

***UBC Neighbourhoods
Taxation Working Group***

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By Email (MAH.Minister@gov.bc.ca)

The Honourable Selina Robinson, M.L.A.
Minister of Municipal Affairs and Housing
PO Box 9056 Stn Prov Govt
Victoria, BC V8W 9E2

Dear Minister:

UBC Neighbourhoods Fire Service Charge

We are writing to request the termination of the annual fire service charge imposed on the UBC residential neighbourhoods pursuant to an agreement between the provincial government and UBC. This charge was introduced last year by the former Liberal government. Our MLA, the Honourable David Eby, has publicly agreed that the charge is unfair and, we believe, supports our request.

We put much effort into attempting to get the former Liberal government to reverse its decision, including meeting with former Minister Fassbender. Our arguments regarding the unfairness of the charge fell on deaf ears and were never met with a reasoned response. Minister Fassbender listened to us politely, then told us that he follows his staff's advice and was not willing to consider our arguments.

This is an extremely important issue for our community. Because of the unusual way in which revenue is raised to fund community expenses, the fire service charge imposes a substantial financial hardship on the community and creates additional challenges for the community's financial viability. That would be irrelevant, of course, if the fire service charge were justifiable; however, it isn't.

Fire protection service is provided to the UBC campus (including the residential neighbourhoods) and the University Endowment Lands (UEL) by Vancouver Fire and Rescue Services, pursuant to a long-term contract between the provincial government and the City of Vancouver. UEL property owners reimburse the provincial government through their property taxes for the portion of the contract cost considered to relate to their community.

Prior to the introduction of the fire service charge, residents of the UBC neighbourhoods did not pay any amount to the provincial government that was explicitly identified as being for fire protection service. As we have learned through Freedom of Information requests, officials of the Ministry of Community, Sport and Cultural Development (CSCD) concluded that there was an

inequity between the UBC neighbourhoods and the UEL; they thought that UBC residents were getting a free ride.

In reaching this conclusion, the officials failed to take into account the fundamental difference between the province's taxation of the two unincorporated communities: UBC property owners pay the general rural property tax, but UEL property owners do not. Instead, they pay a *special* rural property tax that is based on the costs to run their community and is used for that purpose (similar to taxation in a municipality). One of those costs is an amount for fire protection service. This year, UBC property owners paid about \$2.58 million in general rural property tax, whereas UEL property owners paid \$500,000 for fire protection service. Hence, UBC property owners contributed about \$2 million more to the provincial coffers this year than did UEL property owners. That is *before* taking into account the fire service charge, which increases the excess paid by UBC property owners to \$3 million. It should be added that properties in the two communities have approximately the same aggregate assessed values.

Thus, the situation is this: Even before the introduction of the fire service charge, the province taxed our community unfairly relative to the UEL; the fire service charge makes the unfairness substantially greater.

Our position is that a portion of the general rural property tax paid by UBC property owners *already funds* the community's share of the cost of fire protection service. Of the \$2.58 million tax paid this year, it can be calculated that approximately \$440,000 is to fund police services. This is the amount by which our police tax is reduced in recognition that a portion of the general rural property tax is considered to fund policing (the rates of police tax payable in all rural areas are reduced for this reason from what the rates would be if the areas were municipalities). That leaves \$2.14 million to fund other services. The only other service we are aware of receiving from the provincial government is fire protection service, for which the separate charge is now made.

After making the faulty comparison with the UEL, officials sought to justify the fire service charge on the basis that the UBC neighbourhoods are being treated the same as other unincorporated areas. However, this rationale does not take into account the purpose for which general rural property tax is levied nor the differences between the UBC neighbourhoods and those other areas, including the fact that we pay (through a services levy under our leases with UBC) to maintain the roads in our community and we contribute towards Metro Vancouver's Major Road Network. Moreover, it can safely be assumed that the general rural tax was not designed to be applied to a dense, urban community. As mentioned above, it appears that UBC property owners paid \$2.14 million in general rural property tax this year in return for which the community receives no services.

