



Updates to Statutes, Regulations, and Case Law

New Provincial Legislation

This is a listing of legislation that is of particular interest for assessment purposes.

Name of Bill	In Force	Description of Legislation
<i>Budget Measures Implementation Act, 2023</i>	May 11, 2023 (Royal Assent)	Section 4.3 'Authority to provide property tax exemptions' was added to the <i>Treaty First Nation Taxation Act</i> .
<i>Municipal Affairs Statutes (Property Taxation) Amendment Act, 2022</i>	November 3, 2022 (Royal Assent)	Amendment to the <i>Community Charter</i> <ul style="list-style-type: none"> Section 198.1 Development potential relief was added to enable municipal councils to provide tax relief to lessen the impact of development potential on tenants and owner-occupiers of class 5 or 6 improvements. Amendment to the <i>Municipal Enabling and Validating Act (No.4)</i> <ul style="list-style-type: none"> Division 1 – Tax Exemption for Interim Business Relief was repealed.

REGULATIONS/ORDERS CREATED OR AMENDED IN 2022/23

(a) Cabinet Regulations/Orders made or amended:

- Order in Council #222/2023 (Non-Residential School Tax Rates), approved April 11, 2023.



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- Order in Council #223/2023 (Residential School Tax Rates), approved April 11, 2023.
- Order in Council #224/2023 (Police Tax Rates), approved April 11, 2023.
- B.C. Reg. 101/2023 (Tax Rates) amended the Taxation (Rural Area) Act Regulation, B.C. Reg. 387/82, effective April 11, 2023.
- OIC 198/2023 (dated March 31, 2023) granted BC Assessment the approval necessary to pass a bylaw to levy a tax on the net taxable value of all land and improvements in the Province, other than property that is taxable for school purposes only by special Act, the treaty lands of a taxing treaty first nation and land and improvements within the Nisga'a Lands, and apply that levy rate to the net taxable value of land and improvements of taxing treaty first nations and within the Nisga'a Lands, to calculate a requisition.
- B.C. Reg. 77/2023 (effective March 20, 2023) amended the *Home Owner Grant Regulation*, B.C. Reg. 100/2002, to increase the threshold amount from \$1 975 000 to \$2 125 000.
- B.C. Reg. 58/2023 (effective March 1, 2023) amended the *Provincial Land Definition Exemption Regulation*, B.C. Reg. 219/96, to remove properties that no longer qualified for this exemption.
- B.C. Reg. 22/2023 (effective February 3, 2023) amended the *Assessment Act Regulation*, B.C. Reg. 433/98, by adding a new fee structure for the filing of appeals to PAAB, including an appeal fee of \$300 for properties entirely classified as class 2, 4, 5, 6 or 7 at the time the notice of appeal is filed.
- OIC 630/2022 (effective November 25, 2022) granted BC Assessment approval to make an order adopting costing manuals for major industrial property (MIP) improvements and electrical power generating (EPG) facilities for the 2023 assessment roll.
- B.C. Reg. 242/2022 (effective November 25, 2022) amended the *Eligible Port Property Designation Regulation*, B.C. Reg. 309/2010 for the 2023 assessment roll.
- B.C. Reg. 235/2022 (effective November 25, 2022) amended the *Municipal Tax Regulation*, B.C. Reg. 426/2003 to add section 5 (Development potential relief – non-disqualifying exemption).



