



Information Bulletin

Property Tax

The UDI Taxation Committee successfully amended the regulation allowing for residential classification on vacant mixed-use development land. This amendment to the regulation was for **land having no present use**. Prior to the amendment, mixed-use sites were often classified as 100% commercial. With the changes, mixed-use may now be split class. Recent appeals have revealed shortcomings in zonings that are given unfavourable treatment (e.g. commercial taxation) by BC Assessment, resulting in higher property taxes being paid by developers.

This Bulletin will briefly touch on misunderstandings with regard to the assessment of Classification and Valuation.

CLASSIFICATION

Mixed-use sites may become split class, as long as the zoning specifically identifies a portion or percentage of the land that can be developed for residential use (and not commercial). This means that the assessor must be able to identify the amount of commercial development potential versus the amount of residential development potential, for the purposes of determining a split class between the uses. Further, there must be a cap on the permitted commercial use. In addition, the amount of residential use must clearly be defined.

The most common zoning difficulty is where the residential use is expressed on a **units per acre** basis. For example, a one-acre site may be designated for a maximum of 10,000 square feet of commercial and 40 units per acre of residential for the remainder of the site. A logical expectation is that the split would be based on the maximum commercial square footage over the amount of residential density. However, expressions of zoning using the units per acre standard do not specify the amount of residential use. The portion or percentage of the site to be designated residential use is not known, as the unit sizes are not stated, and therefore the specific portion or percentage of residential use is not able to be determined. Many of these sites, although primarily residential, are receiving commercial taxation.

One way around the units per acre issue is to state a minimum unit size in the zoning (e.g. 500 square feet). If nothing else, this would establish a minimum amount of residential to be used by the assessor to determine the relative amounts of commercial versus residential space in the development.

Also, please be aware the basis for the permitted use for the above is the zoning. A recent case denied residential class, as it was relying on Official Community Plan, Neighbourhood Community Plans and area plans that clearly state majority residential is required.

URBAN DEVELOPMENT INSTITUTE – PACIFIC REGION

#200 – 602 West Hastings Street
Vancouver, British Columbia V6B 1P2 Canada
T. 604.669.9585 F. 604.689.8691

www.udl.bc.ca



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VALUATION

On a separate note, Valuation is based on highest and best use. This is a fundamental appraisal principle, however, assessment case law has refined the assumption of highest and best use as a use where there is at least a 51% probability of it being achieved. For example, an industrial site that has a well-established OCP for residential use would be assessed a value based on this residential development potential. The Assessment Act states that the assessor is to value the land as if it is vacant. It is often the case that redevelopment land value well exceeds the income producing value of the existing use (interim use). It may be of interest to note that some 50% of community retail properties throughout the commercial nodes of the City of Vancouver are assessed a value based on the residential redevelopment potential, a value well in excess of the interim use value.

If the only use on the property is low-density commercial, yet the vacant redevelopment land value well exceeds the interim use value, the assessor will apply a commercial tax rate to the residential land value. Case law has stated that valuation and classification are separate and distinct, where valuation is based on probable use and classification is based on actual use. This issue is causing substantial strain on our community retail, as land values continue to rise and tenants pay triple net rents.

*Please note that UDI will be doing another legal update in the Fall that will include information about this issue and other property tax issues through case law examples.

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Contact:

Paul Sullivan
Chair of UDI Taxation Committee
Burgess Cawley Sullivan & Associates
psullivan@bcappraisers.com
604.331.7300