

eFocus Municipal Assessment & TAXATION

cases, commentary, news, trends,
ideas, warnings & best practices

Gravel pit assessment appeals prompt move to 10 test cases

Gravel pit properties are generally assessed as industrial for the area actively used including any buildings, then residential for the buffer lands surrounding a pit site. In 2012, property tax revenues from gravel pit properties totaled \$583,835 to the Town of **Caledon**. As noted in the town's executive summary on the issue, assessments on 14 of the 25 gravel pits are under appeal at the Assessment Review Board (ARB); two from 2006 to 2012 and 12 from 2009 to 2012. Those appeals have been combined with other provincial appeals, supported by the Ontario Stone, Sand and Gravel Association which requested that the valuation for all such properties be based on one of two industrial rates: \$8,000 or \$12,000 per acre. Based on this, Caledon's "financial exposure" is projected to be a \$270,000 ongoing revenue loss from town pits and \$1.4 million in refunds for the pits under appeal. In Wellington County, there are 81 gravel pits and/or farms with gravel pit properties, 16 of which are in appeal for 2009; five other properties recently filed appeals. The ARB is now conducting 10 test cases from across Ontario; their determination likely to be applied to assessment methodology for all pits under appeal.

In 2012, Municipal Property Assessment Corporation (MPAC) re-assessed gravel pit properties, reducing assessments for the majority of Caledon's gravel pit properties. In 2012, the assessed value of the 25 properties was \$134.49 million. In 2013, the total taxable assessed value of these properties was \$108.8 million a reduction to the assessment base of \$25.7 million. Since the outcome will likely affect such properties across the province, support from other organizations was sought, including the Association of Municipalities Ontario (AMO) and Top Aggregate Producing Municipalities of Ontario (TAMPO). In May, Caledon sent other areas affected their council's resolution: "That Report CS-2013-034 regarding assessment appeals on gravel pit properties be received; and that the Municipal Tax Equity (MTE) Paralegal Professional Corporation be engaged to represent the Town in defense." As well, the mayor was requested to approach the AMO, TAMPO and others to obtain support and/or interest, Report CS-2013-034 being forwarded to the Region of **Peel**, cities of **Brampton** and **Mississauga** and municipalities within **Halton** and **Durham** regions. Other affected cities and towns include **Burlington**, **Halton Hills**, **Milton**, **Oakville**, **Ajax**, **Oshawa**, **Pickering** and **Whitby**, the townships of **Brock**, **Scugog**, Municipality of **Clarington** (and those noted below), 4pgs, www.caledon.ca/en/townhall/resources/CS-2013-034.pdf.

Uxbridge Mayor Gerri Lynn O'Connor said the way MPAC assesses gravel pits and golf courses could cost the township up to \$500,000 in lost revenue. Joe Regina and Mike Porporo, MPAC representatives making presentations to council said gravel pits are assessed at the industrial rate only on parts of the property where aggregate is actively being removed with other parts of the property assessed at lower residential or farmland rates. O'Connor said she found it "totally unacceptable" that if a 100-acre gravel pit was zoned industrial and actively extracting aggregate from 25 acres, the other 75 acres would be assessed at the residential rate. MPAC is also seeing declining golf course use, which is a leading contributor to lowering of values. Councillor Pat Molloy said MPAC suggested that since golf course assessments are based in part on revenue, a pizza parlour could see its taxes reduced if its sales diminished while another councillor wondered if the argument used for gravel pits would be used for golf courses claiming certain areas of courses are not active.

The **Township of Puslinch** increased property taxes 3.11% – citing the change to the value of gravel pits – so a residence valued at \$441,000 is up \$140 this year. Treasurer Ken DeHart noted that gravel pit appeals remain outstanding with three of the province's 10 test cases in that township. The test cases are to be heard later this year and into the new year.

