

OPPORTUNITY BECKONS, ONTARIO!



Own property in Ontario? Then turn off your phone, draw a strong cup of coffee and give us your undivided attention. This article could save you thousands (perhaps tens of thousands) of dollars *per year* ... for the next four years! You should have received your property’s 2016 Assessment Update notice by now. The provincial assessment authority MPAC, will have mailed it to you last October (it’s probably in the pile of papers in your in tray). It’s now time to take it seriously, the appeal period ends on February 15th ... unless you wish to appeal directly to the Assessment Review Board in which event you have until March 31st. Start by reading this article: it will help you decide whether to appeal.

Basis for Your Assessment

The legislated basis for your 2017 assessment is the current value (effectively market value) of the fee simple interest in your property as of January 1st 2016. In other words it is intended to represent what the property is worth in its current condition. The term “condition” does not only refer to the specific physical condition of the property. A rental property with a large vacancy, an hotel or gasoline service station now facing competition from new facilities nearby, a car dealer impacted by road works, and so on, all qualify in considering condition. Moreover the

Act states that June 30th 2016 is the “classification date”: the type of use to which your property is being put on that date will determine its “classification”, and the tax rate that will be applied to the assessed value...and hence your tax bill. Section 7(1) of the Assessment Act provides for seven major property classes – residential, multi-residential, commercial, industrial, pipe line, farm and managed forests. There are also several subclasses. Don’t worry, it does get more complicated ...which is why we suggested the strong cup of coffee. Current value refers to your property’s “highest and best” use not its “existing use”. If for example you own an industrial property which is now located in an area of highway commercial property, the assessed value will be based on its redevelopment value for commercial use ... not its value for industrial use ... provided that the value of the land for commercial use exceeds the value of the land and buildings for industrial use. Assessors frequently appraise industrial property using a methodology called the Cost Approach. They add the land value to the depreciated value of the buildings. They use the land values prevailing in the neighbourhood. If the latter is a commercial area, an industrial property situated on commercial land is often erroneously assessed at the aggregate of its (commercial) land value and the depreciated industrial building cost. To complicate matters further the Minister does have the power to make regulations providing that property should be assessed only on its *current use* not its *highest and best use*.

If, as is likely, the assessment has increased

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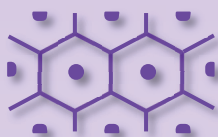
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since the last assessment cycle the increase will be phased in over four years. So this is the first test you should apply. If your property’s market value is less than its assessed value (at the end of the phase in period), it is over assessed. Bear in mind that only the realty is assessable. If you have an automotive dealership, fast food outlet, motel, or any type of property that derives part of its value from the “branding”, this portion should not be assessed. This can really change the water on the beans. You have to step back and consider what your property would be worth without the benefit of its “flag”. Since it is usually a condition of the franchise that the property have certain amenities or visual features, its value without the flag is usually substantially less. It is the latter that is assessable.

Properties that are over 15 years old and/or were constructed in phases are frequently over assessed since there may be deficiencies due to poor yard configuration, restricted circulation around the building, inadequate loading, poor road access, ceiling heights which no longer meet modern storage requirements, interior circulation that is functionally obsolete... If the building would no longer be built today in its existing configuration it is almost certainly over-assessed since the assessor will not have calculated the functional obsolescence correctly ... if at all. A similar situation applies as well with properties that are modern but have experienced an adverse change in economic conditions. A modern hotel that now finds itself competing with other hospitality facilities erected since it was built. An apartment building attempting to compete in a market flooded with competing properties. A printing press building now feeling the impact of falling sales as the internet bites into the market for newsprint advertising, or kindle replaces paperbacks.

However there is a second and more important test (we never promised this would be easy). Many provincial Assessment Acts also mandate the principle of “uniformity” i.e. that like properties should carry the same tax burden. This principle is meant to prevent assessment authorities under-

assessing property relative to its market value, thus depriving taxpayers of their right of appeal. Although the Ontario Assessment Act does not expressly require MPAC to assess property in a *uniform* manner i.e. ensure that similar properties bear comparable assessments, the Act implicitly contemplates that such should be the case. Paragraph 44(3) requires the Assessment Review Board to “*have reference to the value at which similar lands in the vicinity are assessed and adjust the assessment of the land to make it equitable with that of similar lands in the vicinity if such an adjustment would result in a reduction of the assessment of the land.*” The word “land” includes the buildings erected on it. So, even if your property is assessed at less than its current (market) value you would still have grounds to get the assessment reduced provided that it carries a higher assessment than comparable properties.

