

Executive Summary

In his speech after being re-elected on November 13, 2006, Mayor Miller noted that “we don’t need more taxation in this country”. Toronto’s REALTORS® agree.

Toronto already has the highest cost of living in Canada, and the new taxes being considered by the City will make it even more expensive. A second land transfer tax would have the most direct impact on living costs, and would pose clear risks for the City’s real estate market, economy, environment, livability, and long-term municipal budget. The consequences of a second land transfer tax are greater than any potential short-term benefits.

PROBLEM ONE: A Second Land Transfer Tax Would Be Unfair

- ***Discriminatory:*** Land transfer taxes are paid only by home buyers, even though everyone benefits from the revenue that is generated.
- ***Not related to actual land transfer costs/services:*** Land transfer related services are provided through provincial land registry offices. There is no municipal cost or responsibility.
- ***Unsuspecting homebuyers will be penalized:*** For many home buyers of new and re-sale properties who have already purchased their properties, a second land transfer tax will be a significant extra cost that they had no way of knowing about or budgeting for.

PROBLEM TWO: City is Not Comparing Apples to Apples

- ***Toronto would be the only Canadian jurisdiction with two land transfer taxes:*** No Canadian jurisdiction currently has *both* a provincial and a local land transfer tax.
- ***Toronto would have the highest total land transfer taxes in Canada:*** If the City of Toronto imposes a second land transfer tax that increases current land transfer taxes by 100 per cent, it would hold the unenviable position of having the highest total land transfer taxes in Canada.
- ***Most U.S. jurisdictions also have only one land transfer tax:*** Only 10 U.S. states allow local jurisdictions to levy land transfer taxes, and three of those have only municipal land transfer taxes, meaning that only seven states have two land transfer taxes.
- ***Most total U.S. land transfer taxes are significantly lower than Ontario’s:*** Land transfer taxes in most U.S. jurisdictions are considerably less than what already exists in Ontario. A second land transfer tax would make this discrepancy even more pronounced. Toronto’s total land transfer taxes would be higher than six of the seven states with two land transfer taxes.
- ***U.S. home owners benefit from significant home ownership tax incentives not available in Canada:*** U.S. home owners can deduct mortgage interest and property taxes from income. This represents thousands of dollars of annual savings that are not available to Canadians.
- ***U.S. municipal land transfer taxes implemented under different political circumstances:*** Taxpayers in various U.S. municipalities with a land transfer tax either have the right to approve

the imposition of these taxes by way of referendum, or they are legislatively protected from increases in other taxes that affect home ownership affordability, such as property taxes.

PROBLEM THREE: Second Land Transfer Tax Will Hurt Toronto's Real Estate Market

- ***Buyers pay land transfer tax, regardless of legislated procedures:*** In Ontario, land transfer taxes are paid by the home buyer. Experience from other jurisdictions has shown that even when home sellers are legislatively required to pay the land transfer tax, the cost usually gets passed on to the home buyer.
- ***Will reduce affordability for home buyers:*** Any new costs will affect the decisions of many home buyers who are extremely price sensitive. This is especially true for the most vulnerable who cannot afford large down payments. For these home buyers, Toronto's doubled land transfer tax could ultimately cost them over \$15,000 as a result of increased mortgage insurance and interest costs.
- ***Younger home buyers will be more vulnerable:*** A second land transfer tax will strain younger buyers who usually have the most difficulty in saving a down payment. Furthermore, because moves from one home to another usually occur most frequently in the early stages of home ownership, a disproportionate share of land transfer tax will be paid by younger people, who are at a time in their lives when they can least afford it.
- ***Will impact current homeowners:*** Many current homeowners, especially those near Toronto's borders, could see their property values decline as home buyers choose to avoid Toronto's second land transfer tax. This would have the most impact on seniors who are relying on the equity in their home when they downsize or who hope to take advantage of a reverse mortgage.

