



# VALUATION AND CLASSIFICATION OF DEVELOPMENT LAND

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# INTRODUCTION

## ► Overview:

- What is Development Land?
- How is Development Land Valued?
- How is Development Land Classified?
- Complications from other Taxes (Additional School Tax, Empty Homes Tax, Speculation and Vacancy Tax).
- Concerns.

# WHAT IS DEVELOPMENT LAND?

- ▶ Quite simply, any property where there is a higher and better use than the existing use.
- ▶ Most vacant land.
- ▶ Improved properties where land value exceeds income value:
  - ▶ BCA does approach it this simply, but it is not so straightforward, more on this point later.

# HOW IS DEVELOPMENT LAND VALUED?

- ▶ It can get quite complicated in BC.
- ▶ Difference between “standard” sites and master-planned communities:
  - ▶ Standard sites – Direct Comparison Approach.
  - ▶ Master-planned communities – Subdivision Residual Approach.

We also have a lot of land assemblies:

- ▶ BCA cannot value to owner, so cannot value the individual sites at full development value (sum of the parts equals less than the whole).

How is Highest and Best Use determined?

- ▶ 50% probability test as per *Petro Canada* (yes, it is subjective/grey).

# HOW IS DEVELOPMENT LAND VALUED?

- ▶ Look at:
  - ▶ Current zoning
  - ▶ Rezoning
  - ▶ OCP (Official Community Plan)
  - ▶ Policy Report
  - ▶ Master Plan Agreement
- ▶ Important point that Assessor cannot speculate.
- ▶ Sales provide market support.

# HOW IS DEVELOPMENT LAND VALUED?

- ▶ Further considerations in determining value:
  - ▶ CACs (Community Amenity Contributions), have they been paid?
  - ▶ Bonus density payments, have they been paid?
  - ▶ Any agreed to cash payments (contribution to transit station, for eg.).
  - ▶ In lieu of cash contributions (affordable housing, daycare, for eg.).

# HOW IS DEVELOPMENT LAND CLASSIFIED

- ▶ There are nine different property classes in BC, each with a different mill rate, specific by taxing jurisdiction.
- ▶ Classification is predicated on the Prescribed Classes of Property Regulation and abundance of case law.
- ▶ With development land, primarily dealing with Classes 1, 6, and 8.
- ▶ Classification is distinct from valuation, unrelated concepts to BCA, they do not class as you value.
- ▶ Class 6 is a “catch-all” class, if a property does not reasonably fall into any other class, it is classified Class 6.
- ▶ Actual use trumps – if a house or rental building sits on a site that is zoned commercial, it will be classified 100% Class 1.

# HOW IS DEVELOPMENT LAND CLASSIFIED

- ▶ Section 1(1)(c) of the Prescribed Classes of Property Regulation permitted for split classification (between Classes 1 and 6) of development sites where requisite specificity was found in Zoning, Section 219 Covenant, Official Development Plan, Land Use Contract, or Phased Development Agreement.
- ▶ October 31<sup>st</sup> is pertinent and zoning, etc. need to be enacted by this date to count.
- ▶ Vacant land could be class-split.
- ▶ *Amacon* case resulted in Class 1 being applied to untenured airspace – huge win for taxpayer at the time.
- ▶ Improved development land with commercial building could also be class-split.
- ▶ 2022 BCA big change from *Amacon*, based upon *Seagull Leasing* case has not applied class-split to any properties with commercial use at grade.

# HOW IS DEVELOPMENT LAND CLASSIFIED

- ▶ Section 1(1)(a) of the Prescribed Classes of Property Regulation applies Class 1 to properties “used or residential purposes”.
- ▶ There has been much litigation on what this means over the past two decades.
- ▶ As it applies to development sites, Class 1 is applied (if none was through Section 1(1)(c)) if there was excavation by October 31<sup>st</sup> of the previous year – if so Class 1 will be applied based upon what proportion of the project is residential.
- ▶ More recent cases have decided that without excavation, but sheet piling or preloading, that the threshold has been met.
- ▶ Back to actual use trumping all, popular tax strategy has been to put a dog park or community garden on development sites, these result in Class 8 being applied, which in most municipalities carries a lower mill rate than Class 6.

# COMPLICATIONS FROM OTHER TAXES

- ▶ Important to understand the implications of being in a certain tax classification.
- ▶ In the past, Class 1 was the goal.
- ▶ By 2019, Class 1 not always the best tax position due to the introduction of THREE new taxes, all of which potentially apply to development land (these taxes target Class 1):
  - ▶ Additional School Tax (AST), adds 2 mills between \$3M to \$4M, and 4 mills over \$4M Master-planned communities – Subdivision Residual Approach.
  - ▶ Speculation and Vacancy Tax (SVT), adds 5 mills for Canadians or PRs, and 20 mills for foreigners or satellite families
  - ▶ Empty Homes Tax (EHT), only applies in the City of Vancouver, adds 30 mills (going to 50 mills next year)

Important to understand applicability of new taxes and whether Class 1 favorable or not.

# CONCERNS

- ▶ BCA being too aggressive on Highest and Best Use:
  - ▶ Valuing new and modern buildings at land value.
  - ▶ Applying rezoned value to sites that are not close to achieving more density Bonus density payments, have they been paid?
- ▶ BCA reversing class-split on properties with commercial use at grade.

THANK YOU



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