# eFocus Municipal Assessment TAXATION cases, continues to

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

# Shipyard "arrangement disclosed by accident in council documents"

alifax Regional Municipality is giving Irving Shipbuilding a deal, allowing for a special property tax arrangement. After receiving a letter from Irving seeking a tax break, council directed municipal staff to request changes to the city's charter. The changes, introduced by the province last year, allowed the municipality to offer tax relief to heavy industry. Details of the agreement were buried in a report to council and disclosed "by accident," reported CBC news. A proposed corporate accounts budget noted the city's tax agreements increased \$580,000 "due mostly to (the) new Irving shipyard agreement."

Greg Keefe, Halifax's Chief Financial Officer, couldn't release more details until council ratified the agreement, adding that Irving is not unique as similar tax deals are in place for Halifax International Airport Authority, Bell Aliant for power poles and lines and the former Imperial Oil refinery in Dartmouth. Keefe said Halifax has only residential and commercial property tax rates. Councillor Tim Outhit favours new tax categories for the industrial sector, condo owners and small businesses, "if this is something just for Irving, I'm going to be disappointed with that." The ship-yard's assessment apparently rose from approximately \$39 million to \$56 million after a \$300 million taxpayer-funded modernization was approved in preparation for a contract to build Canada's new warships. Keefe said Halifax decided to "work out a tax agreement with Irving to potentially years of litigation," that a legal battle would have been expensive and the deal avoids "arguing in Appeal Court for the next 25 years."

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work word
uninstalled, adj. No longer
employed here. Originates
with the voice mailbox,
building-security badge,
cell phone account, laptop
password and other
electronic entanglements
from which a departing
employee must be
disconnected.

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

While some believe the site is unfit for other purposes, scores of examples show repurposing, such as multi-unit housing—and being assessed at such. For example, the former Dartmouth City Hall in downtown Dartmouth, declared surplus by Halifax Council September 2014 the property is being sold as a redevelopment opportunity for commercial, institutional and cultural and residential uses, www.halifax.ca/property/documents/90AlderneyDr\_CIM.pdf. "If the city has come up with a deal, they should release the deal... so we can debate its merits," said Kevin Lacey, Atlantic Canada Director, Canadian Taxpayers Federation. "If there is something extended to the big players like Irving, why is it not extended to the little guy, too, who is struggling under the same climbing assessments and high taxes." He said the biggest problem is the secrecy, "The issue is there has been no transparency around this agreement." Council's discussion was apparently in camera without information being made public. www.cbc.ca/news/canada/nova-scotia/irving-shipbuilding-and-hrm-reach-special-shipyard-tax-deal-1.3010284 and http://thechronicleherald.ca/metro/1276987-irving-hrm-near-deal-on-special-tax-arrangement

# If it's spring (in some parts of Canada) it can mean golf...

n at least the fourth time up for auction because of property tax arrears, Santa Teresa Country Club and golf courses remain on a delinquent taxes list. The golf course at the closed club was sold by auction by the New Mexico State Property Tax Division in February 2014 for \$33,000, listed on Doña Ana County tax rolls with a value of \$777,100. The 18-hole course was divided into three parcels, with a club house and another golf course. The delinquent tax amount is now some \$221,800 for the nearly 148-acre courses and \$286,000 for the

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restaurant and clubhouse parcel. The developer who originally developed the club and surrounding residential community said the law is an obstacle in acquiring the club, as if a new owner tries to redevelop the course for residential use, the "reciprocal negative easement" is a legal barrier that protects the rights of homeowners who bought property that came with the golf course as a guaranteed amenity. An acquisitions officer for a developer is interested in buying the properties in future, if other issues such as access to water, can be settled. http://newsok.com/no-bidders-on-santa-teresa-country-club-parcels/article/feed/821250

#### **Coast to Coast to Coast**

# Canada Alberta

Calgary homeowners will be charged a combined city-provincial property tax rate increase of 4.2%, meaning \$110 higher taxes for the average homeowner of \$110.40 this year. The non-residential rate will increase by 5.4%. Provincial decisions gave council the option of raising taxes to generate \$3 million more for general spending or to transfer extra cash creating a shortfall — to help local businesses, which face an increased property tax from the provincial government.