The attachment to this letter presents background information and a more detailed discussion of the above points.

Lastly, we should give you a little information about the Taxation Working Group. We are a group of residents who are extremely concerned about the fire service charge. While three of us are Directors of the University Neighbourhoods Association (Laura Cottle, Rose Wang, and Ying Zhou) and one is the Alternate Director for Metro Vancouver's Electoral Area A (Bill Holmes), we participate in the Working Group as residents, not in our official capacities.

Our group was formed over a year ago, when we became aware of the former Liberal government's intention to impose the fire service charge. In an attempt to get that government to change its mind we wrote letters to the former Minister of Community, Sport and Cultural

Development (Minister Fassbender) and the former Minister of Finance (Minister de Jong); met with former Minister Fassbender; met with our MLA, David Eby; wrote articles for our community newspaper, The Campus Resident; and got the UNA Board to write a letter to former Minister Fassbender expressing that Board's opposition to the charge. In addition, we made Freedom of Information requests that have provided insight into the Liberal government's decision to impose the charge. All the correspondence and FOI material is on a website (www.ubcresidents.ca) established by us to keep residents informed.

We would welcome an opportunity to meet with you to discuss this important matter. The meeting can be arranged through Bill Holmes, whose contact information is at the top of this letter.

Yours sincerely,



William Holmes



George Mackie



Ying Zhou



Laura Cottle



Rose Wang

Attachment: UBC Neighbourhoods: Fire Service Charge

cc: The Honourable David Eby, Attorney General, MLA, Vancouver-Point Grey
Stuart Belkin, Chair, UBC Board of Governors
Professor Santa Ono, President and Vice-Chancellor, UBC
Richard Alexander, Chair, University Neighbourhoods Association
Michael White, Associate Vice President, Campus and Community Planning, UBC

UBC Neighbourhoods Fire Service Charge

The imposition of a fire service charge on property owners in the UBC neighbourhoods is inequitable. Instead of levying the charge, the provincial government should allocate a portion of the general rural property tax collected from us to pay our share of the cost of fire protection service. This document sets out the arguments in support of this position and is organized as follows:

- A. General information on the UBC neighbourhoods and the University Endowment Lands (UEL).
- B. Property taxation in the UBC neighbourhoods.
- C. Property taxation in the UEL.
- D. CSCD's rationale for imposing the fire service charge on the UBC neighbourhoods.
- E. CSCD's comparison of taxes payable by UEL and UBC taxpayers.
- F. Purposes for which UBC taxpayers pay the general rural property tax.
- G. Financial difficulty for the UBC neighbourhoods.
- H. Summary.

A. UBC Neighbourhoods and the UEL

The UBC neighbourhoods and the University Endowment Lands (UEL) are two communities on the western end of the Point Grey peninsula, neither of which is in a municipality. The UBC neighbourhoods are the non-student residential portions of the UBC campus. The UEL is adjacent to the UBC campus. Notwithstanding the UEL's name, there is no connection between the UEL and UBC.

Property owners in the UBC neighbourhoods lease their property from UBC under long-term leases. In the UEL, most, if not all, residential property is owned outright, i.e., in fee simple.

The powers and functions of a local government for the UBC neighbourhoods rest primarily with UBC, which has delegated a number of functions to a society called the University Neighbourhoods Association (UNA). The provincial government and Metro Vancouver also exercise a few local government powers with respect to the neighbourhoods.

For the UEL, the provincial government (acting now through the Minister of Municipal Affairs and Housing) exercises most of the powers and functions of a local government. The powers are set out in the University Endowment Land Act and are similar to those of a municipal council.

B. Property Taxation in the UBC Neighbourhoods

Because the UBC campus is not within a municipality, property owners in the UBC neighbourhoods ("UBC taxpayers") pay the provincial general rural property tax. In addition, we pay a services levy to UBC pursuant to the terms of our leases. The services levy rate is determined so as to bring our total property taxes up to the amount of property taxes that would be payable if our properties were in Vancouver. The amount of the services levy for a particular property is equal to the difference between the aggregate amount of property taxes

that would be payable if the property were in Vancouver minus the amount of general rural property tax and other property taxes payable in respect of the property.

