

FOCUS & MUNICIPAL ASSESSMENT TAXATION

CASES, COMMENTARY, NEWS AND BEST PRACTICES • DECEMBER 2011, VOLUME 16 • NUMBER 12

FEATURE

Municipalities Newfoundland & Labrador revenue study released

A Municipalities Newfoundland & Labrador (MNL) study has determined that a 1% increase in the personal income tax rate should yield an additional 20% increase in municipal revenue. Economist Dr. Wade Locke was retained by MNL to examine the financial and taxation situations of municipalities and to investigate new long-term sources of revenue.

“Since 1992 Newfoundland and Labrador municipalities have seen drastic reductions to their Municipal Operating Grants (MOGs),” said MNL President Harry Hallett.

“Without new sources of revenue, the current tax system cannot provide adequate revenue for basic services like clean drinking water, waste management and safe roads.”

Findings indicate that municipalities are too reliant on the regressive property tax, which does not represent a household’s ability to pay. A new fiscal framework would provide municipalities with sources of revenue to meet growing needs. “Too large a burden is being placed on the residential and commercial property tax base,” said Locke. “Given the issues of sustainability being felt by NL municipalities, a discussion around municipal income taxes and municipal sales taxes, when combined with an equalization program, represents an innovative tool for helping municipalities to deal with the significant problems that they are facing in today’s economy.”

The 2011 provincial budget commitment to review the MOG formula and assess options for broadening the taxation authority of municipalities is deemed a positive step forward. MOGs, determined solely by the provincial government, have declined by more than 50%. These grants are used by municipalities to maintain infrastructure, provide basic operations and plan for the future. Councils have been challenged with meeting service demands, and MNL is concerned about the viability of many smaller, rural municipalities.

Locke deduced that a 1% increase in the NL personal income tax rate should yield an additional 20% increase in municipal revenue for approximately \$116.5 million available for allocation to municipalities. The Atlantic Mayors’ Congress encouraged the Atlantic province’s premiers to review the MNL study. See www.municipalitiesnl.com and click on the Resources tab.

Quirky but true...

A herd of goats used to clear dry brush in downtown Los Angeles - for the fourth year - have become popular attractions as well as saving taxpayers money. Officials in Southern California say that as well as saving municipal funds, having the goats eat the brush, instead of using weed-whackers and human labour, has also reduced wildfires. Environmental Land Management charges an average of \$1,250 an acre [0.4 ha] for the services of its imperturbable herd of mostly female goats - some 60 adults and 60 kids. Heritage Lawn Moving in Oberlin, Ohio also rents out sheep as a “lawnmowing aid.”

In this Issue

- 89 **Feature** Municipalities Newfoundland & Labrador revenue study released
- 89 **Quirky but true...**
- 90 **Resources: New & Noted**
- 90 **Work Word**
- 91 **Feature** Green Resources: Residential Green and Energy Efficient Form in use for appraisals
- 91 **Quotable Quote**
- 91 **Apropos** Tracking the Sun IV; Sustainability & Residential Property Valuation
- 92 **Feature** Ontario regulation for hospice exemptions
- 92 **PILT:** Payment in Lieu of Taxes Roundup
- 93 **Feature** Weather-related property tax bailouts and losses increase
- 93 **Apropos** Mother Nature at Her Worst
- 93 **Calendar**
- 94 **Coast to Coast to Coast**

Resources: New & Noted

2011 Property Tax Rate Analysis

REALpac & Altus Group

The 2011 survey of property tax rates for eight major urban centres yielded “both encouraging and alarming results.” Vancouver, Toronto and Montreal continue to post the highest commercial-to-residential tax ratios in excess of 4:1, the fourth consecutive year for Vancouver and Toronto continuing to trend downward with significant reductions. Montreal continues to trend upward. Winnipeg and Edmonton continue to provide the three lowest commercial-to-residential tax ratios. On an absolute tax basis, Calgary, Edmonton and Vancouver populate the low end of the spectrum with the lowest estimated taxes per \$1,000 of commercial assessment, while Halifax, Montreal, Toronto and Ottawa have the highest. For residential, Vancouver, Calgary and Edmonton yield the lowest property taxes per \$1,000 of assessment, while Winnipeg, Halifax and Ottawa yielded the highest. See <http://realpac.ca/property-tax>.

