

Committee of the Whole (1) Report

DATE: Tuesday, March 2, 2021

WARD(S): ALL

TITLE: AMENDMENTS TO SHORT-TERM RENTAL BY-LAW AND
MUNICIPAL ACCOMMODATION TAX, SHORT-TERM RENTAL
BY-LAW

FROM:

Gus Michaels, Interim Deputy City Manager, Community Services

ACTION: DECISION

Purpose

Following additional consultation with stakeholders and ongoing regulatory developments in the Greater Toronto Area, staff have identified a number of additional technical amendments that will better facilitate the licensing of Short-Term Rental Owners (i.e., hosts) and Short-Term Rental Brokerages (i.e., platforms), for Council consideration.

Report Highlights

- The City's Short-Term Rental By-law came into effect in January 2020 and through the initial stages of implementation staff became aware of a number of amendments to facilitate licensing; these were subsequently approved by Council.
- At the same time, regulatory developments in other cities prompted staff to undertake further consultation with stakeholders with the intent of achieving further regulatory consistency and promoting voluntary compliance.
- The recommendations in this report include lowering licensing fees to be more in line with fees in neighbouring municipalities, giving greater flexibility to industry participants in how the Municipal Accommodation Tax may be remitted, and providing explicit requirements relating to licensee information collection and submission.

Recommendations

1. THAT licensing fees for both Owners (i.e., hosts) and Brokerages (i.e., platforms) be reduced by 50% (from 2020 rates) for 2021 and that fees be increased by \$5.00 for Owners and by 3% for Brokerages in 2022;
2. THAT provisions relating to the collection of the Municipal Accommodation Tax within the Short-Term Rental By-law and the Municipal Accommodation Tax, Short-Term Rental By-law be amended to allow for either Owners or Brokerages to remit the tax;
3. THAT collection of information provisions be amended to ensure staff have information that is relevant and timely to enforce the City's regulations, including regulations that allow for data-sharing agreements where beneficial;
4. THAT staff be authorized to take any other actions, including consequential amendments to any by-laws, required to ensure the effective implementation of the above recommendations, subject to approval by the City Solicitor.

Background

After significant consultation throughout 2019 with short term rental hosts, platforms and members of the community, staff introduced a new regulatory regime for short-term rentals, with the adoption of Short-Term Rental By-law 158-2019, Municipal Accommodation Tax, Short-Term Rental By-law 183-2019, and By-law 157-2019, establishing licensing fees. The new regulations came into effect at the start of 2020.

With the onset of COVID-19, short-term rental activity came to a halt in mid-March, but recommenced in July, as COVID-19 restrictions were eased. In the meantime, staff identified a few areas for regulatory improvement, including more consistent application of licensing requirements across classes of participants, specifically applicants and licensees. Staff recommended that the requirement for a brokerage to maintain residency in Canada be eliminated, thus facilitating the legal operation of brokerages, as many originate abroad. Staff also recommended adding new definitions and provisions to more explicitly lay out licensing requirements for Short-Term Rental Brokerages and make it easier for the City to serve notices, penalties and fines to maintain regulatory over-sight and to otherwise undertake enforcement activities as required. Finally, staff recommended reflecting these changes in Municipal Accommodation Tax, Short-Term Rental By-law 183-2019.

Council adopted these recommendations in October of 2020; however, a by-law was not brought before Council, as a number of developments across the Greater Toronto Area, prompted staff to revisit and enhance its regulatory approach. Foremost, the launch of the short-term rental licensing regime by the City of Toronto, as well as the regulatory regimes introduced in both Ottawa and Mississauga prompted staff to revisit

their approach respecting fees, the collection of the Municipal Accommodation Tax (“MAT”) and what and how licensing information is collected.

This report was prepared in consultation with Legal Services, Financial Services, and Economic and Cultural Development.

Previous Reports/Authority

[Item No. 5 of Report No. 7 of the Finance, Administration and Audit Committee](#)

[Amending By-law 157-2019](#)

[Short-Term Rental By-law 158-2019](#)

[Municipal Accommodation Tax, Short-Term Rental By-law 159-2019](#)

[Item No. 6 of Report 44 of the Committee of the Whole](#)

Analysis and Options

In accordance with the City’s By-law Strategy, following the enactment of the necessary by-laws and implementation of the regulatory framework for Short-Term Rentals, staff continued to monitor and analyze the evolving municipal landscape to better understand industry and public needs, while ensuring a reasonable level of over-sight that balances industry interests with that of the greater public. Through this analysis, and informed by the latest regulatory developments in other Ontario municipalities, staff identified three areas of opportunity to encourage voluntary compliance with licensing and MAT regulations. These areas included licensing fees, MAT collection and remittance, and information collection.

Licensing Fees

The City’s current annual licensing fee for Owners is \$300. Across other major jurisdictions in Ontario, this fee varies from \$50 in Toronto to \$250 in Mississauga, with Ottawa’s fee in the middle at \$100. In addition to the annual fee imposed by Toronto, there is also a \$1 per night fee paid by the platform, which on average works out to another \$100 per licensed property. As a result, staff are recommending that the City of Vaughan set its annual licensing fee at \$150 in 2021, with a \$5 (3.3%) increase for 2022. Similarly, staff are recommending that platform fees be halved in order to be more competitive with other Ontario markets, and that they increase by 3% in 2022. The City’s current fee structure is: \$300 for an independent Owner; \$500 for Brokerages with up to 10 listings; \$1,000 for Brokerages with up to 50 listings; \$5,000 for Brokerages up to 100 listings; and \$10,000 for Brokerages with over 100 listings.

