

LETTER FROM MUSKOKA LAKES ASSOCIATION

by S. James Clarkson, Attorney at Law, Port Carling, Ontario, Canada, October 14, 2002

To: The Mayors and Councillors of the Township of Muskoka Lakes, Town of Bracebridge, and Town of Gravenhurst.

I have been asked to write to you by the Muskoka Lakes Association, of which I am a 20-year member, in support of thirteen resolutions adopted by the Muskoka Municipal Taxation Task Force, particularly resolution number one. While I commend the Task Force for their good intentions, nevertheless I must disagree with some of their solutions to the property tax as it applies to the lakeshore property owners and, at the same time, I have taken this opportunity to make a few of my own.

Local government is best served by home rule. To rely on the provincial government for financial help is an abdication of the responsibility of the elected officials to fund the cost of the services necessary for the well being of the citizens in the political subdivisions in which they serve. The property tax is that source of revenue, not the federal or provincial government. The money must come from somewhere and where it comes from will dictate how it is spent.

Yes, legislation is necessary to modernize the property tax, some of which in my opinion are as follows: First of all, the assessments of all property should fall under the control of the local government, not the Municipal Property Assessment Corporation.

Secondly, the Board of Appeals should consist of citizens elected from the respective municipal subdivisions.

Thirdly, the property owners should be advised of the assessment on their improvement (buildings, homes, etc.) separate from the land values.

Fourth, enabling legislation to permit a two-rate tax system. This would permit the reduction of the tax rate on buildings and homes and prevent the penalizing of landowners who improve their property and at the same time not subsidize the laggard who has the same sized lot and income [but] lets his property fall into rack and ruin [and] is rewarded by a lower assessment.

Fifth, enabling legislation to provide for fixed assessments that allows any local municipality to enter into an agreement with a property owner to fix the assessment in a stated amount each year and which provides that the treasurer should calculate what the taxes would have been if it did not have a fixed assessment. Then upon the termination of the agreement, either by sale or otherwise, the amount of taxes that would have been paid on the land each year would be required to be paid plus interest. This is already provided for golf courses under Section 23 of the Assessment Act. This would allow those lake front owners who want to keep their taxes low by a fixed assessment to do so but at the same time prevent speculation and profit from the unearned increment in

increased land values.

I attended a public meeting on September 6, 2002 by the Muskoka Municipal Taxation Tax Force with its ostensible purpose to resolve the unfair tax treatment of the lake shore property owners. This premise is partly true because the property tax has been abused by the improper application of assessments administered by the Municipal Property Assessment Corporation and the lack of due process before the Board of Appeals. Their lack of knowledge of the history of the property tax and the Property Assessment Act prevented their making the necessary specific feasible changes within the scope of the Act rather than wholesale changes on matters not property assessment problems.

The property tax will always remain a principal source of income for the government. When William the Conqueror was crowned King of England in 1066, he immediately distributed the land of the conquered among his followers and himself. No land was to be held in absolute ownership. Every landlord would hold directly or indirectly to the king. That is why there is no title of ownership in England, Canada or the United States. As defined in England we are landholders not owners. We rent the land from the government. The use of the word "tax" is a misnomer. The present so-called property tax is the rent for the use of the land, and if there is an improvement on it, the government taxes that also. This, in effect, amounts to a yearly sales tax on your home or building.

The amount of income for the operation of the government should be, and is, by the tax rate. Because local government is closest to the people it is more vulnerable to political pressure to keep their taxes down while, ironically, it is here where they can see how their money is spent for roads, sewage, water, fire protection, garbage collection, and schools.

To shift the cost of local government to the provincial and federal government at the expense of other taxpayers is morally wrong, as it was for one of the members of the task force at the meeting to castigate the "rich and famous" and the tourists who came to Muskoka resulting in the increase in the value of lakeshore property.

As a former Michigan legislator and mayor I served on the Michigan State Bar taxation committee, Michigan Legislative Study Committee on land value taxation and on both the mayors association and municipal league resolutions committee and the study of the two rate tax systems now used in eighteen cities in the State of Pennsylvania. As Mayor of the City of Southfield I appointed the assessor and was instrumental in increasing the assessments on land values and decreasing the taxes on most improvements resulting in lower taxes. I have given speeches in Toronto, London, and Calgary, Canada on the advocacy of the two rate tax system, also known as the smart tax. (continued on page 8)

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Thirty years ago my mother bought the point upon which my cottage is located for \$600.00. Today one lot would be worth about \$250,000.00. The price of the land is determined, in part, by the taxes on it. That is why the Task Force's solution is counter-productive. By decreasing the assessment and taxes on the property it would increase the value for it. As in the Association letter to you they point out that "the only way to realize on that gain is to sell the property." That is why a higher tax rate on the land would lower the price for the property and would ultimately result in a decrease in their assessment.

This letter is intended to only give you other view points not covered by the Municipal Taxation Task Force and to point out that I, for one, as a Muskoka lake front property owner am not opposed to the tax rate assessment for the rental for the use of the land upon which my home is located; it is the tax on the home that I object to.

(Recommendation Number 1 of the Muskoka Municipal Taxation Task Force is "That District Council implement phasing of tax increases as provided by the terms of the Municipal Act beginning in the tax year 2003; and further than the Task Force recommends that tax increases due to reassessment in excess of a threshold of \$400 and 20% be phased in over a three year period.").