WHAT EVERY MUNICIPAL LAWYER NEEDS TO KNOW ABOUT WHAT'S HAPPENING IN PROPERTY ASSESSMENT

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Property assessment and taxation are the 'black sheep' of municipal law. Municipalities need the resources that municipal taxation generates, but prefer not to think about where the money comes from. What I have attempted to do in this paper is provide you with some highlights about important assessment and taxation issues that may impact municipalities.[2]

I have divided the paper into taxation issues, assessment issues and practice issues. I begin with an overview of the taxation system in Ontario.

Overview

Property Tax

In Ontario, property assessment provides the base for almost $20 billion per year in Ontario provincial and municipal revenues.[3] Municipally-collected taxes are the second

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[2] I have focused on events in Ontario, where I practice.

[3] Comprised of:

(i) Municipal Taxes of $19,897,462,000: Statistics Canada. Table 385-0003 – *Local government revenue and expenditures for fiscal year ending closest to December 31, annual (dollars)*, CANSIM (database). This figure includes $6,761,401.000 of education taxes: Statistics Canada, "*School boards revenue and expenditures, by province and territory*".

largest source of tax revenues.[4] In 2007, assessment losses due to property tax appeals were $5.28 billion, or 3.8% of the total assessment base for the province. Estimated tax losses as a result of these appeals were $741 million. [5]

Legislation

Assessment and taxation have historically been distinct functions. In Ontario, the assessment of property is governed by the *Assessment Act* and the taxation of property is governed by the *Municipal Act, 2001.*[6]

The first *Assessment Act* was enacted in 1793. It borrowed from the British system of local parish rates. Our current *Assessment Act* dates from 1850. Despite legislative changes over the past 150 years, property assessment today remains largely unchanged. There have been, however, two significant changes to the assessment base: between 1853 and 1904, municipalities could assess and tax personal property, and between 1890 and 1998 a 'business tax' was levied in addition to the property tax.

(ii) Provincial Land Tax of $10,316,180: Public Accounts of Ontario 2006-2007, Ministry Statements and Schedules, Vol. 1, p.1-3.

Nation-wide, property taxes generated over $43 billion for local governments in 2007: *Local government revenue and expenditures 2003-2007,*CANSIM (database).

[4] In Ontario in 2007, personal income taxes collected were $23.665 b. and retail sales taxes were $16.228 b: *supra.* note 2(ii), at p.1-3.

[5] Municipal Property Assessment Corporation: 2007 Annual Report, at p.12. Due to the complexity of the tax system, it is almost impossible to determine the amount of taxes lost due to assessment appeals. I have assumed that a 3.8% assessment reduction generates a 3.8% tax loss. I was unable to locate any information summarizing tax losses due to tax appeals.

[6] S.O. 2001, c.25, as amended. Property taxes in the City of Toronto are governed by the *City of Toronto Act, 2006*, S.O. 2006, c.11, Sch. A. I refer to the *Municipal Act, 2001* throughout this paper. Similar provisions exist in the *City of Toronto Act.* Property taxes work similarly across the country. I have attached a cross-Canada comparative summary.

MPAC creates an assessment roll for each municipality each year. The assessment roll contains an entry for each property in the municipality along with its 'assessment'. The 'assessment' is required to be based on the property's value. At various points in time, the assessed value has been described as the 'actual value', 'market value' or 'current value'.[7] Although 'value' has always been the foundation for assessment, prior to 1998 the assessments in many municipalities were based on very old market values. For example, assessments in the current City of Toronto were based on 1940 market values.

The assessment roll is used by a municipality to create a tax roll. The tax roll lists each property in the municipality along with its taxes for the current year. Property tax is an *ad valorem* tax. Historically, it was referred to as 'rating' because taxes were levied at a rate of mills per dollar of assessment. Our current system levies taxes based on a tax rate expressed as a percentage of the assessment.

As discussed below, our current system of municipal taxation in Ontario has been complicated by measures put in place to ease the transition to market value assessment. In theory, however, the formula for calculating property taxes is straightforward: (assessment) X (tax rate) = taxes.

