

FEATURE

Musqueam First Nation wins tax case

The BC Court of Appeal has ruled that First Nations in British Columbia that own unoccupied land off-reserve held in fee simple trust are exempt from paying property tax (*Musqueam First Nation v. British Columbia*, Assessor of Area #09, 2012 BCCA 178).

The ruling overturned a lower court decision related to two pieces of property within the endowment lands near the University of British Columbia owned by the Musqueam Band. The Musqueam had paid approximately \$1.3 million in property tax on two parcels covering 58 acres [23 ha] prior to the appeal court ruling. Musqueam lawyer Maria Morellato said the case was based on a section in the *Taxation Rural Area Act* that provides an exemption for unoccupied lands held in fee simple trust for First Nations, and the decision will affect the repatriation of land following treaty processes where the transfer is in fee simple.

The parcels of land were transferred from the province in 2008 to two companies controlled by the Musqueam for the band's benefit, after it entered into a reconciliation, settlement and benefits agreement. The appeal stemmed from a January 2010 decision by the Property Assessment Appeal Board that said it was bound by a 1991 BC Supreme Court decision in *Westbank Indian Band Development Co. v. British Columbia* that the exemption in the *Taxation Rural Area Act* did not apply to non-reserve lands owned by a First Nation-controlled corporation.

BC Supreme Court Justice Nathan Smith said he was similarly bound when he ruled against the Musqueam in an appeal of the assessment board's decision, in September 2010: "If Westbank was wrongly decided, it must be left to the Court of Appeal to say so. On the basis of the law that I am bound to apply, I must answer the questions posed by the stated case in the negative and hold that the board did not err in any of its conclusions."

The exemption in the Act states it applies to "land and improvements vested in or held by Her Majesty or another person in trust for or for the use of a tribe or body of Indians, and either unoccupied, or occupied by a person in an official capacity or by the Indians."

In its decision, the Court of Appeal concluded that the Westbank decision misinterpreted the way the exemption was to be applied. "In my opinion, the argument that the exemption in s. 15(1)(h) should be restricted to reserve lands, when considered in the context of the title of the Act, and in the context of s. 15(1) as a whole, is insupportable," Justice

continued pg. 58

In this Issue

- | | |
|----|---|
| 57 | Feature Musqueam First Nation wins tax case |
| 58 | Work Word |
| 58 | Feature European countries see heavy resistance to property tax initiatives |
| 59 | Feature Tax incentives continue to "reflect the triumph of hope over experience" |
| 59 | Quotable Quote |
| 60 | Legal Briefs <i>Halifax (Regional Municipality) v. Canada (Public Works and Government Services)</i> , 2012 SCC 29 |
| 60 | Foreign Affairs |
| 61 | Quirky but true... |
| 61 | Calendar |
| 62 | Coast to Coast to Coast |
| 64 | Transitions |

Hinkson wrote. The Court of Appeal also stated that the companies controlled by the Musqueam fit the definition of “another person” as required in the Act.

Bruce Hallsor, lawyer for the assessor, said he expects groups who control land this way will see if the decision can be applied retroactively. “I think this is just the tip of the iceberg,” he said. “This could be a big concern for local governments.” Hallsor said more and more non-reserve band land is being held likewise throughout the province.

WORK WORD

see-through building, *n.* a future high-rise condo, currently an untenanted office tower completed during a real estate meltdown.

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

FEATURE

European countries see heavy resistance to property tax initiatives

As an example of individual resistance, Milan lawyer Luciano Di Pardo refused to pay a real estate tax levy of approximately \$620 (€500) as his part of Italian Prime Minister Mario Monti's actions to raise some \$12.4 billion (€10 billion) this year from the tax Imposta Municipale Unica (IMU). The IMU reinstates tax on first homes, a fee terminated four years ago when former Prime Minister Silvio Berlusconi made Italy one of the only large euro-region countries without such a levy. Those with moderate incomes are also hurt by the elimination of incentives for rent-controlled leases, said ASPPI (an association of property owners, www.asppi.it), which organized petition-signing events across Italy. Because the levy relies on an out-of-date register, ASPPI President Alfredo Zagatti said, “it favours people in wealthier areas.” Dario Castiglia, chief executive officer of RE/MAX Italia, said, “Italians were used to not having any taxes for three years, and also it's hitting home right when we're in the middle of perhaps one of the worst recessions in decades.”