The services levy is used to fund the costs of running the UBC neighbourhoods, e.g., salaries of UNA employees, maintenance of infrastructure, landscaping, and community centres (which also charge fees for programs). Thus, the levy is analogous to property tax in a municipality. A portion of the levy is retained by UBC and applied to certain of the costs, a portion is applied by UBC to pay the province's fire service charge, and the remainder is transferred to the UNA for its use.

In addition to the general rural property tax and the services levy, UBC taxpayers pay police tax. We also pay several taxes that are payable by property owners throughout Metro Vancouver, including school tax and TransLink tax.

C. Property Taxation in the UEL

The property tax situation in the UEL differs from that in the UBC neighbourhoods. UEL property owners ("UEL taxpayers") do not pay the general rural property tax. Instead, they pay a tax determined pursuant to the *University Endowment Land Act*. Section 4 of that Act provides that the rates of tax are to be determined so as to raise the money required for the "general administration and maintenance" of the UEL as well as the "construction and maintenance of water systems and sewer systems and other works". The Act deems this tax to be imposed and assessed under the *Taxation (Rural Area) Act* (the Act that imposes the general rural property tax) for purposes of its collection. That is why it is also referred to as rural property tax.

One cost included in determining the UEL tax rates is a provincial charge for fire protection service. For 2016 and 2017, we understand that the charge was \$500,000.

Almost all the tax revenue collected from UEL taxpayers is used to pay the costs of running the UEL; only the fire service charge is retained in Victoria. Thus, the tax is similar to municipal tax payable by property owners in a municipality.

Apart from their exclusion from general rural property tax, UEL taxpayers pay the same property taxes as are payable by UBC taxpayers, e.g., police tax, school tax, TransLink tax, etc.

D. CSCD's Rationale for the Fire Service Charge

Documents obtained from the Ministry of Community, Sport and Cultural Development ("CSCD") through Freedom of Information show that the initial motivation for the the fire service charge – or an additional tax, another option that was considered – was the perceived inequity between the province's treatment of the two communities. Here are some key statements from those documents:

- In a presentation to the Cabinet Working Group on November 27, 2013 listing the recovery of fire service costs as something for which CSCD would be seeking approval, one of the implications listed is: "UEL residents & UBC neighbourhoods would be on parallel footing".
- In an email written on January 7, 2014 regarding the proposal to impose a fire service charge, a senior CSCD official states: "I think that our focus from the start had been on rectifying the inequity between the UBC neighbourhoods and the UEL."

- A document headed “Cabinet Submission – Request for Decision” dated July 8, 2014 states: “On the Point Grey Peninsula there is an inequity in paying fire service costs: UEL residents fund their share; UBC residents do not.”

The rationale for the fire service charge that CSCD gave to the UNA is that “unlike properties in B.C.’s other unincorporated areas and the UEL, UBC’s market properties currently do not pay directly for fire services costs.” In another communication to the UNA, CSCD said: “UBC’s residents are charged neither a higher general rural levy, as in the case of the UEL, nor a separate fire levy, as is standard practice for BC’s unincorporated areas that receive community fire protection.”

CSCD’s rationale for the fire service charge is deficient for two reasons:

1. The comparison of tax payable by UBC taxpayers with the tax payable by UEL taxpayers is based on a misunderstanding of taxation in the UEL.
2. The comparison with other unincorporated areas does not take into account the purpose for which general rural property tax is levied nor the differences between the UBC neighbourhoods and those other areas.

The next two sections elaborate on these deficiencies.

