



ADMINISTRATIVE REPORT

Report Date: February 8, 2019
Contact: Melanie Kerr
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VanRIMS No.: 08-2000-20
Meeting Date: February 27, 2019

TO: Standing Committee on Policy and Strategic Priorities
FROM: General Manager, Finance, Risk and Supply Chain Management/CFO
SUBJECT: Improving the Effectiveness of the Empty Homes Tax

RECOMMENDATION

- A. THAT Council approve amendments to Vacancy Tax By-law No. 11674 (the "Vacancy Tax By-law") as described in this report and instruct the Director of Legal Services to bring forward for enactment a by-law to amend the Vacancy Tax By-law generally as set out in Appendix A.
- B. That Council direct staff to complete the Empty Homes Tax (EHT) review as outlined in this report and return to Council with recommendations in the fall of 2019.

REPORT SUMMARY

On January 30, 2019, Council approved a motion directing staff to report back to Council with a plan to review and improve the fairness and effectiveness of the EHT. This report outlines a plan to review the fairness and effectiveness of the EHT exemptions and definitions and considers the timeline for providing information on the impact of increasing the EHT rate. The report also recommends immediate approval of certain by-law amendments to clarify or change existing definitions and exemptions to be effective for the 2019 tax year. The report recommends that additional potential amendments be the subject of further public consultation or internal analysis before a recommendation is made. The recommended timeline to report back to Council with further recommendations is fall 2019.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

Part XXX (Sections 615-622) of the *Vancouver Charter* provides authority for Council to, by by-law, impose an annual vacancy tax.

On November 16, 2016 Council approved and enacted the Vacancy Tax By-law to levy a tax on empty and under-utilized class 1 residential properties within the City of Vancouver. The first tax year was 2017.

On July 11, 2017 Council enacted By-law No. 11855 to amend the Vacancy Tax By-law following program design and public feedback.

On October 30, 2018 Council enacted By-law No. 12287 to further amend the Vacancy Tax By-law in order to provide clarifications to existing exemptions following the commencement of the first year of declaration, audit and compliance work.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

REPORT

Background/Context

The EHT is a tax on empty and under-utilized class 1 residential properties in the City of Vancouver. Homes or land that are determined or deemed to be empty or vacant are subject to a tax of 1% of the property's assessed taxable value. The EHT is applied annually, with the first tax year having begun on January 1, 2017. Most residential properties are not subject to the tax, including homes that are principal residences or rented out for at least six months of the year; or homes that are eligible for one of eight exemptions as set out in the by-law.

The goal of the EHT is to return empty or under-utilized properties to use as long-term rental homes for people who live and work in Vancouver. The EHT was designed with this objective in mind. All net revenues raised from the EHT may only be used for the purposes of initiatives respecting affordable housing. The EHT was the first tax of its kind in North America.

On January 30, 2019, Council approved a motion directing city staff to report back to Council with a plan to review and improve the fairness and effectiveness of the EHT in achieving the objective of returning empty and underutilized properties to the market as long-term rental homes for people who live and work in Vancouver. The motion directed staff to consider the by-law exemptions and definitions, the impact of the Provincially-imposed Speculation and Vacancy Tax, the potential impact of a rate increase and recommendations for public consultation and further internal analysis. In addition, the motion requested data on the number of underutilized homes that have been returned to the market as rental homes along with metrics to track the number of properties being made available for long-term rental; and options for creative use of vacant land.

Staff have gathered significant information on the fairness and effectiveness of the EHT through ongoing review of complaints, phone calls received by 311, and through interactions with property owners as part of the audit and compliance program. Information gathered through these direct interactions with individuals subject to the EHT has helped inform the plan for review of the EHT. In some instances, further specific

public consultation is required, while in many instances staff already have significant data and information provided directly through the compliance process.

CMHC Rental Market Report

The Canada Mortgage and Housing Corporation (CMHC) collects data on the primary and secondary rental market annually in the fall of each year. The trends and indicators in the annual report provide policy makers with key insights into the state of the rental housing market in Vancouver.

