

Newsletter

Summer 1996

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UPDATE

We have had a number of polite enquiries as to why Newsletter is constantly out of step with the seasons: the Winter issue struggling forth in the Spring, the latter in the Summer, and this (summer) edition in the near Fall. There are two rational explanations: a large part of our readership is located in the southern hemisphere . . . or you keep us so busy we are always struggling to catch up. Hello New Zealand, just keep that mail coming.

In this issue we again spotlight property taxes. The Province of Nova Scotia has embarked on an innovative program that enables us to address your 1997 tax assessment now, before the roll is officially published. New Brunswick has embarked on an ambitious road building program that involves twinning the Trans Canada Highway through the province. Our valuation team is working on the project for the property owners affected: read our article on expropriation if you too are so favoured. The environment is now a dirty word: we take a look at contaminated property. The property markets are on the move again (finally): we have details in our brokerage section.

PERIPATETIC AND AMBIDEXTROUS

Clients owning property assets outside the Atlantic Region often request the address of our office in their province. In fact Halifax is a city well connected to the rest of the world by frequent air service and we are part of a large and growing group of consulting firms that, though domiciled here, operate outside the region, and the country, as well as within it. This year our company has undertaken assignments from Vancouver to St. John's (and many places in between). We have a particular expertise in complex industrial properties: the larger and more specialised the better. So, if you require Property Tax, Valuation or Counselling advice, particularly if it involves potential litigation, call us at 1-800-567-3033

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(outside Canada call collect 1-902-429-1811). Go on, do it!

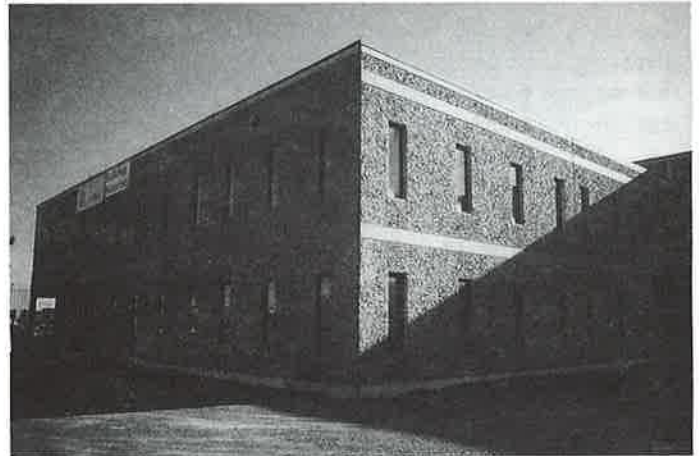
VALUATION DIVISION . . . ERRATUM

Oops!

Our last Newsletter (Vol.2 No.54) reported the total area under roof at Miramichi Pulp and Paper as 600,000 ft.². Our valuer, freshly back from his field trip mildly points out that it is a little larger than that . . . 2,030,131 ft.² in fact (he is a meticulous fellow, pedantic perhaps, but precise). Oh! That big . . . gee if we'd known we might have budgeted an assistant.

PROPERTY TAX DIVISION

Nova Scotia - 1997 Assessments Are Out!



Ilsley Avenue, Dartmouth, N.S.
(\$23,000 - 16% in tax savings)

The 1997 assessment notices were mailed to property owners on July 1st 1996 as part of a unique "pre-publication" of next year's assessment roll: the "official" assessment notices, including business occupancy, will be mailed to you in January 1997. Starting next year, the Province is moving to an annual re-assessment instead of the current, tri-annual program. Last year we met with the then Minister of Municipal Affairs, Ms. Sandy Jolly at her request and were impressed with her determination to remove the ambiguity, uncertainty and unfairness engendered by the tri-annual system. (We were less

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impressed with the decision to delay the 1996 re-assessment for a year). Over recent years the Assessment Department's senior management team have done a commendable job of "opening up" the assessment process, promoting an attitude of co-operation that ensures the field assessors promptly provide us with copies of their assessment calculations and make themselves available to negotiate settlements, thus obviating the necessity and expense of proceeding to court unless genuine differences of opinion exist. It is a policy which has long existed in Prince Edward Island and St. John's, Newfoundland . . . even New Brunswick's Orwellian named Geographic Information Corporation is tottering timidly towards it (thanks to the N.B. Court of Queens Bench decision F/M/39/95).

