



TOWN OF LOS GATOS
FINANCE COMMISSION REPORT

MEETING DATE: 08/09/2021

ITEM NO: 12

DATE: July 28, 2021
TO: Finance Commission
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive Information on Vacant Storefront Fee and Tax Assessment Programs

RECOMMENDATION:

Receive information on vacant storefront fee and tax assessment programs.

BACKGROUND:

On July 12, 2021, the Finance Commission received a staff report entitled *Discuss and Recommend Options to Pursue for a Town Council Strategic Priority – “Explore New Revenue Opportunities”*. The report was predicated on the Town Council’s identification of “Explore New Revenue Opportunities” as a FY 2021-2023 Strategic Priority. In addition, during the recent budget deliberations of May 18, the Council reconfirmed their commitment to establish new revenues for capital needs and maintaining the high level of operating services.

DISCUSSION:

During the deliberations of July 12, 2021, the Commission discussed the potential of instituting a fee for vacant storefronts. The Commission asked staff to perform due diligence on the topic and report back to the Commission.

Based on a review of the literature, there appear to be two primary methods of affixing fees on commercial buildings with vacant storefronts. The most common practice is imposing fees on vacant storefronts. A less common approach is the imposition of a voter approved tax. In the jurisdictions where a either a fee or a tax has been adopted, the intent of the legislation was primarily focused on the elimination of blight, economic stimulation, and better insight into commercial activity as opposed to revenue generation.

PREPARED BY: Arn Andrews
Assistant Town Manager

Reviewed by: Town Manager, Town Attorney, and Finance Director

DISCUSSION (continued):

Vacant Storefront Registration Fees

As previously mentioned, multiple jurisdictions have instituted a fee program and registry for vacant storefront in commercial properties. The annual registration fees associated with these programs range from a low \$25 to a high of \$880. Several of the programs also institute a monitoring, or noncompliance, fee for violating properties which can reach thousands annually. Following is some more detailed information from some of the jurisdictions.

San Jose

The City Council approved necessary ordinance changes to Title 17 on May 1, 2018 and those ordinance changes became effective June 15, 2018.

Pursuant to the adopted 2019-2020 Schedule of Fees and Charges, the Neglected Vacant Building/Storefronts Mandatory Registration Fee is \$220 per quarter and is billed quarterly. The monthly monitoring fee for those properties in violation (Neglected Vacant Building/Storefront Monitoring Fee) is \$660 per quarter and is billed quarterly. Any penalties assessed resulting from code violations identified by a Code Inspector are charged in addition to registration and monitoring fees.

There are three ways a property owner can be exempt from mandatory registration of their Downtown vacant building or storefront.

- The first is if the property owner provides satisfactory proof to the City that they are actively offering the building/storefront for sale, lease or rent.
- The second is satisfactory proof of physical occupancy of a tenant, and
- the third is if there are open and active building permits on the property address. To have “an open and active” building permit, a property owner or tenant must have at least one building inspection every six months, meaning there is active progress toward the completion of repairs or improvements to the space in question, in theory toward having a tenant occupy the space.

San Francisco

As amended on February 4, 2019, by Ordinance 52-19, the Building Code imposes the following requirements on San Francisco property owners:

1. An owner is required to register a Commercial Storefront within 30 days of it becoming Vacant or Abandoned with the following exceptions.

DISCUSSION (continued):

- Exemptions for Vacant Commercial Storefronts that have been issued permits for repair, rehabilitation or construction, or where an owner or lessee is actively pursuing a required permit.
2. A property owner must pay an annual registration fee (\$711) at the time of registration.
 3. After registering a Vacant or Abandoned Commercial Storefront, a property owner is also required to hire a licensed professional each year (at the owner's cost) to certify that the Commercial Storefront meets code requirements.
 4. If a property owner fails to register with DBI and receives a Notice of Violation, DBI may impose a new penalty equal to 4x the annual registration fee (\$2,844).

Vacant Storefront Voter Approved Taxes

Oakland

On November 6, 2018, Oakland voters approved Measure W, the Oakland Vacant Property Tax ("VPT"). The VPT Act establishes an annual tax of \$3,000 to \$6,000 on vacant property. A property is considered "vacant" if it is "in use less than fifty (50) days in a calendar year," and not subject to any of ten (10) exemptions.

San Francisco

On March 3, 2020, San Francisco voters approve Prop. D which imposes an excise tax on landlords whose ground floor commercial space remains vacant for more than 182 days. The tax is calculated based on a building's frontage (the total length of commercial space facing the street) and the amount of time the commercial space is vacant. The tax is levied at \$250 per foot of sidewalk frontage in the first year, increase to \$500 per foot in Year 2 and then double to \$1,000 per foot a year after that. The tax would apply to commercial properties in neighborhood commercial business districts and commercial transit districts. Revenue generated by the tax is earmarked for a Small Business Assistance Fund to support the maintenance and operation of small businesses in San Francisco.

The measure lays out the following exceptions to calculating vacancy:

- The period after a property owner has applied for a permit for repair, rehabilitation or construction would not count toward a commercial space's vacancy (but could not exceed one year).
- The one-year period after the city issues a permit for repair, rehabilitation or construction would not count toward a commercial space's vacancy.
- The 183-day period after a property owner applies for a conditional use permit would not count toward a commercial space's vacancy. If the Planning Commission has not granted or

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DISCUSSION (continued):

denied the permit within 183 days, this period could extend up to December 31 of the year the application is filed.

- The two-year period following the date that a commercial space is severely damaged because of fire or natural disaster would not count toward the space's vacancy.

On June 9, 2020, the Board of Supervisors unanimously passed an Ordinance on first read calling for the suspension of Prop D for the 2021 tax year due to the economic impacts of the pandemic.

CONCLUSION:

Based on staff's research neither vacant storefront fee nor tax programs would yield much in the way of material new revenue for Los Gatos. Rather, these programs are policy initiatives aimed at elimination of blight, economic stimulation, and better insight into commercial activity. In addition, the programs incur administration costs for compliance and revenues beyond expenses are often targeted toward specific gentrification activities.

COORDINATION:

This staff report was coordinated with the Town Manager, Town Attorney, Finance Director, and Economic Vitality Manager.

FISCAL IMPACT:

None

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.