

# Staff Report to Council

Financial Services

FILE: 05-1900-03/20

REPORT DATE: March 21, 2020                      MEETING DATE: April 07, 2020

TO: Mayor and Council

FROM: Cheryl Harding, Director of Financial Services

SUBJECT: Interim Business Property Tax Relief Program

CHIEF ADMINISTRATIVE OFFICER REVIEW/APPROVAL:



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**RECOMMENDATION(S):** THAT Council:

- A. Receive the Interim Business Property Tax Relief Program report dated March 21, 2020 from the Director of Financial Services for information; AND
- B. Approve a letter from Mayor Bill Dingwall to the Honorable Selina Robinson, Minister of Municipal Affairs and Housing, expressing concern with the Provincial Interim Business Property Tax Relief Program (Attachment A); OR
- C. Other.

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**PURPOSE**

The purpose of this report is to provide Council with information on the recently tabled Provincial legislation intended to provide property tax relief to small businesses, non-profits, and arts and culture organizations paying high property taxes through their commercial leases. The legislation would give municipalities the ability to provide property tax relief to business and organizations that are identified as paying higher than warranted property taxes. The legislation, if passed, is considered an interim measure while the Province works on a more permanent solution.

Information Report

Decision Report

Direction Report

## **DISCUSSION**

### **Background:**

Under the current property assessment system, the land is valued based on the highest and best use which means land with a single-storey commercial building on it may be valued as if it were being used as a multi-storey residential tower. This can result in tax spikes for small business tenants who are responsible for property taxes under the terms of their lease but who do not benefit from the development potential of the property they are leasing. BC Assessment values land on its highest and best use after considering many factors including zoning, official community plans and recent development trends.

With the support of Metro Vancouver and UBCM, an Intergovernmental Working Group (IWG) comprised of staff from Vancouver, Coquitlam, Surrey, Burnaby and District of North Vancouver was formed to consider solutions that could provide property tax relief for small business. The IWG provided recommendations to the Province on a potential solution which was to create a commercial subclass for property development potential that would enable municipalities to tax this subclass at a lower rate. The Province did not adopt this recommendation and is instead pursuing an alternative solution per their February 24, 2020 news release and accompanying backgrounder (Attachment B)

### **Relevant Policy, Bylaw or Legislation:**

The proposed legislation would enable municipalities to exempt, by bylaw, a portion of the Class 5 (Light Industry) and/or Class 6 (Business and Other) value of certain properties from taxation if they have at least one tenant responsible for property taxes. Council would decide whether or not to use this legislation, have latitude in selecting properties and determine how to redistribute the tax burden to other business properties not granted the exemption.

### **Analysis:**

Under the proposed legislation, Council has the ability to set certain criteria thresholds which properties would have to meet to be eligible for this exemption. These include:

- Base year (2015 or any year thereafter), to use as a comparison to the current tax year;
- Percentage increase in assessed Class 5/6 land value over base year (e.g., the combined Class 5/6 land value for 2020 must be x% (50% for example) higher than it was in 2015);
- Minimum land value percentage of total assessed value (e.g. the portion of the total assessed value of the property attributable to land must be X% (80% as an example));

- Percentage of the exemption by property, area or kind (e.g. all properties in neighbourhood X receive a X% (10% as an example) exemption).

The eligible properties would also be exempt from Provincial School Tax. However, municipalities would be required to increase the Class 5 and 6 school tax rates over the rates set by the Province in order to raise the same amount of revenue within each property class (5 and 6). This results in redistributing the school tax burden to other businesses.

On February 27, 2020 11 BC Mayors signed a joint letter to the Honourable Selina Robinson, Minister of Municipal Affairs and Housing outlining the challenges with the current proposal for interim business property tax relief and requesting the Province continue to work with the IWG to adopt its recommendations (Attachment C). On March 2, 2020 a response to the joint letter was received which did not address the concerns outlined in the letter (Attachment D).

While well intentioned, the proposal from the Province has a number of features that make implementation extremely challenging, particularly for the 2020 tax year.

#### **Timeline too short**

For 2020 in particular, the timeline for implementation is very short. The legislation was tabled on February 24, 2020, and the deadline being imposed by the Province for Council to pass the bylaw exempting certain properties is April 22, 2020. Therefore, Council would need to consider this at its April 7, 2020 meeting leaving no time to evaluate the legislation, implement the proposal and conduct any public consultation, which implies many of these essential steps must be bypassed entirely. The risk of unintended consequences for a rushed implementation is high, particularly since the nature of this proposal is a shift of taxes between groups of property owners so there will be a group made better off and a group made worse off.