In introducing property assessment reform in 1997, the Minister of Finance stated:

> Ontario's system of assessment and property tax is out of date, inconsistent and unclear. In many municipalities of the province, assessments are far out of date. Assessments are based on property

[7] The Cross-Canada Comparison chart that is attached to my paper includes the various definitions used across the country to define the assessment base.

> values that range from the 1940s to the early 1990s. When assessments no longer reflect how values change over time, the distribution of taxes becomes unfair. Some assessments haven't been updated for 50 years. There are situations where homes purchased at the same time for the same price in the same community are assessed differently.[8]

The reform announced by the Minister was simple: a property's assessment would be equal to its 'current' value as of a given date. Properties would be re-assessed every year and, eventually, a property's assessment in any given year would be the average of the three most recent years' assessments. Business taxes were replaced with a system of property classification based on use. Also as part of these reforms, the province delegated the assessment function to the Municipal - originally Ontario - Property Assessment Corporation (MPAC).[9]

On the tax side, the reforms would require tax rates to be set for each property class. The tax rates would initially reflect the existing inter-class inequities. However, to reduce what the province saw as unfairly high burdens of tax on commercial and industrial properties, the legislation required municipalities to gradually bring the tax rates on the various classes of properties into a prescribed 'range of fairness'.[10]

As is usually the case, the devil was in the details. The 'unfair distribution of taxes' referred to in the Minister's speech had created entrenched interests. As a result, there

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[8] Eves, Ernie L. *Property Assessment.* "Statements by the Ministry and Responses", Legislative Assembly of Ontario, Official Records, January 16, 1997; in Hansard Transcripts: http://www.ontla.on.ca/web/house-proceedings/house_detail.do?Date=1997-01-16&Parl=36&Sess=1&locale=en#P484_126922.

[9] *Municipal Property Assessment Corporation Act 1997,* S.O. 1997, c.43, Sch.G. Taxation remains a municipal responsibility.

[10] *Municipal Act, 2001,* s.308; O.Reg. 386/98.

has been a continuing series of complicated amendments to the 'simple' scheme: the *Assessment Act* has been amended 35 times since 1997; the property class regulation has been amended 56 times.[11] Significant changes include:

(1) frequent amendments to the tax class definitions, and the addition of new tax classes, sub-classes and optional classes,[12]

(2) the removal of 3-year 'averaging', and

(3) the removal of annual re-assessment.[13]

Notwithstanding the foregoing, most of the transition tools were on the tax side including:

(1) caps on assessment reform related tax increases. The caps were funded by 'clawbacks' of assessment reform related tax decreases,

(2) a tax refund for vacant commercial and industrial properties,

(3) caps on landlord's property tax recoveries from tenants in certain circumstances, and increases in landlord's property tax recoveries from tenants in other circumstances,

(4) a phase-in of assessment reform-related tax increases for residential properties, and

(5) tax rebate programs for charities, seniors and the disabled.

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[11] Not all of the amendments were designed to ease the transition to current value. The property tax system, which was designed as a revenue-generating tool for local government, is being co-opted into a policy tool for the Province. While this trend is particularly acute in Ontario, it can be seen, to different degrees, in most other Canadian jurisdictions.

[12] Except for vacant land, tax classification is largely dependent on use. 'Commercial' is the default classification. Vacant land is assessed based on its 'principal' zoning. The class definitions - the vacant land definitions in particular - have generated a great deal of litigation.

[13] Due to legislative changes, the assessment cycle since 1998 has ranged from 1 (2003) to 3 years (1998 to 2000, and 2006 to 2008), with two year cycles in 2001 to 2002, and 2004 to 2005.

The first of these tools – capping and clawbacks – has become exceedingly complex. There are now three different capping regimes in place in the province, and special rules exist for newly-constructed or renovated properties, properties that move between classes and for demolished or destroyed properties.[14]

To add to the complexity, the transition tools are moving back to the assessment side in 2009. Re-assessment will now occur every four years. Capping and clawbacks remain in place on the tax side but they are supplemented by the phase-in of market-related assessment increases (decreases are implemented immediately).

In short, the process of calculating taxes from an assessment is a very, very long way from the simple formula of (assessment) X (tax rate) = taxes.

Assessment Issues

I will discuss two assessment-related issues that I believe will have a significant impact on municipalities. The first is the increasing tendency of municipal agencies, and provincial and federal governments to appeal either their assessments or their PILT payments. The second is the infamous Bank Towers' decision.

