

Amending the Assessment Process and Implementing Local Solutions to Protect Businesses from Unsustainable Taxation

Issue:

Many businesses across BC are facing incredibly high property tax bills due to the rapid appreciation of property because BC Assessment bases property values on the “highest and best use”, not strictly on the current use. Businesses, whether property owners themselves or through their leases, are being taxed on the future development potential of their sites with little regard for the current use of the property or the cash-flow or profitability of the current business.

These high property tax bills are starting to threaten the survival of many small and medium-sized businesses, and risk hollowing out local economies as businesses are forced to either relocate or close altogether.

Since local property taxes are based on the assessed value of a property as determined by BC Assessment, solutions must be found, such as a split assessment system or a current-use exemption, that mitigate the appreciating assessments driving the significant property tax bills for businesses across BC. In addition, local solutions such as property assessment averaging can be adopted at a local level to ease the impact of sudden increases in taxes.

Details:

Property taxes are the principle funding method for local governments, and generate the revenue to fund important local programs such as police and fire services, parks and recreation, and roads, sewers and other basic infrastructure.

Property taxes are based on two factors: a *local tax rate* and the *value of a property*.

The *local tax rate* is set by municipal governments¹ to meet the funding requirements of the annual budget for their city. There are nine classes of property which each have a separate tax rate² and the tax rate for each property classes is set independently by each local government. That tax rate is then applied against the *value of a property* to determine its property tax bill. The value of a property is based on an assessment conducted annually by BC Assessment, a provincial crown corporation responsible for maintaining up-to-date assessments of the value of properties throughout BC.



Image source: BCAssessment.ca

However, as laid out in the *BC Assessment Act* and as carried out by BC Assessment, the value of a property is based on several factors, including its

“highest and best” use. This takes into account what a given property could potentially be used for or what could possibly be built there that would be of more value than its current use.

¹ Or other ‘taxing authorities’

² Residential, Utilities, Supportive Housing, Major Industry, Light Industry, Business Other, Managed Forest Land, and Recreation Property, Non-Profit Organization.

For example, a property on a busy corridor may currently be used for a one-story retail bakery even though its local government would permit a future multi-level residential development to be built there. In this instance, BC Assessment would value the property not as a small, local bakery, but as a residential condo tower, and the taxes due would be levied according to that value.

In addition, further undue taxation can occur because of the significant difference in the tax rates between business and residential properties. For example, in Burnaby the “Business Other” tax rate which that small bakery would pay is 11.6773, whereas the “Residential” tax rate for a future condo development is only 2.8395. But since a property can only be classified in one class at a time, the full value of the property (including the appreciation driven by the potential for that residential tower) is taxed at the rate of the current use, the much higher 11.6773 in this example.

Given the rapid and dramatic increase in property values experienced across BC and in particular in the population centres and along transit corridors, this process of property assessment has created a scenario where businesses are faced with significantly higher property tax bills despite there being no change in the current business use or improvement to the property, to the point of the taxes being too onerous and cost-prohibitive to continue. And with the prevalence of ‘triple-net-leases’ where property taxes are passed on to commercial tenants, many businesses which lease space are carrying this tax burden themselves without the potential future windfall of the sale or development of a property as they are not the owners.

Provincial Solutions:

The Burnaby Board of Trade is calling on the provincial government to work with local governments to implement a split-assessment and explore exemption and deferral options as other possible solutions to address this issue.

Split Assessments

Amending the BC Assessment Act to require split assessments of business and industrial properties would allow them to then be taxed at different rates for the current and future uses. Under a split assessment regime, BC Assessment would be mandated with reporting the portion of a property’s total value that is based on its current use, and the portion that is based on its future potential. With this split assessment, local governments would then tax the commercial portion representing the current business use at the commercial tax rate, and the portion representing the future development potential at the lower residential tax rate.

This solution would result in meaningful tax relief for businesses and help mitigate the impact of property taxes on the viability of many businesses. In addition, a split assessment system would address the inherent unfairness of the current system by applying the commercial rate only on the portion of the property actually operating a commercial venture, instead of forcing local business owners to pay taxes on imaginary, possible developments which they may never have anything to do with.