PROBLEM FOUR: Unintended City-Wide Consequences

- ***Will hurt Toronto's economy:*** The housing sector makes very significant contributions to Toronto's economy. Every re-sale housing transaction in Ontario generates over \$27,000 in spin-off spending, which meant over \$2 billion for Toronto's economy last year. Furthermore, a second land transfer tax would make it more difficult to attract new businesses to Toronto.
- ***Will slow urban renewal:*** When homes are bought and sold they are usually updated, resulting in more energy efficient homes and neighbourhood revitalization. A second land transfer tax could reduce housing turnover, which will mean less of these benefits.
- ***Will hurt the environment:*** As recognized by the provincial growth plan and the City's proposed climate change plan, intensification of development in Toronto is part of the solution to stemming the negative environmental impacts of urban sprawl. By making Toronto more expensive, a second land transfer tax will encourage urban sprawl.
- ***Will strain Toronto's long-term budget:*** Due to its potential impact on Toronto's real estate market, a second land transfer tax could reduce Toronto's assessment growth, meaning less long-term property tax revenue for the City. Furthermore, because land transfer taxes are tied to the real estate market, they are cyclical and volatile, making them an unreliable source of revenue for municipal purposes.

Introduction

REALTORS® help people decide where to live everyday. For most people, it is a complicated decision that is influenced by countless factors, but, almost always, the first consideration is cost. No matter how perfectly a home or neighbourhood may suit a family's needs and lifestyle, it simply is not an option if they cannot afford to live there. The unfortunate truth is that Toronto is already an extremely expensive place to live, and the unprecedented new taxes being considered by the City will make it even more expensive.

Affordability is Number One Priority for Home Buyers

REALTORS® understand the need for high quality services. Everyone wants to live where their children can go to good libraries and recreation centres; where they have access to efficient public transit; where snow is cleared quickly; and where trash and recycled materials are picked up regularly; but, as mentioned, average people have no choice but to make affordability their number one priority, and this should also be the priority for the City of Toronto. While the unprecedented number and types of new taxes being considered *may* help the City to improve municipal services, they will also, without question, raise the cost-of-living in Toronto, which is already the most expensive place in Canada to live.¹ No matter how good the City's services are, this will, unfortunately, leave many people with no other option but to live elsewhere.

Shelter is Most Significant Cost of Living

Of all the new taxes being considered, the proposed *second* land transfer tax will have the most direct and obvious impact. Shelter is the most significant and most necessary cost of living, and a second land transfer tax will reduce its affordability. The City's proposal represents a 100 per cent increase in existing land transfer tax costs for the average Toronto home buyer. The most dramatic impact would be on the most vulnerable, who typically spend a larger portion of their income on shelter, making land transfer taxes regressive and unfair.

Second Land Transfer Tax Poses Clear Risks

A second land transfer tax in Toronto poses clear risks: it will distort the City's real estate markets, hurting *both* home buyers and home sellers, which, ultimately, will have significant detrimental consequences for the City's economy, livability, environment, and municipal budget. The City must take these impacts into account before rushing into a decision of this magnitude.

¹ Statistics Canada, Inter-city Indexes of Consumer Price Levels, October 2005

PROBLEM ONE: A Second Land Transfer Tax Would Be Unfair

No one likes taxes, but most people are willing to pay them if they are fair and equitable and they are able to clearly see the benefits that are derived from paying them. Unfortunately a Toronto land transfer tax does not meet these criteria.

Land Transfer Tax is Discriminatory

Like property taxes, land transfer taxes are paid by the owners of property and are based on the value of that property. The key difference is that they are paid by a smaller group of people, even though the revenue that they generate benefits everyone, making them inherently unfair. As stated by the Consumers Council of Canada, the proposed second land transfer tax “fails the fairness test [because it] targets a particular subset of Toronto residents, many of whom are purchasing their first home in a highly competitive market and are incurring substantial debt to do so.”²

Toronto Land Transfer Tax Not Related to Land Transfer Costs/Services

A second land transfer tax would burden home buyers with a tax bill not related to land transfers. This raises some obvious questions:

- *What municipal services related to the actual property transaction would a second land transfer tax be funding?*

In Ontario, Land Registry Offices are responsible for keeping all records related to real estate transactions (deeds, liens, mortgages, etc) and are administered by the provincial government. There is no municipal cost or service provided in this regard.

