

## Developer Specific Q and A on Empty Homes Tax

*Final: July 18, 2017*

### Q1. What is the Vacancy Tax By-Law and the Empty Homes Tax (EHT)?

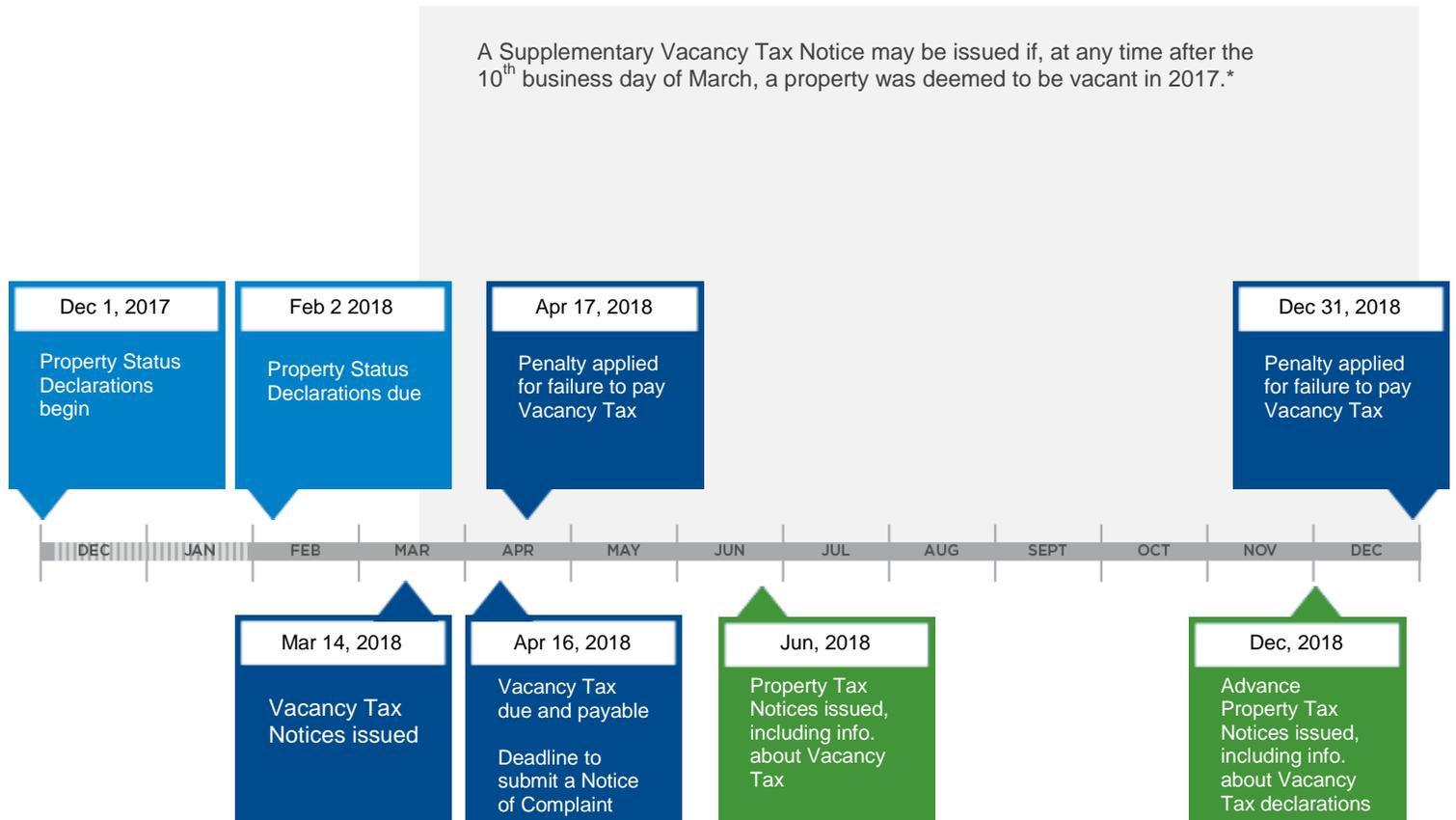
- The EHT is a tax on empty and under-utilized Class 1, Residential properties within the city of Vancouver pursuant to the ***Vacancy Tax By-law*** which was enacted by Council on November 16, 2016.
- Properties that are determined or deemed to be vacant will be subject to a tax of 1% of the property's taxable assessed value.
- The EHT will be applied annually, with the first tax year beginning on January 1, 2017 and ending on December 31, 2017. The first tax notices will be issued on March 14, 2018.
- Most properties will not be subject to the tax, as it does not apply to those that are either principal residences or rented out for at least six months of the year. Additionally, there are several permissible exemptions to the tax.
- Net revenues from the tax are required to be invested into affordable housing initiatives after covering implementation and operational costs.

