The Land Economist

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Photo: Colliers International

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Reassessment or tax chaos?

by David Gibson MIMA, PLE

When the government proposed that all real property be reassessed with an effective market-value as of June 30 1996, the professional community hoped for a transparent system, comparable to the one adopted by the B.C. Assessment Authority in 1978. Unfortunately, Ontario's system has become anything but transparent.

Reform has met with confusion, frustration, and no less than seven legislative bills, with amendments, changes, exemptions, caps and phase-ins. The City of Toronto has adopted a complicated phase-in procedure, and the Province has adopted a similar method of moderation for the balance of Ontario in Bill 79. Since Bill 79 was passed on December 18, 1998, there have been 11 new regulations.

Photo: City of Toronto Economic Development Division

Perhaps it's not surprising that a good number of the tax bills issued by municipalities contain mathematical errors. Also, some properties or parts of properties have been wrongly classified, and rules for vacancies seem likely to produce unfairness.

Existing problems may well be compounded when the Province reassesses all property as of June 30, 1999, for the 2001 taxation year. Will additional phase-ins be introduced on the new values – creating a phase-in on top of a phase-in? Or will businesses be left to fend for themselves?

In any case, it is important to resolve any outstanding issues now, before the new reassessment date. We strongly recommend that all property owners review their 1996-based assessment and taxation. If there are any outstanding questions, an appeal should be filed to protect your interests as soon as possible.

Here are some of the main potential problems:

Mistakes in Classification

Pursuant to the revisions of the Assessment Act of Ontario (as amended), each upper or single-tier municipality in Ontario now has seven basic property classes. Legislative provisions have also enabled municipalities to establish up to five additional property classes (not to mention sub-classes).

Each class also carries its own tax rate. This is a vital point because now a single property may fall within more than one property class. For this reason alone, each property should be carefully reviewed to determine whether the assessor has applied the appropriate classification(s). If not, the property could be unfairly assessed and taxed.

Mistakes in Calculations

As previously stated, the City of Toronto has adopted phase-in and capping provisions for moderating tax increases over what was paid for the 1997 taxation year. For commercial, industrial and multi-residential property in Toronto, increases are capped at 2.4% per year for the 1998, 1999, and 2000 taxation years. For commercial, industrial and multi-residential property outside of Toronto, Bill 79 establishes the following ceilings on tax increases (as a percentage of what was paid in the 1997 taxation year): 1998 = 10%; 1999 = 5%; 2000 = 5%.

Whether inside or outside of the City of Toronto, if a property was to have received a taxable decrease over the taxes paid in 1997, a portion of the tax refund will be capped or phased-in (reserved) to offset the costs of limiting tax increases.

The complexity of the related calculations is cause for grave concern with respect to the accuracy of tax bills being issued by all Ontario municipalities.

Relief for Vacancies and Excess Land

Historically, when a tenant vacated a unit, an application was filled under the Municipal Act and the appropriate steps were taken to adjust the current year's taxable obligations.

Now, to qualify for relief as a vacant unit, the property or portion of the property must, among other things:

- be vacant for the entire three month period prior to October 1 of the year previous to the year one seeks relief (i.e. all of July, August and September), and
- be physically separated from occupied portions of a building.

To qualify as excess land, the portion of the property must, among other things:

- not be developed in any way, other than for land servicing,
- not be used other than for farming, and
- be in excess of municipal zoning requirements.

In future, to obtain this relief for the upcoming year, the owner will have to apply prior to November 1 to the Regional Assessment Commissioner. However, for 1999 taxation, Bill 79 has extended the deadline for filing applications to February 28, 1999.

Apportionment / Gross Leases

Apportionment of taxable obligations within multi-tenanted commercial and industrial buildings has become increasingly difficult as there are no longer any separate assessments for individual tenants in Ontario. In addition, subject to gross leases, landlords can recharge individual tenants for the amounts otherwise levied under the former Business Occupancy Tax, provided they meet the guidelines set forth by the various legislative regulations.

