March 2, 2009

His Worship Mayor Sam Katz
and Members of Executive Policy Committee
The City of Winnipeg
510 Main Street
Winnipeg, MB

Dear Mayor Katz and Members of EPC:

Re: **Preliminary 2009 Operating Budget and Financial Plan for 2010 and 2011 (File FE(2009)**
Proposed Elimination of the Business Tax Phase-In (By-Law No. 108/2006)

I am writing to express concern about the **significant increases in 2009 business taxes** which many businesses will have to pay in May unless the 15% cap on business tax increases is renewed for 2009.

The 2009 Preliminary Operating Budget, Appendix #1, Explanation No. 2, "Business Tax" refers to the **"elimination of the phase-in from the 2006 general assessment."**

Actually, what is proposed is a decision not to renew the 15% cap, which was established by By-Law No. 108/2006 for the 2006 taxation year, renewed by amending By-Law No. 49/2007 for the 2007 taxation year, and renewed again by amending By-Law No. 55/2008 for the 2008 taxation year.

The 2006, 2007 and 2008 By-Laws were all approved pursuant to Section 68 of *The Municipal Assessment Act*. Upon reflection, I believe the wording of Section 68 would permit the renewal of the cap for 2009. However, if there is any doubt on that point, then I would refer EPC to Section 322 of the *City of Winnipeg Charter* for alternate authority:

ADJUSTMENTS IN BUSINESS TAX

Adjustment of business tax on reassessment

322(1) Council may, by by-law, on such terms and conditions as it considers appropriate, limit the amount of the increase or decrease in the business tax or licence fee in respect of the premises of a class or group of businesses that council determines has resulted because of a reassessment.

Limitation on by-law under subsection (1)

322(2) A by-law passed under subsection (1) may apply to limit the amount of an increase or decrease in the business tax or licence fee in one or more of the years of a general assessment and the years before the next general assessment.

For your information, I am enclosing a copy of my submission to City Council on March 21, 2006, dealing with the introduction of the original 2006 Business Tax Phase-In By-Law. For the reasons discussed in my submission, many business taxpayers were reassessed in 2006 with very large increases over the previous 2002-2005 assessments.

However, because of the 15% cap introduced by the City in 2006, and renewed in 2007 and 2008, these taxpayers generally did not bother to appeal their high business assessments.

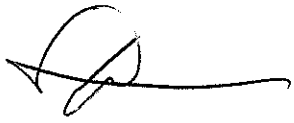
Unfortunately for them, the City's intention to eliminate the 15% cap for 2009 was not known or published prior to January 13, 2009, which was the deadline for appealing the 2009 business assessments. Accordingly, those businesses which thought they had no reason to worry about the very large increases in assessment for 2006-2009, are now going to be unpleasantly surprised with 2009 tax bills at the full rates.

Before finalizing the 2009 Operating Budget and tax measures, EPC may wish to request a report from the Administration with regard to the number and magnitude of the increased business taxes which will be demanded of businesses for 2009, in the event the 15% cap is not renewed.

If it is still the case that "any increase in business taxes resulting from the 2006 general assessment in excess of 15% is unreasonable in the circumstances," perhaps the City may wish to consider renewing the 15% cap for 2009 after all.

Thank you for your consideration of this matter.

Yours truly,



David M. Sanders MA LLB
Senior Tax Consultant
Altus Group Limited

DMS/bm

cc. Mrs. Joanne Park, Manager of the Decision Making Process
Mr. Michael Ruta, Deputy Chief Administrative Officer/Chief Financial Officer
Mr. Nelson Karpa, City Assessor/Director of Assessment and Taxation

THE CITY OF WINNIPEG
2009 Preliminary Operating Budget
TAX SUPPORTED REVENUE - 2009 Compared to 2008