#### **Ontario**

To preserve the former St. Paul's Chapel, the **Dalkeith Historical Society** (DHS) purchased it for \$5,000 from the Diocese of Alexandria-Cornwall in 2012, to become home to the DHS for exhibits, concerts, art shows and conferences. The DHS is appealing its assessment of \$36,000. 18pgs, http://dalkeithhistory.com/whats-going-on/heritage-designation-application

Property taxes in West Grey are up by 3.5% this year, in a \$14.5 million budget, up by \$1.1 million over last year. The municipality will also collect \$4.69 million in taxes for Grey County and another \$3.4 million in education taxes. **Treasurer Kerry Mighton said** the increase means for every \$100,000 of assessed value, owners will pay \$41.68 more this year. **District of Muskoka** council approved its 2015 budget, including a 4.5% increase for a 3.66% tax increase, another \$20.10 in per \$200,000 residential property assessment.

Council will vote on the proposed tax ratio, told to expect a 2.6% overall tax rate reduction, said Margaret Karpenko, North Bay's Chief Financial Officer. With Lorraine Rochefort, Manager of Revenues and Taxation, she outlined what various ratio models would mean for property owners, with a recommendation to follow the 2014 ratios of more on multi-residential because that assessment class increase is highest.

**Norwich Township** property owners will see an increase of 7.98% this year, approximately \$81 per year on the average property assessed at \$230,500. Finance Director Mike Legge said the province reduced municipal funding by \$280,600, equating to 4.58% of the rise.

**St. Catharines** passed a 3.85% tax increase. **North Dumfries** approved a 9% property tax hike for 2015; for the average household an increase of \$82 dollars.

An average residential property assessment in **Leeds** and **Grenville** is approximately \$250,000, the average tax increase \$25 per residential property: the counties will collect \$35.1 million in property taxes this year.

#### **United States**

Minnesota proposed an omnibus tax bill that includes eliminating the general property tax paid by corporations and businesses. That move would cost the state \$453 million for two years of lost revenue. 48pgs, www.house.leg.state.mn.us/hrd/bs/89/HF0848.pdf.

Rhode Island taxpayers will be asked for \$120 million over 30 years to help pay for an estimated \$85-million ballpark the new PawSox owners want to build in Providence. In addition, the baseball team's owners are asking the city to waive taxes for 30 years. The state is being asked to pay \$5 million a year to lease the ballpark from the owners who'd pay the state \$1 million to sublease the stadium back, so taxpayers would fund \$4 million a year in the lease-sublease arrangement.

The Philadelphia Coalition for Affordable Communities called for a anti-speculation tax to increase the real estate transfer tax by 1.5% on properties flipped by investors, sold two or more times within two-years.

St. Louis County taxpayers will be asked to help pay for a new \$985 million NFL stadium on the downtown riverfront by a public vote. Financing was challenged in a law that requires separate public votes in the city and county before taxpayer funds can be used to build a stadium. A demand was also filed that the city reveal its use of public money. "If one person at City Hall is working on this, well, then that's financial assistance for the project," said St. Louis University law school professor and legal clinic supervisor John Ammann. "The law is pretty broad. It says 'direct' or 'indirect.'"