The National League of Cities’ 26th Annual City Fiscal Conditions report

The most recent study shows how the economic recession hit cities as property and income tax decreased. Cities are essentially balancing their budgets through layoffs, cancelled construction projects and raised fees. See “Cities Cut Jobs and Infrastructure as Finances Continue to Weaken (September 27, 2011)” at www.nlc.org/news-center/press-room.

The Practice of Municipal Finance in Hungary

Dr. Izabella Barati-Stec

Hungary was one of the first former Communist Central European countries to reform its municipal system by introducing rules to accelerate decentralization after 1990, leaving autonomy to local governments. This presentation explains the structure of municipal finance and the features of investment activity. Findings show there are geographic areas where state grants are not enough because municipalities lack the capacity to make use of investment and a more complex approach is needed. Barati-Stec is a visiting scholar at the Institute on Municipal Finance and Governance at the Munk School of Global Affairs, University of Toronto. She is an associate professor in the Faculty of Economics at Corvinus University, Budapest. Click on the presentation listed at www.utoronto.ca/mcis/imfg/e-news.htm.

“Do They Pay Their Own Way?”

By Jeffrey R. Levine

This article in the *Planning Commissioners Journal* asked whether, given the reliance on property taxes, planning is revenue-blind. Levine writes, “Are we supposed to be, as many state laws say,

blind to the issue? Or is revenue another public good that should sway us in reviewing a project?” Some jurisdictions, like New Hampshire, are highly dependent on property tax revenue. “While this sometimes drives communities to support development at any cost, it can also mean that communities need to weigh these decisions carefully” (September 15, 2011 issue <http://pcj.typepad.com>).

Uniform Standards of Professional Appraisal Practice 2012–13

The Appraisal Foundation

Effective January 1, 2012; valid for two years.

The Appraisal Standards Committee prepared an exposure draft for members of the Appraisal Institute, for proposed Guide Note 11 to the *Standards of Professional Appraisal Practice* (SPAP). Guide Note 11 addresses Comparable Selection in a Declining Market. The preamble to the Code of Professional Ethics and the SPAP provide that guide notes are not part of standards but offer guidance on how standards may apply to specific issues. Members only see www.appraisalinstitute.org.

Tax Increment Financing: The Need for Increased Transparency and Accountability in Local Economic Development Subsidies

US Public Interest Research Groups, October 2011

When used properly, TIF can promote enduring growth and stronger communities but the mechanism can also waste taxpayer resources, fail to achieve public goals or channel money to politically favoured special interests. TIF diverts funds from important services, can enrich special interests at the public’s expense and encourage development in areas where it is least needed. The report notes that the process of awarding TIFs often takes place without sufficient public awareness and input and lacks transparency and accountability. To prevent these problems, jurisdictions should adopt strong rules governing the use of TIF districts and similar development subsidies so that funds are targeted, transparent, accountable and democratically governed. See www.uspirg.org/home/reports/report-archives/.

WORK WORD

resources, release of, *n.* Hasty disposal of extraneous plant, property, equipment and personnel.

From *A Devil’s Dictionary of Business Jargon*
by David Olive

FEATURE

Green Resources: Residential Green and Energy Efficient Form in use for appraisals

The Appraisal Institute's new Residential Green and Energy Efficient Addendum form is intended to help appraisers analyze the value of energy-efficient home features, the first of its kind intended for appraisers. Sandra Adomatis explained why the form is needed and how it can help appraisers and homeowners get more accurate valuation of homes that have green and energy-efficient attributes.

"A big complaint from builders and real estate agents has been that appraisers didn't understand green or know to look for it in homes," said Adomatis. "I thought that [creating the form] would bring to the forefront for appraisers and agents that there are some things to think about."