[14] *Municipal Act, 2001*, Parts VIII, IX, X.

Government / Public Property

In 2007, Ontario municipalities received almost $400 million in the form of payments in lieu of taxes (PILTs).[15] The province and its agencies are required make PILT payments.[16] Issues concerning the amount of the PILT are resolved at the ARB using the normal appeal provisions in the *Assessment Act*. The federal government and its agencies can appeal their assessments in the usual manner. However, the federal *Payment in Lieu of Taxes Act* also provides a mechanism to resolve disputes concerning the amount of the PILT payment.[17]

Historically, governments rarely appealed their property assessments or PILT payments. This is no longer the case. There have been several decisions across the country concerning significant public properties, including several cases by the rarely convened Payment in Lieu of Taxes Dispute Advisory Panel (PILTs-DAP).[18]

The Gander International Airport Authority ('GIAA') appealed the assessment on the Gander airport.[19] The non-profit GIAA leased the airport from the federal government. It argued that the airport was not economically viable and had no value. The Court held that the GIAA's mandate was to "ensure the Airport did not close". The Court found that

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[15] 2007 Provincial Summary, Schedule 26, Part 1 http://oraweb.mah.gov.on.ca/fir/welcome.htm This figure includes both provincial and federal PILT payments.

[16] *Municipal Act, 2001*, s.327(8); *Municipal Tax Assistance Act*, R.S.O. 1990, c.M.59, as amended, s.4(3)

[17] R.S.C. 1985, c. M-13, as amended.

[18] There are two Ontario cases from the PILTs-DAP: *City of London v. Canada Post Corporation* (27 February 2007), (PILTs-DAP) [unreported] (post office building) and *City of Toronto v. Toronto Port Authority* (2 December 2008), (PILTs-DAP) [unreported] (portions of the Toronto islands, including the island airport).

[19] *Gander International Airport Authority v. Town of Gander,* (2008) 48 M.P.L.R. (4th) 141; [2008] N.J. No. 183 (Nfld.S.C.).

there was no alternative use for the land and accepted the GIAA's argument that the property had nominal value. The assessment was reduced from $24,800,000 to $1.00.

The federal government contested the value of the land (and certain of the improvements) on which the Halifax Citadel is located. All of the experts agreed that the highest and best use of the land was its continued use as a National Historic Site. The Panel found that the "taxing authority's mandate to ensure equal treatment is applied to all assessed property ... appears to be overridden by the restrictions enunciated in the *Canada National Parks Act*". As a result, the Panel found that the correct value of the land was $1,550,000; the assessing authority had sought a value of $19,000,000.

The newly-amalgamated City of Montreal cancelled the business occupancy tax which was payable in some, but not all, of the former municipalities. As a result, the tax rates in certain areas of the City increased. The CBC and the Montreal Port Authority (MPA) are not required to pay business occupancy taxes. Therefore, they reduced their PILT payments by an amount equivalent to the former business tax. The Federal Court of Appeal found that Parliament had given itself the discretion, in determining the amount of its PILT payment, to adjust the effective rate of taxation and the property value established by the assessing authority. It also found that the municipality, by merging business and property taxes, was trying to do indirectly what it could not do directly (collect occupancy tax from the CBC and MPA). It held that the CBC's and MPA's

actions were reasonable and permissible.[20] The Supreme Court has granted leave to appeal.

Bank Towers[21]

In February 2008, the ARB released the long-awaited decision on the Toronto Bank Towers, so named because it involved the appeals on all five of the large bank buildings in Toronto (BCE Place, Royal Bank Plaza, Toronto-Dominion Centre, Commerce Court, First Canadian Place and Scotia Plaza).

The *Assessment Act* requires that land be assessed at its current value. Current value is defined as the "amount of money the *fee simple, if unencumbered*, would realize if sold at arm's length by a willing seller to a willing buyer" (emphasis added).

