

Progress report

July 2, 1996

The Honourable Al Leach
Minister of Municipal Affairs and Housing
17th Floor, 777 Bay Street
Toronto, Ontario
M5G 2E5

Dear Minister:

As requested, I am pleased to provide you with a progress report on the activities of the Who Does What Advisory Panel.

The Panel has met several times. Three sub-panels have been established and each has held its own series of meetings. The Sub-panel on **Municipal Administration** building upon earlier work by Ernie Hardeman has reviewed a number of potential changes in municipal administration legislation, the handling of offenses under a number of provincial acts, and has established its workplan to recommend changes that could be implemented this fall.

A second Sub-panel on **Transportation and Utilities** has also met several times. Much work has already been undertaken on provincial and municipal responsibilities here and options for major improvements for both levels of government in this area. The panel has also developed its workplan to return with recommendations this fall.

It is anticipated that two more Sub-panels will be created shortly – one on **Emergency Services**, and a second on **Human Services**. These should be up and running in July.

This fast start underlines the commitment of all panellists to proceed promptly, to build upon past studies, and to push toward recommendations for implementation to the government.

The Sub-panel on **Property Tax Reform**, which I chair, has acknowledged the urgency of the need to tackle this issue first and foremost. It is the panel's view that the existing property tax system in Ontario is no longer working fairly or effectively for the taxpayers of the province.

What is needed is an updated property tax system that is fair, effective and stable; stops the erosion of the tax base through appeals; provides a common base for inter-governmental cost and revenue sharing and engenders appropriate accountability.

Property tax systems are, generally speaking, value based. Indeed, the major differences between the various systems are related more to the date of the valuation, the method of establishing that value, concerns over equity and accountability, and the relative roles of the market and government decision-making bodies. While the panel has found it useful to compare experiences elsewhere, we are also well aware that these experiences must be understood within their own historical and contemporary context.

Historically, Ontario municipalities have relied upon a value-based approach for property taxation. Recently, the reliability and utility of the system has been adversely affected by a patchwork system of values and the failure to keep the system current.

With these perspectives in mind, Minister, it is the panel's view that a reformed property tax system must be province-wide and value-based, with those values brought up to date, and kept up to date. The Government of Ontario should therefore complete, as soon as possible, its program of a province-wide update of property values.

It is equally clear that a made-in-Ontario reform of the system must give municipalities the ability to employ various measures to deal with important equity issues of local concern. Over the next weeks, the Sub-panel will give further consideration to the following measures and report back to you by August 1, 1996 as I have indicated:

- variable length of phase-in of changes;
- establishment of annual limits of tax changes;
- tiering of tax rates for smaller businesses;
- use of variable tax rates by class;
- special measures to address needs of seniors, low income citizens, and shopkeepers;
- measures to maintain the economic and social strength of the core of Metro Toronto and of the Greater Toronto Area; and
- other measures that could be developed for local choice.

The scope of the work before the Sub-panel is extraordinary in size and variety. A series of tax related issues to be dealt with by the Sub-panel include:

- business occupancy tax;
- rights of way;
- assessment delivery system;
- tax treatment of farmland;
- payments-in-lieu;
- various provincial tax rebate programs;
- tax treatment of hotels;
- development charges;
- telecommunications tax;

- education taxes;
- legislative changes to the Municipal Act, Assessment Act and others; and,
- any additional items that may be brought to the attention of the Sub-panel.

Finally, in keeping with our previous discussion, I would like to advise you that I have already held preliminary discussions with senior officials of the Ministry of Education and Training. I have asked panel member, Enid Slack, to engage in early work with them.

Sincerely,

David Crombie, Chair
Who Does What Advisory Panel

Assessment and Tax Reform

August 20, 1996

The Honourable Al Leach
Minister of Municipal Affairs and Housing
17th Floor
777 Bay Street
Toronto, Ontario
M5G 2E5

Dear Minister:

I am pleased to provide this second report from the Who Does What Advisory Sub-Panel on Assessment and Property Tax Reform. The report offers further observations regarding assessment policy and recommends a number of property tax measures that should be available to local governments to ensure that Ontario's updated assessment system is implemented reasonably and fairly.

Assessment Policy and Practices

1. Annual Updates

In our first report to you, we recommended that Ontario update its property tax system province-wide. I stated at that time that Ontario has always had a province-wide, value-based assessment system, with opportunities for local control of property tax policy. There has been legislation requiring that properties be assessed at their market value since 1850. Problems for many municipalities have occurred over time because of inconsistent assessment practices and because assessments have been allowed to become out of date. In our first report, we recommended that the Province bring our property values up to date, and keep them up to date, to ensure that these difficulties do not recur.

Keeping assessed values up to date should allow taxpayers to rely on the credibility of the relationship between the assessed value of a property and its market value. This should reduce assessment appeals and lead to increased government accountability and to improvements in the business and investment climate in Ontario. We recommend, therefore, that by 2004, when the new system is fully implemented, assessments be updated annually. To prevent the base from becoming outdated during the transition period from 1998 to 2004, the Sub-panel also recommends that assessment updates be scheduled at two- or three-year intervals during that period.

