

INTER-OFFICE MEMORANDUM

TO: CHAIR AND MEMBERS
FINANCIAL MANAGEMENT COMMITTEE

DATE: 2020 OCTOBER 27

FROM: ACTING CITY CLERK

FILE: 7100-01

SUBJECT: **ASSESSMENT APPEALS – 2020 COST IMPLICATIONS**
ITEM NO. 7.9., MANAGER'S REPORTS, COUNCIL 2020 OCTOBER 26

Burnaby City Council, at the Open Council meeting held on 2020 October 26, received the above noted report and adopted the following recommendation contained therein:

1. THAT Council receive this report for information.

Arising from discussion, Council introduced and adopted the following motion:

THAT this report be **REFERRED** to the Financial Management Committee for further review.



Blanka Zeinabova
Acting City Clerk

Copied to: Director Finance

TO: CITY MANAGER **DATE:** 2020 October 21
FROM: DIRECTOR FINANCE **FILE:** 7800-01
SUBJECT: ASSESSMENT APPEALS - 2020 COST IMPLICATIONS

PURPOSE: The purpose of this report is to provide information regarding the significant charges incurred by the City and other taxing authorities from recent assessment appeal decisions.

RECOMMENDATION:

1. **THAT** Council receive this report for information.

REPORT

1.0 INTRODUCTION

Notices of Assessment are issued by BC Assessment (BCA) for all properties in BC in early January. When a property owner disagrees with the assessment value assigned by BCA, their first point of call is to raise their concerns with BCA to discuss the assessment value provided. If the property owner still feels that an appeal of their assessment is justified, they have until January 31 to file a complaint (appeal), to what is known as the Property Assessment Review Panel (PARP).

The PARP will conduct a 30 minute hearing with the complainant to hear their arguments. Those filing an assessment appeal must provide the panel with information that compares their property type with similar properties in the same area. Maps, photos and sales information may also be provided in support of an appeal hearing. All hearings are open to the public. Where the complainant receives an unfavourable decision from the panel, their next course of redress is to submit an appeal to the Property Assessment Appeal Board (PAAB). The deadline for submission is normally April 30, however this was extended in 2020 to June 1 due to the pandemic. The PAAB hear appeals throughout the year. In extreme cases, appeals involving application of the law may be escalated to the BC Supreme Court.

The decisions of the appeal process will in most cases result in an amendment of the roll by BCA. This can take the form of a change in assessment classification, or an increase or decrease in assessed value. In most cases, appeals involve a decrease in assessment value thereby reducing property taxes.

2.0 POLICY SECTION

Goal

- A Dynamic Community
 - Economic opportunity –
Foster an environment that attracts new and supports existing jobs, businesses and industries
- A Thriving Organization
 - Financial viability –
Maintain a financially sustainable City for the provision, renewal and enhancement of City services, facilities and assets

3.0 BACKGROUND

There can on occasion be a significant period of time between the filing of an appeal application and a final decision being reached, possibly over multiple years. It can therefore be difficult to predict when updated assessment information and the resulting possible property tax adjustments will materialize. BCA provides taxing authorities with updated assessment information as a result of the appeal process on a monthly basis. This information comes in the form of a "Supplementary Roll" adjustment. For significant appeal decisions, BCA provides ad hoc updates to taxing authorities when a decision is known.

In November 2019, the Appeal Board reached a decision regarding appeals for Social Housing properties. This decision covered appeals from 2017 to 2019, and has resulted in significant reductions in class 01 assessment values for the subject properties. Assessment figures for 2020 onwards reflect this decision, with applicable adjustments reducing taxation for these respective properties by \$116,834, thereby spreading this tax burden to other properties within the same class.

4.0 APPEALS

Table 1 provides a summary of assessment appeal charges incurred by the City of Burnaby during the past five years.

Table 1 - Appeal Expenses

Expenses	2016	2017	2018	2019	2020*
Current Year Appeal Board Decisions	\$94,938	\$1,330,747	\$372,203	-\$166,514	\$391,581
Prior Year Appeal Board Decisions	\$172,080	\$712,513	\$782,669	\$472,359	\$2,767,829
Prior Year - Interest on Refunds	\$1,180	\$10,132	\$13,511	\$12,429	\$78,505
Grand Total	\$268,198	\$2,053,392	\$1,168,383	\$318,274	\$3,237,915

*Note: 2020 information is as at end of Period 9.

As demonstrated in Table 1, Supplementary Roll adjustments can present a challenge to the City and other taxing authorities, with varying budget implications from year to year. On rare occasions, appeals may involve an increase in assessment value, or change in classification that results in an increase in property taxes. However for the most part, assessment appeals usually result in a decrease in property taxes, which will involve a refund of any tax overpayment plus interest to the property owner.

