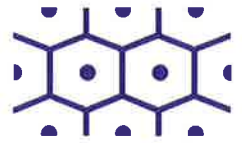


Newsletter



(Very Late) Fall 1995

Vol. 2 No. 53 (ISSN. 1203-1410)

UPDATE**Citadel Under Siege**

Halifax - Warden of the North
(Photograph courtesy of SunDancer Photo Communications)

Are you up against it? Do you feel that your prime purpose in life is to collect taxes for voracious government? Like most small firms, we are on the treadmill too. We undertook a calculation recently and discovered, to no great surprise, that \$300,000 of every \$1.0 million you pay us in fees, is immediately handed over to one of the three levels of government . . . and we don't pay sales tax! Yet! And that's only direct taxation. Every time we turn around, greedy government is demanding more, levying fees for "services" which are already funded out of tax revenue . . . such as the \$60 "search fee" the City of Halifax now demands for Building Permit information. The recent recession and its aftermath is a challenge for the private sector . . . made all the harder by the minimal cutbacks asked of the public sector. In view of the foregoing, is it unpatriotic to minimise your tax load? We don't believe so . . . and are constantly surprised at the number of private sector clients who are uncomfortable with the concept. If you fall into this category, rest easy: the Federal Government is aggressively appealing the property assessment of the Halifax Citadel, one of the country's foremost historic

sites, and have retained private sector representation to conduct their appeal. So follow the Federal lead, take a proactive stance . . .

PROPERTY TAX DIVISION**Nova Scotia**

Associated Freezers, Dartmouth, N.S.
(\$400,000 in tax savings)

1996 will be Year 4 of the triannual re-assessment for the province's mathematically challenged Assessment Department. However, we have it on impeccable authority that assessments will be conducted on an annual basis from 1997 onwards. Now does that mean like, every year . . . or err, every two years? Lucky they're not on ten year re-assessment cycles . . . no saying what would have happened when they'd run out of fingers!

The base date for the 1996 assessment is the 1st January 1991 . . . unless your property is classed as "residential" (this includes apartment buildings) in which case it is the 1st January 1988 . . . well sort of . . . it is actually the market value as at the 1st January 1991 backdated to the 1st January 1988 . . . but it is meant to be the 1st January 1988. Confused? Great! Give us a call when you get your assessment notice.

1996 will also be the year the 1997 assessment roll is
(Continued on page 2)

IN THIS ISSUE

Update: Citadel Under Siege	1
Property Taxes	1
Baby Boomers Bulge	3
Expropriation-A Hitch Hiker's Guide (Continued)	5
Brokerage	6

(Continued from page 1)

published . . . around about June so sayeth the Assessment Department; they are (almost) positively certain about it. So there are two reasons to ask us to review your assessment in 1996. Give Tom Mills a call when you receive your (1996) notice on the 8th January. The appeal period ends at midnight on the 29th January 1996.



Park Place, Saint John, N.B.
(\$25,000 in tax savings)

General Level of Assessment

Although your assessment is based on the market value of the property as of a specific "base" date, the assessment department is required to make a further adjustment to ensure that you are not over-assessed. They compare the aggregate assessed values of properties that have actually sold around the time of the base date with the aggregated sale prices to determine the "assessment/sale price ratio" a.k.a. the "general level of assessment". In a perfect world this ratio would be "1", thus reflecting the intention to assess each property at its market value as of the base date. In practice such is rarely the case and the general level of assessment may, for example, be 0.85, in which event its correct assessment = 0.85(estimated market value on the base date). Our Property Tax Division successfully challenged the assessment department's calculations for the Town of Amherst. Those calculations purported to show that the general level of assessment was 101% of the market value. Based on the information presented we were able to demonstrate that the general level of assessment was only 85% . . . so a residential property worth \$100,000 on the 1st January 1988 should only be assessed at \$85,000, not the \$101,000 computed by the assessor. This is a tax saving of 16% . . . all out of "after tax" dollars.

New Brunswick

A Christmas Gift to all N.B. Taxpayers

The N.B. Court of Queens Bench, Trial Division's recent decision that a taxpayer is entitled to a copy of its property assessment calculations is a victory for common sense. However, it is bizarre . . . and troubling, that a court action was

necessary. In our view it is a frightening reflection on the misguided thinking of some civil servants about their role in the administration of the tax system.