... But deadlines have been extended

At least we can be thankful for the extension of important deadlines, which may provide some relief for those fortunate enough to be aware of them and act quickly.

You have until the following dates to

1. file a formal complaint regarding 1998 Supplementary Assessments:
   February 11, 1999
2. submit vacancy and excess-land applications:
   February 28, 1999
3. file a request for reconsideration of 1999 Notices of Assessment:
   March 31, 1999
4. file a formal complaint regarding 1999 Notices of Assessment:
   March 31, 1999

David Gibson is senior tax consultant with Colliers International Realty Tax Advisors Inc., and secretary of the AOLE Council.

What a Deal!

Thursday, March 4, 1999
OLE Dinner Meeting

Top Legal Insights on Ontario's New Condominium Act

When Ontario's new Condominium Act comes into effect later this year, it will change the ground rules for virtually everyone associated with development, investment, management and appraisal. Two of the province's top condo lawyers explain how – in the small-group setting of OLE's dinner meeting.

Harry Herskowitz, DelZotto, Zorsi
Mark Freedman, Harris, Sheaffer

For more information, call the OLE office at (416) 340-7818

This is your chance to get your questions answered!

Since its initial launch in October of 1998, we have made significant progress. Our links keep growing (we are now up to 70). We receive frequent requests from organizations wanting to be linked to our web site.

Without really promoting or publicizing too much, we have received more than 1000 hits since November 1998! There have been visits from: Finland, France, Germany, Italy, Portugal, Russia, Singapore, Spain, Sweden, the UK and many from the US.

We will shortly put up the entire membership list of the organization and provide free links to any Member's website. If you don't have one, you may provide a short one page resume, and for a modest $50 we will arrange to publish it. Please visit the "Contacts" section of the web site for examples of a one page resume and either fax yours to 416-512-1400 or email it to me at kkoenig@sprint.ca

Our URL submission to some 400 search engines is in the works. This will provide exceptional opportunities for global networking and promotion of your business endeavours in Ontario which, of course, remains our focus.

Thank you all for your enthusiastic support.

Konrad Koenig, Webmaster

"PLE" also stands for "President's Lunch Events"

Michael Cane invites all members to join him on the second Friday of each month for lunch! Join with your fellow Land Economists for an informal lunch and socializing in the Engineers' Room. Inaugural get-together is:

Friday, February 12 at noon
Ontario Club, Commerce Court South, Toronto
(Use the entrance near Adelaide and Bay streets)

p.s. Michael wants us to point out that, while he is a most congenial host, these events do produce separate cheques.

Outlook ’99

Dawn Powell
AACI, FRI, PLE
President, Powell Appraisals Inc.
Thunder Bay

THUNDER BAY

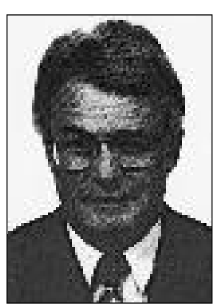
Reserved optimism best describes our prediction for the upcoming year. Northwestern Ontario (NWO) continues to play an important role in supplying natural resources to domestic and global markets. Exports are attractive because of the low Canadian dollar. Bright spots in the forest industry include Dryden, Fort Frances and Nakina. Thunder Bay continues to serve as a transportation hub, although port and railway activity have declined over the past decade.

Demographics will dictate the direction of future developments. The population is expected to decline over the next decade. With few opportunities for high paying jobs in technology and industry, university graduates and skilled workers continue to exit.

Thunder Bay’s metamorphosis from a resource-based community to a diversified Regional Centre will continue into the 21st Century. Once two cities (Port Arthur and Fort William), Thunder Bay has enjoyed substantial development of its intercity area by national and multinational retailers. This has created service and retail jobs, and helped to replace the higher paying jobs lost due to industrial modernization, downsizing and government restructuring. The net result has been less disposable income, deterioration of the former downtown cores and the outflow of profits by the nationals and multinationals. The biggest winner is the consumer, who has benefited from increased selection and competition.