Haldimand County is seeing reductions totalling approximately \$1.6 million for gravel pits, "with a shift in tax burden to the residential and farm tax classes (and to a lesser extent the commercial classes) from primarily the industrial property class," notes county Report CS-FI-02-2013 Re: 2013 Analysis of Assessment Update. "Although the farm CVA's have increased by approximately 17% for 2013 taxation, the fact that this class pays only 25% of the residential tax rate has mitigated some of the shift in overall tax burden. As a result, the residential class and farm class are seeing an almost equal change in their relative share of the County's tax levy based on current tax policy. Overall, the industrial tax classes are experiencing a significant reduction in taxable assessment from 2012 to 2013 including the former Smuckers plant reductions of approximately \$3.1 million and various US Steel properties of approximately \$12.1 million.

Also see pg 4 image, **Property Tax Revenue per Acre for a Selection of Land Uses**, from study logging revenue from various classes including gravel pit properties.

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Coast to Coast to Coast

Canada

The Canadian Self Storage Association is working on essential initiatives for the industry. "We are confident that upon completion, each and every one of these very important projects will **make doing business for all Canadian Self Storage Operators much better** and in many ways much more cost efficient!" writes Giselle Kakamousias, Chair of the Canadian Self Storage Association Atlantic Canada Property Task Force. She prepared a synopsis of important dates and deadlines and a summary of issues facing owners and operators of such businesses in each of the four Atlantic Provinces:

- ♦ Nova Scotia: assessors may request information to assess property based on income. Failure to answer requests where they are made under authority of the Assessment Act will result in loss of right to appeal, so comply with such requests. Notwithstanding, all business value must first be removed from income stream.
- ♦ New Brunswick: the method used is generally cost approach with an increasing use of income approach, particularly on appeal. Assessors may request information to assess property based on income. Failure to comply with such requests where they are made under authority of the Assessment Act will result in loss of right to appeal, so comply with such requests. Notwithstanding, all business value must first be removed from income stream.
- ♦ Prince Edward Island: the method used is generally cost approach with an increasing use of income approach, particularly on appeal.
- ♦ Newfoundland & Labrador: City of St. John's for property within city limits; Municipal Assessment Agency (MAA) for property outside. There is increasing use of income approach, particularly for larger operations. The issue of assess ability of operations for business occupancy is before Assessment Review Commissions and court in St. John's and Mount Pearl, decisions pending.

Kakamousias is Vice President, Property Tax Division at Turner Drake & Partners, www.turnerdrake.com. See www.cssa.ca/atlantic-canada-property-tax-project

British Columbia

Her home in the harbour in the Town of Gibsons where Liz Williams has lived for more than 10 years was first **assessed in 2011, for approximately \$460 in property taxes for the boat, shed and float**. Unlike two floating homes assessed for property taxes, her houseboat catamaran has an outboard motor and is self-propelled; she pays almost \$1,000 a month in moorage and live-aboard fees. Unsuccessful in appealing her assessment to the provincial Property Assessment Review Panel in 2012 and 2013, she was worried her boat home would be seized for non-payment of taxes and posted a public sign. The town's Chief Administrative Officer Mani (Emanuel) Machado assured Williams her boat would not be seized, referring to the standard warning in tax notices being a cautionary clause regarding delinquent taxes. Gibsons asked BC Assessment to review the file, Machado adding,

that "she's a local resident and we have no problem with her being assessed as a boat." Grant McDonald of BC Assessment's Vancouver Sea to Sky office said they'll work with Williams, noting "It would be better to avail herself of some of the remedies that are provided within the process..." McDonald cited the BC Assessment Act Section 23 which specifies Crown land and improvements can be assessed in the name of the holder or occupier.

Ontario

Scott Bird, Ottawa's Finance Director **reflected costs for city services by detailing out the costs to an average home owner's tax bill for commissioners**. In estimating the 2014 mill during a study session, Bird provided details and examples for police and fire protection, road maintenance, the public swimming pool and other services and their relation to residents' property tax bills.

