Item	**07**
Manager's Report No.	**06**
Council Meeting	**03/02/17**

TO: **CITY MANAGER** 2003 February 11

FROM: **DIRECTOR FINANCE** File: G69-5

SUBJECT: **PROPERTY TAXATION ON PORTS AND PORT INDUSTRIES: SUBMISSION TO PROVINCE**

PURPOSE: To seek Council's endorsement of a submission to the Province's review of property taxation on Ports and Port Industries.

RECOMMENDATION(S):

1. THAT Council endorse the attached position on property taxation for port authorities and port-related industries, and

2. THAT a copy of this report be sent to the following provincial MLAs: Rick Thorpe, Minister of Competition, Science and Enterprise, Gary Collins, Minister of Finance, George Abbott, Minister of Community, Aboriginal and Women's Services, and Stan Hagen, Minister of Sustainable Resource Management (responsible for the BC Assessment Authority).

REPORT

The purpose of this report is to provide Council the opportunity to submit to the province, prior to consideration being given to taxation legislation changes in response to industry lobbying, Burnaby's perspective on the issue of property taxes paid by Canadian port authorities and port-related industries. A consensus municipal statement has been prepared by a staff working group comprised of representatives of the local municipalities that host a Port Authority and/or port related industries and constitutes the basis for the position put forward in this report.

The city councils of each of seven municipalities whose staff have participated in authoring the consensus statement are being asked to provide their endorsement and forward it to the appropriate provincial ministers. These municipalities are: Port Moody, District of North Vancouver, City of North Vancouver, Burnaby, Delta, Richmond and Vancouver.

BACKGROUND & DISCUSSION

The *Constitution Act, 1867,* exempts properties owned and occupied by port authorities from property taxes, however under the *Municipal Grants Act,* grants-in-lieu of property taxes are required to be paid on port properties. Although there is a requirement to pay grants-in-lieu and both the Minister of Public Works and Government Services and the President of the Treasury Board agreed with the Federation of Canadian Municipalities, in 1995, to pay grants-in-lieu "based on commonly accepted principals of property taxation", Burnaby has, none-the-less, only received about 36% of the amount any other tax payer would pay on their property due to unsubstantiated changes of the property values recognized by the Port Authority for grant purposes.

Burnaby is entitled to and generally receives full taxes on properties that are owned by port authorities but leased to private concerns.

Canada Marine Act Review

There is currently a review underway of the *Canada Marine Act,* the federal legislation that governs Canadian port authorities. In October 2002, the City made a submission to the *Canada Marine Act* Review Panel, highlighting issues related to the funding of the ports and requesting the full payment of grants-in-lieu of property taxes on port properties. This report deals with a submission to the provincial government and only on the single issue of property taxes and is separate from the federal review of the *Canada Marine Act.*

Industry Position & Lobby Efforts

Over the past two years there has been has been a concerted effort on the part of Greater Vancouver ports and port industries to raise public and government awareness about competitiveness issues vis-à-vis American west coast ports. Their position is that property taxes are a significant impediment to port competitiveness and infrastructure investment, when compared to their American counterparts, who pay lower property taxes and in certain cases levy their own taxes.

Competitiveness Factors

Property taxes are one of a great number of factors that impact port competitiveness between the US and Canada, the other factors include:

- the requirement of Canadian port authorities to remit an annual stipend to the federal government,
- limited available means for Canadian port authorities to finance capital investment,
- limitations on Canadian port authorities concerning real property transactions,
- the Canada/US dollar exchange rate,
- differences in national and regional transportation policy/regulatory environments,
- differences in inland road and rail transportation infrastructure,
- potential port expansion capacity,
- differences in port labour costs and practices,
- differences in port operational productivity, and
- differences in capital and equipment costs.

It is difficult to compare the financing of Canadian and US ports and very misleading to isolate any one of these elements, such as property taxes. The status of port competitiveness at a point in time can only be assessed as the synthesis of all relevant factors, taking into account the complex interrelationships among them.

