

Hand Delivered

October 8, 2004

Mr. Bill Belsey
Chair, Select Standing Committee on
Finance and Government Services
Office of the Clerk of Committees
Room 224, Parliament Buildings
Victoria, BC V8V 1X4

Dear Mr. Belsey and Committee Members:

RE: BC Budget 2005 Consultation Paper

The British Columbia Real Estate Association (BCREA) represents 12 boards and more than 13,500 REALTORS throughout British Columbia. BCREA provides an extensive communications network, required licensing and continuing education courses, standard forms and government relations for REALTORS. The Vancouver Island Real Estate Board (VIREB) is one of BCREA's member boards.

The real estate profession is committed to improving Quality of Life by supporting growth that encourages economic vitality, provides housing opportunities and builds communities with good schools and safe neighbourhoods.

State of the Profession

The real estate sector is one of the key drivers of the provincial economy. In 2003, dollar volume sales of homes on the Multiple Listing Service® (MLS®) set a new record at over \$24.2 billion, with more than 93,200 homes sold in BC. As of August 31, 2004, residential MLS® sales for 2004 have outpaced that record by 22.6 per cent.

The BC housing market will post further gains for the remainder of 2004 and into 2005, according to the Credit Union Central of BC, with residential housing sales forecast to rise ten per cent this year and five per cent the next. Mortgage rates are expected to remain stable, keeping sales strong.

A study by Clayton Research Associates Limited indicates that, during the period between January 2000 and November 2002, the average housing transaction in Canada generated an estimated \$19,800 of spending for general household purposes, furniture and appliances, moving costs, renovations, services including legal and financial, and taxes. Based on that figure, 2003 home sales in BC generated nearly \$1.8 billion.

Over the past several years, many factors including low interest rates and rising consumer confidence have resulted in a thriving housing market, which has helped solidify BC's economic recovery. As a major economic indicator, healthy home sales reflect the mood of the public. Far from a housing bubble, the real estate sector will remain strong in the years to come, generating economic benefits for the province. In the 2003-2004 fiscal year, the government achieved over \$500 million in revenue on the Property Transfer Tax, alone.

Along with the healthy market, BCREA and VIREB are pleased the government kept its promise by introducing the *Real Estate Services Act* (RESA) and *Real Estate Development Marketing Act* (REDMA). These laws introduce flexibility, strengthen public protection and reinforce consumer confidence.

Yet, the draft Regulation under RESA does not provide licensees the same rights as other professionals. The profession believes a broker or agent who holds a valid license issued under the Act should be able to apply for a permit to carry on the business of providing real estate trading services to a brokerage as a personal corporation. This would permit brokers and agents to incorporate personal corporations to reap the applicable tax benefits, and is modeled on similar provisions found in the *Legal Profession Act*, *Health Professions Act* and other legislation dealing with professionals.

The ability to license by way of personal corporations is a priority issue for the real estate profession and can be addressed within the Regulation that enables the legislation.

BCREA urges the government to amend the draft Regulation under the *Real Estate Services Act* to allow licensees to be licensed by way of personal corporations.

Budgetary Matters

We congratulate the government of British Columbia for implementing measures to meet its commitment to balance the budget. Given the growing budget surplus estimate, this fiscal strategy is clearly on track. BCREA and VIREB continue to support the government's timetable for eliminating the deficit.

We also urge the government to continue to follow cautious budgeting practices, monitoring economic conditions carefully and remaining flexible in its approach. BCREA and VIREB support the government's need to include a forecast allowance in each provincial budget. Such a cushion will help the government achieve its financial forecasts and meet unforeseen challenges.

Housing Affordability

Every region of the country is experiencing an erosion of housing affordability; however, the biggest deterioration is occurring in the least affordable province—British Columbia.¹

¹ "RBC Affordability Index", RBC Financial Group, August 2004.

BCREA and VIREB congratulate the government for taking initial steps to address this situation. Raising the threshold for the *Home Owner Grant* to \$585,000 from \$525,000 allows 95 per cent of homeowners to receive the full grant. Amendment of the Property Transfer Tax so purchasers of pre-sold residential strata units pay the tax based on the final purchase price rather than on a unit's value at the time of registration in the Land Title Office is also positive.