The form was issued as an optional addendum to Fannie Mae Form 1004 in the United States. Appraisal Institute president Joseph Magdziarz said, "It will help the industry standardize the way residential energy-efficient features are analyzed and reported." The form allows appraisers to identify and describe a home's "green" features, such as solar panels and energy-saving appliances, making it easier for appraisers to determine whether recent home sales should be used as comparables.

Two AppraiserCAST podcasts are available to listen to (free) online:

- *An Introduction to Green Homes* includes a look at the Green Homes book; and
- *Green Buildings: An Appraiser's Perspective* defines green buildings, sustainability and how the green movement affects appraisals and the valuation process.

Online seminars (seven hours each) can be accessed anytime, at your pace:

- *An Introduction to Valuing Commercial Green Buildings*
Build your expertise in the commercial green building industry: explore cost-benefit analysis, evaluate construction costs and become familiar with commercial green design principles. Non-members \$137, members \$114.
- *Valuation of Green Residential Properties*

Be prepared for the growing impact of green homes on the housing market: understand rapidly changing technologies and gain a foundation for accurate and thorough observation and reporting. Non-members \$137, members \$114.

Download the three-page addendum form and get information on the above podcasts, online education and more green resources at www.appraisalinstitute.org/education/green_offerings.aspx.

Apropos...

Tracking the Sun IV: An Historical Summary of the Installed Cost of Photovoltaics in the United States from 1998 to 2010

Innovative new properties, such as those built with integrated solar panels to heat water or generate electricity, are beginning to generate a price premium over conventionally built existing ones. New research by the US Department of Energy's Lawrence Berkeley National Laboratory finds that homes with solar PV in California sold for approximately \$17,000 more with a relatively new 3,100 watt (kWh) PV system. The research is the first to empirically explore the magnitude of such residential solar PV sales. A data set was analyzed of more than 72,000 homes sold from 2000 to mid-2009, approximately 2,000 of which had a solar PV system at the time of sale. See <http://newscenter.lbl.gov/news-releases/2011/09/15/tracking-the-sun-iv>.

Sustainability & Residential Property Valuation

Royal Institute of Chartered Surveyors

This paper advises valuers that a home's sustainability characteristics, such as energy efficiency rating, materials used in construction and features such as an energy-efficient boiler, should be considered within property valuations. The paper shows how sustainability is playing an increasingly important role in legislation and patterns of economic behaviours and preferences in the United Kingdom. RICS members see www.rics.org/uk.

QUOTABLE QUOTE

“ We must not let our rulers load us with perpetual debt. ”

– Thomas Jefferson

FEATURE

Ontario regulation for hospice exemptions

Ontario Regulation 403/11 made under the *Assessment Act*, August 26, 2011 and deemed to have come into force January 1, 2011. Amending Ontario Regulation 282/98 previously amended by adding the following:

PART III.1, Exemptions: Non-Profit Hospices

23.1 The following conditions are prescribed for the purposes of paragraph 7.1 of subsection 3 (1) of the Act with respect to the exemption from taxation for land that is used by a non-profit hospice to provide end of life care:

1. The land must be used for the purpose of providing end of life care and related supportive services for individuals with

a terminal illness, and it must not be used for any other purpose.

2. The hospice must be operated by a non-profit organization.
3. The land must not be, i. a care home as defined in subsection 2 (1) of the *Residential Tenancies Act, 2006*, ii. a long-term care home as defined in subsection 2 (1) of the *Long-Term Care Homes Act, 2007*, or iii. a retirement home as defined in subsection 2 (1) of the *Retirement Homes Act, 2010*.

See the Table of Consolidated Regulations – Detailed Legislative History at www.e-laws.gov.on.ca.