Revenues from Caesars Entertainment Horseshoe Casino lease payments were to fund property tax reductions for Baltimore homeowners. With its parent company in bankruptcy court, homeowners won't get the promised reduction the city bet would bring \$14.8 million in fiscal year 2015, according to the October 31, 2012 agreement. The casino failed projections by onethird, also underfunding local grants to mitigate "negative effects" (crime, prostitution, traffic congestion, etc.). A clause required a minimum payment of \$8 million in Year 1 if the city's 2.99% share of total gambling revenues didn't reach the threshold. The casino's second installment of \$4 million for Year 1 is delayed until fiscal 2016; a \$10 million hole in the city's budget. Horseshoe was expected to pay a guaranteed minimum \$10 million in Year 2, \$2 million more than this year, up to \$14 million in 2019, what was to give homeowner property tax reductions through 2020. The company apparently still owes the city \$4.7 million for land and parking garage. www.baltimorebrew.com/2015/04/13/its -now-official-sagging-casino-revenues-equal-no-propertytax-cut-this-year



## Frustrated by media coverage?

The Calgary City News Blog is written by a team of city employees covering Calgary-related stories, "the facts about City of Calgary programs and initiatives. Please ask questions or post comments about The City and we

will respond promptly and try our best to facilitate conversation." The tab "Good News Stories" features those stories mainstream media often avoid—such as heartwarming responses by city employees to flooding as well as postings of community meetings for the city's "Action Plan 2015–2018 public engagement" where consultations were held in malls, community centres and libraries. The city "created this blog to highlight some of the great things that we do, both on a corporate and individual staff level. We aim to encourage conversation and healthy debate as part of building a strong civic community online." The blog is monitored and while it encourages comments, "personal attacks, profane, racist, sexist, intolerant or off-topic remarks" are removed, meaning comments are illuminating to read. The blog includes updates on traffic and weather and has a section on property tax and assessment issues. www.calgarycitynews.com

#### Participatory budgeting gaining support

Participatory budgeting started in Brazil in 1989 in the City of Porto Alegre, allowing residents to determine how municipal funds would be divided up in their

neighbourhoods. This year, some \$25 million of New York City's \$75 billion budget will be "spent" by voters in various city districts. More than half of one district's \$2 million was allotted for potential projects to improve technology. A project to install 50 wireless devices on public housing rooftops is one of 14 choices on the ballots for voters to chose from. Participatory budgeting began in New York City in 2011 in four districts where residents decided how to spend funds. Best practices: The Experience of the Participative Budget in Porto Alegre Brazil, www.unesco.org/most/southa13.htm, Participatory Budgeting in Brazil, 6pgs, http://siteresources.worldbank.org/INTEMPOWERMENT/Resources/14657\_Partic-Budg-Brazil-web.pdf.

#### Run a course on spending wisely

Alberta's Elected Officials Education Program (EOEP) is designed for municipally elected officials. With enrollment limited to 24 participants, this joint venture of the Alberta Association of Municipal Districts and Counties (AAMDC) and Alberta Union of Urban Municipalities, offers **Spend Wisely, Lead Strongly: Municipal Finance** on May 14 and 15, 2015. The sessions include determining "What are your financial oversight responsibilities? How do you identify and mitigate risk? What is an effective municipal fiscal policy?" To be held 9am to 4:30pm at the AAMDC Office in Nisku, AB, the cost is \$580 plus GST. See <a href="http://eoep.ca/home">http://eoep.ca/home</a> or contact Leanne Anderson, EOEP Registrar, landerson @auma.ca, 780-989-7431.

## Alberta golf course's property taxes and other compensation paid

roperty taxes for the private operator of a flood-damaged golf course, as well as \$5.4 million in compensation to a firm with political connections, were apparently paid in a secret deal while the government-owned 36-hole remains closed. Alberta has now promised no additional public money would be spent to support the course after the funding arrangements were revealed. Documents show \$145,000 in property taxes owed by Kan-Alta Golf Management Ltd. were forgiven by government appointees on the local improvement district and reimbursement was sought from the province. Minutes from meetings last year of the Kananaskis Improvement District's council show it unanimously approved motions seeking reimbursement from provincial funds for \$90,856 for 2013 taxes and \$53,976 for 2014. "Nearly two years after the disaster, there are people in High River who are still waiting to have their disaster recovery claims settled and paid," said Wildrose critic Pat Stier, "but yet these guys at Kan-Alta seem to have a get-out-of-jail card from the government for their losses." Scott Hennig, Vice President of the Canadian Taxpayers Federation, said as a result of the property tax deal, Kan-Alta and its owners may have been paid twice for the same thing by different departments. The government has announced a review by an independent expert.

