

***UBC Neighbourhoods  
Taxation Working Group***

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May 23, 2016

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

The Honourable Michael de Jong, Q.C.  
Minister of Finance  
PO Box 9048 Stn Prov Govt  
Victoria, BC V8W 9E2

Dear Minister:

**Taxation of Property Owners in the UBC Neighbourhoods**

We are writing to bring to your attention an inequity in the provincial taxation of property owners in the UBC neighbourhoods and to request a meeting with you to discuss this matter.

The Ministry of Community, Sport and Cultural Development (CSCD) decided recently to impose a fire service charge on property owners in the UBC neighbourhoods (the "UBC taxpayers"). This is in addition to the general rural property tax. We submit that the combination of rural property tax and the fire service charge amounts to inequitable taxation. A portion of the rural property tax should be applied to pay our share of the cost of fire protection service. Our understanding is that this requires the consent of your Ministry, which is why we are writing to you.

This is an extremely important issue for our community. Because of the unusual way in which revenue is raised to fund community expenses, the imposition of the fire service charge will impose substantial financial hardship on the community and could even throw the financial viability of the community into question.

In justifying its decision to impose the fire service charge, CSCD has compared rural property tax payable by UBC taxpayers to rural property tax payable by property owners in our neighbouring community, the University Endowment Lands (UEL) (the "UEL taxpayers"). However, in doing so, Ministry officials have overlooked a fundamental difference. UEL taxpayers pay a *special* rural property tax that is based on the costs to run their community, including an amount for fire protection service. All their tax revenue is applied for the benefit of their community. Thus, the tax is similar to property tax payable in a municipality. In contrast, UBC taxpayers pay the general rural tax, **none** of which is applied for the benefit of our community.

In 2015, UEL taxpayers paid special rural property tax of \$2.866 million. Of that amount, approximately \$400,000 was retained in Victoria to pay for fire protection service. In contrast, UBC taxpayers paid \$1.948 million in general rural property tax, all of which was retained in

Victoria. It is noteworthy that the aggregate assessed values of properties in the two communities were similar: slightly more than \$3 billion.

Clearly, it is inequitable that UBC taxpayers contribute nearly \$2 million annually to the provincial coffers while UEL taxpayers contribute only \$400,000. With the \$1 million per year fire service charge to be imposed on our community, the discrepancy will become even more pronounced. The unequal treatment of the two communities cannot be justified.

As for the financial consequences to our community, UBC taxpayers pay a services levy of approximately \$3.5 million per year for the running of the community. This services levy is paid pursuant to our leases with UBC and is like property tax in a municipality. The terms of the leases are such that there will be a dollar-for-dollar reduction in the services levy with the imposition of the fire service charge. A \$1 million reduction in the services levy will be disastrous for our community, which already faces financial strains and is having to draw down on reserves to balance its budgets.

The attachment to this letter provides background information and explains in detail why CSCD's justification for the new fire service charge is flawed.

Lastly, we should note why residents, rather than the University Neighbourhoods Association (UNA), are raising this matter with you. The UNA is an entity that provides municipal-like services to the UBC neighbourhoods. As a society, the UNA is limited to carrying out the purposes set out in its constitution. Those purposes do not include acting as an advocate on behalf of residents. For this reason, the UNA cannot represent residents in our attempt to obtain fair tax treatment at the hands of the provincial government.

We look forward to meeting with you and your officials soon 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

**Attachment:** UBC Neighbourhoods: Provincial Taxation of Property Owners

cc: The Honourable Peter Fassbender, Minister of Community, Sport  
and Cultural Development  
David Eby, MLA, Vancouver-Point Grey  
Richard Alexander, Chair and President, University Neighbourhoods Association  
Michael White, Associate Vice President, Campus and Community Planning, UBC

## **UBC Neighbourhoods Provincial Taxation of Property Owners**

The imposition of a fire service charge on property owners in the UBC neighbourhoods is inequitable. Instead of levying a new charge, the provincial government should apply a portion of the rural property tax revenue 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 rural property tax.
- G. Financial difficulty for the UBC neighbourhoods.
- H. Summary.

### **A. UBC Neighbourhoods and the UEL**

The UBC neighbourhoods and the 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, of the 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 through the Minister of Community, Sport and Cultural Development) 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 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 and the remainder is transferred to the UNA for its use.

Regardless of how the fire service charge is imposed, the result will be the same: there will be a corresponding reduction in the amount of services levy available to fund our community. If the charge takes the form of additional rural property tax, the amount of services levy that we pay will be reduced by an equivalent amount. If UBC is required to pay the charge, then the charge will be deducted from our services levy.

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. We understand that this charge has recently been about \$400,000 per year and may be increased to about \$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**

As justification for the fire service charge, the Ministry of Community, Sport and Cultural Development ("CSCD") observed, in a one-page document given to the UNA, 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 justification of 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 invalid in that it ignores a fundamental difference in the application of the tax payable by the two communities.
2. UBC taxpayers should not be considered to pay rural property tax for the same purposes as taxpayers in other unincorporated 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.<sup>1</sup>

This comparison is fundamentally flawed. It makes no sense to compare the two rates of tax. The *special* rural property tax payable by UEL taxpayers is applied to pay the expenses of running their community. In contrast, none of the general rural property tax payable by UBC taxpayers is applied to the benefit of their community.