How Much Have Assessments Increased?

Bear in mind that an apples to apples comparison requires that you compare your 2016 assessment with the assessed value at the end of the new four year assessment cycle i.e. 2020. Your Assessment Notice referred to the assessment cycle 2017-2020. If your assessment increased over the four year cycle ending in 2016 the increase will be phased in over the next four years. (This “phase in” methodology followed the near riots which greeted the assessment increases during the last cycle. They in turn were fuelled by media reports of lavish spending by MPAC on “retreats” and other bonding exercises so beloved of civil servants at taxpayer expense). The MPAC web site <https://www.aboutmyproperty.ca/marketrends> has an excellent tool which displays the increases by property type and neighbourhood. However we are skeptical of government statistics so we ran our own

analyses. The table at the bottom of this page shows the result of that analysis.

The Next Step

Unless your property is classified as residential, farm or managed forest, you have two options if you decide to appeal. You can file a “Request for Reconsideration” by February 15th with MPAC or file an appeal directly to the Assessment Review Board (ARB). In the latter event you have until March 31st to file your appeal. The most logical route is the first option with a later appeal to the ARB if you are unable to get satisfaction from MPAC. But first you should determine whether you have valid grounds for appeal.

Call our Ontario Tax Team, Rick Escott, Andre Pouliot, Greg Kerry or Chris Jobe at 416-504-1811 (GTA) or 1-800-567-3033 (toll free). They will be pleased to help and may be able to determine whether you have valid grounds for appeal by asking a few questions about your property and its assessment, and comparing it with information on comparable properties in our sales and assessment databases. If you have grounds for appeal we can file the Request for Reconsideration for you and negotiate the reduction in the assessment. Our fees can be structured so that we, or you, bear the risk (your choice). This is a genuine offer, we do not file frivolous appeals. We get tax savings with virtually all of the appeals we handle because the assessors recognise that we have valid reasons for appealing the assessment. Sometimes of course there is insufficient information or time available to formulate an opinion. Under these circumstances we will, with your approval, file a protective appeal and then later withdraw it if it becomes apparent that it is not warranted.

	Auto	Logistics	Industrial	Commercial	Hotels/Motels	Extended Care	Apartments
York	23.0%	5.2%	22.1%	40.0%	23.4%	19.4%	43.9%
Peel	11.4%	25.9%	21.3%	36.7%	17.0%	1.3%	66.0%
Halton	15.0%	41.40%	25.40%	30.8%	21.7%	20.6%	45.1%
Ontario	19.4%	20.4%	19.3%	38.6%	17.0%	9.0%	44.0%

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Taxing Times Nova Scotia



Halifax Stanfield International Airport, Halifax,
Nova Scotia
(\$124,003/annum in tax savings)

If you own property in Nova Scotia, you should have received your Year 2017 Assessment Notice; it was rather appropriately mailed on Friday 13th January. The provincial assessment authority, PVSC (Property Valuation Services Corporation...motto "A truly valued Nova Scotia") has been holding its cards close to its chest regarding the 2017 assessment changes. It did publish some of its proposed 2017 values in October last year and they afforded our Nova Scotia tax team some very productive sessions to resolve issues on those properties. Kudos then to PVSC for that initiative. Now however, all is revealed. 2017 reflects a two year increase because the "base date" was changed so that it now lags the assessment year by twelve months instead of twenty four. The 2017 assessed values purportedly reflect the market value as at January 1st 2016 (valuation date) having regard to the physical state of the property on the date the rolls closed in December last year (state date). The physical state refers not just to the condition of the roof, but the occupation of the property as well. So if your property had vacant space, or you knew on the state date that you were going to lose tenants, this too should be reflected in the value of your property. In Nova Scotia, market value refers to the property in its *existing* rather than its *highest and best* use. A corner store worth \$300,000, located on a redevelopment site worth \$1.0 million, should properly be assessed at the lower value. The Assessment Act also provides that like properties should carry similar assessed values. This has been interpreted to mean that a "general level of assessment" has to be applied on a property class and municipal wide basis. The general level of assessment is computed by calculating the ratio of the aggregate assessed values to their sale prices (for all properties that sold within six months of the valuation date). In other words, if commercial properties in