In previous Newsletters (Vol. 2, Nos. 46, 47, 48, 50) we questioned the Geographic Information Corporation's (G.I.C.) penchant for secrecy, suspecting that its disinclination to disclose details of the assessment calculations to the property owner, was motivated by a desire to hide inadequate work beneath the bureaucratic blanket. This suspicion was lent weight by the fact that the competent assessors (there are many) were very willing to provide us with copies of their calculations.

In the action, brought under the Right to Information Act, Repap New Brunswick Inc., ably represented by the Fredericton law firm Hansen Hashey, sought a ruling from the Court of Queens Bench (F/M/39/95) ordering the Minister of Economic Development and Tourism (a.k.a. G.I.C.) release Repap's assessment records to them. G.I.C.'s Newcastle office had initially refused to let Repap see the assessment calculations at all. This is no small taxpayer: Repap contributes approximately \$5 million per annum in taxes to the municipality, on its Miramichi pulp and paper mill complex. After representations were made to G.I.C.'s senior personnel, the taxpayer was allowed to view the calculations but only at G.I.C.'s Newcastle office and no copies of the calculations were to be made available. G.I.C. initially ignored the request for a copy of the assessment calculations, submitted under the Right to Information Act but later, upon the

matter being referred to Court, refused to release them on the grounds that they were "confidential". The Court agreed with Repap that G.I.C.'s confidentiality argument was spurious and ordered the assessment records released forthwith. Their decision opens the door: all property owners in the province can now obtain a copy of their assessment records. Hopefully it heralds a more open policy by G.I.C., to the people who pay its salary.

Beneath the Bureaucratic Blanket

Many assessors candidly admit their reluctance to release copies of their assessment calculations stems from embarrassment that they are often crude (the records, not the assessor) and hence open to ridicule (the assessor, not the records). It would be surprising if they were not: assessment is necessarily imperfect; it is a mass appraisal function and in our experience every assessment department on this continent and in Europe, lacks the resources and expertise to properly appraise all property in their jurisdiction. It would be astonishing if there were not a few bed bugs below the blanket . . . and that surely is why there is an appeal process. All the more reason why the assessor should be willing to submit his/her calculations to scrutiny by the taxpayer's professional representative (preferably us!). To be fair, we have found most assessors in the province very willing to provide us with their calculations even when they did not reflect credit on their department. In our view however this type of disclosure is a fundamental right: every taxpayer is entitled to be treated in a fair and decent manner. If the records are deficient the taxpayer should have the opportunity to correct them through the appeal process without opprobrium attaching to the assessor. However, there is a corresponding responsibility on the assessor. If they attempt to hide beneath the bureaucratic blanket, and their action is subsequently proven to be motivated by a desire to shield defective work from public scrutiny, the assessor should be held personally liable for any losses suffered by the taxpayer. It should not be necessary for the taxpayer to fund an appeal process where the primary

(Continued on page 3)

(Continued from page 2)

motivation for non-disclosure is a desire by the assessor to hide defective work. The onus of proof should be on the assessor in all future cases of non-disclosure . . . this is probably the best safeguard against the temptation to hide beneath the bureaucratic blanket in the future.

Newfoundland

Jon Robbins of our Property Tax Division, and his vehicle, had a close encounter with a bull moose on a recent cross island trip. The poor creature ended up flat on his back in the middle of the highway, legs pointing skyward. The moose didn't hang around to see if he was O.K.

Jon is currently working on assessment appeals in St. Georges, Stephenville, Corner Brook, Deer Lake, Baie Verte, Springdale, Grand Falls, Lewisporte, Gander, Clarenville, Marystown, Bay Roberts, St. John's and Mount Pearl.

1996 is the quinquennial re-assessment year for St. John's. The basis for your assessment is the market value of your property as at the 1st January 1995 base date. This is your opportunity to reduce your tax burden for the next 5 years. The assessment notices have now been mailed. If you have any doubt about the validity of the assessed value, you should file a protective appeal. We suggest that you utilize the following wording as the grounds for your appeal: "The assessment is excessive, unfair, not uniform with other assessments, and any other grounds that may appear". You only have 21 days from the date shown on the assessment notice in which to file an appeal. If you wish to retain us as your agent to conduct the appeal, please so state on the notice of appeal. If you would like further information please call Tom or Mike (1-800-567-3033).