PILT: Payment in Lieu of Taxes Roundup

Projected capital spending in **Quinte West** over the next 10 years is expected to reach \$136 million, with water and sewer projects an additional \$94 million. However, construction at Canada Forces Base Trenton will inject close to \$1 billion into the base for new buildings and infrastructure, with \$10 million by 2017 from the federal government. “We should consider ourselves extremely lucky,” said Mayor John Williams. “Other municipalities don’t have that kind of revenue stream.” The city will annually direct 80% of PILT towards capital projects and financing, with 20% directed towards stabilizing operational costs. Senior city administrators are predicting that the amount of debt required to fund the city’s portion of capital projects would be reduced by \$22.5 million over the next nine years, bringing the total debt required down to some \$72 million from a projected \$95 million in debt financing. Williams said, “That money is like a huge manufacturing plant setting up shop in the city every year.”

The National Conference of State Legislatures

(NCSL) recognizes the shared responsibility of states, counties and the federal government for the management of public lands. Responsible and efficient land management necessitates a constructive partnership, particularly for lands administered by the National Forest System. These lands provide benefits in terms of fees, recreational opportunities and environmental diversity. At the same time, public lands create substantial infrastructure development and maintenance costs, much of which is borne by counties and states. These costs are particularly problematic for states with a large amount of federal acreage. The federal government recognized this problem in 1976, when it created the PILT system, and in 1994, when

Congress substantially increased authorizations. In many cases, payments are inadequate to support the growth of recreation, travel and tourism on federal lands, with inadequate payments straining some county budgets and undermining intergovernmental partnerships. The NCSL (www.ncsl.org) supports federal efforts to:

- reform the PILT program to create a more predictable, fair and flexible system that accurately reflects the fiscal effects of federal lands and state and local governments;
- provide full funding for the PILT program, as long as this goal is accomplished in a manner consistent with a balanced federal budget; and
- provide a more flexible payment system. NCSL supports authorization for the transfer of land of equivalent value from the federal government to counties in lieu of monetary payment, consistent with state statutes and practice. Clearly, such payments would be appropriate only in cases where the federal government, states and counties have been in close consultation and are in agreement on the terms of transfer.

FEATURE

Weather-related property tax bailouts and losses increase

In **New Zealand**, Christchurch's Earthquake Commission completed its 120,000th property assessment, aiming to have inspected all quake-damaged homes by Christmas. With 240 teams of assessors visiting approximately 1,500 houses per day, the commission is hoping to get the remaining 63,000 homes inspected by the end of the year. "We've moved from a process to worst first," said spokesperson Bruce Emson. "We've changed the process now and what we are working on is street by street – going from worst first to an area basic." The EQC has paid out more than \$1.9 billion in claims so far, an average of \$5 million a day.

A catastrophic loss clause gives property owners an additional six months from September 1 to appeal their 2011 property assessment to **Pennsylvania's** Luzerne County Board of Assessment Appeals. Owners whose property sustained a loss of 50% or more of the assessed value qualify for relief. Senate Bill 1267 seeks to authorize abatement of property taxes for flood victims equal to the reduction in assessed value. Increased valuation due to repairs or reconstruction would be exempted 100% in the first year, 50% in the second and 25% in the third year. The bill would eliminate the

need for taxpayers to appeal their assessment along with the 50% minimum amount of loss to qualify and authorize the county assessment office to reassess the property, based on data used to determine assistance from the Federal Emergency Management Agency.

Vermont towns hard hit by tropical storm Irene and flooding will see a property tax abatement plan in place that will also ease the financial loss of property taxes coming from damaged homes and businesses. Under the proposed eligibility criteria, a home or business must have lost use of the structure for 90 days, the structure suffering at least 50% loss in value. The plan will authorize the state's Tax Department to reimburse lost education taxes to towns under an "extraordinary abatement" plan, estimated to cost \$2 million to \$4 million. Towns that abate municipal taxes for affected property owners will also be reimbursed for the education portion of taxes: municipalities collect some \$1.4 billion in property taxes, three-quarters of which is for education taxes. Tax Commissioner Mary Peterson said, "In a normal year, it sort of evens out over time. ... That just doesn't work in a year like this when we've seen so much catastrophic damage."

