From:	s.22
To:	FCSP FIN:EX
Subject:	In Support of Land Owner Transparency (369938)
Date:	Wednesday, June 20, 2018 12:29:24 PM

Hello,

Vancouver and Canada has now been recognized as an international money laundering hub, predominantly with the use of real estate.

This money laundering has increased tenfold in the last decade and has had devastating ramifications for the majority of British Columbians.

This transparency is incredibly important to keeping our province and people safe.

The majority of people hiding ownership do so for nefarious reasons and should not be able to game the system for their benefit.

It's time to make home ownership fully transparent to limit accessibility to money launderers, tax evaders, and criminals who choose to take advantage of all Canadians.

Thank you,

s.22

s.22

From:
To: FCSP FIN:EX
Subject: Land Owner Transparency Act White Paper - Confidential (369941-1)
Date: Wednesday, June 20, 2018 12:31:12 PM

To whom it may concern,

I would appreciate if this email were kept confidential.

As a member of a household earning above median wage, s.22 s.22 and completely priced out of the s.22 I am thrilled that these steps are being taken.

My question is: Are any of these measures retroactive? Will there be any actions taken to uncover hidden ownership that already exists or is this plan simply to address new property purchases going forward?

Thanks,
s.22

From:	s.22
To:	FCSP FIN:EX
Subject:	Government cracking down on hidden ownership of real estate (369942)
Date:	Wednesday, June 20, 2018 12:34:47 PM

This is a great step to stop hidden ownership and tax evasion in real estate.

However, it seems that this act is not retroactive so all the current secret ownership arrangements can continue until they are sold. If the homes are held in a trust owners can secretly sell their shares to others without registering as well.

The BC government should require every single home in BC be registered to reveal their true beneficial owners at the time the act is put in place and there must be a severe penalty for lying.

https://news.gov.bc.ca/releases/2018FIN0028-001241

From:	s.22
To:	FCSP FIN:EX
Subject:	Land Owner Transparency Act Consultation (369944)
Date:	Wednesday, June 20, 2018 1:15:52 PM

If someone searches for my name in this public registry, what is the exact information that you intend to be returned to this person?

s.22

From:
To: FCSP FIN:EX
Subject: Re: LOTA White Paper Consultation (369945)
Date: Wednesday, June 20, 2018 1:36:15 PM

Dear team:

Thank you for sending this to me.

I think this all sounds very good, but I wonder if you couldn't also require that any trust agreement must be registered to be enforceable? This would be hard to do ex-post, but a way to record side agreements seems important if they happen without a property transfer.

Regards,
s.22

On Wed, Jun 20, 2018 at 06:06:38PM +0000, FCSP FIN:EX wrote:
> Dear Stakeholder:
>
>
>
> Attached please find a letter from Lori Wanamaker, British Columbia Deputy
> Minister of Finance, and a copy of the Ministry of Finance's public
> consultation paper for the draft Land Owner Transparency Act White Paper.
>
>
>
> Information can also be found at http://www.fin.gov.bc.ca/pld/fcsp/
> consultLOTA.htm and https://news.gov.bc.ca/ministries/finance.
>
>
>
> Sincerely,
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>
> Office of the Deputy Minister of Finance
>
>
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>
>
>
>
>

From: s.22
To: FCSP FIN:EX
Subject: Land Owner Transparency Act (369946)
Date: Wednesday, June 20, 2018 2:41:48 PM

To Carole James, John Horgan, and anyone else it may concern;

Media reports today indicate that this tracking registry would be open to the public, which makes me very uncomfortable. I can understand making this information readily available to tax and law enforcement officials, but public access seems like a violation of privacy, not to mention potentially putting private citizens at increased risk of targeted spam, scams, even doxxing or stalking.

If the media are getting this wrong, please take steps to ensure they understand and correct their coverage. Otherwise, please rethink the public access angle of this plan.

Thank you,

s.22

BC Homeowner

From: s.22
To: FCSP FIN:EX; James.MLA, Carole A LASS:EX
Subject: Proposed property registry (369947)
Date: Wednesday, June 20, 2018 3:17:25 PM

I'm writing in regards to the proposed property registry.

I strongly disagree with making this publicly available. As a person, I believe we have a fundamental right to a degree of privacy. I can understand the government having a registry, but making it publicly available is simply not safe.

s.22

s.22 I understand if this information is needed for law enforcement, but it is not safe, prudent, or respectable to disregard an individuals right to privacy by making this information publicly available.

From: s.22
To: FCSP FIN:EX
Subject: RE: Land Owner Transparency Act White Paper - Confidential (369941-2)
Date: Wednesday, June 20, 2018 4:37:06 PM

Hi again, not sure if it needs to be accessible to the general public but as mentioned in the global story it should **"provide tax auditors and law enforcement agencies, as well as federal and provincial regulators, the information needed to help with investigations."** Banks and mortgage brokers should probably have access too but perhaps it could require the individuals SIN number to prevent unauthorized access?

You could avoid a lot of black-lash about privacy that way as opposed to giving the opposition ammunition on the sole fact that the info "may be important" to some.

Couldn't developers, lawyers and realtors responsible for reporting have write only access (not read)? That way the DB info stays in the government's hands. We don't have a public registry of our tax returns, not sure how this is any different.

I get there is other statistical value in the info but I would count people names under sensitive information at the very least.

My 2 cents,
s.22

From: s.22
Sent: Wednesday, June 20, 2018 12:31 PM
To: fcsp@gov.bc.ca
Subject: Land Owner Transparency Act White Paper - Confidential

To whom it may concern,

I would appreciate if this email were kept confidential.

As a member of a household earning above median wage, s.22 s.22 and completely priced out of the s.22 I am thrilled that these steps are being taken.

My question is: Are any of these measures retroactive? Will there be any actions taken to uncover hidden ownership that already exists or is this plan simply to address new property purchases going forward?

Thanks,
s.22

From:	s.22
To:	FCSP FIN:EX
Subject:	Hidden property ownership (369949)
Date:	Wednesday, June 20, 2018 5:14:14 PM

These changes are long overdue!

My suggestions is to not only require full transparent disclosure of all property ownership in BC, but also require that true beneficial ownership be disclosed - with severe penalties for lying/deceiving on partial or total ownership. Penalties should include asset seizure in severe cases.

Regards,
s.22

Sent from my iPhone

s.22

From:
To: FCSP FIN:EX
Subject: Comments on Land Owner Transparency Act white paper (369950)
Date: Wednesday, June 20, 2018 6:49:44 PM

Thank you for these new regulations. There is a lot of shady business going on with BC real estate and this greatly improves transparency. Many other markets around the world have this information public along with data of house sales, listings, removed listings etc which empowers the buyers and sellers and not the real estate insiders. I'm fully on board with this policy. Thank you.

s.22

s.22

From:
To: FCSP FIN:EX
Subject: Landowner Transparency Act Comment—Confidential (369951)
Date: Wednesday, June 20, 2018 6:50:03 PM

Confidentiality Requested

Dear Carole James
s.22

s.22 Please, please do not make this information public! You are putting lives at risk.

Sincerely
Name withheld for obvious reasons

s.22

From:
To: FCSP FIN:EX
Subject: Feedback on Land Owner Transparency Act White Paper – June 2018 (366954)
Date: Wednesday, June 20, 2018 8:27:04 PM

Hi - the beneficial owner registry is a great idea. Some feedback to consider:

1) Consider decreasing the beneficial owner reporting % from 25% to a lower amount (10%?). This will prevent obscuring ownership by families that incorporate and split ownership 5 ways, or among a small group of investors that hold multiple properties.

2) Clarify that if a SIN # is available for individual then it must be provided, not an alternate tax number - so a Canadian citizen/PR/visa-holder with a SIN could not provide their US TIN# making it harder to link to CRA: "social insurance number or individual tax number"

3) The SIN #s should be cross checked and audit any SINs that are not in the federal SIN registry or where the name does not match

s.22

From:
To: FCSP FIN:EX
Subject: Feedback (369955)
Date: Wednesday, June 20, 2018 9:02:44 PM

Dumbest idea possible. Keep it up. Hopefully by election time every single one of you will be voted out of office.

You do think privacy is important? Socialist idiot.

