



ADMINISTRATIVE REPORT

Report Date: February 15, 2012
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Meeting Date: February 28, 2012

TO: Standing Committee on City Finance and Services
FROM: Director of Finance
SUBJECT: Property Tax Exemptions - 2011

INFORMATION

The Property Tax Exemptions Report for 2011 is submitted to Council for information.

REPORT SUMMARY

The purpose of this report is to meet the *Vancouver Charter* requirement of an annual report outlining the objectives and policies for the year in relation to the use of tax exemptions. The report also summarizes the statutory and permissive property tax exemptions that were available to real property in Vancouver and any compensating payments and rent in-lieu of taxes payable to the City in 2011.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

Section 219 of the *Vancouver Charter* stipulates that a report be submitted to Council, by April 30, outlining the objectives and policies for that year in relation to the use of tax exemptions under sections 396A (exemptions for heritage property), 396C (exemptions for riparian property), 396E (revitalization tax exemptions), and 396F (exemptions for not-for-profit property).

Section 396 of the *Vancouver Charter* sets out two types of property tax exemptions that can be applied within the City:

Statutory Exemptions - Specified in the *Vancouver Charter* as well as the *Canadian Constitution Act*, these exemptions are administered by BC Assessment as part of the assessment and classification process; Council approval is not required.

Permissive Exemptions - These exemptions are provided under Council's authority when determining the eligibility of individual properties in accordance with program criteria set by Council.

It has been Council policy to rely on the statutory property tax exemptions available under Section 396(1) of the *Vancouver Charter* and limit the use of permissive property tax exemptions to heritage properties only (396A).

In 2003, Council established the Heritage Building Rehabilitation Program, a five year initiative to encourage the full upgrading of heritage buildings and stimulate economic revitalization within the Downtown Eastside (DTES) historic areas including Chinatown and the Hastings Street Corridor, and in Gastown and Victory Square areas. Among the program incentives is the use of permissive exemption for heritage property. In April 2010, Council extended the permissive exemption incentive to the end of 2013.

It has been Council policy to not extend any property tax exemptions to tenants. Property taxes and any exemptions, if eligible, are applicable to property owners, not tenants. How property owners share these costs with their tenants is beyond the City's jurisdiction.

It has been Council policy that tenants occupying City-owned properties held for non-civic use make lease payments which include an amount equivalent to property taxes to ensure equity among tenants occupying privately owned properties and those occupying tax exempt City-owned properties.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

REPORT

Background/Context

This section outlines the various tax exemptions available under the *Vancouver Charter*, Class 3 - Supportive Housing, and the compensating payments and rent in-lieu of taxes available to the City.

Vancouver Charter Exemptions

Section 396 of the *Vancouver Charter* outlines the eligibility requirements for property tax exemptions. Refer to Appendix B for details.

Statutory Exemptions (396(1))

These exemptions are prescriptive and eligibility requirements are established by legislation, not Council. For eligible properties, all taxes levied by the City and other taxing authorities are exempt.

Pursuant to Section 396(1), the following properties are eligible for exemption:

- Crown lands - property owned and occupied by the federal, provincial, or regional governments, or a Crown corporation
- City of Vancouver property
- property owned¹ and occupied by incorporated charitable institutions, and wholly in use for charitable purposes
- property owned¹ and occupied by incorporated institutions of learning, and wholly in use for providing to children education accepted as equivalent to that furnished in a public school
- property owned¹ and occupied by hospitals receiving aid under the Hospital Act, and wholly in use for the purposes of the hospital or held for future use as a hospital-site
- churches owned¹ and occupied by religious organizations, and in use for the public worship of God
- property occupied by Simon Fraser University at the Sears Harbor Centre
- emergency shelters for persons or domestic animals
- property for pollution control
- Vancouver Court House occupied by the Vancouver Art Gallery Association
- British Columbia Cancer Agency Branch located on the north side of the 600 Block of West 10th Avenue

Over the years, the applicability of these exemptions has been defined by the Property Assessment Appeal Board and court decisions rather than Council actions.

Permissive Exemptions (396 A, C, E and F)

These exemptions are *permissive* in nature. Within the limitations set out by the legislation, Council, by two thirds of the votes cast, has the authority to determine the application of these exemptions. Permissive exemptions are an “optional” form of tax relief whereby Council, at its sole discretion, may choose to exempt certain properties from taxation, in whole or in part, for periods of up to 10 years in order to promote specific goals and objectives of the City. There are specific timelines which must be adhered to under the legislation: to effect an exemption in any calendar year, Council must adopt a by-law specifying the exemption on or before October 31 in the preceding year. The following exemptions are available:

- ***Exemptions for Heritage Property (396A)*** - The primary purpose of these exemptions is to promote conservation of eligible heritage properties. Without these exemptions, the heritage values might not be retained, or the redevelopment leading to new values and property taxes might not occur. If eligible, all taxes levied by the City and other taxing authorities will be exempt. To date, Council has approved exemptions to 17 properties under this category: 13 were in effect in 2011 and 2 additional properties will be exempt in 2012.
- ***Exemptions for Riparian Property (396C)*** - The primary purpose of these exemptions is to promote conservation of eligible riparian properties. If eligible, all taxes levied by the City and other taxing authorities will be exempt. To date, Council has not approved any exemptions under this category.