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- B.C. Reg. 234/2022 (effective November 25, 2022) amended the *Restricted-Use Property Valuation Regulation*, B.C. Reg. 236/2017 by reflecting the 2023 taxation year and Schedules 1 and 2 were repealed and substituted.
 - B.C. Reg. 233/2022 (effective November 25, 2022) amended the *Port Land Valuation Regulation*, B.C. Reg. 304/2010 for the 2023 assessment roll.
 - B.C. Reg. 205/2022 (effective October 24, 2022) repealed and replaced Schedule B to the *Prescribed Classes of Property Regulation*, B.C. Reg. 438/81, to designate eligible supportive housing property for the purposes of the 2023 assessment roll.
- (b) Assessment Authority Regulations/Orders that have been made or amended:**
- B.C. Reg. 258/2022 (effective December 1, 2022), amended the Railway and Pipeline Corporations Valuation Regulation, B.C. Reg. 203/86 for the 2023 assessment roll.
 - B.C. Reg. 259/2022 (effective December 1, 2022), amended the Electrical Power Corporations Valuation Regulation, B.C. Reg. 217/86 for the 2023 assessment roll.
 - B.C. Reg. 260/2022 (effective December 1, 2022), amended the Railway, Pipeline, Electric Power and Telecommunications Corporation Rights of Way Valuation Regulation, B.C. Reg. 218/86 for the 2023 assessment roll.
 - B.C. Reg. 261/2022 (effective December 1, 2022), amended the Telecommunications Corporations Valuation Regulation, B.C. Reg. 226/86 for the 2023 assessment roll.
 - B.C. Reg. 257/2022 (effective December 1, 2022), amended the *Managed Forest Land and Cut Timber Values Regulation*, B.C. Reg. 90/2000 for the 2023 assessment roll.
 - B.C. Reg. 262/2022 (effective December 1, 2022), enacted the revised Application by Owner and Occupier of Eligible Residential Property Regulation.
- (c) Other Regulations/Orders that have been made or amended:**
- None at this time



SELECTED ASSESSMENT APPEAL CASES

This section is broken down into the following categories, with links to each one:

CLASSIFICATION	ASSESSABILITY	VALUATION
EXEMPTIONS	OCCUPIERS	APPEAL PROCEDURE

CLASSIFICATION

[Return to Categories](#)

Stated Cases:

None at this time

PAAB Decisions:

[Manatee Investments Ltd v. Area 10 2023 PAABBC 20230002 \(April 18, 2023\)](#)

Property is a 22,997 sq.ft. warehouse built in 1974 situated on a 2.394 acre site that has excess area and is underdeveloped. Highest and best use is continued industrial use but redeveloped with new industrial improvements. PARP reduced the assessed value to \$11,978,400 as the property required site preparation, environmental investigation and development approvals before redevelopment could begin. Based on comparisons to nearby properties, the Appellant said the assessed value should be \$9,836,000 and the Property should be in Class 5 not Class 6. The Assessor submitted that the Property's market value was \$15,866,000 and sought to confirm the current value and classification. The Parties agreed that the Property wasn't ready for redevelopment but disagreed on the costs to prepare the Property for redevelopment. The Appellant provided an income analysis that the PAAB found was not appropriate for the Property's circumstances; the PAAB preferred the analysis of sale comparables.



[Penguin Investments Ltd. v. Area 10](#) 2023 PAABBC 20230802 (April 18, 2023)

Property is a 73,289 sq.ft. warehouse built in 1997, situated on a 3.278 acre site and was assessed at \$24,382,000. The warehouse is leased to three tenants that use it for light manufacturing, warehousing, distribution and research and development. For the 2022 assessment the Property was split classed 5/6. The Appellant asked for the assessment to be reduced to below \$20,000,000 and placed wholly in Class 5. The Assessor submitted that the assessed value was conservative compared to similar sold properties and that the occupants' uses supported the split classification. Income approach and direct comparison approach were used. The PAAB found the income approach unreliable due to the limited evidence on market rent, operating expenses and capitalization rate. The PAAB had concerns with the sales evidence but found the direct comparison approach more reliable and concluded the Property's conservative market value was \$24,382,000. The Assessor explained that the classification of the Property was based on the tenants' use. The Columbia tenant manufactured skylights and qualified for Class 5; Vitasave was a retailer and wholesaler of health supplement products. The Appellant stated that it was a distribution operation and fell under s. 5(b) or (c) of the *Prescribed Classes of Property Regulation*.