According to the 2018 CMHC Rental Market Report, vacancy rates in purpose-built rental apartments decreased slightly in the City between 2017 and 2018 from 0.9% to 0.8%, and increased slightly in the region in the same time period from 0.9% to 1.0%. CMHC attributes the overall low rental vacancy rates in the City and region to a strong local economy contributing to growing rental demand, as well as cost of entry-level homeownership keeping some households in rental housing for longer periods.

Provincial Speculation and Vacancy Tax

On November 27, 2018, the Provincial Budget Measures Implementation (Speculation and Vacancy Tax) Act, 2018 (the “Provincial Speculation Tax”) came into force, which is aimed at preventing housing speculation and helping to turn vacant and underutilized properties in certain regions of the province into homes for people who live and work in B.C. This act applies in Vancouver and homeowners will be required to make an annual declaration to the province by March 31st of each year, starting in 2019, in addition to the EHT declaration.

The Provincial Speculation Tax has a different purpose than Vancouver’s EHT. The EHT is a tax on empty and under-utilized class 1 residential properties in the city of Vancouver with the primary purpose being to bring those units into the rental market. The Provincial Speculation Tax applies more broadly to areas outside Vancouver and aims to reduce housing speculation in the BC housing market in order to provide homes for people who live and work in BC.

The Provincial Speculation Tax is structured in a similar manner to EHT; residents are required to make an annual declaration of their property status with no tax applying to principal residences or properties that are tenanted. In addition, there are a number of exemptions that are similar to, but not necessarily the same, as EHT such as for land under development, strata (exempt until the 2020 tax year), medical care and death of owner.

While many aspects of the Provincial Speculation Tax are similar to EHT, there are some key differences between the Provincial Speculation Tax and the EHT. Of particular significance, the Provincial Speculation Tax is levied on individual property *owners* as opposed to the EHT which is a tax on the actual *property*. The tax rate for the Provincial Speculation Tax ranges from 0.5% of the assessed value of the property for BC and other Canadian residents to 2% for foreign owners and satellite families while the current rate for the EHT is 1% for all taxable properties.

The Provincial Speculation Tax also targets what the Province calls “satellite families” which it defines as “an individual or spousal unit where the majority of their total worldwide income for the year is not reported on a Canadian tax return.” The rules for

satellite families are slightly different in the two taxes: with the Provincial Speculation Tax a member of a satellite family is not eligible for the principal residence exemption and they pay a higher tax rate; with the EHT exemptions apply equally to all Vancouver property owners.

As the EHT is new to Vancouver and in North America, there continue to be opportunities to improve its fairness and effectiveness. The Provincial Speculation Tax also provides an opportunity for improvement to the EHT. While the two taxes have different purposes and therefore full alignment of the two is not feasible or desirable, there are certain aspects of the Provincial Speculation Tax that could be adopted to improve the EHT as discussed further below. Where it is possible to align the EHT program more closely to the Provincial Speculation Tax, there is also the added benefit of reducing complexity for Vancouver property owners, who are required to file declarations for both taxes.

Strategic Analysis

This report provides the following information and analysis:

- Initial Review of Second Year (2018) Declaration Data;
- Review of exemptions:
 - Includes recommendations for Council's immediate consideration (see Appendix A) and for further internal analysis and public consultation;
- Review of definitions:
 - Includes recommendations for Council's immediate consideration (see Appendix A) and for further internal analysis and public consultation; and
- Rate review:
 - Outlines EHT rate considerations to be analyzed by staff and a timeline for reporting back to Council.

Initial 2018 Declaration Data

The second year of EHT declarations closed on February 4, 2019. Staff are now able to provide some early analysis of this data against the first year of data from 2017 declarations to assist in identifying trends that may impact an analysis of the effectiveness of the EHT.

Over 189,000 class 1 residential properties were required to complete property status declarations for the 2018 tax year. This compares to approximately 186,000 for the 2017 tax year. The difference of 3,000 mostly represents newly constructed homes.

As of February 4, 2019, there were 4,979 undeclared properties. These properties have been issued a tax bill pursuant to the provisions of the Vacancy Tax By-law and have received a ticket for a \$250 penalty (imposed under the By-law Notice Enforcement By-law) for failing to declare by the deadline. At this time, the City is allowing owners to make a late declaration following payment of the penalty. If an owner makes a late declaration for a status other than vacant, the bill will be cancelled. The numbers referenced in this report relate to declarations received by the February 4 deadline. Over the coming months these numbers will change as late declarations are completed and as a result of the audit and compliance process. Updated data will be provided to Council in the annual EHT report which is required to be posted on the City of Vancouver website by December 1, of each tax year.