E. CSCD’s Comparison of Taxes Payable by UBC and UEL Taxpayers

In comparing taxes payable by UBC and UEL taxpayers, CSCD officials said this:

Under the authority of the University Endowment Lands Act, UEL residents pay a higher general rural tax levy to fund municipal-type services provided by the UEL administration or other service provider. For 2015, the Class 1 general residential rural rate for UEL is set 52% higher than the rate paid by UBC’s residents (UEL 0.8682 vs UBC 0.5700). UEL’s higher rate generates revenue that is used to fund its share of fire protection costs. UBC residents receive the same fire protection, but they are not levied the higher rate necessary to fund their share of costs. Instead UBC’s residents pay BC’s standard rate for the general rural levy.¹

This comparison is fundamentally flawed. The *special* rural property tax payable by UEL taxpayers is applied to pay the expenses of running their community. In contrast, only a small portion of the general rural property tax payable by UBC taxpayers is applied for the benefit of our community. This small portion (described further below) funds a reduction in the amount of police tax UBC taxpayers would otherwise pay. Since UEL taxpayers benefit from the same reduction in police tax but do not make any compensating payment, the police tax portion of the general rural property tax has been disregarded in the discussion in this section.

The problem with the CSCD comparison can be seen by considering rural property taxes paid by the two communities for 2015, the year referred to in the above quotation. An important point for the purposes of this comparison is that the aggregate assessed values of properties in the two communities were similar: slightly more than \$3 billion. UEL taxpayers paid special rural property tax of \$2.87 million. Of that amount, approximately \$400,000 was for fire protection service. The remainder was used to fund other municipal-like services for their community, including salaries, other operating costs, and capital costs. In contrast, UBC taxpayers paid \$1.95 million in general rural property tax, all of which remained in provincial coffers. Thus, UBC taxpayers paid \$1.55 million more to the province for its use than did UEL taxpayers.

¹ The UNA provided us with this quotation in an email dated March 21, 2016.

With the fire service charge, the inequitable treatment of UBC taxpayers relative to UEL taxpayers is much more pronounced. For 2017, UEL taxpayers paid \$500,000 for fire protection service. UBC taxpayers paid \$2.58 million in general rural property tax and another \$1 million for the fire service charge. Thus, UBC taxpayers contributed nearly \$3 million more this year to the provincial coffers than did UEL taxpayers.

While it is not meaningful to compare tax rates between two communities with such different profiles of assessed property values, if it were meaningful to do so CSCD has presented a misleading comparison. The services levy payable by UBC taxpayers must be included in the comparison since it is, in substance, a tax that funds the operation of the community. For 2015, the aggregate residential mill rate for the UBC neighbourhoods was 1.63715 (rural property tax rate of 0.57 and services levy rate of 1.06715), which is nearly double the UEL residential mill rate of 0.8682. The rates for 2017 are 1.1834 (UBC neighbourhoods) vs. 0.76482 (UEL).

F. Purposes for Which UBC Taxpayers Pay General Rural Property Tax

CSCD's justification of the fire service charge included this statement:

UBC residents pay the same general rate as residents in BC's other unincorporated areas; however, residents in unincorporated areas that receive community fire protection also pay an additional separate fire levy to fund this service. This levy is usually established through their regional district and collected on behalf of the regional district by the Province's Surveyor of Taxes. The fire levy is typically set at a rate that fully funds their community fire protection service.²

It is clear that the reference to "other unincorporated areas" does not include the UEL, the unincorporated area closest to the UBC neighbourhoods. As described above, UEL taxpayers do not pay the general rural property tax.

The problem with this statement is that it implicitly assumes that UBC taxpayers pay the general rural property tax for the same purposes as apply in other unincorporated areas. However, this assumption does not stand up under scrutiny. As can be determined from the government's own statements (see below), the tax is intended primarily as a source of funding for the maintenance of provincial secondary roads. While there is good reason to require other unincorporated areas to shoulder a portion of the cost of such roads, that reason does not apply with respect to the UBC neighbourhoods.

The UBC neighbourhoods are a highly urbanized area, unlike most other unincorporated parts of the province. UBC taxpayers pay through the services levy for the maintenance of roads in our community (which are owned by the province). We also contribute towards the cost of the Major Road Network throughout Metro Vancouver, by paying several TransLink taxes, including TransLink property tax and TransLink gas tax. These are important differences between the UBC neighbourhoods and other unincorporated areas.