¹ As a registered owner or owner under agreement

- **Revitalization Tax Exemptions (396E)** - Enacted in 2007 by the Province, Section 396E provides Council with a tool to promote economic, social or environmental revitalization through exemption of municipal property tax only. Within this authority, Council may establish the policy which lays out eligibility requirements for approving individual exemptions. Council has full authority over the scope of exemptions: from defining the policy which lays out eligibility requirements to approving individual exemptions. To date, Council has not approved any exemptions under this category.
- **Exemptions for Not-for-Profit Property (396F)** - The City has had a longstanding, unique statutory property tax exemption provision Section 396(1) - something not available to other municipalities in British Columbia - that provides statutory exemptions to a range of eligible charitable and not-for-profit organizations. The *Community Charter*, which governs other municipalities in British Columbia, does not provide statutory exemptions to charitable and not-for-profit organizations (with the exception of churches), and relies solely on the permissive exemption provision.

In July 2010, the Province enacted Section 396F which significantly broadens Council's authority to provide permissive property tax exemptions to "not-for-profit corporations" which would not qualify under Section 396(1). Unlike Section 396(1) which stipulates the specific eligibility requirements for statutory property tax exemptions, the definition of "not-for-profit corporations" included in Section 396F is very broad. Council has full authority over the scope of exemptions: from defining the policy which lays out eligibility requirements to approving individual exemptions, in whole or in part, for periods of up to 10 years. If eligible, all taxes levied by the City and other taxing authorities will be exempt.

At Council's request, staff assessed the financial and taxation policy implications associated with Section 396F and reported back to Council in September 2011, that the City's extensive grant programs are more effective, flexible, transparent and accountable than the property tax exemption program in supporting the not-for-profit sector. Council has since adopted the policy that the City will continue to support not-for-profit organizations through the existing range of statutory property tax exemptions available under Section 396(1) and the City's extensive grant programs, but will not consider the use of permissive property tax exemptions.

Class 3 Supportive Housing

In June 2008, pursuant to the Small Business and Revenue Statutes Amendment Act 2008, the Province legislated the creation of *Class 3* "Supportive Housing" for assessment purposes. Eligible "Supportive Housing" properties are subject to special valuation rules that reduce the assessed value of the Class 3 portion of the property to a nominal amount, effectively exempting the property from taxation. In 2011, 68 properties in Vancouver were designated as Class 3 "Supportive Housing", all of which are operated by not-for-profit organizations with financial support from the Province (2010 - 65 properties).

Compensating Payments-in-lieu of Taxes

Payments-in-lieu of Taxes (PILTs)

Senior governments are constitutionally exempt from local property taxation. At the federal level, the *Payments in Lieu of Taxes Act* stipulates that payments be made to local governments in lieu of property taxes on certain exempt properties at the discretion of the Minister of Public Works and Government Services Canada or the heads of Crown corporations and federal agencies. At the provincial level, the *Municipal Aid Act* requires similar treatment for lands under provincial ownership. In general, payments are calculated on the basis of the assessed values and local tax rates which would apply if the properties were taxable to ensure that the amount paid is essentially equivalent to the amount which would be paid by a taxable owner. However, both statutes provide some discretion for the granting government to determine which properties are grantable and the payments to be made. At the federal level, the authority of BC Assessment to determine property classification and valuation is not always recognized, and both determinants can be and are often adjusted for the purpose of calculating such payments. This issue is particularly prominent with respect to Port Metro Vancouver (PMV).

In August 2009, the Metro Vancouver Port Cities Committee (MVPCC) established the Municipal Port Property Taxation Commission with a mandate to examine and make recommendations on the longstanding issues concerning assessment, taxation and PILTs for port properties, as well as the relationship between PMV and neighboring municipalities. The Commission published its report in September 2010 and one of the recommendations was that PMV should make PILTs that reflect the property taxes that would apply if its properties were taxable. While negotiations are underway between PMV and the port cities (through the MVPCC) to address the PILTs issue, a formal appeal has been filed with the Payments in lieu of Taxes Dispute Advisory Panel² on the discrepancy between PILTs billed and collected for the 2009 tax year.

Over the past two years, PMV, BC Assessment and the port cities have been working together to resolve differences in valuation approaches and assessment of Port properties. A formal appeal has also been filed with the Property Assessment Review Panel on the 2012 assessed values derived based on new assessment approaches. In the meantime, PMV has made interim payments for the 2010 and the 2011 PILTs requests pending agreement on valuation of Port properties.

Rent-in-lieu of Taxes

The City has a large portfolio of properties - primarily held in the Property Endowment Fund - that are not required for civic purposes and are leased to commercial, residential and non-profit tenants. These properties are exempt from property taxation, irrespective of their use, pursuant to Section 396(1) of the *Vancouver Charter*. To ensure equity among tenants of City properties and those of privately owned properties, Council has a policy of requiring tenants of City properties to make lease payments which include an amount equivalent to property taxes.

² The mandate of the PILT Dispute Advisory Panel is to give advice to the Minister of Public Works and Government Services in the event that a taxing authority disagrees with the property value, property dimension or effective rate applicable to any federal property.

DISCUSSION

Table 1 below summarizes the 2011 statutory and permissive tax exemptions for real property in the City.