Implementation of the proposal requires public consultation and information gathering from businesses, including contractual lease details, which could not commence prior to the legislation being tabled. Risks are created for City Councils without sufficient public consultation and proper due diligence such as legal challenges, error and omission in inclusion/exclusion of properties, and undermining impacts on tax revenues.

## **Approach does not target the right population**

The population specifically targeted by the Provincial proposal is commercial properties with disproportionately large property tax increases that:

- Are Class 5 and/or Class 6 (can have a split)
- Have at least one tenant responsible for property taxes (in whole or in part) under the terms of a commercial lease.

The proposal does not target small business, non-profits and arts and culture organizations in an equitable manner. The exemption applies to a property tax folio which can have many different tenants. If one of the tenants has a lease, and is responsible for property tax then the exemption would apply to the entire property tax folio.

Some examples of where this would be applicable in Pitt Meadows are Meadowtown Mall and Meadowvale Mall. Each mall is under one property tax folio with small business tenants along with large scale chain anchor tenants. Under the proposal, Council could either decide to exempt the entire property, including large scale chain anchor tenants or none of the property.

If Council decides that providing a partial tax exemption to a large scale chain anchor tenant is undesirable, then any small business that happens to be a tenant in the same property folio as them cannot be granted an exemption either.

The exemption also only applies to tenants. Some small business owner-operators also face high property taxes and would not be eligible for exemption under the proposal. It is reasonable to expect the owner-operator community to raise questions of fairness, particularly if any big-box stores end up receiving an exemption.

## **Lack of data to implement**

In addition to the equity issues associated with the target population, it is also challenging to identify which properties have leases with tenants responsible for property taxes. BC Assessment and municipalities have data regarding the property owners but not the leases or tenants. It has been suggested that we could have business tenants apply for exemption with an application; however, this would be extremely difficult to implement before the April 22, 2020 deadline for Council approval of the bylaw. Some business owners would inevitably miss out simply because they failed to fill out paperwork with an unfairly short deadline. Others will miss out simply because they do not have the specific type of lease targeted by the Province.

The Intergovernmental Working Group considered an application process for the exemption and expressed concerns with the lack of transparency, challenge of explaining the process to property owners, and ongoing administrative burden.

## Conclusion

The feasibility of implementing the proposed legislation in time for 2020 is limited given the short timeline that does not allow for adequate public consultation or due diligence of potential unintended consequences. In its current form, the Provincial proposal fails to provide municipalities with a tool that will fairly and effectively provide small business with tax relief. Additionally, with the World Health Organization characterizing COVID-19 as a pandemic on March 12, 2020, organizations and the public are focused on responding, mitigating and preparing for the effects of the pandemic.

## COUNCIL STRATEGIC PLAN ALIGNMENT

- Principled Governance    Balanced Economic Prosperity    Corporate Excellence  
 Community Spirit & Wellbeing    Transportation & Infrastructure Initiatives  
 Not Applicable

This report supports the City's goal of providing Council with information to make tax policy decisions that support the overarching goals of maintaining an informed balance between taxation levels and the delivery of quality City services.

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## FINANCIAL IMPLICATIONS

- None    Budget Previously Approved    Referral to Business Planning  
 Other

Implementation of the proposal would not result in a decrease in tax revenue provided the exempt amount is recovered via property tax increases for the remainder of non-exempt business properties. There could be significant costs associated with implementation of this legislation including legal fees, risk management, potential errors from the rushed timeline, communication with business owners and system changes to support implementation.

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## PUBLIC PARTICIPATION

- Inform    Consult    Involve    Collaborate    Empower

Comment(s):

The short timeline in the proposed legislation does not allow for adequate public consultation.

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**KATZIE FIRST NATION CONSIDERATIONS**

Referral      Yes      No

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**SIGN-OFFS**

**Written by:**

Cheryl Harding, Director of Financial Services

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**ATTACHMENT(S):**

- A. Draft letter from Mayor Bill Dingwall to the Honourable Selina Robinson, Minister of Municipal Affairs and Housing
- B. Ministry of Municipal Affairs and Housing News Release and UBCM Backgrounder
- C. Joint letter from eleven BC Mayors to the Honourable Selina Robinson, Minister of Municipal Affairs and Housing
- D. Response letter from the Honourable Selina Robinson, Minister of Municipal Affairs and Housing to the Joint Letter.