1999 will see construction of a $126 million modern centralized hospital. It is hoped that the new hospital and increased retail/service opportunities will reinforce Thunder Bay’s role as a Regional centre. The next step is to develop tourist attractions, so visitors extend their stay. Thunder Bay has been selected as a site for a charitable casino; however, community reaction is mixed.

Real estate prices remain depressed at all levels with purchasers and lenders being equally cautious. Apartment vacancies are still high; building permits are low, and distress sales remain high. Sales and construction are expected to improve in 1998, but remain soft for several years to come.



Brian M. Knowles
AACI, P. App, SRPA, FRI
Partner, Valco Consultants Inc.
London

LONDON

London’s real estate market continues to slowly make its way out of the recession. With the exception of the Central Business District, most areas of the city have shown a positive trend.

One bright spot in the core is the vacancy level for Class A office space — the lowest this decade. Glenda James, a top leasing agent with Re/Max Centre City, predicts a 1999 vacancy rate of 8%, down from last year’s 13.8%. Landlords can expect a gradual increase in net effective rents due to the increased demand in a limited supply market. Further, the city has made revitalization of the core a priority.

The suburban market saw the construction of two new buildings in the north and one in the south with rental rates generally in the $10 - $12 range.

The industrial market has seen vacancy levels plummet to approximately 5.6%, down from more than 9% in 1997. CB Richard Ellis forecasts positive absorption for 1999, with increasing rental rates. Buildings of 5,000 - 15,000 square feet are now in a seller’s market, with prices generally in the $45 - $55 per square foot range. The market for larger buildings (50,000 - 150,000 square feet) has finally reached a balanced state. Pricing in this market is between $20 and $30 per square foot. Purchasers are still looking for “fire sale” pricing with older industrial facilities.

Certainly one of the most active market segments was multi-family residential investments. Capitalization rates for smaller apartments (12 - 24 units), which were generally acquired by local investors, remained in the 9.5 - 10.5% range. Larger projects attractive to publicly traded companies and REITs traded in the 8 - 9% range. This is definitely a seller’s market although some resistance was shown in the second half of the year. With access to 85% mortgage financing and positive returns on equity, continued investor interest is anticipated in 1999. Several new highrise buildings are under construction and the vacancy rate continues to move down.

Neil A. Koebel
AACI, P. App, PLE
President, City Management & Appraisals Ltd.
Kitchener

KITCHENER/WATERLOO

Kitchener, Waterloo and Cambridge, the constituent centres of The Golden Triangle, have experienced a golden year in 1998, with the lustre and shine expected to continue throughout 1999.

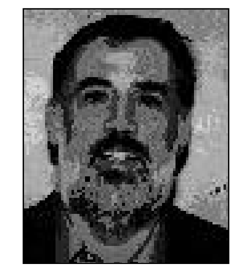
Single family construction hit the highest levels of the 1990s. The average price for a new single family detached home in the Kitchener CMA was $184,667 as of September 1998, a 7% increase from the same time last year. The average sale price of a resale single family detached home increased a total of 3.6% to $164,175 from $158,444 in November of 1997.

Demand for multi family housing increased throughout 1998 with the decline in vacancy rates, interest rates and capitalization rates. This should continue in 1999, considering the strong demand from investor/purchasers looking to buy good product in a short supply market and from renters looking for alternative housing. Currently, vacancy rates are below three per cent in the Region of Waterloo and capitalization rates are in the range of 8.25 - 9%, subject to location, quality of building and income stream.

ICI tells much the same story with an increasing demand and short supply of good quality product. Values/prices were up in 1998 and that is expected to continue in 1999. Vacancies are falling due to the expansion from existing industrial/commercial users and the growth of the hi-tech/computer related companies moving to the area.

