

Taxing Times in Nova Scotia!



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If you own commercial real estate, the Halifax Regional Municipality's (HRM) proposal to raise your property taxes by 8% this year may fail to fill you with enthusiasm. Judging by our own experience, and comments we receive from clients, the municipality is regarded with considerable skepticism by the business community. When it was first created in 1996, by the amalgamation of the Cities of Halifax and Dartmouth, the Town of Bedford and the County of Halifax, there was an expectation that taxpayers would benefit from economies of scale and the elimination of the sometimes-destructive inter-municipal rivalry. For some of us, there was also the hope that the greater efficiency demonstrated by the then City of Dartmouth would rub off on the enlarged municipality. HRM has failed to fulfil that promise. Dealing with city staff on property related issues can frequently be a frustrating process, not easily dismissed as the griping of disgruntled developers unable to get their way. We have first-hand experience of processes where city staff were obstructive, hostile, secretive, unaccountable, decision averse and in which the person or persons involved had not read their own by-laws. And where, in the words of an unusually frank HRM official, it had to be wrong because they did not initiate it! There are a few notable exceptions: unfortunately, with no way of differentiating, the good wear the mantle of the bad. We were fortunate in one case, in having the support and assistance of an excellent alderwomen, Jennifer Watts; but all too often it appears that the elected officials have a tertiary influence, even on matters of community interest. It should not be this way. Information technology, particularly the internet, could have increased transparency by identifying city staff, their responsibilities and contact information... and by benchmarking HRM departmental performance using key indicators such as quality, productivity, cost comparisons and service delivery: instead it acts as a curtain... accessing HRM's website to locate responsible staff or performance standards is an exercise in futility. The Protection of Privacy legislation too, is wielded as a shield, misapplied by city staff to neuter the Freedom of Information legislation, a Provincial (and countrywide) initiative to increase transparency, leaving unfortunate taxpayers bereft of information that rightly belongs in the public realm. Little by little, so dies democracy. But you don't have to fund it.

Manage Your Tax Burden

There are two components to your property tax burden; the Property Tax Rate and the Property Assessment. Your property tax burden is the product of the two. In Nova Scotia the Property Tax Rate is set exclusively by the municipality in which your property is located and is the quantum of tax revenue raised for each one hundred dollars of the Property Assessment (sometimes the Property Tax Rate is referred to as the “Mill Rate” i.e. the tax revenue raised per one thousand dollars of Property Assessment). Thus, a property assessed at \$1.0 million, located in a municipality levying a Property Tax Rate of \$3.00 will be required to pay \$30,000 per annum in property taxes. Although the Property Tax Rate may vary depending on your property’s location in the municipality and the services provided, the most critical difference is between the *Residential* and *Commercial* Property Tax Rates. In HRM the urban general rate for commercial property is 3.06 times the residential rate (“might” is “right”; there are less commercial than residential voters). The inequity is further exacerbated because the provincial government “capped” residential Property Assessments in 2005. The capping was “revenue neutral” for total residential tax revenue but the property tax has been redistributed depending on whether the property has changed ownership since 2005 (the capping is “reset” to Market Value if the property is sold). There is a further distortion of the tax burden since apartment buildings and seniors housing do not benefit from the capping and so increasingly bear a greater share of the residential tax burden. There appears to be no political will to abolish assessment capping despite the fact that it primarily benefits wealthy and/or older property owners such as the writer (older, not wealthier). There is not a lot you can do about the Property Tax Rate other than scream and shout. Municipalities such as HRM go through a ritual dance each year publicizing their “intended” Rate and then dialing it back somewhat to ameliorate the bad news.

