



REPORT

Report Date: November 25, 2021
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VanRIMS No.: 08-2000-20
Meeting Date: December 8, 2021
[Submit comments to Council](#)

TO: Standing Committee on City Finance and Services
FROM: Director of Finance
SUBJECT: Amendments to the Vacancy Tax By-Law No 11674

RECOMMENDATION

- A. THAT Council approve an amendment, in principle, to section 3.3 (Property of Owner in Care) of the Vacancy Tax by-law to allow an extension of the exemption period in specific cases, up to an additional two consecutive reference periods.
- B. THAT Council approve the minor amendments, in principle, to the Vacancy Tax By-law to clarify by-law sections 1.2, 2.9, 3.2, 3.9 and 4.9 as described in this report.
- C. THAT Council instruct the Director of Legal Services to bring forward amendments as set out in Appendix A to the Vacancy Tax By-law to implement Recommendations A and B.

REPORT SUMMARY

This report recommends approval of certain by-law amendments to clarify or change existing definitions and exemptions to be effective upon enactment. Specifically, Staff is recommending an allowance to extend the exemption period up an additional two years for properties of owner in care (Recommendation 'A') and other minor administrative amendments (Recommendation 'B').

COUNCIL AUTHORITY/PREVIOUS DECISIONS

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

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

REPORT***Background/Context***

The Empty Homes Tax (“EHT”) or “Vacancy Tax” is levied on empty and under-utilized class 1 residential properties in the City of Vancouver. Homes or land determined or deemed to be vacant are subject to a 3% tax (1.25% prior to the 2021 vacancy reference period) of a property’s assessed taxable value. The EHT is applied annually, with the first tax reference year having begun 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 nine exemptions as set out in the by-law.

The core objectives of the EHT are:

- To return empty or under-utilized properties to use as long-term homes for people who live and work in Vancouver; and
- To prevent additional properties from becoming empty.

Through the regular reviews of the EHT by-law and compliance work performed, staff are recommending other amendments to the by-law to better achieve the intentions of the EHT and, to improve consistency and clarify interpretation and understanding of the intent of the by-law. Specifically, staff is further recommending:

- a. An allowance to extend the exemption period for up an additional two years for properties of owner in care (Recommendation ‘A’). Currently, the by-law provides up to two years exemption for owners whom claim “Owner in Care” and staff recommend a provision to allow for additional two years of exemption (total four years) to accommodate extenuating medical conditions.
- b. Other minor administrative amendments to clarify the interpretation and understanding of the intent of the by-law (Recommendation ‘B’).

Strategic Analysis

Recommendation A: Amendment to the property under owner in care exemption

The Vacancy Tax By-law currently provides an exemption if a property has been unoccupied for more than six months during the vacancy reference year because the previous occupier is residing in a hospital, long term or supportive care facility; the exemption is only allowed for a maximum of two consecutive reference periods. This exemption was intended for cases where a previously occupied property became unoccupied due to the owner or occupier moving to a care facility in order to allow time for the property owner to find an alternative use for the property.

For 2020, this exemption was claimed by only 100 (103 in 2019) property owners. Staff have encountered a small number of cases where it may be reasonable for the exemption to be considered beyond the maximum of two consecutive reference periods, provided that evidence can support that the occupant may reasonably be able to reoccupy the property upon the completion of care or treatment.

Staff recognize that the nature of the situations where this exemption is applicable are sensitive and may require additional consideration by the City to allow owners and their families additional time to determine whether the property may be re-occupied by the owner or previous occupant subsequent to their time in the hospital, long term or supportive care facility.

Staff recommend that the by-law be amended to allow for an extension in the exemption in specific cases, up to an additional two consecutive reference periods (ie: up to four consecutive years exemption in total).