2. Rolling Averages

In the future, with the updated system, taxpayers should not be experiencing abrupt changes in their tax bills from one year to the next due to assessment practices. Province-wide, three-year rolling averages should help smooth out any sharp fluctuations in property assessments.

3. Current Values

Concerns have been expressed that assessment practices will lead to estimates of potential property values rather than current property values. The Sub-panel feels strongly that in a value-based system, with annual updates, this must not be the case.

We have recommended that all properties be assessed at their current values based on current use. Current values will be determined on the basis of current sales and rents, and not on speculative value. The Sub-panel also recognizes, of course, that properties in transition (such as obsolete buildings, vacant properties and properties in areas undergoing major redevelopment) will require special consideration. We will provide more direction in our future recommendations with respect to properties in transition, which are estimated to account for less than 1 per cent of all properties in Ontario.

4. Costs and Appeals

As you know, the Sub-panel still has under consideration a number of options regarding how the assessment system should be managed and delivered in the future. However, we think it appropriate to recommend that the Province should be responsible for the costs of the initial reassessment now underway and any appeals arising from it.

5. Tax Rate

The Sub-panel recommends that the term “tax rate” rather than “mill rate” should be used, and that the tax rate be expressed as a percentage of the assessed value of property. This will assist ratepayers in understanding the relationship between their property tax responsibility and the assessed value of their property.

Tax Policy Options

The following tax policy options should be made available to municipalities to benefit their ratepayers as the updated system is implemented.

1. Variable Tax Rates

The Sub-panel recommends that local governments be permitted to use variable tax rates to control the degree of tax shift between property classes (for example, residential, multi-residential, commercial and industrial). The Sub-panel believes the Province should set parameters within which municipalities can set different tax rates for different property classes. These ranges should recognize that low density residential properties are now taxed at a lower rate than commercial and industrial properties. The Sub-panel will provide its advice on these parameters in a later report.

We recognize that in some communities existing tax rate ratios may not be within the new parameters to be set by the Province. We recommend that municipalities whose tax rate ratios are now outside these parameters should be permitted only to move closer to these ranges, not further away. We also recommend that the established ranges be narrow enough to prevent destructive tax competition or bonusing.

The Sub-panel further recommends that municipalities, and not school boards, should be responsible for establishing variable tax rates. We believe this is consistent with the broader mandate of municipal government, which includes economic development. The general issue of education finance will be addressed by the Sub-panel on Education, to be established shortly. As you will recall, I have already asked panel member Enid Slack to do some work on this matter. This work is already underway.

2. Phase-ins

The Sub-panel has considered the timing of reform. The sooner the entire province is assessed on a consistent basis, the sooner the benefits of fewer appeals, improved accountability, and a more understandable system will accrue to taxpayers. However, it is only fair and sensible that municipalities and taxpayers should have time to adjust.

The Sub-panel therefore recommends that municipalities should have the opportunity of managing the assessment update by phasing in tax changes over a period of up to eight years. Municipalities could choose to phase in tax increases at a rate different from that for tax decreases.

Whatever the time period chosen, tax changes should be introduced in equal annual instalments, or if not, with the greater changes occurring in the earlier years of the phase-in. Assessment updates should not extend the phase-in period. The choice of the phase-in period will essentially define the percentage cap for annual tax changes. It is the Sub-panel's view that the tax impacts of renovations, additions to a property, business changes, zoning changes, or conversions to condominiums should not be phased in.

Particular Concerns

1. Low Income Seniors

Concerns have been expressed that tax increases should not pose an unacceptable burden to low-income seniors who own their own homes. To assist these people, we would recommend that municipalities be permitted to offer a tax deferral, at a market rate of interest. As you are aware, the Sub-panel will also be giving consideration to the taxation of multi-residential properties.

2. Small Retail Properties

Some commercial properties in urban areas that have not been reassessed for many years may face large tax increases when out-of-date values are updated. This will be especially true of some small retail properties that have historically been under-assessed relative to large commercial properties in the area. A number of municipalities would like to protect the unique character these shops and stores have given their communities. The Sub-panel is sympathetic to this concern.

In order to maintain the integrity of the system, however, the Sub-panel believes that specific measures for these retail properties should be provided through tax measures rather than through changes in assessed values, and these measures should be consistent with the Province's anti-bonusing policies. It is the view of

the Sub-panel that such properties will benefit from the tax policy option recommended above. However, to assist the small retail sector further, we would recommend in addition that municipalities be given the option of introducing a special property tax class for small retail properties. It is our view that markets will adjust to the new tax system, and that these measures should offer the needed temporary relief to allow such adjustments to proceed smoothly.

I should note as well, Minister, that the issue of the business occupancy tax is also of concern for small retailers. The Sub-panel will address this shortly.

Continuing Agenda

Finally, I would like to advise that the Sub-panel will be addressing a number of other assessment and tax issues this fall. These include:

- governance questions regarding responsibility for variable tax rates, phase-in policy, collection of taxes, and apportionment of costs;
- development charges;
- business occupancy tax;
- exempt properties;
- payments in lieu of taxes;
- creation of additional property classes, such as linear properties, multi-residential, farms, managed forest and conservation lands, international bridges, farmlands under development, hotels and recreational properties;
- telecommunications tax; and
- Provincial land tax.

