

TO: CHIEF ADMINISTRATIVE OFFICER **DATE:** 2023 February 16

FROM: DEPUTY CHIEF ADMINISTRATIVE OFFICER **FILE:** 7800-01
& CHIEF FINANCIAL OFFICER

SUBJECT: BILL 28 - PROPERTY TAX RELIEF LEGISLATION

PURPOSE: To provide Council with an update on recently approved property tax relief legislation.

RECOMMENDATION:

1. **THAT** Council receive this report for information.
2. **THAT** Council direct staff to bring back additional analysis in the latter part of the year in order to determine if a Tax Relief Program is suitable for the City of Burnaby.

REPORT

1.0 INTRODUCTION

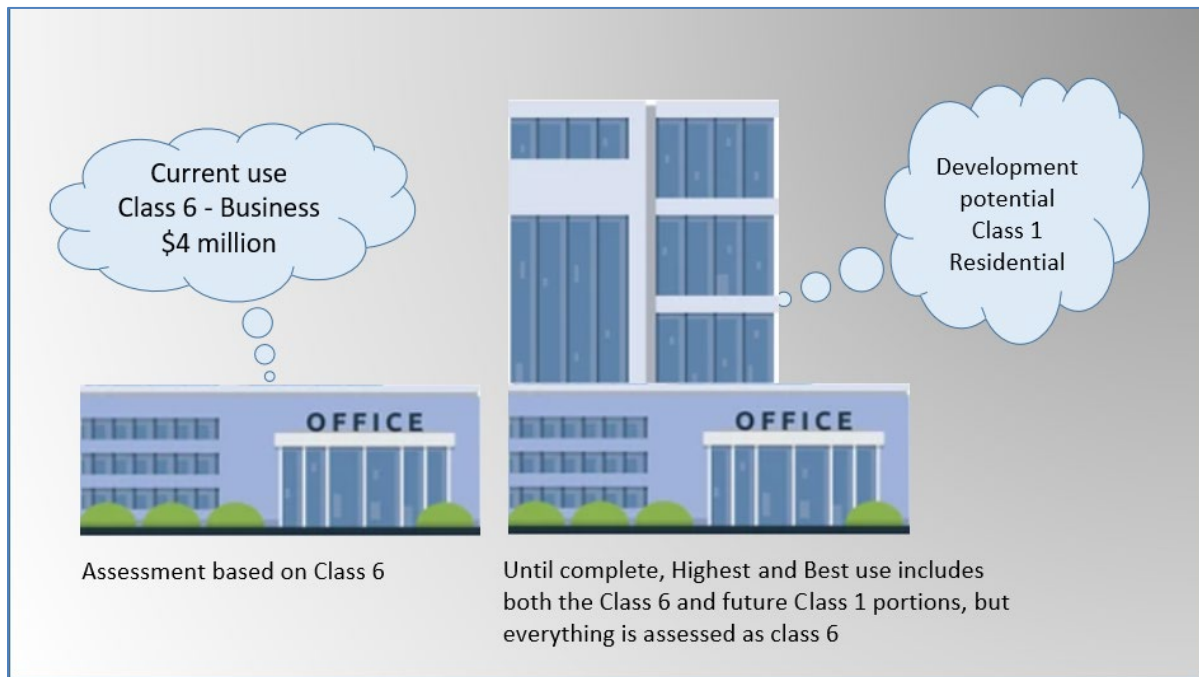
Under the Assessment Act, BC Assessment (BCA) values properties based on their “*Highest and Best Use*”. The difference between Highest and Best Use and valuing property based on its current use, is the property’s development potential. Development potential reflects a change to the Official Community Plan (change in zoning / land use). BCA, in recognizing Development Potential, will provide a value to additional units / buildable area and / or an alternative use that is allowable on the site. Municipalities use BCA Assessment data in order to establish tax rates for the generation of the annual Property Tax level.

For property owners holding property on land with “development potential”, application of Highest and Best Use methodology can present a significant potential property tax burden. Commercial tenants with triple net leases are liable for payment of all property taxes, utilities and other charges passed down by their landlord. Tenants can therefore end up paying taxes on the future development potential of a site from which they themselves will not benefit. As development numbers continue to grow in the lower mainland, the methodology of valuing development potential, and related property taxation implications for commercial tenants with triple net lease has come into question.

2.0 HIGHEST AND BEST USE

Exhibit 1 below shows how BCA values development potential using the Highest and Best Use approach. As illustrated, while future development may relate to residential property or other property class, development potential is valued based on the current classification assigned. This therefore results in a higher mill rate and property tax charge for the incumbent tenant or owner.