Calendar

Price Is What You Pay; Value Is What You Get: The Valuation of Mall Department Stores IAAO Webinar

Includes characteristics of anchor stores associated with regional malls; the difference between anchor, discount, big box, power centre and freestanding retail stores; appropriateness of traditional land valuation for anchor stores; the inapplicability of the cost approach; the application of the income approach to value; and the application of the comparable sales comparison method. See www.iaao.org/sitePages.cfm?Page=479.

Fundamentals of Separating Real and Personal Property from Intangible Business Assets

Now required for specialized going-concern appraisals, the US Small Business Administration (SBA) updated Standard Operating Procedure 50-10(D) to. The new policy allows lenders to hire qualified real property appraisers to perform going-concern appraisals of special-purpose properties in lieu of obtaining a second business valuation or carrying a business valuation designation. Appraisals would provide allocation among real property, land, equipment and business and intangibles assets. While the course is starting; chapters will begin offering it in March 2012. See www.appraisalinstitute.org.

Apropos...

"Mother Nature at Her Worst"

By Morgan McDowell

Valuation Magazine, June 22, 2011

This article details experiences of appraisers in weather-related disasters. After Nashville, Tennessee received more than 13 inches [33 cm] of rain over two days in 2010, "there were over 11,000 properties affected by the floods, and all had become potential appraisal assignments," said appraiser James Atwood. "The appraiser must become more proficient in developing an opinion of value that depends on measuring the costs to repair the property, measuring any loss of utility, and measuring a risk incentive that would account for all uncertainties involved in purchasing a property damaged by a disaster."

Hurricane Katrina in New Orleans, Louisiana destroyed more than 300,000 homes and businesses and accounted for an estimated \$96 billion in damage. The 1994 earthquake affecting Northridge, California caused an estimated \$20 billion in damage. Author McDowell states, "The sheer mass of land and property affected by natural disasters, and the level of destruction they cause, have created many obstacles for appraisers." See www.appraisalinstitute.org/vip/default.aspx.

Coast to Coast to Coast to Coast

Canada

British Columbia

Some 86 civic candidates from across the province signed a “**contract with taxpayers**” pledge to hold property taxes below inflation and to enforce a 15% pay cut for the mayor and council in their municipality if property taxes are raised beyond the rate of inflation without public consent. The pledge also encourages direct democracy, expense transparency, the establishment of the position of municipal auditor-general and resistance to downloading from senior levels of government. Many mayors said they had difficulty supporting the Canadian Taxpayers Federation pledge because of too many variables, including provincial and federal governments’ downloading so many costs of services onto municipalities that the pledge could restrict future financial decisions.

Prince Rupert council approved \$411,984 in municipal tax exemptions to a variety of churches, service groups, and cultural and recreational facilities.

Alberta

Ministerial Order No. L: 206/11 (September 16, 2011) established the 2011 *Alberta Assessment Quality Minister’s Guidelines* and the 2011 *Recording and Reporting Information for Assessment Audit and Equalized Assessment Manual*. The order is effective for 2012 and subsequent tax years. The guidelines were updated to reflect a date change and to support updates to the manual, including updated code tables and administrative wording changes to improve clarity. The order, guidelines, manual and their respective concordance table are available on the Municipal Affairs’ website at www.municipalaffairs.alberta.ca, under Municipalities and Communities/Property Assessment and Taxation. Contact Assessment Services Branch at lgsmail@gov.ab.ca.

Ontario

(Note: Acronym MPAC is *Municipal Property Assessment Corporation*) MPAC mailed assessment notices to almost one million property taxpayers who have until April 2 to ask for reconsideration. The next provincewide assessment will take place in 2012.

Amherstberg’s United Communities Credit Union Complex is expected to lose \$895,000 by the end of December 2011. The twin-pad arena that had its grand opening in January took in only 52% of projected revenues and overspent on expenses by 25% over the year. The complex was expected to have \$1.239 million in revenue with \$1.219 million in operating expenses, according to Neustadia Recreation, consultants who helped design the complex. At

least \$104,000 in revenue was projected to come from facilities that weren’t constructed. Ice rentals were down considerably, by about 60%. In addition, expenses were higher than expected, with utilities 78% (\$185,000) over budget. The cellphone bill was 242% (\$4,258) higher than planned.

