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Property Tax and Assessment News from Around the World

CANADA - July 2018

SASKATCHEWAN - REAL PROPERTY TAX - Assessment - Valuation of land - Business property

City Centre Equities Inc. v. Regina (City) [2018] S.J. No. 234

Appeal by City Centre Equity and two others from a decision by the Assessment Appeals Committee of the Saskatchewan Municipal Board of Revision.

The City of Regina assessed commercial office buildings using an income approach. The median capitalization rate in respect of the net rental income stream was determined using six comparable sales, including the sale by Saskatchewan Government Insurance (SGI) of its one-third interest in a particular property, 1800 Hamilton, to another co-owner, SaskPen. The sale price of SGI's interest was $13.8 million, representing one-third of a recent valuation.

The appellant appealed its tax assessment to the Board of Revision on the basis the assessor erred by including the sale of 1800 Hamilton among properties used to determine the median capitalization rate. The appellant submitted that the sale occurred in the context of a non-arm's length transaction and therefore the market valuation standard was not achieved.

The Board accepted that the strategic links between SGI and SaskPen rendered the sale a non-arm's length transaction, and that the sale should be removed from the median capitalization rate calculation. The City appealed.

The Assessment Appeals Committee overturned the Board's decision and restored the original assessment on the basis that the Board erred in excluding the sale. The Committee found the existence of an arm's length transaction, as the parties were independent, the price was determined by a reputable appraisal, and cash changed hands. The appellants appealed.

HELD: Appeal allowed.

The Committee erred by failing to apply the proper standard of review to the Board's factual findings. The Committee fulfilled a traditional appellate role and was required to accord deference to the Board by reviewing questions of fact on a standard of reasonableness.

The Committee instead applied a correctness standard, through which it reweighed evidence and reached different factual conclusions. The Committee erred in interfering with the Board's factual findings regarding the relationship between SaskPen and SGI, as those findings were reasonable and were supported by the evidence that SGI did not look beyond SaskPen for a purchaser, and there was no discounting of the purchase price.

The Committee was required to consider whether, as a result of the new evidence presented to the Board, the Board erred in determining the assessment was in error. The sale of 1800 Hamilton did not satisfy the requirement that it be arrived at as a result of a free, competitive, and open market. The property was not sold and was never intended to be sold to anyone other than SaskPen.

Therefore, the sale was not an estimate of market value and it could not form the basis for the market valuation standard. Where the assessor could not satisfy the market valuation standard because of its use of a non-market value sale, equity was not achieved.

The Committee's decision was quashed and the Board's decision was affirmed.

ONTARIO - Durham property tax rates highest in GTA, study finds

An article, posted on real estate website torontostoreys.com shows Oshawa has the second highest property tax rate of 32 GTA municipalities, behind only Orangeville.

A recent study lists Durham communities as having some of the highest property tax rates in the GTA, but some say it is not cut and dry situation.

An article, posted on real estate website torontostoreys.com compared tax rates and property taxes of 32 GTA municipalities.

The data uses June 2018 sales reports from the Toronto Real Estate Board. Zoocasa, another real estate website, collected the data.

Oshawa has the second highest property tax rate at 1.0469 per cent, with Orangeville higher by only 0.003 per cent.

The article shows that the average June home sale price in Oshawa was $515,261, the lowest on the list. This amounts to an average of $7,249 in property taxes, ranking 13th out of the 32 municipaliteis.

Eight of the 10 heftiest property tax rates are in Durham Region.

Only Uxbridge at 1.008 per cent finished out of the top ten.

Toronto has the lowest tax rate at 0.63551 per cent, followed by Markham and Milton.

In Durham, residents pay property taxes to the region, and their local municipality and school boards.

The region and local municipalities set their own rates, while the education portion is set by the province.

Mary Simpson, acting commissioner of finance and treasurer for Durham Region points out that taxes are actually based on current value assessment (CVA) determined by the Municipal Property Assessment Corporation (MPAC).

Based on Zoocasa's data, the average selling price in Durham in June was $639,179.

Simpson says this is significantly higher than CVAs across the region.

"Regionwide, average residential homes had a CVA of $424,900 with an average of $2,673 in regional property taxes," she says.

MPAC reassesses homes every four years, with the previous round coming in 2016.

Nicole Pincombe, director of business planning, budgets and risk management, says any increase in assessment phases in over four years.

Therefore, the full increase of a 2016 assessment doesn't come in effect until 2020.

"It's very important when you are comparing municipal tax rates that you are using CVA," Pincombe says. "Property taxes are brutally complicated."

Using one month worth of sales data will likely skew the numbers, a view Simpson agrees with.

"While acknowledging that property tax comparisons are very difficult across jurisdictions, the Region of Durham does attempt such comparisons every year as part of its annual tax study," Simpson explains.

The region takes 10 "average" homes across Durham, and compares them against similar homes in 30 other municipalities.

"The use of MPAC expertise and data ensures the comparison across jurisdictions is done at the same point in time and uses consistent methodology to derive comparable assessments," Simpson says.

According to Simpson, using this methodology shows that Durham's property tax rates are "competitive."