Since the start of the COVID-19 pandemic and the introduction of restrictions on business activity, overnight visitation at accommodations has fallen to below 40% occupancy, with a recovery not expected until 2023. Staff believe that the alignment of

fees as noted above will lessen the cost of the regulatory burden and allow for the realization of a higher compliance rate among licensees, thereby reducing the associated time, effort and costs associated with enforcement attention and potential lengthy prosecutions.

Municipal Accommodation Tax

The City's current regulations require Short-Term Rental Brokerages to collect and remit the MAT on behalf of their Short-Term Rental Owners. Although this model works well in general, it does not accommodate other arrangements, such as instances in which the individual Short-Term Rental Owner may wish to remit on his or her own behalf; effectively creating a challenge for those wishing to comply voluntarily. As such, although remittance by the Short-Term Rental Brokerage will be permitted, staff recommend that this be optional with the ultimate responsibility for remittance remaining with the Short-Term Rental Owner. From the perspective of staffing resources, this may create a further administrative collection step, but does not ultimately affect the requirement to remit nor the revenue that should be generated from the MAT. Potential impacts from the change will be analyzed on a go-forward basis.

Data Collection

As part of the effective administration and enforcement of its licensing regulations, the City requires licensees to provide information that identifies the location of business activities and the key contacts in the event of regulatory concerns. The City of Vaughan does not require any guest information and only requires rental information with respect to rates and the number of days a property is rented in order to determine the amount of the MAT that is to be remitted. Although the current MAT regulations account for this requirement, to address the collection of information under the licensing regulations, the City of Vaughan will adopt provisions very similar to those currently being used by the City of Toronto. These provisions will require platforms to receive the consent of its hosts to disclose information to regulators. By knowing the locations of all properties being used as short-term rentals that are listed on platforms, enforcement staff will be able to ensure Owners license their short-term rentals and adhere to regulations, including the remittance and submission of the MAT.

In addition, staff are recommending two additional by-law provisions: one that would provide the Director, Financial Services and Deputy City Treasurer, subject to a form acceptable to the City Solicitor, the authority to enter into voluntary collection agreements with Short-Term Rental Brokerages for the purposes of administering the City's MAT; and another that would provide the Chief Licensing Officer, subject to a form acceptable to the City Solicitor, the authority to enter into data sharing agreements

with Short-Term Rental Brokerages for the purposes of administering and enforcing the City's licensing regulations.

These recommendations, along with those approved by Council in October, will be incorporated into three by-laws amending Short-Term Rental By-law 158-2019, Fees and Charges By-law 171-2013, as amended, and Municipal Accommodation Tax, Short-Term Rental By-law 183-2019.

Financial Impact

The main impact expected as a result of the recommendations in this report is tied to the reduction in licensing fees for both Short-Term Rental Owners and Short-Term Rental Brokerages.

The reduction in licensing fees is expected to reduce the anticipated revenue from short-term rental licensing. In its 2019 report, staff expected revenues of \$167,000 for 2020, which were to cover related expenditures, including the hiring of one full-time officer and one part-time officer. Through the 2020 budget process, the request for the part-time staff was eliminated. As a result, additional costs were only expected to be about \$100,000; actual costs were about \$42,000 in 2020 due to gapping of the full-time position. Licensing revenue for 2020 was just over \$5,000, for a program shortfall of \$37,000. In 2021, staff expect licensing fees to generate between \$60,000 and \$85,000 and expenses to be about \$104,000, for a shortfall of between \$19,000 and \$44,000. Beyond 2021, staff expect this shortfall to narrow with additional platforms and owners being licensed. The total impact is summarized in Table 1.

Table 1. Financial Impact of Recommendations

	2020	2021		
	(Actual)	(Approved Budgeted)	(Revised Forecast)	(Incremental Impact)
Licensing revenue	\$ 5,000	\$ 162,200 ¹	\$ 60,000 ²	(\$ 102,200)
Licensing costs	\$ 42,000	\$ 104,400	\$ 104,400	\$ 0
NET IMPACT	(\$ 37,000)	\$ 57,800	(\$ 44,400)	(\$ 102,200)

¹This amount is the budgeted for 2021; \$53,000 for Brokerages and \$109,200 for Owners.

²This is the revised minimum amount expected from brokerage and owner licensing fees in 2021.

Broader Regional Impacts/Considerations

There are no significant regional implications as a result of the recommendations of this report.

Conclusion

The purpose of short-term rental regulation is to protect the health and safety of the public, control public nuisances, and protect consumers of short-term rental services. This is in line with Term of Council Priorities, specifically the mandate to provide Active, Safe and Diverse Communities. The purpose of the recommendations in this report is to facilitate and encourage voluntary compliance with the regulatory regime implemented by the City and to ensure that staff have the necessary information and authorities to administer and enforce the by-law effectively.

Through the analysis of staff, continued consultation with industry stakeholders and establishment of a more competitive regulatory framework, as is being proposed, the enhanced regulations will facilitate a higher rate of voluntary compliance resulting in a greater ability to meet the intended purpose of protecting the greater public interests.

For more information, please contact: Gus Michaels, Interim Deputy City Manager, Community Services and Director and Chief Licensing Officer, By-law & Compliance, Licensing & Permit Services.

Prepared by

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Attachment

1. Confidential Communication from the Interim Deputy City Manager, Community Services

Approved by



Gus Michaels,
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Community Services

Reviewed by



Jim Harnum,
City Manager