TABIA Tax Committee Report
Annual General Meeting – May 31, 2021.

Mr. Lionel Miskin, TABIA Vice President and Chair of Tax Committee:

I put a dollar in a **change** machine. Nothing **changed.** (George Carlin). In fact, your tax committee put a lot of hours into tax reform. Nothing changed, until it did. But the French have an expression: Le plus ca change, le plus cést meme. Pardon my French, but in English it translates to "the more things change, the more they are the same". You will see what I mean.

Last year I reported that the 2020 Ontario budget had a provision to allow municipalities to create a new sub-class of small business commercial property, to be taxed at a rate lower than the general commercial rate. The provision was slated to assist small business. At that time, we were engaged in discussions with representatives of MPAC and the City of Toronto with a view to obtaining tax relief for small business. Our hope was to have reforms in place for 2021. During those discussions, we had engaged in a lot of research for various reform possibilities. We did in fact come up with various alternatives substantially consistent with the budget provision. The city then, many months ago, undertook to do some computer modelling to ascertain how those proposals would work in the real world, who would be affected, how they would be affected and by how much. That was many, many months ago in 2020. I am told that recently the city finance dept has finally got around to do modelling but has not released any results. So, we are still in the dark. At the same time as we put forward our proposals, the Finance dept started to push back. Cannot be done for 2021 because the province has not enacted the legislation to empower the municipalities to create that sub-class. In fact, the province did not do so until early this month (May 2021), leading some to think that the province rather lately began to realize that it is not as simple as originally thought. We had suggested that the city implement as much as could possibly be done and finish up the job when the necessary legislation is enacted. Several municipal councillors appeared to be on board with that suggestion, but not, unfortunately, the mayor nor the finance dept. Those councillors caved and Council did what council usually does, it voted unanimously to kick the whole thing down the road to 2022. At the same time, it instructed the finance dept to come up with a proposal based on the proposal we had put forward. We have not seen that yet.

Of course, Council had on two prior occasions similarly instructed the dept to do that, but NOTHING was put forward. What will happen in 2022 is a matter of speculation?

Well! Change is such hard work. Not for those resisting it, but for those of us trying to achieve it, so says Billy Crystal.

I said nothing had changed; not exactly true. The tax rates changed, and you can guess in what direction. Residential rate up 0.70%, and the commercial rate up 0.35%. The City Building fund increased on commercial property 0.75% for a total increase of 1.1%. The 10% cap continues as does the two-tier rate but the difference between the two rates, if my calculations are correct and I think they are, is less than $600.00 on 1 million of assessed value. That is how the city sees tax relief for business. The irony is that while the city has so many schemes in place to assist business and the ec dev dept has been generous in that regard, the Finance dept and Council work in counter-productive ways. Go figure.

But I have gleaned just a few examples of the silliness of government, out of countless others referred to on the internet. You might laugh, but if you do it will be with tears in your eyes.

Business owners answer countless surveys from Statistics Canada. One day, after completing two surveys in the same week, a small business owner got a third survey, asking how she felt about filling out government paperwork. (CFIB)

CFIB also cites City of Toronto regulations requiring businesses to apply for a new licence for any move of premises as if they never existed as a business previously.

Thin ice: Ottawa's National Capital Commission installed seven new ice shacks along the Rideau Canal for skaters to lace up in. Each shack cost $750,000. By comparison, the average house price in Ottawa at that time was $360,000. (Yahoo news)

A Richmond Hill, Ont., councillor claimed $1,200 in expenses for new golf clubs, shoes, and a bag. Carmine Perrelli said he gets invited to a lot of charity tournaments and that by getting taxpayers to buy him new equipment, he saved them money on rentals. He also said the gear remains the property of the city.

The federal Finance Department and Privy Council Office separately paid Ipsos Reid a total of $200,000 for two focus-group surveys that both concluded: "Generally speaking, participants were not looking for a quick fix to Canada's budgetary deficit."

So, if you do not have tears in your eyes yet, get on the internet where you will find a ton more.

In another vein, TABIA was invited to join, and did join, with a coalition of major real estate associations and others, to respond to the budget tax provisions, specifically the provision for allowing municipalities to create a small business tax sub-class for a preferential rate.

Why did we agree to join in with them? Two reasons:

1. It was felt by all members that the advocacy efforts would be more effective if all portions of the industry acted in concert
2. Relates to shifting of the tax burden – the tax structure was such that relief for a sub-class had be compensated for by shifting the municipality's tax loss to the rest of the class, in this case, to the general commercial class. It is this that motivated the coalition because they were afraid that any reduction for small business would be affected by shifting that tax loss to them. Why should TABIA care? Three reasons: 1. Because a lot of small business will be caught up in that shift as you will see in a moment. 2. Because the tax relief may be more limited if the shift is only to other commercial property, rather than spread-out over-all classes of property or made up from other sources, which seems unlikely 3. Because a significant number of our BIA's include big businesses within their boundaries.