When it comes to calculating tax rates, many factors come into play, Pincombe says.

"That's what makes these comparisons across municipalities very difficult."

Geography and population, as well the type of services a municipality offers and how taxes are collected, are all to be considered.

For example, the City of Toronto has a user-pay solid waste charge that is separate from property taxes while Durham funds solid waste services through taxes.

Solid waste services attribute for roughly seven per cent of an average tax bill in Durham.

British Columbia - Real estate 'windfall' tax would curb speculation and gentrification in Vancouver, OneCity says

One of Vancouver's civic parties is proposing an extra tax on land sales, when city policies like increasing density or adding rapid transit have pushed property values up.

OneCity is calling the land value capture tax idea "Windfall Power," and the idea is to use the policy to keep a lid on real estate speculation and to raise more funds that could then be reinvested in public housing. For instance, if a single-family homeowner saw the value of their property rise from $2 million to $3 million because of a zoning change, the property owner would have to pay some of that value to the city when they sold their home.

OneCity is running two city council candidates in the upcoming civic election. The party says that if 1 per cent of B.C.'s land value increase over the past 10 years had been collected in a land value capture tax, the province would have had $10 billion more to put toward affordable housing.

"There are legitimate concerns about who benefits most when we upzone land," said Christine Boyle, a city council candidate with OneCity. "We want to be really clear that the public benefits from that: that it's a public decision and there are clear ways that people can see how that both benefits the public and helps real affordability in tangible ways."

For example, Boyle said, a former social housing site at Little Mountain was valued at $61 million in 2005. The site has since been rezoned to allow more density and is today worth $362 million. Meanwhile, the developer, Holborn, has been criticized for a lengthy delay in the construction of the social housing that is meant to go on the site along with condos.

Boyle argued that a land value capture policy "would have had the impact of both putting pressure on Holborn to actually build, rather than just sit on the land, and would've captured a portion of that increase toward affordable housing."

She believes a land value capture policy would be more transparent than the city's current system of charging community amenity contributions to developers who are building large projects, which are negotiated privately between the city and developer.

In an attempt to limit land value speculation along the Broadway Corridor, where a new SkyTrain extension us planned, the City of Vancouver introduced an "interim development contribution expectation." That fee will be in place until the community plan for the area, which will set out what type of development is allowed on the corridor, is completed.

OneCity is also in favour of changing the zoning currently in place in single-family neighbourhoods to allow for lowrise and midrise rental apartment buildings. Tom Davidoff, a professor of economics at the University of British Columbia, supports both upzoning single-family zones and the land value capture idea.

"The city is sitting on this resource, which is bad zoning," he said, arguing that upzoning with a land value capture in place could result in a significant injection of funds for affordable housing.

B.C. property surtax undermines municipal tax base

The B.C. provincial government's proposed property tax surcharge encroaches onto the municipal tax base.

The B.C. take of 40% will increase to 70% and more as it escalates on higher-value properties. This precedent-setting tax grab also makes life less affordable for both owners and renters, so it needs reconsideration.

Property taxes are the main source of revenue for municipalities to cover civic services. But rather than using its own provincial tax base, such as the progressive top bracket of income taxes, the government has chosen to impose a new surcharge on property taxes. It is a provincial tax grab of the municipal tax base.

Although this is called a school tax, it is not about funding schools since it goes to general revenue. It also is not based on a mill rate.

The surcharge is supposed to affect only properties valued at over $3 million, having been strategically set to reduce opposition. However, pressure is already building from some academics to adjust the threshold to $1 million, which would affect the entire city and most of the region.

This goes against Canadian tax policy by taxing unrealized capital gains. But once this precedent is implemented, it would be much easier to expand the criteria to capture more properties. Property values have increased across the board, not just at the high end. The reality is that most average people will eventually be affected, not just wealthy property owners.

The problem with property taxes is that they are not based on the ability to pay, so in that respect they are regressive. Many of those affected are low-income or average earners, who will be forced into debt or to sell.

The problem of deferral

Deferral is a form of debt that requires a charge on land title to the benefit of the province, but not everyone qualifies.

For example, while a principal residence qualifies, rentals of three or fewer units do not. Rental buildings of four units and more are exempt. But all of the houses that have been converted into two or three rental units, or sometimes more if unauthorized, will be forced to have rents absorb that tax increase, to add debt if permitted by the bank to do so, or to sell.

For principal residences, owners who are under 55 years of age, or who have no children under 18, will not qualify for deferral either. If owners have other debts, banks may not allow deferral regardless. Deferral cannot be depended upon in the future since the program may be restricted or withdrawn.

City of Vancouver property taxes are already the highest in Canada for detached properties based on typical benchmark values for each city. In addition, three-year averaging is no longer applied to most properties.

Vancouver pays a disproportionate amount of current school taxes into general revenue. Revenues collected from Vancouver cover 111% of the Vancouver School Board budget, while the provincial average is only 46%. This means Vancouver is subsidizing the rest of B.C.

So even though Vancouver and the Metro area already pay more than their share of school taxes, the province is proposing to add this school tax surcharge on top. Since most of the properties affected by the surcharge are located in Vancouver, the Vancouver share will substantially further increase.

