

PROPERTY ASSESSMENTS

AND TAX ISSUES

IN

BRITISH COLUMBIA

**Presentation to C.S.S.A.
16th April 2009**

by:

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JURISDICTION

In British Columbia, the real property taxation system is administered by a number of authorities:

- (1) The provincial government exercises the legislative function and can amend the governing statutes on taxation and assessment.
- (2) The British Columbia Assessment Authority (referred to throughout this paper as “BC Assessment”) records ownership and property values, classifies, and applies exemption to all properties in the province; produces the assessment roll; mails the assessment notices; and defends the assessments before the Property Assessment Review Panels and the Property Assessment Appeal Board. A new assessment roll is prepared annually.
- (3) Municipalities collect their own taxes. To eliminate duplicate effort, they also collect nearly all the taxes levied against property within their boundaries on behalf of other bodies, which include the provincial government (for school purposes), hospital districts, BC Assessment, BC Transit and regional districts. Outside provincial municipalities, the Provincial Surveyor of Taxes performs the same function.

Real property taxation is often poorly understood. There is no single statute in British Columbia that provides a comprehensive explanation of the real property tax; many statutes in British Columbia make reference to the real property taxation system. Relevant legislation includes the *Assessment Act*, the *Local Government Act* (for regional districts, the *Community Charter* (for municipalities), the *School Act*, and the *Hospital District Act*. For the *City of Vancouver*, the *Vancouver Charter* takes the place of the *Community Charter*, as does the *Taxation (Rural Area) Act* in the case of unorganized territory.

If you do not receive **your assessment or tax notice or you require other information**, resources include:

- BCA web site www.bcassessment.bc.ca
- Some Real Estate Boards
- Some municipal /city websites
- BC Assessment offices
- BC Online at www.bconline.gov.bc.ca (fee).
- Queen’s Printer for Acts: www.qp.gov.bc.ca

- Canadian Property Tax Assoc. www.cpta.org

KEY DATES

July 1st

- *The date as of which the actual value of properties is determined for the assessment roll in the year prior to taxation year.*

October 31st

- *State and Condition date – physical state of property;*
- *Farm application deadline;*
- *Permissive exemptions passed by municipalities.*

November 30th

- *The roll reflects the records of the Land Title Offices as of this date as they pertain to ownership or legal description information;*
- *Approximate date for input to BC Assessment by tax payers.*

December 31st

- *Assessment rolls are produced and notices are mailed to individual owners.*

January 31st

- *Anyone wishing to appeal to the review panel must file an appeal in writing (fax copy or registered mail) with the Assessor by this date.*
- *Extension of farm class requirements.*

February 1st – March 15th

- *Review Panel Sitings*

March 15th

- *Residential use on commercial land. Application for residential valuation section 19 (8) if owned and occupied for 10 years.*

April 6th

- *Deadline for mailing of PARP decisions.*

April 30th

- *Appeals to the Appeal Board to be filed in writing with the Board by this date.*

December 31st

- *Deadline for current year supplementary rolls to be filed.*

CLASSIFICATION

Actual values of all properties are assigned, by type or use, to classes prescribed by the Lieutenant Governor in Council. The classes are:

1. Residential
2. Utilities
3. Supportive Housing
4. Major Industry
5. Light Industry
6. Business/Other
7. Managed Forest Land
8. Recreational Property/ Non-Profit Organization
9. Farm Land

Issues to Consider:

- Classification must be equitable to properties in the same municipality.
- One or more uses could have different classes.
- Treatment of vacant land is site specific.
- The stage of development determines its class.
- Value and classification are distinct.
- Class is based upon current use.
- Class 5 versus 6 – “Extracting, processing, manufacturing or transporting” is Class 5. Class 6 usually has higher mill rate

CALCULATION OF TAXES TO BE PAID.

The city or municipality creates a budget. A certain amount of that income will come from property tax. BC Assessment values all land and improvements in each jurisdiction. The Taxing Authority determines how much of the revenue is to come from each class of property.

$$\text{Mill rate} = \frac{\text{Taxes} \times 1,000}{\text{Total Assessments for each class}}$$

It is expressed as an amount per \$1000 of assessed value.
The tax for an individual property is Mill rate x Assessed value/1000

If the 2007 value (2008 Assessment) for the property is lower than the 2008 value (2009 assessed value), your assessment will remain the same.