Every media account of the viability of port facilities in the last several years has portrayed a much different position than the one being conveyed to the province and city council by the Port Authority and port industries. Reports have indicated amazing past growth and the anticipation of unprecedented continued growth and investment over the next ten years. In October 2002 the Vancouver Sun quoted Kevin Little, Vancouver Port Authority senior vice-president for business development as stating that: "Growth has been phenomenal, beyond everybody's expectations" and that the Port of Vancouver will invest $1 billion over the next 10 years. This reflects a business prognosis that would be the envy of any other industry in Burnaby and certainly not reflective of an industry that needs government help through municipal property taxes.

All Canadians Benefit from BC Ports

If it was determined that property taxes are hindering port competitiveness, equity would dictate that any related subsidy would be provided at the *federal level*, since port authorities are part of a national infrastructure that benefits all Canadians and not simply local residents and businesses. According to their own analysis the Vancouver Port Authority alone contributes $1.6 billion to the national GDP and generates $3.5 billion in economic output. It is the provincial and federal governments that are the direct beneficiaries of the economic activity generated by the local ports (via incremental sales, income and excise taxes), as illustrated in the following table.

BREAKDOWN OF TAXES GENERATED BY VANCOUVER PORT AUTHORITY ACTIVITIES, 2000 ($ MILLIONS)

Federal Government	$366	59%
BC Government	$167	27%
Alberta Government	$18	3%
Saskatchewan Government	$7	1%
Manitoba Government	$9	1%
Property Taxes to Local Governments from VPA & Tenants	$55	9%
Total	**$622**	**100%**

Note that property taxes received by municipalities do not increase with greater port economic activity, as do the income, sales and excise tax revenues received by senior governments.

Source: Vancouver Port Authority website, www.portvancouver.com, Economic Impact section.

Informal Municipal Working Group

In November 2002, District of North Vancouver staff brought together a working group on port issues, whose membership is comprised of representatives of municipalities that are host to one of the three local port authorities. This group has been created with the objective of quickly developing and delivering a succinct message to the provincial government regarding port taxation, and ensuring that this message reaches the appropriate audience, so that it can be taken into consideration before any changes to taxation policy are considered. The statement in Appendix A of this report was authored by this group.

Precedent for Provincial Intervention in Property Tax Policy: Bill 55

In the early 1990s, the railway industry successfully lobbied the provincial government with the message that they were paying too much tax in BC and that the situation negatively affected their competitive position. This contention, coupled with the elimination of federal subsidies to the industry, resulted in a change to provincial legislation that put limits on the property tax paid by all of the Utilities assessment class which includes rail properties. BC municipalities' tax revenues were significantly affected by Bill 55. Despite the serious consequences for many municipalities in BC, there was little consultation in the development of this legislation.

Any further provincial intervention in the autonomy of municipal councils to independently set municipal property tax rates may also negatively impact the debt rating of the Municipal Finance Authority. In February 2002 the internationally recognized credit rating agency, Standard & Poors, reported that the AAA rating of the Municipal Finance Authority was "supported by MFABC member municipalities' strong liquidity and tax rate-setting autonomy". Any decrease in the debt rating of the MFA could have serious financial consequences to the cost of loans for other B.C. municipalities, the GVRD and Translink.

City of Burnaby Revenues From Ports and Port Industry

Currently Burnaby receives about $82,000 (municipal portion after audit) in payments-in-lieu-of-taxes from the Vancouver Port Authority annually. This represents only 34% of the amount that would be paid by other port industries and tax payers based on BC Assessment market values and Burnaby tax rates. The Port Authority bases its grants-in-lieu on assessments done in concert with the Municipal Grants division of the federal government and not on commonly accepted principals of property assessments used for other B.C. taxpayers. The lower amount paid by VPA on its grants-in-lieu equates to a short payment totaling $3.9 million (all taxing authorities) to the City of Burnaby since 1986.

Port industries' tax rates (Major Industry), in Burnaby, are about eight times higher than Residential tax rates. The higher tax rates address several issues including the revenue generation potential of industrial land, the significantly lower assessed value of industrial land (10% of Residential) and the less dense development on industrial land. The net effect is that

Major Industry pays about the same in property taxes per square foot of land as that paid by residential tax payers in Burnaby.