Highlights from preliminary analysis comparing 2018 and 2017 declaration data are:

- The number of residential properties declared as vacant fell by 15%:
 - This represents a decrease of 163 properties from 1085 for 2017 to 922 for 2018;
 - There was significant net movement of formerly vacant property into the rental pool of 117 properties;
 - 525 properties declared vacant for both years.

These significant impacts will be tracked as metrics moving forward and reported in further detail as part of the fall report back. Staff will also provide analysis to compare EHT declarations data with other sources of data on rental housing trends, e.g. the CMHC Rental Market Report.

Review of Exemptions

To acknowledge that a property may be empty for limited periods of time for some practical reasons, the Vacancy Tax By-law sets out eight exemptions. For the 2018 tax year fewer properties declared exempt - 4,244 compared to 5,217 in 2017. This is in part due to the clarification amendments made to the by-law in October 2018. However, there are still a large number of properties that claim as exempt which may be reducing the fairness of the imposition of the EHT and the effectiveness of the EHT in changing behavior. Continued review of the exemptions is also important as there may be opportunities to improve clarity and ease of application of the by-law.

There may also be a need for additional exemptions for any case where property owners are unintentionally impacted by the tax, noting that it is extremely difficult to write a by-law that captures every special circumstance. Staff become aware of the details of special cases through the review and complaint process and through compliance work and ongoing interactions with the public. In addition to these existing channels, staff plan to initiate a mechanism whereby residents can provide feedback via the City of Vancouver web site or via 3-1-1. Staff will monitor these cases for trends and report back to Council in the fall of 2019, with any recommendations for additional exemptions and consultation.

The eight exemptions and the recommended or completed review work for each is outlined below:

Exemption	Number of properties claiming exemption		Action / timeline
	2018	2017	
Property transfer	1,611	2,479	Amendment proposed below for immediate effect – see Appendix A; further review and report back to council by fall 2019
Redevelopment or renovation	1,570	1,559	Amended October 30, 2018, no further amendment anticipated at this time.
Strata Rental restriction	595	563	Amended October 30, 2018, amendment proposed below; further review and report back to council by fall 2019.
Limited use	148	112	No further review recommended at this time
Owner in care	144	170	Amended October 30, 2018, no further

			amendment anticipated at this time.
Estate of the deceased	91	104	Amendment proposed below for immediate effect – see Appendix A
Full time employment	70	196	Amended October 30, 2018, further review and report back to council by fall 2019.
Court order	15	34	Amended October 30, 2018, no further amendment anticipated at this time.
TOTAL	4,244	5,217	

Recommended for Immediate Amendment - Exemption for Property Forming Part of the Estate of the Deceased

The Vacancy Tax By-law currently provides an exemption if a property has been unoccupied for more than six months during the applicable tax year because the last registered owner of the property is deceased and neither a grant of probate nor a grant of administration has been provided. A grant of probate occurs when someone dies with a will that names an executor and there is a determination by a court that a will is valid and that the executor has authority to deal with the estate. A grant of administration generally occurs when someone dies without a will or a named executor does not want to act, and the court appoints someone as an administrator to deal with the estate. This exemption was intended for cases where a decision cannot be made on how to occupy, lease or sell a property because decision-making authority has not yet passed to an executor or administrator. Staff were of the view at the time of drafting the by-law that if there is someone in place to make a decision on occupancy of the property, then the property should be occupied and not be left vacant simply because the owner is deceased. This could lead to derelict or abandoned properties.

The by-law does not currently restrict the time period allowed to claim this exemption and some representatives of owners who have been deceased for more than five years have sought to claim this exemption. The average time period for a court to grant probate once it has been applied for, according to legal commentary, is approximately two months. The time for a grant of administration once it has been applied for is highly variable and can range from two weeks to several months. If probate is contested or if the court requires clarifications, then it could take significantly longer. However, in the case that probate is contested, it is likely that the court order exemption could be applied and EHT would not be applicable. As such, some restriction on the time period is appropriate to prevent abuse and improve fairness of this exemption.