We met with the Assessment Department's management team prior to and again immediately after publication of the 1997 notices. They indicated a willingness to negotiate adjustments prior to the official roll closing on December 1st and we are currently preparing a list of suitable properties so that we can schedule negotiations in a cost effective manner.

The basis for your 1997 assessment is the market value of your property as at the 1st January 1995 base date. Virtually all sub-markets, with the possible exception of residential houses, suffered a major market correction (downwards) with the onset of the recession in August 1990. However, the magnitude of the correction was not apparent until 1993/1994 because of a dearth of sales: vendors were unwilling to accept the new reality of permanently lower prices. As a result the 1996 assessments, based as they are on the market value as at the 1st January 1991, do not reflect the full impact of the decline in property values. (Residential house prices in areas such as Digby, were also adversely affected, by the collapse in the fishing industry). Your proposed 1997 assessment should therefore be lower than the 1996 assessment . . . provided of course that the latter is correct. Your 1997

Assessment Notice thoughtfully provides you with your 1996 assessment as well, so you can easily compare the two.

We have compiled the following decision rules to help you determine whether to call us:

- (1) If your proposed 1997 assessment exceeds the value of your property as at the 1st January 1995, you are overassessed. Determine the price a purchaser would pay for your real estate not the figure at which you would sell (they usually differ). If you cannot answer the question proceed to:
- (2) If your proposed 1997 assessment is higher than 70% x 1996 assessment you are probably overassessed.
- (3) If your proposed 1997 assessment is lower than 50% x 1996 assessment you are probably not overassessed.
- (4) If you fall between (2) and (3) above toss a coin - heads you are overassessed, tails you are not - or call us.

If we have provided consulting advice on your property before, we should be able to identify whether you are overassessed without incurring any great cost. If your property is not yet a client, be prepared to answer a few skill testing questions (1-800-567-3033 or 429-1811 in Greater Halifax). Any senior member of our professional staff can take your call: or speak to Mike, it'll give him something to do.

This is an excellent opportunity to pop your property tax problem . . . before it becomes one.

New Brunswick

Your 1996 appeal period expired on April 29th. If you are over-assessed and did not appeal . . . tut tut . . . gear up for next year. If you did appeal but have not yet retained our services, don't be coy. Our professional staff are currently working on appeals throughout the province and we'll be glad to slot your



Tracadie, N.B.
(\$14,000 - 32% in tax savings)

property into our program. Call our A-team, Tom or Jon (1-800-567-3033) for more information.

We are able to negotiate most appeals; the field assessors are a pretty good bunch. However, some cases do proceed to the Assessment Review Board, even though both parties have agreed to the reduction. Some assessors file a "referral notice" before sitting down to negotiate. (The odd assessor finds the concept of actually negotiating somewhat odd . . . fortunately they are the odd man out). Unfortunately once the referral notice has been filed with the Board, the process can become cumbersome and expensive. The Board has to render a decision, even though the two parties have an agreed settlement. **The Board Chairman has expressed his concern in the past about the cost to the public purse and we are hopeful that he will hold future hearings utilizing teleconferencing rather than insisting that all parties attend in person.** If this was extended as well to pre-trial meetings where matters such as dates for the exchange of reports are agreed, there would be further cost savings. It would also have the fortuitous result of further promoting the democratic process by making it cheaper, and thus easier, for taxpayers to exercise their rights. We thus anticipate that the Geographic Information Corporation will enthusiastically embrace the concept too

Prince Edward Island

Your 1996 appeal period has now expired. The basis for your 1996 assessment is the market value of your property as at the 1st January 1996 base date. Most non-residential property on

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Fitroy Street, Charlottetown, PEI
(\$9,700 - 12% in tax savings)

the Island is not over-assessed, however there are odd pockets and sub-markets hither and thither that can benefit from our attention. Structural changes in the economy are still rendering some properties obsolete, even though they may have been built within the late 1980s. Warehousing is a case in point: many companies have further centralized this function or ship direct from the factory to the retailer. We anticipate that the opening in 1997 of the Fixed Link (Newsletter Vol.2 No.54) to New Brunswick will adversely impact on the value of this type of property. Changing demographics (Newsletter Vol.2 No.53) are producing a greying population increasingly focused on saving rather than spending. As a result fast food and other facilities built to accommodate the baby boom are often too large now to service existing demand. Prince Edward Island has built a tourism industry focused on family entertainment which primarily caters to tourists domiciled in the Maritimes and Ontario (Newsletter Vol.2 No.54). As they age and become empty nesters, many of the present tourist facilities will feel the effect of the change in demand.