[Lehigh Hanson Materials Ltd. v. Area 09](#) 2023 PAABBC 20222158 (February 21, 2023)

Property is 3.9 acres zoned M-2 (Heavy Industrial) and currently classified as Class 05 – light industry. The Appellant said the Property was used as an outlet for the sale of finished concrete products to purchasers for their own use and not for resale and should be classified as Class 06 – business and other. The Assessor sought to confirm Class 05 as the Property was used for the storage of products ancillary to or in conjunction with the manufacturing or transporting of products.

[Patry, Jason L v. Area 22](#) 2023 PAABBC 20222856 (February 2, 2023)

Property is 81.84 acres improved with a large single family dwelling, a two storey single family dwelling under construction and eight seasonal cabins. The Appellant said the assessed value was too high and that the Property should remain fully in Class 1. The Assessor submitted that the Property should be split classified (Class 1/Class 6) as the cabins were used as overnight guest accommodations. The changes the Assessor proposed



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included a reduction from assessment for overnight accommodation under the Tourist Accommodation (Assessment Relief) Act and a correction to the improvement inventory. The Appellant cited the following: the Property had insufficient water, the property could not be subdivided and that although new buildings had been added to the Property, the increase from the 2021 assessment was too high. The Appellant relied on a dated 2017 appraisal of the Property based on it being a single family dwelling and three single family residential properties on smaller acreages. The Assessor provided three sales of similar seasonal resort businesses in the area and calculated a time adjustment based on a resale analysis of 5 different properties and other adjustments for property size and a calculation for seasonal resort utility per unit. Highest and best use is as a seasonal resort. The Assessor provided an analysis of 64 sales in rural Golden that produced median ASRs and CODs that were within the acceptable parameters.

Verheyden, Wilhelm E v. Area 15 2022 PAABBC 20222563 (October 25, 2022)

Property is two dwellings and a barn, not used for farm purposes, situated on 9.79 acres in the ALR and zoned to allow for farming activities. From 1997 until 2021 the Property had been classified as a farm based on its use as a trout farm. In 2021 the Assessor learned that the federal license required to operate a trout farm had expired in 2012 but the Appellant continued to operate the trout farm and reported income earned to the Assessor. The Assessor conducted a site inspection in November 2021 and determined that the trout farm was not operational. The Appellant argued that he was still entitled to farm class as he was operating a nursery. The Assessor was shown a small quantity of potted inventory that the Assessor saw as a staging area for landscaping stock while it waited to be moved to a construction site. Approx. 0.02 of an acre was being prepared for planting but had not been completed. A General Application for Farm Classification that identified an existing and future farm operation for the entire parcel, dated January 21, 2022 was filed with the Assessor on February 4, 2022, well past the legislated deadline. The application reported over \$21,000 in 2021 income based on "horticulture". The application stated that the entire acreage and improvements were leased by the Appellant to the Appellant's son to store potted plants for his landscaping company. The Assessor said there was no evidence to show that the plants were planted on site and grown to maturity before being sold. The land is being used as a temporary storage facility for plants and trees. The Assessor's evidence clearly showed that the requirements for a developing farm were not met as a sufficient



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portion of land had not properly been prepared and planted by the deadline and therefore farm classification is not warranted.

ASSESSABILITY

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Stated Cases:

None at this time

PAAB Decisions:

None at this time

VALUATION

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Stated Cases:

None at this time

PAAB Decisions:

[Chishaun Housing Society v. Area 09 2023 PAABBC 20220005 \(March 2, 2023\)](#)

The Subject is a nine-storey, publicly subsidized, seniors' housing and daycare facility. For 2021, the Subject was assessed at \$11,413,000 (\$5,580,000 land; \$5,833,000 improvements). The Subject is owned and operated by the Appellant, a non-profit society. There are three covenants on title. The Subject's use is restricted to non-market rental housing for the elderly, the disabled, or for use as a daycare. The Parties agreed that the restriction in use should be reflected in the assessed value, and that the Highest and Best Use was thus the Subject's present use as a non-profit, rental apartment building to house low-income senior citizens. However, the Parties disagreed on the appropriate valuation method and the proper amount of the discount to reflect the restriction in use. The Appellant relied on an appraisal report that considered the cost approach and the leased fee interest based on the actual performance of the Subject, to conclude an assessed value of \$6,984,000. The Assessor used the direct comparison approach and the income approach to determine a value of



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\$15,490,000; if the PAAB did not accept the increase, the Assessor then sought to confirm value. The Assessor also presented a cost approach in the alternative, in its rebuttal.

