TURNER DRAKE & PARTNERS
Real Estate Counsellors, Brokers & Valuers

Newsletter

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SEPTEMBER 11TH: THE AFTERMATH

(Photograph courtesy of European Pressphoto Agency B.V.)

The economic effects of September 11th on this region, pale into insignificance when measured against the pain suffered by those personally effected by the terrorist attacks in New York, Washington and rural Pennsylvania. But, coupled with the recession and the all too recent memory of the 1990 property meltdown, they do raise the spectre of the latter again. How real is that possibility?

The effect of the terrorist attacks in the United States was felt immediately in Atlantic Canada as air traffic destined for American airspace was diverted to airports around the region. The second wave occurred shortly thereafter as cross border traffic slowed to a crawl impeding exports; as cruise ship passengers cancelled trips during the busy Fall season; as tourists stayed at home; and as the airline industry struggled to adjust to the new reality. We are now experiencing the third wave as industries not directly impacted by the cutbacks in air travel, tourism and cross border trade, experience the knock-on effect. Businesses have placed expansion plans on hold and some have started to lay off staff. Some of this decline in economic activity was coming anyway, but the events of September 11th have escalated the downturn and will deepen it. The anthrax contamination in the United States continues to dampen economic activity in this region too, often to the point of absurdity. Buildings in Halifax have been evacuated because of dust on a civil servant's computer keyboard, in a workman's boot, on a laundry room floor. Are we now facing economic Armageddon? We think not. Indeed we venture to suggest that such unremarkable events as dusty civil servants, dirty boots and soapy floors will shortly command little attention. What will endure is the jolt to the economy as the economic downturn continues.

Economists, ever accommodating, offer us two scenarios for the American (and hence the Canadian) economy: (1) a short V shaped recession lasting through the third and fourth quarters of this year, followed by a relatively flat

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first quarter in 2002 and then a strong recovery (3% - 4%) in the second half of the year or, (2) a recession which is deeper and more prolonged. Arguments in favour of the former are based on the fact that inventories have already been cut back, oil prices are falling, monetary and fiscal policy has been loosened. The counter arguments are that there is substantial overcapacity world-wide, the entire world is in recession, people save instead of spending in times of uncertainty so monetary and fiscal policy is ineffective. It would perhaps, be prudent to hope for the best and prepare for the worst.

Property déjà-vu

Is the 1990 market meltdown about to repeat itself? We believe not. A collapse in property values is due to (1) a sharp fall in demand, or (2) a rapid increase in supply, or (3) both of the foregoing. The Wharton School, University of Pennsylvania research paper on the subject (Newsletter Vol. 2 Nos. 65, 66, 67) discovered that the property crisis of a decade ago was due to a rapid increase in supply fuelled by easy credit from a banking system, which continued long after rising vacancy rates should have signalled an over expansion. There has been only modest expansion in the hotel, industrial and office markets in the Atlantic Region during the past ten years and prior to September 11th, occupancy rates were high. The apartment market has expanded due to financing guarantees by CMHC, but vacancy rates are generally low. The retail sector has expanded, particularly big box retailers which have taken trade from Community Shopping Centres. During the early 1990's pension funds and insurance companies divested themselves of real estate, financing dried up and the lack of liquidity reduced demand, further exacerbating the situation. In the late 1990's the Real Estate Investment Trusts (REITs) injected some badly needed liquidity into the markets and pension funds returned as purchasers. Market rents and room rates have recovered the ground they lost and are close to, or above, 1989 levels. In addition mortgage money is available at figures not seen since 1960 and may go lower. Inflation is falling world-wide and is expected to continue given that American industrial capacity utilisation is 75.5%, its lowest since 1983. The danger is that nominal GDP growth in the G7 economies could fall to 1% early next year at which point monetary policy becomes an ineffective tool for boosting growth and we may slip into deflation. Interesting times. Fools rush in where angels fear to tread. These are our predictions:

(1) Hotels and motels are the most vulnerable market and have been hit during the busy fall season. Property values will fall as investors discount revenue per available room (RevPAR) over the next 24 months and demand higher return on investment (ROI) to compensate for the extra risk.

(2) Retail, particularly Community Shopping Centres will fall in value as shoppers focus on big box retailers during the economic downturn.