From:	s.22
To:	FCSP FIN:EX
Subject:	Land Owner Transparency Act (369956)
Date:	Wednesday, June 20, 2018 9:18:34 PM

Hello,

I, as a property owner in BC, have a few questions about the proposed "Land Owner Transparency Act" and how it will effect me, as a private, tax paying, property owner.

1. Who will have access to this information? Right now, someone would have to go through Land Titles to get access to owner information in BC, correct? How will this act be any different from the land titles offices information and who can access that information? As a private owner, who pays income and property taxes, in BC, I feel no one in the public needs my personal information (ie name, and address) except CRA, and my municipality, both for tax purposes.

2. What purpose will making this information public serve? It's certainly not going to help the public, current property owners, or make housing more affordable for the tax paying citizen of this province.

3. If this information is only going to be used to find out who actually owes taxes, not through shell or numbered companies, be it property taxes or income taxes, shouldn't this information be privy to the CRA and municipal governments only?

4. How is this not a breach of the Canadian privacy act?

Thank you

s.22

From:
To: FCSP FIN:EX
Subject: Land Owner Transparency Act (369957)
Date: Wednesday, June 20, 2018 9:25:15 PM

While the White Paper recognizes that public disclosure of information is likely to be a bad thing for "vulnerable people including minors and victims of domestic violence, why is it important that everyone else's information is required to be public. It would seem fair and not contrary to the public interest that anyone should be able to chose not to have their information made public.

What is the benefit in making public, information which an individual wishes to remain private?

Regards,

s.22

Sent from my iPad

From:	s.22
To:	FCSP FIN:EX
Subject:	Land Owner Transparency Act (369958)
Date:	Wednesday, June 20, 2018 9:41:58 PM

Good morning,

We totally support BC Government on the Land Owner Transparency Act. This is long over-due. We're glad that BC Government keeps promises and takes action to eliminate this tax loophole.

Thank you very much!

s.22

s.22 BC

From:	s.22
To:	FCSP FIN:EX
Subject:	Land Owner Transparency Act Consultation (369960)
Date:	Wednesday, June 20, 2018 11:05:07 PM

This is a fantastic move and I wholeheartedly support it. Too bad it wasn't done 10 or more years ago when prices were relatively "affordable". This move, although welcome and needed, may be too late to help the current real estate fiasco in the Lower Mainland. Prices are way too high and I am afraid that there is no easy way to bring them back to an affordable range.

I don't even know where to start with my concerns. s.22 He was telling us that some of those huge homes, built on ALR land in Richmond, are illegal gambling resorts. The agricultural land does not have a foreign owners tax, they get a lower tax rate as it is ALR land and because the lots are so large there are no neighbours to notice or complain about the coming and going of "guests". These are not homes and they certainly aren't farms, but they are an abuse of the system. Apparently this is the latest move since the public became aware of the money laundering problem at the casinos.

The residential real estate situation is another disaster. I, and many of my friends and colleagues in my age group s.22 , would be happy to have our homes worth less money than they presently are. The value is only realized when we sell, and either downsize or move to a more affordable location. The value is just an ego boost which we don't want or need. In fact, many of us feel guilty that we have suddenly, and with no effort or intent, acquired so much "wealth" just by owning our homes.

In the meantime, our children are leaving the Lower Mainland in droves. On a personal level we are losing our families, children and grandchildren, who can not afford to live near us. As a society we are losing our future. Who will live in our cities? Who will be nurses, police officers, office workers, tradespeople? Who will staff our grocery stores, care for us in our old age, be our friends and neighbours? Empty, overpriced houses make poor neighbourhoods.

s.22

s.22

s.22

I look at the massive development that has occured in our South Surrey area over s.22 s.22 The townhouses and condo developments have overwhelmed s.22 s.22 traffic is crazy, the schools are overcrowded and the cost of buying is still too high. s.22 others have permanent residents. The other s.22 are owned by foreign investors. One is rented sporadically (once by drug dealers), the other s.22 are rarely occupied. The yards are untidy, local papers and flyers litter their doorways and they look abandoned. s.22

s.22 This also makes me sad. I am not racist, I don't care what the ethnicity is of those buyers. I'm not against immigration, s.22 s.22 and we need immigration. But I want neighbours who live in their homes, pay their fair share of taxes and contribute to this society. I want a neighbourhood that includes our children and grandchildren. Is that too much to expect? I hope not.

I voted for this government with the hope that you would be able to correct this unbalanced and unfair situation. Good luck.
Hopefully, s.22

s.22

From:
To: FCSP FIN:EX
Subject: Land ownership. (369968)
Date: Thursday, June 21, 2018 7:14:29 AM

Dear gov, Long overdue to bring honesty and openness to land ownership in B.C. !!

s.22

From:
To: FCSP FIN:EX
Subject: Land Owner Transparency Act and Public Registry (369969)
Date: Thursday, June 21, 2018 8:29:39 AM

To Whom It May Concern,

I want to congratulate the government on it's proposal to create a public registry regarding land ownership in BC. I particularly like how it targets hidden forms of ownership such as numbered companies with hidden group ownership. Similar registries already exist in America and the UK but will be the first of it's kind in Canada. The transparency of home ownership produced by the registry will deepen our understanding of who owns property in BC and contributes to the economy through taxes. Additionally, it will help end hidden ownership to, hopefully, return a sense of fairness to the real estate market in BC.

All in all, the registry is much needed.

As you well know, BC -- and in particular, Vancouver -- is not an easy place to live. s.22
s.22
s.22 We continue to be renters in this province. s.22
s.22 the annual rent increase has seen our rent rise $355 per month. My income has not risen to the same degree and we cannot afford to save for a home. The expense of home ownership and the high costs of rent has us consistently looking for work elsewhere. I very much like my job as s.22 and don't want to move, but if the housing problem is not adjusted (and this includes for me a freeze on rent) than I don't see any alternative. Living in BC is sinking us financially. It is my deep hope that the NDP's 30 point plan to address housing will allow my family and many others to continue living in British Columbia.

Warmly,
s.22

s.22

From: s.22
To: FCSP FIN:EX
Subject: Land Owner Transparency Act (369970)
Date: Thursday, June 21, 2018 9:25:46 AM

To whom it may concern:

My comments are regarding the white paper published at http://www.fin.gov.bc.ca/pld/fcsp/LOTA-white-paper-june-2018.pdf. Regarding my background, s.22
s.22

My primary feedback on this paper (LOTA) is to stress the importance of not underestimating the loopholes that can and will be exploited. While the LOTA will likely deter the average person from hiding their assets, I believe that LOTA will still allow abuse by allowing entities to play the "shell corporation game" and hide ownership through a hierarchy of obscure corporations. LOTA should be modified to clearly address this.

I do think organized crime and state sponsored actors will find ways to circumvent LOTA. I highly recommend that the BC government seek consultation from anti-fraud and intelligence communities to ensure the framework has strength.

Regards,
s.22

From: s.22

To: FCSP FIN:EX

Subject: Comments on Land Owner Transparency Act white paper (369972)

Date: Thursday, June 21, 2018 9:36:47 AM

I just read about Province to shine light on 'hidden owners' of B.C. real estate.

Could you please incorporate it into the existing The Land Title and Survey Authority?

Or if not, then make a separate (ideally free) registry searchable so that people doing title searches can also search by the owner's names for company-owned real estate?

Kind regards,

s.22

s.22

From:
To: FCSP FIN:EX
Subject: LOTA (369973)
Date: Thursday, June 21, 2018 9:51:20 AM

Nice to see something being done about this. I particularly like:

any time there is a change of interest holders or beneficial owners (even when this does not result in a transfer of legal title to the land);

Will you be changing the property transfer tax act to require such changes in ownership to pay PTT? There are many millions of dollars of such transactions taking place each year without the new owners having to pay PTT.

Regards,

s.22

Sent with ProtonMail Secure Email.

From: s.22
To: FCSP FIN:EX
Subject: Landowner transparency (369975)
Date: Thursday, June 21, 2018 10:56:08 AM

I absolutely support the proposed legislation.

s.22

Sent from my iPad

From: s.22
To: FCSP FIN:EX
Subject: Province to shine light on 'hidden owners' of B.C. real estate (369976)
Date: Thursday, June 21, 2018 11:11:28 AM

It is a good start. However, nothing has been done regarding the Chinese students who without having income purchase properties for other people or for relatives thus avoiding the foreign tax?