Jon Robbins (1-800-567-3033) is handling the 1996 appeals on the Island.

Newfoundland

1996 was the quinquennial re-assessment year for St. John's: the new base date for assessment purposes is the 1st January 1995. Our Rick Escott (1-800-567-3033) is currently conducting appeals in the city and surrounding areas. Municipalities in the remainder of the province have a mish mash of base dates and re-assessment years . . . which does

little to assist business compete . . . and does nothing to encourage companies relocate to the Island. We understand that the province is reviewing the system and expect that it will eventually be placed on a rational basis. In the interim we may be able to help you . . . then again maybe not!

EXPROPRIATION - A HITCH HIKER'S GUIDE

New Brunswick Twins



New Brunswick is currently enjoying an orgy of road building, twinning the Trans Canada Highway and slicing through private property with gay abandon. The dedicated professionals who staff our Valuation Division, never having been known to pass up an orgy, are there too. At present they are cruising the Saint Leonard - Grand Falls corridor, following the action. Hmm . . .

We undertake little work for government, and none for the New Brunswick Department of Transportation. Our principal interest lies in serving the private sector; we understand business. It is part of our mandate to determine how firms utilize their real estate . . . and how the road scheme will impact on the operations of the firm. If you retain us; be prepared for some skill testing questions; thoroughness is our *nom de guerre* . . .

Heads of Claim

Our last issue of Newsletter (Vol.2 No.54) listed the heads of claim that in total, have to be measured to quantify the loss arising from an expropriation. If you've forgotten, read them again, we'll wait . . .

OK, ready? Most expropriations are "partial takings", the acquisition of a portion, rather than the entire property. Highway "improvements" often entail rerouting the existing road, severing land holdings in two. Seldom can the widening of an existing highway be accomplished without the loss of valuable frontage . . . and the process itself is very disruptive and occasionally fatal to the businesses effected. Rarely do things return to normal after the road scheme is finished. Traffic now passes more freely along the widened highway, at higher speed and greater volume. It may be less likely to stop and frequent retail strips, gas stations, coffee shops and other highway uses, than in the past. This is a phenomenon which is almost always overlooked by the bureaucrats employed by the highway authority. One former city manager grandly informed us that "highway improvements always benefit abutting property". The increased vacancy of commercial properties fronting Main Street, Dartmouth and more recently the Bedford Highway, Halifax are stark testimony to the stupidity of the statement; but in our experience such myopia is common among civil servants for whom the necessity to turn a profit is sadly, an alien concept.

Assessing compensation for a "partial taking" is much more complex than the acquisition of the entire property and, in our experience, acquiring authorities always understate the loss. Our analysis of partial taking cases undertaken by the former City of Halifax and the Nova Scotia Department of Transportation disclosed that on average, their original offer was about one third (32%) of the true loss suffered (Newsletter Vol.2 No.50). The odds are therefore heavily weighted against a property owner who lacks the fortitude to stand and fight. In a fairly recent case involving a property on the Herring Cove Road, the former City of Halifax offered the owner Mr. Joseph Arab \$6,000 for a loss the Appeal Board subsequently assessed at \$136,050. The matter could have been resolved by negotiation but the acquiring authority insisted instead on fighting the case in court . . . and lost . . . a common occurrence. The big losers however were

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City taxpayers: the expropriated party was quite rightly awarded costs. We estimate the total cost of the debacle, including the salaries of City staff and witnesses, was probably in excess of \$0.25 million. In another case, on the Bedford Highway, city staff decided to acquire part of a property, incurred appraisal and other costs, abandoned the acquisition presumably to reduce the compensation payable to the owner, ordered another appraisal and then expropriated . . . the wrong interest! It's a script that would have appealed to the late John Candy . . .