(3) The industrial markets will generally hold their value. Some specialist types of industrial property such as airport facilities will experience declines in value.

(4) The office markets will hold their own but rental growth will be flat for the next 24 months. Trophy buildings will no longer be able to claim the same rental premium and rents will soften slightly.

(5) Apartment rents will be flat for the next 24 months but demand for apartment buildings will increase and prices will rise as purchasers take advantage of low mortgage rates to leverage their return on equity.

PAMS™ PROPERTY TAX MANAGER

PROPERTY
ASSET
MANAGEMENT
SYSTEM™

In July, when you were lolling on the beach, ogling the girls, or boys, depending on your sexual proclivity, we were hard at work. You doubt that? It's true: while you were soaking up the sun or rolling in the underbrush (if you're into *that* type of beach) we were rolling out the Property Tax Manager component of PAMS™. This is our new service delivery model, the primary function of which is to save you money … and make us rich so we can roll around in the undergrowth too. If you joined PAMS™ congratulations, you are in excellent company. If you haven't yet, read on …

Previously, each Spring we mailed you a set of Decision Rules, timed to arrive with your new Assessment Notice. You were left to determine whether your property was overassessed, assisted by those Decision Rules. It was a rough and ready system: our Decision Rules were general in nature and necessarily could not address the specifics of your particular property … or the different policies of each Assessment Region and the individual assessors. Many property owners supplemented them with their own rule of thumb: if this year's assessment was no higher than last, they did not appeal … this rule lacks legislative legitimacy, is devoid of logical validity, ranks last in reliability … but is applied universally, because it is better than no rule at all. Meanwhile the Provincial Assessment Departments increasingly attempted to discourage appeals by, (1) reducing appeal periods … now only 7 days for some types of appeal, (2) providing misleading information as to the basis of the assessment, (3) fighting the taxpayer's right of appeal on "technical" grounds, e.g. that the Income and Expense Questionnaires were not returned within 30 days and, (4) approaching the taxpayer directly so that negotiations could be conducted without the "hindrance" of professional advice. (The latter is a favourite trick and in our experience almost always results in the unfortunate property owner paying excess taxes. A classic case is a large hotel the controller of which *"had a good relationship"* with the assessor dating back to their school days and was sure that the assessment reductions he had negotiated were *"just fine"*. The new hotel manager was less trusting; he asked us to investigate. We successfully negotiated tax savings of $58,000 a year. There was no recourse for the

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$58,000/annum overpayments of previous years: if you sup with the devil, use a long handled spoon …).

The situation of property tax management is further exacerbated because real estate is rarely the primary focus for most types of business, and asset management is rarely the sole responsibility of one individual … and everybody is now "time stressed".

Property Tax Manager

Our new services delivery model PAMS™ is designed to (1) eliminate the risk of missing assessment appeal and information request filing dates, (2) provide you with expert assistance automatically when, and only when, it is required, (3) keep you informed via your own password protected Client Area on our web site, (4) deliver the service at a lower cost than you can provide it yourself.

How Does it Work?

PAMS™ Property Tax Manager is a three stage process; you, (1) pour yourself a coffee, (2) relax, (3) log onto your Client Area and watch us save you money.

The Provincial Assessment Department sends your Assessment Notices direct to our Property Tax Division. Our tax experts review the Assessment Notices, determine which properties are over-assessed, and file the Appeal Notices. They handle the assessment negotiations and the Local Assessment Appeal Court appearance. They are responsible for ensuring that the various appeals are filed on time. They are also available to review your completed Income and Expense Questionnaire to ensure that it minimises your eventual tax liability. All activity on every property is posted to your secure Client Area … so a complete status report is just a mouse click away … and you can provide input at anytime to all assignments. In addition you receive an e-mail on each activity as it is posted to your Client Area.

Identifying properties which are over-assessed is key … so we have designed the better mousetrap for the review process. We have built a time series database extending back to 1978 (where data is available), of assessments in the four Atlantic Provinces, segregated by size and asset class. We can simultaneously search that database, and our transactional database comprising 25,000 activities, and submit your property to six independent tests to determine if it is overassessed having regard to the "market value" and "uniformity" criteria mandated by the legislation or common practice. (All the provinces mandate "market value" based assessments: Newfoundland, Nova Scotia and Ontario have a "uniformity" provision as well, and it is a de facto standard in New Brunswick and Prince Edward Island too).