Please advise if any measure on this regard will be enacted.
Yours truly,

s.22

From:
To: FCSP FIN:EX
Subject: Real Estate Privacy (369977)
Date: Thursday, June 21, 2018 11:14:44 AM

Dear FCSP,

Although this law is being presented as having good intentions, this is an extreme violation of privacy and it neglects to consider safety. Why does real estate information need to be public information? It is very unsafe for law enforcement, politicians, lawyers, judges, famous people, and people at risk because of their religious and political beliefs. This will also make it extraordinarily easy for gangs to extort people.

This is an unacceptable overreach by the government and it does not consider the safety of its citizens. The government should be using the police and the courts to target the demographic that is illegally using real estate. It should not be targeting law abiding Canadian citizens, and breaching their privacy.

It should be a citizens choice to provide such private information to the public, especially private property ownership, which usually correlates with one's personal residence. It is not everyone's right to know where everyone else lives. Personal residence and vacation homes must be made exempt for safety.

A public data base will also transcend Canada. If the data base is available on the internet, you are making this information public to everyone in the world. This is grossly inappropriate.

Lastly, there is already a database which contains information about land ownership; it's called municipal property tax and the municipalities already have a record of property ownership. With that being said, I cannot except the reasoning given for this bill. It would seem that its sole purpose is to reduce privacy, and decrease safety.

Sincerely,
s.22

From:	s.22
To:	FCSP FIN:EX
Subject:	Land Owner Transparency Act (369983)
Date:	Thursday, June 21, 2018 12:02:05 PM

If this registry is intended to be open to the public it must be at no charge or you will defeat its purpose. Access to court judgements should also be open to the public at no charge.

s.22

From: s.22

To: FCSP FIN:EX

Subject: Property Ownership Registry Feedback (369993)

Date: Thursday, June 21, 2018 1:56:57 PM

All I can say is IT'S ABOUT F&^%$ING TIME!!!

The fact that it's taken this long is treasonous to the tax paying public and totally inexcusable on the part of previous governments. I am happy the NDP is taking steps to bring "fairness" to our housing market - although most of the policies implemented so far are half measures in my opinion which fail to address the root of our housing affordability crisis at least you're doing something. Keep going and MAYBE you'll help avoid the inevitable burst of the bubble where people could really get hurt....MAYBE.

Wong, Gina G FIN:EX

From: FCSP FIN:EX
Sent: Thursday, June 21, 2018 2:43 PM
Subject: 369995 - English

Subject: Information Made Public About Property Owners in the Province

I am very opposed to this initiative by the BC NDP government.

The reasons are:

1, these info are like the personal accounts of the bank.

Does Mrs. Carol and Mr. Horgen, do you like that your personal account of the bank are seen by the public?

2, personally, I am of the opinion that only the government, the collection department of the taxes, the judicial authorities, the legal persons, the real estate agents are accessible to this information.

Unfortunately, NDP BC is going too far in the privacy of citizens.

3, your idea to make public this info only good to satisfy the hunger of voyeurs.

From: s.22
Sent: Thursday, June 21, 2018 2:07 PM
To: FCSP FIN:EX
Subject: 369995

Objet: les informations rendues publiques au sujet des proprietaries des immobiliers de la province

Je suis tout a fait contre cette initiative du gouvernement de NDP de BC.

Les raisons sont les suivantes:

1, ces info sont comme les comptes personnellles de la banque.

Est-ce que mme carol et Monsieur horgen, vous aimez que votre compte personnelle de la banque sont vues par le public?

2, personnellement, je suis d avis que seulement le gouvernement, le department de collection des impots, les autorites judiciaires, les personnes juridiques,les agents immobiliers y sont accessibles a ces infos.

Malheureusement, NDP BC vous allez trop loin dans la vie privee des citoyens.

3, votre idee de rendre publiques ces infos uniquement bon pour satisfaire a la faim des voyeurs.

发送自 Windows 10 版邮件应用

s.22

From:
To: FCSP FIN:EX
Subject: I SUPPORT GOVERNMENTS PROPOSAL TO MAKE PUBLIC REAL ESTATE OWNERSHIP IN BC (370000)
Date: Thursday, June 21, 2018 2:23:37 PM

Dear Ministry of Finance and Minister James:

I approve of the Prov Government making public all land - both residential and commercial in The Province.

s.22 where almost all of the buyers in the last 25 years have been from offshore and in homes next to us there are people coming and going all the time- we never know who the owners are- The Police have come to the homes and they tell us they do not know who to notify when issues arise such as noise- unkempt lawns- etc

Thank you for addressing a problem 25 years in the making

s.22

s.22

From:
To: FCSP FIN:EX
Subject: Property Ownership Database (370001)
Date: Thursday, June 21, 2018 2:36:02 PM

Hello,

Thank you very much for your efforts to daylight obfuscated home ownership data in BC. If you can, please share this data with the public at no cost, in multiple formats, so that residents and journalists are able to dive into the data and inform discussion regarding affordability, the use of homes as investment mechanisms (versus shelters), "flipping", and other elements of the housing market that are poorly understood thanks to the lack of available, transparent data.

Keep up your great efforts. I feel that many of us residents did not understand all of the elements of provincial government that we were missing under the previous Liberal governments.

Thanks very much for your efforts.

s.22

Miranda, Carrie FIN:EX

From: Ron Usher <RUsher@society.notaries.bc.ca>
Sent: June 22, 2018 11:06 AM
To: Dawkins, Christina FIN:EX
Cc: Dillon, Brian FIN:EX; Justesen, Josh T FIN:EX
Subject: RE: White paper on beneficial ownership in real estate

Thank you for the response. I appreciate the concern, it just makes analysis more difficult.

I have been able to "save as" the PDF to Word format.

(I should note that taking a similar consultative approach to the legislation that will be used for the "speculation tax" would be much appreciated...)

Ron

Ron Usher, B.Sc., J.D., RI,
General Counsel and Commissioned Notary Public
The Society of Notaries Public of B.C.
Suite 700 - 625 Howe Street,
Vancouver, B.C., Canada V6C 2T6

E-Mail rusher@society.notaries.bc.ca
Telephone (604) 681-4516 Direct (778) 327-6386 Toll-Free (800) 663-0343
Fax: (604) 681-7258

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From: Dawkins, Christina FIN:EX [mailto:Christina.Dawkins@gov.bc.ca]
Sent: June 22, 2018 10:48 AM
To: Ron Usher <RUsher@society.notaries.bc.ca>
Cc: Dillon, Brian FIN:EX <Brian.Dillon@gov.bc.ca>; Justesen, Josh T FIN:EX <Josh.Justesen@gov.bc.ca>
Subject: White paper on beneficial ownership in real estate

Mr. Usher:

Government sends out pdf versions of documents as a way of maintaining version and quality control over those documents and I am, therefore, unable to provide you with a version in Word format. However, the pdf is in a form that can be copied and pasted if doing so would be helpful.

We look forward to hearing your comments.

Sincerely,

Chris Dawkins

Chris Dawkins | Executive Director| Financial and Corporate Sector Policy Branch | Ministry of Finance | T 778.698.9401

s.22

From:
To: FCSP FIN:EX
Subject: (370029)
Date: Friday, June 22, 2018 2:37:13 AM

How is this different from the Land Titles office? Seems like a duplication and waste of time and money.

Sent from Mail for Windows 10

From:	s.22
To:	FCSP FIN:EX
Subject:	370069 Province to shine light on 'hidden owners' of B.C. real estate
Date:	Friday, June 22, 2018 1:31:11 PM

Hi, great article. I was hoping for a little bit more depth into an article I read about the "benefits program division" or rather how many home owners are actually on welfare? I read that the highest realestate priced areas are also the listed as the lowest income areas. Where can I find out more on this? Yours,s.22

From: s.22
To: FCSP FIN:EX
Subject: 374104-2 Re: Comments on Land Owner Transparency Act White Paper
Date: Friday, June 22, 2018 2:08:01 PM

Re: my previous message

I would appreciate it if I could remain confidential. I would prefer
not to have my name attached to any political statements.