4.1 Outstanding Appeals

As of 2019, BCA provides a mid year listing to the City of Burnaby for active outstanding appeals, plus regular updates on new appeals, or soon to be released appeal outcomes. The exact timing for realization of such risks between receipt of information from BCA and provision of an update to the assessment records for the property will vary, and is unpredictable. Currently there are over 500 ongoing appeals for properties in the City of Burnaby, some of which date back to 2015. As outlined in Table 2 below, outstanding appeals currently pose a risk to general taxes of over \$4.6 million, the majority of which relates to 2019 and older appeals. This figure is constantly changing as appeals become finalised.

Table 2 - Outstanding Active Appeals

Appeal Year	Risk to General Taxes	Risk to Other Taxing Authorities	Total
2015	\$2,372	\$1,942	\$4,314
2016	\$4,065	\$3,324	\$7,389
2017	\$24,377	\$22,951	\$47,328
2018	\$681,570	\$586,013	\$1,267,583
2019	\$2,454,431	\$2,180,820	\$4,635,251
2020	\$1,443,668	\$774,657	\$2,218,326
Grand Total	\$4,610,484	\$3,569,707	\$8,180,191

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4.2 2020 Appeal Costs

There has been a significant spike in negative appeal outcomes in 2020, not only for the City of Burnaby, but also in many neighbouring municipalities. For Burnaby, these significant increases stem mainly from prior year appeals and amount to \$2,767,829 as at the end of Period 9. A list of the top 10 prior year appeals paid out to date and reasons provided by BCA for the respective appeal decisions are outlined in Attachment 1 to this report.

A number of the adjustments relate to a major decision for properties under appeal for multiple years dealing with affordable housing, restricted use and mortgage buyout terms. BCA has applied the appeal board decision on a number of properties throughout various municipalities as they are all dealing with the same issues.

The reasoning for the decreases on a number of the affordable housing appeals, is that initially BCA took the position that they could not consider restrictive terms in mortgages as part of the assessment value which were referenced in the Land Title Act, Section 219 covenants, because they believed that the mortgages could be paid off and the covenants discharged. However, for example, in the New Chelsea Society decision, the Board determined that the appellant had no right to pay out the financing and therefore the assessor was required to follow the direction of Section 19(7) of the Assessment Act and give consideration to terms of the Section 219 covenants.

As a result, the board concluded: *"We find that the section 219 Covenant and related documents restrict the use of the property. The restriction runs with the land and it constitutes a valid exercise of police power. As required by section 19(7), the Assessor must consider and factor in all the terms and conditions of the Covenant restricting use of the land and improvements as well as the ancillary documents including the mortgage referenced in the Covenant when determining the actual value."*

In addition to the loss of taxation revenue, the City also incurs interest charges, (as prescribed by the Province and updated every quarter), for any refund of a tax overpayment as a result of a negative appeal. While the City passes along interest to the Province for expenses incurred for the overpayment of school taxes (over \$44,000 to date in 2020), interest incurred for the refund of tax overpayments for other taxing authorities (i.e. Metro Vancouver, BCA, Municipal Finance Authority, etc.) is borne by the City. Of the \$78,505 interest expense borne by the City as of Period 9, approximately \$13,000 is for property tax refunds for other taxing authorities.

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4.3 Upcoming Appeal Decisions that will Impact the City

Metro Vancouver Housing Corporation Appeals

A recent major decision of the Appeal Board (July 2020) found that the Metro Vancouver Housing Corporation is an extension of the Metro Vancouver Regional District. As such, the assessment value for these properties has now been set to zero down from \$211 million. Table 4 outlines the properties impacted and the cost to the City for the reduction in City property taxes. These appeal costs have not yet been paid and are included in Table 2 – Outstanding Active Appeals. These appeal costs will need to be paid out once BCA provides the information through a supplementary roll. It is anticipated that the payout will occur by the end of the year.

Table 3 - Metro Vancouver Housing Corporation

Year	Property Address	Owner	Original Assessment	Proposed Assessment	Reduction in City Taxes
2018	8700 MAPLE GROVE CRES	MVHC	\$31,492,000.00	\$0.00	\$47,436.40
2019	8700 MAPLE GROVE CRES	MVHC	\$33,919,000.00	\$0.00	\$51,282.14
2020	8700 MAPLE GROVE CRES	MVHC	\$31,492,000.00	\$0.00	\$53,659.22
2018	7405 WOODBROOK PL	MVHC	\$27,029,000.00	\$0.00	\$40,713.78
2019	7405 WOODBROOK PL	MVHC	\$29,112,000.00	\$0.00	\$44,014.43
2020	7405 WOODBROOK PL	MVHC	\$27,029,800.00	\$0.00	\$46,056.08
2018	7730 6TH ST	MVHC	\$8,769,000.00	\$0.00	\$13,208.74
2019	7730 6TH ST	MVHC	\$9,522,000.00	\$0.00	\$14,396.31
2020	7730 6TH ST	MVHC	\$9,522,000.00	\$0.00	\$16,224.54
2019	4878 BRENTWOOD DR	City of Burnaby/MVHC	\$1,936,000.00	\$0.00	\$2,927.04
2020	4878 BRENTWOOD DR	City of Burnaby/MVHC	\$1,797,000.00	\$0.00	\$3,061.91
Grand Total			\$211,619,800.00		\$332,980.59

