304,000 | \$ 13,836,427 | \$ (532,427) |

Under this scenario, the revenues will not be sufficient to cover the expenses of the program in the mid-term. While the main objective of the program is to increase the stock of properties by creating an incentive to rent or sell unoccupied properties, it is important to note that there would not be funds available from this program to dedicate to City priority initiatives.

The implementation costs of the program have not been included in the 2022 capital or operating budgets and, staff is recommending that, should Council wish to pursue implementation of a Vacant Home Tax Program, these costs be borrowed from the Investment Stabilization Reserve and be repaid with the revenue generated from the program which the City will start receiving in 2023.

The estimated 16 FTE's are being referred to the 2022 budget process for consideration. Some of these FTE's need to be hired early in the process to support the creation, set up and implementation of the program, while others would need to be hired and trained by the end of Q4 2022 to be ready for the administration of the program.

Administrative Considerations

As staff continues to work on a framework for the program, there will be a number of administrative considerations that will need to be developed, including:

- Job descriptions for positions responsible for the program
- Audit and enforcement processes
- Appropriate dispute resolution mechanism
- Development of a billing and payment system
- Development of a reporting system
- Annual coding of properties
- Record keeping of mailed declarations versus received responses
- Ensuring that property owners get the declaration
- What penalties are appropriate
- How this will affect seniors

Municipal Property Tax Billing Software

In February of 2020, Council authorized the Taxation Section's participation in the Early Adopter Program for a realty tax billing and collections solution with Tempest Development Group (a division of Central Square Technologies) as this allowed the City to have some input into the final product, while not committing the City in any way (Report FCS20006, "Municipal Property Tax Billing Software"). Taxation will report back to Council with the results of the program and recommendations on how best to proceed with respect to the property tax billing software.

Should Council decide to approve the implementation of the VHT for the 2022 taxation year, it will have to be done in the current system (Vailtech) and will require significant support from internal IT resources. This investment may be of short-term value if the City chooses a new property tax billing software by 2023.

Federal Under-used Housing Tax (UHT)

In the 2021 Federal Budget, the federal government announced its intention to implement, effective January 1, 2022, a national, annual 1.0% tax on the value of non-resident, non-Canadian owned residential real estate that is considered to be vacant or underused. Consultations with stakeholders took place between August 6, 2021 to September 17, 2021. This 1.0% tax would go into effect on January 1, 2022, to help support investments in housing affordability.

Under the proposed framework, the UHT would apply in respect of a calendar year to an “owner” of “residential property” in Canada as of December 31 of the calendar year if: (1) the owner is required to file an annual declaration in respect of the property for the calendar year; and (2) the owner is not eligible to claim an exemption in respect of their interest in the property for the calendar year.

Every owner of a residential property, other than an excluded owner, would be required to file an annual declaration with the Canada Revenue Agency (CRA) for each residential property they own on or before April 30 of the following calendar year. This means that an owner’s declaration in respect of a property for the 2022 calendar year would be required to be filed on or before April 30, 2023.

While the City acknowledges that there may be a property which is subject to both the City’s Vacant Home Tax and the federal government’s Underused Housing Tax programs once both are in place, the City is in no position to control any issues regarding the federal program.

ALTERNATIVES FOR CONSIDERATION

Alternative: Implement a Vacant Home Tax Program in 2023 rather than in 2022

Under this alternative, the implementation of the VHT would begin in mid-2023 with 2024 being the first year to collect the Vacant Home Tax.

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Financial: Potential VHT revenues will be available beginning in 2024. Estimated costs will be reviewed and may change based on any new information available between January 2022 and January 2023 when another report would be written.

Staffing: Existing City of Hamilton staff who are working on the planning phase of the VHT program and would be working on the design and implementation of the VHT program would continue to work on the planning phase of the VHT in 2022 along with other priorities.

Legal: The legal considerations of the recommended VHT program will continue to apply under this alternative but would be deferred for one year.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report FCS21017(b) – City of Hamilton Vacant Home Tax – Draft Framework

Appendix “B” to Report FCS21017(b) – Project Report, 07 September 2021 – 30 September 2021 – Engage Hamilton – Vacant Home Tax

Appendix “C” to Report FCS21017(b) – WE HBA Submission dated September 28, 2021