Thank you,
s.22

On Fri, Jun 22, 2018 at 1:51 PM, s.22 wrote:
> Hello,
>
> I am writing this because I know that most of the people who are going
> to write to comment on this proposal will be those who are against it.
> I think you are doing a great thing here, and your steps towards
> helping solve the housing crisis are much appreciated.
>
> Keep up the good work!
>
s.22

From: s.22
To: FCSP FIN:EX
Subject: 370173 Land Owner Transparency Act
Date: Friday, June 22, 2018 5:18:58 PM

You can't be trusted. You pitched the Empty House Tax as going after the RICH (which you always spew with a tinge of hatred), but in fact, it's any "under utilized" home - right?

s.22

And anybody that owns a cottage will have to hand it over or pay a fine - right?

And the estate homes - how many ppl could afford to rent that 25m home to begin with, or even one worth a measly million?

The sales pitch contains disingenuous items right out of the starting gate. Numbered co? All corporation are assigned a business number for you to track them. So don't pretend everything is hidden, and those that are, are registered with the Feds, not the province. You have no access or control over those.

Question. Why do you always down-play the number of ppl abusing social assistance, and claim a certain amount of abuse is expected, but don't make the same allowance at the other end of the spectrum? What makes you think you won't chase ppl out of the province altogether? God knows policies like your had that effect in the US https://www.investors.com/politics/editorials/how-decades-of-democratic-rule-ruined-some-of-our-finest-cities/

In your efforts to scrounge for every penny you'll ruin the economy, like Wynn, like Notley etc. Why wasn't the empty house tax enough? You don't know restraint? Why don't you learn some?

We already have a Land Registry office - why isn't that enough? It's accessible by people that have a licence to lose if they abuse their position, like lawyers, accountants etc.

Can you guarantee me for all of time that such a site wouldn't be used for witch hunts the next time you need more cash? Which should be any minute now - right?

Can you also guarantee me that super smart criminals won't use the site to commandeer people's homes, or put false mortgages against them? For all time?
A million years into the future?

What about errant police officers or nasty ex's? Are you going to assert there's always some abuse? Oh, you mean like the stuff you're trying to stop? The stuff you claim is unacceptable? But what, that's ok 'cause you're pocketing money?

I notice a tinge communist hatred for all corporations. Say, are communist countries void of all abuse?

Can you list for me all the "unintended consequences"?

This is a horrible plan, and you know it is, or you wouldn't have issued a falsified sales pitch. Just like you did with the empty house tax - right?

If you want to live in a communist utopia, why don't you move? What's next, 570 MILLION cameras watching our every move like the Chinese? https://techcrunch.com/2017/12/13/china-cctv-bbc-reporter/

Or, you could practice some financial restraint.

Putting this stuff online is a Breach of people's privacy, and their right to Life, Liberty, and Security of the Person under the Charter. If you make a move you can reasonably assume I'll file a Mandamus Application to stop you.

I'll stop you like pipeline!! Speaking of which, if you need money - why don't you get out of the way?!?!

s.22

From:
To: FCSP FIN:EX
Subject: 370175 BC Housing Registry Proposal
Date: Saturday, June 23, 2018 9:29:19 AM

Good Morning,

I have some concerns about the recently announced publicly accessible real estate registry.

As a home owner, will my name and address be publicly available for anyone to search?

I work in a sensitive profession and having my name and address available to a disgruntled person could potentially cause issues for my own security.

s.22

s.22

s.22

From:
To: FCSP FIN:EX
Subject: 370176 Comments on Land Owner Transparency Act white paper
Date: Saturday, June 23, 2018 11:51:32 PM

---

65 pages of white paper is far too much for the average citizen to reasonably comprehend so you will only get useful responses from lawyers etc.

S.I.N numbers are far to easily used for identity theft and should not be used. Hackers will inevitably invade your data bases so make it more difficult. If you want to identify individuals use facial recognition, retinal scans or DNA. This works both ways so police investigators, authorized entities and searchers must also provide identification in the same way as individuals noted above.

All your proposed penalties are too little, particularly $100,000 to money launderers who would consider it “chicken feed” and laugh all the way to their foreign abodes.

It is silly and dangerous to state that an administrator can determine the mental health of an individual or a member of the individual’s household. Health and safety will be seriously compromised if he is wrong. Only a court appointed professional psychiatrist can do that, and past experience shows he is not always right. Anyway there are not enough physician resources. Please reconsider this.

Professional corporations and small businesses should be added to schedule 1.

Why aren’t you investigating land ownership/mortgages by the large banks? Also businesses reporting over $2 billion earnings? Both use off-shore corporations and manipulate money to avoid paying their fare share of taxes.

s.22

s.22

s.22

June 24 2018

Financial and Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria BC V8W 9V1

Dear Financial and Corporate Sector Policy Branch,

RE: Land Owner Transparency Act

My input is simple and straight forward:

This registry should be accessible by Law enforcement, Tax agencies and any other Government Agency that requires this data.

MY CONCERN IS THAT THE GENERAL PUBLIC SHOULD HAVE SOME SORT OF FINANCIAL BARRIER BEFORE ACCESSING IT, AS WELL AS THE INFO OF THE PERSON REQUIRING ACCESS TO IT (perhaps a $89 fee per enquiry)

THIS WILL PREVENT ACCESS BY OPPURTUNISTIC CRIMINAL ELEMANTS.

PLEASE KEEP IN MIND THAT BY MAKING THIS DATA READILY AVAILABLE TO THE GENERAL PUBLIC WITHOUT ANY BARRIERS HAS NEVER BEEN DONE BEFORE AND WITH ONGOING ADVANCEMENTS IN TECHNOLOGY BEING EXPLOITED BY NEFARIOUS INDIVIDUALS AND ENTITIES COULD CAUSE MAJOR UNFORESEEN ISSUES.

Sincerely,

s.22

FINANCIAL AND CORPORATE
SECTOR POLICY BRANCH
RECEIVED
JUN 28 2018
370327
MINISTRY OF FINANCE
VICTORIA BC

s.22

From: s.22
To: FCSP FIN:EX
Subject: 370177 Land Owner Transparency Act White Paper
Date: Monday, June 25, 2018 11:00:26 AM

I just looked at the Land Owner Transparency Act White Paper and I'm deeply concerned about this proposed initiative.

1. Creating a publicly available registry is a severe breach of privacy. This would put any land owner working in a sensitive environment at risk for having their home address exposed. Police officers, social workers, teachers and many other jobs where privacy is critical would be put at risk for such a public registry. Not even jobs but landlords would have their home address exposed to disgruntled tenants.
2. Creating a new registry would carry a significant cost associated with the creation. I can't think of a single government registry that cost the same or less than the budgeted amount.
3. There is already an ownership registry with the Land Titles Office. Why can't the rules/laws change regarding how the ownership is registered? Require all companies to list the directors and/or owners. Surely there's something that can be done using the existing infrastructure instead of trying to reinvent the wheel.

I look forward to hearing how these issues will be taken into consideration.

Thanks,
s.22

Miranda, Carrie FIN:EX

From: Dedeluk, Lisa BCA:EX
Sent: June 25, 2018 11:14 AM
To: Dawkins, Christina FIN:EX
Subject: Land Owner Transparency Act questions

Good morning Chris,

Duncan suggested I reach out to you with my questions.
I was wondering if you had time on Wednesday between 1-2pm or 2:30-3:30pm for a quick call (10 mins)? I have gone through the white paper and I had a couple of questions around the what the public or others are able to access and trying to understand any implications to BC Assessment.

Thanks
Lisa

Lisa Dedeluk
Director, Communications and Government Relations

lisa.dedeluk@bcassessment.ca
T 1-866-valueBC (825-8322) x 00368 | C 250-886-3021
400 – 3450 Uptown Blvd. | Victoria, BC V8Z 0B9 | bcassessment.ca

BC ASSESSMENT

From:	tony@choa.bc.ca
To:	FCSP FIN:EX
Subject:	RE: 370179 RE: LOTA White Paper Consultation
Date:	Wednesday, June 27, 2018 10:04:19 AM

Thanks Chris we will implement a communication plan and are pleased to support the consultation.