Yes, But Does it Work?

Give us a break, we've just launched it! However we are confident that it will be a great success because, (1) it represents a further improvement on our existing, very successful tax management system; (2) market acceptance has been outstanding … we hoped for 20 clients, 50 property owners have signed up so far, and (3) it has generated considerable fear amongst the bureaucracy of some Assessment Departments … and enthusiasm with the more progressive assessors.

Get On-Board

Whether you own one property, or a thousand, anywhere in Atlantic Canada, PAMS™ Property Tax Manager will minimise your tax liability. Please call Mark Offman at 1-800-567-3033 (429-1811 in Halifax Regional Municipality) for the full Monty.

PROPERTY TAX DIVISION

September 11th: Sharing the Economic Pain

The tragic events in the United States have lent impetus to the economic downturn. The latter was evident before September 11th, firstly in the dot com meltdown which has resulted in an increase in office vacancy in the region. The telecommunications and computer sectors followed, resulting in company closures, and layoffs at regional firms such as Aliant. However the terrorist attacks have impacted harshly on our tourist industry and airline travel. The increased border security and concomitant delays have brought their own set of problems to export industries such as the fishery. Consumer confidence has ebbed away and this is particularly evident in the disinterest in big ticket items such as automobile purchases. The principal effect so far therefore will have been to reduce the value of tourist and air travel related facilities such as hotels and motels, airport facilities, aerospace manufacturing, telecommunications installations, trucking terminals, automotive dealerships and office space geared to the IT sector.

All four Atlantic provinces and Ontario use "market value" assessment, so a fall in property values has to be reflected in decreased assessments. However, since they use different base dates, our ability to translate that loss in value to a reduction in your property tax load will vary by province in terms of timing. We will be able to reflect it next year for properties located in New Brunswick and Prince Edward Island because both these provinces use January 1st 2002 as their base date. Unfortunately Nova Scotia uses January 1st, two years prior to the assessment year; Newfoundland and Ontario only re-assess tri-annually and use January 1st 1999 and June 30th 1999 respectively as their base dates up to and including the 2003 taxation year. These three provinces will continue to tax you until 2004, as though September 11th and the recession had not happened, unless the political will exists to move to annual reassessment, utilising a January 1st assessment year base date. Logistically this should not be a problem and it would certainly be beneficial from a private sector employment and economic activity viewpoint. However the public sector will strongly oppose it since it threatens their livelihood: we have no expectation that it will happen ...

Nova Scotia – Year 2002 Assessments

The Provincial Assessment Department is again willing to pre-negotiate the Year 2002 assessments before the roll closes at the end of November but there is little time left. We are giving priority to properties enrolled in our PAMS™ Property Tax Manager program and are

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Dentith Road, Spryfield, N.S.
($58,000/annum – 33% in Tax Savings)

now starting to receive copies of the assessment records from the Department. Due to the volume of information required we had offered to loan the Department some of our own staff to assist in the process, but they now assure us that matters are well in hand.

You should have received a notice from the Assessment Department in June, if your 2002 assessment is going to be more than 3% higher than the 2001 figure. However we have access to the Department's online database so can check the quantum of the assessment proposed for 2002, if you wish. Please call Giselle Kakamousias at 1-800-567-3033 (429-1811 in Halifax Regional Municipality).

Newfoundland

Signal Hill Road, St. John's, Newfoundland
($13,000/annum – 11% in Tax Savings)

The City of St. John's undertakes its own assessments. The Year 2002 notices were published in June 2001 and are based on the market value of your property as at January 1st, 1999. Although the 21 day appeal period has expired we are gearing up for the 2003 assessment year, which will also utilise the January 1st, 1999 base date. Please call Tom Mills our Vice President Property Tax at 1-800-567-3033 if you need assistance.

The rest of the province expects to mail their assessment notices for 2002 in early November. The provincial Assessment Department bases your assessment on the market value of your property on January 1st 1999. However your assessment also has to be "uniform" with other assessments … so it may still be overassessed even if its assessment is lower than its market value on January 1st 1999.

If your property is enrolled in our PAMS™ Property Tax Manager program, we will automatically review your assessments when the notices are sent to us.