Property taxes accounted for approximately 4.4% of Italy's revenue in 2010, down from 5.2% in 2009. To calculate the IMU, each property's cadastral rental value is reported in the deed of the property purchase; a 5% increase on that value is added. The result is multiplied by a coefficient that changes depending on the type of property, also adding a rate from an average of 0.4% to 0.76% for a main residence (in some cases, 1.06%). There is also a deduction of €50 per child younger than 26 years residing in the same house. Under IMU, the government set rates of 0.4% of registered value for primary residences and 0.76% for second homes and certain commercial classes.

A national IMU “victims” association was created with offices in Rome and some 100 municipalities. Francesco Tanasi, secretary general of the Codacons, said the consumers' battle against the new property tax has begun and “the

Consumers Association opposes the fact that the IMU property tax was approved illegally and without identifying which specific state works this tax is expected to finance.”

See www1.agenziaentrate.gov.it/inglese/italian_taxation/real_estate_taxes.htm.

In **France**, the contribution was 7.9% in 2009 and 8.1% in 2010. Total Italian tax receipts were about 42.3% of gross domestic product in 2010, greater than the 38.9% weighted average of the 17 countries that share the euro, according to statistics from the European Commission. See http://ec.europa.eu/taxation_customs. For the 274-page 2012 edition of *Taxation Trends in the European Union*, enter the title in the search box or see http://ec.europa.eu/taxation_customs/resources/documents/taxation/gen_info/economic_analysis/tax_structures/2012/report.pdf.

In **Spain**, the town of Aspe's government voted to partially rescind the tax exemption that the Catholic Church, landlord of at least 11 local properties, has long enjoyed. Three laws exempt the church from paying property tax in Spain, and while there are exemptions for other religions and some non-profit organizations, the Catholic Church's holdings are vast. España Laica, a pro-secular group, estimated that the church would owe €2.5–3 billion in property taxes annually. “With the crisis, we all have to tighten our belts,” says David Cerdán, Socialist Party councillor who presented the motion. “Our sense of social justice, which I believe Catholicism shares, tells us that those who have the most should help those who have the least.” Aspe, a town of some 20,000 inhabitants in southeastern Spain, would see the measure apply only to those holdings that are not strictly devoted to religious practice or social services. Of the 11 properties the Church owns, three would be subject to the tax, which would bring an additional €7,000 annually into municipal coffers. “This doesn't have to do with God,” Cerdán said. “This has to do with problems on earth.”

Clergy housing, along with sanctuaries, seminaries, and monasteries and convents, are protected by the Vatican concordat and other legislation. Many Catholic schools and hospitals are subsidized by the State, and each year citizens can dedicate 0.7% of their income tax to the Church and/or its social services. In 2010, the Church made €248 million from income tax returns. Alcalá de Henares, a city of 204,000 north of Madrid, and Amoeiro in the northwest, decided

to bill taxes on properties that aren't explicitly mentioned in the concordat, such as those the Church rents out or are not being used. Others cities, such as Zamora in central Spain, will begin billing for trash collection, a fee the Church has avoided. A poll conducted by Metroscopia showed that 80% of Spaniards surveyed believed the Church should pay property tax. See www.metroscopia.org.

FEATURE

Tax incentives “reflect the triumph of hope over experience”

Boston, Massachusetts is an example of a city that has dangled millions of dollars in tax breaks in front of companies settling in the Innovation District in the South Waterfront. A policy such as this has become so common over the last 50 years that governments are routinely forgoing up to \$10 billion in revenue every year. However, there is little evidence that property tax incentives actually work – either in the decision-making process for companies choosing their locations, in terms of promised economic activity or new jobs. Research by authors Daphne Kenyon, Adam Langley and Bethany Paquin have showed that three obstacles impede the success of property tax incentives:

- Incentives are unlikely to have a significant impact on a firm's profitability because property taxes are a small part of the total costs for most businesses, averaging less than 1% for the US manufacturing sector.
- Tax breaks are sometimes given to businesses that would have chosen the same location without the incentives, an action that merely depletes the tax base without promoting economic development.
- Widespread use of incentives within a metropolitan area reduces effectiveness, because when firms can obtain similar tax breaks in most jurisdictions, incentives are even less likely to affect business location decisions.