Tony Gioventu, Executive Director CHOA

Join us for a great lineup of Fall seminars that will include:
Marijuana, Smoking, Minutes, Governance & Decision Making
Go to: http://www.choa.bc.ca/seminars/

From: FCSP FIN:EX <FCSP@gov.bc.ca>
Sent: June 27, 2018 10:01 AM
To: 'tony@choa.bc.ca' <tony@choa.bc.ca>
Subject: 370179 RE: LOTA White Paper Consultation

370179

Tony Gioventu, Executive Director
Condominium Homeowners Association of BC
tony@choa.bc.ca

Dear Mr. Gioventu:

Thank you for your email of June 25, 2018, addressed to Lori Wanamaker, Deputy Minister of Finance, regarding the consultations on the Land Owner Transparency Act White Paper.

In your email, you have inquired about whether there would be any concerns about a public campaign by your organization to promote the consultation or whether the government would prefer the consultations be kept internal to your organization. As this is a public consultation process, we would be pleased that as many people are informed about the proposals as possible but, of course, we believe it is up to each organization to determine what level of interest their members would have in the issue and what sort of consultation the organization would believe is most useful to undertake.

I would like to thank you again for taking the time to write.

Sincerely,

Original signed by:

Chris Dawkins
Executive Director
Financial and Corporate Sector Policy Branch

From: tony@choa.bc.ca [mailto:tony@choa.bc.ca]
Sent: Monday, June 25, 2018 11:39 AM
To: FCSP FIN:EX
Subject: 370179 RE: LOTA White Paper Consultation

Hi Lori, thanks for the inclusion of the consultation. Are we permitted to do a public campaign to promote the consultation or would you prefer we keep this internal? Between the column and our E update we have about 400,000 readers. Regards,

Tony Gioventu, Executive Director CHOA

Join us for a great lineup of Fall seminars that will include:
Marijuana, Smoking, Minutes, Governance & Decision Making
Go to: http://www.choa.bc.ca/seminars/

From: FCSP FIN:EX
Sent: June 20, 2018 11:07 AM
Subject: LOTA White Paper Consultation

Dear Stakeholder:

Attached please find a letter from Lori Wanamaker, British Columbia Deputy Minister of Finance, and a copy of the Ministry of Finance's public consultation paper for the draft *Land Owner Transparency Act* White Paper.

Information can also be found at http://www.fin.gov.bc.ca/pld/fcsp/consultLOTA.htm and https://news.gov.bc.ca/ministries/finance.

Sincerely,

Office of the Deputy Minister of Finance

s.22

From:
To: FCSP FIN:EX
Subject: 370180 Comments on Land Owner Transparency Act white paper
Date: Monday, June 25, 2018 1:54:56 PM

Hi,

I'll spare you the numerous violations of privacy I can think of only because o want to highlight one:

Did anyone stop to think that the same criminals laundering money here might be the same ones that would hold a person - God forbid, one our children - ransom? Was the kidnapping of the McMynn child that long ago? And now you want to create a public registry of the "haves" only to appease your voters? I'm disgusted. Please give some thought to the information we (property owners) are required to disclose. We do so much to protect or kids from predators on the internet and everywhere else and to create a list of where they live seems like so many huge steps backwards. I fear for my children and hope you do to.

Thank you,
s.22

s.22

From:
To: FCSP FIN:EX
Subject: 370181 Land Owner Transparency Act White Paper – June 2018
Date: Monday, June 25, 2018 3:27:46 PM

To Whom it may concern:

I'm not sure whether the white paper properly addressed charitable donations or religious donations that are being funnelled through a charity or the temples/mosques/ churches/gurdwaras/synagogues. As you're aware, charitable organizations enjoy tax-free status in Canada. Many of these donations are handed back to a select few, either by the amount they donate or insiders on a handshake. A paper trail may not exist. But, land is being bought, buildings are being built and political influence is present, using tax-deductible donations. Religious communities that merely take care of their own are free to do so — but taxpayers needn't subsidize them for the privilege. So, are tax breaks for places of worship outdated? Or, are they just blatantly abusing the system for a few, at a cost to the many?

This pattern of conduct is pervasive within the Country and has been in place for generations. How donations are accumulated can be an unknown, but nonetheless washing cash through the local charity/temples/mosques/churches/ gurdwaras/synagogues/temples, etc is happening. I would guess these fall under Trusts, aka tax-havens for local or foreign money.

"As they say, 'money is the mother's milk of political campaigns,' and temples have a lot of it, in cash." Religious communities that merely take care of their own are free to do so — but taxpayers needn't subsidize them for the privilege. So, are tax breaks for places of worship outdated? Or, are they just blatantly abusing the system for a few, at a cost to the many?

s.22

s.22

From:
To: FCSP FIN:EX
Subject: 370183 Comments on Land Owner Transparency Act white paper
Date: Monday, June 25, 2018 5:25:54 PM

Hello,

I feel that the public listing of property ownership is unfair. I pay taxes on the property I own so the government is already aware of where I own.

I am in a profession where I don't need my patients knowing where my children and family live. I feel that this could open up potentially dangerous situations.

Sincerely,

s.22

s.22

s.22

From:
To: FCSP FIN:EX
Subject: 370188 Comments on Land Owner Transparency Act white paper
Date: Monday, June 25, 2018 10:30:52 PM

Please consider that there are those of us who work in client facing industries that deserve some privacy. I would hope that anyone who worked in customer service should feel safe in their homes to not have customers look us up, or for doctors to be able to have some separation where patients couldn't try to shortcut lines by looking up doctors addresses through something like this. There are many other ways to ensure that real estate is regulated, and governments have the information necessary to do something about it.

Sincerely,
s.22

From: s.22
To: FCSP FIN:EX
Subject: 370189 Land Owner Transparency Act Consultation - Comments
Date: Tuesday, June 26, 2018 9:04:54 AM

Dear Sirs/Mesdames,

I am responding to your request for comments on the introduction of a beneficial ownership public registry. s.22 I can attest to just how prevalent the use of nominee corporations and bare trust agreements are to obscure beneficial ownership. These practices are egregious and need to end. No one should be able to evade taxes and benefit from hiding the ownership of property. We desperately need transparency brought to the beneficial ownership of homes, and I unequivocally laud and support the use of a beneficial ownership public registry. Thank you for the opportunity to comment on this matter.

Sincerely,

s.22

Miranda, Carrie FIN:EX

From: Dillon, Brian FIN:EX
Sent: June 26, 2018 10:04 AM
To: Wong, Gina G FIN:EX; Dawkins, Christina FIN:EX; Primeau, Joseph FIN:EX
Cc: Thomas, Krista FIN:EX
Subject: RE: All incoming responses to date have been uploaded into the LOTA sharepoint site...

Awesome thanks.

From: Wong, Gina G FIN:EX
Sent: Tuesday, June 26, 2018 10:02 AM
To: Dillon, Brian FIN:EX; Dawkins, Christina FIN:EX; Primeau, Joseph FIN:EX
Cc: Thomas, Krista FIN:EX
Subject: All incoming responses to date have been uploaded into the LOTA sharepoint site...