March 31, 2020

The Honourable Selina Robinson  
Minister of Municipal Affairs and Housing  
PO Box 9056 Stn Prov Govt  
Victoria, BC V8W 9E2

Dear Minister Robinson:

We appreciate the Province's efforts to address the property tax issues being faced by small businesses and arts, culture and non-profit organizations in our communities.

Property tax reform is greatly needed as hundreds of small businesses and our community partners are impacted by property taxation on development potential for properties that are not developed to their highest and best use.

The interim property tax relief legislation announced on February 24, 2020 by the Province does not address property taxation on development potential. As well, it poses multiple implementation challenges including:

- The timing of the legislation does not allow sufficient time to engage stakeholders in a meaningful way, or to put processes in place to implement the legislation;
- The data required to address the criteria of the legislation is not readily available; and
- There could be unintended consequences such as businesses receiving tax relief for the wrong reasons, and struggling businesses and organizations end up paying higher taxes.

(A more detailed analysis of the challenges is provided in the attached Appendix.)

Further, we are concerned the proposed legislation will raise unrealistic expectations amongst small business, arts, culture and non-profit communities about the extent to relief to be provided which will likely result in additional public outcry and confusion.

We respectfully request the province to continue to work as part of the Intergovernmental Working Group (IWG) on implementing split assessment through a new commercial sub class – split assessment.

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This split assessment approach was recommended by the entire IWG as the most viable approach as:

- It addresses the root cause of the problem by allowing municipalities to tax existing use versus development potential differently.
- It offers a common platform for municipalities while allowing a high degree of flexibility, scalability and customization, similar to the intent behind a permissive exemption. Municipalities can decide whether or not to use the tool and determine the eligibility requirement, tax rate and duration of the tax relief by-laws.
- It is more transparent and straight-forward to administer than the proposed permissive exemption approach.

For the past year and a half, chief financial officers from various municipalities worked with senior staff from the Ministry of Municipal Affairs and Housing, as well as the Ministry of Finance and BC Assessment, as part of the IWG to review the development potential issue. In May 2019, the IWG submitted a recommendation for split assessment. The IWG agreed this was the most targeted approach to address the core issue – taxes on development potential – impacting small business, arts, culture and non-profit organizations.

The need for split assessment arises due to properties being assessed at highest and best use. As Metro Vancouver cities grow and evolve, official community plans (OCP) and neighborhood plans are developed to set out 20-25 year plans to densify communities to support anticipated population and job growth, and to expand commercial and light industrial space. As OCPs and neighborhood plans are implemented over time, certain properties will continue their existing use for a number of years until redevelopment occurs, while their assessed value reflects a higher and better future use as per OCPs/neighborhood plans.

At present, there is no property class for this future development potential as a type of use. Existing use value and the future development potential value is aggregated into the same property class. As a result, local governments cannot set different tax rates for existing use versus future development potential. This limitation has significantly impacted the viability of local independent businesses as well as the arts, culture and non-profit sectors, particular for tenants on triple net leases. The split assessment recommendation would create a sub class for this future development potential.

Moreover, the split-assessment recommendation proposed by the IWG would be enabling legislation that would only have to be adopted by municipalities that choose to use it, similar to the proposed interim solution. As well, it will not result in tax shift across municipalities – for municipalities that chose to use split assessment, any tax reallocation will be confined within the municipality.

In summary, while the interim solution put forward by the Province may satisfy the desire to put a mechanism in place for the 2020 tax year, given the challenges expressed above, we do not support the interim permissive property tax exemption legislation.

We respectfully request that the Province continue to work with the IWG on implementing split assessment through a new commercial sub class, in order to address the property tax impacts of development potential.

If you have any questions or concerns about the contents of this letter, please feel free to reach out to any of the signatories in this letter

Yours Truly,

Mayor Bill Dingwall  
*BGS, LL.B., CPHR*

#### Appendix: Challenges With Interim Property Tax Relief Legislation

Key challenges municipalities are facing with the Province's interim property tax relief legislation include:

##### Public Consultation

- Similar to the Province needing more time for consultation across British Columbia before implementing split assessment, municipalities need time for public consultation and engagement with stakeholders prior to implementing any solution including a permissive tax exemption. Among other things, the public and stakeholders need to understand how and who can qualify for an exemption and the impacts of a permissive exemption.