Expl. No.	Explanations		Variance
1	**Property tax** No property tax rate increase, adjusted for projected taxable assessment base.	$	**3,269,819**
2	**Business tax** No change in business tax rate. Small business tax credit to be funded by growth in the business tax assessment base and the elimination of the phase-in from the 2006 general assessment.	$	-
3	**Frontage Levy and other taxation**		
	Portion of Frontage Levy revenue accounted for in the tax supported budget to pay for upgrading, repair, replacement and maintenance of streets and sidewalks, as approved by Council on September 24, 2008.	$	19,600,000
	Increase in Electricity and Natural Gas Tax revenue estimates.		1,883,459
	Increase in Entertainment Funding Tax revenue (fully offset by refunds).		800,000
	Increase in Billboard Tax rate from $0.34 to $1.50 per square foot effective July 1, 2009.		84,360
	Accommodation Tax revenue to be reflected in the new Destination Marketing Fund reserve for 2009, as approved by Council on October 22, 2008.		(1,800,000)
	Increase in miscellaneous tax revenue.		124,456
		$	**20,692,275**
4	**Government grants**		
	Winnipeg Regional Health Authority cost sharing.	$	7,605,964
	Plan Winnipeg review.		1,000,000
	Manitoba Floodway Authority funding for 20 additional firefighters for a temporary station.		722,000
	Building Manitoba Fund increase for Main Street Project and Fire-based Emergency Medical Services.		321,500
	Increase in Provincial Support Grant.		346,365
		$	**9,995,829**

THE CITY OF WINNIPEG

2006 BUSINESS TAX PHASE-IN BY-LAW
NO. 108/2006

A By-law of THE CITY OF WINNIPEG to limit the amount of increases in business taxes resulting from the 2006 general assessment.

WHEREAS section 68 of The Municipal Assessment Act provides as follows:

> **Phase-in of tax increase or decrease**
> **68** Notwithstanding any provision to the contrary in this or any other Act, where a council determines that a general assessment done under section 9 results in an increase or decrease in taxation, whether in relation to separately assessed property or a class of property, that is unreasonable in the circumstances, the council may, by by-law, on such terms and conditions as the council sets out in the by-law, limit the amount of the increase or decrease for any one or more years beginning with the year of the general assessment and ending with the year preceding the next general assessment.

AND WHEREAS Council has determined that any increase in business taxes resulting from the 2006 general assessment in excess of 15% is unreasonable in the circumstances;

NOW THEREFORE THE CITY OF WINIPEG, in Council assembled, enacts as follows:

1. This by-law shall be referred to as the **"2006 Business Tax Phase-in By-law"**.

2. In the year 2006, all increases in business taxes resulting from the 2006 general assessment shall be limited to 15%.

3. In this by-law, "business taxes" means business taxes imposed under subsection 332(2) of The City of Winnipeg Charter and does not include:

(a) real property taxes;
(b) licence fees for licences in lieu of business taxes;
(c) licence fees for mobile home licences;
(d) personal property taxes;
(e) local improvement taxes;
(f) frontage taxes;
(g) business improvement zone taxes;
(h) electricity and gas taxes;

(i) business taxes imposed under section 32(1) of The Municipal Assessment Act;

(j) any other taxes, levies and charges imposed under The City of Winnipeg Charter which may be added to or collected in the same manner as real or personal property taxes or business taxes; or

(k) any taxes, levies or charges imposed under another Act which the City is required to collect and which may be added to or collected in the same manner as real or personal property taxes or business taxes.

DONE AND PASSED in Council assembled, this 21st day of March, 2006.

THE CITY OF WINNIPEG

2006 AND 2007 BUSINESS TAX PHASE-IN BY-LAW NO. 49/2007

A By-law of THE CITY OF WINNIPEG to amend the 2006 Business Tax Phase-in By-law No. 108/2006.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

1. The 2006 Business Tax Phase-in By-law No. 108/2006 is amended by this By-law.

2. The second paragraph in the preamble is struck out, and the following is substituted:

"AND WHEREAS Council has determined that any increase in business taxes in 2006 or 2007 resulting from the 2006 general assessment, in excess of 15%, is unreasonable in the circumstances;"

3. Section 1 is repealed and the following is substituted"

'1. This by-law may be referred to as the **"2006 and 2007 Business Tax Phase-in By-law"**.'