Table 1: 2011 Summary of Property Tax Exemptions - Statutory and Permissive

PROPERTY TAX EXEMPTIONS	EXEMPT VALUE	FORGONE GENERAL PURPOSE TAX LEVY	PAYMENTS-IN-LIEU OF TAXES BILLED
STATUTORY EXEMPTIONS			
Federal Crown & Agencies			
Federal Crown	1,063,008,872	8,712,760	7,061,347
Berth Corridors & Floating Dry Docks	41,703,400	1,296,089	-
Airport Authorities	441,700	4,063	4,240
	<u>1,105,153,972</u>	<u>10,012,912</u>	<u>7,065,587</u>
Provincial & Crown Agencies			
Provincial Crown	1,752,036,936	11,709,987	2,226,853
BC Hydro	395,207,666	11,460,795	9,091,964
Vancouver Court House/Robson Square	222,827,667	2,049,752	2,024,366
Insurance Corporation of BC	44,881,667	412,858	216,280
Senior Housing	32,582,333	69,340	-
	<u>2,447,536,269</u>	<u>25,702,732</u>	<u>13,559,462</u>
Metro Vancouver	159,710,133	1,168,605	-
Transit	1,160,485,967	42,974,864	-
Schools, Colleges & Universities			
Public & Francophone Education Authority Schools	3,162,362,834	28,967,566	-
Private Schools	509,596,548	4,596,589	-
Colleges	385,822,466	3,549,111	-
Simon Fraser University	120,283,000	1,106,462	28,990
Other Universities	76,005,133	699,158	-
	<u>4,254,069,981</u>	<u>38,918,886</u>	<u>28,990</u>
Hospitals and Health Authorities			
Hospitals and Health Authorities	1,554,094,900	14,118,224	-
BC Cancer Agency	174,893,333	1,608,812	-
Jewish Home for the Aged of BC	22,718,000	48,347	-
	<u>1,751,706,233</u>	<u>15,775,384</u>	<u>-</u>
Charitable Organizations	762,111,187	3,684,707	-
Churches	924,474,342	1,950,683	-
Consular Property	51,576,599	204,429	203,693
Other Partial Exemptions	8,835,956	71,921	-
Statutory Exemptions - Non-CoV Properties	<u>12,625,660,639</u>	<u>140,465,122</u>	<u>20,857,732</u>
CoV Properties	13,993,621,381	64,807,822	15,612,162
TOTAL STATUTORY EXEMPTIONS	<u>26,619,282,020</u>	<u>205,272,945</u>	<u>36,469,894</u>
PERMISSIVE EXEMPTIONS			
Heritage Property	368,640,366	1,161,700	-
TOTAL PERMISSIVE EXEMPTIONS	<u>368,640,366</u>	<u>1,161,700</u>	<u>-</u>
TOTAL EXEMPTIONS	<u>26,987,922,386</u>	<u>206,434,644</u>	<u>36,469,894</u>

Notes:

- 1) *Forgone General Purpose Tax Levy = Exempt Value X General Purpose Tax Rate*
- 2) *Not all federal and provincial properties are subject to PILTs. Key examples are:*
 - *Canada Place - assessed value \$102M (Class 6), forgone general purpose taxes \$0.9M*
 - *BC Pavilion Corporation (Vancouver Convention Centre, BC Place) - assessed value \$876.6M (Class 6), forgone general purpose taxes \$8.1M*
 - *Vacant properties for which no service is provided*

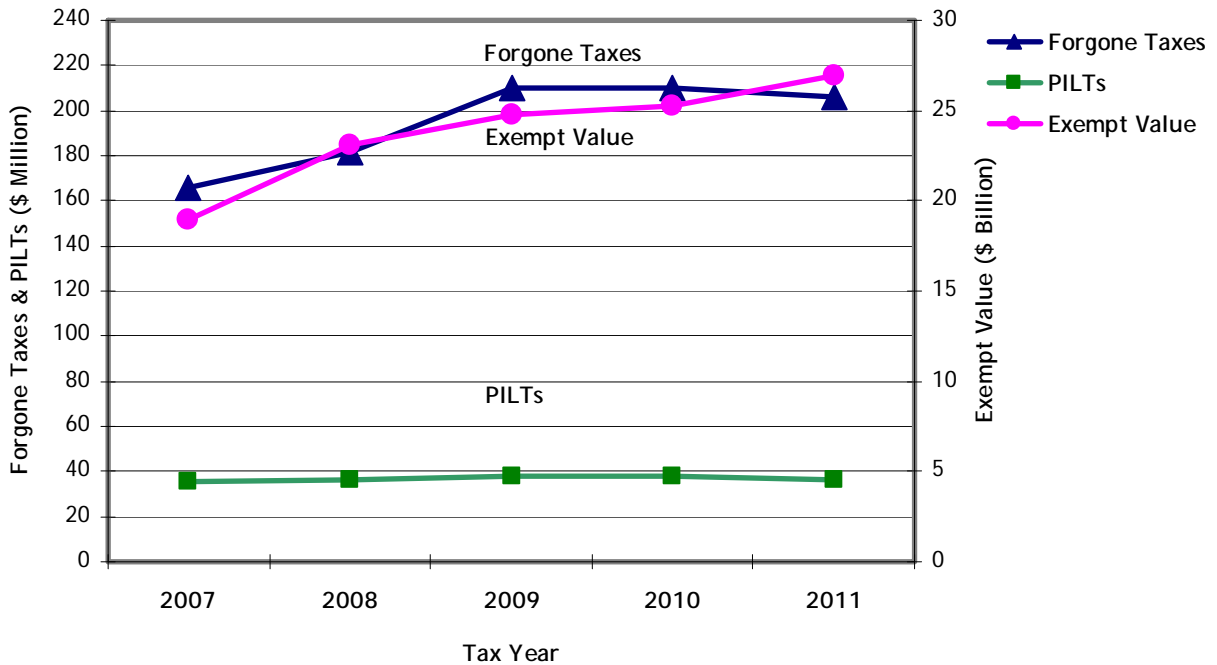
In 2011, \$27 billion of properties, which is equivalent to 13.5% of the *Assessment Roll*, were exempt. General purpose taxes forgone totaled \$206.4 million, which was partially compensated by \$36.7 million of payments and rent-in-lieu of taxes. Refer to Figure 1 for trend analysis from 2007 to 2011.

Statutory Exemptions - More than 3,500 property folios with a total assessed value of \$26.6 billion were either fully or partially exempt, resulting in forgone taxes of \$205.3 million. Included were City-owned properties in use for delivering civic services and programs and those held for non-civic purposes within the Property Endowment Fund with a total assessed value of \$14 billion.