Prince Edward Island

We are in the process of completing negotiations for the last of the 1995 appeals on the Island but can still fit in a few more. If your 1995 assessment is under appeal, or if you would like us to



University Avenue, Charlottetown
(\$6,300/annum - 41% in tax savings)

prepare for 1996, please give Tom or Mike a call (1-800-567-3033).

BABY BOOMERS BULGE

Much has been made of that post-war aberration, the baby boomers, generally defined as those born during the period 1946 to 1966. Next year the leading edge will reach the age of 50. As their children spread their wings and leave the family home, the baby boomers will increasingly become empty nesters. Their housing requirements will change and the effect will be felt throughout the housing and rental markets. Saving for retirement will loom large in their minds and the change in spending patterns will impact on the property markets. Senior citizens housing and health care facilities are an obvious growth area: less apparent are the retail opportunities in locations attractive to retirees. We notice that one enterprising Halifax escort and massage service determined to catch the wave is already offering a senior citizen's package. This is one competitive society! So if you have been asleep at the switch, crank up the coffee, close the door . . . and read on.

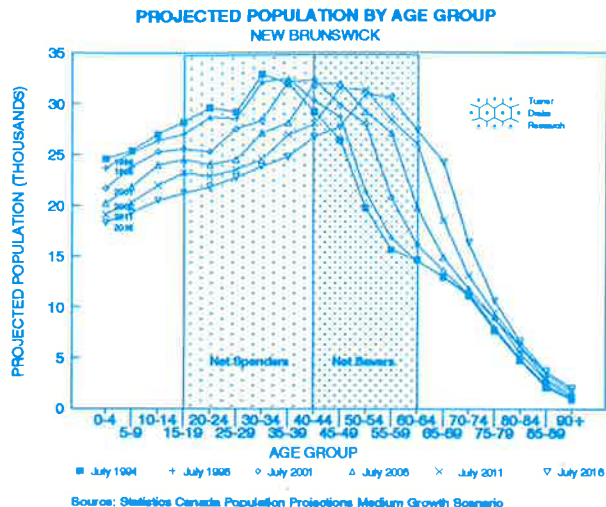
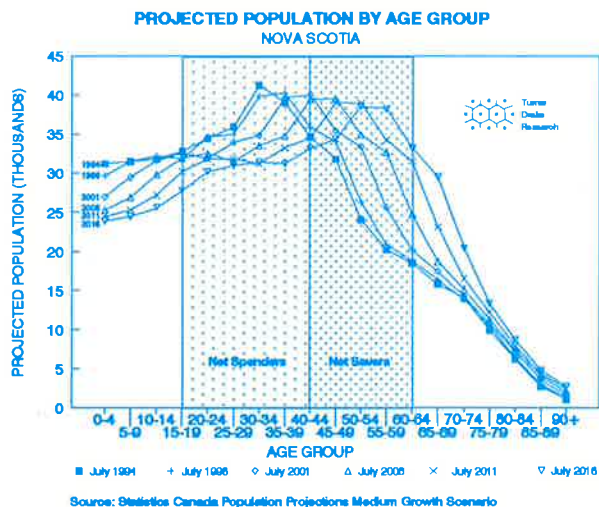
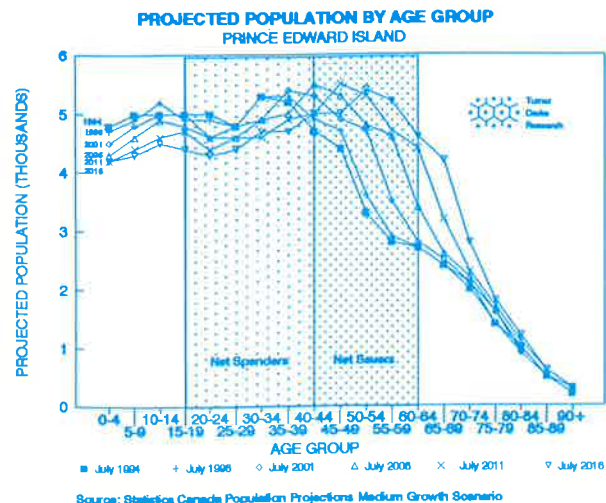
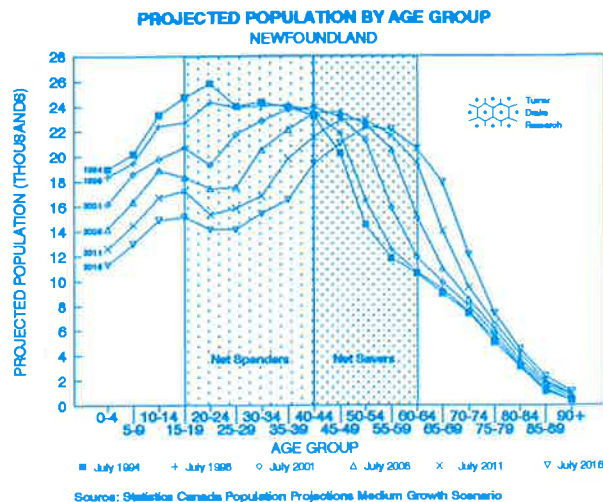
And whilst we are at it, we thought that we should deal with another topic dear to our hearts. The northern cod have gone and the assumption west of the New Brunswick border is that Atlantic Canadians have followed them . . . or are about to . . . The concept that we board the family dory each morning, commute to the Grand Banks and jig for cod has a certain endearing appeal. In reality life is somewhat more mundane. A trip through the traffic to worship on the altar of commerce is actually the norm for