New Brunswick

Millidge Avenue, Saint John, N.B.
($15,000/annum – 12% in Tax Savings)

We are now completing negotiations for most of the 2001 assessments in the province. New Brunswick does not pre-publish its next year's assessment roll so you have to wait until March 1st to discover what Service New Brunswick has in store for you. The basis for your 2002 assessment is the market value of your property on the 1st January 2002. It should therefore reflect the events of September 11th and the current economic downturn. Assessments may be appealed to the New Brunswick Assessment Review Board.

Prince Edward Island

Grafton Street, Charlottetown, P.E.I.
($17,600/annum – 12% in Tax Savings)

Prince Edward Island will publish its 2002 assessments around April 30th 2002. The basis for the assessment is the property's market value on January 1st 2002 so it should reflect the economic aftermath of the September 11th 2001 terrorist attacks.

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NEW BRUNSWICK ASSESSMENT REVIEW BOARD … REVIEWED

The Board under its previous Chairman Mr. Lawrence Garvie, Q.C. set a high standard. Mr. Garvie retired on the 1st April 1999 and left a vacuum which was not filled until Mr. Scott. R. MacGregor was appointed on the 8th June 2000. Since the Board typically hears 200 to 400 appeals each year the delay resulted in quite a backlog. Unfortunately there is still a considerable delay between the hearing and the decision (we have been waiting for one decision now for twelve months).

It is apparent that the new Chairman prefers a much more informal style to his predecessor. He does not require testimony on oath; has relaxed the rules of procedure; and is prepared to consider appraisal evidence from the Assessment Department which falls well short of that required by the Assessment Act Regulations, recently accepting copies of the assessor's working papers in lieu of the required appraisal report. Under the Assessment Act the Board has the authority to "hear, accept and act on any relevant evidence even though it is not admissible under the rules applying to trials in The Court of Queen's Bench of New Brunswick", however where, as was the case here, the Board orders an exchange of appraisal reports, the Regulations are quite specific as to their nature and content. In fairness the Board did admonish the Assessment Department for the latter's failure to comply with the law, but in our opinion this type of behaviour by the assessor trivialises and diminishes the appeal process. Taxpayers have to go to the trouble and expense of preparing an appraisal report and they should have the Board's assurance that the Assessment Department will produce evidence that can be subjected to vigorous examination, in a formal setting, as well.

The Board does not publish its decisions, other than to the parties involved in the case. Such has always been its policy, but in the past the decisions were available on request. We understand that the new Board has discontinued this policy. This is inefficient; it increases the chance of unnecessary appeals because precedent setting decisions are now unavailable to taxpayers. It also increases the risk of over-assessments, clouds the transparency of the appeal process, and reduces the accountability of the Board. This is a new Board and we trust that it will revisit the matter. In the interim we will published an analysis of the Board's decisions in future issues of Newsletter. We will also post them on our web site **www.turnerdrake.com** (Products → Property Tax → Case Law).

EGG HEAD (DOUBLE YOKE)

We are pleased to announce that Mark Turner, in his first year of the University of British Columbia's Urban Land Economics program, achieved the highest score


Mark B. Turner, B.Comm., Eg. Hd.²

countrywide in their Commercial Construction and Micro Foundations of Real Estate Economics examinations. His score is particularly noteworthy because he also carries a full workload as a member of our Valuation and Property Tax Divisions, and Lasercad™ Department. Well done guy!

It is now eight years since we first implemented U.B.C.'s Urban Land Economics program as a mandatory requirement for all new entrants to our company's consulting divisions. Mark is the latest in a proud tradition. Our Giselle Kakamousias, Bruce Scallion and André Pouliot have also claimed top honours in this program.