- The proposed legislation will result in a transfer of the tax burden of both municipal and school taxes among taxpayers. Municipalities will be required to collect the same amount of school tax, which means the tax rate will have to be adjusted, resulting in a redistribution of the tax burden for school taxes. Municipalities will either have to collect less tax, or redistribute the tax burden among taxpayers.

- A structured policy is required to determine who receives benefits, the amount of the benefits, and who pays for the benefits. Time for proper consultation is critical to enable staff and elected officials to understand the issues and answer questions as to why some businesses receive benefits and others don't. This is particularly important as the proposed legislation is not based on development potential, something that the public is keenly aware of and understands. An appropriate public consultation process will ensure that the opinions of all those impacted are considered when creating changes.

#### **Lack of Required Data to Meet Criteria as per Proposed Legislation**

- There is no common definition of "small business" for property assessment/taxation purposes.

- Private legal contractual agreement information and other owner/operator versus tenant data is not available from BC Assessment or other sources except private sources.

- A process to validate lease agreements to ensure only those with triple net leases are receiving the exemption is required and there is insufficient time to implement such a policy.

## Unintended Consequences and Risks

- The proposed permissive exemption that segments the business class on such a short time frame without sufficient public consultation and proper due diligence creates risks for city councils such as potential legal challenges, error and omission in inclusion/exclusion of properties, and undetermined impacts on tax revenues
- Risk of the small businesses, arts culture and non-profit organizations subsidizing big box/chain stores is a major concern. Based on proposed legislation, if a tenant on a triple net lease occupies the same property as a big box store, the entire property would receive the tax exemption due to private legal contractual agreements. However, a small mom-and-pop owner occupied and operated business will not be eligible to receive the exemption. This will result in small owner operated businesses potentially subsidizing big box stores.
- The original intent was to provide relief to small businesses, arts, culture and non-profit organizations from large increases in property taxes created by development potential. The interim solution risks placing additional tax pressures on some of these properties and ultimately, there is insufficient time to address these risks.



February 24, 2020

**Dear Chief Administrative Officer/Chief Financial Officer:**

Subject: Interim Business Property Tax Relief Program

On behalf of the Ministry of Municipal Affairs and Housing, I am providing this material for distribution to municipalities to ascertain which communities might be interested in implementing the proposed property tax exemption for 2020.

Today, the Province tabled legislation to provide immediate, short-term property tax relief for tenants in commercial properties who are disproportionately affected by an increase in property taxes, particularly small businesses, non-profits and arts and culture organizations.

This Interim Business Property Tax Relief program would allow municipal governments to give businesses relief for the current tax year, while the Province continues to work with local governments and key stakeholders to develop a permanent solution that works for everyone. Municipalities would choose whether to use the program, as well as how many properties to exempt, and to what extent.

In anticipation of quick implementation, the Province took the exceptional step of pre-announcing the legislation on January 17<sup>th</sup> and has been working with interested municipal staff to help them prepare for implementation. Staff in the Ministry of Municipal Affairs and Housing held a number of meetings with a working group of municipalities, primarily from Metro Vancouver. I want to thank them for their input and advice.

As indicated during those conversations, the Ministry has also developed a user guide, a model bylaw and a sample public notice to help municipalities meet the tight implementation deadline for 2020. BC Assessment has also been working with municipalities to provide data to help them identify potential properties for exemption.

To help you in determining if your municipality is interested in using the legislation, I have attached a backgrounder for your consideration. If you have any questions, please feel free to contact Brian Currie at [Brian.Currie@gov.bc.ca](mailto:Brian.Currie@gov.bc.ca) or (250) 356-6075.

Thank you for support for this interim solution as we continue to work together to find a permanent solution that works for communities of all sizes.

Sincerely,

David Curtis  
Assistant Deputy Minister  
Ministry of Municipal Affairs and Housing

## **BACKGROUNDER**

### **INTERIM BUSINESS PROPERTY TAX RELIEF**

#### **POTENTIAL BENEFITS**

- If passed, the legislation would enable municipalities to provide immediate, short-term property tax relief for commercial property tenants who have been struggling for years with unexpected and significant property tax increases, particularly small businesses, non-profits and arts and culture organizations.
- If municipalities choose to use the tool, they would be able to exempt, by bylaw, a portion of the commercial (Class 5 – Light Industry and Class 6 – Business and Other) property value from taxation; this would result in lower property taxes for commercial lessees who are required to pay all or a portion of these taxes under the terms of their leases.