The Golden Triangle has a good supply of employment, excellent location on Highway 401 with close proximity to Toronto, Hamilton and London, reasonable land prices, fair property tax rates and two major universities (University of Waterloo and Wilfred Laurier University) and Conestoga Community College. Kitchener-Waterloo presently has the second lowest unemployment rate in Ontario (6.2%).

With a low Canadian dollar and diversified industrial base, 1999 should be a lustrous year for the Golden Triangle Area.



Wayne Scanlon
CET, CRA, PLE
President, Scanlon & Associates
Orillia

ORILLIA

The MLS listing book for Orillia and surrounding area has seen a steady decline in the number of listings. It would appear there will be medium strength in the commercial/industrial sector and strong demand in the single family home market in 1999.

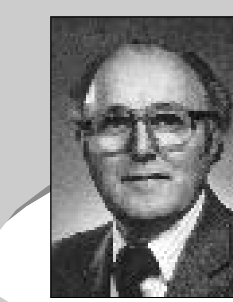
Single family home values, which finally stabilized in 1996, showed signs of price increases in 1997 and 1998. Landlords also reported a significant drop in the vacancy rate and an improvement in rental rates. However, this has not translated into any significant new construction of apartment units within the City of Orillia.

The moving of the Ontario Provincial Police Headquarters and the Solicitor General to the City of Orillia in 1995 has meant total new employment of approximately 1,250 people, half of whom now reside in Orillia and the surrounding area. Casino Rama opened in August 1996 and now employs 2,700 people, making it the largest employer in the area.

The Huronia Regional Centre, which cares for the mentally challenged, has been down-sizing, with many of the clients being moved into group homes, etc.. This created a number of empty buildings, into which the Provincial government has been moving various agencies after renovations. Unfortunately, many of these agencies had been leasing space from the private sector in the Orillia area. It appears that rental office space, especially in larger buildings, will continue to remain soft.

Commercial and industrial prices have improved gradually, as the economy has improved and the last of the power-of-sales have worked their way through the market place. There appears to be particular strength in smaller buildings, which are likely to be owner-occupied. Apparently this is aided by declining interest rates and financial institutions’ willingness to again make mortgage funds available for these types of properties.

Finally, the City of Orillia has now expanded west of Highway 11, with the opening of a Wal-Mart store and new residential construction.



Joseph Ott
AACI, PLE
President, J. Ott Ltd., Realtor
Hamilton

HAMILTON

1998 — The Best and Worst of Times: Unemployment was between 4.3 - 5 per cent and more than 11,000 new jobs were created. The steel industry has been investing heavily in new technology and equipment. However, some other large industries such as Chase (farm machinery) and Proctor & Gamble are either closing or downsizing significantly.

Taxpayers had to pick up the bills, both social and financial, for environmental disasters such as the Plastinet fire. We tried and failed to bring in a new regional government — which contributed to the tax burden, especially for the City of Hamilton. This was worsened by re-assessment. Example: A $1.9 million, 40,000 sq. ft. warehouse in Hamilton attracts taxes of $236,000. The same property in Burlington pays $110,000. Net rental rate in Hamilton is $3/sq. ft.; in Burlington it’s $4.25. Unsustainable.

The Region is selling industrial land at $55-60,000 per acre. Private developers are trying to get $75-90,000. The commercial sector has not recovered: lease rates in “A” buildings are $10-18/sq. ft. gross; others are sometimes as low as $2-3 net. Housing demand in the $160,000 range (more than 60% of the market) is fairly strong.

Continued on page 6

Continued from page 5

Resale listings have dropped approximately six per cent, indicating upward pressure on prices.

Only a limited supply of vacant land is left in Hamilton. Growth has to occur in the suburbs, but there is no sustained planning. Regional coffers are empty, and new development will be subject to higher development charges (additional $2,500 - $3,000 per residential unit). Growth has been artificially maintained by 5% down-payments and very low mortgage interest rates. Most everything is heavily financed and savings rates are almost at zero.

1999 Outlook — Much the Same:
A provincial election may bring temporary relief. A slight increase in residential house prices, single family house starts, and industrial lease rates is anticipated.