4. Section 2 is amended by striking out "In the year 2006", and substituting "In the years 2006 and 2007".

DONE AND PASSED in Council assembled, this 20th day of March, 2007.

THE CITY OF WINNIPEG

2006, 2007 AND 2008 BUSINESS TAX PHASE-IN BY-LAW NO. 55/2008

A By-law of THE CITY OF WINNIPEG to amend the 2006 and 2007 Business Tax Phase-in By-law No. 108/2006.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

1. The 2006 and 2007 Business Tax Phase-in By-law No. 108/2006 is amended by this By-law.

2. The second paragraph in the preamble is struck out, and the following is substituted:

"AND WHEREAS Council has determined that any increase in business taxes in 2006, 2007 or 2008 resulting from the 2006 general assessment, in excess of 15%, is unreasonable in the circumstances;"

3. Section 1 is repealed and the following is substituted"

"1. This by-law may be referred to as the **"2006, 2007 and 2008 Business Tax Phase-in By-law"."**

4. Section 2 is amended by striking out "In the years 2006 and 2007", and substituting "In the years 2006, 2007 and 2008".

DONE AND PASSED in Council assembled, this 26th day of March, 2008.

This document is an office consolidation of by-law amendments which has been prepared for the convenience of the user. The City of Winnipeg expressly disclaims any responsibility for errors or omissions. For a certified copy of the original enactment and amending by-laws, contact City Hall Information Service at 986-2171.

CONSOLIDATION UPDATE: MARCH 26, 2008

THE CITY OF WINNIPEG

2006 BUSINESS TAX PHASE-IN BY-LAW NO. 108/2006

A By-law of THE CITY OF WINNIPEG to limit the amount of increases in business taxes resulting from the 2006 general assessment.

WHEREAS section 68 of The Municipal Assessment Act provides as follows:

> **Phase-in of tax increase or decrease**
> **68** Notwithstanding any provision to the contrary in this or any other Act, where a council determines that a general assessment done under section 9 results in an increase or decrease in taxation, whether in relation to separately assessed property or a class of property, that is unreasonable in the circumstances, the council may, by by-law, on such terms and conditions as the council sets out in the by-law, limit the amount of the increase or decrease for any one or more years beginning with the year of the general assessment and ending with the year preceding the next general assessment.

AND WHEREAS Council has determined that any increase in business taxes in 2006, 2007 or 2008 resulting from the 2006 general assessment, in excess of 15%, is unreasonable in the circumstances;

amended 49/2007; 55/2008

NOW THEREFORE THE CITY OF WINIPEG, in Council assembled, enacts as follows:

1. This by-law may be referred to as the **"2006, 2007 and 2008 Business Tax Phase-in By-law"**.

amended 49/2007; 55/2008

2. In the years 2006, 2007 and 2008, all increases in business taxes resulting from the 2006 general assessment shall be limited to 15%.

amended 49/2007; 55/2008

3. In this by-law, "business taxes" means business taxes imposed under subsection 332(2) of The City of Winnipeg Charter and does not include:

(a) real property taxes;
(b) licence fees for licences in lieu of business taxes;
(c) licence fees for mobile home licences;
(d) personal property taxes;
(e) local improvement taxes;
(f) frontage taxes;
(g) business improvement zone taxes;
(h) electricity and gas taxes;
(i) business taxes imposed under section 32(1) of The Municipal Assessment Act;
(j) any other taxes, levies and charges imposed under The City of Winnipeg Charter which may be added to or collected in the same manner as real or personal property taxes or business taxes; or
(k) any taxes, levies or charges imposed under another Act which the City is required to collect and which may be added to or collected in the same manner as real or personal property taxes or business taxes.

DONE AND PASSED in Council assembled, this 21st day of March, 2006.