The Value of Land Taken is the most obvious head of claim, but it is often the smallest component of the total loss. In Nova Scotia the appraisers employed by acquiring authorities such as the provincial Department of Transportation and the Halifax Regional Municipality almost always overstate the compensation for the land taken. However, they usually ignore injurious affection, the substantive portion of the loss suffered. Their reports usually include a tell tale marker to the effect that the appraisal report is to be used "to assist in negotiations". This may be included in the Letter of Transmittal or the Limiting Conditions section of the report and is a clear indication, in our experience, that the appraiser is not prepared to rely on the report or the estimate of compensation if the matter proceeds to appeal court. You should not rely on it either: treat it as the opening gambit in the negotiation process. For example, in Nova Scotia the Department of Transportation produced a report prepared on its behalf by an appraisal firm which valued the land taken at \$6,500 but stated that there is no compensable injurious affection. The property owner retained a lawyer . . . and the Department increased its offer to \$20,000 . . . all this before we had even prepared our report.

The situation is somewhat different in New Brunswick. The appraisal reports commissioned by the provincial Department of Transportation appear to be a genuine attempt to assess all heads of claim, including injurious affection. Nor does it appear to be the practice to overstate the value of the land taken. Notwithstanding the foregoing, the accuracy of the report will be a function of the skill level of the appraiser and the amount of work expended on the assignment. We can usually advise you whether it is worthwhile retaining our services when we have had the opportunity of reviewing the acquiring authority's appraisal report.

We have not seen enough appraisal reports from Newfoundland to determine if a pattern exists. However, as with any appraisal report prepared for expropriation, look for tell tale markers in the Letter of Transmittal or Limiting Conditions. One report we reviewed last year contained the candid notation that

the report should not be relied on by the property owner!

The Federal Expropriation Act and all four Atlantic Provincial Acts use the same basis for valuing the land taken viz. its market value. The definition of market value is codified in the Uniform Standards of Professional Appraisal Practice (USPAP), and thus is common throughout the United States and Canada, even though the actual wording in the various Acts differs. Market value is defined as:

"The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised, and acting in what they consider their best interest;
3. a reasonable time is allowed for exposure in the open market;
4. payment is made in terms of cash in Canadian/United States dollars or in terms of financial arrangements comparable thereto; and
5. the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."

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

CONTAMINATION - PITY THE POOR PROPERTY OWNER

We propose a patron saint for property owners: they too deserve a special place in the hereafter (preferably as tenants). The last six years have been particularly unkind, but the storm clouds actually started to build in the 1970s when the North American continent's attention started to shift from economic growth to environmental issues. Perhaps Love Canal was the catalyst: that rather inappropriately named area of New York, that captured world attention in 1978 when an unusually high incidence of birth defects were noted in infants born to parents living in a residential area built over a toxic waste dump. It was followed in 1979, with

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the partial meltdown at the Three Mile Island nuclear plant in Pennsylvania, which contaminated the atmosphere. In 1982 the Town of Times Beach, Missouri had to be abandoned because of widespread PCB contamination. It is a story which has echoes in Canada: most dramatically perhaps in the Hagersville, Ontario fire, started by a teen-age drinking party, which burnt through 13 million tires over a 17 day period. And then there is the Sydney Steel, Nova Scotia, tar ponds saga: lagoons of toxic waste that swallow money by the millions. Separate and unconnected events but which together conspire to increase the risk and cost of operating property . . . and none of which have any relevance to this article other than as a preamble.

POTENTIAL PRESENCE OF HAZARDOUS BUILDING MATERIALS IN COMMERCIAL PROPERTIES	DATE STRUCTURE BUILT									
	<1996 >1990	<1990 >1985	<1985 >1980	<1980 >1977	<1977 >1976	<1976 >1975	<1975 >1970	<1970 >1965	<1965 >1960	<1960
Asbestos:										
- Floor covering (strengthening agent)										
- Ceiling tiles (strengthening agent)										
- Wall/ceiling plaster (strengthening agent)										
- Wall/ceiling sheetrock (fire protection)										
- Spray-on Underside Floor Slabs (Diethylene Glycol)										
- Spray-on Columns (fire protection)										
- Spray on Pipes (fire protection)										
- Furnace & Hot Water Pipes (fireproofing)										
Lead:										
- Paint										
Chlorofluorocarbons (CFCs):										
- Air conditioning										
- Halon Fire Protection										
- Heat Pumps										
Copper-Chrome-Arsenic:										
- Treated Wood										
- Concrete - Treated Wood										
Lead:										
- Flashing (to prevent water penetration)										
- Paint Pigment										
- Sealants										
- Solder for Copper Pipes										
- Water Pipes										
Necessary:										
- Electronic Switching Gear										
Polychlorinated Biphenyls (PCBs):										
- Adhesives										
- Fluorescent Light Ballasts										
- Metal Inductance Capacitors										
- Pipes										
- Sealants										
- Transformers										
Polychlorinated Biphenyls (PCBs):										
- Treated Wood										
Steel Underground Storage Tanks										
Urea Formaldehyde Foam Insulation (UFFI)										
Urea Formaldehyde (adhesive bonding agent)										
Zinc - Paint										