Gina Wong, Office Manager
Financial and Corporate Sector Policy Branch
Policy and Legislation Division
Ministry of Finance
T = 778 698-5272

From: s.22
To: FCSP FIN:EX
Subject: 370249 Land Owner Transparency Act White Paper
Date: Wednesday, June 27, 2018 10:07:31 AM

I do have significant concerns about the creation of a "public registry" where individuals can be looked up revealing their property/ assets. As of current, a member of the public can go to the Land Titles office and do a title search based on name (or ask a lawyer to do so), and in my view, such procedure causes sufficient inconvenience and incurs a cost such that it protects the privacy interests of individuals – people only look up this information if/when necessary. I do agree that, perhaps individuals/ beneficial owners behind corporations and/or trust vehicles be made known and "search-able" in the existing Land Titles Registry, but I find it very difficult to accept that anybody who knows me (whether personal or professional) could just go online to a public registry and look up what I have and what I own. Also, while there is an exception where victims of domestic violence can apply for to have their information omitted – what is the standard and how are people supposed to prove that they are vulnerable? Many individuals (specifically women) do not report incidents of domestic violence and there often is no "proof" particularly when the violence is emotional in nature.

s.22

Miranda, Carrie FIN:EX

From: Dillon, Brian FIN:EX
Sent: June 28, 2018 2:06 PM
To: Currie, David GCPE:EX
Cc: Dawkins, Christina FIN:EX; Norman, Tiffany FIN:EX
Subject: RE: LOTA response to emails/letters/submissions recieved

No problem; we know you are busy. Thanks for the suggestions; we will get going sending out responses. Cheers, Brian

---

From: Currie, David GCPE:EX
Sent: Thursday, June 28, 2018 2:05 PM
To: Dillon, Brian FIN:EX
Cc: Dawkins, Christina FIN:EX; Norman, Tiffany FIN:EX
Subject: RE: LOTA response to emails/letters/submissions recieved

Brian,

My apologies for not getting back to you sooner. Some suggestions:

s.13

From: Dillon, Brian FIN:EX
Sent: Thursday, June 28, 2018 1:41 PM
To: Currie, David GCPE:EX <David.Currie@gov.bc.ca>
Cc: Dawkins, Christina FIN:EX <Christina.Dawkins@gov.bc.ca>; Norman, Tiffany FIN:EX <Tiffany.Norman@gov.bc.ca>
Subject: RE: LOTA response to emails/letters/submissions recieved

David: Any concerns about the suggested response? Thanks, Brian

---

From: Dillon, Brian FIN:EX
Sent: Tuesday, June 26, 2018 9:42 AM
To: Currie, David GCPE:EX
Cc: Dawkins, Christina FIN:EX; Norman, Tiffany FIN:EX
Subject: LOTA response to emails/letters/submissions recieved

David: Further to our discussion last week, here is the suggested draft response to LOTA submissions:

s.13

Too short??? Any changes??

Thanks,

Brian

From: Ron Usher
To: FCSP FIN:EX
Subject: RE: A request - RE: LOTA White Paper Consultation (369971-2)
Date: Friday, June 29, 2018 4:11:55 PM

Dear automated response…

We do plan to provide a formal response to the consultation document.

Ron

Ron Usher, B.Sc., J.D., RI,
General Counsel and Commissioned Notary Public
The Society of Notaries Public of B.C.
Suite 700 - 625 Howe Street,
Vancouver, B.C., Canada V6C 2T6
E-Mail rusher@society.notaries.bc.ca
Telephone (604) 681-4516 Direct (778) 327-6386 Toll-Free (800) 663-0343
Fax: (604) 681-7258
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From: FCSP FIN:EX [mailto:FCSP@gov.bc.ca]
Sent: June 29, 2018 3:54 PM
To: Ron Usher <RUsher@society.notaries.bc.ca>
Subject: RE: A request - RE: LOTA White Paper Consultation (369971)

Dear Stakeholder:

Thank you for your submission on the public consultation for the Land Owner Transparency Act. Your submission will be carefully considered, along with all submissions received by the government by the close of the consultation period on August 19, 2018. The government will finalize the Land Owner Transparency Act after all of the feedback from the public consultation has been considered.

From: Ron Usher [mailto:RUsher@society.notaries.bc.ca]
Sent: Thursday, June 21, 2018 9:35 AM
To: FCSP FIN:EX
Subject: A request - RE: LOTA White Paper Consultation (369971)

Thank you for this.

In order to facilitate review of the proposed Act, it would be very helpful to have the draft Act

document in Word format.

I can of course convert the PDF provided to Word, but that is a clumsy conversion.

Thank you.

Ron Usher

Ron Usher, B.Sc., J.D., RI,
General Counsel and Commissioned Notary Public
The Society of Notaries Public of B.C.
Suite 700 - 625 Howe Street,
Vancouver, B.C., Canada V6C 2T6
E-Mail rusher@society.notaries.bc.ca
Telephone (604) 681-4516 Direct (778) 327-6386 Toll-Free (800) 663-0343
Fax: (604) 681-7258
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From: FCSP FIN:EX [mailto:FCSP@gov.bc.ca]
Sent: June 20, 2018 11:07 AM
Subject: LOTA White Paper Consultation

Dear Stakeholder:

Attached please find a letter from Lori Wanamaker, British Columbia Deputy Minister of Finance, and a copy of the Ministry of Finance's public consultation paper for the draft *Land Owner Transparency Act* White Paper.

Information can also be found at http://www.fin.gov.bc.ca/pld/fcsp/consultLOTA.htm and https://news.gov.bc.ca/ministries/finance.

Sincerely,

Office of the Deputy Minister of Finance

s.22

From:
To: FCSP FIN:EX
Subject: Re: Public Registry for Real Estate Ownership (369953-2)
Date: Friday, June 29, 2018 4:19:34 PM

Further to my previous submission, perhaps a simple change regarding the Corporate Registry (who owns a corp)
would be enough to satisfy the powers that be, without impacting the basic privacy of property owners. If I own a
house now, I can order the title from Land Titles, and info on the owner is apparent. If I can further order info on
a corporate owner of real estate, through Land Titles, again the taxing powers should be satisfied, without the ownership
being 'public'. There is a cost to order a title from Land Titles. There should be a cost to ordering the ownership info
for a corporation as well, although not to the taxation powers that be.

s.22

PS - I don't really plan on using the public land owner registry to knock on the doors of cabinet ministers or the Privacy Commissioner. Just making a point...

On 2018-06-29 3:21 PM, FCSP FIN:EX wrote:
> Dear Stakeholder:
>
> Thank you for your submission on the public consultation for the Land Owner Transparency Act. Your submission will be carefully considered, along with all submissions received by the government by the close of the consultation period on August 19, 2018. The government will finalize the Land Owner Transparency Act after all of the feedback from the public consultation has been considered.
>
>
> -----Original Message-----
> From s.22
> Sent: Wednesday, June 20, 2018 7:58 PM
> To: FCSP FIN:EX
> Subject: re: Public Registry for Real Estate Ownership (369953)
>
> To whom it may concern;
>
> s.22 I am concerned
> about the new Public Registry
> regarding property ownership. Understand that I have no problem with the
> government knowing what
> I own, nor do I have a problem with paying my fair share of taxes. But I
> do question the wisdom of making
> property ownership completely transparent 'publicly'.
> For one, this would mean that I could look up Carole James' home
> address and go and bang on her door
> directly. I don't think that's welcome news. Same goes for John Horgan,
> Andrew Weaver, and any other
> public figures that would appreciate a little privacy. Do the members of
> cabinet want the public to know
> where they own a summer house? Or four rental properties?

> To me, this is a simple privacy issue. It's nobody's business
> (publicly speaking) what I own and where I
> own it. I'm not a public figure. In practical terms, s.22
s.22
Suddenly
> I would be subject to calls
> regarding plugged toilets and such? Honestly? I would stop building and
> divest. Understand, I want the
> plugged toilet dealt with promptly, but I don't need to hear about it.
> We have a HUGE rental housing problem in British Columbia. If every
> real estate investor (landlord) were
> to find their assets open to public scrutiny, you would have fewer
> investors, fewer builders, fewer projects,
> and an even tighter rental market as a result.
> What I own and where I own it is my business. If I choose to tell
> somebody, that's my business. Certainly
> it is the government's business too, when it comes to taxation. But what
> business is it of my neighbour?
> You can already find the owner's of property via BC Land Titles. A
> simple legislative change would force
> disclosure, and further permit access to Company records, through the
> self same vehicle.
> I trust cooler, more privacy-conscious heads will prevail. Otherwise
> I might have to go bang on the
> Jinny Sims' door.
>
> Sincerely,
>
s.22

>

From: s.22
To: FCSP FIN:EX
Subject: 370420 Re: Land Owner Transparency Act White Paper
Date: Saturday, June 30, 2018 2:30:03 PM

Comment re: Land Owner Transparency Act White Paper

I would just like to add my voice to say that I fully support the idea of making land title fully transparent. I fully support the government's plan to make it a requirement for the true owner of properties be known, and stop the hiding of ownership behind numbered companies, trusts etc. The people need to know who are the owners of properties in BC. The data gathered will be invaluable in determined if any more action needs to be taken regarding foreign ownership of properties in BC as without knowing the true owner any comments on if foreign ownership is a issue are not based on fact. I see no privacy issue with the proposal, and expect the regular home owner (when they are told that the title information on their property is public if they don't hold their home though a numbered company) will fully support this plan. The only people who will oppose are those with something to hide.

