

Don Cayo: B.C. Assessment denies Vancouver businesses a tax break they thought they had won

The agency that determines property values for tax purposes is pulling the plug on a major tax break for some businesses

BY DON CAYO, VANCOUVER SUN COLUMNIST OCTOBER 17, 2014



A recent property tax ruling could have dramatically lowered many businesses' property tax bills in several mixed business/residential neighbourhoods where property values are soaring but the value of the actual business remains low.

Photograph by: Ric Ernst, PNG

The provincial agency that determines property values for tax purposes is pulling the plug, at least for now, on a major tax break for some of the businesses in Vancouver neighbourhoods where rezoning has sent land values soaring.

B.C. Assessment announced Friday it is appealing the Property Assessment Appeal Board's decision last month to allow split residential/commercial assessments for some un- or under-developed land in the city. The agency also said it won't implement the ruling in its 2015 assessment roll, which takes effect early in the New Year, before the case will be heard by the B.C. Court of Appeal.

The appeal board's decision stopped well short of mandating the across-the-board split assessments sought by business-tax lobbyists for nearly a decade. It applied only to land recently up-zoned for a specific mix of residential and commercial development, not to land that has risen in value because of open-ended rezoning that allows all-commercial, all-residential, or any mix of the two.

Paul Sullivan, senior partner at Burgess, Cawley Sullivan and the consultant who argued the appeal board case on behalf of Amacon property developers, said at the time of the ruling that it applied to only about 10 per cent of the businesses in recently rezoned hot spots. The rest — mostly neighbourhood shops — rent their premises on land where the permissible residential-commercial mix isn't specified. These businesses must pay the business tax rate, four times higher than the residential rate, on land that is assessed as if it were redeveloped for 100 per cent high-value residential units.

But even though the appeals board ruling didn't help most of the businesses caught in this worst-of-two-worlds tax scenario, Sullivan saw it as an big step toward a split-assessment policy that would tax un- or under-used land on its actual potential, not an improbable or impossible assumption.

Now, he said, he is enraged by the B.C. Assessment decision to appeal and toss into limbo a partial solution that he and other fair tax crusaders have pursued for years.

Sullivan and his associates at business groups like the Fair Tax Coalition and the Urban Development Institute have lately been winning high-level support. The city's tax commission went beyond its mandate in its most recent report to urge the city to promote split assessments, which require provincial cooperation to implement. City council agreed to study this recommendation, although it hasn't acted on it yet. And the province has signalled through a letter to Vancouver fair tax proponents from Carolee Oakes, the minister community, sport and cultural development, that it is open to supporting requests from the city to deal with the problem.

"So B.C. Assessment is out of step with the provincial government, their boss," Sullivan said in an interview Friday. He accused the agency of launching the appeal to avoid either bureaucratic inconvenience arising from the ruling, or to avoid a change in practice that might generate political backlash.

Dharmesh Sisodraker, B.C. Assessment's deputy assessor for the Vancouver-Sea to Sky region, told me in a separate interview that the appeal was motivated by concern that the ruling would cause uncertainty and potentially huge tax increases for some property owners if it is applied in reverse — that is, if the commercial tax rate is applied to undeveloped commercial potential of recently up-zoned properties that are now residential. He cited two examples — a two-story residential/commercial building that could see a 40-per-cent tax increase, and a two-story downtown apartment block where the tax bill could triple.

Sisodraker said he believes if the Amacon decision stands, more properties would lose in this way than would win by seeing their tax bills drop.

Sullivan disputes this. He says Sisodraker's examples are rare, as most homeowners are protected by a provision that says residential properties are to be taxed for their actual use, not their potential use.

My own view is that, no matter the extent of negative impacts, this isn't the issue. Because, if the Amacon decision stands and stirs up a fuss, this will increase the pressure for a comprehensive solution to be found for what is effectively double taxation on businesses unlucky enough to be in the wrong place at the wrong time.

And a comprehensive solution is something to be dealt with by the city, which has been foot-dragging, and the province, which seems ready to act if only it is asked. B.C. Assessment's appeal only muddies the waters and delays the prospect of overdue political action.

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