It is our intention to provide further recommendations on these matters in a timely manner in order to assist the government in meeting its legislative agenda for the autumn.

Sincerely,

David Crombie
Chair

November 8, 1996

The Honourable Al Leach
Minister of Municipal Affairs and Housing
17th Floor
Toronto, Ontario
M5G 2E5

Dear Minister:

I am pleased to provide the third report from the Who Does What Sub-Panel on Assessment and Property Tax Reform. This report provides our recommendations on many of the issues raised in our first two letters as well as on the business occupancy tax, the tax treatment of multi-residential and linear properties (railway and hydro rights-of-way), international bridges, development charges and the assessment appeals process. Finally, the Sub-panel would like to provide its views on the assessment update process, and some initial comments on the future of the assessment delivery system.

In our first letter we recommended that, for assessment purposes, the Province bring our property values up to date, and keep them up to date. Ontario has always had a value-based assessment system, but inconsistent assessment practice and out-of-date assessments have created significant problems. We were pleased that Cabinet endorsed these recommendations and that province-wide reassessment is already under way. Our second letter addressed a number of assessment policy and local tax measures which we feel will help municipalities implement property tax reform in Ontario. These recommendations are still before Cabinet.

Our previous recommendation that all properties be assessed at their current value based on current use rather than on speculative or potential value under an alternative use is a fundamental principle guiding all of the Sub-panel's deliberations.

Tax Policy Options

In our second letter, the Sub-panel recommended that a number of tax policy options be made available to municipalities so that they may better respond to their own revenue needs and tax capacity. We would like to elaborate on those tax policy options and make some additional recommendations.

1. Property Classes

The Sub-panel has recommended the establishment of several property classes. The Sub-panel recommends that the Province establish property classes for residential, multi-residential, commercial and industrial. However, the Sub-panel believes that it should be left to municipalities to determine whether to tax two or more of the property classes at the same tax rate.

The Sub-panel is continuing its examination of other property tax issues and may recommend the establishment of a limited number of additional property classes.

2. Different Tax Rates for Different Classes of Property

The Sub-panel has further discussed the use of variable tax rates by municipalities. In our second letter we recommended that the Province should set parameters within which municipalities can set different tax rates for different property classes. This requires the establishment of a benchmark class to be used as the base to set the tax rates applicable to the other property classes.

In almost every municipality the residential property assessment represents the highest proportion of the overall assessment base. Furthermore, a few municipalities do not have any commercial assessment. Therefore, we recommend that the Province use the residential tax rate as the benchmark rate. We also recommend that the Province establish the upper and lower limits for the percentage tax ratios for the multi-residential, commercial and industrial property classes and express them in relation to this residential benchmark. The ranges for non-residential percentage tax ratios will be greater than or equal to the residential tax rate which will be 100%. The existing ranges (including the consolidation of the business occupancy tax, as discussed on page 3) are; multi-residential class 100% - 490% of the residential tax rate, commercial class 140% - 460% of the residential tax rate, industrial class 190% - 650% of the residential tax rate.

The Province should provide municipalities with their "starting point" percentage tax ratios and the relevant formula based on the existing tax burden relationship between property classes. Municipalities would be permitted to maintain those existing tax rate relationships if they wish, even if they are outside the provincially established ranges. But, as noted in our earlier letter, if those municipalities with tax rates outside of the proposed ranges want to alter the relationship between their tax rates, they would be permitted to move only toward the prescribed ranges.

The Sub-panel recommends that the provincially established ranges should bring tax rates among the property classes closer together and the Sub-panel will provide its advice on the scope of these ranges in a later report.

Finally, the Sub-panel has given limited consideration to whether upper tier or lower tier municipalities should make the decision on setting the percentage tax ratios for the different property classes. This is clearly linked to the continuing discussion by the full Panel on municipal governance generally.

Once the full Panel has dealt with the broad governance issue, a recommendation will be made on which level of municipal government(s) should establish the relationship between tax rates for the various classes of property.

3. Phase-Ins

Once a recommendation on the broad governance issue has been made by the full Panel, a recommendation will be made on which level of municipal government(s) should be responsible for phasing-in tax changes as a result of the reassessment and the elimination of the business occupancy tax as discussed below.

Business Occupancy Tax

The Sub-panel has also dealt with the business occupancy tax. The business occupancy tax is a responsibility of the business occupant, rather than the owner, of the property. While the business occupancy tax is separate from the realty tax, it is part of the total property tax pool that funds local government services. It generates about 11 per cent (\$1.6 billion) of total property taxes. Business assessment is computed by taking the assessed value of a property multiplied by a percentage rate that is specific to the particular business. The percentages applied to various businesses for the business occupancy tax were assigned in 1904 on the perceived ability-to-pay and remained in force until the 1980s, when the number of percentage rates was reduced.

Whatever the rationale may have been in 1904 for the percentages, it is difficult to justify on any logical or consistent basis today. In addition, because the liability for business tax is attached to the person operating the business rather than to the property on whose value the tax is based, municipalities experience significant collection problems. Business tax arrears at the end of 1995 totalled over \$200 million.