So, City of Ottawa, to its credit, took the initiative to create a small business sub-class without apparently realizing the unintended consequences. What are they? They are laid out in a letter which the coalition members, including now TABIA, signed and sent to the Minister of Finance.

Here are excerpts:

1. The City of Ottawa's model would finance discounts for the new tax subclass entirely by increasing the tax burden on much of the commercial class, without any contribution from residential classes or other offsets.

2. The City of Ottawa's model would increase the tax burden on a substantial number of small businesses who happen to be tenants in larger buildings.
3. The City of Ottawa's model ignores the legal complexity of issues facing landlords, implicitly creating new policy and red tape issues at the level of individual buildings.

The Ottawa plan would force property owners to flow tax reductions through to tenants in the subclass or eliminate the benefit. Flowing the benefits through can be easily done in buildings leased solely to businesses that meet any accepted definition of "small business." However, in buildings with more than one type of business, which potentially will include many in the low-assessment category targeted for tax relief, most existing leases will likely require the landlord to flow tax reductions to all occupants, regardless of size. This may lead to one or more economically and politically problematic outcomes, which would distort the intent of the initiative and /or create a new cycle of paperwork and red tape for landlords and tenants. Ultimately, it may even lead to cities insisting the province legislate to override those leases.

Well, the govt may have just pulled the rug out from under the coalition. Because it has now enacted regulations to give effect to the budget provision, and those regs enable municipalities to create, not a small business class, but a small business sub-class as originally described. The reg purports to be retroactive to Jan. 1, 2021, which means that the city could have had things in place in time for the 2021 tax year. I do not know for sure, but I would be willing to bet that the city knew all along that this would be the case because there has been considerable consultation between the Ministry and the municipalities on the proposal. But why do in 2021 what you can kick down the road to 2022?

The reg. basically dumps the whole ball of wax onto the municipalities. It does not attempt to define "small business" but leaves that up to the municipality. Whether an application is meritorious will depend on what definition of small business the municipality lands on. So TABIA must advocate there for a suitable definition. Perhaps the 3 councillors who made some noise a few weeks ago will help. Perhaps not.

Furthermore the reg. does not really deal with businesses at all. It deals with property, and it is up to the municipality to determine what property is included in the sub-class. It also provides an option for the municipality to allow an application process for anyone who feels left out of the sub-class, but it does not authorize businesses to apply, only property owners.

The reg. also allows the municipality to choose, as a condition for eligibility, whether to require landlords to pass on the reduction to tenants. This is reminiscent of the federal rental subsidy program wherein many landlords refused to apply for relief, leaving their tenants to forego the proffered relief. Will this be déjà vu?

The reg. also leaves unsaid the possibility of a minimum differential between rates. It establishes a maximum reduction of 35%. To quote a Jewish expression, "I should live so long". It does not establish a minimum, which we had advocated for. So do not expect too much even if the city opts for a sub-class, which is why I quoted the French expression about change.

Lastly it does seem to leave open the option for a municipality to indemnify itself for the tax loss by a general increase in the overall tax rate, rather than shifting the cost to other commercial property, but do not expect that to happen in Toronto. My anticipation is that the city will respond with smoke and mirrors, enough to allow council to grandstand as to how it is helping small business, while offering only token relief.

Anyway, although the regs purport to be retroactive to Jan.1, 2021, do not expect any result, good or bad, before 2022.

My last comment on the reg.: The Province has renewed its promise (such as it is) to **CONSIDER** matching any tax reductions. Your guess is as good as mine as to what effect, if any, that will have on the whole situation.

I started this report talking about change, and I will finish it that way.

Albert Brooks said, ***"The biggest waste of brainpower is to want to change something that's not changeable."*** So, I am wondering whether I am wasting my brainpower with all of this. Of course, my wife says there is not much to waste, but that is a different story.

"The price of doing the same old thing is far higher than the price of change." —Bill Clinton. But who is paying the price.

***"There will always be men struggling to change, and there will always be those who are controlled by the past?"* -Ernest Gaines.**

That seems a proposal for the City of Toronto.

***"He who rejects change is the architect of decay. The only human institution which rejects progress is the cemetery."* -Harold Wilson**. And we are watching our main streets decay for lack of change.

And that folk concludes my 2021 report.