OTTAWA

Our Ottawa correspondent was unable to file his report, due to an illness in the family.

TORONTO

Keith Hobcraft
AACI, FRICS, PLE
President, Bosley Farr Associates Ltd.
Toronto

Toronto experienced a generally good year in 1998, with tower cranes once again a welcome sight. The following report blends some information from the Colliers International 1999 Forecast with this writer's own data and commentary.

Housing construction reached its highest levels in the 1990's, with condominium development, particularly in the central areas, being very strong. The condominium market exhibited an interesting shift, with a pronounced trend to smaller, more intimate, attractive buildings, rather than the standard highrise. Conversions continued, but likely only with ventures undertaken some time ago. In the rental sector, apartment rents moved higher by 6.4% and investor demand continued, placing downward pressure on cap rates.

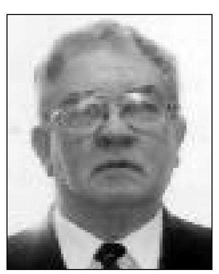
The office and industrial sector improved, although not enough to kick start the mammoth Bay/Adelaide centre. New office construction was just a fraction of that in the late eighties. Downtown office markets remained largely unchanged with demolitions or conversions being offset by a limited number of renovations. Toronto witnessed a handful of design build developments. Net effective office rents increased an average $3/sq. ft.

On the entertainment and tourist front (TO's largest industry), the Air Canada centre nears completion and is expected to open for its first games in February, 1999. The Skydome's difficulties continue, and the situation for the major theatres remains very cloudy. The restaurant and shopping districts and hotels, however, experienced a boom. The Toronto hotel market remained very active, with average sale prices of $66,500/room and cap rates of 7.5-10.5%. Occupancy and room rates were both up in all areas.

Last year, 11 million square feet of industrial space were added to the Toronto market. Vacancy rates fell to marginally over 4%. With growth moderating, rents and land values are expected to level off.

Property re-assessment provided a major "cause celebre" for all sides, but with capping, reclassifying and endlessly changed appeal deadlines, few are sure yet whether they are winners or losers. Presumably, the 2001 taxation year will tell all.

COBOURG



John Mackie
CBV, SCV, PLE
Partner
Bayen, Mackie & Associates
Cobourg

Approximately 40,000 people live around the twin port towns of Cobourg and Port Hope, an hour's drive east of Toronto. If the double digit price inflation of the 1980s is recognized as an unhealthy abnormality – which it was – then the 1990s have been good with steady progress. Residential construction expands at 2% a year. Commercial construction expands to meet market demand.

Industrial is more problematic. All our viable industrial buildings are now occupied, yet existing industries are reluctant to expand by building. Last year, we saw a few significant closings. In uncertain times, the premise "rent short term, build long term" seems to apply. Excluding a mega-multinational corporate move to our area, we can expect to lose a good part of our youth to Toronto employment.

Things can change. A stable international economy would be nice but Provincial changes would be more beneficial, and quicker.

Downloading has created significant new costs for our municipalities. There is some talk of amalgamation between Port Hope, Hastings County and Cobourg — but so far it is just talk, and the problems remain.

The standardized Provincial assessment method has destroyed the small town low cost site advantage. An industrial realty tax of 8.5% of current value means that local government now takes more in annual taxes than the annual cost to build using a 100% mortgage, including mortgage interest. Tax payments often exceed rent.

If the current tax assessment method remains then de-industrialization of Ontario small towns is inevitable. We need industry as it creates jobs. Without new industry, there will be no new jobs, no new housing and no need for commercial expansion.

As we see it, change must occur or we are condemned to a future as a retirement community or a bedroom for long distance commuters. Perhaps a small town tax revolt might help?