Taxpayers in the other communities in Metro Vancouver do not pay property tax to fund provincial roads. That includes UEL taxpayers (except for local roads in their community). There is no apparent reason why UBC taxpayers should be singled out in this regard and made to pay through property tax for roads not in our community.

A small portion of the general rural property tax is a source of funding for police services. This portion can be determined from an examination of the way in which the rates for police tax are

² See supra note 1.

computed. The police tax is payable by taxpayers in unincorporated areas and taxpayers in municipalities with populations under 5,000. In the computation of tax rates for taxpayers in unincorporated areas, a credit – called the “rural dime” – is given in recognition that a portion of the general rural property tax is also notionally allocated to fund police services.

In the case of the UBC neighbourhoods, the credit for 2017 is approximately \$440,000. Thus, of the \$2.58 million of general rural property tax paid by UBC taxpayers, approximately \$440,000 can be considered to go towards the funding of police services.³

The question arises: what, if anything, do UBC taxpayers obtain in return for paying the remainder of the general rural property tax? For 2017, that remainder is about \$2.14 million, a huge sum for a community the size of the UBC neighbourhoods. In the past it had been thought that this portion of the tax funds—in fact more than funds—the UBC neighbourhoods’ share of the cost of fire protection service. That was the only other identifiable benefit that UBC residents obtained from the provincial government without an explicit charge. With the imposition of a separate charge for fire protection service, it now appears that the UBC neighbourhoods receive nothing in return for this large annual payment to the provincial government.

The remainder of this section sets out the support for the statement made above that general rural property tax is payable by taxpayers in other unincorporated areas primarily to fund the maintenance of provincial roads.

Since the revenue from the general rural property tax is not raised or earmarked for specific purposes, the reasons for the payment of this tax have to be discerned from statements made in various places. Two experts on local government in B.C. said this in their book:

The province levies a tax on rural properties at uniform province-wide rates (except for special provisions in Peace River) for each class to fund road maintenance, rural subdivision approval, and snow removal for public secondary roads.⁴

Ministry of Finance Tax Bulletin TRA 001, *Rural Property Taxes*, dated April 2015, states the following on page 5:

The provincial government sets the rural area property tax rate, which is the same throughout the province. These revenues help pay for rural area public services, such as local road maintenance.

A 1994 Discussion Paper titled *Financing Local Police Services in British Columbia* stated the following at page 13:

To pay for its share of costs in rural areas ... the province relies on two funding sources: general taxation and the rural property tax. The rural property tax is levied by the province in all unincorporated areas. While there is no formal policy regarding the use of the funds raised, two types of “local government” services are generally thought to be supported by the rural property tax: police services and road maintenance.⁵

³ UEL taxpayers pay police tax at the same reduced rates as UBC taxpayers, even though they do not contribute in any other way towards the cost of policing.

⁴ Robert Bish and Eric Clemens, *Local Government in British Columbia*, 4th ed. (Richmond, BC: Union of British Columbia Municipalities, 2008), at 190.

⁵ The Discussion Paper was issued in September 1994 by the Joint Committee on Policing Costs, comprised of members from the Ministry of Attorney General, the Ministry of Municipal Affairs, the Ministry of Finance and Corporate Relations, and the Union of B.C. Municipalities.

Apportioning rural property tax on the basis of the costs of police services and road maintenance, the Discussion Paper concluded that only 31% of that tax should be considered to fund police services.

