

# Warn Local Brokers Of Speculative Profits Tax Act

"One of worst pieces of legislation that's ever been drafted in Ontario... a trap for the unwary... who've not exercised due caution."

That's how two local law partners described the Speculative Profits Tax Act effective April 9 and finally passed last week in the provincial Legislature. They were presenting a lecture on the new tax law May 31 to an informal group of Richmond Hill-Thornhill area real estate brokers at the Black Hawk Motor Inn.

Lawrence Herman of the firm of Herman and Fields, 10217-F Yonge Street said the new tax legislation creates an "unreal, absolutely a terrible situation" that "seriously hampers turnover in building lots."

**CONFISCATORY TAX**  
Herman said a dollar earned could be all, or almost all taken by taxes due to a possible combination of federal and provincial taxation, and if the transaction involved a U.S. citizen the tax could take more in taxes than the profit earned.

He said the new tax should be of particular concern in the rural urban Richmond Hill-Thornhill area because land here is fast changing from rural agricultural to urban use due to development. The legislation was drafted in a hurry and there's going to be amendments and amendments and amendments, with litigation certain to follow, he said.

Partner Gerald Fields described the Speculative Profits Tax Act as highly complex legislation drafted according to an ambiguous legislative technique in which the lawmakers let the "noise and the sorting out take place further down the road". He said the act was "purposely done this way."

Fields warned the local brokers the new tax is a first priority lien on land and that there is a \$50 to \$1,000 fine for knowingly attempting to contravene it. He said the tax applies to all persons disposing of land, being levied on any increase in value of property owned or leased since the April 9 starting date.

## CAUSE OF ANXIETY

He described the discretionary provisions of the act as unnerving and a reason for anxiety, because there's no way for lawyer or broker to be certain what the tax will be at time of sale. It applies to sales, leases, shares, options, survivorship in tenancy, gift, change in control or even 50% change in a land owning fraternal organization's membership, he said.

And he added that if the developer loses money in a speculative venture, the developer gets no consideration.

Herman predicted there will be a considerable increase in the number of appraisals required, something which will be onerous for brokers.

"The act was drafted to catch the high rate of speculation in the past couple of years, but catches some people unintentionally," he said, mentioning widows, orphans, etc.

## HITS SMALL BUSINESS

"The act is unfortunately more technical than any of us would like. Unless it is changed

there's going to be a sharp reduction in the amount of industrial and commercial space for rent. It will have dramatic consequences for the small businessman. I suggest you get an increase in your liability insurance. As lawyers, we have" the local lawyer told the real estate brokers.

Herman said the tax will be "a horrendous penalty on the executive traveller... (he) will have to live in Canada a year before being exempt from the non-resident tax" although such people as armed forces personnel, ministers, etc. are exempted. A man not living with his wife or former wife, though maintaining a residence for his children, will be hit by the tax if he sells the house.

The act "puts a responsibility on the seller he is unable to meet. He may not be able to find out a purchaser is a non-resident. The government may find out later and hit him (the seller) with the tax."

Scary prospects include the fact that owners of commercial and industrial uses on large

areas of land may be hit because they don't qualify for exemption. Their building value must be more than 40% of the total property value. This would apply to such things as lumberyards, scrapyards, transport yards, factories, shopping centres.

## QUESTIONS VALIDITY

Lawyer Herman said the validity of the act is definitely going to have to be adjudicated by the courts and it may turn out that the whole exercise is superfluous if the law is thrown out because the act is beyond provincial jurisdiction.

The act also means developers will be encouraged to become builders in order to earn exemption. Brokers who have a large business with small builders will be seriously hit and their volume reduced. Until now, building and developing have been very separate industries but the new tax can penalize, or even prohibit, joint ventures between a developer and builder" he said.

In the case of shareholder changes or control changes the act could even bankrupt large corporations, Herman said.

## Tax Has Made House Market Unprofitable For Speculators

The Speculative Profits Tax Act has now made it "unprofitable for a speculator, either amateur or professional, to make a quick profit by buying a house and turning it over again almost immediately," says Douglas Meharg, President of the York Regional Real Estate Board.

