

File No.: 04-1000-20-2023-384

August 8, 2023

s.22(1)

Dear s.22(1)

**Re: Request for Access to Records under the Freedom of Information and Protection of Privacy Act (the "Act")**

I am responding to your request of June 28, 2023 under the *Freedom of Information and Protection of Privacy Act* for:

**Record of memos from City staff to Mayor and Council regarding possible or proposed amendments to the Vacancy Tax (Empty Homes Tax) Bylaw. Date range: May 1, 2023 to June 27, 2023.**

All responsive records are attached. Some information in the records has been severed (blacked out) under s.15(1)(l) of the Act. You can read or download this section here: [http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/96165\\_00](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/96165_00).

Under section 52 of the Act, and within 30 business days of receipt of this letter, you may ask the Information & Privacy Commissioner to review any matter related to the City's response to your FOI request by writing to: Office of the Information & Privacy Commissioner, [info@oipc.bc.ca](mailto:info@oipc.bc.ca) or by phoning 250-387-5629.

If you request a review, please provide the Commissioner's office with: 1) the request number (#04-1000-20-2023-384); 2) a copy of this letter; 3) a copy of your original request; and 4) detailed reasons why you are seeking the review.

Yours truly,

*[Signed by Cobi Falconer]*

**Cobi Falconer, MAS, MLIS, CIPP/C**  
**Director, Access to Information & Privacy**  
[cobi.falconer@vancouver.ca](mailto:cobi.falconer@vancouver.ca)  
453 W. 12th Avenue Vancouver BC V5Y 1V4

If you have any questions, please email us at [foi@vancouver.ca](mailto:foi@vancouver.ca) and we will respond to you as soon as possible. Alternatively, you can call the FOI Case Manager at 604-871-6584.

Encl. (Response Package)

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**From:** "Mochrie, Paul" <Paul.Mochrie@vancouver.ca>  
**To:** "Direct to Mayor and Council - DL" s.15(1)(l)  
**CC:** "City Manager's Correspondence Group - DL" s.15(1)(l)  
"Impey, Patrice" <Patrice.Impey@vancouver.ca>  
"Aspinall, Julia" <Julia.Aspinall@vancouver.ca>  
**Date:** 5/10/2023 3:00:22 PM  
**Subject:** EHT - 2022 levies on unsold inventory

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Mayor and Council,

I am writing in follow up to a question that was posed in your meeting this morning regarding the amount of EHT levies collected on unsold housing inventory for the 2022 reference year.

On the 2022 unsold inventory, a total amount of \$3,8M was levied. To date, \$2.4M has been collected (64%).

The application of a retroactive exemption for unsold inventory would require that we reverse the \$3.8M billing and refund \$2.4M to the developers who have submitted payments thus far.

Media has requested this information as well and we will be sharing the foregoing details.

If you have any further questions, please let Patrice know.

Best,  
Paul

From: "Mochrie, Paul" <Paul.Mochrie@vancouver.ca>

To: "Direct to Mayor and Council - DL" s.15(1)(l)

CC: "City Manager's Correspondence Group - DL" s.15(1)(l)

"Impey, Patrice" <Patrice.Impey@vancouver.ca>

Date: 6/19/2023 6:09:05 PM

Subject: EHT Bylaw - unsold inventory exemption

Attachments: FRS - Memo to Mayor and Council - EHT vacant unsold inventory.docx

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Good afternoon Mayor & Council,

The purpose of the attached memo is to provide you with updated information regarding the implementation of the new EHT exemption on unsold vacant new inventory and the retroactive implementation of this exemption for 2022, which was approved by Council last month. Staff will be bringing forward to Council for enactment the amended Vacancy Tax bylaw, including this new exemption along with the other new or amended exemptions, on June 27, 2023.

As a point of note, the retroactive exemption on vacant unsold inventory in 2022 applies to properties that are newly vacant in 2022, ie: made its first EHT property status declaration (and received occupancy permit) in 2022. Properties that were vacant in 2022 but had made its first EHT property status declaration prior to 2022 would not be eligible for exemption as they were not newly vacant in the 2022 vacancy tax year.

Some of the developers who wrote letters to Council requesting refunds of their EHT payments had units that became vacant prior to 2022. If Council decides to allow these older properties for exemption, Council would need to amend the proposed draft Vacancy Tax bylaw (see Appendix A of the memo).

Once the bylaw exemption for vacant new unsold inventory is enacted, developers will be invited to submit a Notice of Complaint to change the status declaration for the 2022 reporting period. In order to be eligible for the exemption, the developer must demonstrate that each property was part of a newly built residential development of 5 or more units, has not been occupied since completion of construction, was actively listed throughout the vacancy tax period and was the subject of a property status declaration the first time starting in 2022.

If you have any questions, please reach out to myself or Patrice Impey.