The Sub-panel recommends that the business occupancy tax be abolished. As this is a significant source of revenue for municipalities and school boards, municipalities should be permitted to recover the equivalent revenues from any or all property tax classes. The "starting point" formula, mentioned previously in this letter, would provide sufficient flexibility to accommodate the recovery of the lost business occupancy tax revenues from each of the commercial and industrial classes equal to what that class currently pays.

Eliminating the business occupancy tax would reduce municipal administrative costs and the cost of providing assessment services. This would help meet the government's overall goal of more effective local and provincial governments.

Finally, the Sub-panel determined that it is not necessary for the Province to intervene between landlords and tenants regarding the pass-through of any realty tax increases caused by the elimination of the business occupancy tax. Normal negotiations and market conditions should be allowed to operate regarding such pass-throughs.

Taxation of Multi-residential Rental Property

The Sub-panel recognizes that the way multi-residential rental properties are assessed is unfair and that this issue should be addressed as part of the move to a province-wide value-based property assessment and tax system. The fact that many multi-residential rental properties currently face effective tax rates which are up to nearly five times as high as single-residential properties (including owner-occupied condominiums) is a serious concern.

The Sub-panel is prepared to advise on the tax policy aspect of the problem. However, the need to expand the supply of rental housing should be addressed by the Province through a broad strategy which goes well beyond the focus of the Sub-panel, or indeed the full Panel.

The Sub-panel believes that the provincial ranges should permit municipalities to tax the multi-residential property class at the same level as single-residential properties. However, the decision as to whether to do this and, if so, when, should be left to the municipality.

The magnitude of the multi-residential tax problem varies significantly across the province. Municipalities are in the best position to deal with this in a manner which reflects the best interests of the community, the impacts on their revenue base, and the capacity of the municipality to bear these tax shifts.

The Sub-panel considered the recommendation in the Lampert Report which would allow the creation of a separate property class for newly-constructed rental housing. However, the Sub-panel was opposed to the idea of creating a separate property class for new rental buildings as this would introduce complexity and could lead to establishing a permanent difference in tax treatment between new and existing multi-residential buildings.

Taxation of Linear Properties

The Sub-panel has examined the property tax treatment of linear properties - primarily railway and hydro (public and private) rights-of-way. The existing tax treatment, which uses the value of abutting properties to determine the assessment value of railway and hydro rights-of-way, is inconsistent with the Sub-panel's earlier recommendation on current value based upon current use.

The Sub-panel has examined the practices for valuation and taxation of rights-of-way in other jurisdictions in Canada and the United States. There does not seem to be any consistent way of determining assessment values or property tax treatment by provinces, states or municipalities within the two countries. The Sub-panel does recognize the unique nature of these properties, and the roles that these businesses play in the overall competitiveness of the provincial economy.

The Sub-panel recommends that the Province introduce legislation to change the existing method of assessing railway and hydro rights-of-way. A recommended approach would be to establish an average value per acre for industrial land in the municipality and apply this per acre value to the railway and hydro rights-of-way within each municipality. In those instances where municipalities do not have any industrial land, the average per acre value for vacant land is to be used.

The Sub-panel also recognizes the need to provide flexibility for the Ministry of Finance to prescribe a discount rate to apply to assessed values to reflect limitations to the use or marketability of these unique properties.

The Sub-panel also recommends that railway and hydro rights-of-way be in the industrial property class.

International Bridges and Tunnel

The Sub-panel has considered the property taxation of Ontario's 13 international bridges and one tunnel connecting the province with the states of New York, Michigan and Minnesota. The Sub-panel recognizes that the existing inconsistency in taxing practices causes concern for both municipalities and bridge authorities. The Sub-panel also recognizes the problems associated with the enforcement of tax obligations. The Municipal Tax Sales Act which allows for seizure and sale for arrears of taxes, cannot be applied to an international bridge as it falls under federal jurisdiction. Consequently, federal co-operation is essential to enforce payment if an authority governed by a U.S. jurisdiction declines to pay.

In keeping with the fundamental principle of assessment based on current value for current use and to meet the above concerns, the Sub-panel recommends that the rental income and bridge tolls be used to set the assessed values of the related land, buildings and bridge span or tunnel and thereby subject to full assessment and property taxation.

The Sub-panel acknowledges that the successful implementation of this recommendation requires the co-operation of the federal government and urges the Province to initiate these discussions immediately.

The Sub-panel recommends that international bridges and tunnel remain in the commercial property class.

Development Charges

The Sub-panel supports the fundamental principles underlying the current Development Charges Act. The Sub-panel believes that the range of services and associated capital costs that can be included under the Act are reasonable and fair. It recognizes that a number of technical/administrative amendments are required to improve the operational aspects of the Act. Furthermore, current legislation provides a satisfactory process to ensure that development charges policy is applied in a fair and open fashion. The process allows for public meetings and appeals to the OMB.

Development charges are a critical and essential municipal revenue source for financing growth-related capital infrastructure. Any amendments to the Act to reduce the scope or permitted level of development charges will mean higher municipal taxes or user fees. It is also noted that the permissive nature of the Act does not obligate municipalities to impose a development charge. For these reasons, the Sub-panel strongly recommends that municipalities should continue to decide on the level of development charges in accordance with the Act.