REALTORS trust the government will continue to involve our provincial Association in its goal to make housing affordability a priority.

- *Residential Tenancy Act*
The new *Residential Tenancy Act* streamlines regulations and strengthens protections for landlords and tenants. BCREA and VIREB believe the new Act will also help revitalize investment in the rental housing market.

Section 51(1) of the Act penalizes landlords wishing to take over premises for their own use. The requirement to pay one month's rent to the tenant does not logically follow in a month-to-month tenancy situation. We support landlords being required to give two months' notice of termination, but see no reason for adding a payment on landlords.

This provision inhibits small investors from becoming landlords. This penalty is also added into the costs associated with buying property, therefore adding to the cost of housing and inflated rents.

BCREA recommends the government remove section 51(1) of the *Residential Tenancy Act*, which reads:

A landlord who gives a tenant notice to end a tenancy under section 49 [landlord's use of property] must pay the tenant, on or before the effective date of notice, an amount that is equivalent to one month's rent payable under the tenancy agreement.

- Property Transfer Tax (PTT)
BCREA, VIREB and REALTORS across the province continue to recommend that the provincial government take steps to eliminate, phase out or otherwise reduce the PTT. Its removal will benefit the public, the government and industry. Over ten years, removal would mean:
 - 8,700 additional MLS® residential sales
 - 1,740 housing starts
 - \$334 million in new residential investment
 - 6,721 person years of employment in sales and construction industries
 - \$500 million in wages and profits

- \$82 million increase in government revenues through MLS® sales
- \$1.4 billion increase in Gross Domestic Product²

BCREA recommends the government implement a program to reduce the PTT. As an example, reduce to zero the PTT payable on property sales under \$200,000. For property sales over \$200,000, reduce the PTT payable on the first \$200,000 to zero and two per cent on the balance.

- **Development Cost Charges (DCCs)**
DCCs continue to erode affordability. Originally created so new growth paid for itself and did not burden property owners, they are charged for the capital costs of various types of infrastructure, including water, sewer, drainage and parkland. They can also be set for different geographic areas and can vary by land use and density.³

Fifteen years ago, DCCs added \$500 to \$900 for a new single-family home. The Urban Development Institute estimates these costs increased 300 per cent from 1992 to 2002.⁴ According to Peter Simpson of the Greater Vancouver Home Builders Association, in some regions of the province, DCCs and other government levies account for 25 to 28 per cent of housing costs.

The *Local Government Act* and the *Community Charter* give local governments authority to use DCCs. Unfortunately, accountability measures are absent from the legislation, which may lead to unnecessary charges. To promote affordability, BCREA believes additional burdens placed on homebuyers must be justified.

BCREA recommends the government:

1. make local governments accountable for their design, use and levy of DCCs,
2. ensure local governments levy DCCs appropriate to the impact of development
3. encourage improvements in the municipal development application process, such as reduced turnaround times for obtaining construction permits.

Real Estate Investments in Self-Directed RRSPs

The current positive market conditions are expected to continue and they present the provincial government with a unique opportunity: to support a proposal to the federal government to include real estate investments in self-directed RRSPs.

² "Property Transfer Tax Update," Credit Union Central of BC, 2004.

³ "An Evaluation of Development Cost Charge Practices in BC," Coriolis Consulting Group, 2003.

⁴ "Single Family Housing Outlook," Urban Development Institute, 2002.

Real estate is characterized as a secure, low risk investment:

- Real estate has offered an average return on investment of eight per cent over the past 20 years.⁵
- Real estate comprises a growing proportion of pension fund portfolios.⁶
- Housing has done so well lately that it has largely offset declines in personal wealth caused by falling stock markets.⁷

Governments benefit significantly from the promotion of real estate as an investment. Direct sales and spin-off spending provide substantial revenues and further stimulate the construction, retail and service sectors.

Governments will also be able to measure and highlight sustained consumer confidence in real estate, a key economic sector. This will provide an economic rally with which the province's economic resilience and optimism can be demonstrated.

BCREA recommends the provincial government support a proposal by the real estate profession to the federal government to include real estate investments in self-directed RRSPs.