The use of these tax incentives continues to “reflect the triumph of hope over experience,” yet municipalities still use a variety of programs that are widely accepted as absolutely necessary elements of the economic development toolkit: property tax abatement programs, tax increment finance, enterprise zones, firm-specific property tax incentives and property tax exemptions in connection with issuance of industrial development bonds.

Published as a Policy Focus Report by the Lincoln Institute, the 76-page *Rethinking Property Tax Incentives for Business* is available for \$15 (ISBN 9781558442337) at www.lincolninst.edu.

QUOTABLE QUOTE

“ This massive increase is economically destabilizing to our family. How are we supposed to react? Like the students in Montreal? Do we really want to live in a city that courts anarchy and civil disobedience with destabilizing tax assessments of this magnitude? This city, like so many governments in the world, doesn't have a revenue problem, it has a spending problem. Civic wages, benefits and pensions are unsustainable in today's world. But it is politically expedient to not deal with this issue. ”

– Letter in *The Edmonton Journal* from resident Guy Parrott on the 60% increase in his 2012 property assessment vs. MLS market value increase of 2%

Legal Briefs

Halifax (Regional Municipality) v. Canada (Public Works and Government Services), 2012 SCC 29

The Supreme Court of Canada was unanimous in its ruling (9–0) regarding Halifax’s Citadel Hill, dismissing Ottawa’s position that most of the historic downtown Halifax landmark was of little value. Halifax municipal staff expects the ruling will mean an extra \$500,000 a year from Ottawa, with a bill for past underpayments of approximately \$8 million.

Ottawa and the Halifax Regional Municipality (HRM) had been locked in a dispute over the value of Citadel Hill since the 1990s. The federal government makes PILT payments to Halifax based on the value of the land. Ottawa claimed the grassy slope that makes up the vast majority of the hill had no value because, in being a national historic site, that portion of the site could not be developed. The court therefore decided that 18.8 hectares of the 19.4-hectare [48.5-acre] site was worth \$10. HRM argued that although the hill couldn’t be developed, it had great value to the community as a historic and useful site, and therefore was worth \$19 million. In 2007, Halifax took Ottawa to the Dispute Advisory Panel, which sided with the federal government, ruling that the historic site, excluding the fort in the centre, was worth \$10. Halifax appealed, and in June 2009, a federal court judge overturned the ruling. Ottawa filed its appeal, and in July 2010, the Federal Court of Appeal ruled (2–1) in favour of Ottawa’s position. Halifax appealed to the Supreme Court of Canada, which heard the matter last December.

The Supreme Court ruled that the Minister of Public Works and Government Services must base his decision on real-life assessments. “The minister cannot base his valuation on a ‘fictitious tax system’ that he himself has created, but that is exactly what happened in this case,” Justice Thomas Cromwell wrote on behalf of the court. The court found Ottawa’s posi-

tion unreasonable for a second reason. It is unconstitutional for the federal government to pay provincial or municipal taxes on land it owns. But it still costs the municipality money to provide basic services to those lands. Under the principle of fairness, Ottawa had passed the *Payments in Lieu of Taxes Act* to compensate the municipalities. The chief justice found the \$10 valuation to be fundamentally unfair, which contravened the Act. “It can hardly be thought either fair or equitable to conclude that [19.4 hectares] in the middle of a major metropolitan centre has no value for assessment purposes.”

The ruling will ensure that Ottawa works out a new value for Citadel Hill based on assessments, said Dan Campbell of Cox and Palmer, who represented HRM in the case. “I’d like to think that they’ll be able to agree now that the ground rules are clearer,” Campbell said. The ruling will adjust what Ottawa has paid Halifax back to 1994, he said.