- *Can a homeowner who pays two land transfer taxes expect better municipal services than a homeowner who only had to pay the provincial land transfer tax?*

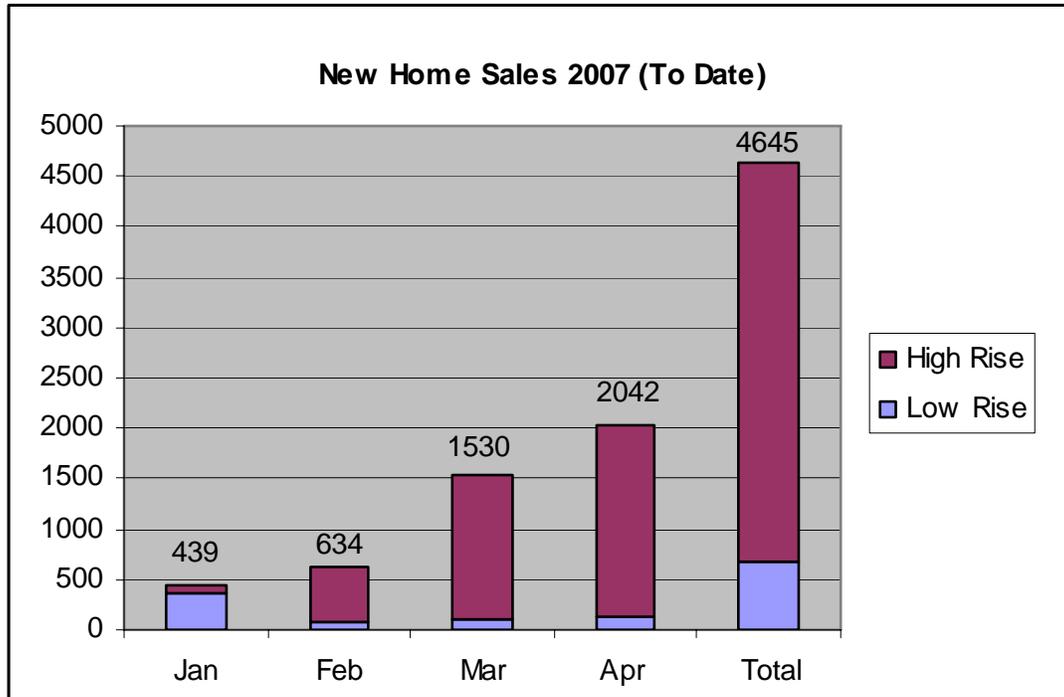
If a second land transfer tax is imposed, those purchasing homes in Toronto will have to absorb an extra cost not faced by those who bought before the tax was imposed. People living side-by-side will have been taxed differently, but the person who paid the tax will not receive municipal services that are any better than their neighbour's.

Unsuspecting Home Buyers Would be Penalized

There is currently a large number of home buyers who have already purchased new homes but have not yet taken possession of them because they are under construction. Depending on the City's timeline, because land transfer taxes are payable when a buyer takes possession, it is possible that many of these homebuyers could be faced with an extra cost that they had no way of knowing about. These unsuspecting buyers purchased their properties under the assumption that they would only be paying a provincial land transfer tax. Interestingly, there are thousands of homes, primarily condominiums, which have already been purchased in Toronto, but will not close for another one, two, or more years. This scenario is also true for re-sale properties, which often involve lags of six

² Consumers Council of Canada, Letter to Mayor David Miller, May 17, 2007

months or longer between signing an agreement and closing the transaction. These buyers could find themselves in the unfair position of being faced with thousands of dollars in extra land transfer taxes that they had no way of budgeting for when they decided to purchase.