#### **DURATION OF THE INTERIM SOLUTION**

- This legislation would allow municipalities to give targeted relief for up to five years (through the 2024 tax year), while the Province continues to work with local governments and key stakeholders on a permanent solution.
- However, we do not think it will take five years to find a permanent solution that works for everyone; once we introduce a longer-term mitigation strategy, this interim solution would be rescinded, and the permanent fix would replace it.

#### **SUPPORT FOR MUNICIPALITIES**

- To help municipalities meet the tight timelines for 2020, we pre-announced the legislation and have been engaged in several outreach efforts with interested municipalities under the terms of non-disclosure agreements. We also extended the bylaw adoption deadline and adjusted notification and adoption requirements for 2020, and BC Assessment is providing property data when requested so municipalities can run some preliminary numbers.
- As well, we have prepared a user guide, model bylaw and sample notice to provide further support for implementation.
- If your municipality is interested in implementing the Interim Business Property Tax Relief program for 2020, please contact Brian Currie at [Brian.Currie@gov.bc.ca](mailto:Brian.Currie@gov.bc.ca) or (250) 356-6075 for more information.

#### **ELIGIBILITY REQUIREMENTS**

- The legislation would have a basic framework requiring a property to be assessed as commercial and occupied by at least one commercial tenant responsible for property taxes in whole or in part, the amount of which varies with the amount of tax imposed.

- The legislation would also require a municipality to set certain criteria thresholds properties would have to meet to be eligible for this exemption. This is to ensure municipalities have flexibility and autonomy in addressing their unique community needs, at the local level. These include:
  - Base year (2015 or any year thereafter), to use as comparison to the current tax year;
  - Percentage increase in assessed Class 5/6 land value over base year (e.g., the combined Class 5/6 land value for 2020 must be 50% higher than it was in 2015);
  - Minimum land value percentage of total assessed value (e.g., for the current tax year, the portion of the total assessed value of the property attributable to land must be 80%); and
  - Percentage of the exemption by property, area or kind (e.g., all properties in neighbourhood X receive a 10% exemption).
- This issue looks very different in each community. A top-down, blanket approach from the Province would be moving in the wrong direction; municipalities are in the best position to address the issue in their communities and determine what specific properties need relief.
- It would be up to municipalities to determine annually which properties are eligible and the amount of the exemption.

**MUNICIPAL TAX REVENUE IMPLICATIONS**

- Municipalities would be able to decide whether to give up the municipal tax revenues those properties would have generated or redistribute the tax burden within or among classes by adjusting tax rates.

**INTERIM SOLUTION VS. SUB-CLASS PROPOSAL**

- Introducing a new sub-class would have further complicated an already complex assessment system, required a new methodology for valuing “development potential”, and was legislatively challenging to implement. Precedent-setting changes to the assessment system need to be done thoughtfully and with great care as they have a significant impact and potential for unintended consequences.
- The UBCM resolution was only endorsed by a small margin (54% Yes, 46% No) and while it reflects a strong desire on the part of municipalities to provide relief to small businesses, it was also clear that there was significant concern about whether that approach would work for all municipalities, not just those in Metro Vancouver.
- This interim solution would allow municipalities to give businesses and organizations immediate relief while the Province continues to work with local governments and key stakeholders to develop a permanent solution that works for everyone.

**FLOW-THROUGH TO SCHOOL TAXES**

- This exemption would flow through to school taxes.
- Municipalities would be required to raise the same amount of school tax revenue as would have been raised without the exemption by adjusting school tax rates for Class 5 and/or Class 6.

February 27, 2020

The Honourable Selina Robinson  
Minister of Municipal Affairs and Housing  
PO Box 9056 Stn Prov Govt  
Victoria, BC V8W 9E2

Dear Minister Robinson:

We appreciate the Province's efforts to address the property tax issues being faced by small businesses and arts, culture and non-profit organizations in our communities.

Property tax reform is greatly needed as hundreds of small businesses and our community partners are impacted by property taxation on development potential for properties that are not developed to their highest and best use.