Deloitte.

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March 21, 2006

His Worship Mayor Sam Katz
and Members of City Council
The City of Winnipeg
510 Main Street
Winnipeg, MB

Dear Mayor Katz and Members of City Council:

Re: **Report of Executive Policy Committee – March 15, 2006**
No. 1 – Final Recommendations – 2006 Operating Budget – File FE(2006)
Clause 5.B.

and

Proposed By-law No. 108/2006
The 2006 Business Tax Phase-In By-law
Special Meeting to Consider the 2006 Operating Budget - March 21, 2006

I am **not** opposed to limiting business tax increases, but I am appearing to express my concerns about the present wording and potential interpretation of the proposed **2006 Business Tax Phase-In By-law**, to seek clarification of Council's intentions, and to suggest possible improvements.

The specific proposals submitted to you for approval this morning are as follows:

Report of Executive Policy Committee – March 15, 2006
No. 1 – Final Recommendations – 2006 Operating Budget – File FE(2006)

Clause 5.B. **That Council make a determination in accordance with section 68 of *The Municipal Assessment Act* that any increase in business tax resulting from the 2006 general assessment in excess of 15% is unreasonable in the circumstances, and limit all such increases to 15%. (Note: This will result in 2006 business tax revenues remaining at 2005 levels).**

Proposed By-law No. 108/2006
The 2006 Business Tax Phase-In By-law

Provides that, pursuant to **Section 68 of *The Municipal Assessment Act***:

> **2. In the year 2006, all increases in business taxes resulting from the 2006 general assessment shall be limited to 15%.**
>
> **3. In this by-law, "business taxes" means business taxes imposed under subsection 332(2) of The City of Winnipeg Charter and does not include:**
>
> **.....**
>
> **(g) business improvement zone taxes;**
>
> **.....**
>
> **(j) any other taxes, levies and charges imposed under The City of Winnipeg Charter which may be added to or collected in the same manner as real or personal property or business taxes;**

Before Council adopts these proposals, I ask that you consider the following:

(A) Increases in 2006 Business Improvement Zone Taxes are NOT Capped

As you can see, for the purpose of this particular by-law, business improvement zone taxes are specifically excluded from the definition of the business taxes whose increase is to be capped at 15%.

So, as proposed, the new 2006 BIZ levies will be applied in full to the new 2006 business assessments (Annual Rental Values - ARV) of businesses located within each of the zones.

This is consistent with the particular Business Improvement Zone Levy (Tax) Rates which Executive Policy Committee is recommending that City Council approve at its regular council meeting tomorrow morning (Report "A" – Executive Policy Committee – March 15, 2006, Item No. 5, pp. 1085-1093, and proposed 2006 Business Improvement Zone By-law No. 112/2006).

If you will refer to Appendices A and B to EPC's report for tomorrow's Council meeting, plus the proposed by-law and the BIZ budget attachments, you will see that the Zones generally tried to hold the line on their budget levy requirements (increasing by a weighted average of only 3.3% overall), and they estimated their individual BIZ tax rates based on earlier projections of the new total 2006 business assessment in each zone.

However, the actual 2006 ARV's for businesses located in Zones, issued to taxpayers in November, 2005, totaled $184 million, up more than 14% from the 2005 total of $161 million. The Downtown BIZ ARV went up by 17%, while West Broadway went down by 22%. In each case, the City's Corporate Finance Department has divided the requested budget levy by the actual 2006 zone ARV, with the result that the 2006 BIZ levy rates will decline by as much as 20.8% (in the French Quarter), and increase by as much as 52% (in West Broadway/South Sherbrook).

Since the 2006 BIZ levy rates have been calculated without any adjustment or cap on individual business assessment increases, Council should anticipate that many of those businesses facing what EPC describes as "unreasonable" increases in business assessment (more than 15%) will be receiving 2006 business tax bills reflecting increases of more than 15% above their 2005 business tax bills.