Source: Greater Toronto Homebuilders Association-UDI

PROBLEM TWO: City is Not Comparing Apples to Apples

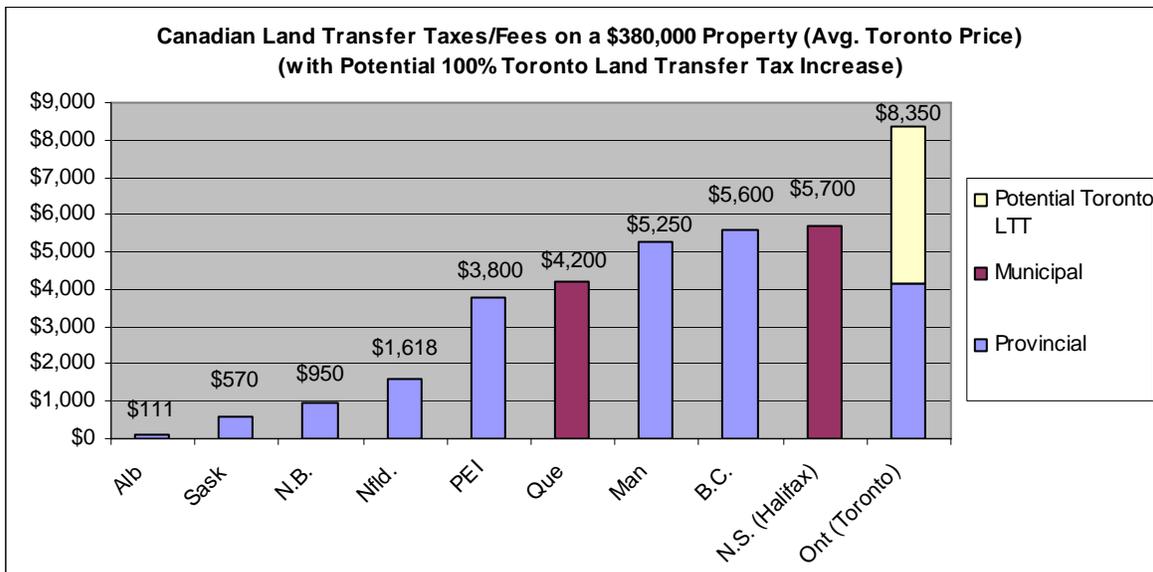
Comparative analysis is often helpful when considering public policy options; however, it is critical that the circumstances of the jurisdictions being compared are similar. While there is municipal experience with land transfer taxes in Canada and the United States, the circumstances in both differ dramatically from Toronto.

Toronto Would be the Only Canadian Jurisdiction with Two Land Transfer Taxes

No other municipality in Ontario has the authority to levy a second land transfer tax. While there are municipalities outside of Ontario that levy a municipal land transfer tax, no Canadian jurisdiction currently has *two* land transfer taxes. Municipalities in Nova Scotia and in Quebec levy land transfer taxes, but there is *no* provincial land transfer tax in either of these provinces. Furthermore, in Quebec, the provincial government requires *every* municipality to levy a land transfer tax and also establishes a uniform land transfer tax rate, thus eliminating any potential geographic discrepancies and distortions.

Toronto Would Have the Highest Total Land Transfer Taxes in Canada

If the City of Toronto implements its proposal to increase land transfer taxes by 100 per cent, it will have the unenviable distinction of having the highest total land transfer taxes in the country.