Rose City Ford in Windsor launched a **campaign to make a 1% payment of a new vehicle's purchase price (maximum \$750) toward property taxes**

of customers. John Chisholm, dealer principal, said the region's economy will benefit because the campaign entices consumers to buy their vehicles at a local dealership.

www.rosecityford.com/about_us/news_and_events/buy-a-car-reduce-your-property-taxes

United States

A new law **will eliminate state and local tax subsidies for charities that spend more than 70% of donations on management and fundraising**. Also, donors to such charities can no longer claim a state tax deduction and the charities will lose their local property tax exemptions, some 100 charities in its first year. Of the 17,152 charities registered, 23% are based out of state. The Department of Justice identified the top 20 worst charities; all spend less than 30% of funds on programs and services. Oregon HB 2060 <http://is.gd/CaktEo>.

Property owners with wildfire damage to homes or forestlands from recent natural disasters in Montana can apply for property tax relief. The Department of Revenue said that forestland owners whose standing timber was destroyed will receive a reduction in the assessed value for 20 years beginning with the 2014 tax year. Almost 800 fires have occurred in the state so far in 2013, with more than 65 square miles burned. The state's natural disaster property tax relief also covers properties damaged by flood or wind.

The California Board of Equalization **released its audit on the assessment practices** of Los Angeles County which has been updating processes, policies and procedures to increase transparency, efficiency and accuracy; 74pgs, <http://assessor.lacounty.gov/extranet/pdf/AssessmentPracticesSurvey2013.pdf>

work word

squint, *n.* A fiscal skeptic, often a bean counter. The prudent manager, confronted with a grandiose scheme, will run it past the squints before proceeding.

From *The Devil's Dictionary of Business Jargon* by David Olive



Inland Am. Retail Mgmt. LLC v. Cinemaworld of Fla., Inc., Rhode Island Supreme Court, 12-151, June 18, 2013
At issue was the interpretation of a clause concerning allocation of real estate taxes in a lease. Inland and Cinemaworld were successors-in-interest to a ground lease for the rental of what is now a movie theatre in a shopping centre. Under the lease terms, Cinemaworld incurred certain liabilities and expenses. Pursuant to a lease clause, Cinemaworld was required to pay an amount equal to the real estate taxes levied, assessed, or otherwise imposed against the movie theatre. Inland filed a complaint for breach of the lease for Cinemaworld's alleged failure to make timely payments as required. Superior court granted a partial summary judgment in Cinemaworld's favour with respect to its motion seeking an accounting, ruling the formula allocating its reasonable share of real estate taxes should be based on square footage of the leased premises. Inland appealed. The Supreme Court vacated the judgment of the superior court, holding there was a genuine issue of material fact as to the interpretation of the parties' lease. 18pgs, <http://www.courts.ri.gov/Courts/SupremeCourt/Opinions/12-151.pdf>

Vanderminden, A Family LTD Partnership v. Town of Wells, Vermont Supreme Court, 2012-092, June 28, 2013
Vanderminden owned contiguous property in the adjoining towns of Poultney and Wells, the latter portion at issue in this case. The state appraiser affirmed the town's valuation of the property. On appeal, the partnership argued the appraiser failed to supply a sufficient explanation for its decision to accept the town's valuation as in assessing the Wells and Poultney properties as a single parcel, valuing the Wells portion as a seasonal dwelling and for not accepting the partnership's evidence that the Wells portion was assessed above fair market value. Upon review, Supreme Court concluded the valuation of a single property in more than one town includes both fair market value of the entire parcel and of the portion in the town involved in the appeal. Since the partnership presented evidence to demonstrate that the valuation of the Wells portion exceeded the fair market value of the entire parcel, the Wells' appraisal should have been reduced accordingly. Furthermore, the state appraiser should have given its reason for the high valuation. Accordingly, court remanded the case for further proceedings. <http://info.libraries.vermont.gov/supct/current/op2012-092.html>

Kropp v. Porter County Assessor, Indiana Board of Tax Review, Pet. 64-013-11-1-5-00010, January 18, 2013

The assessor did not request taxpayers' evidence in advance of a hearing, but taxpayers had requested the assessors who objected to two exhibits that had not been produced before the hearing. The board reversed, citing, "If requested...by any party, the parties shall provide to all other parties copies of any documentary evidence...." The board noted that the failure to admit the exhibits had no bearing on its ultimate determination. The board also found the taxpayers' appraisal of the property was hearsay and the foundation of the case. Because they failed to present any non-hearsay evidence of value, taxpayers failed to make a prima facie case that the property's assessment should be reduced. www.in.gov/ibtr/files/Kropp_64-013-11-1-5-00010.pdf



Largely Unasked Questions (LUQs)

Shouldn't this column be called Frequently Asked Questions, as in FAQs?