Permissive Exemptions - Of the 17 properties approved by Council under the Heritage Building Rehabilitation Program, 13 exemptions were in effect in 2011 with a total assessed value of \$368.6 million and forgone taxes of \$1.2 million. Two additional properties will be exempt in 2012. The maximum value of exemptions approved for the 17 properties totals \$21.8 million, of which the general purpose tax levy accounts for approximately 50%. Refer to Appendix A for details.

Compensating Payments & Rent in-lieu of Taxes - Of the \$36.5 million, \$20.9 million was billed to properties owned and occupied by senior governments and \$15.6 million to tenants of City-owned properties in the form of lease payments of which the amount is equivalent to property taxes.

Figure 1:
Trending of Exempt Value, Forgone Taxes & PILTs (2007-2011)



In addition to the statutory and permissive exemptions, in 2011, the Province designated 68 Class 3 "Supportive Housing" properties in Vancouver (2010 - 65 properties), resulting in an estimated \$0.7 million of forgone taxes (2010 - \$0.7 million). This represents additional subsidy from the City beyond the capital funding and land already committed to the development of supportive housing, as other taxpayers must pay more to make up the shortfall arising from the exemptions.

Financial Implications

Values of exempt properties are not factored into general purpose tax rate calculations. Any forgone taxes are shared among non-exempt properties in the normal course of balancing the annual operating budget.

Any payments and rent in-lieu of taxes applicable to exempt properties (2011 - \$36.7 million) are reported as general revenues.

CONCLUSION

This report summarizes the statutory and permissive property tax exemptions provided under Section 396 of the *Vancouver Charter* and the compensating payments and rent in-lieu of taxes payable to the City in 2011.

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HERITAGE PROPERTY EXEMPTIONS
COUNCIL APPROVALS TO DATE

PROPERTY	COUNCIL APPROVAL	BY-LAW			EXEMPTION (GENERAL PURPOSE TAX LEVY & TAXES LEVIED BY OTHER TAXING AUTHORITIES)				
		#	ENACTMENT	LAPSE AFTER	MAXIMUM DURATION	MAXIMUM \$	START	TO-DATE	REMAINING
50 Water	29-Jan-04	8816	23-Mar-04	23-Mar-09	10 yrs	\$768,700	2007	\$744,286	\$24,414
42 Water	29-Jan-04	8817	23-Mar-04	23-Mar-09	10 yrs	\$382,000	2007	\$227,202	\$154,798
163 West Hastings	16-May-06	9338	11-Jul-06	11-Jul-11	10 yrs	\$1,948,159	2009	\$652,328	\$1,295,831
210 Carrall	11-Jul-06	9417	16-Jan-07	16-Jan-12	10 yrs	\$314,307	2009	\$93,462	\$220,845
5 West Pender	15-Feb-05	9036	10-May-05	10-May-10	10 yrs	\$247,294	2010	\$40,767	\$206,527
51 West Hastings - Commercial	26-Sep-06	9426	30-Jan-07	30-Jan-12	10 yrs	\$59,260	2010	\$19,354	\$39,906
53 West Hastings - Residential	26-Sep-06	9426	30-Jan-07	30-Jan-12	3 yrs	\$125,339	2010	\$86,888	\$38,451
108 & 128 West Cordova - Residential	21-Mar-06	9442	13-Mar-07	13-Mar-12	3 yrs	\$3,500,000	2010	\$2,195,387	\$1,304,613
412 Carrall	11-Jul-06	9451	15-Mar-07	15-Mar-12	10 yrs	\$947,502	2010	\$11,983	\$935,519
1 Gaoler's Mews	13-Jun-06	9585	15-Jan-08	15-Jan-13	10 yrs	\$1,299,928	2010	\$278,711	\$1,021,217
51 East Pender	28-Feb-06	9268	18-Apr-06	18-Apr-11	10 yrs	\$500,395	2011	\$86,108	\$414,287
12 Water - Commercial	26-Sep-06	9587	15-Jan-08	15-Jan-13	10 yrs	\$1,033,686	2011	\$176,370	\$857,316
12 Water - Residential	26-Sep-06	9587	15-Jan-08	15-Jan-13	3 yrs	\$229,034	2011	\$81,305	\$147,729
133 Keefer	8-Jul-08	9717	16-Sep-08	16-Sep-13	10 yrs	\$421,353	2011	\$30,732	\$390,621
208 East Georgia	19-Jan-10	10007	2-Mar-10	2-Mar-15	10 yrs	\$448,171	2011	\$25,530	\$422,641
101 West Hastings - Commercial	21-Mar-06	9441	13-Mar-07	13-Mar-12	10 yrs	\$8,140,000	2012		\$8,140,000
18 West Hastings	16-Sep-08	9761	25-Nov-08	25-Nov-13	10 yrs	\$144,492	2012		\$144,492
40 Powell	18-Apr-06	9336	11-Jul-06	11-Jul-11	10 yrs	\$741,805			\$741,805
1 West Hastings	24-Jan-06	9340	11-Jul-06	11-Jul-11	10 yrs	\$385,693			\$385,693
71 East Hastings	12-Feb-08	9628	15-Apr-08	15-Apr-13	10 yrs	\$173,670			\$173,670
TOTAL						\$21,810,788		\$4,750,412	

Notes:

- 1) A property is exempt from taxes up to a maximum \$ value or maximum # of years as approved by Council, whichever comes first.
- 2) Commencement of exemption is triggered by the issuance of occupancy permit. For example, if OP is issued prior to October 31, 2010, the exemption begins January 1, 2011.
- 3) Properties have up to five years from enactment of the by-law to complete the rehabilitation project and get OP; otherwise, the by-law will lapse.