In 2002 Major Industry paid $6,756,535 in property taxes (all taxing authorities) in Burnaby, any change to provincial property tax policy could affect some of this revenue, which would mean either a cut in municipal services or that other property taxpayers would have to pay more to compensate for the lost revenues.

CONCLUSION

The cumulative impact of seven Greater Vancouver city councils endorsing and forwarding the statement in Appendix A to the appropriate provincial MLAs will provide a better balanced perspective to the recent significant industry lobbying on the issue of property taxation for port authorities and related industries.

Also, municipalities should receive full municipal payments in lieu of taxes and/or property taxes from port authorities, their tenants and port industries on the basis of BC Assessment assessed market values and property tax rates set independently by the various taxing authorities.

It is extremely important that provincial decision-makers hear from their local governments and that the province understand all of the equity issues involved before considering any changes to tax policy.

R Earle

Rick Earle
DIRECTOR FINANCE

APPENDIX A
PROPOSED PROVINCIAL SUBMISSION FOR CONSIDERATION IN ANY CHANGE TO PORT TAX POLICY

SUBMISSION TO THE PROVINCE OF BRITISH COLUMBIA

PORT COMPETITIVENESS REVIEW

ON BEHALF OF

CITY OF PORT MOODY
DISTRICT OF NORTH VANCOUVER
CITY OF NORTH VANCOUVER
CITY OF VANCOUVER
CITY OF BURNABY
CORPORATION OF DELTA
CITY OF RICHMOND

December 2002

Property Taxation on Ports & Port Industries
Comments for Consideration in Provincial Review

Our ports are significant economic generators for the entire country

We recognize that our local port authorities are very important economic generators for the city, region, province and country, and we value the presence of these industries within our municipal boundaries.

Ports are primarily a federal responsibility

The responsibility of Canadian ports falls under federal jurisdiction – the Ministry of Transportation – and therefore the responsibility of keeping the ports competitive is primarily a federal responsibility. We acknowledge and appreciate that the Minister of Transportation, the Honourable David Collenette, has appointed a four-member expert panel to undertake consultations with stakeholders in an effort to review the *Canada Marine Act* (CMA) to identify recommendations for improvement.

However, our position is that competitive gains or CMA recommendations *should not be at the expense of the host municipalities*. The benefits of the ports are realised in all regions of Canada, and the federal government should take the lead role in addressing ports' competitiveness problems, rather than download these responsibilities onto municipalities. Most of the competitiveness issues that have been raised by ports fall under the domain of federal responsibilities, and require subsidy or investment level on the part of the Canadian federal government, as is provided by the US federal government.

The presence of the ports creates real costs for municipalities

There are significant municipal costs associated with the provision of services to ports and port industries, including police and fire services, and land use planning. It is important to note that some of these costs, while significant, are not necessarily direct cash outlays but rather are embedded/implied in peak staffing requirements or potential liability costs associated with emergency response on port lands.

Revenues from property tax and PILTs are crucial for municipalities

In order to help offset the costs of providing services to ports and port industries, it is absolutely necessary that ports and their tenants pay property taxes and payments in lieu of taxes (PILTs) in full and on time. If these revenues were to be decreased or eliminated, this would directly increase the financial burden on other local property taxpayers, and in addition, the provision of municipal services to port authorities and their tenants may ultimately be compromised.

Property taxes and/or PILTs are not the main obstacle to port competitiveness

Because there are so many differences in competitive factors between US and Canadian ports, we cannot just compare property taxes paid by ports in these two countries in isolation. Several factors under the control of the federal government could greatly improve port authorities' and related industries' competitiveness and their ability to make appropriate capital investments, and in dollar terms these would have a much greater benefit to ports than the reduction or elimination of municipal taxes and/or PILTs. These include:

- eliminating the requirement for port authorities to remit an annual stipend based on gross revenues,
- making available a wider range of tools available to port authorities for financing capital investment,

- where appropriate, granting ports the authority to acquire and dispose of real property on behalf of the federal Crown without the necessity of Supplementary Letters Patent, as well as the right to retain the proceeds of sales of federal real property, and
- playing a more strategic role in terms of legislation and investment that would facilitate the development of the comprehensive national transportation infrastructure.