Exhibit 1: Property Tax impact from Development Potential



In Exhibit 1 above, the current value of the commercial store, prior to any development potential was \$4 million. Using a provisional 2023 Class 6 Municipal Tax Rate of 4.7384, Municipal taxes for the existing property would be \$18,953.60. By imposing the highest and best use value, which now includes \$10 million of future residential airspace units, the property now has a combined value of \$14 million; however, the portion attributed to development potential is taxed as Class 6, and not Class 1, as illustrated below:

Municipal Tax Implications	Assessed Value	If taxed based on a split assessment approach	Current taxation based on BCA Highest and Best Use methodology
Current Class 6 Property	\$4 million	\$18,953.60	\$18,953.60
Development Potential - Residential Class 1 portion	\$10 million	\$14,599.00 (based on Class 1 mill rate)	\$47,384.00 (based on Class 6 mill rate)
Total	\$14 million	\$33,552.60	\$66,337.60

(2023 provisional Municipal Class 1 mill rate = 1.4599, Class 6 = 4.7384)

3.0 BILL 28

3.1 Purpose

In 2022 March the Ministry of Finance released information to local governments regarding the work being undertaken by the Province to develop a longer term property tax strategy for commercial tenants. The Province worked with a number of municipalities through what is known as the Property Assessment Strategic Review (PASR). The focus of which was to develop a tax relief program governed by the following five guiding principles:

- Be targeted, time-limited, permissive and applicable province-wide;
- Minimize changes to the existing legislative, assessment and taxation framework;
- Minimize administrative burden and implementation complexity;
- Consider and incorporate input from consultation with key stakeholders; and,
- Consider Highest and Best Use valuation but retain tax policy incentives for development and limit revenue impacts.

The work forms the basis of Bill 28.

On 2022 October 03 the Province announced a new tax relief measure for the 2023 tax year, which replaces the interim Business Property Tax Relief program introduced in 2020 March. Under Bill 28, municipalities have the authority to grant a permissive exemption from property taxation for up to a maximum of five consecutive years (timelines differs from regular permissive exemption scheme) to properties that meet provincial eligibility criteria. Eligibility needs to be reassessed each year during the five year period.

3.2 Eligibility

Under Bill 28, Section 5, Land is eligible for relief if:

- The property is Class 5 (Light Industrial) or Class 6 (Business), or both;
- Includes improvements in use as of October 31 in the year preceding the taxation year to which the relief will relate;
- The property has a land value ratio equal to or greater than 95%; and,
- The property is not disqualified under section 6 of the bill.

3.3 Process:

The Property Tax Relief legislation works as follows:

1. BC Assessment will provide municipalities with a listing each December of potentially eligible properties (where the land value makes up 95% of the total assessment).
2. Municipalities are required to undertake a detailed (property level) analysis of the initial BCA data set to define their selection of properties to receive tax relief.
3. The chosen list of properties must then be sent back to BCA by the end of January in order for BCA to incorporate the information either as part of the Revised Roll to be produced in late March, or as a separate file.
4. A separate tax rate can then be applied to a portion of land value based on this municipal selection and Council policy on what rate should be applied.

Classes 2, 3, 4, 7, 8 and 9 are excluded from the program.

4.0 WORK REQUIRED TO IMPLEMENT A TAX RELIEF PROGRAM

4.1 Tax Relief Policy

Municipalities need to establish a Tax Relief Policy, covering the eligibility percentage (i.e. land value equal to or greater than 95% of total value) for properties to be within the program scope, any exclusions, Property Tax Mill rate reduction, and any other criteria as established by Council. This new policy will need to be referenced in the City's Annual Financial Plan.

In undertaking data analysis, municipalities can then set their own additional criteria for reducing the number of eligible properties for relief. (Note - not specified in the legislation). Such additional criteria will need to be included in the policy document.

4.2 Setting the Amount of Relief

Municipalities must determine the amount of tax relief to grant to eligible properties. This would include the percentage of the land assessment (i.e. 0% - 100%) to which the agreed upon tax relief mill rate applies. Any reduction in property taxes for the chosen eligible listing of properties would result in higher taxation for the non-eligible properties within the same class (5 and 6). Council would therefore need to consider the extent of the tax burden shift they are comfortable with passing on to others. However, this potential tax burden shift comes without certainty that any tax relief will actually get passed on to tenants.

4.3 Review of Development Applications

Municipalities need to review how each property is currently used and establish if there are any recent development applications by the property owner, which would influence the assessment value. Given the relatively high level data provided from BCA, a review of pending and issued Rezoning, Subdivision and Building Permits would need to be undertaken for any shortlisted property in order to identify if a higher assessed value can be tied to actions undertaken from the property owner. Some municipalities are also recommending site visits as an additional step in validating property eligibility.

In principle, one would not want to grant relief to a developer when they are the reason for an increase in assessment value (i.e. rezoning has occurred for redevelopment).

4.4 Shortlisting Properties Based on Actual Use

While not expressly stated in the legislation, provincial guidance instructs municipalities that they are free to set additional eligibility criteria as required. One such area relates to current property use. The City of Burnaby will need to determine if there are any forms of current property use not be suitable for relief. For example, the following BCA Actual Use codes would not seem in keeping with the aim of the program:

- Automobile Dealership
- Big Box
- Shopping Centre (Regional)

Based on initial 2023 BCA data, staff have reduced a listing of over 800 properties down to around 442 properties. This has been achieved by removing 29 out of 44 BCA actual use codes that are proposed by staff as not suitable for inclusion in the program. In order to move forward, Council will need to endorse such an exclusion listing as part of the City's Tax Relief Policy.

5.0 RECOMMENDATION

Additional analysis and policy development needs to be completed in order to assess whether the tax relief legislation will be of benefit to the intended recipients.

Therefore, it is recommended that Council receive this report for information and that Council direct staff to return with additional analysis in the latter part of the year in order to determine if a Tax Relief Program is suitable for the City of Burnaby.



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