Liability to taxation

396. (1) All real property in the city is liable to taxation subject to the following exemptions: —

Crown exempt; tenant or occupier liable

(a) Crown lands; provided, however, that the right or interest of an occupier of Crown lands, not holding in an official capacity, shall be liable to taxation, and he shall be personally liable therefor as if he were the owner of such real property, but the property shall not be subject to lien under section 414 nor subject to tax sale under section 422:

City property exempt

(b) Real property vested in the city and Crown lands leased by the city for park purposes:

(c) Real property

Also charitable institutions

(i) if

(A) an incorporated charitable institution is the registered owner or owner under agreement, either directly or through trustees, of the real property, and

(B) the real property is in actual occupation by the incorporated charitable institution and is wholly in use for charitable purposes;

And certain institutions of learning

(ii) of which an incorporated institution of learning regularly giving to children instruction accepted as equivalent to that furnished in a public school is the registered owner, or owner under agreement, and which is in actual occupation by such institution and is wholly in use for the purpose of furnishing such instruction;

And certain hospitals

(iii) of which a hospital receiving aid under the *Hospital Act* is the registered owner, or owner under agreement, either directly or through trustees therefor, and which is in actual occupation by such hospital and is wholly in use for the purposes of the hospital or which is held by the hospital for future use as a hospital-site

and the same has been designated by the minister responsible for the administration of the *Hospital Act* to be exempt from taxation;

And churches

(iv) of which a religious organization, either directly or through trustees therefor, is the registered owner, or owner under agreement, and which is set apart and in use for the public worship of God; provided, however, that the exemption by this clause conferred shall not be lost by reason of the use of the church property for any of the purposes hereinafter set out if it is so provided by by-law:—

The use of the church property by a government, notwithstanding that a fee is paid for such use:

The use of the church property for the care or instruction of children under school age by a charitable or non-profit organization:

The use of the church property for the purpose of teaching organ or choral music, notwithstanding that a fee is charged therefor:

The use of the church property for the holding of organ recitals, notwithstanding that the recitalist receives a fee therefor:

(v) [Repealed 1987-52-30.]

And certain real property occupied by S.F.U.

(vi) occupied by Simon Fraser University in the building commonly known as the Sears Harbour Centre and specifically described as Block 13, District Lot 541, Plan 15728 but this exemption shall be limited to the portion of the real property actually occupied by the University.

Emergency shelters

(d) An improvement designed, constructed, or installed for the purpose of providing emergency protection for persons or domestic animals in the event of a disaster or emergency within the meaning of those terms as used in the *Emergency Program Act*:

And land or improvement for pollution control

(e) Sewage treatment plants, manure storage facilities, effluent reservoirs, effluent lagoons, deodorizing equipment, dust and particulate matter eliminating equipment:

(e.01) To the extent established by subsection (3), land and improvements that were exempted for the 1996 taxation year under a pollution abatement provision, if

(i) the land and improvements were exempted under that provision for the 1996 taxation year on final determination under the *Assessment Act*, and

(ii) as applicable,

(A) for an exemption in relation to land only, the land continues to be exclusively or primarily used for the purpose of abating pollution,

(B) for an exemption in relation to improvements only, the improvements continue to be exclusively or primarily used for the purpose of abating pollution, or

(C) for an exemption in relation to land and improvements, the land and improvements continue to be exclusively or primarily used for the purpose of abating pollution;

And Vancouver Court House

(e.1) Lands and improvements known as the Vancouver Court House and specifically described as

Block 51

District Lot 541

Plan 14423,

So long as they are occupied by The Vancouver Art Gallery Association:

And British Columbia Cancer Agency Branch

(e.2) That part of the lands and improvements located on the north side of the 600 block of West 10th Avenue, and specifically described as

Lot A

Block 359

District Lot 526

Group 1, New Westminster District
Plan LMP 51308
PID 025-141-015,

and occupied by the British Columbia Cancer Agency Branch, so long as it is in actual occupation by, and wholly in use for cancer research and other charitable purposes of, the British Columbia Cancer Agency Branch:

Meaning of "improvement"

(f) The word "**improvement**" where used in clause (e) shall have the meaning ascribed to it in the *Assessment Act*:

Charitable institution

(g) Notwithstanding paragraph (c) (i), real property of an incorporated charitable institution which is used for senior citizens' housing or a community care facility, and which receives or has received grants or assistance pursuant to any Provincial or federal legislation, shall only be exempt if it is so provided by by-law under section 396F [*exemptions for not for profit property*].

(2) Septic disposal systems are not exempt from taxation under this section.

(3) The amount of an exemption under subsection (1) (e.01) for a taxation year is limited to the portion of the assessed value of land and improvements that is the least of the following:

(a) the portion that the British Columbia Assessment Authority, determines is attributable to the use of pollution abatement for that taxation year, subject to final determination under the *Assessment Act*;

(b) the portion that was exempted for pollution abatement purposes for the immediately preceding taxation year on final determination under the *Assessment Act*;

(c) the portion that was exempted for the 1996 taxation year on final determination under the *Assessment Act*.

(4) In this section,

"**final determination under the *Assessment Act***" means a determination on the assessment roll for a taxation year, subject to any change that is finally determined under the *Assessment Act* by revised assessment roll, by supplementary assessment roll or on further appeal;

"**pollution abatement provision**" means section 396 (1) (e.01) of this Act, section 339 (1) (q) of the *Municipal Act* or section 15 (1) (s) of the *Taxation (Rural Area) Act*, as those provisions read before their repeal and replacement by the *Budget Measures Implementation Act, 1997*.