The ARB accepted the Bank Towers' argument that the use of the phrase 'fee simple if unencumbered' in the legislation meant that what was to be valued was the owner's interest in land. A lease gives a tenant an interest in the leased property. The ARB held that the tenants' interests should not be valued. The valuation consequences of the ARB's decision are three-fold:

(1) the valuation must assume that buildings are vacant on the valuation date;

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[20] *Montreal Port Authority v. Montreal (City); Canadian Broadcasting Coporation v. Montreal (City) et al.* (2008), 51 M.P.L.R. (4th) 1; [2008] F.C.J. No. 1319 (F.C.A.): Leave to Appeal to SCC granted April 2, 2009.

[21] *BCE Place Limited (171 Bay St), et al. v. Municipal Property Assessment Corporation, Region No. 09, et al.* (22 February 2008), (Ont.A.R.B.) [unreported]; [2008] O.A.R.B.D. No. 278; leave granted *Municipal Property Assessment Corporation, et al. v. BCE Place Limited, et al.* (14 November 2008), (Ont.Div.Ct.) [unreported]. Carl Davis and Don Mitchell, of my office, argued this matter on behalf of MPAC and I thank them for their assistance in preparing this summary.

(2) for these particular buildings, the tenant's improvements had no value (because new tenants would replace the finishes with their own finishes); and

(3) the valuation must account for the time it will take the owner to lease the property. For the Bank Towers, the Board held that it will take 24 months to lease the buildings.

The Bank Towers' expert referred to these assumptions as an 'artificial valuation construct'.

The Divisional Court has granted MPAC and the City of Toronto leave to appeal the decision. In granting leave, the Court noted that:

> The interpretation of the Board is not harmonious with the context of an Act that values property at its highest and best use for the purposes of taxation and is not consistent with the statutory property tax regime that provides special relief for commercial properties that are vacant or partially vacant. An interpretation that notionally imposes base building vacancy and a 24 month lease-up period is at odds with a definition based upon value in a sales transaction that is derived from the income from the leases on the property. In the context of an Act concerned with value, there is good reason to conclude that the current value of the owner's unencumbered fee simple interest, for a commercial property, is achieved when the land and buildings are valued at market rents.

The appeal is scheduled to be heard in late June 2009.

Although it heard many weeks of evidence, the ARB did not render a decision as to the correct assessment for the Bank Towers. Therefore, any estimate of the consequences of the decision on the tax base is pure conjecture.[22]

Taxation Issues

There have been a number of recent cases involving taxation issues. MPAC is not a party to appeals / applications involving taxation issues. For example, MPAC is not a party to appeals under *Municipal Act, 2001* sections 334 and 357 (cancellation, reduction, refund of taxes), 337 and 359 (tax increases), 356.6 (tax apportionments amongst parcels) and 364 (vacant unit rebate).

In *Neamsby Investments Inc*[23], Neamsby sought an order quashing a New Construction Notice and the resulting re-calculated tax bills because the municipality failed to deliver the list of comparable properties ("List") received from MPAC within 60 days as required by subsection 331(9) of the *Municipal Act, 2001*. MPAC issued the List in 2002 but the municipality did not deliver it to Neamsby until 2005 because of tax billing software issues.

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[22] The decision released was an interim decision that dealt only with the legal issue: "The Board is unable to determine the actual assessments for each of the properties as the methodology set out requires further review by the parties...". The Bank Towers were seeking assessment reductions of approximately 20% (the total value of the five properties was approximately $5 billion so the assessment reduction is approximately $1 billion). However, in addition to the legal issue, they also contested the rents and capitalization rate used by MPAC.

[23] *Neamsby Investments Inc. v. The Corporation of the Town of Markham*, (23 November 2007), (Ont. S.C.), (8 September 2008), (Ont. Div. Ct.). The applicant's motion for leave to appeal to the Court of Appeal was dismissed. The amount of taxes at stake (for the five years in issue) was approximately $780,000. Melissa VanBerkum, of my office, was counsel for Markham on this matter and I thank her for her assistance in preparing this summary.

The Divisional Court determined that the term "shall" in subsection 331(9) was directory, not mandatory. The obligation to provide the List prior to billing taxes was mandatory; the duty to meet the 60-day time deadline was not. To interpret otherwise would mean that the purpose of section 331 - "to ensure that eligible properties are taxed at the same level as comparable properties" - could not be met, nor could the purpose be achieved by resorting to any of the other remedial sections in the *Act*.