Another issue that has been raised with this exemption is that it only applies for death of owner when probate or grant of administration is pending. There are situations when a property is held in trust where there is no probate but where it may be appropriate to allow the trustee extended time to occupy the property.

The Provincial Speculation Tax provides an exemption on death of an owner in the calendar year of death and the immediately following calendar year. The Provincial exemption is not specifically tied to probate. Adopting a model similar to the Province with a set timeline for exemption following death of an owner that is not tied to probate would resolve both of the issues noted above.

Given the length of time it typically takes for grants of administration or probate and the availability of the Court Order exemptions for complex cases, the staff recommend using the same timeline as the Province and limiting this exemption to the year of death and

the immediately following year. The proposed amendments are set out in Appendix A and if the amending by-law is approved and enacted, the amendments would apply for the 2019 tax year.

Recommended for Immediate Amendment - Property Transfer Exemption

The Vacancy Tax By-law currently provides an exemption for a property that is transferred during the applicable tax year. The intent of this exemption was to recognize that a property may be unoccupied temporarily during the year of sale and not to levy the tax in this year of transition. It also recognizes that in most cases of transfer, it would be the new owner who is required to complete the declaration, and that owner would not have the information about the use of the property for the whole year so as to allow them to accurately complete the declaration. This could unfairly penalize the new owner. Finally, this exemption allows for newly built homes which are completed in the first half of the year but sold in the second half to be exempt from the tax, as staff recognize it can take time for new properties to sell.

During the audit and compliance work it was noted that there is some ambiguity in the definition of property transfer which has allowed certain related party property name changes to qualify for this exemption. For example, there are cases of related party corporate reorganization where legal ownership of a property moves from one related entity to another. The Provincial Speculation Tax requires that an owner pay Property Transfer Tax (PTT) under the Provincial Property Transfer Tax Act and regulations in order to qualify for an exemption, which is an effective way to ensure that the exemption is only available for legitimate property transfers.

Staff recommend the by-law be amended to require that the owner must have paid PTT under the Property Transfer Tax Act in order to qualify for the property transfer exemption. Or, to follow the model of the provincial tax, if the owner did not pay PTT, it was only because the owner qualified for an exemption under any of the following provisions of that Act and its regulations, such as:

- (i) section 5 [first time home buyers' exemption];
- (ii) section 12.02 [new housing exemption];
- (iii) section 14 (3) (k) [reversion, escheat or forfeit of land];
- (iv) section 14 (3) (o) [transfer of land by trustee in bankruptcy];
- (v) section 14 (3) (p) [transfer of principal residence by trustee in bankruptcy];
- (vi) section 14 (4) (p.3) [transfer of land by Public Guardian and Trustee];
- (vii) section 14 (4) (r) [transfer to a veteran or veteran's spouse].

The proposed amendments are set out in Appendix A and if the amending by-law is approved and enacted, the amendments would apply for the 2019 tax year.

The property transfer exemption provides for an exemption for the new owner and the former owner in the year of sale. Even if a property transfers on January 1 of a given year, the property could remain vacant for the entire year and not be charged EHT. There is an opportunity to further review this exemption and improve fairness, potentially by limiting the exemption to transfers that occur after the first quarter of the tax year. Given that PTT under the Property Transfer Tax Act exceeds EHT, it is unlikely that owners would intentionally sell properties in order to make use of this exemption, but it could allow speculators to hold empty properties for a significant number of months

without paying the EHT. Staff recommend further review of this exemption and consultation with a report back to Council in fall 2019.

Recommended for Review and Consultation – Strata Rental Restriction

Owners who have strata units in buildings with strata by-laws that include rental prohibitions or restrictions on the number of units that can be rented which were in place prior to enactment of the Vacancy Tax By-law are exempt from the EHT. This exemption was included in response to feedback from owners of second homes in strata properties subject to rental restrictions, who felt it was unfair to be subject to the EHT because their strata restricted them from renting out the unit. The by-law essentially grandfathered existing rental restrictions, however the exemption is not available if a strata changed its by-laws after the Vacancy Tax By-law was enacted as this would have encouraged rental restrictions (which is contrary to the intent of the tax).