It could, except many readers merely *think* about questions they might ask, so we're anticipating aspects you might want to know, e.g. why which browser you use matters, why we take security so seriously (such as logins and spam protection). Since we're on acronyms, it might help to think "LUQs AKA FAQs." If you have questions you'd like answered, let us know at info@COMvivio.com. Past LUQs are listed on the website at www.COMvivio.com.

Quirky but true...

An aircraft operated as an air ambulance was chained, a notice posted demanding immediate payment of an outstanding personal property tax debt of approximately \$97,000. The seizure of the aircraft owned by Med-Trans, a Texas-based company, was part an effort by tax officials to collect more than \$1.2 million owed by businesses. Med-Trans contended it was exempt from county taxes in Georgia as a regulated air carrier but it apparently did not qualify under the state's Department of Revenue exemption which taxes airlines as public utilities. Funds were wired to pay the tax bill the next day.

A new initiative to recover property tax arrears — since sending letters, notices and publishing names in newspapers have not worked well—**hopes the discomfort of a live band playing in front of a property in arrears might encourage people to pay up.** A brass band accompanies civic staff to the location which has property tax due, "The band will play music in front of the property for not paying tax on time," said Pune Municipal Corporation Commissioner Rajendra Jagtap, said the decision was based on his previous experience in Ahmednagar, India. Jagtap said the civic administration received a "good response" on the very first day, recovering funds from hotels and malls.

Quotable Quote

"I hate paying taxes. But I love the civilization they give me."

Oliver Wendell Holmes (Sr.)

"I like to pay taxes. With them, I buy civilization."

Oliver Wendell Holmes Jr.

Land Use, Municipal Revenue Impacts and Land Consumption: a property tax revenue study