1392290 Ontario Limited severed its property in 2000. The two newly created parcels were assessed for the first time on the 2001 assessment roll. On January 1, 2001, changes to the eligible property provisions of the *Municipal Act, 2001* came into effect. The municipality applied the eligibility provision to the severance. 1392290 Ontario brought an application for a determination that its 2000 severance was not subject to the 2001 eligibility provisions.[24]

The municipality argued that the legislation was retrospective i.e. "it *operates forwards*, but it looks backwards in that it attaches new consequences *for the future* to an event that took place before the statute was enacted". [emphasis in original] The Superior Court agreed. The Divisional Court agreed with the Superior Court, but for slightly different reasons: "whether or not the appellants enjoyed vested rights within the 'capping' regime, the applicability of the definition to severances in 2000 arises by the necessary application of the *Municipal Act* and is therefore 'plainly manifested by

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[24] *1392290 Ontario Limited et al. v. Corporation of the Town of Ajax* (2007), 40 M.P.L.R. (4th) 286 (Ont.S.C.J.); [2007] O.J. No. 4264; conf'd (2008), 51 M.P.L.R. (4th) 270; [2008] O.J. No. 4212 (Ont.Div.Ct.).

unavoidable inference'." The Court of Appeal has granted 1392290 Ontario leave to appeal.

The ARB has recently issued two quite different decisions on the calculation of tax adjustments due to demolitions. If a structure is intentionally demolished by the owner, it is likely that the demolition improves the value of the property. Notwithstanding the improvement in value, however, ratepayers frequently apply for tax rebates based on the value of the demolished structure in MPAC's records.

In the first decision,[25] the Board accepted the municipality's argument that the correct question is "did the demolition result in a reduced current value for the property?" Since the land was worth more without the building than with the building, the ratepayer was not entitled to a refund of taxes as a result of the demolition.

In a decision released a week later[26], the ARB held that, in calculating the correct tax adjustment, it would have regard to the 'notional' value in MPAC's working papers: "... it is fair to base the tax reduction on the *assessed value* of that part of the property which had been demolished ...". [emphasis added] It appears that the Board operated under the assumption (I think incorrectly) that the assessor's working papers were part of the 'assessment' that had to be considered 'correct'. Therefore, although there was some evidence that the post-demolition value of the property was higher than MPAC's assessment, the Board ordered a refund of taxes.

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[25] *KWH Nornineeco Inc., et al. v. City of Kitchener*, (16 January 2009), (Ont.A.R.B.) [unreported]. The Board has agreed to review this decision (a review was not sought in the Markham case). Don Mitchell, of my office, was counsel for Kitchener on this application.

[26] *Town Homes of Thornhill Village Inc. v. Town of Markham*, (23 January 2009), (Ont.A.R.B.) [unreported]; [2009] O.A.R.B.D. No. 17.

Practice Issues

I will discuss three significant practice issues: first, the fallout from the paralegal licensing provisions; second, the ARB's newly-implemented rules; third, the shifting of the onus to MPAC.

Paralegals

Commencing in May 2007, the *Law Society Act*[27] was amended to give the LSUC the power to regulate persons who provide legal services, which were defined very broadly: "a person provides legal services if the person engages in conduct that involves the application of legal principles and legal judgment with regard to the circumstances or objectives of a person" (in contrast, lawyers 'practice law', which is undefined). Most property assessment and taxation functions, excluding pure valuation expertise, fall within the definition.

The LSUC created a number of exemptions to the licensing requirements.[28] For the assessment profession, the most controversial exemption has been for in-house paralegals: so long as an individual only provides legal services for a single employer, he/she does not have to be licensed. This means that most paralegals acting on behalf of ratepayers have to be licensed, but assessors and in-house municipal staff do not. Because the ARB has traditionally permitted representatives to both advocate and testify but the Paralegal Code of Conduct does not permit the 'dual role', taxpayer

[27] R.S.O. 1990, C.L.8, as amended.