Source: TREB Compilation from Canadian Provincial Government Ministries and Land Registry Offices

Like Canada, Most U.S. Jurisdictions Also Have Only One Land Transfer Tax

Although there is more experience with municipal land transfer taxes in the U.S., the vast majority of jurisdictions still have only one land transfer tax. Only 10 states allow local jurisdictions to levy land transfer taxes, and three of those (California, Louisiana, Ohio) have only municipal land transfer taxes, meaning that only seven states have two land transfer taxes.³

Most U.S. Total Land Transfer Tax Rates are Significantly Lower than Ontario's

Land transfer taxes in most U.S. jurisdictions are considerably less than what already exists in Ontario. This discrepancy would become even more pronounced in Toronto with the imposition of a Toronto land transfer tax on top of the existing provincial land transfer tax. Fifteen U.S. states do not impose a state land transfer tax at all.⁴ Of the 35 states that do impose a land transfer tax, 24 have a total rate below 0.5 per cent, and seven have a total rate of 0.1 per cent or lower.⁵ As mentioned, seven of these states impose both state and local land transfer taxes, but Toronto's total land transfer taxes (with the proposed 100 per cent increase) would be higher than six of them.⁶

³ Federation of Tax Administrators, *FTA Bulletin: State Real Estate Transfer Taxes*, February 16, 2006

⁴ Ibid

⁵ Ibid

⁶ Ibid

U.S. Homeowners Benefit from Significant Tax Incentives Not Available in Canada

One of the most important reasons to use caution in comparing Canadian and U.S. real estate markets is the significant tax incentives in the U.S. that dramatically increase home ownership affordability. Most significantly, U.S. home buyers can deduct mortgage interest and property taxes when calculating their income taxes. This represents thousands of dollars of annual savings that are not available to Canadians. Furthermore, like Canadians, the vast majority of U.S. homeowners are not required to pay capital gains tax either when they sell their property due to changes implemented under the *Taxpayer Relief Act* in 1997.

Different Political Circumstances for U.S. Municipal Land Transfer Taxes

When comparing Toronto to U.S. jurisdictions it is also important to take note of the political circumstances under which U.S. municipalities implemented their land transfer taxes. For example, in various jurisdictions, taxpayers in U.S. municipalities with a land transfer tax either have the right to approve the imposition of these taxes by way of referendum, or they are legislatively protected from increases in other taxes that affect home ownership affordability, such as property taxes. For example, in Massachusetts, Proposition 2½ ensures that a homeowner's property taxes will not be increased by more than 2.5 per cent in any year. In the state of Washington, voter approval is necessary to levy a land transfer tax in certain circumstances.⁷

PROBLEM THREE:

Second Land Transfer Tax Will Hurt Toronto's Real Estate Market

Purchasing a home is an extremely price-sensitive decision. Almost any REALTOR® can tell stories about home sellers and buyers who couldn't reach an agreement even though their negotiations were separated by less than five hundred dollars. So, the impact of thousands of dollars in a second land transfer tax should not be underestimated.

Who Pays?

Land transfer taxes in Ontario are paid in full by the home buyer when the deal closes. While it is sometimes argued that home buyers could negotiate with the seller to reduce the selling price to offset Toronto's second land transfer tax, this is unlikely, especially in "sellers' markets", which Toronto has been experiencing for approximately 10 years.

Experience shows that even if sellers are mandated to pay the land transfer tax, the cost still gets passed on to the homebuyer. For example, in the state of Washington, where home sellers are required to pay the state and local land transfer tax, markets have been active enough over the last 20 years to allow most sellers to add the amount of the land transfer taxes to the selling price of the property.⁸

⁷ Washington Research Council, *Washington's Real Estate Excise Tax: High Rate, Volatile Stream*, November 2000