Assessment Appeals

The Sub-panel has also reviewed the existing assessment appeals process and its costs. The current system is expensive and adversarial. Assessors and property owners are now heavily involved in a time-consuming two-level appeal process that adds to the cost of assessment delivery and upsets ratepayers.

The Sub-panel recommends a number of improvements to the existing appeals process. This is particularly important in view of the current province-wide assessment update and the anticipated level of appeals in the first year or two of the updated system.

The Sub-panel believes that the annual window for filing assessment appeals be lengthened from the current 21 days to 60-90 days and the assessment commissioner be permitted to revise the assessment roll before the appeal period expires. This would allow for the resolution of disputes through consultation or mediation before moving to a formalized appeals process. Finally, the Sub-panel further recommends that only one level of appeal be available to property owners, through the Assessment Review Board.

Information provided on the experience in Nova Scotia would suggest that through alternative dispute resolution, the majority of assessment appeals can be resolved quickly and cost-effectively. This will reduce the backlog of appeals, improve customer satisfaction, and reduce cost for all property owners and users. This revised appeals process should be implemented as soon as possible.

The Sub-panel further recommends that, under this new streamlined regime, the Province should ensure that members appointed to the Assessment Review Board are knowledgeable with respect to appraisal theory and assessment practices and that Board members have some familiarity with the municipality in which the property under appeal is located.

Assessment Update

1. Update Process

As noted earlier, the Sub-panel was pleased that its initial recommendation on province-wide, value-based assessment system was accepted by the Province. The Sub-panel has received several updates on the status of this project.

From our discussions with assessment officials, we believe that they are committed to meeting both the government's timetable, and the needs of Ontario municipalities. The decisions by the Province to invest heavily in the assessment update, and to cover the cost of the appeals resulting from this update as recommended in our second letter, reinforce the commitment to meet these goals on time, and with a quality product. The Sub-panel urges the Province to undertake all measures to ensure a high quality update is delivered on time.

Because a smooth implementation of the assessment update is critical to municipalities in safeguarding their \$14 billion tax base, the Sub-panel recommends that the Property Assessment Division of the Ministry of Finance and the Association of Municipalities of Ontario (AMO) establish a municipal advisory committee to provide advice and support, to monitor the progress and quality of the assessment update and to provide an independent review of progress on behalf of municipalities and ratepayers. The advisory committee will enhance the credibility of the process, overcoming past concerns about the timely delivery of a quality product.

The Sub-panel is aware that the Province will be providing additional information to the general public and municipalities on this process. The Sub-panel urges the Province to consider a detailed communication package, including seminars, for municipalities so that they may be better prepared to implement a reformed property tax system.

2. Assessment Service Delivery

While the assessment update project proceeds, the Province has also indicated that one of its business goals is to transfer the responsibility for assessment delivery to its municipal partners. The Sub-panel has briefly reviewed this concept and generally agrees that municipalities should assume full operational control over any entity that may deliver assessment services with the Province continuing to set policy.

The Sub-panel strongly feels that the transfer of assessment delivery should occur when the revised assessment system has stabilized. An organizational change of this magnitude while the update is under way could jeopardize the accuracy and quality of the assessments and undermine the integrity of the process.

The Sub-panel is seeking advice from AMO on the implementation of a new assessment delivery system and will make a more detailed report at a later date.

Continuing Agenda

Over the next weeks, the Sub-panel will proceed to examine those property tax issues that tend to be more generalized. These include:

- lands pending development
- farm tax rebate
- conservation lands and managed forests
- mixed-use buildings
- hotels
- telecommunications
- pipelines
- provincial land tax
- payments-in-lieu
- exempt properties and other specific considerations such as cultural facilities and arts organizations, heritage buildings and buildings owned by not-for-profit entities
- tax treatment of recreational properties
- independent hydraulic power plants

- underground mining facilities
- assessment delivery

Once again, it is our intention to provide recommendations to you and your colleagues on these matters.

Sincerely,

David Crombie
Chair
Who Does What Advisory Panel

December 20, 1996

The Honourable Al Leach
Minister of Municipal Affairs & Housing
777 Bay St., 17th Floor
Toronto, Ontario
M5G 2E5

Dear Minister:

I am pleased to provide the fourth report from the Who Does What Sub-Panel on Assessment and Property Tax Reform. In this report, we are providing our comments and recommendations on the existing Farm Tax Rebate, and Managed Forest and Conservation Land Tax Rebate programs.

The Sub-panel notes that the assessment treatment of farm land in Ontario, as outlined specifically in legislation, does meet the Sub-panel's guiding principle of current value in current use. The Sub-panel recommends that this assessment treatment continue.

The Sub-panel examined the existing rebate programs, their historical development and potential options to address the property tax burden on these properties. The Sub-panel believes that the properties and uses in question must be treated identically. Therefore, the Sub-panel recommends that the assessment of eligible managed forests and conservation lands be identical to that of farmlands.

