



Report to: General Committee

Meeting Date: November 29th, 2021

SUBJECT: Vacant Home Tax (VHT)

PREPARED BY: Shane Manson, Senior Manager, Revenue & Property Tax

RECOMMENDATION:

- 1) That the report entitled Vacant Home Tax (VHT) be received; and,
- 2) That Council provide direction on the Vacant Home Tax (VHT) as described in this report; and further,
- 3) That staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

The report is in response to Council's direction arising from the July 14, 2021 meeting, that staff investigate and report back in Q4 2021 on number of items related to the Vacant Home Tax, which was introduced on April 20, 2017, by the Ontario Government. The Provincial announcement included a sixteen-point plan described as measure to help more people find affordable places to live, increase supply of residential homes, protect buyers and renters, and bring stability to the real estate market.

The Vacant Homes Tax ("VHT") was one of 16 initiatives under the Province's Fair Housing Plan to allow municipalities Designated by the Minister of Finance to impose a VHT.

Currently, the only municipality in Canada charging a tax on vacant homes is Vancouver through its Empty Homes Tax (EHT), which came into effect in 2017. Since implementation of the EHT, the number of vacant homes has dropped by 25% and has generated \$113.4 million in gross revenues to support affordable housing initiatives in the City.

The only municipality in Ontario that has the power to impose a VHT is the City of Toronto. In July 2021, Toronto Council approved a staff report which included tax design and implementation plan to introduce a 1% Vacant Homes Tax in the City. It is anticipated the enabling bylaw could come into effect January 2022.

In June of 2021, City of Ottawa Council approved a plan to impose a 1% tax on its vacant homes that is anticipated to commence in 2022/2023. In addition to Toronto and Ottawa, a number of other Regions and neighboring municipalities have, or intend to, report on this initiative. To date, no municipality has been designated in Ontario. The legislative framework for a VHT is outlined under sub-sections 338.1 to 338.4 of the *Municipal Act 2001*. Section 338.1 of the *Municipal Act* requires that a municipality be designated through regulation by the Minister of Finance as a municipality that can administer the VHT.

There is no data readily available to confirm the actual number of vacant homes within a municipality. The identification approach employed in Vancouver, and currently proposed for both the City of Toronto and Ottawa includes the annual submission of a mandatory declaration, where every homeowner would be required to declare if their home is occupied or vacant each year.

An assumed vacancy rate of 0.5% is being utilized as this is an assumption used in the Vancouver, Toronto, and Ottawa's studies. If 0.5% of the 105,740 homes qualify for the VHT in Markham, the estimated gross revenue in the first year would be \$5.0 million, with an additional \$12.3 million estimated for the following four years.

A portion of the revenues generated would be used to fund the administration of the program. The VHT program would require an investment in start-up costs to fund program development. Staff estimate the total one-time start-up costs of \$1.15 million would be incurred in the first two years to set up the necessary administrative structure to collect the tax as well as initial communications efforts. Annual operating costs are estimated at \$0.45 million per year, consisting of salary costs for a total of 3 staff positions, and direct operating expenses to support the program. These figures are preliminary estimates and are subject to change based on further analysis.

It is also important to note, that the startup costs and annual operating would still materialize should York Region Council wish to proceed with the implementation of a VHT Region-wide. The Region would set the broad framework and the lower-tier municipalities (Markham) would administer the program. The Region has indicated that collaboration with local municipalities will be key to developing a framework for both the administration and revenue sharing should Regional Council wish to proceed with a VHT.

PURPOSE:

This report responds to Council's July 14, 2021 direction that staff investigate and report back in Q4 2021 on;

1. The assessment of the effectiveness of a vacant home tax in other municipalities, including the impact of a vacant home tax on affordable housing supply; and,
2. Options related to a vacant home tax (VHT); and,
3. VHT resource requirements

BACKGROUND:

On April 20, 2017, the Ontario Government announced a sixteen-point plan described as to help more people find affordable places to live, increase supply of residential homes, protect buyers and renters, and bring stability to the real estate market. The Vacant Homes Tax was one of 16 initiatives under the Province's Fair Housing Plan in 2017 aimed to address housing affordability concerns. Through Bill 127, *Healthier Ontario Act (Budget Measures)*, 2017, the Province amended the *Municipal Act, 2001* which now provides the authority for designated municipalities, by bylaw, to impose a VHT on vacant homes.

The legislative framework for a VHT is outlined under sub-sections 338.1 to 338.4 of the *Municipal Act 2001*. Section 338.1 of the *Municipal Act* requires that a municipality be designated through regulation by the Minister of Finance as a municipality that can administer the VHT.