However, it appears another \$8 million in operating cost expenses and some portion of the \$15-million estimate for rebuilding the facility may yet be paid to Kan-Alta, the latest agreement signed July 16, 2014 — days before the rebuild was announced. Although the firm did not make an initial shortlist of qualified proponents and its final offer was financially inferior to a competing Calgary consortium, Kan-Alta received the lease to operate the Robert Trent Jones-designed course ever since it was built in the early 1980s for \$25.5 million in today's dollars using Heritage Fund energy royalties. Besides being connected politically, the owners of the company apparently also donated funds to campaigns. <a href="http://calgaryherald.com/news/politics/taxpayers-hit-with-double-bogey-for-flood-damaged-golf-course?utm\_source=Contact+newsletter&utm\_campaign=f4e41da92d-Contact\_Newsletter\_January\_15\_20141\_15\_2014&utm\_medium=email&utm\_term=0\_ad7c2a0493-f4e41da92d-390814869</a>

#### **Resources: New & Noted**

# Alberta program funds 21 flood mitigation projects

Recipients were announced for the first round of the Alberta Community Resilience Program, which provides funding developing long-term resilience to flood and drought; 21 projects will be funded for a total of \$500 million in 2015, including retrofits to Calgary's Glenmore Dam, flood protection infrastructure in the Regional Municipality of Wood Buffalo and the installation of flood gates in the Town of High River. Applications for next round of funding are due September 30, 2015. http://esrd.alberta.ca/water/programs-and-services/alberta-community-resilience-program.aspx

#### Legislation for hurricane damaged homes to 2020

Homeowners whose property was damaged by Hurricane Sandy will get property tax relief under new legislation that allows Staten Island to limit increases to assessed value caused by reconstruction of damaged homes so assessments are not higher than pre-storm values. Thousands of homeowners will now receive notification of revised assessments for fiscal year 2016 through 2020.A quirk in the law was identified that would have imposed a "Sandy tax" because value of the repairs and rebuilds would have caused a higher assessment. It was also proposed that the city and New York State find a way to provide similar tax relief in all natural disasters so lawmakers don't have to approve exemptions for every event. <a href="https://www.silive.com/news/index.ssf/2015/04/council\_approves\_property\_tax.html">www.silive.com/news/index.ssf/2015/04/council\_approves\_property\_tax.html</a>

# A National Study of Homestead Exemptions and Property Tax Credits By Adam H. Langley

Lincoln Institute of Land Policy, Land Lines, April 2015
The first comprehensive US study of homestead exemptions and property tax credits gives policy makers a critical tool for evaluating and improving effectiveness in property tax relief programs. States have responded to public opposition of property tax by enacting a range of tax relief policies: all but three states have at least one. But despite their broad use and potentially large impact on the distribution of property tax burdens, there has been remarkably little data available on the tax savings generated by property tax exemptions and credits. Tables provide information for each state on the share of homeowners eligible for programs and the level of tax savings received, as well as an analysis of how eligibility and benefits vary across the income distribution. Includes

- Tax Savings from Property Tax Exemptions and Credits
- Summary Table on Exemptions and Credits
- Residential Property Tax Relief
- How Property Tax Exemptions and Credits Work
- ◆ Critical Features of Exemptions and Credits
- Estimating the Benefits of Exemptions and Credits
- Tax Savings for Different Types of Programs

8pgs, www.lincolninst.edu/pubs/2527\_How-Do-States-Spell-Relief--A-National-Study-of-Homestead-Exemptions---Property-Tax-Credits.

The Significant Features of the Property Tax sub-center provides three key resources with information on exemptions and credits in 50 states, www.lincolninst.edu/subcenters/significant-features-property-tax.