The interim property tax relief legislation announced on February 24, 2020 by the Province does not address property taxation on development potential. As well, it poses multiple implementation challenges including:

- The timing of the legislation does not allow sufficient time to engage stakeholders in a meaningful way, or to put processes in place to implement the legislation;
- The data required to address the criteria of the legislation is not readily available; and
- There could be unintended consequences such as businesses receiving tax relief for the wrong reasons, and struggling businesses and organizations end up paying higher taxes.

(A more detailed analysis of the challenges is provided in the attached Appendix.)

Further, we are concerned the proposed legislation will raise unrealistic expectations amongst small business, arts, culture and non-profit communities about the extent to relief to be provided which will likely result in additional public outcry and confusion.

We respectfully request the province to continue to work as part of the Intergovernmental Working Group (IWG) on implementing split assessment through a new commercial sub class - split assessment.

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This split assessment approach was recommended by the entire IWG as the most viable approach as:

- It addresses the root cause of the problem by allowing municipalities to tax existing use versus development potential differently;
- It offers a common platform for municipalities while allowing a high degree of flexibility, scalability and customization, similar to the intent behind a permissive exemption. Municipalities can decide whether or not to use the tool and determine the eligibility requirement, tax rate and duration of the tax relief by-laws; and
- It is more transparent and straight-forward to administer than the proposed permissive exemption approach.

For the past year and a half, chief financial officers from various municipalities worked with senior staff from the Ministry of Municipal Affairs and Housing, as well as the Ministry of Finance and BC Assessment, as part of the IWG to review the development potential issue. In May 2019, the IWG submitted a recommendation for split assessment. The IWG agreed this was the most targeted approach to address the core issue - taxes on development potential - impacting small business, arts, culture and non-profit organizations.

The need for split assessment arises due to properties being assessed at highest and best use. As Metro Vancouver cities grow and evolve, official community plans (OCP) and neighborhood plans are developed to set out 20-25 year plans to densify communities to support anticipated population and job growth, and to expand commercial and light industrial space. As OCPs and neighborhood plans are implemented over time, certain properties will continue their existing use for a number of years until redevelopment occurs, while their assessed value reflects a higher and better future use as per OCPs/neighborhood plans.

At present, there is no property class for this future development potential as a type of use. Existing use value and the future development potential value is aggregated into the same property class. As a result, local governments cannot set different tax rates for existing use versus future development potential. This limitation has significantly impacted the viability of local independent businesses as well as the arts, culture and non-profit sectors, particular for tenants on triple net leases. The split assessment recommendation would create a sub class for this future development potential.

Moreover, the split-assessment recommendation proposed by the IWG would be enabling legislation that would only have to be adopted by municipalities that

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choose to use it, similar to the proposed interim solution. As well, it will not result in tax shift across municipalities - for municipalities that choose to use split assessment, any tax reallocation will be confined within the municipality.

In summary, while the interim solution put forward by the Province may satisfy the desire to put a mechanism in place for the 2020 tax year, given the challenges expressed above, the undersigned Mayors do not support the interim permissive property tax exemption legislation.

We respectfully request that the Province continue to work with the IWG on implementing split assessment through a new commercial sub class, in order to address the property tax impacts of development potential.

If you have any questions or concerns about the contents of this letter, please feel free to reach out to any of the signatories in this letter.

Sincerely,



Mayor Kennedy Stewart  
City of Vancouver



Mayor Richard Stewart  
City of Coquitlam



Mayor Mike Little  
District of North Vancouver



Mayor Maja Tait  
District of Sooke

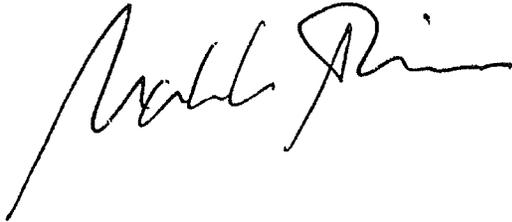


Mayor Linda Buchanan  
City of North Vancouver



Mayor Mary-Ann Booth  
City of West Vancouver

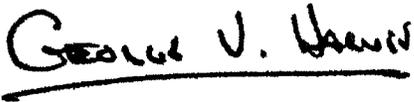
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Mayor Malcolm Brodie  
City of Richmond