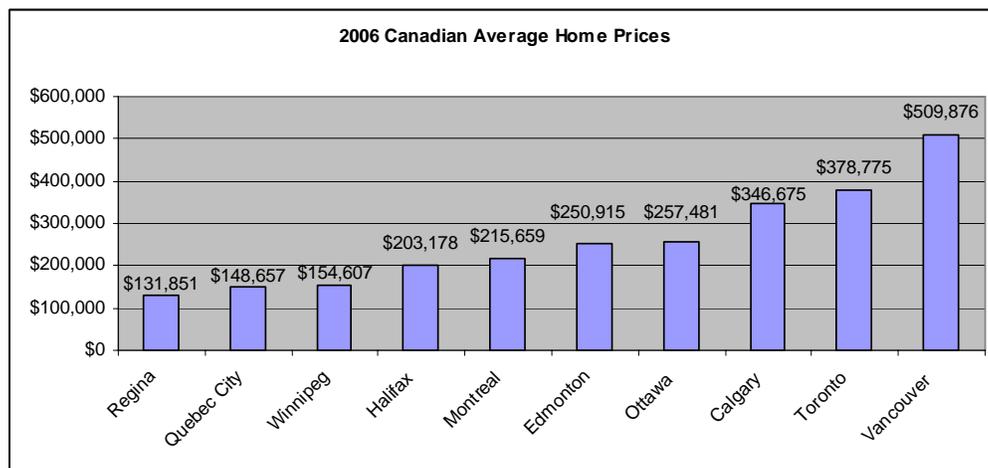
⁸ Washington Research Council, *Policy Brief: Washington's Real Estate Excise Tax: High Rate, Volatile Stream*, November 20, 2000.

It is only in a severely sagging real estate market that a home seller may be willing to absorb the cost of a land transfer tax. Under these circumstances, property values would likely already be falling, and a second land transfer tax would artificially deflate the property's value even further, having significant impacts on the City's economy.

Notwithstanding the above, it is critical to note that perception matters. Home buyers are more educated than ever, and they know exactly what they can afford. In preparing their budget, before even beginning their house-hunting, many of them will simply include Toronto's extra land transfer tax, assuming, rightly, that they will have to absorb this cost, and decide that their budget simply does not allow them to even look for properties in Toronto. These home buyers will simply by-pass Toronto's extra costs, never even giving sellers a chance to negotiate.

Will Reduce Affordability for Home Buyers

Home buyers are sensitive to even small changes in price. Often, they are pre-approved for mortgages and have precise limits on what they can afford. This is especially true in Toronto's housing market, which is the second most expensive in Canada.



While the cost of a second land transfer tax alone is enough to seriously influence the purchasing power of home buyers, the impacts are even more serious when mortgage insurance and interest costs are considered. As mentioned, many home buyers, especially in Toronto's expensive market, have inflexible budgets. Therefore, if these buyers are faced with a second land transfer tax they would have no choice but to take money from their budgeted down payment to pay the City's land transfer tax. This would mean a smaller down payment, which, in turn, would result in a higher mortgage insurance premium and additional mortgage interest. As shown in Table 1, this could mean thousands of dollars more on top of the City's second land transfer tax. For the most vulnerable, those who can only afford little more than a five per cent down payment, common in Toronto's market, a 100 per cent increase in land transfer tax could result in over \$15,000 in extra costs.

Some home buyers simply will not be able to qualify for the additional mortgage that will become necessary as a result of reducing their down payment to pay for the second land transfer tax. This is especially true for those with lower incomes. Their only option will be to purchase a less expensive home, which in many cases could mean a home outside of Toronto.

Table 1: The REAL Cost of a Toronto Home-Buying Tax

Down Payment Scenarios on Average Toronto Home Purchased at \$378,000	Mortgage Insurance Premium on Original Down Payment	Toronto Second Land Transfer Tax (100% Increase)	New Down Payment (reduced by second LTT)	Extra Mortgage Interest due to Reduced Down Payment (At 6% over 25 years)	Extra Mortgage Insurance Premium Required due to reduced Down Payment	Interest on Extra Mortgage Insurance Premium (At 6% over 25 years)	Total Added Costs Resulting From Second Land Transfer Tax
Scenario 1 Homebuyer with slightly over 5% down payment (\$19,000)	2% of purchase price = \$7,180	\$4145	\$14,855	\$3,812	Reduced down payment increases mortgage insurance premium to 3.1% (\$11,187) resulting in extra premium of \$4,007	\$3,686	\$15,650
Scenario 2 Homebuyer with slightly over 10% down payment (\$37,900)	1.75% of purchase price = \$5,951	\$4145	\$33,755	\$3,812	Reduced down payment increases mortgage insurance premium to 2% (\$6,839) resulting in extra premium of \$888	\$814	\$9,659
Scenario 3 Homebuyer with slightly over 15% down payment (\$56,800)	1% of purchase price = \$3,212	\$4145	\$52,655	\$3,812	Reduced down payment increases mortgage insurance premium to 1.75% (\$5,654) resulting in extra premium of \$2,442	\$2,245	\$12,644
Scenario 4 Homebuyer with slightly over 20% down payment (\$75,600)	None. Not required with down payment over 20%	\$4145	\$71,455	\$3,812	Reduced down payment now requires mortgage insurance premium at 1% = \$3,042	\$2,796	\$13,795