To illustrate, here are the actual numbers for a retail tenant of Portage Place Shopping Centre, located in the Downtown BIZ. The new 2006 ARV issued on November 28 was for $47,220, representing an increase of **89%** over the 2005 ARV of $25,020. Ten days ago, the tenant received a "corrected" 2006 ARV of $83,100, now representing an increase of **232%** over the 2005 ARV. The Property Assessment Department says the original computer-generated ARV's were based on the wrong rental rates, and that therefore they have now issued similar "corrected" 2006 ARV's to many of the tenants of the shopping centre.

		2005 Tax	2005 BIZ	Total Rate	Total Tax
2005 ARV	$25,020	7.75%	1.469%	9.219%	$ 2,306.59
		$1,939.05	$ 367.54		**$ 2,306.59**
		2006 Tax	2006 Capped Tax		
2006 ARV	$83,100	7.75%	$25,020 x 7.75% x 115%		
("Corrected")		$6,440.25	= $2,229.91		
		2006 BIZ			
		1.256%			
		X $83,100	= $1,043.74		

Total 2006 Business Tax Bill **$3,273.65**

This represents a 42% increase over the 2005 Business Tax Bill of $2,309.59, after the 2006 cap is applied.

Note that if Council takes no further action with regard to establishing a cap for 2007, the 2007 tax bill at present tax rates will be about $7,500, representing an increase of **225%** over the 2005 business tax bill.

So that Council may better understand the impact of these tax measures, let me give you another example of a Portage Place retail tenant.

In this case, the new 2006 ARV issued on November 28 was for $36,060, representing an increase of **17%** over the 2005 ARV of $30,840. Ten days ago, the tenant received a "corrected" 2006 ARV of $63,660, now representing an increase of **106%** over the 2005 ARV. Again, the Property Assessment Department says the original computer-generated ARV's were based on the wrong rental rates, and that therefore they have now issued similar "corrected" 2006 ARV's to many of the tenants of the shopping centre.

		2005 Tax	2005 BIZ	Total Rate	Total Tax
2005 ARV	$30,840	7.75%	1.469%	9.219%	$ 2,843.14
		$2,390.10	$ 453.04		**$ 2,843.14**
		2006 Tax	2006 Capped Tax		
2006 ARV	$63,660	7.75%	$30,840 x 7.75% x 115%		
("Corrected")		$4,933.65	= $2,748.62		
		2006 BIZ			
		1.256%			
		X $63,660	= $ 799.57		

Total 2006 Business Tax Bill **$3,548.19**

This represents a 25% increase over the 2005 Business Tax Bill of $2,843.14, after the 2006 cap is applied.

Again, if Council takes no further action with regard to establishing a cap for 2007, the 2007 tax bill at present tax rates will be about $5,700, representing an increase of **100%** over the 2005 business tax bill.

More importantly, and in case these dollar values seem small, it may interest councilors to know that in the 2003 reference year this particular tenant paid total gross rent of only $15,000, a great deal less than the "corrected" 2006 ARV of $63,660 produced by the Property Assessment Department's mass appraisal computer program, and a very great deal less than the actual gross rent which would be paid by a Portage Place tenant who would be fairly assessed with an ARV of $63,660, using the current methodology.

The above two examples are for tenants of retail premises in the 2,500-4,000 sf. range.

(B) These proposals affect only 2006 business taxes, and are silent with regard to 2007, 2008 and 2009, the remaining three years of the new assessment cycle.

If Section 68 of *The Municipal Assessment Act* is used as the authority for the phase-in of business taxes, then it **cannot** be used to limit the taxes to be paid in the last year of the assessment cycle, which would be 2009 at present, or possibly 2007 if Council's recent request to introduce a two-year cycle were implemented with a new general assessment for 2008.

In other words, per section 68 of the MAA, business taxes must be phased in to the full tax rates based on the new ARV's before the end of the current assessment cycle.

Should businesses such as the above be budgeting to pay business taxes without any further limitations **as early as next year**, or what?