Crestpoint Real Estate (Rex Victoria) Inc. v. Area 01 2023 PAABBC 20223028 (February 22, 2023)

The Subject is an 11,745 sq.ft. single tenant building, built in 2011 with onsite parking, situated on a 42,677 sq.ft. corner lot with good exposure. The Subject is zoned CD-1, Comprehensive Development Zone, permitting a max. lot coverage of 50% to a max. of 43,055 sq.ft. in one building and is designated as Commercial in the OCP. The Subject was part of a 19 property portfolio acquisition in 2017 which contained properties from BC, AB, SK and ON that were all tenanted by Rexall Pharmacies; the stores were leased back to them as part of the transaction. The Appellant said the assessed value was too high as the Assessor had relied too much on the sale price allocated to the Subject, on the actual rent paid by the tenant as part of the lease-back arrangement (not arm's length), and compared the Subject to smaller, greater income earning properties. The Appellant asked that the assessment be reduced to \$5,050,000. The Assessor said the market value was higher than the \$6,602,000 assessed value but did not seek an increase. Both Parties provided appraisal reports and relied on the Income Approach. The Assessor also used the Direct Comparison Approach to support their opinion that the assessed value was less than the market value. Neither Party provided a conclusion of actual value but rather ranges of opinions of actual value.

Delesalle Holdings Limited et al v. Area 11 2022 PAABBC 20220032 (December 23, 2022)

These are appeals of the 2020, 2021, and 2022 roll years. The Property is a 259,724 sq.ft. irregular site with 800 ft. of frontage, improved with two one-storey multi-tenant commercial, industrial warehouse buildings with parking. The site is zoned Industrial Retail (IR1) which provides for a FAR of 1.0; the Subject's improvements have a FAR of 0.33. The Appellant said the irregular shape reduced the utility of the Subject. The Assessor sought to confirm value. The Assessor said the HBU was development land for future development, the PAAB concluded the HBU was the current use in the interim until the timing and nature of development became less speculative. Direct comparison approach; the Assessor also presented an income approach to value. The Assessor provided four paired sales that showed prices were increasing over the three valuation dates.



Malcolm, David D et al v. Area 24 2022 PAABBC 20222191 (December 22, 2022)

This appeal involved eight unserviced, waterfront properties on the south-side of Timothy Lake that have limited seasonal access by road and water. PARP reduced the value of four properties. The Appellant said the values were too high and not equitable with similar properties and asked for a further 30% reduction based on access, road easements, swamp land and slope to water access but did not provide information on the impact to the assessed value for the later issues. The Appellant said an acceptable method to determine the Subjects' assessed value would be to base the Subjects' assessment on a pro-rated assessed value for the months the Subjects' were accessible. The Appellant also sought a reclassification of the Subjects from Residential to 'Recreational', an annual cap to the Subjects' future assessed value and a Special Assessment for the properties within the same District Lot as the Subjects. The Appellant proposed actual values for the Subjects based on the Assessor's market value analysis. The Assessor determined higher assessed values for the Subjects but did not seek an increase, only asked that the properties reduced at PARP be returned to their original roll values. The Assessor presented seven comparables and used a qualitative approach to value the Subjects due to the limited market activity for lake front cabins in the area. The Appellant noted that the Assessor's values were produced without regard to previous sales activity and that some properties were assessed at a consistent rate per acre while the Subjects were not. The Assessor explained that assessments are done annually on a mass appraisal basis where the assessment of any individual property may not be accurate but when looked at as a whole, they reasonably presented market conditions. The price per acre differences were due to the different lot sizes for the properties. The Assessor provided equity statistics that showed the Subjects were equitably assessed.