Cost Push Inflation is a reality in 1999

Labour Unrest

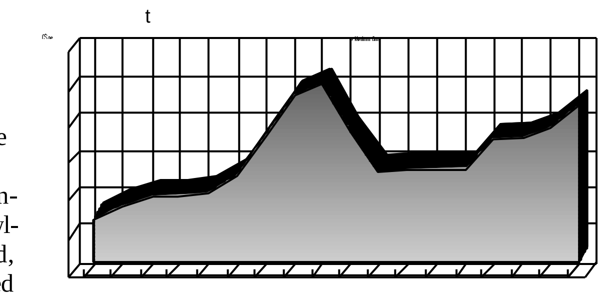
Last year, Ontario construction workers attained wage settlements some 20% higher than other industries. According to figures compiled by the Ontario Office of Collective Bargaining Information, increases from construction settlements averaged 2.1% in the 3rd quarter of 1998 versus 1.8% in all types of industry. Figures for the 2nd quarter averaged 2.5% versus 2%, respectively.

Residential settlements ranged from 1.5% to 4.4% while ICI (industrial/commercial/institutional) settlements stayed under 2%. Over half of the contract settlements went to mediation and/or arbitration.

For the largest residential lowrise contractors in the Greater Toronto area (who were on strike most of the summer), this writer found average settlements were approximately 15% over a three year contract period, or 5% per year.

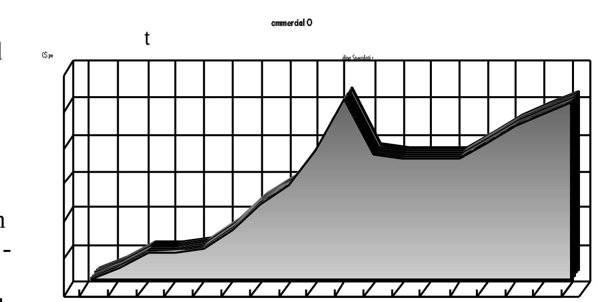
Interestingly, one has to go back to the peak of the ICI real estate market to find comparable increases. In 1988, settlements over 25 Union Agreements averaged 6.25%.

Material Costs



Unfortunately, some of the largest components of building costs (such as concrete, steel, glass, polyethylene, copper, gypsum board, lumber, etc.) are controlled by very large companies, usually oligopolies, operating in the global marketplace. With the small Canadian market and low Canadian dollar, foreign companies are simply not interested in undercutting prices to supply us. Our local plants apparently are finding better profit margins exporting to the United States and other countries than supplying locally. Therefore, material prices did not decline to any great extent during the recession in the first half of the 1990's and have risen from 1996 onwards, albeit at a rate more related to general inflation than labour rates. Where does this leave the Construction Industry?

The construction industry was one of the last to recover from the recession of the early 1990's. Now, builders and trades have apparently decided it's time to play "catch up ".



According to Statistics Canada, new construction in the non-residential sector had its best performance in 1998, compared to any year since 1989 — which was the ultimate reflection of the 1980s' rampant overbuilding and high inflation.

With the rumoured increase in funding of public sector projects (i.e. hospitals, long-term care centres, superjails, schools etc.), we predict that construction costs will continue to increase at a rate far exceeding general inflation.

Housing

Costs have reached the level of the late 1980's in house building. We anticipate a further 2% to 3% increase due to recent wage settlements in low rise "stick-built" housing. Further increases may occur due to rises in material costs and trades' profit expectations.

The ability of the industry to absorb these cost increases is directly related to how much house prices can increase. Now is the time to ensure the cost/price spiral doesn't bring further hardship to an industry already operating on paper thin profit margins.

Commercial

Commercial construction costs also have reached the same level as the late 1980's. We predict escalation of some 4-8% through the balance of 1999 and into 2000, due to wage settlements and general contractors' profit expectation. Further escalation could be evident if new office construction takes off again in the GTA at the same time as large public institutional projects get under way.

by M. A. Barker, director, Helyar & Associates

Welcome New Members!