[28] The LSUC did not propose changes to the exemptions in its recent report to the Attorney General: Law Society of Upper Canada. *Report to the Attorney General of Ontario on the Implementation of Paralegal Regulation in Ontario: pursuant to subsection 63.0.1(2) of the Law Society Act.* January 2009. http://www.lsuc.on.ca/media/mar3009_paralegal_regulation_en.pdf

representatives have argued that the exemptions cause 'unfairness' and have requested that the Board 'level the playing field'. [29]

Notwithstanding a fair amount of pressure from the Bar, the ARB's new rules provide that a representative – other than a lawyer – can continue to act as both an advocate and a witness in certain appeals and in all other appeals with leave from the Board. The Board is leaving it to the LSUC to enforce the Code requirement that "a paralegal who is to testify before a tribunal shall entrust the conduct of the case to another licensee".

ARB's New Rules

The ARB implemented new rules on April 1, 2009. The rules themselves are not particularly controversial. However, in conjunction with the new rules, the Board has amended its 'streaming strategy'. The Board continues to have two streams: the 'direct hearing stream' and the 'case-managed stream'. Appeals in the direct hearing stream go directly to hearing with limited pre-hearing disclosure. Appeals in the case managed stream follow a more traditional litigation route with the exchange of pleadings and discovery in advance of the hearing.

Prior to April 1, 2009, the Board streamed all properties valued at $500,000 or less ($1,000,000 in the larger urban areas) directly to a hearing. All other properties were included in what was then called the pre-hearing stream. The new streaming strategy

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[29] Rule 4.04 of the LSUC's Paralegal Code of Conduct prohibits a paralegal from advocating and testifying in the same proceeding. The ARB has held that non-exempt, unlicensed paralegals may not represent parties before the Board: *Municipal Property Assessment Corporation, et al. v. M & L Lightview Apartments Inc., et al.* (19 August 2008), (Ont. A.R.B.) [unreported]; [2008] O.A.R.B.D. No. 136.

increases the threshold to $4,000,000 ($8,000,000 in the larger urban areas). There is a great deal of concern amongst the stakeholders over these re-streaming guidelines. The ARB has asked that we be patient and see how the guidelines work in practice.

Reverse Onus

Beginning in 2009, the *Assessment Act* has placed the onus of establishing that a current value is correct on MPAC.[30] The onus for all other issues remains with the appellant. The Board's new rules operate on the premise that the delivery by MPAC of the valuation supporting the returned assessment will meet the threshold onus. This will, I am sure, be tested at some point in the near future.

The issue that is generating a great deal of debate is what occurs if MPAC is found not to have met its onus? Most practitioners believe that MPAC's failure to meet its onus will result in a confirmation of the returned assessment, but I suspect that ratepayers will try to argue that the failure to meet the onus should result in the ratepayer's value being accepted by the Board.

Conclusion

In 1967, the Smith Commission concluded that:

> "... we have been unable to discover or devise a workable alternative to the real property tax as the major revenue source of local governments that would not

[30] Section 40(17). The onus shifts back to the appellant if the appellant does not permit the property to be inspected or if he/she fails to respond to MPAC's requests for information.

> drastically reduce, or even destroy, either local autonomy or local fiscal responsibility."[31]

This remains true today and municipalities do themselves, and their ratepayers, a disservice if they fail to pay appropriate attention to this very complex area of law.

[31] The Ontario Committee on Taxation. *The Local Revenue System.* Report, Vol. II. Queen's Printer, Ontario, 1967 ("Smith Report") at p.1.

CROSS-CANADA COMPARISON OF ASSESSMENT LEGISLATION

	Primary Legislation	Assessing Authority	Assessment Base[1]	Re-Assessment	Classification	Appeal - First Level	Appeal - Second Level
ALBERTA	*Municipal Government Act*	Municipality (excluding linear properties - Province)	Market Value	Annual	Residential, Non-residential, farm land, machinery and equipment	Assessment Review Board	Municipal Government Board
BRITISH COLUMBIA	*Assessment Act, Assessment Authority Act*	BC Assessment	Actual value	Annual	Residential, utilities, major industry, light industry, business and other, managed forest land, recreational property / non-profit organization, farm, strata accommodation property	Property Assessment Review Panel	Property Assessment Appeal Board
NEW BRUNSWICK	*Assessment Act*	Service New Brunswick	Real and true value	Annual	None	Request for Review	Assessment and Planning Appeal Board
NEWFOUNDLAND	*Assessment Act, 2006*	Municipal Assessment Agency (Province) & City of St John's	Actual Value	3-year cycle	Commercial, Residential	Assessment Review Commissioner	Supreme Court, Trial Division
NOVA SCOTIA	*Assessment Act*	Provincial	Market Value	Annually	Residential, Resource, Commercial	Regional Assessment Appeal Court	Nova Scotia Utility and Review Board
MANITOBA	*Municipal Assessment Act, City of Winnipeg Charger, Municipal Act*	Provincial & City of Winnipeg	Value	4-year cycle	Residential (1, 2 & 3), Farm, Institutional, Pipeline, Railway, Designated Recreational, other*	Board of Revision	Municipal Board of Manitoba