(5) As limits on the exemptions under subsection (1),

(a) subject to subsection (6), an exemption under subsection (1) does not apply in relation to

- (i) water use rates under section 300 (a),
- (i.1) energy utility system charges under section 300.1 (3) (f);
- (ii) sewer and drainage charges under section 302 (d), and
- (iii) solid waste charges under section 303 (g), and

(b) exemptions

- (i) under subsection (1) (b),
- (ii) for a library under subsection (1) (c) (i),
- (iii) for a cemetery, mausoleum or columbarium under subsection (1) (c) (i),
- (iv) for senior citizens' housing under subsection (1) (c) (i) or (g),
- (v) under subsection (1) (c) (ii), or
- (vi) under subsection (1) (c) (iv)

apply only in relation to taxation under section 373.

(6) The limit under subsection (5) (a) does not apply in relation to the interest of the Crown in Crown lands exempted under subsection (1) (a) or to property exempted under subsection (1) (e) or (e.01).

(7) For the purposes of subsection (1) (c) (i) (A), an incorporated charitable institution is deemed to be a registered owner of real property if

- (a) it is, directly or through trustees, the registered holder of a leasehold estate in the real property,
- (b) the actual registered owner of the real property is an incorporated charitable institution, and

(c) the real property would be exempt if it were in actual occupation by the institution referred to in paragraph (b) for a particular charitable purpose of that institution.

1953-55-396; 1956-70-9; 1961-76-7; 1964-72-15; 1966-69-15; 1969-35-27; 1969-45-23; 1970-54-20, effective December 1, 1969; 1973-93-25; 1974-87-38; 1977-30-157, proclaimed effective September 30, 1977; 1977-75-7, proclaimed effective October 21, 1977; 1984-26-86, effective May 31, 1984 (B.C. Reg. 164/84); 1985-20-41, effective July 11, 1985 (B.C. Reg. 214/85); 1987-2-5; 1987-52-29,30; 1988-67-5; 1990-31-18; 1990-32-11; 1993-59-50; 1993-74-12; 1997-4-36; 1997-25-190; 1998-22-32; 2002-63-25; 2003-3-51; 2003-66-60; 2004-34-20; 2004-35-93; 2007-6-45; 2007-13-67; B.C. Reg. 5/2010; 2010-21-38.

Exemptions for heritage property

396A. (1) In this section and section 396B "eligible heritage property" means property that is

- (a) protected heritage property,
- (b) subject to a heritage revitalization agreement under section 592, or
- (c) subject to a covenant under section 219 of the *Land Title Act* that relates to the conservation of heritage property.

(2) Despite section 396 but subject to subsection (3) of this section, for the purposes of supporting the conservation of an eligible heritage property, on or before October 31 in any year the Council may, by by-law adopted by at least 2/3 of the votes cast, do one or more of the following:

- (a) exempt all or part of the eligible heritage property from real property taxation under this Part;
- (b) if eligible heritage property exempted under paragraph (a) is a building or other improvement so affixed to the land as to constitute real property, exempt an area of land surrounding the exempted property from real property taxation under this Part for the same period of time as the exemption is made under paragraph (a);
- (c) limit an exemption under paragraph (a) or (b) to a specified portion of the net taxable value of the property to which the exemption applies;
- (d) make an exemption under this subsection subject to specified conditions.

(3) A by-law under subsection (2) may provide a tax exemption

(a) for the next calendar year, or

(b) if the by-law receives the assent of the electors or is approved by the electors in accordance with subsection (4), for a specified period not greater than 10 years.

(4) Approval of the electors to a by-law under subsection (2) is deemed to have been given if all the following requirements are met:

(a) at least 30 days before adopting the by-law, a notice is published in accordance with section 3

(i) identifying the eligible heritage property that would be subject to the by-law,

(ii) describing the exemption that would be made for the eligible heritage property, and

(iii) stating that the by-law may be adopted by the Council after 30 days unless more than 1/20 of the electors petition the Council to obtain the assent of the electors to the by-law;

(b) from the date on which the notice is first published under paragraph (a), it is posted for public inspection in the City Hall during its regular office hours;

(c) by the end of 30 days after the notice is first published under paragraph (a), 1/20 or fewer of the electors have petitioned the Council to obtain the assent of the electors to the by-law.

(5) Within 30 days after adopting a by-law under this section, the Council must give notice of the by-law to the minister responsible for the *Heritage Conservation Act* in accordance with section 602.

1994-43-92; 1997-25-191; 2010-6-130.

Repayment requirement in relation to heritage exemptions

396B. (1) A by-law under section 396A may provide that, if any of the following circumstances as specified in the by-law occur, the Council may require the owner of the eligible heritage property at that time to pay to the city an amount equivalent to the total taxes exempted under the by-law plus interest from the time at which the exempt

taxes would otherwise have been payable, compounded annually at the rate established under section 415 for delinquent taxes:

- (a) if the eligible heritage property is destroyed, whether with or without proper authorization under the requirements of the heritage protection of the property;
- (b) if the eligible heritage property is altered by or on behalf of the owner without proper authorization under the requirements of the heritage protection of the property;
- (c) if any other circumstances specified in the by-law occur.

(2) A by-law under section 396A that includes a provision under subsection (1) may not be adopted without the consent of the owner of the eligible heritage property to which the by-law applies.

(3) If a by-law under section 396A includes a provision under subsection (1), within 30 days after the by-law is adopted the Council must have notice of the by-law filed in the land title office in accordance with section 601.

(4) If a by-law under section 396A includes a provision under subsection (1) and a circumstance referred to in the provision occurs, the Council may, by by-law adopted by at least 2/3 of the votes cast, either

- (a) require the owner to pay the amount referred to in subsection (1), or
- (b) waive the obligation of the owner to pay all or part of the amount referred to in subsection (1).

(5) If the Council does not adopt a by-law under subsection (4) (a) within one year after it becomes aware of the circumstance in relation to which the by-law could be adopted, the Council is deemed to have waived all obligation of the owner to pay the amount referred to in subsection (1).