the municipality are assessed at an average of 80% of their market value, any assessment which exceeds 80% of its market value of January 1st 2016, is over assessed. In the past, the sales data necessary to calculate the general level of assessment was only available to PVSC ...and they cooked the books. Now however, we are able to purchase the sales data so we can curb PVSC's tendency for creative accounting if such still exists.

There are therefore two rules to apply in determining whether your property is over-assessed. They can be combined into the following: If your Realty Assessment is $> [(Market Value \text{ in existing use as of January 1}^{st} 2016) \times (General Level of Assessment)]$, your property is over-assessed. The General Level of Assessment is probably between 0.8 and 0.9 in most municipalities for properties taxed at the commercial rate. If your local PVSC office maintains that it is higher than 0.9, smile politely and acknowledge that you too believe in the Easter Bunny.

If you think your property is over-assessed you should file your appeal within 31 days of the date shown on your Assessment Notice. If you wish you can use the following wording as your grounds for appeal:

"The assessment is excessive, unfair, not uniform with other assessments and any other grounds that may appear. "

Or you can call our Nova Scotia tax team Giselle Kakamousias, Mark Turner, Greg Kerry, Matt Smith at 902-429-1811 (HRM) or 1-800-567-3033 (toll free) and they will do it for you. If you have any questions about your assessment or would like some (free) guidance on whether you should appeal, give them a call.

Taxing Times New Brunswick



Manufacturing Facility, Northern
New Brunswick
(\$27,938/annum in tax savings)

If you own property in New Brunswick and are drained mentally and financially by taxes, relief is at hand. On March 1st, Service New Brunswick, the provincial assessment authority, will mail your Year 2017 Assessment Notice. You will have thirty days in which to appeal. We anticipate that apartment buildings are going to feel the burden of a re-assessment. We understand that Service New Brunswick have experimented with multiple regression analysis (MRA), a statistical technique much favoured by those who live in ivory towers, to calculate the assessments of apartment buildings. We are very familiar with MRA, we have used it for forty years as an investigative tool to help calibrate Stage One of our proprietary accelerated valuation model (AVM). It is great fun for brightening up dark winter days. We look forward to doing battle with SNB.

Our New Brunswick tax team, Andre Pouliot and Chris Jobe are available to handle your property tax appeal. They can be reached at 506-634-1811 (Saint John) or 1-800-567-3033 (toll free). If you have any questions about your assessment or would like some (free) guidance on whether you should appeal, give them a call.

ECONOMIC INTELLIGENCE UNIT

Trump That!



Many city skylines are littered with construction cranes. Beloved of politicians, they proudly proclaim the municipality's success which, were they not too modest to say so, is mostly (well almost entirely) due to their wise governance. Yes siree the city's on a roll and it's all due to me ... time to puff out the ample chest and benignly acknowledge the acclaim, for surely it is well deserved. I am the one: vote for me and good things happen, just look

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around! Developers on the other hand *they* deserve a special place in heaven: rarely do they get the acclamation they deserve, disapprobation is more commonly their lot. Yet without them the world would be a much poorer place. They take enormous risks: their projects take years to come to fruition; conceived when economic conditions are sunny they often rise into clouds of unremitting gloom. Happily optimism is an occupational hazard: to a developer, a glass is always half full. "Build it and they will come" is their mantra. But what if they don't come? Then, sadly, the project's financier is left to sort out the mess! Gruesome types who wear suits and ties, pour over spreadsheets, live in warm offices and never know the chill that comes from arriving on site at 6:00 am to find NSPC have generated another power failure (gulls resting on the line) causing the pumps to fail and the future basement car park to metamorphose into a swimming pool.