### Q2. How will it be implemented?

- Every owner of Class 1 residential property that is not otherwise exempt from property taxes in Vancouver will be required to make an annual property status declaration. Owners will receive instructions outlining how to make this declaration by December 31st of each year.
- Property status declarations for the 2017 tax year will be due by February 2, 2018. Failure to declare by this date will result in the property being deemed to be vacant and subject to the tax. The City may also prosecute for fines.
- Properties that are determined to be vacant as a result of the property status declaration will be subject to the tax.
- Late and unpaid empty homes taxes are subject to the same remedies for non-payment as property taxes, including:
  - A late payment penalty of 5%
  - Daily interest on arrears

- The tax sale process

- If an owner makes a false declaration, fails to provide required information or evidence to support a declaration, or provides false information or evidence, then the property will be deemed vacant and subject to the tax. The City may also prosecute, which may result in fines of up to \$10,000 per day of the continuing offense, in addition to payment of the EHT.



\* The registered owner of a property deemed to be vacant may submit a Notice of Complaint to the Vacancy Tax Review Officer within 28 days of the date of issue noted on the Supplementary Vacancy Tax Notice. Payment pursuant to the Supplementary Vacancy Tax Notice is due and payable on the due date noted in the Supplementary Vacancy Tax Notice. The Vacancy Tax Review Officer will consider the Notice of Complaint and any additional information provided and make a determination. A registered owner may request a review of that determination by the Vacancy Tax Review Panel.

### Q3. What are the permissible exemptions?

Exemption	Examples of acceptable evidence
Your property was subject to a strata bylaw as of November 16, 2016 that restricts the number of units that may be rented, and the maximum allowable number of rentals has already been reached.	<ul style="list-style-type: none"> <li>• Copy of strata bylaws</li> <li>• Letter from strata council confirming the maximum number of units have been rented</li> </ul>
Your property is not your principal residence, but you occupy it for at least 180 days of the year because you work in the City of Vancouver.	<ul style="list-style-type: none"> <li>• Address of your principal residence</li> <li>• Contact information for Vancouver employer</li> <li>• Letter from Vancouver employer confirming full time employment status and required physical presence for purposes of work</li> </ul>
Your property is undergoing major renovations, or is under construction or redevelopment, and <a href="#">permits</a> have been issued.	<ul style="list-style-type: none"> <li>• Short description of renovation/redevelopment project</li> <li>• Permit number</li> </ul>
The registered owner is deceased and a grant of probate or administration of the estate is pending.	<ul style="list-style-type: none"> <li>• Death certificate of registered owner</li> </ul>
You or your tenant is receiving long-term, in-patient, medical or supportive care.	<ul style="list-style-type: none"> <li>• Contact information for care facility</li> <li>• Letter from care facility confirming you or your tenant is undergoing medical/supportive care</li> </ul>
Legal ownership of the property changed during the year.	<ul style="list-style-type: none"> <li>• Title search or certificate of title showing the date that title was transferred</li> </ul>
The property's use is limited to vehicle parking, or the shape, size, or other aspect of the property precludes the ability to construct a residential building.	<ul style="list-style-type: none"> <li>• Land survey or legal description of parcel that clearly illustrates the limiting aspects of the property</li> </ul>
Your property is under a court order prohibiting occupancy.	<ul style="list-style-type: none"> <li>• Copy of the court order</li> </ul>

#### Q4. How will the EHT impact developers?

Some construction and renovation projects may require properties to be empty for a period of time. However, there may still be implications for your property before, during, and after construction.

##### **Before Construction**

The exemption for major renovation or redevelopment is only applicable to properties that are undergoing active construction for which permits have been *issued*. This exemption does not currently apply to properties for which permits are *pending*.

Owners who are awaiting permits must ensure that properties are either occupied as a principal residence or rented out (in periods of 30 or more consecutive days) for at least six months of the tax year. This requirement also applies to projects requiring rezoning, so owners should maintain occupancy while proceeding through the rezoning process. Unoccupied homes that are part of a land assembly may also be subject to the Empty Homes Tax if they are not occupied while the development site is proceeding through the rezoning or development permit process.

Generally speaking, costs of land ownership (such as taxes) incurred in advance of development are not included in the calculation of community amenity contributions (CACs). Under the current by-law, projects that are under active construction are exempt from the EHT. Therefore, payment of EHT will not impact the calculation of CACs.

On 28 June 2017, Council approved an amendment for vacant unimproved lands and heritage retention projects where rezoning, development permit, or heritage alteration permit applications are under review. Vacant lands that are not improved with any dwelling units are exempt if the owner has submitted a complete rezoning or development permit application to create housing supply, provided that the application is being diligently pursued by the applicant. For projects requiring rezoning, submission of a full and complete letter of enquiry package and full payment of the required fee by the registered owner will meet this requirement. Vacant unimproved properties that are not in the development review process will continue to attract the EHT as an incentive for owners to move forward with the creation of housing supply. There is also an exemption for heritage properties where a registered owner has submitted a development permit or heritage alteration permit application for the rehabilitation and conservation of heritage property. For this exemption, the property must be heritage property as that term is defined in the Vancouver Charter, meaning property that, in the opinion of Council or its delegate, either “has sufficient heritage value or character to justify its conservation”, or “is protected heritage property”.