Initially, Provincial Staff advised City Staff that it was an upper-tier / single-tier decision (consistent with other areas of tax policy). After further discussions, it was indicated that there is nothing limiting lower-tier designation requests; however, Provincial staff have indicated that one of the objectives would be to avoid any duplication between upper-tier & lower-tier municipalities.

Under section 338.2 of the *Municipal Act*, designated municipalities in Ontario can impose a tax on vacant homes that meet the definitions established by the municipality. Council has the authority to pass a by-law to impose a VHT on the assessed value of a vacant home in the residential property tax class. The by-law must contain the definition of a vacant home, the applicable tax rate, the conditions of a vacancy, possible exemptions, rebates of tax, audit and inspection powers and a dispute resolution mechanism.

The basic principle is that every vacant home that meets the definition and is not subject to any exemption would be subject to the tax, which would be arrived at as follows:

$$\text{VHT Tax Rate} \times \text{Assessed Value of Property} = \text{Annual Vacant Home Tax}$$

$$\text{Example: } 1.0\% \times \$1,000,000 = \$10,000$$

The objective of the tax is to reduce the number of vacant homes which might otherwise be used to increase housing availability and affordability. The VHT could create more rental homes in the short-term, and as a secondary outcome, could fund additional affordable housing initiatives. The effectiveness of a VHT should be analyzed based on the trends of annual VHT declarations. Annual reporting and monitoring will be required to effectively measure the effects of the tax and ensure the VHT is continuing to achieve the public policy objectives.

1. Assessment & Effectiveness of a VHT

City of Vancouver

Currently, the only municipality in Canada charging a tax on vacant homes is Vancouver through its Empty Homes Tax (EHT), which came into effect in 2017. The City's goal of the EHT was to help return empty and under-utilized properties to the market as long-term rental homes for people who live and work in Vancouver. The EHT was the first of its kind in North America and was introduced to help relieve pressure on Vancouver's rental housing market. In Vancouver, the start-up costs for the EHT program were \$7.5 million and after that \$2.9 million for the ongoing annual operating cost of running the program, which includes nine full-time equivalents (FTE's).

The City of Vancouver began levying an EHT in January 2017, with an initial tax rate of 1% of assessed taxable value on residential properties. In 2019, Vancouver Council increased the rate to 1.25%, and has subsequently increased the rate to 3% for 2021.

The City of Vancouver has experienced a reduction in the total number of vacant homes in the City, which in turn is increasing the supply to the market. In 2017, the first year of Vancouver's Empty Homes Tax (EHT), 2,538 properties were subject to the tax. In 2018, the number of vacant properties subject to the tax decreased by 22%, from 2,538 in 2017 to 1,989 in 2018, and by a further 5% in 2019.

The table below illustrates Vancouver's EHT program details for the 2017 – 2019 years;

EHT Program Details	2017	2018	2019	# Change	% Change
<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>	<i>E = D - B</i>	<i>F = E / B</i>
# of Principal Residences	131,347	132,815	132,042	695	0.53%
# of Tenanted Residences	46,770	50,102	54,050	7,280	15.57%
# of Exempt Residences	5,383	4,256	4,132	-1,251	-23.24%
# of Vacant Residences	2,538	1,989	1,893	-645	-25.41%
Total # Of Homes Required To Submit Declaration	186,038	189,162	192,117	6,079	3.27%
Total EHT Revenue (\$M)	\$38.00	\$39.40	\$36.00		

According to the City of Vancouver's annual report, since implementation of the EHT, the number of vacant homes has dropped by 25%, along with a 16% increase in tenanted properties which is in line with the City's goal of increasing the supply of affordable housing. The program has also generated \$113.4M in gross revenues to support affordable housing initiatives.

City of Toronto

The only municipality in Ontario that currently 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"). In July 2021, Toronto Council approved staff's tax design and implementation plan to introduce a 1% Vacant Homes Tax. It is anticipated the enabling bylaw could come into effect January 2022, and the tax would be applicable in 2023 based on occupancy status collected during the prior reference year.

While the number of vacant homes in Toronto is currently unknown, the City anticipates a tax rate of 1% could generate between \$55 million to \$66 million in revenues in its first year. The City of Toronto has estimated their start-up costs of \$11.0 million would be incurred in 2021 and 2022 to set up the necessary administrative structure and systems and programming to collect the tax as well as initial communications efforts. Toronto's annual operating costs are estimated at \$3.1 million per year, consisting of salary costs for a total of 25 staff positions (involved in auditing and compliance, customer service response and administration).

