

REPORT

Finance

To: Mayor Johnstone and Members of Council
Date: April 8, 2024

From: Shehzad Somji
CFO/Director of Finance
File:

Item #: 2024-187

Subject: Bill 28 - Property Tax Relief Legislation

RECOMMENDATION

THAT Council receive this report for information.

THAT Council direct staff to conduct further analysis to determine if such a tax relief program is suitable for the City of New Westminster.

PURPOSE

To update Council on property tax relief legislation.

BACKGROUND

BC Assessment (BCA) uses a number of generally accepted valuation approaches such as direct comparison, cost and income to analyze a property's Highest and Best Use (HBU). HBU represents the most probable use of a property that would return the highest value, considering legal, economic and social factors. The difference between HBU and actual value of the property is determined by taking into account current actual use of the land and improvements and represents a property's development potential.

Municipalities use data provided by BCA to establish tax rates and generate annual property tax levies. For property owners holding land with development potential, HBU may lead to a significant property tax burden. Commercial tenants with triple net leases bear this tax burden passed down by their landlords representing future development potential which the tenant may or may not benefit from.

As development increases in the Lower Mainland, concerns arise about valuing development potential and its tax implications. The intent of Bill 28, Development Potential Relief is to allow municipalities to reduce property taxes for eligible commercial properties by taxing all or a portion of the assessed value of the land at a municipal tax rate that is lower than the tax rate for the property class.

ANALYSIS

BILL 28

In October 2022, the Province announced Bill 28, a new tax relief measure for the 2023 tax year. Under Bill 28, municipalities have the authority to grant tax relief for up to a maximum of five consecutive years to eligible properties.

Program Methodology

The Tax Relief program is applicable to eligible Light Industry (Class 5) and Business and Other (Class 6) properties. Pursuant to Section 198.1(5) of the Community Charter, land is eligible for relief if:

- a) the land is classified as property class 5 or 6, and
- b) the property that includes the land meets all of the following criteria:
 - i. the property includes an improvement that
 - A. is classified as property class 5 or 6, and
 - B. was in use on October 31 of the taxation year immediately preceding the taxation year to which the annual property tax bylaw relates;
 - ii. the property has a land-value ratio equal to or greater than 0.95, determined by taking the quotient of
 - A. the assessed value of the land that is classified as property class 5 or 6, and
 - B. the assessed value of the land and improvements that are classified as property class 5 or 6;
 - iii. the property is not disqualified under subsection 198.1 (6)

A property is disqualified from relief under Section 198.1(6) of the Community Charter, if:

- a) relief under this section was provided for the property for a taxation year that is more than 4 or a prescribed number of years, whichever is greater, preceding the taxation to which the annual property tax bylaw related, or
- b) the property includes any of the following:
 - i. land or improvements classified as property class 2, 3, 4, 7, 8 or 9;
 - ii. land or improvements that are exempt under this act or another enactment from taxation under section 197(1)(a) of this Act, other than under a prescribed exemption;

- iii. land classified as property class 5 or 6 on which tax is imposed in accordance with section 198 of this Act;
- iv. property designated under section 20.2 [ski hill property] or 20.5 [restricted-use property] of the Assessment Act
- v. prescribed property

WORK REQUIRED TO IMPLEMENT TAX RELIEF PROGRAM

Tax Relief Policy

A tax relief policy will need to be developed for properties within the program scope that specifies any exclusions, BCA actual use codes evaluation (denote a property's primary use) along with property tax mill rate reduction, and any other criteria as established by Council.

Tax Relief Mill Rates

Municipalities are responsible for determining the extent of tax relief granted to eligible properties. A separate mill rate can then be applied to a portion or entire land assessment value as determined by the tax relief policy.

Any reduction in property taxes for eligible properties may lead to increased taxation for non-eligible properties in the same class. Council would therefore need to consider the potential shift in tax burden, without any certainty that any tax relief will be transferred on to tenants.

Bylaw Requirements

A bylaw must be developed which identifies properties for which relief is provided. Properties are to be listed individually, preferably including folio or legal description. The bylaw must:

- Specify the percentage of the eligible land value that is subject to the relief for each property and for each property class, as different percentages can be specified for different areas, properties or kinds of properties.
- Establish one tax rate for each of Class 5 and/or 6 that is lower than the existing rate established for each class by the municipality.

The bylaw may:

- Require an owner to give notice of the relief to any tenants on the property.
- Be incorporated into the annual tax rate bylaw or adopted as a separate bylaw
 - Municipalities must adopt annual tax rate bylaw after adoption of the financial plan and before May 15

Financial Plan Requirements

Municipalities must include provision of development potential relief in the annual Financial Plan Bylaw.

Current Use of Properties

While not explicitly stated in the legislation, municipalities are free to determine additional eligibility criteria. One such area of focus will be current use of property. As part of the tax relief policy it will need to be determined if there are any forms of current use not suitable for tax relief. Based on preliminary analysis of 2024 BCA data, staff have reduced a listing from 178 potential properties down to 110 properties by filtering actual use codes that appear to be not be in line with the tax relief program, such as:

- Automobile Sales
- Storage and Warehousing
- Store(s) and Service Commercial
- Retail Strips
- Big Box

Current use of a property can also be influenced by development which would impact the assessment value. This would require staff review of any pending or issued rezoning, subdivision and building permits to shortlist properties with higher assessed values resulting from direct actions taken by property owners.

Business Process Steps

- As soon as practicable (and before the completed assessment roll is finalized), municipalities request data from BCA a list of properties eligible for provincial criteria in the legislation.
- BCA provides municipalities with the completed assessment roll by December 30, and the data on eligible properties (where the land value makes up 95% of the total assessment).
- Municipalities undertake detailed analysis to determine additional eligibility criteria and identify properties for relief.
- Municipalities provide BCA with a list of selected properties and the percentage of the land value to be taxed by the end of January
- BCA to incorporate the information either as part of the Revised Roll to be produced in late March, or as a separate file along with “development potential” report
- A separate tax rate can then be applied to a portion of land value based on this municipal selection and Council policy on what rate should be applied.

OPTIONS

There are three options available to Council:

- 1) **THAT** Council receive this report for information.
- 2) **THAT** Council direct staff to conduct further analysis to determine if such a tax relief program is suitable for the City of New Westminster.
- 3) **THAT** Council provide other direction

Staff recommend option 1 and 2.

CONCLUSION

The intent of Bill 28, Development Potential Relief is to allow municipalities to reduce property taxes for eligible commercial properties by taxing all or a portion of the assessed value of the land at a municipal tax rate that is lower than the tax rate for the property class. Additional analysis and policy development needs to be completed in order to assess whether the tax relief legislation will be of benefit to the intended recipients.

APPROVALS

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