HRM Mayor Peter Kelly said, “We’re certainly extremely pleased that the highest court in the land has agreed with our determination that the federal government owes a duty of fairness, not only to our taxpayers within Halifax Regional Municipality but to all municipalities across the country. ... This is a key decision that has far-reaching implications or ramifications for all municipalities.”

The municipality has several other national historic sites within its boundaries, but Kelly said Citadel Hill was undervalued. “We will certainly use this decision to review other [sites] to see if there are any other implications that may be beneficial to our taxpayers,” he said. The fact that the Supreme Court awarded costs to the municipality is another indicator of how strongly in favour the court’s decision was, he said. Use of the estimated \$8 million owed in back taxes and an extra \$500,000 a year in the future by HRM is to be determined. See <http://scc.lexum.org/en/2012/2012scc29/2012scc29.html>.

Foreign Affairs

Qatar

Property valuation will develop as the country sees extensive real estate development, said Nicholas Maclean, managing director of CBRE global real estate advisory. “The valuation of a property in Qatar will be fundamentally different in five years from what it is today, as the country goes through massive development. If we value a property today, we don’t have the advantage of factoring the metro or other major infrastructure projects into it,” he said. “Valuation is not static. It varies and changes in accordance with the infrastructure around the valued property.” See www.cbre.eu/emea_en.

Viet Nam

While valuation is becoming urgent to help improve the market, its use has not been popular. Phung Quang Hung, director of the Viet Nam Valuation and Financial Consultancy Company’s appraisal centre, said, “There are currently two legal documents on real estate valuation – the Price Ordinance 2002 and the Law on Real Estate Business – which overlap in the training of appraisers.” He added that “real estate valuation is not popular due to market habits. Vietnamese investors are usually small ones. They make investment decisions by sense and short-term trends rather than appraisers’ advice.” The greatest difficulty

for appraisers is collecting information: “The requirement of market evidence in written form is really tough. Many management agencies currently have no data on housing transactions, so appraisal companies have to compile statistics themselves. Appraisal quality, therefore, depends very much on the ability of appraisers.” Nguyen Minh Ngoc, lecturer at the National Economics University, said, “Regulations on real estate appraisal are missing and somewhat overlapping. The market is still waiting for a clear legal framework to develop. Another issue is that the training of property valuation is too weak. There are not many centres with sufficient capacity and credibility.”

Malta

During a conference on Property Valuation Standards, Family Minister Chris Said set up a working group to develop a

framework for a Market Property Value Index to act as the national baseline to determine a fair market sale or rental value for any type of property in any area. The working group will be made up of various association representatives and government entities. Because the rental market is in its infancy, there is little market intelligence for investors, financial institutions and residents to determine fair market value for a residential or commercial entity. Said said the state’s “interventionist” policies by successive post-war administrations were always meant to be temporary. However, their ongoing permanency resulted in the institutionalized misuse of measures originally undertaken under extreme circumstances. See www.ktpmalta.com/resources/resources.php.

Quirky but true...

A video game enthusiast, former Boston Red Sox pitcher Curt Schilling received \$75 million for his 38 Studios, which filed for bankruptcy in a Delaware court, claiming liabilities of \$150.7 million. In 2006, near the end of his career, Schilling started the company in Massachusetts and was turned down for aid by the state Legislature. In mid-2010, Rhode Island’s Economic Development Corporation offered the company a loan guarantee for relocation to Providence; its executive director, Keith Stokes, dismissed criticism of the loan as “election-year politics.” 38 Studios opened in April 2011, with its first game released February 2012 to mixed reviews and weak sales. The company collapsed rapidly, missing a \$1.12-million payment to the state, and by May 24 all workers had been laid off.

Failing to attract new investors, 38 Studios filed for Chapter 7 bankruptcy, leaving the state liable for the loan guarantee. Steven O’Donnell, superintendent of the Rhode Island State Police, said his agency, as well as the FBI, the US Attorney General’s office and the Rhode Island Attorney General, “are working together to investigate activities that have recently come to light,” with forensic accountants reviewing the company’s records. Rhode Island had created the \$50-million Job Creation Guarantee Program for entrepreneurs in 2010, with Governor Don Carcieri raising the state’s fund to \$125 million to accommodate Schilling’s \$75-million request, 60% of the fund’s portfolio. The state’s new governor, Lincoln Chafee, who opposed the earlier deal, declined Schilling’s request for more money. Although the bonds are moral-obligation bonds rather than general-obligation bonds, the state will pay creditors.