Best,  
Paul

Paul Mochrie (he/him)  
City Manager  
City of Vancouver  
[paul.mochrie@vancouver.ca](mailto:paul.mochrie@vancouver.ca)  
604.873.7666



The City of Vancouver acknowledges that it is situated on the unceded traditional territories of the x'm k'y'm (Musqueam), S'wxwú7mesh (Squamish), and s'liłw'ta (Tseil-Waututh) Nations.

## MEMORANDUM

June 19, 2023

TO: Mayor and Council

CC: Paul Mochrie, City Manager  
Armin Amrolia, Deputy City Manager  
Karen Levitt, Deputy City Manager  
Rosemary Hagiwara, Acting City Clerk  
Teresa Jong, Administration Services Manager, City Manager's Office  
Maria Pontikis, Chief Communications Officer, CEC  
Trevor Ford, Director of Operations, Mayor's Office  
David Grewal, Senior Advisor, Mayor's Office  
Theresa O'Donnell, General Manager, Planning, Urban Design & Sustainability  
Dan Garrison, Assistant Director, Housing Policy and Regulations  
Iain Dixon, Assistant Director, Regulatory Litigation

FROM: Patrice Impey  
General Manager, Finance, Risk and Supply Chain Management

SUBJECT: EHT exemption: vacant new inventory

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Dear Mayor and Council,

The purpose of this memo is to provide Council with updated information regarding the implementation of the new EHT exemption on unsold vacant new inventory and the retroactive implementation of this exemption for 2022, which was approved by Council on May 10, 2023.

Under the current Vacancy Tax bylaw, if a newly constructed unit has not yet been sold to an end-user, the unit may be exempt for 6-18 months, depending on when the occupancy permit was received and/or when it was sold (to qualify for property transfer exemption). However, properties that remain vacant beyond this period were subject to the EHT. On May 10, 2023, Council approved an exemption for vacant new inventory that remains unsold for each vacancy reference year after obtaining the occupancy permit, until it is sold or occupied, and that this exemption be effective retroactively starting in the 2022 vacancy reference year. The purpose of this exemption was to help address the financial risk from EHT on development that could impact the delivery of new housing supply.

Staff will be bringing forward to Council for enactment of the amended Vacancy Tax By-law, including this new exemption along with other new or amended exemptions on June 27, 2023. The criteria to qualify for the vacant unsold new inventory exemption is consistent with the Province's Speculation and Vacancy Tax (SVT); however, the City's Vacancy Tax By-law provides greater clarity reflecting the objectives of the EHT. Namely, the property had to have been actively listed throughout the vacancy tax reference period, and the exemption applies to newly vacant properties starting from 2022

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onwards. Please refer to Appendix A for the draft bylaw, which will be brought forward for Council approval.

Council had inquired about the financial impact of applying the exemption retroactively to 2022, and staff provided an estimate that approximately \$3.8 million in revenue would be potentially reversed related to new units in 2022, of which \$2.6 million had already been collected to date. This estimate was based on applying the exemption to newly vacant unsold inventory in 2022. Staff conducted an additional review of vacant unsold inventory and found approximately 36 units (\$3.2 million EHT levied) were vacant in 2022 but received occupancy permit and had made its first EHT property status declaration **prior** to 2022 (i.e., not newly vacant in 2022). These properties would not be eligible for exemption as they were not newly vacant in the 2022 vacancy tax year. Some of the developers who wrote letters to Council requesting refunds of their EHT payments had units that were not newly vacant in 2022. If Council decides to allow these older properties for exemption, Council may need to amend the proposed draft Vacancy Tax By-law (see Appendix A). For reference, the table below provides information on the 2022 vacancy tax year profile of vacant unsold inventory and the year the property was required to make its first EHT declaration.

\$ in thousands	Newly vacant in 2022			Not newly vacant in 2022 (ie: obtained occupancy permit prior to 2022)									Total units declared vacant in 2022		
	New 2022/Vacant 2022			New 2021/Vacant 2022			New 2020/Vacant 2022			New 2017/Vacant 2022			Total Vacant 2022		
	# of properties	\$ Levied	Collected/Potential Refund	# of properties	\$ Levied	Collected/Potential Refund	# of properties	\$ Levied	Collected/Potential Refund	# of properties	\$ Levied	Collected/Potential Refund	# of properties	\$ Levied	Collected/Potential Refund
Developer A	20	1,648	1,648										20	1,648	1,648
Developer B				17	1,566	1,566							17	1,566	1,566
Developer C	17	489	204	5	765								22	1,254	204
Developer D	10	1,128	154										10	1,128	154
Developer E							10	489	489	1	36	36	11	525	525
Developer F										2	315	315	2	315	315
Developer G	6	195	195										6	195	195
Developer H	4	188	188										4	188	188
Developer I	3	165	165										3	165	165
Developer J							1	45	45				1	45	45
<b>Total</b>	<b>60</b>	<b>\$3,813</b>	<b>\$2,555</b>	<b>22</b>	<b>\$2,332</b>	<b>\$1,566</b>	<b>11</b>	<b>\$534</b>	<b>\$534</b>	<b>3</b>	<b>\$351</b>	<b>\$351</b>	<b>96</b>	<b>\$7,029</b>	<b>\$5,006</b>
	<i>Total EHT Levied \$3.8M, 60 units</i>			<i>Total EHT Levied \$3.2M, 36 units</i>									<i>Total EHT Levied \$7.0M, 96 units</i>		