The City of Toronto's prime objective is to reduce the prevalence of residential properties left vacant that might otherwise be used to increase housing availability and affordability. As a secondary outcome of the VHT would generate additional revenue which will assist with future affordable housing initiatives.

City of Ottawa

In June of 2021, Ottawa Council approved a plan to impose a 1% tax on its vacant homes. It is estimated that the tax would generate about \$6.6 million in its first year in 2022 with billing to begin in 2023 with an estimated 1,500 vacant properties. The City anticipates it will take two and a half years to set up the tax and the cost is expected to be approximately \$3.5 million. Ongoing cost is estimated to be \$1.3 million annually to cover staffing costs, billing, printing, communication, audit and dispute resolution costs.

In addition to Toronto and Ottawa, a number of other Regions and neighboring municipalities have, or intend to, report on this initiative including;

- York Region: Reported to Council on October 28th, 2021; Council directed staff to develop a feasibility study and public benefits review of a Vacant Homes Tax in York Region. Staff anticipate they will table the report back to Council in September 2022
- Peel: Reported to Council in January 2021. Established a working group to undertake a feasibility and benefit study. Prepared a RFP for a consultant to prepare a Feasibility Study and Public Benefit Review report
- Halton: Memo to Council in October 2021. Preparing an RFP for a consultant to prepare a Feasibility Study and Public Benefit Review report
- Hamilton: Reported to Council in July 2021. Council provided direction to develop a framework. Public consultation in progress September 2021
- Mississauga: Reported to Council in March 2021 and requested to report back by end 2021 with further information

As noted earlier, other than City of Toronto, any Ontario municipality which wishes to impose a VHT needs to be 'designated' by the Province. The Province has indicated that the following steps would be required to be undertaken by municipalities seeking 'designation'.

Any municipality wishing to levy this tax must have an enabling bylaw prescribing the tax rate and the conditions of vacancy which, if met, make a home subject to the tax. The bylaw may also detail how the VHT is administered, potential exemptions and rebates, as well as the establishment/use of a dispute resolution mechanism.

To date, no municipality has been designated in Ontario other than Toronto; however it is anticipated that the City of Ottawa will be designated prior to the end of the year.

2. Options Related To a Vacant Home Tax

Similar to the VHT programs being considered in the City of Toronto and the City of Ottawa, Staff have prepared an overview of how a VHT could work within the City of Markham. Should Council wish to pursue a VHT, staff will further develop and refine the framework and will seek input from the public as part of VHT consultation process.

VHT Eligibility

Determining and defining what constitutes a vacant home is not prescribed within the *Act* and is within municipal jurisdiction. The City must identify the properties which could be eligible for the VHT, should they meet the definitions of a vacant home. In accordance with the Municipal Act, only residential homes classified in the residential (RT) property tax class would be subject to the VHT.

Eligible properties include single-detached homes, semi-detached homes, townhomes, residential condominiums, duplexes, triplexes and other multi-home homes (*less than seven homes*) assessed in the residential tax class.

Vacant land in the residential tax class and residential properties with seven or more homes assessed in the Multi-Residential and New Multi-Residential class are not subject to the VHT.

Residential Home Definitions

- *Vacant Home*: For the purposes of the VHT , a residential home is considered vacant if it has been unoccupied for an aggregate of more than 184 days during the previous calendar year; or, it is deemed to be vacant in accordance with a by-law
- *Principal Residence*: For the purposes of the VHT, a residential home is considered a principal residence when it is owned or rented, alone or with others and makes it a home which includes daily affairs, including; paying bills and receiving documentation related to identification which is tied to the address of the principle residence. A person may only have one principal residence
- *Non-Principal Residences*: For the purposes of the VHT, all other homes owned by an owner are considered to be Non-Principal Residences (second homes). This type of home is subject to the VHT unless it is either designated as the principal residence of a family member, friend, or tenant who is renting for at least 184 consecutive days for the VHT reference year

Under this type of VHT program, all principal residences and rented properties identified by a person as their principal residence would be excluded from the VHT and would not be subject to the tax. This approach is consistent to the City of Vancouver and what is currently being considered by both the City of Toronto and Ottawa.