Hinz, Kevin A v. Area 22 2022 PAABBC 20221642 (November 28, 2022)

Properties are in the Bighorn Meadows Resort strata development that has apartment style buildings, newer townhouse buildings and many amenities. The units were sold as "whole title" or 100% interest with exclusive use or as fractional titles which granted exclusive use for a limited time each year. The units were sub-leased to everyone who purchased a fractional interest in the fee simple interest of a unit. This appeal involved two apartment style fractional interest units. The Appellant disagreed with the Assessor using whole interest sales to determine actual value for the Properties. The Appellant relied on the difference between



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the sale prices of whole interest units and fractional interest units to show that fractional interest units have different sale values than whole interest units. The units have furniture, fixtures and equipment (FFE) included that required an adjustment. The Assessor relied on six whole interest sales.

Dick, John and Hluskova, Blanca v. Area 15 2022 PAABBC 20221807 (November 2, 2022)

The Property is two adjacent rectangular lots that front a four-lane traffic artery, in an area of mixed residential and commercial development that is gradually being transitioned to more commercial uses. The Properties are zoned RS3 for residential development. The lots are improved with bi-level single family structures built in 1977 and in average condition. The Appellant said the assessed values were too high based on the Official Community Plan (OCP) designation of “secondary commercial” and that they did not have the same characteristics as other lots in the Abbotsford market as roadway takings reduced the lot sizes and the zoning restricted their development. The Appellant asked that the land values be reduced. The Assessor said that the actual values for the Properties were higher than the current assessments but only sought to confirm value, relying on the direct comparison approach. The Assessor commented that when mass appraisal techniques are applied, it often demonstrated that an economy of scale or law of diminishing returns applied to sets of comparable sales data.

Keller, Clifford W v. Area 08 2022 PAABBC 20221550 (October 28, 2022)

Property is a 3,001 sq. ft. dwelling with some basement finish built in 2006 and situated on a lot just over 48,000 sq.ft. There are two easements on the Property that allow access to neighbouring properties and a right of way for power lines and a sewage line. The Appellant said the \$1,646,000 assessment should be reduced based on comparisons to neighbouring properties and to account for the easements. The Assessor said the market value of the Property was \$1,700,000. The Assessor provided legal arguments and stated the access easements should be ignored when determining market value as they were private easements, they don't benefit the general public, they can be discharged by mutual agreement and actual value was the market value of the fee simple interest in land and improvements. Direct comparison approach. The Appellant referenced the assessments of neighbouring properties. The Assessor relied on three sales of waterfront properties, time



adjusted using the HPI. Neither Party provided market evidence to account or quantify an adjustment for views.

Gil, Margaret S v. Area 08 2022 PAABBC 20222044 (October 25, 2022)

Property is a 7,800 sq.ft. lot with an easement for sewage and drainage systems, improved with a 5,449 sq.ft. dwelling, built in 2019. The Appellant said the \$4,015,000 assessed value was too high and should be reduced to \$3,591,509. The Assessor submitted that the market value for the Subject was \$4,250,000 but did not seek an increase. The Appellant referred to the 2020 PARP decision for the Subject where it was decided not to include GST in the sale price. For 16 sales the Appellant used three methods to estimate market value for the Subject: average time adjusted sale prices; average assessment change and the HPI adjusted 2021 assessment for the Subject and presented an average of the three methods less an adjustment for the easement. The Assessor provided four time adjusted sales, including the Subject. The Appellant said the Assessor did not include GST consistently in the Subject's neighbourhood. Combined, the Parties relied on four groups of properties in their equity analysis: five new home sales in the neighbourhood from July 1, 2020 to July 1, 2021; 11 new home sales in the neighbourhood from January 1, 2020 to December 31, 2021; 532 single-family dwelling sales in the taxing jurisdiction from April 1, 2021 to September 30, 2021; and three sales (not including the Subject) in the Sunset Gardens sub-neighbourhood used for market value.