Calendar

78th Annual International Conference on Assessment Administration IAAO

Assessment Excellence in the Heartland
September 9 to 12, 2012
Kansas City, MO
<http://conference.iaao.org>

46th Annual National Workshop Canadian Property Tax Association

September 30 to October 3, 2012
The Banff Springs Hotel
<https://cpta.org>

INTERGEO

October 9 to 11, 2012
Hanover, Germany
Topics such as Open GeoData and energy issues, cloud computing, 3D and new technologies, urban development and property valuation.
www.intergeo.de/en/index.html

Call for Presentations

17th Annual GIS/CAMA Technologies Conference

March 4 to 7, 2013
Albuquerque, New Mexico

The GIS/CAMA 2013 Conference Committee welcomes the submission of papers, complete sessions and panels proposing suggested topics for consideration. All abstracts received will be reviewed and considered regardless of the list at www.urisa.org/conferences/2013gis_camaCALL. Abstracts due by October 5, 2012.

Coast to Coast to Coast to Coast

Canada

Across Canada, municipalities issued building permits worth \$7 billion in May, up 7.4% from April and the highest level since May 2007, said Statistics Canada, with value up 6.5% year over year.

British Columbia

Not-for-profit organizations that own their buildings are receiving financial benefits not available to non-profits that rent space in **Victoria**. Councillor Geoff Young brought up the equity discrepancy during debate about the city's permissive property tax exemptions. "We have the situation of very similar organizations, some of which have the ability to buy a building and which we're giving a full exemption, and those that can't [buy] the building are paying their full cost." In 2011, the city granted full property tax breaks to 105 non-profit organizations such as social service agencies, arts organizations and churches. The exemptions totalled \$1.7 million. "All non-profits struggle with their overheads and I think we all would like to see some relief in terms of tax exemptions," said Women's Sexual Assault Centre executive director Makenna Rielly. "We certainly have not ever been in a position to purchase property." The centre pays \$7,500 monthly for a 3,000-square-foot [270-m²] space, and is looking to cut costs such as consolidating some functions with Victoria Women's Transition House Society. Co-locating allows non-profits to share rent and other resources. In 2004, the city opted to reduce the exemptions for new applicants in the educational sectors and organizations that primarily serve people outside the city, with organizations already receiving full exemptions grandfathered. Councillor Marianne Alto put forward a motion to cap exemptions at approximately the current value, phasing out grandfathered organizations, excluding parking lots, from exemptions.

Alberta

According to Statistics Canada, the value of building permits issued in the **Edmonton** census metropolitan area for May soared by nearly 66%, with construction intentions valued at \$478.6 million, up from April's \$288.9 million. The value of building permits was down 16% from \$568.4 million a year earlier, with May 2011 exceptionally high, said the city's senior economist, Milap Petigara, adding the region's permit values have been trending up the past four years. In Edmonton, residential and institutional buildings led with respective \$100-million and \$75-million monthly gains. The value of building permits issued in Alberta increased to \$1.44 billion in May, up 7.6% from April. Year over year, it increased by 26%, largely from institutional, residential and industrial buildings.

On a monthly basis, residential permits rose by 13% across Alberta, while non-residential permits rose 2.4%.

This year continues to be a promising year for **Red Deer**. Building permit values for 2012 are up over \$65 million from this time last year, and 99% of residential lots in a development sold within hours of availability. In June, there was a \$14-million-dollar increase in building permit values owing to substantial increases in both commercial and public building permits. The June edition of Alberta Venture recognized Red Deer as one of the "25 Best Communities for Business in Western Canada."

Ontario

(Note: Acronym MPAC is Municipal Property Assessment Corporation)

Hamilton and other Ontario municipalities with universities, colleges, hospitals and detention centres have argued they're not treated fairly when it comes to collecting payment for those institutions. In 2009, in lieu of taxes, Hamilton collected approximately \$2.5 million in the "heads and beds" rates from provincial institutions with a combined worth of more than \$1 billion. The city received \$1.6 million from McMaster University; \$498,000 from Mohawk College; \$173,000 from Hamilton Health Sciences; \$58,000 from St. Joseph's Healthcare; and \$37,000 from the Barton Street jail (the remainder from other or related facilities).

