



INFORMATION REPORT

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	February 25, 2021
SUBJECT/REPORT NO:	Considerations to Implement a Vacant Home Tax in Hamilton (FCS21017) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Gloria Rojas (905) 546-2424 Ext. 6247
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

COUNCIL DIRECTION

Council at its meeting of December 11, 2019 approved GIC Report 19-026 from its meeting on December 9, 2019 and the following motion:

Feasibility of the Municipality Imposing a Tax Fee or Charge to the Owners of Vacant Properties (Item 12.1)

“Staff was directed to review the feasibility of the municipality imposing a tax, fee or charge to the owners of vacant residential properties to encourage occupation of those properties, and report back to the General Issues Committee during the 2021 Capital Budget process”.

INFORMATION

Report FCS21017 presents information on the implications of imposing a vacant home tax in the City of Hamilton. It addresses legal considerations of a tax or user fee or charge, the purpose of the Vacant Home Tax, potential financial impacts, considerations to define and identify vacant homes and the process taken by the cities of Toronto and Vancouver to impose a Vacant Home Tax (“VHT”).

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

Legal Considerations

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*. In November 2020, City of Toronto staff presented a report recommending the implementation of a Vacant Home Tax (“VHT”) commencing in the 2022 taxation year. The only other municipality in Canada currently charging a similar tax is the City of Vancouver which implemented the Empty Homes Tax (“EHT”) in 2017.

Both Toronto and Vancouver have conducted extensive consultation with property owners and renters and have engaged subject matter experts in real estate, technology and legal matters in order to define their approach to the VHT and EHT, respectively.

The *Municipal Act, 2001* does not authorize designated municipalities to impose a fee or charge in respect of vacant residential units. A municipality’s authority to impose a fee or charge is found in Section 391 of the *Municipal Act, 2001* which permits a fee or charge only in the following circumstances:

- a) for services or activities provided or done by or on behalf of it;
- b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and
- c) for the use of its property including property under its control.

If the Council of the City of Hamilton would like to impose a VHT, 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*. 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.

It is worth noting that the effect of a VHT will not be immediate and significant lead time is required to effectively implement it since all the features of the VHT will need to be clearly defined – the administrative, IT and audit functions will have to be developed and the public will have to be informed and educated on the tax.

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Purpose of the Tax

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.

In practice, whether a VHT could achieve the objective of increasing the availability and affordability of housing is still unclear. In Vancouver, data suggests that many of the taxed vacant houses were properties which assessment was higher than the average and could not be classified as affordable housing units. An important design feature of a VHT is, therefore, the monitoring and measuring of the number and type of properties that transition from unoccupied to the rental or affordable market.

Regarding the availability of housing in Hamilton, according to the Rental Market Report released on December 2020 by the Canada Mortgage and Housing Corporation (CMHC), the overall vacancy rate in the Hamilton Census Metropolitan Area is 3.9% and the average monthly rent is \$1,133. The report concludes that:

“Greater competition from new student housing and more condominium rentals, as well as a greater number of renters transitioning into homeownership, led to a higher vacancy rate. The average rent increase in apartment structures surveyed in both 2018 and 2019 was 5.3%. Despite a higher number of vacancies this year, options were limited enough for asking rents on vacant units to be significantly higher than rents on occupied units.”

The 3.9% vacancy rate is for both the primary and secondary markets. The primary rental market only includes rental units in privately-initiated apartment structures containing at least three rental units. The secondary rental market covers rental dwellings that were not originally purpose-built for the rental market, including rental condominiums.

A secondary outcome of the VHT would be additional revenue for the municipality. In furthering the alignment of the VHT with the goals of increased housing supply and affordability, both Toronto and Vancouver are proposing to use the net revenue from this tax to fund affordable housing initiatives.

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Potential Financial Impact

The financial impact would depend on the number of properties subject to the VHT and, in fact, identifying vacant units is the biggest challenge for the implementation of the tax.

According to the study “A Review of Issues to be Considered for the Taxation of Vacant Homes in Toronto”, prepared by KPMG for the City of Toronto in March 2020 and updated in November 2020, the number of vacant homes in Toronto is unknown, at this time, but assuming that 1% of the housing stock is vacant and assuming a 1% tax, the gross revenue could be between \$55 M and \$66 M. Toronto also estimates that implementation costs could be between \$10 M to \$13 M over a two-year period. Some of the implementation costs relate to the development of a payment and reporting system, public awareness campaigns, business support, technical and professional services and hardware and software costs.