INTERNET

Leverage Your Productivity

Clever clients take advantage of the Client Area on our web site **www.turnerdrake.com** to leverage their productivity. This is a password protected area specific to your company, or group of companies. It allows you to order valuation, property tax, Lasercad™, counselling, brokerage (sales and leasing) services on line, anytime. It puts you in direct contact with the Lead Consultant on each active assignment, allows you to provide input, receive feedback and monitor progress … so you can manage multiple assignments of diverse types, headed by different consultants, throughout the region. Depending on your security level, we can

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provide you with read access to all the assignments we are undertaking for your company, even those initiated by your colleagues … so you have a bird's eye view of all active jobs. In addition, completed assignments are archived on your Client Area so you no longer have to rummage through filing cabinets to determine when a particular property was last valued, the results of a tax appeal, the location of your reading glasses …

You can move seamlessly between your Client Area and the main site: if we refer to a specific piece of property tax case law in your Client Area you can utilise our onboard search engine to link directly to the relevant court decision. It's clean, intuitive, easy to navigate, and we intend keeping it that way.

We launched the Client Area in April … and immediately wanted it to do more for you. Version 2 went live on November 1st with expanded functionality, but the same "look and feel". You can now utilise it to receive assignments too. So, if you order a Lasercad™ space measurement assignment, the entire process (order, monitor, delivery) can be completed electronically.

Your Client Area puts an entire real estate department at your finger tips … and there's more. You've probably noticed our Newsletters … this Newsletter … appears to be a little out of sync with the season. Not so, we have a vast and growing client base in the southern hemisphere. However we are cognisant of the need for timely advice, especially now that Osama bin There Done That (bTDT) is on the loose. We realise too that the faint of heart may no longer welcome the mail, even our Newsletter, with unabashed enthusiasm. Alas, alack! While the cat's away, the mice will play. With public attention diverted elsewhere, government bureaucrats are busily consolidating power Forget bTDT, the danger lies within. This is not just a post 9/11 phenomenon … it's sad but true, there has been a marked erosion of private property rights over the past decade. Although it has received no exposure in the media, there has been a determined effort to restrict the "uppity" private sector in Atlantic Canada. Not surprising perhaps, we have more simple servants per capita than anywhere else in the country (except perhaps the North). Assessment appeal periods have been reduced … to just 7 days in some cases. Private rights have been abridged or eliminated entirely when government decides to acquire private property. Changes have been made to legislation with little publicity, even less public input … and cavalier disregard for individual rights. Enough! There is a need to provide swift advice on time sensitive material. Our web site does that now through an Action Alert! feature. Time sensitive information is posted to your Client Area and simultaneously emailed to you. Action Alert! will **not** be used as an advertising tool … and if you like to live dangerously you can unsubscribe at anytime.

BROKERAGE DIVISION

So Far, So Good

Russ Allen – Leasing Specialist

Russ has had a busy year leasing 71,293 ft.² of space with a total value, including operating expense recoveries, over the lease term of $5.5 million. He reports a sense of trepidation since September 11th. Prior to that date tenants were keen to get a sense of the quantum and trends in office, retail and industrial rents and space availability. Since the terrorist attacks, tenants are adopting a wait and see policy. The optimism that does exist is centred on the off-shore oil and gas activity. The closer the firm is aligned to the offshore, the greater their confidence in the future.

Russ joined us in 1992 to head up our leasing program … just as the real estate market headed rapidly south. We have a happy knack of doing the right things at the wrong time and his first few years with us proved to be a baptism by fire. Through it all Russ continued to cheerfully plug away. His current success is a tribute to that fortitude.

If you are seeking office, retail or industrial space anywhere in the Halifax Regional Municipality, Russ knows where to find it: he has an encyclopaedic memory. Call him at 429-1811 Ext. 329.

Mark Offman, B.Comm. –
V.P. Brokerage Division

Mark joined us in June this year to launch our PAMS™ Property Tax Manager program. He carried the marketing program through from implementation to fruition. In four months he signed up fifty property owners and five hundred & fifty properties for PAMS™ Property Tax Manager. It was an impressive effort so we asked him to take the helm of our Brokerage Division. Although Russ continues to work his leasing magic, we have struggled with sales since our colleague Bill Frank sadly was forced to retire because of ill health. Mark's main focus will be to work with Verna and bring our sales activity to the same level of success as our leasing program.

Mark has spent his entire career in sales and management, with over thirty years experience in building and maintaining client relationships. He has been directly involved as a principal in the retail, real estate, direct marketing and investor relations fields. An astute problem solver, Mark is a dogged and tenacious negotiator. He also promises to be good fun, so we welcome him to our management team. Give him a call at 428-1811 Ext. 332 and ask him about Marketing Magic, our real estate sales program.