# Bill 73 – Ontario's proposed Smart Growth for Our Communities Act

The government responded to comments received through consultations and announced proposed legislative amendments to the Development Charges Act 1997 and the Planning Act. The bill would also give municipalities more opportunities to fund growth-related infrastructure such as transit, make development charges, for density bonusing and parkland dedication systems more predictable and support higher density development. Bill 73, Smart Growth for Our Communities Act, 2015, www.ontla.on.ca/web/bills/bills\_detail.do?

**Quotable Quote** 

"During the longeurs of weekends, we may be desperate for our children to grow up, lose their interest in trampolining and leave us alone forever so that we can read a magazine for once, and enjoy a tidy living room—and then a day later, at the office, we may want to howl with grief because a meeting looks like it's going to overrun and we realize we'll miss out on putting them to bed."

Alain de Botton How to Think More About Sex

#### **Factoids**

In 2014, more than 99% of property owners accepted their property assessment as provided by BC Assessment without proceeding to a formal, independent review (appeal) of their assessment... approximately 87.7% of all properties are classified as Residential. www.bcassessment.ca/Assessment% 20Roll%20Information/2015%20Fast% 20Facts%20on%20BC% 20Assessment.pdf



#### Dosanjh v. Liang, 2015 BCCA 18

by Michael Ventresca & Greg Umbach Blake, Cassels & Graydon LLP

The British Columbia Court of Appeal recently held that, with limited exceptions, assessment reports are not admissible in court as evidence of the value of real property. In the BC Court of Appeal decision released January 14, 2015, *Dosanjh v. Liang (Dosanjh)*, the court had to determine the amount of damages to be awarded to a

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Their article appeared online with an introductory Background at www.blakes.com/English/Resources/Bulletins/Pages/Details.aspx?BulletinID=2080

buyer of a residential real estate property after the seller failed to complete the transaction. At law, an innocent buyer is generally entitled to claim damages in the amount of the difference between the contract purchase price for a property and the value of the property on the date of the breach by the seller.

One of the issues in *Dosanjh* was whether the assessment report prepared by BC Assessment was admissible as evidence of the value of the property. The court decided unanimously that it was not. In holding that the assessment report was inadmissible, the court noted that the "difficulty with the property assessment as evidence of property value is that the court had no basis on which to evaluate its cogency. The court was not able to determine how the assessor went about making the assessment, and had no basis for determining what weight to give it." None of the reasoning or factors considered by the assessor are available. On the facts of this case, a particular concern of the court was the property had recently been used for growing marijuana and it was not known whether the assessment took this into account.

Previous cases in British Columbia have raised similar issues with relying on notices of assessment. In *Hall v. Mougan*, the court noted that "the notice of assessment contains no particulars of the property assessed, so the facts are unknown to the reader without other evidence. The assessment may be the opinion of an appraiser or the computer-generated result of logarithms applied to particular data. There is no evidence whether the assessment is one, the other, or some combination of these extremes."

The court further stated that unless the parties agree, there is "no scope for using assessments in place of expert opinion evidence" to determine the value of real property in such cases. The court acknowledged there may be a limited role for property assessments in family law cases, but noted that in such cases "the court is simply required to estimate the value of property for the purpose of dividing a family asset" and "may 'grasp at straws' in an attempt to reach a just result." In transactional disputes, the court was firmly of the view that assessment reports are inadmissible as evidence of property value. The court returned the matter to trial court for a determination of the amount of damages.

#### **CONCLUSION**

The decision in *Dosanjh* is a helpful reminder that parties to real estate transactions ought to exercise caution if relying on an assessment report as evidence of the value of real property. One consequence of this decision is that it may affect a practice of relying on assessment reports to justify property values in certain transactions, such as where property is transferred in a corporate reorganization and property transfer tax is payable, or where insurance on the value of the property is obtained. If a dispute regarding such tax or insurance amount arises, it may be difficult to succeed if the assessments relied upon cannot be used in evidence. Ultimately, the assessment report is unlikely to be of any evidentiary value in a legal proceeding and is, at best, an imperfect estimate of the market value of a property.