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[Warrington PCI Management et al v. Area 23 2022 PAABBC 20214497 \(October 18, 2022\)](#)

The Subject is an 11,429 sq.ft. service garage built in 1973 and situated on 1.07 acres. The Parties agreed on the Subject's physical attributes, that the Subject's HBU was its current use (legal non-conforming), that the income approach was appropriate to calculate the Subject's market value, and that the Subject was contaminated from when it was occupied by CP Rail. For the various years under appeal, the Subject was leased for \$6.50 to \$12.00/sq.ft. The Parties disagreed on how or if the contamination affected the actual value of the Subject, if a Certificate of Compliance (CoC) was necessary and the costs associated with obtaining a CoC. The Assessor argued that the contamination did not impact the Subject's current use, the improvement had an economic life of 20 years or more, was income generating, was not under a remediation order and there was no evidence of a concrete remediation plan. The Assessor relied on the Court of Appeal decision in *Victory Motors* in respect of the appropriate approach for considering the effect of the contamination in this context. The Assessor thus made recommendations that were consistent with that approach.

[Vickers, David J v. Area 24 2022 PAABBC 20222231 \(October 3, 2022\)](#)

The appeal concerned a recreational property on Timothy Lake. The Appellant raised a number of negative issues with the Subject including limited access and services available to the property. The Appellant did not provide any market evidence to support a reduction in the market value but referenced the assessments of three other properties on the same road as the Subject. The Assessor provided four sales of lakefront properties which took place from August 2020 to March 2022. With respect to equity, the Assessor submitted the median ASR and COD for the taxing jurisdiction based on 598 sales from July 1, 2020 to July 1, 2021.

EXEMPTIONS

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Stated Cases:

None at this time

PAAB Decisions:

None at this time



OCCUPIERS

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Stated Cases:

None at this time

PAAB Decisions:

[**Bresalier, Julia et al. v. Area 08 2023 PAABBC 20224150 \(May 29, 2023\)**](#)

This appeal involved 15 occupied properties located on Crown land along the Upper Cheakamus River near Squamish. The Properties' assessed values were upheld at PARP. The Appellants sought a reduction in the assessed values; the Assessor sought to confirm values. The Parties disagreed on how the properties should be valued – leasehold vs. fee simple.

[**Area 08 v. Amundsen, Joan M et al. 2023 PAABBC 20224151 \(May 9, 2023\)**](#)

This appeal involved 20 occupied properties located on Crown land along the Upper Cheakamus River near Squamish. The Properties' assessed values were reduced at PARP. The Respondents asked that the values determined at PARP be retained. The Assessor asked that the PARP values be returned to the original 2021 assessed values. The Parties disagreed on how the properties should be valued – leasehold vs. fee simple.

APPEAL PROCEDURE

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None at this time

Stated Cases:

None at this time

PAAB Decisions:

[**1260559 BC Ltd. v. Area 14 2023 PAABBC 20232074 \(May 30, 2023\)**](#)

The Appellant said they filed a complaint to PARP in late January. The roll number on the complaint did not match the civic address for the property. Section 33(3) of the *Assessment Act*



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sets out the requirements for a notice of complaint, including, “clearly identify the property in respect of which the complaint is made”. There were various emails between the Appellant and Assessor but the evidence provided to the PAAB was not sufficient to determine a valid complaint to PARP.

[Sintzel, Shirley v. Area 21](#) 2022 PAABBC 20224099 (December 23, 2022)

The property is one of 63 residential properties appealed by an agent on behalf of various owners in the town of Creston. The Appellant raised a number of procedural issues. She complained about the proceedings before PARP and claimed BC Assessment was “resistant” to accepting personal delivery of notices of complaint. The Appellant (through her agent) also complained of the unfairness of previous PAAB decisions. Finally, the Appellant asked that all appellants’ submissions in the 63 appeals be combined “and make up a whole Submission” before the PAAB for each of the appeals (para. 11).

PARP Property Assessment Review Panel

PAAB Property Assessment Appeal Board

BCSC British Columbia Supreme Court

BCCA British Columbia Court of Appeal

SCC Supreme Court of Canada