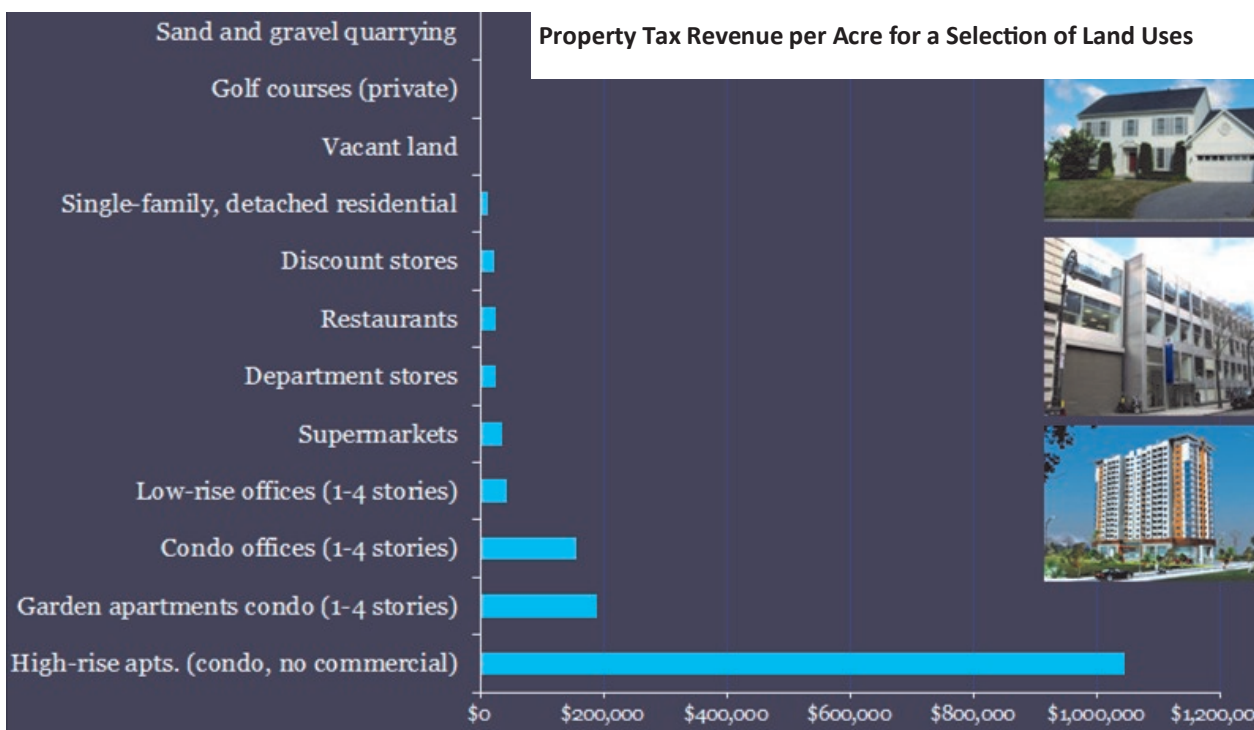
For her 2012 master's thesis, Alanna McKeeman performed an analysis of a large, predominantly suburban county's property tax base, reviewing data on more than 357,000 properties and calculating property tax revenue per acre for 159 land use categories for both basic (then-rate \$1.07 per \$100) and total revenue (including special taxes/fees to fund projects). Notable findings include high-rise condominiums yielding over 100 times more revenue per acre than single-family dwellings and properties in more walkable, town-centered developments, generally producing more property tax revenue per acre for the county. In a revenue comparison of two major commercial centres, one centre was more pedestrian-oriented where high-rise apartments and condominiums generated up to \$2.8 million per acre property tax revenue, almost double that of the other area. McKeeman writes:

It is hardly surprising that property tax revenue per acre is higher where density is greater; nevertheless, the magnitude of difference between low-density and more compact development is remarkable. Many local governments restrict the development of multi-family housing for various resources; the research in this paper provides more precise information on the opportunity costs involved with such decisions, both in terms of municipal revenues and housing affordability. The findings may be more salient for suburban and urban jurisdictions, where the amount of land available is more finite. However, local governments of every type have an interest in maximizing the value of their investments and considering property tax revenue per acre is a valuable step in land use decision making.

Although many planners understand the benefits of walkable, accessible and more compact development, they often struggle to communicate these in terms that matter to the general public. Being able to quantify these benefits and make a fiscal case for alternative types of development is a powerful tool in changing the conversation about land use. I also analyzed property tax revenue per acre for upscale residential areas and found that, per-acre, homeowners in these areas pay less than property owners of mobile home parks. Given higher infrastructure costs *per capita* in the former area, data implies the property tax system is more regressive. Still, additional research on per-acre infrastructure costs is needed to paint a more complete picture of the cost and revenue impacts of various types of development. Recommendations include reforming tax structures to incorporate long-term infrastructure maintenance costs rather than one-time impact fees. Under such a system, two equally-valued properties with different demands on infrastructure and rates of land consumption would not pay the same amount in property taxes.

Research cited in the paper indicates that although sales tax revenue is another important source of revenue for local governments, additional sales tax revenue generally does not account for more than a fraction of the gap between higher and low revenue-per-acre developments. Tax assessment formulae are often structured in such a way that larger lots are assessed property taxes at lower rates than smaller lots. Improved communication between planners and tax assessors will be a necessary step in assessing the equitability of current property taxation structures and start the conversation about how these structures can be improved. Planners often lack full comprehension of the economic and fiscal impacts of their

Land Use, Municipal Revenue Impacts and Land Consumption: A Study of Property Tax Revenue per Acre in Fairfax County, Virginia by Alanna McKeeman (Virginia Tech), 53 pgs,
www.baconsrebellion.com/PDFs/2013/02/McKeeman.pdf.



recommendations, while tax assessors may not have as broad a view on land use and housing issues to understand the effects of property taxation systems on communities.