On the other hand, if the intention of City Council is to limit the increase in business taxes throughout the current assessment cycle, however long it turns out to be, **perhaps Council should consider using the different authority for "Adjustments in Business Tax" which now appears in Section 322 of *The City of Winnipeg Charter***. This relatively new legislation permits Council to limit an increase in the business tax for "one or more of the years of a general assessment and the years before the next general assessment." Per Section 322 of the Charter, a limitation can be extended for all of the years of a cycle if Council so wishes.

(C) Exactly which increases in business taxes will be limited to 15%?

The proposed By-law 108/2006 defines "business taxes" in this by-law as "business taxes imposed under subsection 332(2) of *The City of Winnipeg Charter*," and excludes all other taxes.

Actually, Section 332 deals with "liability for taxes," while Sections 334 and 334.1 authorize the imposition of business taxes.

More important than that technical error is the possibility that the wording of the proposed by-law may be interpreted to exclude increases in business taxes in the form of supplementary business taxes "imposed" by the tax collector under **Section 341 of The City of Winnipeg Charter.**

If the language of the proposed by-law were interpreted literally by the Property Assessment Department, then any business which receives a supplementary business assessment and a bill for supplementary business taxes under Section 341 of the CWC will be ineligible for the 15% limitation (if it is a new business taxpayer), or lose the benefit of the cap (if it is an existing business taxpayer which is changing its location or the amount or type of space occupied).

These are policy questions.

Will it bother City Council if an existing business tenant pays 2006 business taxes limited to a 15% increase (as in the case of the first Portage Place tenant above), while a new business tenant moving in to that same space, or an identical space next door, would pay 2006 business taxes imposed under Section 341 at more than double the business taxes being paid by the existing tenant?

Similarly, if a business tenant relocates to another space during 2006, or just expands the area occupied, such changes trigger new business assessments imposed under Section 341 (or Section 340 if the area and/or rental value is reduced). In such cases, would Council intend that the tenant immediately lose the benefit of the 15% cap, and pay full taxes on the supplementary ARV?

If Council intends otherwise, then I would suggest that **the definition of "business taxes" for the purpose of this by-law should be expanded to include "business taxes imposed or revised under Part 8 of The City of Winnipeg Charter."** Such broader wording should ensure that supplementary assessments are taken into account for the purpose of determining the maximum 2006 business tax payable by a business.

In addition, Council should clarify what is meant by an increase in business taxes "resulting from the 2006 general assessment."

Does Council mean any increase between the 2005 and 2006 business taxes for a given business assessment roll number, regardless of the reasons for the increase? If the increase in assessment and taxation resulted from an increase in the area occupied, or a significant improvement in the quality of the premises, should the taxpayer still benefit from the 15% cap?

Or is it really the intent of Council that the 15% cap apply only to increases resulting from the change in reference year market net rents and economic rents, from 1999 (supposedly) for 2002-2005, to 2003 for 2006-2009? If so, can the City's computer programs do the necessary calculations in time? If so, then will the benefit of the limitation on large increases in market net rents be provided to new and expanding businesses in an equitable manner accordingly?

Further, and in any event, does Council wish to reconsider the possibility of applying the cap to the total business tax bills, including BIZ levies?

(D) Will a business taxpayer have any right to appeal the Tax Collector's decision to apply or not apply the cap on his or her 2006 business taxes?

As the assessors, the Board of Revision, and the Municipal Board regularly point out at assessment appeal hearings, their jurisdiction extends only to assessments, and **not to taxes**.

A business taxpayer, who believes that the City Tax Collector has failed to properly apply the 2006 limitation on his business tax increase, cannot appeal to the Board of Revision or the Municipal Board to have his tax bill changed.

Presumably the business taxpayer could proceed to the Court of Queen's Bench for judicial review of the Tax Collector's administrative decision, at considerable cost. This is neither reasonable nor desirable, from any perspective.