Key:
 ○ Phasing out
 ● In Common use

Notes:
 (1) 20% of all Commercial Buildings estimated to contain Inable asbestos.
 (2) 10% to 20% of all steel underground tanks estimated to be leaking.
 (3) Steel underground tanks are still being installed and do not present a hazard if they have cathodic protection. Their presence in the above table refers to the old practice of installing steel tanks without this type of protection.

The Atlantic region is the oldest industrialized area in the country and we continually run into environmental challenges with the property we value and market for sale. Two issues face owners: environmental hazards posed by the materials utilized in the construction of their building; and problems arising out of the use of the property, or adjacent properties. This article first focuses on the former and attempts to provide you with a guide to potentially hazardous construction materials in the building you own, wish to own, finance or lease. Much of the information is stolen (a.k.a. research). It is usual to acknowledge sources at the end of the article in the expectation nobody will read them and attribute everything to the brilliance of the author. We are well aware that you are not that easily fooled, so would like to thank the following: The Appraisal Institute, The Counselors of Real Estate, The Royal Institution of Chartered Surveyors, The Appraisal Institute of Canada, The Globe and Mail, and the Federal and Nova Scotia governments (in their various guises). We especially thank Tyler Barkhouse, an environmental

engineer with Jacques Whitford for pausing enroute to the Arctic, to review the table.

As you would expect, there are no errors in this article, other than those inserted deliberately to ensure that you are alert. If you spot the latter, please let us know so that we can pass the information on to less vigilant readers. Thank you.

Hazardous Building Materials

Our matrix tabulates hazardous construction materials against the age of the building. Use it to determine if the object of your desire is likely to clutch such a viper to its bosom. We would emphasize that most so called "hazardous materials" do not pose a threat per se to the occupants of the building. So, if your office building contains asbestos, and virtually all do so, there is no necessity to panic . . . yet . . . We will describe the characteristics of each material, identify the circumstances where it does create a potential health hazard and, based on our own experience give you some idea of the cost of remediation or removal. We'll also review its impact on the value of your property and (there is a silver lining to every cloud) show how you can use it to gain some tax relief.

Asbestos is ubiquitous: chances are you are probably breathing, standing on, beside or under it even as we speak. Asbestos is a general term used to describe a group of fibrous mineral silicates. There are six major types of asbestos: chrysotile (white asbestos), crocidolite (blue), amosite (brown), anthophyllite, tremolite and actinolite. About 95% of the asbestos-in-place is chrysotile, whose curly fibres tend not to be taken up by the lungs. Crocidolite has long, thin and straight fibres that penetrate narrow lung passages.

Asbestos is a health hazard only when it is inhaled. If the asbestos fibres are not released into the air, they cannot be inhaled and adverse health effects do not occur. (However, they are also a naturally occurring phenomena and are released by nature into the atmosphere. You breath in thousands of asbestos fibres each year). Inhalation of asbestos fibres can result in asbestosis, lung cancer and mesothelioma. Asbestosis limits the ability of the lung to expand and contract and in some cases interferes with the exchange of gases such as carbon dioxide and oxygen between the lungs and blood vessels. Its onset may be dependent on the duration and level of exposure to asbestos fibres, and can take between 2 to 20 years to develop. Lung cancer is an abnormal, uncontrolled growth of lung tissue. It can take up to 40 years to develop: smokers are 10 times as vulnerable as non-smokers. Mesothelioma is a rare form of cancer which effects the lining of the lung and/or abdominal cavities.