AOLE extends a warm welcome to the following people:

J. Chaney Morkill AIMA, PLE
Research Consultant, P.S. Johnson Valuation Consultants Ltd.
(905) 470-6600

Len Gigliotti CMA, PLE
Director, Project Accounting and Systems Control
Tridel Corporation
(416) 736-2535

Welcome also to **Chris D. Gower,** PCL Constructors Canada Inc., who has upgraded from Associate to Full Voting Member.

The Legislative Beat

by Andy Manahan PLE

New Assessment Arrangement

On December 31, 1998, responsibility for property assessment in Ontario was transferred from the Property Assessment Division of the Ministry of Finance to the new Ontario Property Assessment Corporation (OPAC). OPAC has a 14-member board with strong municipal representation, headed by Emil Kolb, Chair of Peel Region. Cost and staffing impacts are not yet known (under the former arrangement, costs were $123 million and there were 1,700 staff). The Ministry of Finance will continue to establish standards relating to assessment, while OPAC will have most remaining responsibilities, including defending assessments before tribunals and courts.

Monumental Year for Property Taxation

Finance Minister Ernie Eves had a busy year! The Fair Municipal Finance Act set the stage for current value assessment with seven new property tax classes. Protests against the potential impacts, however, prompted the Province to find solutions such as tax caps for small retailers. Extensions on assessment appeals were also deemed to be necessary. Toronto Star columnist Ian Urquhart says the Tories have been trying to get “major irritants off the front-burner before an election is called”.

The combination of the FMFA and the new Tenant Protection Act has “revolutionized the treatment and impact of property taxes on the multi-residential sector”, states Heather Waese of S.P.A.R. Property Consultants in an article for the Fair Rental Policy Organization of Ontario. Section135 (1) of the TPA provides for automatic rent reductions when the taxes are reduced by more than 2.49%. The formula assumes that property taxes represent 20% of annual income.

Therefore, a 10% reduction in taxes would result in a rent reduction of 2%. If an increase in property taxes means the prescribed operating cost index of 1.17% is exceeded, Ms. Waese points out, s. 138 provides for rent to be increased beyond the annual guideline.

Investment in New Rental Housing

Economic consultant Greg Lampert has updated his 1995 report on the factors needed to increase investment in new rental housing. Equalization of property taxes for new rental buildings with owner-occupied housing, lower interest rates, a more streamlined regulatory process and the end of rent controls are cited as positive for more rental construction. Industry advocates are pushing for implementation of a new multi-residential property class and a phased reduction of property taxes for existing multi-residential.

“Underground” Construction

An Ontario Construction Secretariat report estimates the fiscal loss to governments from the underground economy in construction at between $1.1 and $1.7 billion each year from 1995 to 1997. Data suggests that underground activity has increased dramatically, largely because of the introduction of the GST in 1991 and acute unemployment in the early 1990s. The OCS report concludes that “the growth of the underground economy also undermines the residual commitment to legitimate business and employment practices that is an essential foundation for stable industrial relations”. A radical re-thinking of compliance strategies and a significant increase in enforcement resources are required to reverse the trend.

The Workplace Safety and Insurance Board (formerly the WCB) has already begun to combat fraud and non-compliance. Last year, the Board targeted the Construction and Restaurant sectors. It has already charged numerous firms who failed to register or failed to report payroll. Workers who unjustly claim compensation benefits are also being charged. Anyone aware of fraudulent activities is encouraged to call the WSIB’s hotline: 1-888-745-3237.

Condominium Act

Bill 38 received third reading and Royal Assent on December 18, 1998, and will likely be proclaimed this spring. Regulations are being prepared by Ministry of Consumer and Commercial Relations staff. No decisions have been made on whether the responsibility for the Condominium Act will be transferred from MCCR to MMAH.

Development Charges

The Ministry of Municipal Affairs and Housing has prepared a bulletin in conjunction with its industry and municipal stakeholders on analysing municipalities’ long term capital and operating costs. Another bulletin on proper indexing to reflect inflation costs on growth-related infrastructure will be released soon.

Andy Manahan is Executive Vice-President of the Council of Ontario Construction Associations.