The Provincial Speculation Tax, like the EHT, has an exemption from the tax in the case that the by-laws of a strata prohibit or restrict units that may be rented. However, the Provincial exemption applies only in 2018 and 2019 while the EHT exemption applies indefinitely. At the Provincial level, there is consideration being given to removing a strata's ability to ban owners from renting strata units. The Provincial Rental Housing Task Force recently made a recommendation to:

“Increase the availability of currently empty strata housing by eliminating a strata corporation's ability to ban owners from renting their own strata units.”

This would require the Province to amend the Strata Property Act and regulations and is outside the purview of the City. In the event that the Province does proceed to ban rental restrictions, the original rationale for exempting owners with strata rental restrictions would no longer apply, and the exemption from EHT would no longer be required. At this time, Staff recommend monitoring the work at the Provincial level and reporting back to Council in the fall of 2019 with plans for consultation on the options for this particular exemption.

Recommended for Review and Consultation - Full-time Employment Exemption

The full-time employment exemption was claimed by 196 individuals in 2017 and 70 in 2018. In order to qualify for this exemption property owners must have a principal residence outside of Great Vancouver and be employed full-time in Greater Vancouver with the nature of that employment requiring their physical presence in Greater Vancouver. In practice, this exemption is claimed by very few property owners and is extremely difficult to apply fairly and consistently due to the requirement to make a judgment on what constitutes full-time employment requiring a physical presence in Greater Vancouver.

In October 2018, the by-law was amended to require physical presence in Greater Vancouver for full-time employment as some residents claimed activities such as writing a novel or seeing professional advisors while in town visiting a second home should qualify for this exemption.

The intent of the work exemption was to allow full-time workers in the City to keep a second home because they maintained a principal residence that was too far away to travel daily for full-time employment. It is quite likely that most property owners who

properly qualify for the intended purpose of this exemption and were physically present in Vancouver for five days per week could qualify for principal residence provided they could show that the property was the usual place they lived. Staff recommend this exemption be further reviewed, with a report back to Council in fall 2019. Staff are able to engage directly with all of the individuals who claim this exemption during the audit process, therefore broader public consultation on this exemption is not recommended.

Review of By-law Definitions

In addition to proposed revisions to existing exemption categories, Staff propose to review several definitions in the by-law in order to ensure the effectiveness and fairness of the tax across all property types

Recommended for Immediate Amendment - Tenanted Properties

The EHT does not apply to properties that are being rented out on a long-term basis. The by-law currently defines tenanted properties as properties that are occupied by a tenant or subtenant for a term of at least 30 consecutive days for a total of at least six months of the applicable tax year. The current EHT definition does not include specific requirements for the type of tenant or subtenant, the owner's relationship with the tenant or subtenant, or the tenant or subtenant's actual occupancy in the property.

During the audit of properties declared as tenanted in 2017, the City identified situations where owners had entered into a rental agreement with a corporation rather than an individual and provided evidence of this to establish that the property was tenanted. The audit process determined that many leases with corporations are in fact legitimate rentals which were intended to be excluded from the tax, such as residential leases to property management firms that in turn enter into sublease agreements with a long-term renter for periods over 30 days (e.g. someone working on a contract basis or someone undertaking renovations in their principal residence). However, audit findings identified the potential for situations where an owner might attempt to avoid paying the tax on an un-occupied second home by entering into a rental agreement with a corporation (which they might own) or a family member or friend, without the property actually being occupied as a long-term rental property. Notably, the Provincial Speculation Tax requires tenancies to be arm's length in order to qualify for the exemption and that the residence is a place the tenant makes the tenant's home. This is a potential unintended opportunity for property owners to avoid paying the tax that Staff recommend closing for the 2019 tax year.

In order to provide clarity around the requirements for rented properties and to prevent situations where owners could declare un-occupied second homes as tenanted in order to avoid the EHT, Staff propose a refined definition for tenanted properties similar to the Provincial Speculation Tax. This would include requiring the property to be occupied by an arm's length tenant or subtenant under a tenancy agreement or sublease agreement, generally using the Residential Tenancy Act definition for these terms. Staff also recommend updating the EHT web pages to provide further guidance and clarification for homeowners around tenanted properties, including that the property should generally be the ordinary place that the tenant or subtenant makes their home during the tenancy. The purpose of this clarification is to avoid situations where property owners may enter into tenancy agreements with a single tenant for multiple properties in order to avoid the vacancy tax.