VHT Exemptions

As outlined within section 338.2 of the *Municipal Act*, municipalities should specify any exemptions that apply to the tax as part of the VHT design. The following exemptions types are currently employed in Vancouver and are being considered by Toronto and Ottawa;

- Death of a registered owner or registered owner in care
- Property undergoing redevelopment or major renovation
- Court Order or Rental Restriction or prohibition
- Transfer of legal ownership of property

VHT Administration

There is no data readily available to confirm the actual number of vacant homes within the City of Markham. Staff have reviewed what other jurisdictions have implemented or what they are considering and have identified the following three approaches;

1. *Mandatory Declaration:* Every homeowner would be required to declare to the City if their home is occupied or vacant each year. Residents who do not report their status to the City would be automatically deemed vacant. This approach is used in Vancouver and is currently proposed for both the City of Toronto and Ottawa.
2. *Vacant Home Declaration:* Only those who own a vacant property will be required to declare. Homeowners who do not report their vacant status to the City could be subject to fines or penalties.
3. *Complaint-Based Enforcement:* The City would only be able to identify a vacant property if they are notified through a complaint to the City.

Given that the objective is to increase the amount of available homes in the market, the mandatory declaration method is likely to produce the most significant participation from property owners, and therefore, the greatest number of potential housing conversions back into the market. Both the City of Toronto and Ottawa are currently considering the mandatory declaration approach as part of their residential VHT program which is expected to commence in 2023.

Should Markham Council consider utilizing the mandatory declaration approach, the timeline would begin each year in January, which aligns with the mailing of the interim property tax bills. All eligible homeowners in Markham (105,740 as of Jan 1st, 2021), would receive a reminder to complete the annual property declaration using an online platform.

For property owners enrolled in the City's electronic bill delivery platform (*eBilling*) the declaration reminder will appear as an online announcement. The notification would be supplemented with ad campaigns that run during the declaration time period to remind homeowners to complete the mandatory declaration promptly. (*Alternative declaration submissions options will also be available resident's including: mail / drop-off*).

The declaration would require property owners to identify the property status based one of the following categories:

1. Principal residence
2. Non-Principal residence
3. Vacant Property
4. Eligible Exemption

If the property is declared vacant, a VHT would be calculated by applying a Council approved rate to the property's assessed value as determined by the Municipal Property Assessment Corporation (MPAC).

$$\text{VHT Tax Rate} \times \text{Assessed Value of Property} = \text{Annual Vacant Home Tax}$$

$$\text{Example: } 1.0\% \times \$1,000,000 = \$10,000$$

The tax would be included as a separate line item on the final property tax bill for the year, which is issued in June and would be payable based the property owner's chosen instalment plan. All unpaid VHT amounts would be treated in the same manner as regular outstanding property taxes and would be subject to late payment charges.

VHT Compliance

To ensure compliance with the program and that accurate declarations are received, the City of Vancouver implemented an audit program on the annual declarations. Since the inception of the EHT in Vancouver, almost 24,000 audits have been performed on declarations. This equates to 3.0% in 2017, increasing to 4.8% of the total declarations received in 2019.

Non-compliance rates in Vancouver have varied from the low of 5.3% in 2017 to a high of 10.5% in 2018. The audits have generated a total of \$46.5M in additional tax revenue.

Both the City of Toronto and Ottawa are also considering implementing a declaration audit process within their VHT programs to ensure compliance, while educating property owners. Should Council direct staff to proceed with the design of a VHT, staff will further develop a complete policy framework which will include an audit compliance process.

VHT Dispute Resolution

The Municipal Act requires municipalities to include a dispute resolution mechanism with in the design of the VHT program. Homeowners would be permitted to file a dispute with the City on an annual basis. Disputes would be filed in writing by a set dispute date. Additional documentation and information would be required to support all dispute application requests.

Staff may be required to request additional information which would be used to support and validate the applicants review request, prior to making a final determination. Should Council direct staff to proceed with the design of a VHT, staff will further develop a complete policy framework which will include a dispute resolution process.

VHT Tax Rate

Tax rates for the VHT program are set by Council and have no minimum or maximum threshold prescribed by the *Municipal Act*. For illustration purposes, Staff have included rates ranging from 0.5% to 3% in Table 1 below. The summary below illustrates these ranges, along with the total tax obligation (*property taxes + VHT*) would be for a vacant home in the City of Markham.