Developments takes years to come to fruition. In the region's largest municipality, developers bitterly complain that it takes about two years to receive the requisite approvals to proceed in the downtown area even though the municipality promised that its HRM by Design plan would eliminate delay. (Prior to the implementation of HRM by Design the municipality blamed the delays on heritage advocates, a geriatric bunch whose notion of progress was to save everything worth saving...and some that wasn't. They have now been banished in favour of design committees whose mandate appears to be to approve...well pretty much everything. So alas, scapegoats are lacking, the chips have to fall where they may). A lot can happen in two years. Office buildings conceived in happier days in St. John's for example, now search for tenants in the post oil boom gloom. But these are systemic failures: unforeseen events as unlikely as the election of a misogynist, economical with the truth, to the president of the world's leading democracy. This type of event apart it is possible to accurately predict demand five to ten years in advance. Projecting supply is more speculative because space is brought to market for a variety of reasons, some of which are political rather than rational. Developments sponsored by the various levels of government are usually dictated by the short time horizon between elections and the necessity to be seen to be "doing something" by their electorate; frequently politicians and civil servants fall into the trap of believing their own propaganda. The nonsense spouted by government agencies in 2009 regarding the potential for Halifax to become a major financial centre motivated all three levels of government to insist that two offices towers be completed to coincide with the opening of their conference centre. In our report to the municipality, HRM, we advised that we had not been able to locate much evidence of the out of province demand so widely propogated by provincially owned cheerleader Nova Scotia Business Inc. (quoted in the media as 2.0 million ft.²) and thought it more likely to be a modest 50,000 ft.². The subsequent Nova Centre development, incorporating the conference centre, will

be completed this year adding a further 314,000 ft.² of office space to a market already flooded with similar space. It will push the CBD vacancy to well over 20%. Given that office demand has declined in the CBD over the past decade, the new vacant space can only be filled at the expense of existing space. It will take decades for the market to reach equilibrium since existing buildings will have to be demolished, abandoned or repurposed to transfer the demand. (You can still read our report on the internet at <https://www.halifax.ca/council/agendasc/documents/090324cai05.pdf>. It's a little difficult to read, HRM stamped "preliminary" on every page because they did not agree with it. Atlantic Canada is particularly prone to this type of shenanigans).

Demand

Projecting demand on the other hand is a different kettle of fish driven by demographic, psychographic and financial factors. Our Economic Intelligence Unit (EIU) disembowel chickens and pick through their entrails (metaphorically speaking), study and analyse the data, create maps and generally have a jolly time. They publish some findings on our web site www.turnerdrake.com > Corporate Site > News & Research > TDP Trends. If you finance real estate or are a developer, take a look... you may never sleep fitfully again. If you have a specific location and project planned and want the assurance that sufficient demand exists for the type and amount of space you envisage, we can provide that too... for a very reasonable fee. How much? A demographic report with SWOT analysis for single use such as an apartment building costs \$850. We study the location specific demographic data in your project's catchment area, advise whether your proposed apartment mix is aligned with market demand, advise you on trends in demand and provide an analysis of the Strengths, Weaknesses, Opportunities, Threats, your development faces. You can view a sample report on (where else) our web site at www.turnerdrake.com > Corporate Site > Economic Intelligence Unit > Demographic Reports > sample Demographic Report or <http://www.turnerdrake.com/products/eco-demographic.asp> . If you would like more information on the cost, our web site has that also at [Contact Us...](#) or call Alex Baird Allen at 1-800-567-3033 Ext. 323.

VALUATION DIVISION

Succession Planning



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Succession planning usually involves the transfer of a business, and frequently real estate, as the older generation gratefully passes the torch and blissfully contemplates a future no longer leavened with IT, HR, CRA, government regulation and “relationship” managers anxiously scrutinising every financial statement. Unfortunately there a few hoops to jump through before settling down to the tranquility of that white sand beach, turquoise lagoon and an endless procession of pina colodas. Perhaps the most financially significant will be establishing the value of the real estate. And that, is where it often goes wrong.