Owners that allow non-arm's length tenants to occupy their properties would still be exempt from paying the EHT if they were able to show that the permitted occupier used the property as their principal residence for at least six months in the applicable vacancy reference period.

Staff recommend the by-law be amended to require the owner to enter into a tenancy or sublease agreement (as defined in the Residential Tenancy Act) while excluding non-arm's length tenancies such as where an owner has tenanted the property to a corporation for which they are a director or officer. Long-term corporate rentals for stays of 30 consecutive days would still qualify if the tenancy agreement met the by-law requirements.

The proposed amendments are set out in Appendix A and if the amending by-law is approved and enacted, the amendments would apply for the 2019 tax year.

Recommended for Review and Consultation: Purpose-built Rentals and Single-Room Occupancy Buildings (SROs)

EHT is currently administered at the parcel/folio level. As a non-stratified rental building or SRO building is only one folio, if any unit in the building is occupied then the building would not be subject to EHT. While vacancy rates for purpose-built rental and SROs are generally very low, staff understand that this may result in situations where owners or developers can leave a building mostly empty and not be subject to EHT.

An additional consideration is that a significant number of SROs are split class (primarily class 1 - residential and class 6 - business). Split class properties are currently scoped out of the by-law, which defines residential property as real property classified only as class 1 property. As a result of this definition, residential units in a split class SRO could remain empty and not be subject to EHT.

Staff are recommending that further internal analysis and consultation work be performed on the above issues and a by-law amendment be considered by fall 2019.

Recommended for Review and Consultation: Options for Vacant Land

Under the current by-law, the EHT is not payable for residential property that is unimproved with any dwelling units (vacant land) provided that a complete development permit application or rezoning enquiry or application has been submitted and is under review by the City; and which is being diligently pursued without unnecessary delay.

If an owner was to erect a temporary dwelling unit or tiny home on vacant land and entered into a valid tenancy with an individual to occupy the unit as a tenant, the property may not be subject to the tax under the provisions of the Vacancy Tax By-law. The same would be the case if the owner had validly submitted a complete development permit application or rezoning enquiry or application for such use. However, such a use of property, including installation of a temporary dwelling unit or a tiny home, would need to meet the requirements of all other City by-laws including the Building By-law and the Zoning and Development By-law.

Twenty-three parcels of vacant land have been declared vacant to date in 2018. Staff recommend consulting directly with these property owners in order to determine if there

is any appetite to consider creative uses for their vacant land with a report back to Council in fall 2019.

Recommended for Review and Consultation: Rate of Taxation

The gross revenue from the first year of the EHT was \$38 million. While this money will be spent on affordable housing initiatives, the desired outcome of the EHT was conversion to rental use, not revenue generation. Given the number of property owners that chose to pay the tax instead of renting their property, it is possible that the current tax rate is not enough of an incentive to rent.

The introduction of the Provincial Speculation Tax means that certain Vancouver property owners will have to pay both taxes. It is important to understand how the Provincial Speculation Tax may impact Vancouver policy objectives as part of the rate review, and as the Provincial tax is still in its first year of implementation, staff would benefit from collection of more information about the impacts of this new tax on Vancouver property owners.

The current EHT tax rate aimed to create a balance between providing an incentive to rent without being so high as to create a large incentive to evade the tax. The rate also achieved parity with the business tax rate. A property paying residential tax rates plus the EHT pays approximately the same amount of taxes as a similarly valued commercial property. Prior to recommending a rate increase it is important for staff to take the time to analyze any changes that would result in a residential property subject to EHT paying higher taxes than a commercial property. As the EHT only applies to class 1 residential property, it is possible that increasing the rate would result in property owners attempting to re-class their property to be scoped out of the EHT entirely.

Staff also recommend that a number of different options for increasing the rate be analyzed and considered, including:

- Different rates for BC and other Canadian residents, and foreign owners;
- Different rates for different categories of residential properties; and
- Rate increases based on number of years a property is left vacant.

Staff will report back to Council on the progress of the rate review in fall 2019 including recommendations for public consultation on the proposed options.