Alanna McKeeman is an Associate at ICF International in Washington, DC. She can be reached at alanna.mckeeman@icfi.com.

Resources: New & Noted

A Critical Review of TIF and Abatement

by Maryann O. Keating

The *Wall Street Journal* listed Philadelphia penthouses for sale starting at \$2.1 million at the “most prestigious address” in a building with concierge services: each unit includes a 10-year tax abatement. In March, the city mailed new valuations to owners of approximately 580,000 parcels, one finding his property assessed in 2008 at \$86,000 jumped to \$575,000.

“How can certain properties be released from taxes without raising the taxes of all other property owners in the community?” asks Keating. “The reason for property tax abatements, we are told, is the need for local government to play an active role in encouraging certain activities.” She discusses Indian’s lax landscape, noting that “TIFs are sometimes viewed more favorably than tax abatements because property owners actually pay taxes on increased property values. However, when the cost of basic government services increases, the result is a general revenue shortfall paid from sources outside the TIF district.” Keating is an adjunct scholar of the Indiana Policy Review Foundation and co-author of *Microeconomics for Public Managers*. <http://inpolicy.org/2013/07/keating-a-critical-review-of-tif-and-abatement-2/>

Total state and local business taxes State-by-state estimates for fiscal year 2012

Ernst & Young LLP/Council on State Taxation

This study presents detailed state-by-state estimates of taxes paid by businesses for fiscal year 2012. Now in its 11th annual report, this year’s study found “Property tax collections on business property remained flat in FY2012, increasing by an estimated 0.1%. Property taxes paid by business totaled \$228.7 billion in FY2012, accounting for 35.3% of total state and local business taxes. , property taxes on real, personal and utility property owned by businesses account for the largest share of total state and local business taxes, 35.3% or \$228.7 billion in FY2012. Property taxes increased 0.1% in FY2012, after declining by 0.9% in FY2011. 28pgs, www.cost.org/WorkArea/DownloadAsset.aspx?id=84767

To view a **cartoon on Property Tax Fairness** by George Danby, see Danby, Inc. <http://danbyink.bangordailynews.com/2013/07/19/property-tax-fairness/>

Case Study 1: Mortgage Interest Deduction for Owner Occupied Housing

The Tax Foundation released a study on the potential effects of eliminating the US home property tax deduction for owner-occupied housing. This would increase tax revenues by \$34 billion on a static basis; reduce the GDP by \$94 billion; raise revenue by a \$11 billion on a dynamic basis, reduce employment by the equivalent of some 216,000 full time workers and reduce hourly wages by 0.4%. Ending the deduction and using static revenue gains to pay for 100% expensing for all non-corporate businesses and a 1.1% across-the-board rate cut would increase GDP by \$120 billion on a dynamic basis and increase federal revenues by \$26 billion; increase employment by the equivalent of approximately 119,000 full-time workers and increase hourly wages by 0.7%. <http://taxfoundation.org/article/case-study-1-mortgage-interest-deduction-owner-occupied-housing>

The Appraisers Research Foundation **funds research projects** that will benefit the appraiser community and is actively seeking proposals. See www.appraiserresearch.org/grants/grant-requirements.html. Two such projects:

♦ Key Factors Affecting Valuation for Senior Apartments

By Jonathan A. Wiley and David Wyman

The value of senior apartments is estimated relative to traditional apartments in 34 markets in the United States. In some markets, senior apartments transact at higher prices than predicted; in others, at a discount. Market differences in the valuation of senior apartments are examined. Several attributes are found to have a significant impact and become capitalized into differential values for senior apartments including the supply of apartments per senior resident, housing prices, market size, education, and life expectancy. Other variables appear to have no effect, including rent and income, suggesting that the price impact is symmetrical for senior and traditional apartments. *Journal of Real Estate Research*, Vol. 34, No 2, 28pgs, www.appraiserresearch.org/fileadmin/user_upload/Valuation-for-Senior-Apartments/Valuation-of-Senior-Apartments-ARES-fulltext.pdf