Owners usually turn to their accountants to establish the value of their business. Unfortunately when there are real estate assets involved accountants are not a source of reliable advice. Useful for counting the bodies after the battle ... but would you really like your daughter to marry one? Perish the thought! Real estate is too complicated a matter to leave to bean counters. Take “value” for example; it has many faces. Even “Market Value”, commonly misinterpreted as a finite amount, can have radically different values depending on the parameters under which it is to be calculated. Market Value usually refers to the value of the property assuming it will be utilised to its “Highest and Best Use”, but if this condition can only be achieved by redeveloping the site and dispossessing the business, it is of little relevance in determining the value of the real estate asset as part of the going concern. Value in Use would be a much more relevant metric. And we have yet to mention Investment Value, Fair Value reflecting conditions of forced sale (not to be confused with the International Financial Reporting Standards definition of “Fair Value” which sadly was concocted by accountants), Synergistic Value, and Special Value to the purchaser. Even more alarming, accountants sometimes confuse “assessment value” with ... reality. The assessed value of your property may or may not be legislated as the equivalent of Market Value depending on the jurisdiction in which it is located. In Ontario for example, the assessed value purports to be the property’s value under conditions of *Highest and Best Use* (unless the Minister has decided otherwise). In the Atlantic Provinces it is generally legislated to be the Market Value in the property’s *existing use*. In most provinces (but not New Brunswick) legislation or case law has established that the assessment has not to be higher than that of comparable properties ...or in Nova Scotia (but only in that province) the ratio of assessment to Market Value of all of the properties in the municipality. And of course provinces have different base dates for establishing value and the physical state of the property ... some are the current year (New Brunswick and Prince Edward Island), the previous year (Nova Scotia), up to three years’ ago (Newfoundland), up to four years’ ago (Ontario). In practice the assessment is often a nonsense given the lack of training, time and resources available to the poor assessor. It is good only for amusing discussion over coffee; little else. Any relationship with the assessed value and pretty much anything is likely to be fortuitous coincidence. So if your accountant has based his/her advice on the assessed value, consign him/her to

the gulag and call us. We are Chartered Valuation Surveyors: we have the training, education, resources and expertise to really value real estate.

Chartered Surveyor Nigel Turner heads up our Valuation Division and can be reached through any of our offices or by calling 1-800-567-3033 Ext. 330. If you would like more information on our Valuation Division, visit our corporate web site www.turnerdrake.com > Corporate Site > Valuation & Appraisal.

PLANNING DIVISION

Finding Solutions in a Bottle



Recently our Brokerage Division closed a deal that will see a mid-century bank building transition from a hair salon to Halifax’s first cidery – a business dedicated to the production and enjoyment of hard ciders. It is the city’s newest addition to the burgeoning craft beverage industry, and by our count, the fifth such business within short walking distance of our head office. Thanks to double digit year-over-year growth in the industry, such businesses have been setting up shop throughout our region, but we have good reason to believe that we at Turner Drake are working in the very nexus of Beer Oriented Development.

The craft beverage industry is booming throughout the continent evidently. However, BOD is distinguished by integrating the production element the brewery, with the social gathering element of a retail/food service business, wrapping it all in a locally authentic brand identity and plunking it in a neighbourhood. The term itself was apparently coined in the weary rust-belt city of Buffalo where a pattern of revitalisation lead by the craft brewing industry has been observed in neighbourhoods otherwise dogged by the Midwest’s manufacturing decline and hard hit by the Great Financial Crisis.

Back in our corner of North America, we can certainly attest to the healthy “third place” function of Beer Oriented Development. That is to say, in addition to the production itself many businesses serve as a nexus for community development outside of the home and workplace. They are small enough operations to revitalise defunct or underused properties without the timeline and complexity of a larger scale land

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assembly. The size and design of the retail operation creates an enjoyable atmosphere and promotes interaction between customers (who are often neighbours). Where these activities are able to spill outside onto a patio or sidewalk café, they further add to the vitality and liveliness of the entire street. With seemingly endless groups of engineering school buddies (it's always engineers) keen to start their own venture, why do some areas see a flourish of BOD while others simply get an increase in breweries?

The Broken Window Fallacy

There's a classic economic parable that goes something like this: a baker's shop window is broken and he hires a glazer to repair it. Passersby observe the glazer at work and remark the economic activity stimulated by the broken window. Meanwhile, the baker having spent his money on the window now postpones his plan to purchase a larger oven and increase production. In this way, the passersby are mistaken about the benefit of a broken window because they consider only what they see, and not what they can't see. That is, they do not consider the opportunity cost; the lost benefits that would have been generated by things that were prevented, often without conscious purpose, from ever happening in the first place.

