

## AMENDING THE PROPERTY ASSESSMENT PROCESS TO PROTECT BUSINESSES FROM UNSUSTAINABLE TAXATION

### ISSUE

Many businesses across BC are facing an existential threat in the form of unsustainably high property tax bills. This problem is directly caused by the rapid appreciation of property due to BC Assessment valuing property based on its “highest and best use”, not strictly on the current use. Because of this model, 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 can 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 due simply to the skyrocketing cost of their property tax bills.

### BACKGROUND

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 governments to meet the funding requirements of their annual budgets. There are nine classes of properties, one of which BC Assessment assigns to each property. The tax rate for each property classes is then set independently by each local government and 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: BC Assessment

However, as laid out in the BC Assessment Act and executed 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.

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 just as a small, local bakery, but as a potential residential condo tower, and the taxes due would be levied according to that higher value. This

means the bakery would be taxed substantially more than it ought to be as just a bakery; the property tax will be levied as if the bakery is actually generating the income of the future potential development.

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 currently only has one classification, the full value of the property (including the appreciation driven by the redevelopment potential) is taxed at the rate of the current use, the much higher 11.6773 in this example.

Given the rapid increase in property values experienced across BC and in particular in 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. In these scenarios, the cash flow of the existing business is simply unable to support the tax bill that is being based on the future income of a potential redevelopment. It is a flawed system which needs to be reformed to separate the market value from the taxable value.

Further, with the prevalence of ‘triple-net-leases’ where property taxes are passed on to commercial tenants, many businesses 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.

### BC Assessments & Property Taxes



### Provincial Solutions

Some policy options to address this do exist at the municipal level, including property tax averaging which can gradually phase-in the tax implications of property value increases, and these options should be advanced. However, as property taxes are driven by the BC Assessment Act, provincial action is required to fully rectify this problem.

### Split Assessments

Amending the BC Assessment Act to require split assessments of commercial 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 value assessed based only on 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." Instead of this blanket exemption for just the major industry property class, a similar exemption only for long-standing businesses in 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.

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 payable when they actually realize the gains in the property value through a sale or redevelopment.

#### THE CHAMBER RECOMMENDS

That the Provincial Government amend the BC Assessment Act and work with BC Assessment and local governments to:

1. Implement Split Property Assessments for all commercial properties which delineates the proportion of a property's market value that is derived from its current use and the proportion derived from its potential use, and have it taxed accordingly by local taxing authorities;
2. Create a 'Highest and Best Use' Exemption for long-standing businesses to allow them to apply to have their properties valued and taxed on the current business use, and not on the potential redevelopment potential; and
3. Explore implementing a Business Property Tax Deferral Program to allow property owners to defer the property tax owed to help the business remain viable while bridging the time until redevelopment of the property can begin.