Once the by-law exemption for vacant new unsold inventory is enacted, developers are invited to submit a Notice of Complaint to change the status declaration for the 2022 reporting period for those units required to file an EHT declaration for the first time in 2022. Similar to other Vacancy Tax By-law exemptions, it is incumbent on the property owners (developers) to provide evidence to substantiate the declared exemption. To be eligible for the exemption once the by-law amendment is enacted, all properties must demonstrate they were part of a newly built residential development of 5 or more properties, which have not been occupied since completion of construction, were actively listed throughout the vacancy tax reference period, and made a property status declaration the first time starting in 2022. The reversal of the EHT levy will only occur if the developer is able to demonstrate these requirements. Therefore, staff are unable to estimate the financial impact of the retroactive application until the exemption review process has been completed; however, it would be up to the maximum of \$3.8 million if Council enacts the proposed Vacancy Tax By-law amendment.

If you have any questions or require further information, please feel free to contact me at [patrice.impey@vancouver.ca](mailto:patrice.impey@vancouver.ca) or (604) 873-7610.

Best Regards,



Patrice Impey  
 General Manager, Finance, Risk and Supply Chain Management/CFO  
 604.873.7610 | [patrice.impey@vancouver.ca](mailto:patrice.impey@vancouver.ca)

## Appendix A - Draft Vacancy Tax Bylaw on Vacant Unsold Inventory

“3.9 For the 2022 vacancy reference period and any subsequent vacancy reference periods, 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 and:

- (a) the residential property is part of a residential development of 5 or more residential properties;
- (b) the residential property has been newly constructed;
- (c) the residential property has not been occupied for residential purposes since it was constructed;
- (d) the residential property was actively offered to the public for sale throughout the vacancy reference period;
- (e) the registered owner of the residential property was a developer of the residential property; and
- (f) the first time a property status declaration for the residential property was required to be completed and returned was for the 2022 vacancy reference period.”

From: "Mochrie, Paul" <Paul.Mochrie@vancouver.ca>  
To: "Direct to Mayor and Council - DL" s.15(1)(l)  
CC: "City Manager's Correspondence Group - DL" s.15(1)(l)  
"Impey, Patrice" <Patrice.Impey@vancouver.ca>  
"Aspinall, Julia" <Julia.Aspinall@vancouver.ca>  
Date: 5/8/2023 7:59:58 AM  
Subject: Empty Homes Tax report

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Good morning Mayor and Council,

I am writing in follow up to a question from Councillor Dominato regarding the report and recommendations regarding the Empty Homes Tax that Council will be considering this week. Our response is set out below.

- Q: For the proposed new penalty for late filings, how did staff land on 5% of the assessed vacancy tax? Did we consider 2.5% or 3%? 5% is still quite substantive on an assessed vacancy tax of \$85K as per the report example.
- A: Staff did contemplate different penalty percentages, both higher and lower than 5%. The rationale for the percentage consideration was it had to be significant enough to encourage home owners to filing timely. Too low of a penalty can encourage [repeated] late declaration by homeowners which makes the integrity and administration of the EHT program more challenging- including unreliable data to plan compliance activities and inability to fully to understand the implications of tax rate and other changes from gathered data. Too high of a penalty would defeat it's intended purpose to provide relief to homeowners who can prove non-vacancy of their proper es.

The 5% late penalty coincides with the late payment on property taxes, and staff discussed the 5% would be appropriate to deter those homeowners trying to make frivolous late declarations without substantial audit evidence to prove vacancy. In the example used in the report, 5% on \$85,000 EHT tax is \$4,250; this is substantially lower than the levied EHT tax. The recommendation also proposes that the penalty may be waived in specific circumstances of hardship, which the EHT bylaw does not currently contemplate.

Please do not hesitate to let me or Patrice know if you have any further questions regarding this matter.

Best,  
Paul

Paul Mochrie (he/him)  
City Manager  
City of Vancouver  
[paul.mochrie@vancouver.ca](mailto:paul.mochrie@vancouver.ca)  
604.873.7666



The City of Vancouver acknowledges that it is situated on the unceded traditional territories of the x'm k'y'm (Musqueam), S'wxwú7mesh (Squamish), and s'liłw'ta (Tseil-Waututh) Nations.