As part of the ongoing operations, Toronto will also need to hire staff to take care of the tax administration, review and compliance, appeals and dispute resolutions, communications, IT support and maintenance, a call centre and maintenance.

According to the same study, Vancouver raised \$38 M in 2017 and \$39.8 M in 2018. Implementation costs were \$7.4 M and annual administration costs are \$2.9 M.

Given the differences in size and housing market availability and affordability between the City of Hamilton and Toronto and Vancouver staff expect that the VHT would yield significantly different financial impacts. The City would face the same issue of difficulty in identifying vacant units.

Applying the same method used by the City of Toronto for a high-level estimate, Hamilton would have approximately 1,765 vacant units (1% of the total 176,500 residential units). Based on an average assessment of \$381,000 and a 1.0% tax rate, Hamilton could receive revenues of approximately \$6.7 M. Based on a 3.0% tax rate, the revenue could reach up to \$20.2 M. Implementation and operating costs will have to be carefully examined in order to determine if the implementation of the tax is financially sound.

While the desired outcome of the VHT is to increase the availability of housing, if the VHT is effectively moving vacant homes into occupied homes, this will result in a decreasing revenue from this source over time.

Defining and Identifying “Vacant Home”

According to Ontario’s legislation, the VHT can only be imposed to properties in the residential property class, which includes condominium units. Rental apartment units and vacant land would not be subject to the tax.

Vancouver’s definition of “vacant” is a property that has been unoccupied for more than six months during the previous calendar year. The six months of vacancy do not need to be continuous nor does the occupant need to be the same occupant over the six-month period. Occupancy must occur in periods of at least 30 consecutive days or more and it is not enough that the property was simply available for occupation (i.e. listed as a short-term rental).

Toronto is considering a similar definition as this period of time acknowledges circumstances for which an individual may spend an extended period of time outside of their home such as work or study obligations or spending time at seasonal properties (cottage, warmer climates). Also, as a reference point, Ontario residents may be temporarily outside of the country for no more than 212 days in a 12-month period in order to maintain Ontario Health Insurance Plan (OHIP) coverage.

Acknowledging that there may be some special circumstances for a home to be vacant for an extended period of time, Toronto is considering exemptions to the VHT. Some possible exemptions are:

- Vacancy due to renovations
- Vacancy due to court order
- Vacancy due to strata rental restrictions
- Owner is deceased
- Owner or resident is undergoing supportive care
- Ownership changed during the calendar year

Identifying vacant units is the most challenging piece for the implementation of the VHT. Data from hydro or meter readings cannot be used due to privacy restrictions.

Statistics Canada provides a count of total dwellings and private dwellings occupied by usual residents. However, the definition of private dwelling includes rental apartments which are not covered under the legislation. The Canada Mortgage and Housing Corporation report previously referred also includes apartment rentals and, therefore, these two sets of data overstate the number of units that could be subject to the VHT.

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Vancouver has opted for a mandatory self-declaration where all residential property owners are required to make a declaration on the status of the property on the preceding year. If no declaration is made, the property is deemed vacant. Substantial penalties have been put in place to deter property owners to make false declarations. Toronto is considering either the “Universal Declaration” approach, where all residential property owners are required to make a declaration or the “Self-identification” approach, where only residential property owners with vacant properties are required to make a declaration.

While the Universal Declaration approach would likely result in a relatively low evasion rate, it requires a significant administrative effort in terms of day-to-day operations, as well as, audit and compliance and it also requires an extensive public education and awareness campaign. The Self-identification approach requires a lower administrative effort but has a higher risk of avoidance and also requires more education / public awareness and a higher level of enforcement.

Other Tax Design Features

Ontario’s legislation requires that a designated municipality prepare an annual by-law stating the definition of vacant home, exemptions, the tax rate, rebates, as well as, audit and inspections’ powers. Appendix “A” to Report FCS21017 summarizes Toronto’s and Vancouver’s approach to the design of the VHT / EHT.

Measuring Effectiveness

In order to measure the effectiveness of the VHT, annual reporting and monitoring of the annual declarations must be built into the design of the tax while keeping the goals of the tax in mind. For example, the VHT would not be considered successful if the revenue is collected but the number of vacant homes does not decrease. Additional analysis on how the vacancy rates trend over time and how market rates are changing will aid in measuring the success of the tax.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report FCS21017 – Vacant Home Tax Features – Jurisdictional Assessment

GR/dt