Mayor Mike Hurley  
City of Burnaby



Mayor George V. Harvie  
City of Delta



Mayor Rob Vagramov  
City of Port Moody



Mayor Doug McCallum  
City of Surrey

## **Appendix: Challenges With Interim Property Tax Relief Legislation**

Key challenges municipalities are facing with the Province's interim property tax relief legislation include:

### **Public Consultation**

- Similar to the Province needing more time for consultation across British Columbia before implementing split assessment, municipalities need time for public consultation and engagement with stakeholders prior to implementing any solution including a permissive tax exemption. Among other things, the public and stakeholders need to understand how and who can qualify for an exemption and the impacts of a permissive exemption.
- The proposed legislation will result in a transfer of the tax burden of both municipal and school taxes among taxpayers. Municipalities will be required to collect the same amount of school tax, which means the tax rate will have to be adjusted, resulting in a redistribution of the tax burden for school taxes. Municipalities will either have to collect less tax, or redistribute the tax burden among taxpayers.
- A structured policy is required to determine who receives benefits, the amount of the benefits, and who pays for the benefits. Time for proper consultation is critical to enable staff and elected officials to understand the issues and answer questions as to why some businesses receive benefits and others don't. This is particularly important as the proposed legislation is not based on development potential, something that the public is keenly aware of and understands. An appropriate public consultation process will ensure that the opinions of all those impacted are considered when creating changes.

### **Lack of Required Data to Meet Criteria as per Proposed Legislation**

- There is no common definition of "small business" for property assessment/taxation purposes.
- Private legal contractual agreement information and other owner/operator versus tenant data is not available from BC Assessment or other sources except private sources.
- A process to validate lease agreements to ensure only those with triple net leases are receiving the exemption is required and there is insufficient time to implement such a policy.

## Unintended Consequences and Risks

- The proposed permissive exemption that segments the business class on such a short time frame without sufficient public consultation and proper due diligence creates risks for city councils such as potential legal challenges, error and omission in inclusion/exclusion of properties, and undetermined impacts on tax revenues
- Risk of the small businesses, arts culture and non-profit organizations subsidizing big box/chain stores is a major concern. Based on proposed legislation, if a tenant on a triple net lease occupies the same property as a big box store, the entire property would receive the tax exemption due to private legal contractual agreements. However, a small mom-and-pop owner occupied and operated business will not be eligible to receive the exemption. This will result in small owner-operated businesses potentially subsidizing big box stores.
- The original intent was to provide relief to small businesses, arts, culture and non-profit organizations from large increases in property taxes created by development potential. The interim solution risks placing additional tax pressures on some of these properties and ultimately, there is insufficient time to address these risks.



March 2, 2020

Ref: 252481

His Worship Mayor Kennedy Stewart  
City of Vancouver  
453 West 12th Ave  
Vancouver BC V5Y 1V4

His Worship Mayor Malcolm Brodie  
City of Richmond  
6911 No. 3 Rd  
Richmond BC V6Y 2C1

His Worship Mayor Richard Stewart  
City of Coquitlam  
3000 Guildford Way  
Coquitlam BC V3B 7N2

His Worship Mayor Mike Hurley  
City of Burnaby  
4949 Canada Way  
Burnaby BC V5G 1M2

His Worship Mayor Mike Little  
District of North Vancouver  
355 West Queens Rd  
North Vancouver BC V7N 4N5

His Worship Mayor George V. Harvie  
City of Delta  
4500 Clarence Taylor Crescent  
Delta BC V4K 3E2

Her Worship Mayor Maja Tait  
District of Sooke  
2205 Otter Point Road  
Sooke BC V9Z 1J2

His Worship Mayor Rob Vagramov  
City of Port Moody  
100 Newport Dr  
Port Moody BC V3H 5C3

Her Worship Mayor Linda Buchanan  
City of North Vancouver  
141 West 14<sup>th</sup> St  
North Vancouver BC V7M 1H9

His Worship Mayor Doug McCallum  
City of Surrey  
13450 – 104 Ave  
Surrey BC V3T 1V8

Her Worship Mayor Mary-Ann Booth  
District of West Vancouver  
750 – 17<sup>th</sup> St  
West Vancouver BC V7V 3T3

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Dear Mayors:

Thank you for your letter of February 27, 2020, regarding our efforts on property tax reform.

I know that we share a similar concern regarding the risk to small businesses and arts, culture and non-profit organizations from rising property assessments associated with development potential.