Ontario's assessors are updating information on the province's 4.8 million properties in preparation for a *provincewide reassessment of values* effective January 2013. Property owners will be told what their new assessments are, based on January 2012 property values, this fall, with values used to determine taxes through to 2016. As part of the four-year cycle introduced in 2004, Ontario changed to a standardized review and updating of values based on market values. As in the 2008 reassessment, any decreases in value take effect immediately, while increases will be phased in at 25% a year between 2013 and 2016. Assessment notices will be in the mail September into November, depending on the area. Not every property in the province gets an on-site visit, although there is a policy of making an on-site visit to every property once every 12 years. Homeowners will have until March 31, 2013 to advise the agency of errors, request a review of their assessment or make a formal appeal through the Assessment Review Board. The 2008 reassessment resulted in an average 20% increase in values provincially; some areas experienced decreases or no increases, while for some types of properties in other areas, values rose by at least 50%. Ontario's system relies heavily on actual property sales: information on average value changes will be released in the fall as notices are

mailed. One change for owners in unincorporated areas is that the four-year phase-in will apply to Provincial Land Tax, Roads Board and Local Service Board levies, the same way as to education taxes in the past. When those properties were reassessed in 2008 and brought into the current value system from previous 1940s assessment bases, the phase-in process wasn't used for the 2009–2012 tax cycle.

USA (NB: All figures in USD)

Illinois

A state **property tax grant program running four decades was ended** due to budgetary cuts. The Circuit Breaker program, for up to 120,000 people who own or rent homes, was formed by the state in 1972 to assist seniors and the disabled with property taxes. During the fiscal year ending June 30, the state spent \$24 million on the program, with grants from \$90 to \$350 based on a recipient's income.

Missouri

The 14,000 residents of **Moberly** discovered their city had guaranteed \$39 million in bonds to help a Chinese company build a plant to make sucralose, an artificial sweetener. The project fell apart, advisers saying they were shocked by how quickly the city would walk away from debt payments through 2025. Cities that guarantee debts for entities that borrow for projects like parking garages and hockey arenas often “don't understand that they are responsible for making these payments,” said Matt Fabian, managing director of Municipal Market Advisors. “It's as if your kid runs up a \$400 cellphone bill. You can't get out of paying it by saying you didn't authorize that.” Moberly had responded to a pitch by Missouri's Department of Economic Development to host the plant, hoping for hundreds of jobs. Mamtek International was said to have a plant in China; most of the debt was for building and equipping the plant. When a bond payment came due last August, Mamtek officials said they didn't have the money. Construction was stopped; there were subpoenas from the Securities and Exchange Commission, and the city's guarantee was called. Moberly city council issued a statement saying, “The city's taxpayers, under these circumstances, should not bear the burden of Mamtek's failures or be asked to ‘bail out’ their shareholders or investors.” The bond market saw the failure as Moberly's, with Standard & Poor's cutting the city's credit. Investigators learned that because of environmental concerns, Mamtek's plant in China had never opened. See the Missouri House Interim Committee on Government Oversight and Accountability at www.house.mo.gov/news.aspx?news=true&id=459.

Ohio

Ohio's legislature and governor's office are to **enact significant changes** to sections of the Ohio Revised Code related to valuation of real property. Changes were signed into law

and will affect the treatment of sale transactions for property tax purposes, as well as valuation standards for assessors and appraisers. The changes aim to help achieve uniformity and fairness in the state's property tax system.