Compensation for Private Property Owners in the Riparian Areas Regulation

The *Riparian Areas Regulation* (RAR) reflects the same principles that were outlined in its failed predecessor, the *Streamside Protection Regulation* (SPR). The RAR is an improvement because it is based on a revised framework that includes flexibility, fairness and collaboration.

To be truly effective, however, the RAR must offer fairness where private property rights are concerned. Under the SPR, private land within 30 metres from the high-water marks of watercourses was expropriated *de facto*, without compensation to the owners. This was unacceptable under the SPR and is not addressed in the RAR.

BCREA is one of many groups that are alarmed by this. Property owners must be compensated for any expropriation of land. The RAR would be significantly more accountable to the public if it allowed compensation to be paid to owners whose property is negatively impacted by any amount of setback.

BCREA recommends the government amend the *Riparian Areas Regulation* so it allows compensation, equal to the market value, of the loss paid to the affected landowner(s). Compensation should be provided through an efficient, timely and transparent process.

⁵ Richard Wozny, Vice President and Manager, Royal LePage Advisors Inc.

⁶ Clayton Research, *Clayton Housing Report*, June 2003.

⁷ TD Bank, *Profiting from Home Ownership*, June 2003.

Threats to the Provincial Economy

BCREA and VIREB commend the government for taking steps to manage the risk associated with volatile commodity revenues and unexpected economic and fiscal shocks. We recognize two significant threats to the province's economy and recommend the government take immediate action to address them.

Proposed Changes to *Income Tax Act*

The federal Department of Finance proposes amendments to the *Income Tax Act* that will devastate real estate investments and depress real estate markets in BC. The proposals would negatively impact investments made in good faith by investors, and should be rejected.

The proposed amendments could take effect in 2005. They would move the current test for deductibility—which currently says owners must have a possibility of profit—to a probability of profit, which is a more exacting standard. As well, profit would be redefined to exclude capital gains. Therefore, an investor who expected to realize a profit on the sale of a property, but not on a regular income stream such as rental revenues, would be unable to deduct losses from other sources of income.

The proposed amendments present three major problems:

1. A requirement to test for “cumulative profit” expectation each year in which a loss is realized.
2. No carry forward provision for the deductibility of losses against income in future years.
3. No exception for investments made prior to legislation of the proposed amendments; i.e., no grandfathering.

If adopted, the changes would likely lead lenders to refuse to provide loans to people looking to acquire highly-leveraged investments in real property due to concerns that disallowed expenses would affect repayment. This would adversely affect the purchase and sale of securities, particularly higher risk equities, and could devastate real estate investing in BC.

BCREA recommends the provincial government urgently recommend to their colleagues in Ottawa that the proposed amendments to the *Income Tax Act* be rejected.

Mountain Pine Beetle and Homeowner Liability Insurance

REALTORS report that homeowners and sellers across the province are experiencing increased difficulty in accessing affordable homeowner liability insurance due to infestation of trees by the mountain pine beetle.

The negative impact of the beetles, which infect and kill healthy trees, is well known and documented across the province. A dead or sick tree is potentially unsafe. The fact that insurance

brokers may consider beetle-damaged trees when they underwrite insurance policies means that homeowners and sellers could face a financial hardship when required to remove infected trees as a precondition to insuring property.

Since insurance policies include protection against negligence, providers are concerned that a diseased tree may fall and damage a home, car or person, which could lead to a negligence claim against the property owner.

The Insurance Bureau of Canada advises that property owners are obliged to do their best to mitigate potentially hazardous situations, including removing a tree infested by mountain pine beetles.

BCREA recommends the government consult with the Union of BC Municipalities, the real estate profession and the insurance industry to assess the risk of the mountain pine beetle on homeowner liability insurance and develop a plan to address the risk.

Thank you for this opportunity to bring our budget concerns forward. For a more detailed discussion of our recommendations, please contact Stephen Olmstead, BCREA Manager of Government Relations, by telephone, 604.742.2787, or email, solmstead@bcrea.bc.ca.

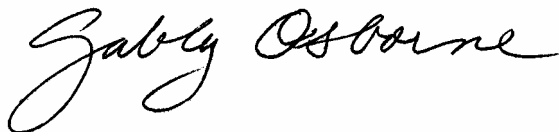
Yours sincerely,

BRITISH COLUMBIA REAL ESTATE ASSOCIATION



Gordon Maroney
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