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Unlike asbestosis and lung cancer, there is no predicable relationship between severity and duration of exposure and it can occur after a short period of exposure. There is some evidence that crocidolite and amosite are more likely to cause it than chrysotile.

(Contamination - Pity the Poor Property Owner will be continued in the next issue of Newsletter . . .)

BROKERAGE DIVISION

After spluttering along for the past couple of years, virtually all sub-markets in the Greater Halifax area have commenced a sustained recovery. We suspected (hoped!) that such was underway in February and are now confident (Quebec separation aside) that market demand will steadily strengthen concomitant with the growth in the regional economy. The flat spot is office space in the Halifax Central Business District. Demand outside the C.B.D. is strengthening and a shortage of supply is developing in the suburbs, especially Bedford. However Halifax C.B.D. demand is anaemic, despite the masochistic efforts of some landlords who compete to give space away.

Our optimism is based on the quantum, direction and nature of the enquiries received by our leasing and sales personnel, and the type of demand for our consulting services. Straws in the wind perhaps; but certainly more than wishful thinking. During the early part of the year we noticed an increase in the volume of leasing enquiries, many of which were from small tenants wishing to expand, and from new businesses. The properties we had for sale started to attract interest: usually from parties wishing to rent with an option to purchase during the term of their lease. About two months ago the banks started to broadcast their interest in expanding their mortgage portfolios . . . earlier in the year they were attempting to liquidate them. Our Valuation Division, for the first time in several years, started to receive calls for mortgage valuations . . . a pleasant change from foreclosure assignments. At least some of the activity is the direct

result of privatization. For example, Stock Transportation the new operator of the school busses for the (former) County of Halifax leased a facility in Burnside Industrial Park. As this process continues and the stultifying effect of government is reduced, we expect that the economy and property markets in the region will continue to recover.

Sales



11 Mount Hope Ave., Woodside Industrial Park, Dartmouth

In June, we leased this 52,000 ft.² light industrial facility for the owner BICC Phillips Inc. to Godbout Enterprises Limited. Pat Daley and Associates represented the tenant. We are also marketing the property for sale. It is located on an 8.8 acre site and has dock loading and a fenced compound. The proposed 1997 assessment is \$1,110,500 . . . but the property is being offered at an asking price of only \$825,000.

We believe that this is a great time to invest in real estate. The price correction has already taken place; purchasers now have the opportunity to acquire some property at 1980 prices. It cannot be built for this cost so new buildings will not be brought on stream until prices have recovered. In many cases this means they will have to double. Markets have bottomed and there is (thankfully) the opportunity for early upside potential as prices strengthen. Property is selling again: liquidity has returned. Financing is again available and money is cheap. There may be no such animal as a "sure thing" but in our view real estate comes as close as you can get . . . and still be legal. We have a good selection of properties for sale ranging in price from \$145,000 to \$6.6 million. They include strip, neighbourhood and community shopping centres, office buildings,

apartments and industrial premises; some suitable for owner occupation, others as investment vehicles.

If you are ready to explore the real estate markets again call Verna (1-800-567-3033 or 429-1811 in Greater Halifax).

Leasing



Although Halifax is a successful port, the construction of two large container terminals have freed the former cargo handling sheds for alternate use. We are the exclusive leasing agents for the Halifax Port Corporation. The Port is divided by the City's Central Business District and the dockyards, into a northern section, the Richmond Terminals, and a southern section, the Ocean Terminals. The space available in the Richmond Terminals comprises exterior storage and interior single storey shed space. The latter is very flexible and can be readily adapted: Dark Zone Productions constructed a movie set in their 47,000 ft.². Since the property is close to the C.B.D. it is well positioned to accommodate large space users such as recycling operations that benefit from being close to their source of supply. The Ocean Terminals are even more proximate to the C.B.D. and lie almost at its southern boundary. Some of this space enjoys a spectacular view across the harbour to George's and McNab's islands. Adjacent sheds house a lobster restaurant, an artists' colony and the soon to be restored Pier 21, the main port of entry for most of the country's immigrants from 1928 until its closure in 1971.

Russ is our man about the port. He can be reached at 1-800-567-3033 (429-1811 in Greater Halifax).