‘Highest and Best Use’ Exemption for Long-Standing Businesses

Creating a ‘highest and best use’ exemption would allow for long-standing local businesses to have their property assessed at only its current use. The provincial government recognized the need for this type of exemption when it passed Bill 42 in 2018 which permits BC Assessment to value major industrial properties “based on their current industrial use rather than their future highest and best use.”³ Instead of this blanket exemption for just the major industry property class, a similar exemption only for long-standing businesses in

³ BC Legislature Hansard – October 15, 2018

any of the commercial property classes would be a more effective, sustainable solution.

A 'highest and best use' exemption for long-standing businesses could be modelled on the existing exemption for long-term residential homeowners in section 19(8) of the *BC Assessment Act*. Section 19(8) allows for residential property owners who have continuously owned and occupied a property as their principal residence for at least 10 years to apply to have their property assessed at its current use, based on sales of comparable properties with no development potential.⁴

Using this as a model, a 'highest and best use' exemption for business should be created which allows businesses which have operated at their current premises for a similar length of time (more than 10 years) to apply to have their property valued for its current, long-standing use and taxed accordingly. This exemption should be available to both businesses which own their own buildings, and property owners who can demonstrate that their leaseholders meet the "long-standing" requirements.

A current-use exemption would provide a lifeline for those businesses, particularly small businesses, for whom increasing property tax bills are a true hardship and would preserve the local economies of communities across BC. This exemption would also signal a recognition of the intrinsic contribution long-standing local businesses make in helping build a community or neighbourhood.

Business Property Tax Deferral Program

Again inspired by what is already available to homeowners (to those either older than 55 or with dependent children), a property tax deferral program for businesses would allow businesses which own their property to apply to have their property tax bill deferred until a later date.

As is current practice for the homeowner deferral programs, the province would pay the property tax to the municipalities and charge a small interest rate to the business on the balance.

As ongoing or permanent deferrals would not be the goal, use of this program would be limited to a one-time window (5-7 years) at which point the property taxes, both current and deferred, would be repaid.

Instead, the goal of this program would be to help businesses bridge the time until redevelopment of their property could begin to take place. Tasks such as finding a new location, securing a buyer, or initiating rezoning and development plans with municipal governments can take several years, and the deferral program would allow the business to survive over that time by making the tax bill only payable when they actually realize the gains in the property value through either sale or redevelopment.

Municipal Solutions:

The Burnaby Board of Trade is calling on the City of Burnaby to explore and implement local solutions to this problem as well, particularly Land Assessment Averaging.

Land Assessment/Property Value Averaging

The most immediate solution the City of Burnaby could implement would be to average the value of a property over several years before applying the property tax mill rate. By averaging a property's value over 3 or 5 years, the increases in taxes due would be more gradual, instead of the sudden, significant increases some

⁴ BC Assessment website- Section 19(8)

businesses see now.

More gradual increases in taxes would not only provide relief to current businesses facing significant tax increases, it would allow businesses to better plan for their future tax obligations over the long-term. Few businesses would be able to handle an unexpected double or triple-digit increase in their tax bill immediately, but if phased in over time through averaging many businesses would be able to find ways to accommodate this new expense.

Land Assessment Averaging is already in limited use in Vancouver, and Burnaby could improve on that model by making all Light Industrial and Business Other properties immediately eligible for averaging, whereas Vancouver limits the program only to those properties with a 10% above average increase in property values and which apply for the program.

Business Property Tax Deferral Program

Similar to the possible provincial program, the City of Burnaby could implement its own, Burnaby-specific deferral program for businesses facing significant tax obligations due to rising property values. Again, this program would limit the number of years property tax could be deferred and could be further focused at the local level to businesses in specific corridors, town centres, or community plan areas.

Once more, this program would be designed to help the business which owns its own property bridge the time between when it becomes economically imperative to sell or redevelop, and when that realistically can be achieved.

The City of Burnaby could fund these deferrals through its existing financial reserves or through new mechanisms, and like the provincial government could charge interest on the deferred taxes to generate additional revenue.