Implications/Related Issues/Risk

Legal Implications

Part XXX (Sections 615-622) of the *Vancouver Charter* provides authority for Council to, by by-law, impose an annual vacancy tax. Council may amend the by-law at its sole discretion at any time. These amendments would come into force upon enactment of the amending by-law, a draft of which is attached as Appendix A, and would apply immediately unless otherwise noted.

CONCLUSION

The number of Vancouver properties declared vacant in 2018 under the Empty Homes Tax program has gone down 15 per cent from 2017, with the majority of these previously empty homes having been returned to the rental market.

To further improve the fairness and effectiveness of the tax, staff have identified a number of amendments to the by-law for Council's consideration. Staff recommend that Council approve the proposed amendments and instruct the Director of Legal Services to prepare an amending by-law to bring forward for enactment for the 2019 taxation year. The City of Vancouver website will be updated to reflect these amendments to ensure that homeowners are made aware of the changes to the by-law definitions. Staff will report back to Council in fall 2019 with further recommendations to improve the fairness and effectiveness of the EHT in achieving the objective of returning empty and underutilized properties to the market as long-term rental homes for people who live and work in Vancouver.

* * * * *

BY-LAW NO.

A By-law to amend the Vacancy Tax By-law No. 11674

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. This By-law amends the indicated provisions of the Vacancy Tax By-law No. 11674.

(a) In section 1.2, Council inserts the following new definitions in the correct alphabetical order:

(a) ““allowable property transfer tax exemption” means an exemption from the payment of property transfer tax under the following sections of the British Columbia *Property Transfer Tax Act*:

- (a) section 5 [*first time home buyers' exemption*];
- (b) section 12.02 [*new housing exemption*];
- (c) section 14(3)(k) [*reversion, escheat or forfeit of land*];
- (d) section 14(3)(o) [*transfer of land by trustee in bankruptcy*];
- (e) section 14(3)(p) [*transfer of principal residence by trustee in bankruptcy*];
- (f) section 14(4)(p.3) [*transfer of land by Public Guardian and Trustee*]; or
- (g) section 14(4)(r) [*transfer to a veteran or veteran's spouse*];”;

(b) ““arm’s length” means a tenant or subtenant who is not related to the registered owner by blood, marriage, adoption or common-law partnership, is not a corporation of which an individual registered owner is a director, officer or shareholder, and is not a director, officer or shareholder of an incorporated registered owner, except that if it is determined that non-arms’ length parties are treating the tenancy or subtenancy as if it was arm’s length, then it will be deemed to be at arm’s length;”;

(c) ““sublease agreement” means a tenancy agreement:

- (a) under which:
 - (i) the tenant of a rental unit transfers the tenant's rights under the tenancy agreement to a subtenant for a period shorter than the term of the tenant's tenancy agreement, and
 - (ii) the subtenant agrees to vacate the rental unit at the end of the term of the sublease agreement, and

(b) that specifies the date on which the tenancy under the sublease agreement ends;"; and

(d) ""tenancy agreement" means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit;".

2. In section 2.2(b), Council strikes out subsection (b) and substitutes the following:

"(b) the residential property is not occupied for residential purposes by an arm's length tenant under a tenancy agreement, or by an arm's length subtenant under a sublease agreement, for a term of at least 30 consecutive days."

3. Council strikes out section 3.1 and substitutes the following:

"Death of Registered Owner

3.1 A vacancy tax is not payable under this by-law for a parcel of residential property if the residential property was unoccupied for more than six months during the vacancy reference period because of the death of the registered owner of the residential property in the applicable vacancy reference period, and this exemption also applies for the following vacancy reference period."

4. Council strikes out section 3.5 and substitutes the following:

"Transfer of property

3.5 A vacancy tax is not payable under this by-law for a parcel of residential property if the transfer of 100 percent of the legal interest in the property was registered in the Land Title Office and either the property transfer tax was paid or the registered owner qualified for an allowable property transfer tax exemption."

5. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

6. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this _____ day of _____, 2019

Mayor

City Clerk

EXPLANATION

By-law to amend the Vacancy Tax By-law No. 11674

At a Standing Committee meeting on _____, 2019, Council approved proposed amendments to the Vacancy Tax By-law. Enactment of this by-law will implement Council's resolution.

Director of Legal Services
, 2019