most of us. However, fishing is part of our region's economy and the collapse of part of the industry has had an impact, especially in Newfoundland. Interprovincial migration is a factor for the region so we thought that should be addressed too. Immigration/emigration from the region across national borders also has to be considered. Statistics Canada has produced population projections for each of the Atlantic Provinces and we have illustrated their medium growth scenario in the graphs on the next page.

Since age 45 appears to be a watershed: those yet to achieve it are "net spenders"; those with it safely behind them are "net savers", we have divided each graph into the respective spending patterns. The population projections incorporate births, deaths and migration (inter-provincial and inter-country). Population has been tracked in July 1994 and July 1996; and thereafter quinquennially. To interpret the data, focus on the "net spender" column and follow the spending waves, each representing a different year, as they travel through time from 1994 to 2016. Fascinating, isn't it? Now move across the "net saver" column and repeat the exercise. The "net savers" are still spending money but the focus of their consumption has shifted from goods necessary for family formation, eg. homes, furnishings, electronic goods, etc., to items desirable to maintain their lifestyle and prepare for retirement. **This is a very wealthy group: the over 50 age bracket own the vast majority of the country's assets.** They represent an opportunity for real estate investors, so long as the latter purchase real estate in locations attractive to ageing baby boomers, in advance of the wave. The trick is to pick the right province and then to focus on neighbourhoods, or towns, which will be retiree locations. The table on the next page shows the percentage increase in earnings, by province and age group, from July 1996 to July 2016.

The table is based on the assumption that spending/savings patterns by age group will not change during the time period under consideration. The figures for Canada are included as a "benchmark".

(Continued on page 4)



Location	Change in Earnings from July 1996 to July 2016		
	Total All Age Groups	Net Spenders 15 years to 44 Years	Net Savers 45 Years to 64 Years
Canada	+ 25%	+ 6%	+ 50%
P.E.I.	+ 8%	- 10%	+ 35%
N.S.	+ 6%	- 16%	+ 33%
N.B.	+ 3%	- 22%	+ 28%
NFL.	- 7%	- 36%	+ 25%

Then each province in the Atlantic region is ranked according to its attractiveness as an investment destination, based on percentage increase in population. (This assumes that increases in property value are correlated with population growth. Since the ranking holds true across all three columns, it should be broadly correct).

Prince Edward Island is expected to benefit the most from the changing demographics. The Island is attractive too because the fixed link to the mainland will be completed in 1997, giving the province all-weather access, rather than having to rely on the

vagaries of the ferry service. This improved access is expected to boost tourism by 20%, with a concomitant effect on the value of hotels, motels and recreational property.