While this is an issue that dates back many years and has been raised by business organizations for more than a decade, I know that we all have been working extremely hard on this over the past year. I would like to thank your staff members for their engagement and work through the Intergovernmental Working Group (IWG), made up of government representatives from several Lower Mainland communities. I am also pleased that provincial staff were able to provide assistance to the local government representatives working on the IWG as they sought to explore options to mitigate the challenge of rising property assessment valuations and taxation.

My father was a small business owner. I understand how tough things can be for small businesses and other organizations in triple-net lease situations, especially in the face of an out-of-control real estate market. For too long, many business owners and arts and culture groups have been struggling with the impact of rising property taxes on their lease payments because of skyrocketing prices and speculation.

My priority in tackling this challenge has always been delivering relief for these small businesses and other organizations as quickly as possible. As soon as we received your Split-Assessment proposal in May 2019, specialists from the Ministry of Municipal Affairs and Housing, Ministry of Finance, and BC Assessment undertook a comprehensive review to determine the proposal's viability and any opportunity to implement the initiative on a timely basis.

By early fall, they determined it was not possible to bring in the split assessment proposal in time for the 2020 tax year. As we shared with you last fall, adoption of the proposal would represent a fundamental change to our property assessment system, requiring substantial legislative amendments. In addition, BC Assessment would also have to develop entirely new valuation methodologies and undertake property specific assessment across many thousands of individual properties in Metro Vancouver and other areas of the province.

Such a significant change would also require us to work with representatives from UBCM and from communities across the province to be sure we have a full understanding of the potential implications for communities that were not involved in the initial assessment of this proposal. None of these steps could be rushed. Staff were also concerned about the potential for the proposal to result in increased appeals and litigation, all of which would present risks to both local government revenues and property taxpayers.

Faced with this, we then had a choice: do nothing for the 2020 tax year and leave businesses to suffer or develop an interim solution – a temporary measure to provide municipalities with a way to deliver some relief to those hardest hit, while we all continue to work together urgently on a permanent fix.

Passing up the opportunity to deliver help for 2020 was not an option. I will not suggest that the Interim Business Property Tax Relief Program is a perfect long-term solution – that is why it is an interim measure – but it is the only viable option to give small businesses the relief they need for the 2020 tax year.

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Our government remains committed to implementing a permanent fix, and a version of your split assessment proposal is one of the options under consideration. My staff and I will continue to work with the IWG, other local governments across B.C., and small businesses, non-profits and arts and culture organizations to develop a permanent solution to this challenge as quickly as possible.

That said, I also want to highlight the many ways that your split assessment proposal did inform the design of the Interim Business Property Tax Relief Program (under Bill 10). Elements of the legislation have been structured to reflect, to the greatest extent possible, the intended outcomes and processes advocated by the IWG. Notably, both approaches:

- Are enabling, not directive, allowing local governments to choose whether to use the legislation, and implemented through an annual bylaw at the local government level;
- Use BC Assessment's existing market value property assessment data to identify those properties most impacted by raising property values;
- Use BC Assessment's market value data to select those specific individual properties that would be eligible for relief; and
- Allow local governments to decide whether to forego the municipal tax revenue or shift the tax revenues to other ratepayers.

I appreciate that there is significant work ahead for municipalities to implement this for 2020, and I want to reassure you that we will continue to offer support for implementation. Staff are already in contact with a number of municipalities that are looking at options for how to use this tool to provide relief for a number of affected properties. I strongly encourage you to consider doing the same for at least the hardest hit properties for 2020 – we all know the many stories out there that provide clear evidence of how desperately small businesses need relief.

For those implementing it, my commitment is that we will be there every step of the way. That is why we gave advance notice of the legislation and started work early with your municipal staff to help support implementation. It is also why we have a model bylaw, sample notice and user guide available to you, along with the necessary BC Assessment data sets to help you narrow your focus on those properties most in need of relief. We also extended the deadline to adopt bylaws to April 22 based on feedback from your municipal staff, and have made a number of procedural changes to speed up adoption of the bylaws.

While this issue has been raised by businesses for a decade, we now have an opportunity to help small businesses and others who need relief this year. I hope you will all work with us to deliver relief where possible for small businesses and organizations in your communities for 2020, as we continue to work together on a permanent solution that will work for communities throughout B.C.

Sincerely,



Selina Robinson  
Minister