Tax rate capping is not the solution

Municipalities basically have one major source of revenue to finance the services they deliver: property taxes. Any radical change to the property tax system will have extensive consequences for local governments. Municipalities are not structured in a way that lends itself to the use of property tax schemes or incentives to stimulate economic activity. When property tax revenues are decreased, there is no offsetting revenue generated elsewhere for a municipality. By comparison, federal government tax exemptions can be designed to stimulate investment activity, which in turn will generate a net gain via increased corporate income taxes.

A tax class shift is not the solution

The port municipalities do not support the concept of shifting Class 4 major industrial port properties to lower tax rate property classes, such as the light industrial or business class. The outcome of this approach would be only to generate a very significant loss in tax revenues that would have to be borne by the other property classes. Municipalities are going concerns operating with budgets that have been developed over many years, assuming a certain level of taxation from various established sources. Cities financial health rely on these revenue streams being sustained.

An argument that has been put forward by port industry lobbyists that the ratio of Class 1 resident tax rates to Class 4 heavy industrial rates is as high as 10 to 1. While this fact is accurate, it needs to be understood in the following context. *Taxation as measured in dollars per square foot of land is similar for both residential and heavy industry, because industrial land is assessed at approximately 10% of the value of residential land.*

The BC assessment/tax system does not need major revision

The port municipalities' position on this issue is that allowances have already been made to accommodate Class 4 major industrial properties (exemptions on some infrastructure, favourable depreciation period), which came out of negotiations with port industries several years ago. The current structure recognizes and incorporates many of the recommendations from these past discussions. Additionally, the BC assessment scheme is recognized as one of the fairest and easiest to administer property assessment processes in the world.

The MFA credit rating is potentially at risk

If autonomy over taxation – that is, the ability of each city to set its own tax rates – is compromised via senior government dictating or limiting rate setting policy, it is possible that the credit rating of municipalities (through the MFA) may slip below its current AAA rating, which would result in increased borrowing costs for all BC municipalities, Translink and the GVRD. This is because credit rating agencies will evaluate such a change as a restriction on the BC municipal sector's ability to repay its debt. There is precedent for this: in February 2002, Standard and Poors stated: "*The ratings (of the MFA) also are supported by the MFABC member municipalities' strong liquidity and tax rate-setting autonomy over their local assessment bases.*"

Port downloading has already been absorbed by municipal governments

Through the downloading of federal costs and responsibilities in recent years, such as disputes over PILT payments, the discontinuation of port policing, minimal funding of infrastructure and roads, etc., port municipalities are already contributing significantly to ports' competitiveness.

Municipal taxpayers should not subsidize a federal infrastructure facility

If it is determined that ports and or port industries should not pay property taxes, it is the federal government that should fund this subsidy, not local property taxpayers. The following three arguments strongly support this assertion.

— Our local port authorities benefit all Canadians, not just local municipal taxpayers. For example, according to recent VPA statistics, the Vancouver Port Authority currently generates almost 62,000 jobs and $1.6 billion of GDP Canada-wide. It is unfair to ask local taxpayers to subsidize national infrastructure.

— Municipal governments do not earn any incremental revenue associated with the economic activity generated by the port, while the provincial and federal governments enjoy direct cash benefits in the form of sales, income and excise taxes, plus the annual stipend remitted by port authorities to the federal government.

— As a capital tax, property tax in general is a regressive tax and is therefore not effective as a means of income redistribution. If ports and/or related industries require subsidy, then revenues associated with income tax rather than property tax should be used to ensure basic socio-economic equity among those who are paying.

It is noted this inequity is exacerbated in a situation in which ports would be required to remit an annual stipend to the federal government and at the same time be exempted from paying local property taxes. This would amount to a transfer of funds generated using a regressive tax source (from municipal governments) to the federal government, which has access to progressive tax sources. By any objective standard, this is unfair and counters basic principles of equity in taxation that are valued throughout Canadian society.