Lakeshore’s proposed \$52-million-dollar arena could result in an 11% increase in taxes over the next three years. In August, the Ontario government pledged to pay for one-third, provided the town meets certain deadlines. Sylvia Rammelaere, Lakeshore’s director of finance and performance services, showed council financing scenarios: at \$52 million with one-third provincial funding, a tax rate increase of 10.8% will be required by 2014. At \$40 million, the necessary tax rate increase would be 8% by 2014.

On behalf of 12 mayors, **Kingston** Mayor Mark Gerretsen delivered a case for increasing the “heads and beds” tax to the finance minister at the Association of Municipalities of Ontario conference, proposing a phased-in increase indexed to inflation. Gerretsen spoke about lost development opportunities and the history of the program to help a municipality with basic city services with the tax set at \$50 per student at universities and colleges, and per bed in hospitals and provincial correctional facilities. As the levy was not indexed to inflation, “the property taxpayer essentially made up the difference between what the service used to cost and what the service was actually costing,” he said. In 1987, the figure was upped to \$75, with no provision to index it to inflation. Gerretsen said the province’s rationale “always focused on two points”: that municipalities reap other rewards and benefits by having institutions in their communities, and that municipalities are receiving other provincial financial uploads. While the municipality is not the only entity to benefit, property taxpayers still make up the difference, said Gerretsen. He pointed out discrepancies in other municipalities, questioning why some transfer payments are indexed to inflation while others are not.

Eight groups of **Toronto** Board of Trade members brainstormed on how to fix city finances, telling Mayor Rob Ford to rein in city spending and find new revenue sources such as road tolls, a Toronto sales tax and surcharges on parking spots and hotel rooms. Road tolls or a congestion tax, with revenues dedicated to transportation infrastructure, were popular. “There’s an understanding that it’s not about filling an operating [budget] hole, that when [revenue] is dedicated to a particular need people are more willing to recognize and accept it,” said board president Carol Wilding. Ford’s first act in office was to convince council to stop the vehicle registration tax that brought in \$65 million a year. The mayor also vowed to end the land transfer tax in 2013 or 2014, for another \$274-million shortfall.

Windsor's treasurer, Onorio Colucci, said the top 20 property owners are appealing municipal tax assessment levies totalling about \$80 million. One \$4-million break translates into a 1% tax hike for other taxpayers to maintain the same level of tax revenues. One industrial company is seeking a \$10-million reassessment, having filed its appeal in 2003. Windsor continues to face tax appeals and a shrinking tax base because companies are closing. "Over the last five years, there's well over \$30 million we've had to write off," said Colucci. The staff report advised council that "holding the line on taxes" means finding approximately \$18 million in savings or implementing an estimated 4.6% tax hike. By taking years to make an appeal decision, Mayor Eddie Francis said MPAC makes it very difficult for the city to adjust its budget planning. The total municipal tax take in 2006 was \$393.8 million. Colucci added that industrial assessment has declined 21% since 2006.

USA (NB: All figures in US\$)

New Jersey

Governor Chris Christie **blocked a \$420,000 tax credit** that the state's Economic Development Authority had approved. The production company behind the reality series *Jersey Shore* applied for the credit, intending to help cover costs for its inaugural season in 2009. Christie said he was "duty-bound" to see that taxpayers were "not footing a \$420,000 bill for a project which does nothing more than perpetuate misconceptions about the state and its citizens." Christie wrote, "In this difficult fiscal climate, the taxpayers of New Jersey should not be forced to subsidize projects such as *Jersey Shore*." The show *Sarah Palin's Alaska* claimed \$1.2 million in Alaska tax credits under a plan that Palin had signed into law in 2008 when she was governor.