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5.0 RECOMMENDATION

Recent BCA appeal decisions have had a significant impact on the City's finances for 2020. Total appeal expenses, including interest, paid out in 2020 to date equates to \$3.3 million (equivalent to 1.1% of 2020 property taxes). Outstanding appeals still to be finalised pose a risk to municipal taxes in the amount of \$4.6 million. City reserves will need to be utilized in 2020 to cover respective unbudgeted shortfalls. As well, discussion will need to take place during the budget process for further possible assessment appeal payouts in 2021 and onwards.

It is recommended that Council receive this report for information.



Noreen Kassam, CPA, CGA
DIRECTOR FINANCE

NK:RR / md

Attachment: 1-Top 10 Prior Year Appeal Outcomes – City of Burnaby

Top 10 Prior Year Appeal Outcomes – City of Burnaby

Address	Owner	Class	Assessment Change	Reduction in City Taxes	Reduction in OTA Taxes	Reason for Reduction
9855 Austin Rd	LOUGHEED MALL HOLDING CORP	1 and 6	\$247,163,800	\$1,310,674	\$1,105,859	Reduced value to reflect a late sale at 3965 North Road. Change in classification split based on section 219 covenant registered on title.
4501 Lougheed Hwy	0862223 BC LTD	6	\$81,915,000	\$516,957	\$439,589	The subject property is the retail parcel of a phased development outlined in the Master Plan and Development Guidelines for Brentwood Town Centre . This Master Plan provides a maximum commercial use on Page 28 of <u>3,851,184 square feet</u> , aligning with the maximum areas outlined in section 10.11 in the Brentwood Site Conceptual Master Plan (part of the restrictive covenant registered on title CA3361388). Upon further review of the Brentwood Site conceptual master plan, it clearly sets a projected commercial density of <u>2,600,000 square feet</u> . Taking consideration of how we have assessed other development sites, we have reduced the value to consider the lower projected commercial density in the valuation.
4501 Lougheed Hwy	0862223 BC LTD	6	\$8,345,000	\$44,667	\$39,607	The subject property is the retail parcel of a phased development outlined in the Master Plan and Development Guidelines for Brentwood Town Centre . This Master Plan provides a maximum commercial use on Page 28 of <u>3,851,184 square feet</u> , aligning with the maximum areas outlined in section 10.11 in the Brentwood Site Conceptual Master Plan (part of the restrictive covenant registered on title CA3361388). Upon further review of the Brentwood Site conceptual master plan, it clearly sets a projected commercial density of <u>2,600,000 square feet</u> . Taking consideration of how we have assessed other development sites, we have reduced the value to consider the lower projected commercial density in the valuation.
9850 Austin Rd	GATINEAU NOMINEE CORP	1 and 6	\$67,633,200	\$287,696	-\$29,672	Reduced value to reflect a late sale at 3965 North Road. Change in classification split based on section 219 covenant registered on title.
4750 Kingsway	CONCORD KINGSWAY PROJECT GP LTD	6	\$48,191,000	\$257,942	\$228,724	Reduced value to reflect comparable sales around Metrotown.
9898 Gatineau Pl	GATINEAU NOMINEE CORP	1 and 6	\$10,767,000	\$45,830	\$7,043	Reduced value to reflect a late sale at 3965 North Road. Change in classification split based on section 219 covenant registered on title.
9858 Gatineau Pl	GATINEAU NOMINEE CORP	1 and 6	\$7,423,000	\$31,597	\$9,204	Reduced value to reflect a late sale at 3965 North Road. Change in classification split based on section 219 covenant registered on title.
3700 Gilmore Way	3700 GILMORE HOLDINGS LTD	6	\$4,928,000	\$26,377	\$23,389	Land value adjustment required due to recent market transitions and equity with neighboring properties.
2152 Douglas Rd	1134633 BC LTD	6	\$4,577,000	\$24,498	\$21,723	Reduced value to reflect an adjustment after considering the shape and easements for the subject property.
9861 Austin Rd	LOUGHEED MALL HOLDING CORP	1 and 6	\$7,646,000	\$18,037	\$15,906	Reduced value to reflect a late sale at 3965 North Road. Change in classification split based on section 219 covenant registered on title.