Nova Scotia's Annapolis Valley is already a prime retiree location for people from all parts of Canada. The Coldbrook-Wolfville Corridor in particular, with its lush garden ambience, crime free environment, cultural and entertainment facilities and easy access to Greater Halifax, is proving to be a magnet for the building wave of retirees. Wolfville's new performing arts theatre, which patterned its opening summer 1995 run, the Atlantic Theatre Festival, on Ontario's famous Niagara on the Lake's Shaw Festival, will further enhance the popularity of the area. The County of Kings, already has the second highest population growth in Nova Scotia: during the period 1986 to 1991 its population grew by 5.7%, almost double the provincial average.

New Brunswick's population is expected to peak in

(Continued from page 4)

2002 and decline marginally thereafter, presumably due to a migration out of the province by younger people. This will decrease demand for office and retail space and result in lower aggregate values. Entry level housing such as starter homes and rental units may suffer too, although it appears that increases in demand from empty nesters may counterbalance the reduction in demand from new family formation.

Newfoundland is not a cheerful picture. The total population is expected to decrease by 7% between 1996 and 2016, resulting in lower aggregate values for most types of real estate, especially office, retail and industrial space. However, there have been a number of events since Statistics Canada produced its projections, the most dramatic of which has been the Diamond Fields Resources - Archean Resources' nickel-copper-cobalt discovery at Voisey Bay in Labrador. This is a world class . . . possibly the world class . . . discovery. In addition, on shore and off shore oil exploration is progressing in western Newfoundland.

EXPROPRIATION - A HITCH HIKER'S GUIDE

Mainly For Lawyers - Proposed Amendments to Nova Scotia Act

Since our last Newsletter (Vol. 2 No. 52) the province has introduced Bill 40, an attempt to gut the N.S. Expropriation Act. The Provincial Department of Transportation and municipalities such as the City of Halifax have a turgid history of expropriation negotiations and in our view have done their best to avoid the substantive parts of the Act that ensure fair treatment for the expropriated party. The first court of appeal the Utility and Review Board, and the Supreme Court of Nova Scotia have repeatedly rejected their "interpretation" of the Act. Bill 40 is an attempt to bend the Act to conform with that interpretation. In our opinion it is a sleazy attempt to achieve objectives that have been rejected by the courts because they were undesirable and illegal under the current legislation. Bill 40 attempts to alter the present Act in the following manner:

- (1) **The acquiring authority will be able to make all of its offers of compensation unhindered by the necessity to produce a substantiating appraisal report.** The property owner will therefore be unable to assess whether the compensation, (a) covers all of the heads of claim (including injurious affection), (b) is reasonable. We have analyzed previous offers and compared them with the true loss as determined by the courts. On average the offer by the acquiring authority is only 32% of the true loss.

- (2) **No legal or appraisal costs are payable to the expropriated owner unless he/she appeals to the Utility and Review Board.** This effectively eliminates the owner's access to professional advice. Since only 1 in 6 offers come within 10% of the actual loss, it will reduce acquisition costs by allowing acquiring authorities to "steal" property for road widening and other purposes.
- (3) **If the expropriated party appeals the case to the Utility and Review Board he/she has to file their experts' reports 60 days before the Board hearing: yet the acquiring authority does not have to make its formal offer until 7 days (1 week!) before the Board hearing.** This will discourage the expropriated party from appealing to the Board since the case preparation (and the substantive cost) have to be incurred before he/she knows what offer is going to be made by the expropriating authority.
- (4) **The owner's costs before the Board will only be paid if he/she "wins" and even then the Board will be prevented from awarding the full costs.** This will have the same effect as (3) above.
- (5) **No compensation will be paid for injurious affection where access to the highway is eliminated by virtue of it being designated a controlled access highway, so long as a service road is provided.** Where the status of the highway is altered this will virtually eliminate compensation to gas stations, car dealerships, fast food outlets and other types of business for whom highway access is critical. It will spell bankruptcy for many types of business.
- (6) **Determination of business loss is to be deferred until 3 years after expropriation or for 12 months after re-establishment of the business, whichever is the earlier.** This is probably a fairly safe way of ensuring that the business does not survive.