Alabama

The state's most populous county has filed the largest municipal bankruptcy in US history, years after being plunged more than \$4 billion into debt by a "corruption-riddled" sewer project. Just two months after it seemed **Jefferson County** could negotiate a deal with creditors, talks broke down over \$140 million, said Commissioner Jimmie Stephens, who made the motion to file for the protection, saying, "Jefferson County has, in effect, been in bankruptcy for three years." A plan would have to be worked out in bankruptcy court and approved by a judge and at least one group of creditors, with the financial burden for the 658,000 residents not known until then. The county struck a preliminary deal with bankers in the fall that required state lawmakers to approve a mix of local tax hikes, budget changes and other legislation to resolve the debt.

New York

Sharif el-Gamal, the real estate developer who wants to put a mosque near Ground Zero in **New York City**, was to be making quarterly payments for a \$224,000 tax bill on the Park Place building, but missed a scheduled \$30,000 payment in back taxes due October 3, 2011. When The Daily News asked for proof, Gamal forwarded an email receipt from the city's Finance Department's online payment system showing a \$30,435 payment made October 5. The Finance Department told the newspaper that the payment was actually made some two weeks later, approximately half an hour after it was claimed to have been paid. City officials say receipt numbers are sequential and that the one in question was not issued as claimed in the "apparently doctored proof of payment."

For the fourth year in a row, the owners of the former *Reader's Digest* property in **New Castle** filed a court challenge to lower their 2011 tax assessment. Operating under SG Chappaqua, they asked for a reduction of the largest parcel making up the corporate campus, down from some \$11.5 million to \$5.54 million. The owners bought the 113.7-acre [45.5-ha] parcel property in 2004 for \$59 million. The owners went through an approval process seeking permission to build condos on the property, but before the Town Board voted to allow a smaller-than-requested project, cooperation between the owners and New Castle officials broke down. The developers then filed federal and state lawsuits challenging the review. The property assessment was lowered from \$18.5 million in 2004 as part of a legal settlement and frozen for three years. The company was allowed to file again in 2008 and has cases pending for 2008 and each year since.

Montana

With a combined market value of \$86 million, 99 properties in Montana's seven most populous counties do not appear on tax rolls because of **non-profit exemptions**. Members of the state's Revenue and Transportation Interim Committee were told there were nearly 14,000 tax-exempt entities with applications in the hundreds per year. Under Senate Joint Resolution 23 (SJ23), the committee was directed to review non-profits because non-profit corporations are buying office buildings, agriculture lands and other real estate investments, removing them from tax rolls. If House Bill 305 passed, it would have apparently eliminated property tax exemptions for "non-profits" such as large medical empires. In 2005, lawmakers removed some categories and left exemptions for governmental, charitable, religious and educational categories. A representative for the Montana Hospital Association said all but three hospitals were tax exempt, with most hospitals involved in projects beyond their core duties. SJR23 called for the committee to study the valuation of properties in each of the seven most populous counties that do not appear on tax rolls because of the exemption.

California

Some **non-profit groups are denied exemption** from property taxes because the chief tax collector and assessors contend they don't do enough to benefit state residents. Exemption rules evolved out of a 1944 ballot initiative in a two-tiered system: non-profits first apply to the Board of Equalization, which collects state-mandated fees and certifies exemption eligibility. Assessors in each of the state's 58 counties make the final decision after determining whether the property is of "primary benefit" to California. Anita Gore, spokesperson for the board, said, "Some activities and things non-profit organizations do can't be quantified in that sort of easy way." In **Los Angeles County**, two properties owned by World Vision International, whose work is largely done overseas, are exempt from property taxes. Some 4,000 non-profit groups hold property tax exemptions in **Santa Clara County**, including the Kaiser Foundation Hospitals and 290,000 tax-exempt homeowners.