Younger Home Buyers will be More Vulnerable

While a second land transfer tax in Toronto will undoubtedly influence all home buyers, its impact will likely be especially pronounced on younger buyers and first-time home buyers. These buyers often enter the market with low down payments, making them especially price sensitive and susceptible to the extra unforeseen costs detailed above. A survey conducted for the Bank of Montreal, which polled 1,205 young Canadian adults aged 21 to 34 with plans to purchase a home, showed that 31 per cent of them expect to have less than a 10 per cent down payment.⁹ Furthermore, Toronto has the highest percentage of people aged 31 or older that are still “living at home” with parents, demonstrating that younger buyers are increasingly finding it difficult to save for a down payment.¹⁰

In addition to their price sensitivity, younger people often move multiple times early in life due to rapidly changing lifestyles and circumstances, such as changes in career or family size. It is likely that many younger home buyers would be forced to pay Toronto’s second land transfer tax two or three times within their early years of home ownership, a time in their lives when they are most cash-strapped.

Will Impact Current Home Owners

In some areas of the City, particularly near Toronto’s borders, a second land transfer tax could impact current homeowners when they sell. With Toronto being the only Ontario municipality

⁹ Bank of Montreal, *Reality Bites: Generation Y Moving Home to Break Into the Real Estate Market*, April 17, 2007

¹⁰ Ibid

allowed to levy a second land transfer tax, it will be unique in the Greater Toronto Area (GTA), meaning that buyers could easily avoid this tax simply by choosing to live outside Toronto. For example, for many home buyers choosing to live in a condominium on the north side of Steeles Avenue, instead of the south side of Steeles Avenue, would represent little or no difference in lifestyle or amenities, but would save them thousands of dollars in land transfer taxes. Inevitably, this will reduce property values for homeowners on the Toronto side of the border.

Artificially deflating property values is never good public policy and would especially hurt seniors who are relying on their home equity to help fund their retirement. As reported by Mayor Miller's Roundtable on Seniors, over 70 per cent of seniors live in homes that they own, but many still have financial challenges.¹¹ If home equity is reduced for these seniors, they will be faced with even more financial hardship. This is true not only for seniors wishing to sell and downsize, but also for those who choose to age in place by taking advantage of a reverse mortgage, which requires home equity.

PROBLEM FOUR: Unintended City-Wide Consequences

While a second land transfer tax will provide an immediate source of additional revenue for the City of Toronto, it will also create numerous unintended impacts that will have serious consequences for the City's economy, livability, environment, and long term budgets. A second land transfer tax must be considered in the context of this big picture.

Economic Impact

Without question, the housing market has been a key driver of Toronto's economic health. Together, new and re-sale housing are, arguably, the most significant component of Toronto's economy. Every re-sale housing transaction in Ontario, generates over \$27,000 in spin-off spending for things like renovations, furniture, and appliances.¹² As a result,

- over \$2 billion per year has been pumped into Toronto's economy in recent years; and,
- 53,100 jobs were created for Ontario's economy between 2002 and 2004, many of which are in Toronto.

This is very significant economic activity that the City of Toronto cannot afford to jeopardize by risking housing sales. Furthermore, for many buyers, having to find extra money to pay a second land transfer tax will mean less money for this type of spending.