The mill rate will rise because:

- (a) Municipality will increase its budget;
- (b) Some property values have fallen, thus decreasing the total assessed value on the 2009 Roll.

Thus, if your assessment has not changed, you will see an increase in the taxes equal to the proposed Municipal budget increase [only part of the total mill rate] plus a “little”.

For properties whose values for the 2009 Roll (2008 values) are less than the 2008 Roll (2007 value), the increase will be less.

ACTUAL VALUE AND VALUATION

The fundamental principle underlying the Assessment Act is that land and improvements must be valued at their actual value that is, the **market value of the fee simple interest** in that property. The main purpose of the Assessment Act is to provide an equitable base on which to apply taxes. The valuation is detailed on a *Property Valuation Summary (PVS)* which BCA will provide to you.

Section 19(1) defines “*Actual Value*” to mean the market value of the fee simple interest in land and improvements.

Section 19(2) provides “*the assessor must determine the actual value of land and improvements and must enter the actual value of the **land and improvements** in the assessment roll.*”

Section 19(3) further provides “in determining actual value, *the assessor may*, except where the Act has a different requirement, give consideration to present use, location, original cost, replacement cost, revenue or rental value, selling price of the land and improvements and comparable land and improvements, economic and functional obsolescence and any other circumstances affecting the value of the land and improvements”

An important factor for commercial and industrial properties is provided for in Section 19(4). It states, “Without limiting the application of Subsections (1) to (3), where an industrial or commercial undertaking, a business or a public utility enterprise is carried on the land and improvements used by it shall be valued as the **property of a going concern**.”

There is no absolute measure of the actual value. BC Assessment will tell you there may be a range of values within which all the values are actual value. Actual value is an opinion as to market value under prescribed circumstances and there is no mandatory method as the basis for its estimation (Assessor of Area 9 Vancouver v. Lount (1995),

SC 353 (B.C.C.A.). The Property Assessment Appeal Board (PAAB) decided that if the **assessed value was “close enough”**, then they would not tamper with the value. The Supreme Court upheld this opinion. One might question this decision, as every ICI property is valued using specific valuation components. In conjunction with equity considerations, these components can and should be specific. There are over 500 court cases and numerous Board decisions that affect valuation and methodology.

EQUITY

The assessed value is **the lesser of**:

- (a) Market value.
- (b) Comparable value to other similar properties.

Hence if the other properties are assessed at less than market value, your property should also be assessed at a value less than market value and on a comparable basis with those other properties. The particular components of the valuation should also be comparable, e.g. capitalization rates, however, the Appeal Board may not always look at the individual components if they feel, overall, the property is equitably assessed; their reason being that the Act requires them to look at the whole picture. However, there are a number of Board and Court cases where the individual components have been reviewed.

There must also be a large enough sample of assessments to show that an inequity exists. How large? That will depend upon the facts and what the particular Board feels is appropriate.

If your property is assessed at market value and all the other properties are assessed at 90% of market value, you are incorrectly assessed. It is important that your property is assessed at a value that is **equitable to the surrounding properties**.

Equity of classification has also been challenged. Like properties should be classified in the same manner.

Section 38(1) of the Assessment Act states that the **actual value should be applied in a consistent manner**. In *Bramalea Ltd. v. Assessor of Area 9* (1991) SC 227, the court effectively said that, if the values of other properties were below market value, then a subject property must also be assessed at an equal value to those other properties, even if it is below market.

BUSINESS AND SPECIAL PURPOSE VALUE

The value for assessment purposes should **only** include the value related to the **land and bricks and mortar**.

Certain properties that do not regularly sell or have special features are valued on the cost approach, however when those are special purpose buildings then it is questionable whether the cost approach is appropriate. In a recent case the Pacific Press building was valued as a plain warehouse at a lower value than produced through the cost approach.

It is traditionally accepted that revenue from liquor, beer parlours, hotels and other properties technically sell at prices that include goodwill. Certain occupants will spend thousands of dollars on advertising to bring consumers to a specific location or they will pay a rent that would appear to be above market to place an advertising board on a street corner. Percentage rent increases revenue to a shopping centre, but may be due solely to the ability of the tenant. Should these value increments be in the assessed value?