In our experience expropriated owners in Nova Scotia are generally treated with "comfortable contempt" by the provincial and municipal employees engaged in negotiating compensation for their loss. The present Act, through its access to professional advice and our excellent court system, does much to protect the property owner. Bill 40, if passed in its present form will strip away that protection. Twenty five years ago in Southern England, some of our personnel worked on an expropriation case where the property owner barricaded himself behind signs which read "All Trespassers and Civil Servants Shot on Sight". Whilst we certainly don't endorse the principle, it expresses

(Continued on page 6)

(Continued from page 5)

the frustration commonly felt by expropriated parties.

(Expropriation - A Hitch Hiker's guide will be continued in the next issue of Newsletter . . .).

BROKERAGE DIVISION

Leasing

In our last issue (Vol. 2 No. 52) we mentioned that the Halifax Port Corporation has appointed our Brokerage Division as its exclusive leasing agent. This is the first time the Corporation has utilized a private sector real estate company to undertake its leasing program, and is our initial involvement with public/private partnering.

To date we have leased 47,000 ft.² of the space and have a further 117,000 ft.² available, together with 7.12 acres of external storage. The space is available in rental modules of 1,000 ft.² to 65,000 ft.² and most is dockside. All of it is within five minutes of the region's financial district. The four municipalities; City of Halifax, City of Dartmouth, Town of Bedford and Halifax County will be merged into a single municipal unit with a population of 300,000 on 1st April 1996. This space will lie at the heart of that new municipality. For these, and other leasing opportunities, call Russ (1-902-429-1811).



Prince Street, Halifax, N.S.

The owners are in the process of renovating this Georgian gem located in the heart of the Central Business District. The space has exposed ironstone walls and timbered ceilings. This is a friendly building (one tenant has been here for 21 years). When it was built as a merchant's

mansion, 160 years ago, its location at the corner of Lower Water and Prince Streets, was at the water's edge. Today, the Museum of the Atlantic (site of the 1995 G7 Summit) lies between it and Halifax Harbour. We are looking for tenants who appreciate old world ambience and a location in the region's financial district. Spaces 826 ft.² to 1,682 ft.² are available.

Sales



Woodside Industrial Park, Dartmouth, N.S.
(Photograph courtesy of SunDancer Photo Communications)

We have fourteen industrial, office and shopping centre properties available at prices purchasers would have killed for just six years ago. Please call Verna (1-902-429-1811) if you are interested in more information. There is now strong evidence that:

- (1) The hotel/motel market bottomed 18 months ago and prices are rebounding.
- (2) The industrial market has bottomed in major centres such as Greater Halifax. Vacancy rates are falling and landlords are less generous with their leasing incentives than was the case one year ago. Nonetheless there are some excellent buying opportunities still available. Phillips Cables Limited have retained us to sell their 52,000 ft.² industrial facility in the Woodside Industrial Park, Dartmouth (see photograph). The asking price of \$17/ft.² is about half its 1989 value. We also have an investment opportunity available in the Bayers Lake Industrial Park, Halifax, N.S. This property has a 1.6% vacancy and was able to prosper through the recent recession. The present management team is

willing to stay after purchase.

- (3) The office market in the City of Lakes Business Park, Dartmouth, and in suburban centres such as Bedford has rebounded over the past twelve months. Vacancy rates have fallen and the net absolute rents, at \$7.00/ft.² to \$13/ft.² are about double those in the Halifax C.B.D.

The office market in Halifax C.B.D. has softened during the past six months. It is not apparent if prices have bottomed yet. However, it is difficult to believe that prices will fall further. We have a number of properties available at a 50% discount from their pre-recession values.

- (4) Shopping centres, particularly those affected by the Bayers Lake Industrial Park retail node, continue to fall in value. K-Mart, Winners and Future Shop all opened in Bayers Lake this year and Wal-Mart is expected to open in 1996.

The shift in purchasing patterns, concomitant on the changing demographics (see Baby Boomers Bulge in this issue) will effect the value of shopping centres. Shopping centres in the Annapolis Valley and other areas poised to benefit from the growing wave of retirees have reached the bottom of the investment cycle and are available at a 25% discount from their 1989 peak. They represent a sound investment opportunity, particularly as they are still shunned by pension funds wedded to a major metropolitan location. Ironically they are less vulnerable to competition from discounters and big box retailers precisely because they are located in the smaller metropolitan areas: towns which are too small to attract this type of retailer.

We have a number of excellent investment opportunities, situated in retiree locations in Halifax and the Annapolis valley.