A 2002 document from the Ministry of Public Safety and Solicitor General states:

Taxpayers in unincorporated areas paid a provincial rural property tax of which only a small portion could be deemed to support police costs.⁶

According to a report published by that Ministry in 2006:

Rural property owners pay a rural property tax, but the amount raised from this tax does not make a significant contribution to policing.⁷

An email sent in 2015 by a CSCD official to a UBC official said the following about general rural property tax:

In terms of how the general rural levy is used by the Province, the tax is collected from BC's unincorporated areas and deposited into the Province's consolidated revenue fund. This revenue is generally considered to help fund rural services that are the responsibility of the Province such as maintenance for public secondary roads (does not include highways or private roads).⁸

The province's online sample rural property tax notice for 2017 states the following about provincial rural tax:

The provincial rural tax helps fund provincial services in rural areas including maintenance and snow removal for public secondary roads (does not include highways or private roads).⁹

It is clear from these quotations that the principal purpose for the payment of rural property tax is to fund maintenance for provincial secondary roads. A small portion of the tax funds police services. As described above, this portion can now be quantified for any community by computing the credit it has been given in the determination of the rate of police tax applicable to the community.

G. UBC Neighbourhoods Facing Financial Difficulty

Even before the introduction of the fire service charge, the UBC neighbourhoods were facing financial strains. As described above, the services levy in respect of a property is computed as the difference between the total amount of tax that would be payable if the property were in Vancouver and the total amount of tax actually payable in respect of the property. The decreasing Vancouver tax rate and the increasing rural property tax rate have squeezed the services levy, resulting in declining revenue even though the UBC neighbourhoods are a growing community. (The decreasing Vancouver tax rate is problematic because UBC property values have not increased as rapidly as Vancouver property values.)

To balance its budget, the UNA is currently drawing down reserves accumulated over the last decade. That is a temporary solution. Within the next short while, community expenses will

⁶ *Restructuring Police Financing in Municipalities Under 5,000 Population and Unincorporated Areas: Discussion Paper*, September 2002, at 1.

⁷ *Police Financing in British Columbia: A New Police Financing Model in Small Communities and Rural Areas*, April 2006, at 1.

⁸ Email dated August 4, 2015 from Heather Brazier to Michael White, obtained through Freedom of Information.

⁹ www2.gov.bc.ca/gov/content/taxes/property-taxes/annual-property-tax/understand/tax-notice/sample

have to be reduced significantly. The financial problem cannot be solved by increasing the services levy since the amount of that levy is fixed by the leases with UBC.

The imposition of the fire service charge significantly exacerbates the UNA's financial difficulty. The charge results in a dollar-for-dollar reduction in the services levy and hence in the amount of money available to run our community. The services levy currently generates under \$3 million. A \$1 million reduction is a huge decrease. This effect of the charge is why its imposition is a matter of serious and urgent concern.

H. Summary

CSCD's rationale for imposing a new charge on UBC taxpayers for fire protection service is flawed. The new charge is unjustifiable and inequitable.

In comparing the tax payable by UBC taxpayers with the tax payable by UEL taxpayers, CSCD has overlooked a fundamental difference that renders such a comparison invalid. UEL taxpayers pay the province for fire protection service but do not pay the general rural property tax. Instead, they pay a *special* rural property tax that is used to run their community. This year UBC taxpayers paid the province \$3.58 million as a combination of rural property tax and the fire service charge. When compared to the \$500,000 that UEL taxpayers paid for fire protection service, the inequitable treatment of UBC taxpayers is glaring.

According to the government's own material, general rural property tax is payable by taxpayers in other unincorporated areas principally to fund the maintenance of provincial secondary roads. UBC taxpayers should not be required to contribute to the cost of those roads through rural property tax, given that: (i) we pay to maintain the roads in our community; (ii) we contribute to the funding of the Major Road Network in Metro Vancouver; and (iii) neither UEL taxpayers nor taxpayers in Metro Vancouver municipalities pay property tax to fund provincial roads.

While a small portion of the general rural property tax paid by UBC taxpayers funds police service for the UBC neighbourhoods (17% this year), it appears that the community does not obtain any benefits in return for the bulk of that tax. The fire service charge should be terminated and a portion of the rural property tax we pay should be allocated to cover the community's share of the cost of fire protection service. While this would still leave UBC taxpayers treated inequitably by the province relative to UEL taxpayers, it would be an improvement over the situation today.