New Jersey

Trump Entertainment will receive a record \$54 million in property tax credits from **Atlantic City** in settling its real estate assessment challenge. The settlement represents the largest credit given to a single casino owner so far, said Michael Stinson, the city's finance director, adding the deal will lead to a large downsizing of the city's ratable base, which had been approximately \$18 billion. The city has been fighting tax appeals as each of the 12 area casinos filed a challenge. Caesars Entertainment received \$27 million in credits for three years' worth of taxes paid from 2009 to 2011 for Bally's casino, with no credits issued for its affiliated casinos, Harrah's Resort and Caesars. The settlement is over five years – 2008 through 2012 – for three subsidiaries: Trump Taj Mahal, Trump Plaza and the former Trump Marina (sold last year and now operating as Golden Nugget). The tax credit would apply to future tax payments for Trump Taj Mahal over the next five years, starting with \$15 million in 2013, \$9 million each for the following three years and \$12 million in 2017. Trump agreed to pay real estate taxes in 2012 based on the city's assessment in exchange for significant discounts the following year: in 2013, Trump Taj Mahal will receive a 40% reduction in its assessment to \$1 billion, and Trump Plaza Hotel will receive a 66% reduction to \$250 million. Because Revel recently opened, Stinson said he believed that casino will have a harder time proving its assessment shouldn't be based on the \$2.4 billion it cost to build.

West Deptford Township voted to raise its municipal debt by at least \$31.4 million – and was given a standing ovation by the 250 people who packed its town hall. After almost 25 years of legal disputes over the assessed value of the Eagle Point Refinery property, an ordinance was adopted to borrow up to \$33 million and refund \$31.4 million in property tax. El Paso, which operated the refinery, will receive \$18.3 million to settle lawsuits, claiming property assessments were too high; and Sunoco, which bought the site in 2004 and closed it three years ago, will receive \$13.1 million. Mayor Raymond Chintall said the two oil companies will receive payments of approximately \$7 million in 2013, with the balance paid over 20 years. The township currently has a \$141-million debt. Paying off the new bond will cost the average taxpayer \$89 a year beginning in 2014.

California

A court case is continuing into allegations that assessor John Noguez and his staff gave tax breaks to political supporters, with revelations that Douglas Emmett Inc.'s tax breaks met with modest success until late 2010, when Noguez was elected

Los Angeles County's assessor. In Noguez's first year in office, his administration granted 23 tax reductions to the company, cutting the value of its properties by \$307 million, four times what the company received in the previous four years. Noguez had raised more than \$1 million during his campaign to be assessor, the next highest candidate raising less than \$50,000. David Demerjian, head of the district attorney's public corruption unit, said his team was investigating a tax break on the \$21.5-million home of the company's chief executive, Jordan Kaplan, who with his wife and parents were Noguez's biggest contributors. The county refunded the company more than \$4.5 million in 2011, with tax bills reduced an average of 27% while for others, the average reduction was 16%, a *Los Angeles Times* analysis found. The investigation led to searches of a dozen sites in two states and the arrest of a former county appraiser on 60 felony counts related to improper assessment reductions. Noguez spent 19 months as head of the assessor's office, the agency responsible for setting taxable values on more than \$1 trillion in real estate. Prior to securing the top job, he worked for more than two decades as a county appraiser, specializing in large commercial properties. Douglas Emmett Inc. owns 58 office buildings and nine luxury apartment complexes in Southern California and Hawaii. See <http://articles.latimes.com/2012/jul/16/local/la-me-assessor-20120717>.

Transitions

In British Columbia, **Curtis Helgesen** was promoted to Chief Administrative Officer in the District of Elkford.

In the Yukon, Whitehorse appointed **Stan Westby** as its new City Manager.

Dylan Jones is the new President & CEO of the Canada West Foundation.

In Ontario, **Pat Pilgrim** is the new Chief Administrative Officer and Clerk for the Municipality of Centre Hastings. **Manny Baron** is the Town of Petrolia's new Chief Administrative Officer.

Send us your news of appointments, promotions, retirements or other people changes. And why pay for a display ad when you can target jobs to your colleagues for free? Send us a 30-word summary: cmartin@longwoods.com.

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
Jonathan Whitehead

ASSOCIATE PUBLISHER
SUBSCRIBER SERVICES
For address/contact information
changes, please contact
Barbara Marshall
bmmarshall@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

© 2012 Longwoods Publishing Corporation™. All rights reserved. No part of this work covered by the publisher'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 publications 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 completeness, 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 professional advisors prior to acting on the basis of material in this legal letter.

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