The Sub-panel does believe that the full property tax burden on these properties in their current uses is unfair. The Sub-panel reviewed options including the continuation of the existing rebate programs or the creation of new tax rate and property class on such properties with the accompanying elimination of the rebate programs.

The rebate programs have been available to eligible farm property owners as interim measures since 1970, and since 1985 in the case of managed forests and conservation lands. These rebate programs have been established in lieu of property tax reform and to ensure special treatment of these properties and uses. This special treatment to reduce the net tax burden on these eligible properties to a more manageable level has been funded by the Province. The Sub-panel did note that these rebate programs have undergone a number of changes since their inception which has created uncertainty and unease by the users of the programs.

The Sub-panel acknowledges that the current efforts to reform Ontario's property tax system provide an opportunity to correct the tax burden on these properties. The Sub-panel fully recognizes the value to the Province and to all communities in maintaining a viable competitive agriculture sector and sustained woodlot and conservation areas in Ontario. There is a substantial provincial interest in protecting a safe secure source of primary production of foods and beverage, as well as the unique scenic and environmental benefits of such properties for all citizens of the province. A tax solution without rebates or mitigation would

create a substantial revenue problem, with resulting tax shifts, for a large number of rural municipalities. The Sub-panel does not believe that rural property owners and their municipalities should bear the full burden of this provincial policy.

It is the Sub-panel's recommendation that the existing tax rebate programs for eligible farm land, managed forest and conservation lands be maintained at existing rebate levels through new provincial legislation so as to provide certainty to these eligible property owners.

The Sub-panel will be continuing its work on a number of tax issues including:

- gross receipts tax;
- farm lands pending development;
- exempt properties;
- payments- in-lieu;
- Provincial land tax ;
- tax treatment of small commercial properties, underground mining properties, hotels, recreational lands, and independent power producers; and
- assessment delivery

Sincerely,

David Crombie
Chair

December 20, 1996

The Honourable Al Leach
Minister of Municipal Affairs and Housing
17th Floor, 777 Bay Street
Toronto, Ontario
M5G 2E5

Dear Minister:

I am pleased to provide the fifth and final report of the Assessment and Property Tax Reform Sub-Panel. This report concludes the work of this sub-panel and indicates our recommendations to you on a number of outstanding property tax policy issues, including, tax governance; exempt properties; payments-in-lieu of taxes; Gross Receipts Tax; tax treatment of farmlands pending development; and our comments on the tax treatment on mixed-use properties, recreational properties, underground mining facilities, hotels and independent power plant facilities. Finally, the Sub-panel reviewed the status of the recommended monitoring of the assessment update and the initial consultation process for the future assessment delivery system.

In its deliberations, the Sub-panel has been guided by its key principles that assessment be value based, province-wide with values brought up to date, and kept up to date, and with tax policy determined at the local level. For assessment purposes, a property's value should be determined by its value in current use.

Tax Policy

1. Tax Governance

In our August 20 letter we recommended a number of tax policy options including variable tax rates and phase-ins, that should be made available to municipalities so that they may decide upon the best approach to meet their local needs. At that time we indicated that we would provide further advice on which level of local government should set the variable tax rates and phase-in policies.

The Sub-panel has re-examined the tax governance issues in light of the full Panel's recent recommendations on governance and recognizes that the recommended tax governance models should recognize the different municipal structures that the panel has proposed.

In setting variable tax rates, a municipality is making significant policy decisions about how the local tax burden will be distributed among the various property classes. These decisions reflect local circumstances as well as other objectives, such as the local economic development vision. The principle the Sub-panel has adopted in looking at tax governance is that the level of local government levying the tax should set the variable tax rate and phase-in policies. The Sub-panel believes that upper and lower tier municipalities should work together to develop policies which support the interests of the community as a whole.

This principle would apply to the various local governments as set out below:

- Separated cities and other single tier jurisdictions would set their own tax ratios and phase-in strategies.
- In counties and regions, the upper tier would set the tax rates and phase in strategies for upper tier purposes. The lower tiers could adopt the same tax ratios and phase-in strategy for lower tier purposes but could also opt to vary their rates and phase-ins.
- In the North, with the creation of upper tier municipalities, as recommended by the panel, the new upper tier would set the tax ratios and the phase-in strategies for unorganized areas as well as for upper tier purposes. The lower tiers could adopt the same ratios and strategies for lower tier purposes but could also opt to vary their rates and phase-ins.
- In the GTA, the existing regions will set the tax rates and phase-ins for upper tier purposes and the lower tiers could adopt the same tax ratios and phase-ins or adopt an alternative strategy. The new City of Toronto will set its own ratios and phase ins. As the proposed Greater Toronto Service Board will not have direct taxing authority, a fair and consistent apportionment formula will have to be developed by the Province to allocate the Board's cost among constituent municipalities. We anticipate that the governance structure in the GTA will continue to develop and that this approach will need to be reviewed over the next few years.

2. Small Commercial Properties

In the Sub-panel's second letter to you on August 20, 1996, it recommended that a new property class be created to allow municipalities to provide lower tax rates for identified small commercial properties that form a critical part of the character of their local communities. The Sub-panel continues to believe that it is important to the viability of many neighbourhoods throughout the province, and notably within the city of Toronto, that municipalities have the option to use this new property class.