Given the lack of a ready appeal process, I submit that it is all the more important and in the public interest that City Council makes its intentions as clear as possible, in the wording of the by-law, and in the explanations which may be provided in supporting documentation and in the record of the debate here in Council.

In addition, I would suggest that Council might consider providing for an appeal of the application of the proposed by-law to the business taxes levied on a particular business tax roll number, using the provisions of Section 334.1 of The City of Winnipeg Charter. In accordance with Section 189, the appeal is to a hearing body designated by council, which has the power to direct the City Tax Collector to amend the business **tax** roll. This procedure is already available to business taxpayers who may wish to appeal their exclusion from the class of business premises eligible for the reduced Downtown business tax rate of 7.75%.

(E) Some further advice.....

If anything I have said so far gives Council some pause, **I would respectfully suggest that the proposed business tax phase-in policy decision and By-law 108/2006 be tabled, at least until tomorrow morning, to allow time for further consultation with your assessment, finance and legal staff advisors.**

You should appreciate that the new 2006 business assessment roll which the City is about to tax is creating a "great deal of havoc" for at least **three different reasons**:

1) For most of the 2006 business assessments, **the reference year for value is being updated for the eight-year period from 1995 to 2003.**

   The 2002-2005 business assessment roll was supposed to be based on 1999 reference year market net rents. However, the Property Assessment Department failed to produce a new roll reflecting the 1999 market net rents which were used to determine the 2002-2005 realty assessments. Instead, the Property Assessment Department just factored up the existing 1998-2001 business assessments, based on 1995 market net rents, using a factor of only 4%. Subsequently, new business assessments were issued using 1999 market net rents, and the relatively few business assessment appeals were defended using 1999 market net rent evidence. But the vast majority of the 12,000 business assessments remained low, keyed to 1995 market net rents. Accordingly, when the new 2006 business assessment roll was generated using 2003 market net rents, the assessments were generally expected to reflect the substantial change in market net rents since 1995, eight years earlier.

2) Secondly, **the new 2006 business assessments are based on the computer-generated 2003 market net rents used by the Property Assessment Department to create the new 2006 realty assessment roll, and they do not necessarily reflect the actual rents obtainable for those premises.**

   The previous business assessments were generally based on the evidence of actual rents obtainable for the particular premises assessed, in the economic conditions of the 1995 and/or 1999 reference years for value. However, for the new 2006 realty and business assessments, the Property Assessment Department generally used market net rents generated by its new mass appraisal computer model, without any adjustment based on site specific information.

The result has been the generation of some extraordinarily high new assessments, as well as some extraordinarily low new assessments. The latter will become apparent only as appellants with high assessments start to make unhappy comparisons with their underassessed neighbours.

3) Thirdly, **because the new 2006 business assessments have been created using the 2006 realty assessment computer files, which did not necessarily match the current tenancy configurations required for current 2006 business tax purposes, there have been significant errors in leasable areas, involving excessively high figures as well as omissions.**

The unfortunate result of this "perfect storm" is a 2006 business assessment roll which is very difficult to "tweak" in any fair or effective manner.

Council might have expected to be able to off-set the overall increase in the 2006 business assessment by reducing the business tax rates across the board, as is being done for realty assessment today. However, because the new 2006 business assessments vary so wildly, a straight rate reduction would have been insufficient to mollify the overassessed, and would have been unnecessary for those already substantially underassessed.

A cap on the tax increases, for one or more years, and especially if applied as broadly and as fairly as possible, will no doubt be appreciated by the business taxpayers affected.

However, the necessary consequence of such a policy will be the maintenance of rather significant inequities in taxation, at least in the short run. In these circumstances, I would suggest that it would be highly desirable for City Council to make clear its present intentions to adopt and implement a plan to reduce the current inequities in the short term, and to achieve Council's business tax policy objectives in the longer term.

Thank you.

Yours truly,

DELOITTE & TOUCHE LLP

David M. Sanders MA LLB
Senior Manager
Property Tax Services

DMS/bm