City of Burnaby

Meeting October 16, 2023

File: 7800-01

COUNCIL REPORT

TO: MAYOR & COUNCIL

FROM: DEPUTY CHIEF ADMINISTRATIVE OFFICER AND CHIEF FINANCIAL OFFICER

SUBJECT: **PROPERTY TAX RELIEF PROGRAM**

PURPOSE: To obtain Council approval not to introduce a Tax Relief program for the City of Burnaby.

RECOMMENDATION

THAT staff be authorized not to introduce a Property Tax Relief program for 2024 and beyond, given concerns raised regarding Bill 28's overall effectiveness and administration of the program in its current form, as outlined in the report titled "Property Tax Relief Program" dated October 16, 2023.

CHIEF ADMINISTRATIVE OFFICER'S COMMENTS

I concur with the recommendation of the Deputy Chief Administrative Officer and Chief Financial Officer.

1.0 POLICY SECTION

This report is based the on amendments to section 198 of the Community Charter as introduced through adoption of Bill 28 by the Legislative Assembly of British Columbia.

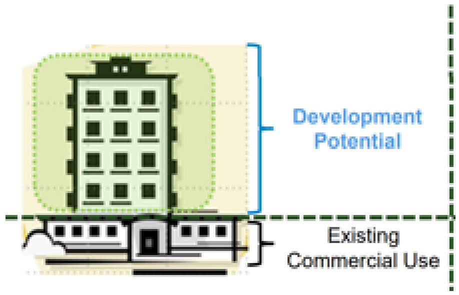
2.0 BACKGROUND

The report provides a follow-up to an information report provided to Council on February 16, 2023. The February report presented an overview of Bill 28, the work undertaken by the Province of BC and considerations for introduction of a Property Tax Relief Program. This report sets out the findings of staff with respect to the suitability of such a program for the City of Burnaby.

Bill 28 and the resulting changes to the Community Charter replaced the interim Business Property Tax Relief program introduced by the province in 2020. Under Bill 28, municipalities have the authority to grant a permissive exemption from property taxation to class 5 and 6 properties for up to a maximum of five consecutive years (timelines differs from regular permissive exemption scheme). Bill 28 sets out a limited number of eligibility criteria as follows:

- The property is Class 5 (Light Industrial) or Class 6 (Business), or both.
- Property improvements were in use as of October 31 in the preceding tax year.
- The property has a land value ratio equal to or greater than 95%; and,
- The property is not disqualified under Section 6 of the bill.

BC Assessment (BCA) will supply municipalities with a list of properties that meet or exceed the 95% threshold. This figure is an indicator of future development potential.



If the land value equals or exceeds 95% of total value, this is deemed to represent future development potential. For example, a future high-rise building.

Municipalities must set out a Tax Relief Policy. Once established, municipalities must reference the Policy in the City's Annual Financial Plan. A property is ineligible for tax relief if any portion is in Classes 2,3,4,7,8 or 9. Municipalities must make their selection of properties to receive tax relief and provide information back to BCA in time for incorporation into assessment data in March.

Once approved for tax relief, municipalities are responsible for reassessing eligibility on an annual basis.

3.0 GENERAL INFORMATION

3.1. Municipal Adoption

To date, the City of Vancouver is the only metro Vancouver municipality to have implemented a tax relief program. Other municipalities contacted by City of Burnaby staff have either ruled out introducing the program or are still waiting to see how those having adopted the program have fared. Indications are that uptake of the program by municipalities will be very limited. While the City of Vancouver are continuing their relief program, this is built on a pre-existing foundation of assessment averaging and through use of an annual declaration.

3.2. Property Selection

The legislation passed under Bill 28 does not expressly provide municipalities with the ability to stipulate additional selection criteria. However, BCA Actual Use data cannot be used without further validation by city staff. For many properties, the usage assigned by BCA does not entirely reflect what is happening on the ground, and therefore either a site visit or desktop review is required. Per Table 1 below, from the 2023 assessment roll for Burnaby, an initial set of 816 properties meeting the 95% threshold, staff trimmed the selection down to 441 properties using property usage as an indicator of suitability. 15 out of a possible 44 usage types were deemed as fitting the likely criteria for tax relief as outlined in Table 2 below. Examples of those deemed as not eligible include uses such as: "Big Box", (Costco), and "Shopping Centre Regional", (Bentall Tower 1 at Brentwood).