Is the income derived from running a Self Storage business derived totally from the real estate or is it from the expertise of the operator? Should the assessment be based upon the shell of the building or should all the dividing walls be excluded? Are these dividing walls fixtures or removable. Many similar buildings without those partitions are possibly assessed at a lower rate because a low annual industrial rate is applied to them.

Business income should not be included in the assessment.

SALE PRICE VERSUS THE ASSESSED VALUE

The purchase price may not represent the actual value of the property. It may have to be adjusted in analyzing the property if it is to be used as a comparable sale, either on the basis of price per sq.ft. or as an example of a capitalization rate to be used in the Income Approach. For the subject property itself, similar adjustments to “cleanse or purify” the sale price may be appropriate and result in “actual value” differing from market value.

It is necessary to *cleanse* the purchase price prior to its use in the analysis of any factors that could affect the sale price and hence should be adjusted for in any analysis.

ASSESSED VALUES FOR 2009

The Province introduced new legislation that modifies the Assessment Act as it relates to the 2009 taxation year [Bill 45, Part 3].

The legislation states:

“...the actual value of a property for an assessment roll for the 2009 taxation year is the lesser of

- (a) the 2007 value of the property, and
- (b) the 2008 value of the property.”

Bill 45, Part 3, 24(2), page 8

For the 2007 value

“...the actual value of the property is to be determined as if on the valuation date

- (a) the property and all other properties were in the physical condition that they are in on October 31, 2008 and
- (b) the permitted use of the property and of all other properties were the same as October 31, 2008.”

Bill 45, Part 3, 25(4), page 9

The consequences are as follows:

- Each Assessment Notice will have two assessed values; the 2008 and 2009. The “roll value” is the lower;
- In making an appeal, it was possible to appeal both values, so that you can achieve the lowest, even if you had not appealed last year;
- The state and condition will be as at October 31, 2008 for the 2009 value. A new 2008 assessment should have been provided if the state and condition has changed;
- For the 2008 assessed value, a property that has been physically changed as of October 31, 2008 should have been assessed in the state that existed on that date but using [1] July 2007 values for land and [2] costs as at July 2007 of the construction in place at Oct 31 2008;
- If you paid \$5,000,000 for land in 2007 and now find additional costs not previously anticipated [eg. poor soils], your value should have been lowered;
- If the zoning changed, a new value as of July 1, 2007 should have been created;
- If the use changed, then a new classification might be merited, particularly properties that are in the development stage;
- New buildings should be assessed at 2007 costs for the 2008 roll;

- Properties not appealed last year, which in hindsight were too high, could have been appealed in an attempt to lower the 2008 assessed value and hence the 2009 “actual” value;

CAVEATS

- Do NOT appeal without checking the assessed value is not too low. One tenant in South Granville had his assessment increased a few years back.
- Non receipt of notice is NOT an excuse for appealing late; If you do not appeal by January 31st, 2008, you can NOT appeal until next year (2009); (some minor exceptions)
- “Market value does NOT NECESSARILY equal assessed value;
- “No increase” does not necessarily mean the assessment is correct – it may have been incorrectly assessed in the past.
- The value could be correct, BUT inequitable with your neighbors, and a reduction merited;
- Improvements are assessable if they have value hence the rental applied by BC Assessment in their valuation could be higher than the rental rate received.
- Once you have made an appeal, you open up the whole question of the assessment and its classification. Although one component could be too high, some of the others could be too low and, upon appeal, it may result in an increase in the assessed value.

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Peter Austin is the principal of Austin Real Estate Consultants, a property appraisal and tax consultancy firm in Vancouver, where he has established a leading role in the industry over the past 30 years. For most of his career, he was a partner at one of Vancouver’s leading appraisal companies. Peter’s firm specializes in property tax issues and appeals, arbitrations, litigation appraisals and rental studies. Annually he manages up to 400 reviews and appeals.

Peter is from England, where he earned a Bachelor of Real Estate from Reading University prior to commencing his career in Toronto, and then in Vancouver. Peter is serving his third term as Chair of the BC Chapter of the Canadian Property Tax Association, and is a Past President of the National CPTA. Peter participates in various local and national business organizations and interests in the real estate industry and has several professional designations, including Fellow of the Royal Institute of Chartered Surveyors, Accredited member of the Appraisal Institute of Canada and Chartered Arbitrator.

Peter's experience extends to property management, development projects, marketing, and academic lecturing including Langara College and UBC.