Sincerely,
s.22

From:	s.22
To:	FCSP FIN:EX
Subject:	370422 Land Owner Transparency Act
Date:	Monday, July 2, 2018 9:06:38 PM

Hi

I am in favour of transparency of ownership for both residential property and I believe that anyone buying a property through a company or trust should have to declare who the actual owner or beneficiary is.

I also believe that the KPMG's of the world who design "tax minimisation" strategies should also be held accountable by being fined along with anyone setting up these structures to obfuscate ownership and hence avoid tax.

I also am in favour of significantly higher annual property taxes for foreign owners, i.e. 5% plus. People on normal incomes should be able to afford to buy a place to live in. Our economy suffers when mortgages as so disproportionately high, because there is less money left over for spending. The current generation is set to become renters for life, and when it comes to their retirement, will they have a nest egg to live off via the forced savings of property ownership or will the tax payer foot the bill?

Thanks

s.22

s.22

From:
To: FCSP FIN:EX
Subject: 370423 Shadow Flipping
Date: Tuesday, July 3, 2018 8:50:34 AM

Thank you for implementing this policy. I think it's terrible that speculators can make personal gains based on connections (and not pay tax on those gains and artificially drive prices up) prior to a genuine owner moving into a new home.

Sent from my iPhone

From: s.22
To: FCSP FIN:EX
Subject: 370573 Publicly available database
Date: Thursday, July 5, 2018 2:05:16 PM

Hello There;

I would like to express my strong support for the new registry, open to the public, that will list anyone who owns real estate in British Columbia. I work as a researcher for a construction data collection firm and have encountered a number of projects where who is behind significant developments is completely obscured.

Eliminating the veil will not be an issue for those who already are open and upfront about what they hope to develop - which is the vast majority. It is the ones who have dodgy purposes in mind who will be concerned and in no way should they have any kind of screen available to them.

s.22

Thanks for this initiative.

s.22

s.22

From:
To: FCSP FIN:EX
Subject: add to batch - Comments on Land Owner Transparency Act white paper
Date: Monday, July 23, 2018 4:38:31 PM

Is there some reason the land owner can't simply be displayed on the BC Assessment website, instead of creating another data base.

Also, if a new data base is created, I don't see why there should be a charge for simply accessing information on that data base. Further, I believe that property ownership used to be public information, I can only surmise that the former Liberal government chose to remove the readily available information from public records and require the payment of a fee to search properties through the Land Titles Office.

s.22

From: s.22
To: FCSP FIN:EX
Subject: 370668 owner transparency act white paper
Date: Sunday, July 8, 2018 8:22:33 AM

Sirs:

While I understand from reading the preamble the intent of the proposed legislation, there is a part of it that horrifies me! I see there is a desire on the part of government to ensure that ownership is readily discoverable – excusable ONLY where there is a suspicion of evasion of taxes or of money laundering. But to create a registry that is open to the public and contains names of individual property owners is an invitation to misuse of such a registry. And to add birthdates and social insurance numbers where the ownership is a company or a partnership is just not acceptable to me. Even though the plan right now is to limit access to only authorised personnel, it is a short step before this information gets into the public domain. Hacking is the obvious thought, misuse by "authorised personnel" is a secondary thought.

For the individual owner, the provision of this information to the general public under the guise of transparency is, to me, an invitation to receive all kinds of personally addressed mail that I would not want to receive. You will be creating a mailing list for service providers – scrupulous and unscrupulous alike. And while currently there doesn't appear to be a plan for the individual owner's very personal information (birth date and social insurance number) to be included, I fear the thin edge of the wedge!

There are currently mechanisms for the discovery of ownership. Anyone can go to an LTO and pay to have a title search done. From there, one can collect information from the BC Registrar of Companies if it is important to glean information "hidden" behind a numbered company. This information IS available. But to put it all in one place, open to the public, is of great concern to me, a private citizen.

Please reconsider this plan. In this day and age of information once on the world wide web never to be removed, you are entering into a risky proposition in my considered opinion.

Sincerely,
s.22

Home owner and citizen

From:	Finn, Renee FIN:EX
To:	FCSP FIN:EX
Subject:	370692 - Response - Comments on Land Owner Transparency Act white paper
Date:	Tuesday, July 10, 2018 3:16:28 PM

-----Original Message-----
From: Finn, Renee FIN:EX On Behalf Of FCSP FIN:EX
Sent: Tuesday, July 10, 2018 3:14 PM
To: s.22
Subject: RE: 370692 - Comments on Land Owner Transparency Act white paper

Dear Stakeholder:

Thank you for your submission on the public consultation for the Land Owner Transparency Act. Your submission will be carefully considered, along with all submissions received by the government by the close of the consultation period on August 19, 2018. The government will finalize the Land Owner Transparency Act after all of the feedback from the public consultation has been considered.

-----Original Message-----
From s.22
Sent: Monday, July 9, 2018 8:37 AM
To: FCSP FIN:EX
Subject: 370692 - Comments on Land Owner Transparency Act white paper

I am 100% in support of this measure and welcome the change. Best of luck with the implementation Carole and David!

Sincerely,

s.22

Sent from my mobile device

s.22

From:
To: FCSP FIN:EX
Subject: 370717 Feedback: BC beneficial ownership white paper proposal
Date: Monday, July 9, 2018 8:41:47 AM

BC should look to the UK Beneficial Ownership Registry to create an effective registry of its own.

https://www.ukrealestatelawblog.com/2018/03/28/update-public-register-of-beneficial-ownership-of-uk-property-by-overseas-entities/

Suggestions:

1) Close the blind trust loophole.

2) It can be difficult to uncover the owner of foreign corporations. Creating a rule that a property cannot be sold unless the beneficial owner is verified would force the owner to disclose if they want to profit from their investment.

3) Charge additional taxes to keep identity secret. Government would have the information but it would not be publicly available.

> "The owner is paying £220,000 a year in extra tax in order to keep their identity a secret."

https://www.theguardian.com/global/2018/jul/08/generation-wealth-how-the-modern-world-fell-in-love-with-money

s.22

From:
To: FCSP FIN:EX
Subject: Re: Land Owner Transparency Act Feedback (370028-2)
Date: Monday, July 9, 2018 1:09:15 PM

Hello,

I did not state earlier, but I require that my feedback be submitted under the condition of anonymity. If this cannot be given, please delete my feedback and do not post it to any website or accessible location.

Please advise if this is possible. Thank you.

s.22

On Fri, Jun 29, 2018 at 4:20 PM FCSP FIN:EX <FCSP@gov.bc.ca> wrote:

> Dear Stakeholder:
>
> Thank you for your submission on the public consultation for the Land Owner Transparency Act. Your submission will be carefully considered, along with all submissions received by the government by the close of the consultation period on August 19, 2018. The government will finalize the Land Owner Transparency Act after all of the feedback from the public consultation has been considered.
>
> s.22
> **From:**
> **Sent:** Thursday, June 21, 2018 10:22 PM
> **To:** FCSP FIN:EX
> **Subject:** Land Owner Transparency Act Feedback (370028)
>
> Hello,
>
> As someone who has concerns regarding beneficial ownership in Vancouver, it is welcome news to hear that BC will take steps to combat the problem.
>
> I have a few concerns that I would like addressed with the proposed legislation.

First, how closely will BC work with the UK government when implementing the registry? Seeing how such a registry exists successfully in the UK, will BC's structure closely mirror theirs?

Second, what steps will BC take to ensure companies not registered in BC abide by the laws? It appears that as BC only requires "reasonable efforts" to be made to determine the beneficial owners, this may incentivize the use of offshore corporations. This is because a reasonable effort to enquire in light of Canadian banking laws may not result in the same results for a company located in a country with opaque banking requirements. The use of foreign corporations to avoid the law is a problem that the UK ran into; what will BC do?