Recommendation B: Minor amendments to clarify the Vacancy Tax by-law

Staff have been closely monitoring issues that have arisen during compliance work performed and recommend the following minor changes referenced in the vacancy by-laws to provide clarity:

Section	Topic Area	Recommended Amendment
1.2	“arm’s length”	Clarify to exclude tenancies where a corporation has entered into a tenancy agreement with another corporation and the occupant was a corporate interest holder in both corporations.
1.2	“arm’s length”	Add a new definition for “corporate interest holder”
1.2	“residential property”	Add reference to assessment roll for the vacancy reference period. Minor wording changes to reference “real property”
2.9	Vacancy Tax is levy	Add reference to first year that vacancy tax may be transferred to property tax
3.2(a)	Property undergoing redevelopment or major renovations	i) Specify permits must be issued by July 1 st of the vacancy reference period

		ii) Add “or the Chief Building Official’s delegates” after “Chief Building Official”
3.2(b)	Property undergoing redevelopment or major renovations	i) Specify permit application must be submitted by July 1 st of the vacancy reference period ii) Update title to “General Manager of Development, Building and Licensing or the General Manager’s delegates”
3.2 (c)	Property undergoing redevelopment or major renovations	i) Specify rezoning enquiry or rezoning application must be submitted by July 1 st of the vacancy reference period ii(B) Update title to “General Manager of Development, Building and Licensing or the General Manager’s delegates”
3.9	Combined period of redevelopment or renovation and occupation by tenant	a) Housekeeping amendment: remove “of” before major renovations a)(ii) Add “or the Chief Building Official’s delegates” after “Chief Building Official”
4.9(a)(iii)	Type and form of information and evidence	Replace “Medical Services Plan or ambulance invoice” with “utility bills”

Implications/Related Issues/Risk

Financial

There are no incremental costs to implement the recommendations. There may be potential forgone EHT revenue from providing additional two years exemption for property owners in care but it is anticipated to be small compared to the additional financial and other reliefs providing to property owners under such circumstances.

CONCLUSION

Through the EHT program audit work, staff have identified a number of amendments to the by-law for Council’s consideration. Staff recommend that Council approve the proposed changes to owner in care exemption (Recommendation ‘A’) and the minor amendments to clarify the by-law (Recommendation ‘B’) and instruct the Director of Legal Services to prepare an amending by-law to bring forward for enactment.

* * * * *

Note: A By-law will be prepared generally in accordance with the provisions listed below, subject to change and refinement prior to posting.

**A By-law to amend the Vacancy Tax By-law No. 11674
regarding miscellaneous amendments**

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.
2. In section 1.2, Council:
 - (a) in the definition of “arm’s length”:
 - (i) strikes out “and” before “is not a director, officer or shareholder of an incorporated registered owner,”, and
 - (ii) adds “and is not a corporation with the same corporate interest holder or holders as the incorporated registered owner,” after “is not a director, officer or shareholder of an incorporated registered owner,”;
 - (b) in the definition of “residential property”, adds “on an assessment roll for the vacancy reference period” before “under the British Columbia Assessment Act and its regulations”; and
 - (c) adds a new definition in the correct alphabetical order as follows:
“corporate interest holder” means an individual who is a director, officer, or shareholder of a corporation;”.
3. In section 2.2, Council strikes out “or” at the end of subsection (a) and substitutes “and”.
4. In section 2.9, Council adds “in the calendar year after the levy is due, unless authority has otherwise been provided by the Collector of Taxes,” after “that may be lawfully interested in the real property tax roll”.
5. In section 3.2(a), Council:
 - (a) in clause (i), adds “by July 1st of the vacancy reference period” after “issued by the City”; and
 - (b) in clause (ii), adds “or the Chief Building Officer’s delegates” after “the Chief Building Official”.
6. In section 3.2(b), Council:
 - (a) in clause (i), adds “by July 1st of the vacancy reference period” after “under review by the City”; and

- (b) in clause (ii), strikes out “Director of Development Services” and substitutes “General Manager of Development, Buildings and Licensing or the General Manager’s delegates”.
7. In section 3.2(c), Council:
- (a) in clause (i), strikes out “during the vacancy reference period” and substitutes “by July 1st of the vacancy reference period”;
- (b) in clause (ii)(A), strikes out “during the vacancy reference period” and substitutes “by July 1st of the vacancy reference period”; and
- (c) in clause (ii)(B), strikes out “Director of Development Services” and substitutes “General Manager of Development, Buildings and Licensing or the General Manager’s delegates”.
8. In section 3.3, Council adds “unless there is a reasonable expectation that the occupiers, or tenants or subtenants, may be able to return to the residential property, in which case this exemption may be allowed for up to an additional two consecutive vacancy reference periods” after “shall not be allowed for more than two consecutive vacancy reference periods”.
9. In section 3.9(a), Council:
- (a) strikes out “of” after “safely carry out”;
- (b) in clause (i), adds “by July 1st of the vacancy reference period” after “issued by the City”; and
- (c) in clause (ii), adds “or the Chief Building Officer’s delegates” after “the Chief Building Official”.
10. In section 4.9(a)(iii), Council strikes out “Medical Services Plan or ambulance invoice,” and substitutes “utility bills,”.
11. 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.
12. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this _____ day of _____, 2021