(6) If the Council adopts a by-law under subsection (4) (a) within the time period referred to in subsection (5), the Council may

- (a) add the amount referred to in subsection (1) to the taxes for the current year payable to the city in relation to the eligible heritage property, or

(b) make an agreement with the owner regarding payment of the amount referred to in subsection (1) as a personal debt to the city.

1994-43-92.

Exemptions for riparian property

396C. (1) In this section and section 396D:

"eligible riparian property" means property that meets all the following requirements:

- (a) the property must be riparian land;
- (b) the property must be subject to a covenant under section 219 of the *Land Title Act* that relates to the protection of the property as riparian property;
- (c) the city must be a covenantee in whose favour the covenant referred to in paragraph (b) is made;
- (d) any other requirements prescribed under subsection (6);

"eligible value" means the portion of the net taxable value of the parcel of land in relation to which an exemption under subsection (2) is made that is equivalent to the ratio of

(a) the area of the eligible riparian property that is exempted under subsection (2) (a)

to

(b) the area of the parcel of land in relation to which the exemption is made.

(2) Despite section 396 but subject to subsections (3) and (4) of this section, for the purposes of supporting the conservation of an eligible riparian property, on or before October 31 in any year the Council may, by by-law adopted by at least 2/3 of the votes cast, do one or more of the following:

- (a) exempt all or part of the eligible riparian property from real property taxation under this Part;
- (b) limit an exemption under paragraph (a) to a specified portion of the eligible value of the property to which the exemption applies;

(c) make an exemption under this subsection subject to specified conditions.

(3) An exemption under subsection (2) may apply only to that part of the eligible riparian property that is a riparian area.

(4) A by-law under subsection (2) may provide a tax exemption

(a) for the next calendar year, or

(b) if the by-law receives the assent of the electors or is approved by the electors in accordance with subsection (5), for a specified period not greater than 10 years.

(5) Approval of the electors to a by-law under subsection (2) is deemed to have been given if all the following requirements are met:

(a) at least 30 days before adopting the by-law, a notice is published in accordance with section 3

(i) identifying the eligible riparian property that would be subject to the by-law,

(ii) describing the exemption that would be made for the eligible riparian property, and

(iii) stating that the by-law may be adopted by the Council after 30 days unless more than 5% of the electors petition the Council to obtain the assent of the electors to the by-law;

(b) from the date on which the notice is first published under paragraph (a), it is posted for public inspection in the City Hall during its regular office hours;

(c) by the end of 30 days after the notice is first published under paragraph (a), 5% or fewer of the electors have petitioned the Council to obtain the assent of the electors to the by-law.

(6) The Lieutenant Governor in Council may, by regulation, establish additional requirements for property to be considered eligible riparian property.

1997-24-17; 2010-6-131.

Repayment requirement in relation to riparian exemptions

396D. (1) A by-law under section 396C may provide that, if

(a) there is a contravention of any of the conditions of the covenant under section 219 of the *Land Title Act* in relation to which the exemption is given,

(b) the covenant is discharged before the end of the period of the exemption, or

(c) any other circumstances specified in the by-law occur,

the Council may require the owner of the eligible riparian property at that time to pay to the city the amount referred to in subsection (2).

(2) The amount that may be required under subsection (1) is the amount equivalent to

(a) the total taxes exempted under the by-law under section 396C,

plus

(b) interest from the time at which the exempt taxes would otherwise have been payable, compounded annually at the rate established under section 415 for delinquent taxes.

(3) A by-law under section 396C that includes a provision under subsection (1) may not be adopted without the consent of the owner of the eligible riparian property to which the by-law applies.

(4) If a by-law under section 396C includes a provision under subsection (1), within 30 days after the by-law is adopted the Council must have notice of the bylaw filed in the land title office, and for this purpose section 601 applies.

(5) If a by-law under section 396C includes a provision under subsection (1) and a circumstance specified in the provision occurs, the Council may, by by-law adopted by at least 2/3 of the votes cast, either

(a) require the owner to pay the amount referred to in subsection (2), or

(b) waive the obligation of the owner to pay all or part of the amount referred to in subsection (2).

(6) If the Council does not adopt a by-law under subsection (5) (a) within one year after it becomes aware of the circumstance in relation to which the by-law could be adopted, the Council is deemed to have waived all obligation of the owner to pay the amount referred to in subsection (2).

(7) If the Council adopts a by-law under subsection (5) (a) within the time period referred to in subsection (6), the Council may

(a) add the amount referred to in subsection (2) to the taxes for the current year payable to the city in relation to the eligible riparian property, or

(b) make an agreement with the owner regarding payment of the amount referred to in subsection (2) as a personal debt to the city.

1997-24-17.

Revitalization tax exemptions

396E. (1) In this section:

"exemption agreement" means an agreement under subsection (9);

"exemption certificate" means a revitalization tax exemption certificate issued under subsection (10);

"owner", in relation to a property, means the registered owner or the owner under agreement;

"revitalization program by-law" means a by-law under subsection (4).

(2) Despite section 396 [*liability to taxation*], the Council may, for the purpose of encouraging revitalization in the city, provide tax exemptions for land or improvements, or both, in accordance with this section.

(3) For a revitalization tax exemption under this section to apply to a particular property

(a) the exemption must be in accordance with a revitalization program by-law under subsection (4),

(b) an exemption agreement under subsection (9) must apply to the property, and

(c) an exemption certificate for the property must have been issued under subsection (10).