TABLE 1 – PROPERTY SELECTION

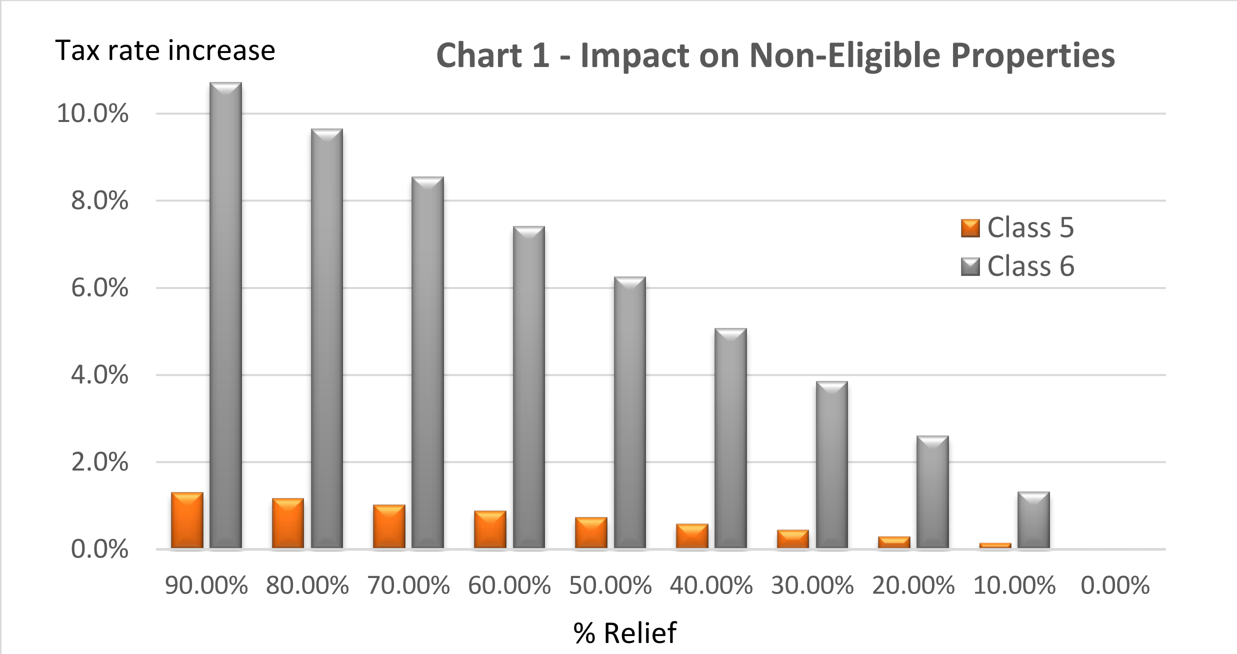
Relief Properties	Count	Total Value (Land and Improvements)
CLASS 5	14	$72,946,000
CLASS 6	427	$3,140,840,000
TOTAL	**441**	**$3,213,786,000**

TABLE 2 – ACTUAL USE CODES PERMITTED
• Automobile Paint Shop, Garages
• Commercial Strata-Lot
• Convenience Store/Service Station
• Fast Food Restaurants
• Food Market
• Miscellaneous & (Industrial Other)
• Miscellaneous (Food Processing)
• Neighbourhood Store
• Office Building (Primary Use)
• Restaurant Only
• Retail Strip
• Shopping Centre (Community)
• Shopping Centre (Neighbourhood)
• Store(S) And Offices
• Store(S) And Service Commercial

3.3. Relief Percentage

Bill 28 affords municipalities the ability to set the percentage of the property to receive a lower tax (mill) rate on the development portion of the respective property. BCA holds limited data that could be used to establish an income value for current property use. Accurate information for the actual development potential is not available. As such, the percentage of the property awarded the relief is an attempt to align relief with the development potential.

For simulation purposes staff assigned the relief mill rate to 100% of property land values for 2023, after reducing the data listing based on property usage down to 441 properties. The analysis below shows the impact that varying the relief mill rate has on those not eligible to receive the relief. A similar exercise can be undertaken by varying the percentage of land value to receive relief, or a combination of both. What the information indicates is that with each increase in relief given, a greater tax burden is passed onto the remainder of the property class. For example, if 90% relief is provided for the development potential in Class 6, then non-eligible properties in that class would see their taxes increased by over 10%. See chart 1 below.



3.4. Targeted Relief

For underdeveloped commercial properties, unrealized development potential could result in significant property tax implications. Properties with scope to be developed will grow in value over and above what would be expected from their current use. This in turn will result in significant property tax increases. For owner occupiers seeking redevelopment this may not be an issue. It is however tenants with responsibility for payment of taxes and utilities as part of their lease who are going to ultimately feel the burden of such tax increases. As such, a stated aim of the Property Assessment Strategic Review carried out by the Province in 2022 was a commitment to the development of a long-term property tax strategy for occupiers of commercial properties paying high property taxes due to development potential. Bill 28 was the outcome of the review.

Should the City of Burnaby start a tax relief program, a mechanism is required by which property owners are notified of their obligation to pass the tax relief onto their tenants. The City of Vancouver undertook a declaration process through which all properties that might be suitable for relief were contacted and asked to confirm their status. Language set out in the declaration was used to communicate this obligation. To have a robust and complete process, the City of Burnaby would need to introduce a new annual declaration process. There is currently no penalty provision within the legislation for non-compliance with the program, be it in the form of making a misleading declaration submission or failing to pass on the relief to tenants. A new declaration process would require additional administrative processes and costs to the City.

3.5. Program Effectiveness

While the goal is to provide targeted tax relief to small commercial tenants with triple net leases, or small owner occupiers, the changes to the Community Charter through Bill 28 and subsequent emphasis on municipalities to take on the role of deciding which properties are suitable for relief poses many challenges for the City of Burnaby. It is difficult to determine how a fair, efficient, and economical process could be undertaken based on the limited BCA data available, and by using an arbitrary percentage as an indicator of development potential. The current proposed process creates room for considerable challenge and disharmony, while posing a risk in the form of higher taxes for non eligible properties. Furthermore, there is no assurance that the relief will actually be passed onto tenants.

4.0 COMMUNICATION AND COMMUNITY ENGAGEMENT

Not applicable

5.0 FINANCIAL CONSIDERATIONS

Staff have undertaken a review of how a relief program may impact the overall tax levy and property classes therein. Based on current understanding, such a program does not in itself pose a risk to overall tax collection; however, as demonstrated in Chart 1, those not in receipt of relief will be required to make up for the shortfall in terms of higher tax rates.

Respectfully submitted,

Noreen Kassam, Deputy Chief Administrative Officer and Chief Financial Officer

ATTACHMENTS

Attachment 1 – Bill 28 – Property Tax Relief Legislation (2023.02.27)

REPORT CONTRIBUTORS

This report was prepared by Richard Rowley, Director Finance Revenue Services.