Mayor

City Clerk

Amendments to Vacancy Tax By-Law No. 11674 (Redlined Version)

This document is being provided for information only as a reference tool to highlight the proposed amendments. The draft amending by-laws attached to the Council report RTS No. **014579** entitled **Amendments to the Vacancy Tax By-Law** represent the amendments being proposed to Council for approval. Should there be any discrepancy between this redline version and the draft amending by-laws, the draft amending by-laws prevail.

Section 1.2

“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, and is not a corporation with the same corporate interest holder or holders as the incorporated registered owner, except that if it is determined that non-arm’s 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;”

“corporate interest holder” means an individual who is a director, officer or shareholder of a corporation;

“residential property”, subject to any applicable regulations, means real property classified only as class 1 property (residential) on an assessment roll for the vacancy reference period under the *British Columbia Assessment Act* and its regulations but does not include land or improvements or both real property used solely for nursing homes, rest homes, cookhouses, strata accommodation property or child daycare purposes (including group daycares, preschools, special needs daycares, family daycares, out of school care, residential care, emergency care and child minding), as may be further described in the *British Columbia Assessment Act* and its regulations;

Section 2.2

Residential property is considered to be unoccupied in the following circumstances:

- (a) the residential property is not the principal residence of an occupier; ~~and~~
- (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.

Section 2.9

A vacancy tax, together with penalties levied for failure to pay the tax in accordance with this by-law, is a levy that may be lawfully inserted in the real property roll in the calendar year after the levy is due, unless authority has otherwise been provided by the Collector of Taxes, and may be collected as real property taxes, pursuant to Sections 409(2) and (3) of the *Vancouver Charter*.

Section 3.2(a)

- i. for which permits have been issued by the City by July 1st of the vacancy reference period, and
- ii. which, in the opinion of the Chief Building Official or the Chief Building Official's delegates, are being carried out diligently and without unnecessary delay, or;

Section 3.2(b):

- i. for which a complete rezoning enquiry or application, development permit application or heritage alteration permit application has been submitted by or on behalf of the registered owner and is under review by the City by July 1st of the vacancy reference period, and
- ii. which, in the opinion of the ~~Director of Development Services~~ General Manager of Development, Buildings and Licensing or the General Manager's delegates, is being diligently pursued and without unnecessary delay, or;

Section 3.2(c)

- i. has not been rezoned, where a complete rezoning enquiry or rezoning application for at least one of the parcels of residential property which comprise the phased development has been submitted by or on behalf of the registered owner and is under review by the City by July 1st of during the vacancy reference period, or
- ii. has been rezoned, where either:
 - (B) a complete development permit application has been submitted for at least one parcel of residential property which is part of the phased development and is under review by the City by July 1st of during the vacancy reference period; or
 - (C) a development permit has been issued by the City for at least one parcel of residential property which is part of the phased development and work under the development permit is, in the opinion of the ~~Director of Development Services~~ General Manager of Development, Buildings and Licensing or the General Manager's delegates, being diligently pursued and without unnecessary delay.

Section 3.3

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 all occupiers who were previously occupying the residential property as a principal residence or all tenants or subtenants who were previously occupying the residential property for residential purposes are residing in a hospital, long term or supportive care facility, except that this exemption shall not be allowed for more than two consecutive vacancy reference periods, unless there is a reasonable expectation that the occupiers, tenants or subtenants, may be able to return to the residential property, in which case this exemption may be allowed for up to an additional two consecutive vacancy reference periods.

Section 3.9

(a) unoccupied in order to redevelop or safely carry out ~~of~~ major renovations to the property:

- (i) for which permits have been issued by the City by July 1st of the vacancy reference period; and
- (ii) with, in the opinion of the Chief Building Official or the Chief Building Official's delegates, are being carried out diligently and without unnecessary delay;

Section 4.9(a)

- iii. utility bills ~~Medical Services Plan or ambulance invoice~~