Over the past months, sub-panel members have examined further refinements of this policy proposal, and possible implementation mechanisms. Based upon that analysis, the Sub-panel recommends that municipalities be permitted to establish a small commercial property class, within the context of the above tax governance recommendations, to be defined to include all "street-related commercial" properties within that municipality. The new property class would apply throughout the municipality, unless the municipality chooses to limit its use to specific geographic locations within its boundaries.

The definition of this new class would initially be based on a selection of existing assessment property codes. These codes, taken as a group, would define the street related commercial class and distinguish it from the general commercial class.

Consultations with municipalities will provide further precision to this definition. Municipalities would be allowed to use the new property class to limit the property tax shifts on these properties and support the viability of local businesses within urban neighbourhoods.

The Sub-panel recognizes that the creation of this new class will shift some of the property tax burden onto other municipal taxpayers. Accordingly, the decision whether or not to use this new property class must be left to the discretion of municipalities.

Gross Receipts Tax

The Sub-panel has examined the current Gross Receipts Tax which is used as a proxy for property taxation of telephone poles and wire. The existing policy provides approximately \$200 million annually to municipalities and school boards.

The Sub-panel is aware of the various concerns with the existing tax, and its limitations. The telecommunications sector is a growing industrial sector with new technologies that far exceed historical definitions of telephone property. However, telecommunication companies do utilize municipal rights-of-way, and create costs to municipalities. The regulation of these firms is within the jurisdiction of the federal government under the Canadian Radio-Telecommunications Commission (CRTC) which limits the ability of municipalities to charge such firms.

In light of the present difficulties with this tax and the new technologies that may not meet any definition of property, the Sub-panel recommends that the Gross Receipts Tax no longer be collected for municipal use but should be dealt with by the Province. The Sub-panel also recommends that the Province assist municipalities in obtaining support from the CRTC to charge appropriate user fees for the use of municipal property and rights-of-way by these telecommunications firms.

Farmlands Pending Development

In the fourth letter of this sub-panel, the tax treatment of farmlands was examined and recommendations were made to you. However, the use and taxation of farmlands while awaiting development is an issue of concern to many urban municipalities. The favourable tax and assessment treatment of farmlands is inappropriate for those property owners who are in the process of developing these properties; that is changing its current use to residential, commercial or industrial uses.

The Sub-panel recommends that such lands no longer be assessed as farmland once the development process has been triggered. The Sub-panel proposes that the trigger for such a change be established at the point of draft subdivision plan approval, when the property owner has proposed that the use of the property change and the municipality has agreed. For those properties where a plan of subdivision is not required the Province will need to establish a different trigger such as a servicing agreement, rezoning, or consent. Once that trigger is reached, the assessment of the property should be established as vacant land for residential, commercial or industrial purposes, as appropriate. The tax treatment should then reflect the change in assessment. The Sub-panel believes that establishing this clear trigger mechanism will assist all municipalities in dealing with this issue and will provide certainty to both municipalities and affected property owners.

Exempt Properties/Payments In-Lieu

The Sub-panel has examined the issues of exempt properties and payments-in-lieu made by the Province and its enterprises. The Sub-panel believes that these issues are linked and should be examined together. These issues require substantial consultation with municipalities and affected property owners prior to any final determination. The Sub-panel recommends that a review of all statutory exemptions be undertaken by the Province in consultation with municipalities and affected groups. This review should establish a set of principles to examine the appropriateness of each exemption; clarify the legal language to ensure that the intent of the exemption is clear and determine a future process for continual review of these exemptions.

The Sub-panel believes that only the Province should be allowed to provide property tax exemptions. Consequently, the Sub-panel also recommends that property tax exemptions no longer be permitted through private bills. Instead, municipalities may continue to provide assistance to appropriate non-profit groups through direct grants. The Province should also review the necessity of maintaining existing private bills that provide property tax exemptions and consider sunset provisions as another means to limit such exemptions.

In addition, the Sub-panel recommends that the Province, and its enterprises, should make payments-in-lieu similar to the taxes which a private property owner with similar property would pay. The Sub-panel believes this should also apply to the Province and its enterprises when they are tenants in an exempt building. The Sub-panel recommends that the Province continue with existing payments-in-lieu although it should undertake a review to update the current "head and bed" payments made by provincial institutions (e.g., community colleges, universities, hospitals) and establish a new mechanism for regularized updates to the entitlement. The Sub-panel recommends that Ontario Hydro makes full payment-in-lieu to those municipalities where the amount exceeds 50% of the local municipal tax revenue.

Finally the Sub-panel, in view of the province-wide assessment update, recommends that payments-in-lieu be shared with both levels of municipal government where these exist.

It is the Sub-panel's view that these policies on payments in lieu should apply to the federal government as well.

Tax Treatment of Specific Types of Property

1. Mixed-Use Properties

In the past, the assessment of mixed-use properties has been determined by the predominant use of the property. This has led to very different tax treatment of similar properties uses depending upon predominant use. For example, a property with both commercial and multi-residential uses, where multi-residential is predominant would face a far higher effective tax rate than a similar property with a predominant commercial use, in the same municipality.