We don't often think about opportunity cost in planning. We like to have the initiative; there are no problems that can't be fixed through the application of more regulation or different policy. In this mindset, it is sometimes easy to lose sight of the fact that many (perhaps even most) good things tend to happen on their own if we leave the space for them. Nevertheless, Halifax, like many Atlantic Canadian cities, does benefit from not having gone too far off the deep end when it comes to land use regulation... at least compared to standard practices west of our region. Consider the present (if outgoing) land use bylaw for the Halifax Peninsula area where residential land use is governed by 6 zones. Contrast that with London, Ontario, a city of comparable population and municipal budget, where no less than 17 zones are needed just to regulate single detached housing! Clearly one approach provides more "regulatory space" than the other.

Six of One Ain't Always a Half Dozen.

London, like Halifax, is a university town with no shortage of thirsty students or courageous engineering buddies. Like Halifax, it has its own litany of recently launched microbreweries. And finally, like Halifax, London did not, and does not, specifically target or promote Beer Oriented Development. What London does have is its hyper specific approach to coding land use which classifies microbreweries as "Food, Tobacco, and Beverage Processing Industries" and among the 20+ flavours of commercial zoning, relegates such uses to the "General Industrial" areas of the city. In Halifax, some microbrewers also set up shop in the industrial areas, depending on their business model. However, Beer Oriented Development is mostly occurring under the General Business zone which allows – to paraphrase – basically any business that doesn't create problems in the area.

The shocking result? All of London's new microbreweries are segregated into soulless industrial parks. Sure, they've got a quality product, backed by the same witty, self-aware marketing, and most even have attached tasting rooms and offer brewery tours, but to access any of it you've got to drive out past electrical suppliers and find their docking bay among the other distributors and warehouses. So while both city economies are benefiting from growth in the craft beverage industry, only Halifax is gaining the additional benefits of neighbourhood revitalisation and contributions to a lively pedestrian atmosphere. These are not just intangible perks for urban hipsters. There is a hard dollar cost to London in terms of lost economic spinoffs and unrealised gains in property value, but that cost is the new oven that is hidden behind a broken window.

The Future is Delicious

Beer Oriented Development is just a microcosm of a larger dynamic. No one was anticipating an explosion of craft brewing or the potential of BOD when the zoning codes were written twenty years ago, just as the codes we write today do not address a future rise of distributed manufacturing, or an explosion of artificial intelligence. In truth, it'd be foolish if they did. In dealing with an ultimately unknowable future, it is basic human nature to play it

safe; control what is knowable, and regulate the unexpected out of existence. The costs of this approach are easy to ignore because we are never fully aware of paying them. Yet, as Beer Oriented Development clearly demonstrates, there is a benefit, indeed a competitive advantage, to the city that sets itself up to embrace the unknowable future and capitalise on the unexpected.

Our Role




What can you build on your property? The answer to this is determined by interpreting the local planning policy and regulation. However these are living documents, and project timelines are often measured in years. Thus, it is essential to not only look at the present-day context, but peer into the future for additional opportunities. This is precisely why all our Planning Policy and Regulatory Review reports contain a Long-term Outlook section.

For a recent client, this feature paid dividends. For their property, the desired outcome would have required multiple amendments and the negotiation of a Development Agreement under present requirements; an expensive and risky process overall. However, by casting a wider gaze in our investigation, we identified an opportunity to pursue the same goals through a larger policy update the municipality was preparing to make. While this didn't save our client any time, it lowered the risk, and greatly reduced the cost.

We're finding our Planning Division lends vital assistance to our other areas of operation, improving the detail and delivery time of Valuation, Counselling, Economic Intelligence, Property Tax and Brokerage assignments. More importantly, it creates value for our clients, aiding with development projects big and small.

Whether you're musing about options or working towards a clear goal, ask Neil Lovitt, our Planning Division Manager, how we can help: 1 (902) 429-1811 (HRM), 1 (800) 567-3033 (toll free), or nlovitt@turnerdrake.com

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