

TO: CITY MANAGER

1998 July 6

FROM: DIRECTOR FINANCE

File: T5-2

SUBJECT: **ASSESSMENT ROLL REDUCTIONS FOR CANADA SAFEWAY, SEARS CANADA, AND BURLINGTON NORTHERN RAILWAY PROPERTIES**

PURPOSE: To provide background information on the assessment reductions for Canada Safeway, Sears Canada, and Burlington Northern Railway properties.

---

**RECOMMENDATION**

1. **THAT** Council receive this report for information purposes.

**REPORT**

**1.0 INTRODUCTION**

Council as part of its annual review of the adjustments to the tax roll requested a report providing background information on the assessment roll reductions for Canada Safeway in 1995 and 1996, for two Sears Canada properties in 1993, 1994, 1995, and 1996, and for Burlington Northern Railway in 1996. Further, Council requested that the report include the feasibility and advisability of appealing the assessment roll reductions.

**2.0 APPEAL PROCEDURE**

The valuation of property by BC Assessment is subject to legislated appeal procedure through the Court of Revision, the Assessment Appeal Board, and the Court System.

**i) Appeal to the Court of Revision**

A person (including a municipality) has the right to appeal a completed assessment roll if they believe that an error or omission exists. The appeal must be submitted by January 31 of the year following the year in which the assessment roll was completed. (*Assessment Act* - section 32)

**ii) Appeal from the Court of Revision to the Assessment Appeal Board**

A person (including a municipality) has the right to appeal the decision of the Court of Revision to the Assessment Appeal Board by April 30 following the sitting of the Court of Revision whose decision, omission or refusal respecting property is being appealed. (*Assessment Act* - section 56)

**iii) Appeal from the Appeal Board to the Supreme Court**

The Appeal Board on its own initiative, or at the request of one or more persons affected by the appeal, may submit a stated case to the Supreme Court on a question of law arising in the appeal. The submission to the Supreme Court must be delivered within 21 days after a decision by the Appeal Board has been rendered. (*Assessment Act* - section 63)

**3.0 ASSESSMENT ROLL REDUCTIONS**

**i) Sears**

Roll Number: 2690-4750-000  
Address: 4750 Kingsway  
Impacted Years: 1993 - 1996  
Impact on Taxes: (\$635,785) Total Gross and (\$309,289) General Municipal  
Agency Rendering the Decision: Assessment Appeal Board, Supreme Court, and BC Court of Appeal

Appeal Decision: The property was appealed by way of stated case from the 1993 Assessment Appeal Board (AAB). The main question that the AAB dealt with was the future potential development of the site. The AAB ruled that the highest and best use of the Sears site was that of its existing use and not that of its potential redevelopment. The decision of the AAB was upheld by the Supreme Court and the B.C. Court of Appeal.

Right of Appeal: Burnaby does not have any rights to appeal since all avenues of appeal have been exhausted.

Roll No. 7675-2820-000  
Address: 2820 Underhill Avenue  
Impacted Years: 1993 - 1996  
Impact on Taxes: (\$416,876) Total Gross and (\$204,937) General Municipal  
Agency Rendering the Decision: Assessment Appeal Board (April 7, 1997)

Appeal Decision: The AAB ruled that lower economic rents should have been applied to the original assessments. Recent market activity confirms that large single

tenancy warehouses have a reduced marketability and demand, therefore a lower actual value.

Right of Appeal: Appeals to the Supreme Court can only be on matters of law. Burnaby does not have any rights to appeal since an appeal to the Supreme Court must be submitted within 21 days of the AAB decision.

**ii) Safeway**

Roll Numbers: 4560-7205-0000 and 6897-7650-0000  
Address: 7205 11<sup>th</sup> Avenue and 7650 18<sup>th</sup> Street  
Impacted Years: 1995 - 1996  
Impact on Taxes: 11<sup>th</sup> Ave. Property (\$71,139) Total Gross and (\$35,314) General Municipal  
8<sup>th</sup> St. Property (\$70,229) Total Gross and (\$34,847) General Municipal  
Agency Rendering the Decision: Assessment Appeal Board

Appeal Decision: The Safeway warehouse complex contains a number of special purpose warehouses (such as cold storage and food preparation). Rental rates for special purpose warehouses in older buildings are lower than for storage warehouses. Therefore, recent market activity has shown that the Assessor applied too high of a rental rate to these properties.

Right of Appeal: Appeals to the Supreme Court can only be on matters of law. Burnaby does not have any rights to appeal since an appeal to the Supreme Court must be submitted within 21 days of the AAB decision.

**iii) Burlington Northern**

Roll Number: 9901-0104-0000  
Address: Rail Right of Way (no specific address)  
Impacted Years: 1996  
Impact on Taxes: (\$97,234) Total Gross and (\$63,637) General Municipal  
Agency Rendering the Decision: BC Assessment through supplementary roll change

Appeal Decision: The Assessor received information from BNR that the 1996 tonnage BNR carried should be assessed using Class 5 rates rather than Class 4 rates. Assessment regulations specify per kilometer commissioner rates to value rail rights of way. The commissioner rates vary on the basis of total track tonnage carried during the assessment year. The Class 4 commissioner rate of \$66,364 per km is applied on rail lines that carry between 500,000 and 5 million gross tonnes. On the other hand, the Class 5 commissioner rate of \$12,827 per km is applied on rail lines that carry less than 500,000 tonnes.

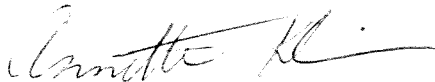
Right of Appeal: Burnaby has a right to appeal the decision by the Assessor to reclassify BNR property. Burnaby would only succeed in an appeal if BNR provided erroneous information to BC Assessment. Given BNR's subsequent years' tonnage has increased, BNR does not appear to be lowering its 1996 tonnage in a deliberate attempt to reduce its assessment. Since 1996 BNR has claimed track tonnage in the Class 3 (between 5 and 15 million tonnes carried) and Class 4 ranges.

#### 4.0 SUMMARY

The *Assessment Act* provides persons and municipalities many opportunities within time limits to appeal decisions made by area assessors, the Court of Revision and the Assessment Appeal Board.

Other than the Burlington Northern properties, the opportunity to appeal the described changes to the assessment roll would only have been allowed were there an error in law and then only within prescribed time limits. Regarding the changes to Burlington Northern's assessments, Burnaby would not have grounds for appeal since the changes were based on fact rather than opinion.

Staff will continue to work closely with BC Assessment on matters under appeal. BC Assessment staff have offered to meet with Council to discuss the above appeals or other assessment processes if Council so desires.



R. Earle  
Director Finance

AK