You do have some control over your property’s Assessment and that is where you should focus your efforts. Property Assessments in the province are determined by the Property Valuation Services Corporation (PVSC) a body which is largely independent of the municipalities, although its Board of Directors comprises municipal and provincial representatives. There are no private sector representatives on the assessment authority’s Board, as there are in Ontario for example. Nevertheless, it has been our experience that PVSC appraisal staff are generally unbiased and open to negotiation if a case can be made that your property is over-assessed. The basis for your 2023 commercial assessment is the Market Value of your property on the January 1st 2022 Base Date, having regard to its physical condition on the date the Assessment Roll closed (around December 1st 2022). “Market Value” is defined as the amount which, in the opinion of the assessor, would be paid if your property was sold by a willing seller to a willing buyer. PVSC usually insist that all property is assessed at its Market Value. This is nonsense and the Appeal Board has instructed them to refrain from this type of fibbing, though without apparent effect. The impact of assessing property at less than its Market Value is to reduce appeals and make life easier for the assessing authority because it deprives the property owner of their right of appeal. However, the Nova Scotia Assessment Act does contain a “uniformity” provision which says, in effect, that all property assessments have to be discounted from Market Value to the level prevailing in the municipality: if commercial properties are assessed, on *average*, at say 70% of Market Value, then all commercial properties are entitled to the same 30% discount from Market Value. A property sold for \$10 million on the Base Date would be over-assessed if its Property Assessment exceeded \$7.0 million. Unfortunately, the calculation of “uniformity” precludes comparing similar properties. Instead the uniformity calculation has to be based *on all* of the commercial (or residential) properties in the municipality... in practice this entails aggregating the assessments of properties that sold within twelve months of the Base Date to calculate the ratio with the total of their sale prices. This calculation is derived from a court case now several decades old, which should be challenged. It also requires access to all of the sale prices and assessments of the properties sold around the Base Date, data that used to be solely within PVSC’s possession (well, not quite solely, PVSC used to sell it to banks in Ontario for risk management determination purposes, while insisting that it could not be entrusted to Nova Scotians because it was “private”). Fortunately, our elected officials disagreed and the data is now available in the public realm. We purchase and download the sales data every month. It is in raw and limited form but we have developed clever algorithms to process and refine it. As soon as the Assessment Roll is published, our data centre downloads the property assessments. The Sales and Assessment data is captured in our CompuVal® Knowledge Base so that our Property Tax Team can utilise it for your assessment appeal.

Assessment Appeals (the exciting stuff)

The appeal period for all properties in Nova Scotia, not just HRM, started on January 9th 2023 and is open for 31 days. That is not a long period in which to determine whether your property is over-assessed. If you wish to file your own appeal we suggest the following wording “*The assessment is excessive, unfair, not uniform with other assessments, and any other grounds that may appear. Praise the Lord and pass the ammunition*”. There is a danger in filing an appeal if your property is under-assessed. It is rare, but PVSC have used the opportunity to increase assessments on

appeal. On the other hand, if you do not appeal, there is a one hundred percent probability that PVSC will not decrease your assessment. The municipality can also appeal assessments and have done so in the past. You can reduce your risk by contacting our Property Tax team. They have CompuVal® Knowledge Base tools available and may be able to tell you whether you have grounds for appeal during a simple telephone call. It is probably unlikely, though not impossible, that your property is assessed at more than its Market Value on the January 1st 2022 Base Date. If it is not, then you will have to rely on the “uniformity” provision (we’ve already explained this, were you not paying attention?). It gets a little tricky handling an appeal yourself relying on “uniformity” grounds because you cannot simply compare your property’s assessment with that of a similar property... it has to be compared with *all commercial* properties (or *all residential*, if it is an apartment building). Believe us, you are doomed to fail if you do not follow the Case Law. Fortunately, our Property Tax team does have the data and the software tools to analyse and calculate the Uniform Level of Assessment. If, because of time constraints, they are unable to determine whether you are over-assessed, they will file a protective appeal. We have filed thousands of appeals in Nova Scotia, most have successfully saved clients millions of dollars. However, we will *not* file a frivolous appeal, even if you are ticked off at the way the municipality wastes your tax money. Take solace in a beer, or non-alcoholic beverage instead... you will live longer.

Our Property Tax team have analysed a sample of the 2023 assessments for Nova Scotia. This is what they found:

Assessed Value Increase in 2023 over 2022			
Type of Property	Median	Average	Double Digit Increase?
Halifax Regional Municipality (HRM)			
Industrial	7.4%	9.0%	1 in 3
Apartments	9.2%	8.5%	1 in 2
Offices	3.5%	5.4%	1 in 3
Automobile Dealerships	9.2%	9.8%	1 in 2.5
Restaurants	9.9%	9.5%	1 in 2
Shopping Centres	9.0%	15.8%	1 in 3
Outside HRM			
Industrial	7.90%	7.60%	1 in 3
Apartments	2.40%	3.70%	1 in 4
Offices	3.90%	7.20%	1 in 4
Automobile Dealerships	7.40%	5.30%	1 in 4
Restaurants	8.40%	8.00%	1 in 2
Shopping Centres	0.60%	3.20%	1 in 3

Any increase in the Property Tax Rate has to be added to the increase in the Assessed Value shown in the table above.