CROSS-CANADA COMPARISON OF ASSESSMENT LEGISLATION							
	Primary Legislation	**Assessing Authority**	**Assessment Base[1]**	**Re-Assessment**	**Classification**	**Appeal - First Level**	**Appeal - Second Level**
ONTARIO	*Assessment Act, Provincial Land Tax Act, Municipal Act, 2001, City of Toronto Act, 2006, Municipal Tax Assistance Act.*	Municipal Property Assessment Corporation (Province)	Current Value	4-year cycle	Residential, Multi-Residential, Commercial, Industrial, Pipe Line, Farm, Managed Forests, New Multi-Residential, Office Building, Shopping Centre, Parking Lots and Vacant Land, Large Industrial, Professional Sports Facility, Resort Condominium, Residual Commercial, + subclasses	Request for Reconsideration (mandatory for residential, farm and managed forest properties only)	Assessment Review Board
PEI	*Real Property Assessment Act, Real Property Tax Act*	Provincial	Market Value	Annual	Commercial, Non-Commercial	Referral to Minister	Island Regulatory and Appeals Commission
QUEBEC	*Act Respecting Municipal Taxation*	Regional county municipality	Actual Value	3-year cycle	Municipality may provide for classes by by-law	Assessor	Administrative Tribunal of Quebec
SASKATCHEWAN	*The Cities Act, The Municipalities Act, The Northern Municipalities Act*	Saskatchewan Assessment Management Agency, Regina, Saskatoon, Moose Jaw, Prince Albert	Market Value	4-year cycle	Non-arable, Other agricultural, Residential, Multi-unit Residential, Seasonal Residential, Commercial and Industrial, Elevators, Railway Rights of Way and Pipeline	Local Board of Revision	Saskatchewan Municipal Board Assessment Appeals Committee

[1] **Definitions:**

ALBERTA	Market Value	"market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer.
BRITISH COLUMBIA	Actual Value	"actual value" means the market value of the fee simple interest in land and improvements.
NEW BRUNSWICK	Real and True Value	Not defined.
NEWFOUNDLAND	Actual Value	"actual value" means that value being the market value of the fee simple interest in the real property.
NOVA SCOTIA	Market Value	All property shall be assessed at its market value, such value being the amount which in the opinion of the assessor would be paid if it were sold on a date prescribed by the Director in the open market by a willing seller to a willing buyer …
MANITOBA	Value	"value" means, in respect of property being assessed under this Act, the amount that the property might reasonably be expected to realize if sold in the open market on the applicable reference date by a willing seller to a willing buyer.
ONTARIO	Current Value	"current value" means, in relation to land, the amount of money the fee simple, if unencumbered, would realize if sold at arm's length by a willing seller to a willing buyer.
PEI	Market Value	"market value" means, in respect of real property, the most probable sale price of that real property as of comparable properties and the value indicated by rentals or anticipated net income.

QUEBEC	Actual Value	The actual value of a unit of assessment is its exchange value in the free and open market, that is, the price most likely to be paid at a sale by agreement made in the following conditions: 1) the vendor and the purchaser are willing, respectively, to sell and to purchase the unit of assessment, and they are not compelled to do so; and 2) the vendor and the purchaser are reasonably informed of the condition of the unit of assessment, of the use that can most likely be made of it and of conditions in the property market.
SASKATCHEWAN	Market Value	"market value" means the amount that a property should be expected to realize if the estate in fee simple in the property is sold in a competitive and open market by a willing seller to a willing buyer, each acting prudently and knowledgeably, and assuming that the amount is not affected by undue stimuli.