A number of municipalities have raised concerns with the Ministry of Finance, including the District of North Vancouver, West Vancouver, Richmond and Surrey. But where is the City of Vancouver's mayor? So far, missing in action – at least publicly.

However, we have seen this before. In the 1990s, a "luxury tax" was proposed on properties valued at more than $500,000 by Glen Clark, who was then the BC NDP's minister of finance, but the idea was withdrawn by then-premier Mike Harcourt when a tax revolt brewed.

Harcourt is now urging the government to take a "second look" at its latest surcharge on property taxes and to use the progressive B.C. income tax base instead.

Let's hope the province listens.

B.C.'s foreign-buyers tax is nothing special and not xenophobic

It is hard to find a country that allows foreigners to freely buy its land. It is much easier to find countries that restrict foreigners' purchases of property.

But that hasn't stopped Chinese national Jing Li, assisted by some Canadian academics, from launching a lawsuit against the B.C. government's 20 per cent tax on foreign buyers of residential properties.

Li, an international student who used her family's money to buy a townhouse in Langley, argues the tax illegally discriminates against people on the basis of their national origin and has been stirred up by "unfair biases and stereotypes." UBC academics Nathan Lauster and Henry Yu produced affidavits supporting Li's argument the tax is xenophobic, especially towards Asians and specifically Chinese.

However, based on the logic of Li, Lauster, Yu and others who made their arguments last week before a B.C. Supreme Court judge, most countries of the world are xenophobic and perhaps racist — since most countries have a range of curbs on foreign buyers of property, with Li's own populous country, China, throwing up some of the toughest controls.

Asian countries with restrictions on foreign buyers include the biggest: China, India, Indonesia, Thailand and the Philippines, plus Singapore, Malaysia and Hong Kong. Australia allows foreign nationals to buy only new dwellings, while New Zealand is developing a surtax.

There are also special constraints on foreign buyers in Mexico and even in the U.S. Many South American nations, including giant Brazil, limit foreign owners. So do many European countries.

While Li, to the applause of some Canadian property developers, has challenged the sovereignty of B.C. and Ontario (and Manitoba and Prince Edward Island) in bringing in restrictions on foreign buyers, most countries have no compunction in limiting foreign investors.

In China, the restrictions on foreign buyers of property are tricky, onerous, costly and always changing. For starters, foreigners might be shocked to find they can never actually own "dirt" in China, because the government maintains complete ownership of all land. Foreigners and citizens can only buy buildings.

A foreign national has had to meet numerous requirements to buy a dwelling in China, including proving they have been living in the country for at least a year. That is a residency requirement Canadian politicians never raise as even a possibility.

China, like most countries, makes no gesture toward a reciprocal arrangement with Canada or anywhere else.

And the laws vary abruptly by region in China. Foreigners who want to buy a house in Shanghai, for instance, have to prove they're married. In Beijing, foreigners have to pay taxes for at least five years before officials allow them to buy a structure. And, even after that, a foreigner in Beijing can only buy one property, which has to be residential.

China's regulations, designed to help its own citizens, go on and on.

Since, like most Asian countries, China also allows in extremely few immigrants, it is virtually impossible to become a citizen and then buy property in the country. The foreign-born portion of the population in most Asian countries is typically less than one per cent.

Many Muslim-majority countries also restrict foreign ownership. In Indonesia, the largest Muslim nation, foreigners can't own land but can lease apartments (though not detached dwellings). Does that mean Indonesian officials are xenophobic, or simply protecting locals?

While the surtax in B.C. and Ontario applies equally to all foreign nationals, Turkey targets specific nations in the name of protection and political strategy. Turkey won't allow people from neighbouring Russia or Greece to buy land in its popular border regions. Cubans and Nigerians are forbidden from buying anywhere in Turkey, which also places limitations on citizens of China and Denmark while allowing others more access.

European countries have various curbs. Denmark's housing market is highly regulated; foreign nationals from outside Europe cannot buy real estate unless they prove they are permanent residents and will live full-time in the dwelling. Even European Union citizens cannot buy summer homes on Denmark's sought-after coast. Britain has its own limits. And though large countries like France and Germany are fairly open, small Switzerland has erected more barriers than Denmark.

Even in North America, where free-market capitalism is said to reign supreme, both of our NAFTA partners have restrictions on foreign buyers.

The U.S. has subtle constraints on foreign ownership, including convoluted tax demands. A foreigner selling real estate in the U.S. must immediately send 10 per cent of the sale value to the Internal Revenue Service, where it's held to pay capital gains. Foreigners also usually end up paying more death taxes on their U.S. properties than Americans.

Mexico simply doesn't allow foreigners to directly buy the deed to properties in its so-called "restricted zone," which covers everything within 100 kilometres of its coastline. Foreigners trying to snag properties in the restricted zone have to go through a knotty legal process.

All of which suggests the foreign-buyers tax in B.C. and Ontario — compared to the incredible range of restrictions around the world — is distinctly middle of the road.

And if critics deem the foreign-buyers tax to be xenophobic or racist, they must be ready to toss similar epithets at most of the world's nations.