Land transfer taxes also apply to real estate transactions involving business properties. The City of Toronto has recognized the importance of maintaining and attracting business in its economic development plan, policies to preserve employment lands, and initiative to reduce business property tax ratios. Imposing a second land transfer tax will compromise those efforts and further erode Toronto's competitiveness in attracting new businesses.

¹¹ Mayor's Roundtable on Seniors, *Housing Toronto Seniors – Planning for the Future*, City of Toronto, 2006

¹² Clayton Research, *Economic Impact of MLS® Home Sales and Purchases in Canada (2002-2004)*, Canadian Real Estate Association, August 2005

Urban Renewal

Much of Toronto's housing has aged significantly and may be in need of repairs or upgrades. This is a reality that the City has recognized in its Official Plan and in its advocacy for the federal Residential Rehabilitation Assistance Program. Often, critical systems of homes are not updated until they are sold and new home owners invest in the properties, as noted above. This cycle benefits the City by,

- improving energy efficiency of homes when furnaces, air conditioners, windows, and insulation is updated; and,
- contributing to neighbourhood regeneration.

By hurting Toronto's real estate market, a second land transfer tax could mean less housing turnover and, therefore, less opportunity to achieve these benefits.

Environmental Impact

One of the most significant environmental issues facing Toronto and the GTA is urban sprawl, a pattern of development that uses land inefficiently, increases traffic, and leads to poor air quality. The pattern of sprawl is evident in recent census data that shows the regions surrounding Toronto are growing at much more rapid pace, as indicated in Table 2.

Table 2: Population Growth Rates of Select GTA Municipalities

	Population Growth Rate 2001 – 2006
Toronto	0.9 %
Markham	25%
Whitby	27%
Brampton	33%
Milton	71%

Source: Statistics Canada Census

As dictated by the provincial government's Greater Golden Horseshoe Growth Plan, concentrating GTA growth in the City of Toronto is an important part of the strategy to stem urban sprawl.¹³ The Growth Plan intends to achieve this objective by identifying five priority "urban growth centres" in the City of Toronto, more than any other GTA municipality. Moreover, in developing its new Climate Change Action Plan, the City of Toronto has noted that "increased urban density is one of the most effective ways to increase energy efficiency".¹⁴ Unfortunately, by making it more expensive to live in Toronto, a second land transfer tax will act as a disincentive to intensification and encourage home buyers to live outside Toronto, likely increasing traffic and smog.

¹³ Ministry of Public Infrastructure Renewal, *Places to Grow: Better Choices, Brighter Future. Growth Plan for the Greater Golden Horseshoe*, Ontario, 2006

¹⁴ City of Toronto, *Change is in the Air: Toronto's Commitment to An Environmentally Sustainable Future; Framework for Public Review and Engagement*, March 2007

Impact on City Revenue

By imposing a second land transfer tax the City will essentially be cutting off its nose to spite its face. As noted above, a second land transfer tax will hurt the City's real estate market. This, inevitably, will mean less assessment growth, which ultimately means less new property tax revenue for the City, which will create even further pressure to raise the new taxes that are currently being considered.

It is also important to note that revenues from land transfer taxes are extremely volatile because they are dependent upon the state of the real estate market and the number of real estate transactions. Real estate markets can fluctuate widely and in unpredictable ways. For this reason, a land transfer tax is poorly suited as a funding source for municipal services that require on-going, predictable funding. In this regard, it is interesting to note that Halifax, which collects revenue from a land transfer tax, still has the highest dependence on property taxes of all major Canadian municipalities.¹⁵

Conclusion

The City of Toronto has significant fiscal challenges, some of which require City action and some that require action by senior levels of government. However, it is clear that a second land transfer tax is not a viable part of the solution to these challenges and, in fact, could jeopardize future revenue growth from property taxes. Furthermore, a second land transfer tax has serious consequences for various City priorities including housing affordability, economic development, environmental sustainability, and urban renewal.

¹⁵ Halifax Regional Municipality Staff Presentation to Tax Reform Committee, February 8, 2007