The EHT will only be applied to parcels that are 100% Class 1, Residential. Parcels with a mixed classification will not be subject to the EHT.

Unimproved vacant parcels of Class 1 residential land that are part of a phased development will be exempted from the EHT if a rezoning application is under review for the phased development, or the property is already rezoned and another parcel within the development is moving forward with an application to create housing supply or is already under construction with issued permits. This aligns with the exemption for unimproved vacant lands discussed above, but is required to capture parcels of land within large-scale developments of unimproved land where the City has agreed that applications for development will be submitted in phases and development will be carried out pursuant to multiple development permits.

The City's [Tenant Relocation and Protection Policy](#) provides considerable flexibility for developers to rent out properties while they await permits. Developers are not required to compensate tenants who resided in the property for less than a year before the rezoning or development application was submitted. Additionally, developers are not required to compensate tenants whose tenancy began after a rezoning or a development permit application was submitted. However, Residential Tenancy Act requirements concerning notice and free rent still apply for month-to-month tenancies. The Tenant Relocation and Protection Policy does not currently apply to properties in single-family zones.

### **Following Issuance of Permits**

Properties undergoing major renovations or redevelopment with all necessary permits in place are exempt from the EHT for the duration of the construction period, so long as this work is being carried out *diligently and without unnecessary delay*.

As per the B.C. Residential Tenancy Act, a landlord must have all necessary permits and approvals in place before issuing a [Notice to End Tenancy](#).

### **Additional Information:**

#### *Minor renovations do not qualify for an exemption*

- There are many types of renovations that may make occupancy unsafe or impractical while work is underway. However, very few of these will require the home to be unoccupied for 180 days; rather, the vast majority of renovation projects can be completed in less than six months' time.
- If a renovation project can be completed in under six months, the home must either continue to be the principal residence of the owner, a friend or family

member or rented out (in periods of 30 or more consecutive days) for at least six months of the tax year in order to be exempt from the EHT.

- The following are examples of projects that can usually be completed in less than six months' time and, therefore, will generally *not* qualify for the exemption:
  - Kitchen renovation
  - Bathroom renovation
  - Roof replacement
  - Cladding replacement
  - Window replacement
  - Electrical upgrades
  - Plumbing upgrades
  - Energy upgrades
  - Most additions

### **After Construction**

Once an occupancy permit has been issued for the property, or the property passes final inspection, the building is considered complete and fit for occupancy.

If this occurs in the first 180 days of the tax year, the property does not qualify for the redevelopment exemption. Consequently, it must either be occupied as a principal residence or rented out (in periods of 30 or more consecutive days) for at least six months of the tax year in order to be excluded from the tax.

However, if the property was unoccupied for more than 180 days while undergoing major renovations or redevelopment (pursuant to issued permits), it qualifies for the exemption.

### **Additional Information:**

#### ***Listing a property for sale or rent does not qualify it for exemption***

- If a property was fit for occupancy but was unoccupied for more than 180 days of the tax year, it will be considered vacant and the tax will apply.
- A property may be exempt from the tax if legal ownership of the property changed during the tax year. In this case, the owner may have to provide a title search or certificate of title showing the date that title was transferred to support his/her property status declaration.

*Responsibility for making a property status declaration rests with the registered owner*

- The property status declaration must be made by the second business day of the February after the applicable tax year. The responsibility for completing and submitting a property status declaration rests with the registered owner. When purchasing property, buyers should seek representations and warranties from the seller regarding the property status declaration and seek a copy of the property status declaration if it has been made by the seller for that year. If a contract of purchase and sale is entered into before the property status declaration for the applicable year has been completed and submitted, the seller either needs to complete and submit the declaration and warrant to the buyer that they have done so (and provide a copy), or the seller needs to pass the responsibility for making the declaration to the buyer, and the buyer must ensure that they are aware of their obligation and seek representations from the seller regarding the use of the property for the applicable tax year. The latter option creates more risk. In both cases, the buyer should consider a holdback for the vacancy tax amount and obtain an indemnity from the seller in the event that the tax is applied. This is especially important if the contract of purchase and sale was entered into during the applicable tax year but the closing does not occur until the following year because the exemption for transfer of title does not apply.
- This will need to be addressed in both the contract for purchase and sale, and the closing documents. The City is working with the real estate industry to advise realtors, notaries and lawyers about the tax and produce language to address the tax for the industry standard contract of purchase and sale.