(4) A revitalization tax exemption program must be established by a by-law that includes the following:

(a) a description of the reasons for and the objectives of the program;

- (b) a description of how the program is intended to accomplish the objectives;
- (c) a description of the kinds of property, or related activities or circumstances, that will be eligible for tax exemptions under the program;
- (d) the extent of the tax exemptions available;
- (e) the amounts of tax exemptions that may be provided under the by-law, by specifying amounts or by establishing formulas by which the amounts are to be determined, or both;
- (f) the maximum term of a tax exemption that may be provided under the by-law, which may not be longer than 10 years.

(5) A revitalization program by-law

- (a) may include other provisions the Council considers advisable respecting the program including, without limiting this,
 - (i) the requirements that must be met before an exemption certificate may be issued,
 - (ii) conditions that must be included in an exemption certificate, and
 - (iii) provision for a recapture amount that must be paid by the owner of the property to the city if the conditions specified in the exemption certificate are not met, and
- (b) may be different for
 - (i) different areas of the city,
 - (ii) different property classes under the *Assessment Act*,
 - (iii) different classes of land or improvements, or both, as established by the by-law,
 - (iv) different activities and circumstances related to a property or its uses, as established by the by-law, and
 - (v) different uses or occupancies as established by zoning by-law.

(6) Before adopting a revitalization program by-law, the Council must

(a) give notice of the proposed by-law in accordance with subsections (7) and (8), and

(b) consider the by-law in conjunction with the objectives and policies set out in the report under section 219 (2) (c) [*use of permissive tax exemptions*].

(7) The notice required under subsection (6) must

(a) be published in accordance with section 3, and

(b) from the date on which the notice is first published under paragraph (a) of this subsection, be posted for public inspection in the City Hall during its regular office hours.

(8) The notice required under subsection (6) must include a general description of each of the following:

(a) the reasons for and the objectives of the program;

(b) how the proposed program is intended to accomplish the objectives;

(c) the kinds of property, or related activities or circumstances, that will be eligible for a tax exemption under the program;

(d) the extent, amounts and maximum terms of the tax exemptions that may be provided under the program.

(9) The Council may enter into an agreement with the owner of a property respecting

(a) the provision of a revitalization tax exemption under this section,

(b) any requirements that must be met before an exemption certificate is issued, and

(c) any conditions on which the tax exemption is to be provided.

(10) Once

(a) all requirements established in the exemption program by-law, and

(b) any additional requirements established in the exemption agreement

have been met, a revitalization tax exemption certificate must be issued for the property in accordance with the exemption agreement.

(11) An exemption certificate must specify the following in accordance with the exemption program by-law and the exemption agreement:

- (a) the extent of the tax exemption;
- (b) the amount of the tax exemption or the formula for determining the exemption;
- (c) the term of the tax exemption;
- (d) if applicable, the conditions on which the tax exemption is provided;
- (e) if applicable, that a recapture amount is payable if the exemption certificate is cancelled, and how that amount is to be determined.

(12) So long as an exemption certificate has not been cancelled, the land or improvements, or both, subject to the exemption certificate are exempt from taxation under section 373 [*annual rating by-law*] as provided in the exemption certificate.

(13) An exemption certificate may be cancelled by the Council

- (a) on the request of the property owner, or
- (b) if any of the conditions specified in the exemption certificate are not met.

(14) An exemption certificate or cancellation does not apply to taxation in a calendar year unless the exemption certificate is issued or cancelled, as applicable, on or before October 31 in the preceding year.

(15) The Director of Finance, or another city employee authorized by the Director of Finance, must

- (a) provide a copy of an exemption certificate to the assessor as soon as practicable after it is issued, and
- (b) if applicable, notify the assessor as soon as practicable after an exemption certificate is cancelled.

(16) In each year,

- (a) no later than the adoption of the rating by-law under section 373 (1), the Director of Finance must prepare and submit to the Council a report for the previous year that includes, for each tax exemption provided under this section, the amount of real property taxes that would have been imposed on the property in that previous year if it were not exempt for that year, and

(b) as soon as practicable after receiving the report, the Council must consider the report and make it available to the public.

2007-24-48; 2010-6-132.

Exemptions for not for profit property

396F. (1) In this section:

"eligible not for profit property" means land or improvements, or both,

- (a) in respect of which, either directly or through trustees, a not for profit corporation is the registered owner or owner under agreement, or
- (b) that are held, either directly or through trustees, by a not for profit corporation, and

that the Council considers are used for a purpose that is directly related to the purposes of the not for profit corporation;

"not for profit corporation" means a charitable, philanthropic or other not for profit corporation.

(2) Despite section 396 [*liability to taxation*], the Council may, by by-law, exempt an eligible not for profit property from real property taxation under this Part, to the extent, for the period and subject to the conditions provided in the by-law.

(3) A by-law under this section

- (a) must establish the term of the exemption, which may not be longer than 10 years, and
- (b) does not apply to taxation in a calendar year unless it comes into force on or before October 31 in the preceding year.

(4) If only a portion of a parcel is exempt under this section, the by-law under this section must include a description of the exempt portion that is satisfactory to the British Columbia Assessment Authority.

(5) A by-law under this section ceases to apply to property that ceases to be an eligible not for profit property and, after this, the property is liable to taxation under this Part.

(6) Before adopting a by-law under this section, the Council must

(a) publish a notice of the proposed by-law in accordance with section 3,
and

(b) consider the by-law in conjunction with the objectives and policies set
out in the report under section 219 (2) (c) [*use of permissive tax
exemptions*].

(7) The notice under subsection (6) (a) must

(a) identify the eligible not for profit property that would be subject to
the by-law,

(b) describe the proposed exemption,

(c) state the number of years that the exemption may be provided, and

(d) provide an estimate of the amount of taxes that would be imposed on
the eligible not for profit property if it were not exempt, for the year in
which the proposed by-law is to take effect and the following 2 years.

2010-21-39.