♦ Income approach to real property valuation: a new model

By S.A. Smolyak

A new research project funded by The Appraisers Research Foundation was proposed based on the principle of stability and an un-orthodox application of discounted cash flow analysis. The model takes into account the effect of the value of land on the value of the buildings erected upon it, and does not require long-term forecasting of income. Smolyak, of the Central Economics and Mathe-

matics Institute of the Russian Academy of Science writes, “The value of the underlying land sets the conditions for the marginal level of net benefits, which determine whether to continue using the building, or to demolish it and dispose of it on the market at the price of the underlying land value.” Simple mathematical rent multiplier models do not require cash flow forecasting and can be used for estimating the value of buildings on the basis of income arising from their use and for solving inverse problems such as assessing market rents for buildings. The proposed method can be used in conjunction with conventional market methods.

www.appraiserresearch.org/fileadmin/user_upload/Smolyak-Paper/G12-043-SmolyakProperty2605-new-converter.pdf

Foreign Affairs

Most of Greece's land transaction records are still handwritten in ledgers, logged by names without house numbers or parcel identification. **Experts cite the lack of land registry as one of the biggest impediments to collecting property taxes.** In applying property tax to electrical bills, empty property and farmland has yet to be taxed. Greece received more than \$100 million from the European Union in their failed attempt to build a registry: less than 7% of the country has been mapped. "There has been a lot of money spent, and no one knows where it went," said Julius Ernst, from Austria. The European Commission, International Monetary Fund and European Central Bank want a registry and cadastre and international experts are advising on the poor tendering and expensive and inefficient contracts. Land disputes are less acute in urban areas where sidewalks and streets help clarify boundaries but in the country, boundaries can be relatively amorphous, such as the "three olive trees near the well." A registry is hoped to be completed by 2020 at a cost of \$1.5 billion. The government announced it will tax the 260,000 Greeks (2006 census) who live in Australia on property including rental or potential rental income. www.nytimes.com/2013/05/27/world/europe/greeces-tangled-land-ownership-is-a-hurdle-in-recovery.html?hpw&_r=0

Mumbai is **lax in enforcing the collection of property tax from slums** in India despite signing a 2006 agreement with the state government that protected slums would be brought under the tax bracket in 2007-08. A McKinsey & Company report noted that 60% of its population lives in slums while "Delhi, Bangalore, Chennai and Kolkata municipal corporations" completed GIS mapping of all properties to bring slums under the tax net. According to the report, Mumbai had 800,000 slumdwellers in 2003 which increased to 1.1 million in a decade. One proposal was that dwellers get free land but contribute \$4.25 monthly toward rebuilding costs. Mumbai started issuing property tax bills for 2013-14 to 277,000 properties, taxes increasing for 19% of properties. See www.bmc-mumbai.org.in/offices-of-bmc-mumbai.htm and www.mckinsey.com/locations/india/mckinseyonindia/.

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Transitions

Ontario: Bancroft promoted current Deputy Clerk & Economic Development Officer **Hazel Lambe** to Chief Administrative Officer/Clerk. **John Henricks** is Niagara on the Lake's new Director of Community and Development Services (planning, bylaw enforcement, building services, economic development). In Cambridge, **Gary Dyke** will be the new CAO effective September 2. Mark Urbanski is the Township of Ramara's new CAO while the City of Clarence-Rockland's new CAO is **Michel Bellemare**.

Nova Scotia: Annapolis County appointed **John Ferguson** as the new CAO.

Calendar

2013 Northwestern Ontario Regional Conference

September 25 to 27 Thunder Bay, ON

www.noma.on.ca/article/northwestern-ontario-regional-conference-130.asp

Challenges in the Valuation of Unique and Leisure Properties


November 14 & 15, 2013 Hollywood, Florida

An intensive seminar focusing on properties that often can present valuation challenges. Experts will present issues for specific property types and share best practices to accurately determine and defend estimates of value. IAAO professional designees will earn 9.75 hours of recertification credit.

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