 Dosanjh v. Liang, 2015 BCCA 18, www.courts.gov.bc. ca/jdb-txt/CA/15/00/2015BCCA0018cor1.htm

# Quirky but true...

Cleveland's Housing Court issued an arrest warrant for former Colorado state representative Douglas Bruce for non-payment of property taxes for more than \$21,000 on four Ohio properties. "It's not right that an out-of-town owner would buy property in our city and then refuse to pay property taxes," said Cleveland Councilman Tony Brancatelli. "How would he like it if we did that in his city? Taxpayers are left to pay to have his condemned properties boarded-up, and have the lawns cut." Bruce said he's trying to get property taxes on his properties reassessed, two in arrears since 2013. Bruce is the creator of the Colorado Taxpayer's Bill of Rights and was convicted in 2012 of tax evasion and filing a false tax return with regard to interest he made on \$2 million he put into a charity he founded in 2001, sentenced to six years of probation and 180 days in jail.

# **Foreign Affairs**

**Greece's new property tax** to replace the Single Property Tax (ENFIA) will likely have a low tax-free threshold, between €20,000 and €30,000 and come into force after adjustment of values and rates with exemptions for small property owners. Owners of large properties will pay more tax to compensate for the tax-free threshold. If the threshold was set at €50,000, four in 10 property owners would pay no tax. Owners will be taxed on total

property, i.e. with a house valued at €200,000 and a €50,000 store, they will be taxed at €250,000 after deducting the exempt threshold. Greece's highest administrative court, the Council of the State, demanded the process be completed by June.

Thailand's Prime Minister surprised people and "returned happiness" by putting a draft bill to tax land and buildings on hold due to the sluggish economy. The administration planned to consider a revised proposal by the Finance Ministry to lift the ceiling on tax exemption Bangkok and vicinity homes. www.nationmultimedia.com/politics/A-sigh-for-relief-as-property-tax-is-put-on-hold-30255916.html

Lahore High Court stopped the Excise Department from recovering **property tax for Pakistan Cricket Board offices at the Qaddafi stadium by issuing a stay order**. The board's lawyer said the department sent a notice to submit property tax fees. which was unconstitutional as according to rules, properties on leases do not pay tax. Court cancelled the notice and ordered the department to submit a reply on May 9, 2015.

#### **Transitions**

Nunavut: Iqaluit appointed **Muhamud Hassan** as its new Chief Administrative Officer.

Alberta: Suncorp Valuations seeks a Valuation Consultant, Industrial Sector in Edmonton. www.suncorpvaluations.com/Posting%20VCAB-15-11.pdf. Closes May 22, 2015.

Ontario: **Nuala Kenny** was appointed Interim Chief Administrative Officer in Sault Ste. Marie. The **Township of North Dumfries** is seeking a new Chief Administrative Officer, as is the **City of Sudbury**.

The City of Toronto's new chief of police is a 32-year veteran officer and first black leader of Canada's largest municipal force. Deputy Chief Mark Saunders said he knows where he can and can't make cuts, that "the service is moving in a new direction, which is a direction that I think is going to be very positive for this city, for the taxpayers." A Globe and Mail article reported "After years of quickly escalating costs, the province's Sunshine List showed this year that more than half of all Toronto officers made at least \$100,000. The police board stressed in their job ad for the new chief that limiting spending would be key." www.theglobeandmail.com/news/toronto/mark-saunders-to-be-named-as-torontos-chief-of-police-sources/article24024948

**BC** Assessment received **Esri Canada's** Award of Excellence for using GIS technology to improve property assessment and public access to information. BCA was the first organization to pilot geospatial 3D modeling to conduct detailed condominium valuations without the need for onsite inspections. BCA also revamped e-valueBC's online application with mapping functionality to allows users to quickly search, view and compare property information on desktop and mobile devices.

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