The problem with this comparison can be seen by considering rural property taxes paid by the two communities for 2015. UEL taxpayers paid special rural property tax of \$2.866 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 \$1.948 million in general rural property tax, all of which was retained in Victoria. The aggregate assessed values of properties in the two communities were similar: slightly more than \$3 billion.

It is clearly inequitable for UBC taxpayers to have contributed nearly \$2 million to the provincial coffers in 2015 while our neighbours in the UEL contributed only \$400,000. This difference for 2015 is representative of the difference in other years. With the inclusion of the \$1 million per year of fire service charge to be imposed on our community, the inequity will become much more pronounced.

While it is not meaningful to compare tax rates between two communities with vastly 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.

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

## **F. Purposes for Which UBC Taxpayers Pay 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.<sup>2</sup>

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 publications (see below), the tax is intended primarily as a source of funding for the maintenance of provincial roads. While there is good reason to require other unincorporated areas to shoulder a portion of the cost of provincial 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 for the maintenance of roads in their community through their services levy. While they use provincial highways, so do residents of Vancouver, Surrey, Langley and all the other municipalities in Metro Vancouver. Property owners in the municipalities are not required to pay a tax to fund provincial roads. There is no apparent reason why UBC taxpayers should have a cost for those roads imposed on them given that a cost is not imposed on taxpayers in the other communities in Metro Vancouver. Moreover, it would be patently unfair to require UBC taxpayers to bear part of the cost of provincial roads through property tax when UEL taxpayers are not required to do so. Thus, rural property tax payable by UBC taxpayers should not be considered to be paid to fund provincial roads.

The question then arises: what, if anything, do UBC taxpayers obtain in return for paying rural property tax? The only answer that we can see is that this tax funds—in fact more than funds—the UBC neighbourhoods' share of the cost of fire protection service. That is the one benefit that UBC residents obtain from the provincial government without an explicit charge. (Payment is made for policing services through the police tax.)

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

Since the revenue from the 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:

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<sup>2</sup> See supra note 1.

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.<sup>3</sup>

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.<sup>4</sup>

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.<sup>5</sup>

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.<sup>6</sup>

A recent document from that Ministry states:

A portion of the provincial cost [of the RCMP Provincial Force] is recovered through the Police Tax. In 2007, municipalities under 5,000 population and unincorporated areas began to pay the Police Tax which covers a portion of the costs of the general duty and general investigative police services provided by the RCMP provincial force.<sup>7</sup>

Lastly, we note the following passage from a letter the Minister of Public Safety and Solicitor General sent to the Union of BC Municipalities on February 16 of this year:

The Province is responsible for providing policing to unincorporated/rural areas and to municipalities with a population under 5,000. The Royal Canadian Mounted Police (RCMP) is

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<sup>3</sup> Robert Bish and Eric Clemens, *Local Government in British Columbia*, 4th ed. (Richmond, BC: Union of British Columbia Municipalities, 2008), at 190.

<sup>4</sup> 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.

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

<sup>6</sup> *Police Financing in British Columbia: A New Police Financing Model in Small Communities and Rural Areas*, April 2006, at 1.

<sup>7</sup> *Police Resources in British Columbia, 2014*, December 2015, at 2.

under contract to act as BC's Provincial Police Force. *While residents in these areas contribute to their policing costs through the Police Tax, these areas do not have the same ability as municipalities to increase their financial contributions to add resources to their local policing units.* [emphasis added]

It is clear from these quotations that, prior to 2007, a large portion of the rural property tax was regarded as payable to fund roads. A small portion was to fund police services. With the introduction of the police tax in 2007, the rural property tax is no longer considered to be a funding source for the cost of policing. Thus, all or substantially all of the rural property tax is now considered to be payable for the purpose of funding roads.

#### **G. UBC Neighbourhoods Facing Financial Difficulty**

Even before the introduction of the fire service charge, our community has been 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 we 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 having to draw down reserves accumulated over the last decade. That is a temporary solution. Within the next few years, community expenses will 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 our leases.

The imposition of the fire service charge will significantly exacerbate the UNA's financial difficulty. The charge will result 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 about \$3.5 million annually. 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.

While efforts are being made to find opportunities to save costs and generate new revenue, it is unrealistic to expect these to offset the effect of the fire service charge. If that charge remains in place, community services will eventually have to be severely curtailed.

#### **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 in the application of the taxes 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* property tax that is used to run their community. If UBC taxpayers were taxed like UEL taxpayers, we would have paid half as much rural property tax last year, i.e., \$1 million instead of \$2 million. This unequal tax treatment of two neighbouring communities is inequitable.

According to the government's own material, rural property tax is payable by taxpayers in other unincorporated areas principally to fund provincial roads. UBC taxpayers should not be required



to contribute to the cost of those roads through their property tax, given that neither UEL taxpayers nor taxpayers in Metro Vancouver municipalities pay property tax for that purpose.

The only apparent benefit that the UBC neighbourhoods obtain from the provincial government for which there is no explicit charge is fire protection service. Our share of the cost of this service is about half of the amount of rural property tax that we pay. Thus, a portion of the rural property tax payable by UBC taxpayers should be considered to fund this benefit. This should be made formal by recognizing a portion of the rural property tax as revenue to CSCD.