Kansas

The method used to appraise the value of gas wells is "not correct or appropriate," according to a report commissioned for **Stevens County**. Stevens County appraiser Tom Fuhrmann, part-owner of Landmark Appraisals, also serves as a county appraiser. Analysis of his data showed the county would have collected \$21 million more in gas well property taxes for 2005–2009 by using the state's *Oil and Gas Appraisal Guide* method. The Kansas Constitution calls for a "uniform and equal basis of valuation and rate of taxation of all property subject to taxation." However, according to the report, "There is currently no industry group or taxing authority that recommends or approves the use of comparable sales as a method of valuation for oil and gas properties." Fuhrmann's method uses comparable values to calculate a market value, primarily the value of the recoverable gas remaining in the well. Another report commissioned by Landmark favoured Fuhrmann's method. Author John Cooper, oil and gas manager at the Department of Revenue from 1979 to 2002, said criticism of appraisal methods is endemic in valuation "because complete information is never available, due to many reasons, including proprietary information." His report included a table comparing 2008–2010 valuations of 25 gas well leases in Stevens County showing that Fuhrmann's method produced values 6.15% lower than the guide method values. See <http://kansas.watchdog.org> and www.accesskansas.org/kcaa.

FOCUS & MUNICIPAL ASSESSMENT & TAXATION

EXECUTIVE EDITOR

Peter A. Milligan
Associate Counsel
Assessment and Property Taxation
Miller Thomson
Toronto, Ontario

MANAGING EDITOR

Cynthia Martin
cmartin@longwoods.com
Longwoods Publishing Corporation

PUBLICATIONS BOARD

Chair
Susan de Avellar Schiller, AICP/
MCIP, ACR
Ontario Municipal Board

Robert Butterworth

Vice Chair, Ontario Assessment
Review Board

Ron Cust, Director of Legislative
Projects for Alberta Municipal
Affairs

Charles J. L. Hardy, B.Sc., FRICS,
AACI, Altus Group

Connie Fair

Chief Executive Officer,
British Columbia Assessment
Authority

Lawrence Hummel

Vice President, Property Values
Municipal Property Assessment
Corporation

Grace L. Marsh, CMM I, CMTC
DuCharme, McMillen & Associates
Canada, Ltd.

Carla Nell, MA, AIMA, PLE, CEI
Vice President, Tax Policy
MTE Consultants Inc.

Diane J. Ross, B.A., LL.B.
Ministry of Finance, Ontario

EDUCATION BOARD

Chair
Paul Sloggett, IMA
Education Coordinator, Seneca
College

PUBLISHER

Anton Hart

COPY EDITOR

Francine Geraci

DESIGN AND PRODUCTION

Yvonne Koo
Jonathan Whitehead

ASSOCIATE PUBLISHER

SUBSCRIBER SERVICES
For address/contact information
changes, please contact
Barbara Marshall
bmarshall@longwoods.com

MAILING ADDRESS:

260 Adelaide Street East
No. 8, Toronto, Ontario
Canada M5A 1N1
Telephone: (416) 864-9667
Facsimile: (416) 368-4443
Email: cmartin@longwoods.com
Internet: www.longwoods.com

A FOCUS Publication
Twelve issues per year
ISSN 0711-0599 Printed in Canada

© 2011 Longwoods Publishing
Corporation™. All rights reserved. No
part of this work covered by the pub-
lisher's copyright may be reproduced
or copied in any form or by any means
without the written permission of the
publisher, who will provide single-
duplication privileges on an incidental
basis and free issues for workshops and
seminars.

This tax letter is printed on recyclable
paper.

What our readers think of Focus pub-
lications is important to our sanity. If
you have any comments, please take a
moment to send us a note. Information
contained in this publication has been
compiled from sources believed to be
reliable. While every effort has been
made to ensure accuracy and complete-
ness, these are not guaranteed. It is an
express condition of the sale of this legal
letter that no liability shall be incurred by
Longwoods Publishing Corporation™,
the editors or by any contributors.
Readers are urged to consult their pro-
fessional advisors prior to acting on the
basis of material in this legal letter.

Unauthorized duplication of this docu-
ment is against the law. For single or
multiple subscriptions, please contact
the publisher.