With the assessment update, it will be possible to allocate updated assessment values to each current use within a mixed use property. The tax treatment of each use should then match the appropriate property class identification of that use. The Sub-panel recommends that this treatment should apply to all mixed-use properties.

2. Taxation of Vacant Commercial and Industrial Properties

The Sub-panel has recommended that properties be assessed and taxed in accordance with their current use and that assessments be kept up to date. We believe that in a systems with frequent updates, vacancy will be reflected in the assessed value of the property. Consequently, the Sub-panel recommends that the Province discontinue the practice of applying the residential tax rate to vacant commercial and industrial property.

3. Underground Mining Facilities

The assessment treatment of mining facilities underground is different from the treatment of similar facilities above ground. The Sub-panel cannot determine any justification for this different treatment and, therefore, recommends that underground mining facilities be assessed and taxed in the same manner as these facilities would be if found above ground.

The Sub-panel is well aware of the business necessity to move some facilities underground. The Sub-panel does not agree with any suggestions to assess and tax the machinery and equipment of such mining properties as this is inconsistent with the long-held policy of not taxing such machinery and equipment in any sector.

4. Independent Power Plants

The Sub-panel compared the tax treatment of independent power plant facilities to the property tax treatment of Ontario Hydro facilities. The Sub-panel acknowledged that there are differences in the assessment and tax liability of these facilities. The Sub-panel noted that Ontario Hydro is treated differently in that its rights-of-way and power transmission corridors are also subject to taxation. The Sub-panel understands that the different assessment approach also affects the competitive position of these independent power producers.

However, the Sub-panel does not believe that the tax treatment of the independent power plant facilities is the appropriate focus. The Province should re-examine the Power Corporation Act and determine if there should be changes in the property tax treatment legislated for Ontario Hydro power plant facilities. It would be desirable to bring a greater equity to this sector, particularly as plans to privatize components of Ontario Hydro proceed.

5. Recreational Properties

The tax treatment of recreational properties was also examined by the Sub-panel. It was noted that recent re-assessments have led to increased assessed values on such properties. Owners of recreational properties have raised concerns regarding their taxation for education purposes. The Sub-panel believes that the education system is a responsibility and a resource for all Ontarians. Individuals who own several properties, regardless of where they are located, pay local municipal and education property taxes.

The Sub-panel believes that the tax treatment of recreational properties should not be different from any other property and therefore believes that no further action is required on this issue.

6. Hotels

The Sub-panel has been made aware of the assessment inequities facing hotels in Metropolitan Toronto. Hotels in Metro are over assessed compared to most other commercial property in the region.

The Sub-panel did recommend that the assessment system be reformed to make it a consistent province-wide value based system, with values based on current use. The Sub-panel believes that the assessment update should resolve many taxpayer concerns regarding taxpayer inequities. The Sub-panel noted that the Hotel Association of Metropolitan Toronto has raised its concerns and need for immediate relief directly with the Province and discussions are on-going.

Provincial Land Tax

Currently property owners in unorganized districts of Ontario pay a Provincial Land Tax to pay for services within that district. The Provincial Land Tax has been under review for some time. The Sub-panel notes that the Panel's recommendations for a new governance model for the unorganized districts are based upon improved coordination of services, improved local decision making and accountability and the authority to raise needed revenues for these services in Northern Ontario.

In view of the full panel's report on governance in Northern Ontario with the recommended governance mode, there would no longer be a need for the Provincial Land Tax. The Sub-panel concurs with the new governance recommendation.

Final Comments

The Sub-panel has been pleased to provide advice and recommendations to you on a variety of assessment and tax policy issues. The Sub-panel firmly believes that the decision to implement a province-wide, value based assessment with values brought up-to-date and kept up-to-date is central to all of its recommendations.

The Sub-panel has received regular reports on the assessment update activity. In its November 8 letter, the Sub-panel recommended that a monitoring body be established by municipalities and the Ministry of Finance to ensure that the quality of the assessment update meets the needs of municipalities and taxpayers. The Sub-panel is pleased that an advisory body involving the Association of Municipalities of Ontario and the Ministries of Finance and Municipal Affairs and Housing has been struck and initial meetings have been held. We have been assured by AMO that representation will be drawn from across Ontario, recognizing that the assessment base affects all municipalities.

With regard to the future of the assessment delivery system, the Sub-panel has recommended that the above-mentioned advisory committee be responsible for initial discussion between the Ministry of Finance and municipalities over the devolution of this responsibility to the municipal sector. The Sub-panel recommends that this process be continued through 1997, and that periodic reports be made to the Minister of Finance and to AMO to determine the necessary next steps and an agreed timetable for implementation.

This completes the work plan of the Assessment and Property Tax Reform Sub-Panel. The cooperation of Provincial officials with the Sub-panel has been much appreciated and has greatly assisted the deliberations of the Sub-panel. As the Province implements the assessment update and the various tax policy changes, it remains the overriding principle of the Sub-panel that value in current use be used as the system of valuation. The Province should entrench this principle as it addresses other specific property tax issues which may arise as the reform of the property tax system in Ontario proceeds.

Sincerely,

David Crombie
Chair