When asked his opinion on the recent land speculation tax, Real Estate Board President Meharg was quite positive the new legislation (even before final passage last week) had the desired effect of removing the "quick-buck speculator" from the market.

Meharg says there will be an increase in the number of properties coming on the market at this time, thus

making more houses available for home ownership.

**NO PRICE DROP**  
But he doesn't think prices will go down. He said he couldn't ever see house prices going down because demand has never been higher than at present, while the supply is low. Now the speculators are out of the market, every purchaser is a prospective resident. But with the shortage of housing and high apartment costs in Metro, the spillover of demand into York Region will continue, he said.

The local real estate board head said the real cause of high house prices isn't the speculators. He said high prices and the result of the provincial government's failure to provide enough services lots for builders to construct homes upon.

Meharg said mortgage companies appear to be taking a little time to catch their breath just now.

**MORTGAGE SLOWDOWN**  
"For instance, one mortgage company had a goal of \$6,000,000 per month for residential mortgages. Due to the very high demand they were placing \$12,000,000 monthly, double the goal. Now they have to slow up a little."

"Probably the same situation exists with most mortgage companies. And with interest rates at 11% and higher, the public is finding a little opposition when trying to refinance their present home or finance a new one," Meharg said.

## York Region Real Estate Board President Sees Much Worse Housing Crisis Ahead

If you think there's a housing crisis now wait for one or two years.

That's the forecast from York Region Real Estate Board President Douglas Meharg.

Mr. Meharg prefaced the above remarks by pointing out that the "biggest reason for the levelling off of house prices was not the speculation tax but the high cost of money. It is believed however, that if the high cost of money prevails, construction will virtually come to a stop in the next few months.

"There lies the spectre over the horizon. If we think there is a housing crisis now, just wait for one or two years."

## SOLUTION UNRECOGNIZED

Mr. Meharg states the problem of high cost housing today could be solved by provincially serviced land being made available to the developer, thus flooding the market with serviced lots provided by free enterprise.

"It does not seem fair for a developer to be making a million dollars profit on a 100-acre area of raw land because of a short supply. But you figure it out. When lots are now selling in and around the Toronto area at the rate of \$40,000 per serviced lot, the provincial government is creating a shortage simply because they are not providing the services required."

## RED TAPE

"The bureaucracy and red tape the provincial government has created throughout

the municipalities in Ontario is the culprit," said Mr. Meharg.

He also said there "is no reason on God's green earth why any subdivision for housing could not be ready to go in six months. Not, however, under our present set-up."

"Why don't we rid ourselves of the cobwebs and let our communities get a job done within. Let's get down to the grass roots. Let's simplify the problems. Let's just do it."

## INFLATION PSYCHOLOGY

In an article for the "CREA Reporter," a national publication put out by the Canadian Real Estate Association, Brian Magee dwells on the "inflation psychology" that is currently affecting Canada.

"Every urban area and its environs in Canada has been affected by inflation psychology which has seen property values rise by anywhere from 15 to 40 percent in the last 18 months."

"A combination of things have caused this rise in the prices of homes including a backlog of demand built up by purely demographic factors, a compounding of this situation by a disastrous federal government tight money policy in 1969 and 1970 which brought house building to a standstill."

"Other problems involve the lack of municipal funds to finance the installation of basic services, the fact that housing has never been given pri-

ority at any level of political jurisdiction, plus government land banking, which has removed and frozen thousands of acres of prime subdivision land from the market for as long as 20 years."

"Worse than all this was the incredible, almost unbelievable lack of foresight by so-called planners in preparing for the inevitable shortage."

## REAL ANSWERS

Mr. Magee poses what he terms several positive solutions to the housing crisis in both available properties and their rising costs, as follows:

## SOLUTIONS

• Apartment construction for families must be encouraged in light of industrial and commercial areas in co-operation with, and with the blessing of civic politicians.

• Governments must stop studying and start installing a crash program for the provision of services with provincial and federal aid.

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