Table 1 – Total Vacant Home Tax Obligation

Vacant Home CVA Example	Property Taxes	VHT Rate	VHT Amount	Total Vacant Home Tax Obligation
<i>A</i>	<i>B</i>	<i>C</i>	$D = A \times C$	$E = B + D$
\$846,000	\$5,354	0.5%	\$4,230	\$9,584
\$846,000	\$5,354	1.0%	\$8,460	\$13,814
\$846,000	\$5,354	1.5%	\$12,690	\$18,044
\$846,000	\$5,354	2.0%	\$16,920	\$22,274
\$846,000	\$5,354	2.5%	\$21,150	\$26,504
\$846,000	\$5,354	3.0%	\$25,380	\$30,734

VHT Program Revenue Estimates

Currently, there is no data readily available to confirm the actual number of vacant homes within the City of Markham. Until the program begins and the first annual declaration received, the City will not have concrete data on how many properties are identified as vacant and subject to the VHT. The assumed vacancy rate of 0.5% is being utilized as this is an assumption used in the Vancouver, Toronto, and Ottawa's studies.

Assuming that 0.5% of the 105,740 eligible properties in Markham qualify for the VHT, the estimated gross revenue in the first year would be \$5.0 million, with an additional \$12.3 million estimated for the following four years. In Vancouver, the number of properties subject to the EHT decreased by 22% in the first year and by 5% annually thereafter. This decrease aligned with the program's intended outcomes, and staff have incorporated a similar decreases in the Markham's revenue estimates noted above.

The *Act* does not prescribe how funds collected from the tax are to be used. While Council may decide to use revenues from the VHT for any purpose, the overarching intent of the program is to support affordable housing initiatives.

3. VHT Resource Requirements

A portion of the revenues generated would be used to fund the administration of the program. The VHT program requires an investment in start-up costs to fund program development, portal enhancement, and an awareness/marketing campaign, auditing and customer service requirements.

Staff estimate start-up costs will be approximately \$1.15M over 2 years, after which the ongoing operating costs would be \$450,000 annually. These figures are preliminary estimates and are subject to change. The annual gross revenue will cover both the start-up costs which also includes three staff FTEs which will be required to develop, implement and support the program moving forward. These costs are in-line with the startup and operating estimates used by both the City of Toronto who has eight times more eligible properties and the City of Ottawa would has three times more eligible properties.

Table 2 below outlines a summary of staff's preliminary estimate on the total VHT revenue, along with the program costs for the first five years. The estimate assumes a 1% VHT rate and 0.5% ($105,740 \times .05\% = 529$) of the total eligible properties in Markham being subject to the VHT in the first year, with a gradual reduction over time.

Table 2 – Estimated Total Vacant Home Tax Revenues and Program Costs

Year	# of Vacant Units	Estimated Gross Revenue (M)	Estimated Program Costs (M)	Estimated Net Revenue (M)
0			\$0.70	-\$0.70
1	529	\$5.03	\$0.45	\$4.58
2	412	\$3.21	\$0.45	\$2.76
3	400	\$3.11	\$0.46	\$2.66
4	387	\$3.02	\$0.46	\$2.56
5	375	\$2.92	\$0.46	\$2.46
5 Year Program Total (M)		\$17.30	\$2.98	\$14.32

VHT Next Steps

Should Council direct staff to proceed with the design of a VHT, staff will further develop a complete policy framework, implementation plan, including refining the estimated annual VHT program operating costs noted in this report. The continuing operating costs of administering the program would be funded from the gross tax revenues, and any net surplus of revenues may be dedicated to affordable housing initiatives, if Council so directs.

Staff will also be soliciting feedback Markham residents through a public consultation process and providing all pertinent details of the program to the Minister of Finance to support obtaining designation from the Province. Once designated by the Minister of Finance, Council would then be in a position to enact vacant home tax by-law.

It is also important to note, that both the startup and annual operating costs would still materialize should York Region Council wish to proceed with the implementation of a VHT Region-wide. The Region has indicated that collaboration with local municipalities will be key to developing a framework for both the administration and revenue sharing should Regional Council wish to proceed with a VHT.

As noted in this report, Regional Council directed staff to develop a feasibility study and public benefits review of a Vacant Homes Tax in York Region. Regional Staff have indicated that they anticipate a report back to Council in September 2022.

FINANCIAL CONSIDERATIONS

As noted above, should Council direct staff to proceed with the design of a VHT, it is estimated that total one-time start-up costs of \$1.15 million would be incurred in the first two years to set up the necessary administrative structure to collect the tax as well as initial communications efforts. Annual operating costs are estimated at \$0.45 million per year, consisting of salary costs for a total of 3 staff positions, and direct operating expenses to support the program. These figures are preliminary estimates and are subject to change.

HUMAN RESOURCES CONSIDERATIONS

Not applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:

Not applicable

BUSINESS UNITS CONSULTED AND AFFECTED:

Not applicable

RECOMMENDED BY:

Joel Lustig
Treasurer

Trinela Cane
Commissioner, Corporate Services

ATTACHMENTS:

Not applicable