

From: **"Mochrie, Paul"**

To: **"Direct to Mayor and Council - DL"**

Date: 2024-05-22 4:45:22 PM

Subject: EHT administration - Internal Audit review

Attachments: Internal Audit Memo - EHT Code of Conduct Review - Final.pdf

Good afternoon Mayor and Council,

For your information, the attached memo summarizes a review recently completed by the Internal Audit Division focusing on the conduct of City staff involved in administering the Empty Homes Tax (EHT) program. The review was initiated by Patrice in her capacity as GM Finance, Risk, and Supply Chain in response to a series of complaints made by a member of the public, Russ Reynolds.

As set out in their memo, Internal Audit has concluded that there was no breach of the City's Code of Conduct in the interactions involving the complainant. The complainant will be advised of the completion of this review.

The memo includes recommendations to management around the communication protocols for administration of the EHT program, including referring privacy-related inquiries to the Access to Information and Privacy office, and establishing guidelines for managing interactions with the public to ensure alignment with the City's Respectful Workplace Policy. We have initiated work on guidelines for EHT staff in dealing with inappropriate or abusive conduct from members of the public.

The complainant is also challenging the legality of the EHT program, which was not in the scope of Internal Audit's review. However, the complainant has a number of alternative channels available should he wish to pursue a challenge to the tax.

Please feel free to contact me or Julia Aspinall if you have any questions regarding this matter.

Best,
Paul

Paul Mochrie (he/him)
City Manager
City of Vancouver



The City of Vancouver acknowledges that it is situated on the unceded traditional territories of the xʷməθkʷəy̓əm (Musqueam), Sḵwəxwú7mesh (Squamish), and səlilwətaʔ (Tsleil-Waututh) Nations.

April 22, 2024

To: Patrice Impey - Chief Financial Officer & General Manager of Finance, Risk and Supply Chain Management
Julia Aspinall - Director, Financial Services

From: Carmen Fuellbrandt - Chief of Internal Audit

CC: Jennifer Chow - Senior Internal Auditor

Subject: Code of Conduct Review – Empty Homes Tax (EHT) program

A. BACKGROUND & SCOPE

Internal Audit was engaged to conduct a review in response to concerns raised by a member of the public ('the complainant') regarding the conduct of City staff involved in the administration of the Empty Homes Tax program. The complainant alleged that City staff from the EHT team and Legal Services acted in an inappropriate manner as part of their role in enforcing and upholding the City's Vacancy Tax bylaw.

The objective of the review was to determine whether there was any breach of the City's Code of Conduct or misconduct by City staff during interactions or correspondence with the complainant. The legality of the Vacancy Tax bylaw was not included in the scope of review.

The City of Vancouver's Code of Conduct outlines key principles for staff when carrying out their duties, including: Integrity, Accountability, Responsibility, Leadership, Respect, and Openness. In addition, staff must follow the "letter and spirit of policies and procedures".

B. WORK PERFORMED

Work performed consisted primarily of:

- Interviews with City staff in the Empty Homes Tax team and Legal Services;
- Interview with the complainant;
- Review of the City's Code of Conduct and Respectful Workplace policies;
- Review of available records of correspondence between the complainant and City staff during the period between January 22 to February 9, 2024; and
- Review of other relevant EHT documentation.

C. OBSERVATIONS & CONCLUSION

The complainant did not provide details of specific instances of inappropriate interactions with staff. Rather, the complainant subsequently raised the concern that they had been advised by EHT staff that the City had received approval from the Office of the Information and Privacy Commissioner (OIPC) to collect tenant information for the purpose of validating property status declarations as part of the EHT program. The complainant stated it was their understanding that approvals are not provided and had confirmed this with the OIPC. This discrepancy appears to be one of the driving factors behind the allegations of staff misconduct made by the complainant.

Through consultation with the City's Access to Information and Privacy Office (ATIP), Internal Audit confirmed that Privacy Impact Assessments (PIA) for the Empty Homes Tax program were submitted to and reviewed by the OIPC. Feedback from the OIPC was incorporated in the final versions of the PIAs and the OIPC subsequently noted that their comments had been adequately addressed. ATIP further clarified that while the OIPC conducts reviews of privacy related matters and provide their commentary, they do not provide explicit approval of privacy impact assessments.

EHT staff confirmed that in their discussion with the complainant, they had referred to the City receiving approval from the OIPC to collect information on occupants of a property for the purpose of validating property status declarations. In our opinion, the reference to an approval may have been due to a miscommunication by staff that are not regularly involved with OIPC matters directly and there was no evidence of intent to mislead the complainant.

Review of email correspondence from City staff to the complainant showed that a professional tone was used and there was no evidence of any inappropriate or abusive language used by City staff.

Based on our assessment of the information above, there was no breach of the Code of Conduct by City staff in their interactions with the complainant. However, there may be opportunity for improvement of the current process, where privacy related inquiries for the EHT program are consulted with the ATIP office going forward as the City's subject matter expert on privacy matters. Additionally, members of the public can submit requests for City documents under the Freedom of Information and Protection of Privacy Act which are handled by the ATIP office.

Upon further inquiry, management has expressed concern over the number and frequency of emails sent by the complainant and the use of threatening language at times directed towards EHT staff. In addition, EHT staff stated that they have been subject to derogatory language used by the complainant during verbal interactions. As set out in the City's Respectful Workplace Policy, there is an expectation for staff to be able to conduct their work in a harassment-free workplace. The policy also states that there is a process in place for reporting instances of harassment in the workplace to the supervisor, Human Resources, or the Equity Office.

D. RECOMMENDATIONS

1. The Director, Financial Services should consult with the City's ATIP office to determine appropriate communication protocols for privacy related inquiries with respect to the EHT program. Additionally, privacy related complaints should be referred to the ATIP office as a first point of contact, or OIPC if required.
2. The Director, Financial Services should inquire with Human Resources or the Equity Office on guidelines for dealing with and managing inappropriate interactions from the public that are not aligned with the City's Respectful Workplace Policy.

Sincerely,



Carmen Fuellbrandt, CPA, CMA, CIA
Chief of Internal Audit