Third, why were the penalties set so low? And how much money will be put towards enforcement? For a personal fine of only $50,000, this is but a 1% penalty on a home priced at $5,000,000. Using an expected cost comparison, if 10% of non-compliance cases are penalized, multiplied by the penalty of $50,000, this leads to an expected cost of $5,000. The potential gains for non-compliance are immense (the ability to make large profits in the real estate market). Shouldn't the penalties be much higher to ensure compliance? For example, a freeze on the ability to transfer the asset, receive payment from it, or exercising any other property rights in relation to the property while under investigation or upon conviction would be a very useful penalty. By implementing this, the expected cost of non-compliance would be significantly higher as the individual or corporation could not realize gains from the investment, and would greatly incentivize compliance.

I look forward to seeing how BC implements this registry. If done properly, it can be a very useful tool to improve affordability and even the playing field in the real estate market. I hope BC works closely with the UK government when drafting the legislation, and improves the penalties for non-compliance.

Sincerely,
--
s.22

From:	Charlsy Dobell
To:	FCSP FIN:EX
Subject:	370720 AUTOPROP + Land Owner Transparency Act
Date:	Monday, July 9, 2018 9:49:41 AM
Attachments:	image001.png

Hello there,

I am CEO of AUTOPROP Software here in Vancouver. We provide real estate due-diligence services to almost 1000 real estate professionals in BC. Our system searches public, private, free and paid databases, simultaneously and in real-time. It helps REALTORs, Commercial Brokers, Developers and others get all available information on a given property in seconds, including owner information. It's primary goal is to help professionals get complete property information which gives them the ability to consistently make informed, fair decisions. Ultimately, the public benefits hugely from any professional using our service.

When it comes to the new initiative by the NDP to reveal hidden ownership, I believe my company can be of extraordinary help both implementing and maintaining this system. We maintain an automation of both BC OnLine and LTSA, and can already aggregate and search layers of ownership. As an example, our system can determine if a property is privately, BC or Federally registered, then automatically pull the title documents and/or bc registry corporate search, scrape out director's names in that case, and do a subsequent search on them… etc.!

I would love the opportunity to demonstrate the software or speak with somebody.

Please let me know if you are interested and if you have any further questions.

Warm regards,

Charlsy Dobell
D: s.22
E: charlsy@autoprop.ca

AUTOPROP

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From: Manton, Kim FIN:EX
To: Minister, FIN FIN:EX
Subject: FW: Proposed Land Owner Transparency Act
Date: July 11, 2018 2:58:40 PM

Hi,
Could we please get mla bullets for the inquiry below?
Thanks,
Kim

From: Frederiksen, Hans [mailto:Hans.Frederiksen@leg.bc.ca]
Sent: Wednesday, July 4, 2018 11:22 AM
To: Manton, Kim FIN:EX
Subject: FW: Proposed Land Owner Transparency Act
Hi Kim Can you help with answering s.22 question . Thanks . Hans

Hans Frederiksen | Constituency Assistant to John Horgan, MLA, Langford-Juan de Fuca
#122 - 2806 Jacklin Road Victoria BC V9B 5A4 | P: 250-391-2801 | F: 250-391-2804
E: hans.frederiksen@leg.bc.ca
Office Hours: Monday to Friday, 10 am to 4 pm

From: s.22
Sent: Tuesday, July 3, 2018 12:41 PM
To: Minister, FIN I FIN:EX
Cc: Frederiksen, Hans
Subject: Proposed Land Owner Transparency Act
Dear Minister,
I have asked a question about the proposed Land Owner Transparency Act using the email shown on the information page.
The question was responded to but the response had nothing to do with my question.
I would greatly appreciate it if you would connect me with someone in your department who can respond to my question.
It is difficult to comment on a Whitepaper when the intent of the legislation seems obscure.
The response and my question is shown below in my original email and the response received.
Respectfully,
s.22

From: FCSP FIN:EX [mailto:FCSP@gov.bc.ca]
Sent: Tuesday, July 03, 2018 9:09 AM
To: s.22
Subject: RE: 370421 question?
Dear Stakeholder:
Thank you for your submission on the public consultation for the Land Owner Transparency Act. Your submission will be carefully considered, along with all submissions received by the government by the close of the consultation period on August 19, 2018. The government will finalize the Land Owner Transparency Act after all of the feedback from the public consultation has been considered.
From s.22
Sent: Monday, July 2, 2018 6:22 PM
To: FCSP FIN:EX
Subject: 370421 question?

Thank you for the opportunity to comment on the Land Owner Transparency Act White Paper
Prior to forwarding my comments I would like a response to the following question.
I am a Canadian citizen holding real estate in BC in a BC numbered company.
I would like to know the intent of this bill as it relates to the sale of shares in this company.
I hold 100% of the shares. If I sell my shares to someone under this new legislation, is it your intent that there would be a land transfer tax payable?
Looking forward to your reply.
Respectfully,

s.22

s.22 BC

s.22

From:
To: FCSP FIN:EX
Subject: 370717-2 Feedback: BC beneficial ownership white paper proposal Inbox x
Date: Thursday, July 12, 2018 8:29:18 AM

Investors in Vancouver and around the world are avoiding taxes through share transfers within anonymous foreign corporations. If this issue is not addressed investors will increasingly use this simple loophole to avoid taxes.

Suggestion: additional 15% annual tax or fine on any property that is owned by a foreign or domestic corporation that does not disclose its beneficial owners. Beneficial owners must be disclosed annually with property taxes.

HK$9.4bn tax revenue lost as residential property buyers dodge stamp duty via 'share transfer' – study

Unlike in most property transactions where the legal title passes from one person to another, in share transfers the ownership of the property does not change. The property belongs to a company, and instead the buyer pays for effective control of the company. Because the law does not recognise the transfer as a transfer of property, no stamp duty is levied.

https://www.hongkongfp.com/2018/07/12/hk9-4bn-tax-revenue-lost-residential-property-buyers-dodge-stamp-duty-via-share-transfer-study/

Miranda, Carrie FIN:EX

From: Dillon, Brian FIN:EX
Sent: July 12, 2018 9:46 AM
To: Wong, Gina G FIN:EX; Dawkins, Christina FIN:EX
Subject: RE: 370717-2 incoming - should this be posted on the LOTA sharepoint?

No. It just seems to be the response from Renee.

From: Wong, Gina G FIN:EX
Sent: Thursday, July 12, 2018 9:43 AM
To: Dawkins, Christina FIN:EX
Cc: Dillon, Brian FIN:EX
Subject: 370717-2 incoming - should this be posted on the LOTA sharepoint?

Same author – didn't read (yet) on whether the contributor is stating the same thing as the first incoming.

Gina Wong, Office Manager
Financial and Corporate Sector Policy Branch
Policy and Legislation Division
Ministry of Finance
T = 778 698-5272

Miranda, Carrie FIN:EX

From: Dillon, Brian FIN:EX
Sent: July 12, 2018 9:52 AM
To: Wong, Gina G FIN:EX; Dawkins, Christina FIN:EX
Subject: RE: 370717-2 incoming - should this be posted on the LOTA sharepoint?

Yes they are different and both should be posted. Brian

From: Wong, Gina G FIN:EX
Sent: Thursday, July 12, 2018 9:43 AM
To: Dawkins, Christina FIN:EX
Cc: Dillon, Brian FIN:EX
Subject: 370717-2 incoming - should this be posted on the LOTA sharepoint?

Same author – didn't read (yet) on whether the contributor is stating the same thing as the first incoming.

Gina Wong, Office Manager
Financial and Corporate Sector Policy Branch
Policy and Legislation Division
Ministry of Finance
T = 778 698-5272

s.22

From:
To: FCSP FIN:EX
Subject: 370827 Land Ownership Transparency
Date: Friday, July 13, 2018 10:33:37 AM

This is an excellent idea. And when it's a numbered company that owns property, the principal investors and their citizenship status should be listed as well.

s.22

From:
To: FCSP FIN:EX
Subject: 371033 Comments on proposed "Landowner
Date: Transparency Act". Saturday, July 14, 2018 1:03:48 PM

While making changes to the land title registration process, you should mandate the land title to request the buyer for a proof of payment in the form of bank transactions documents. Without this, a conspiring team of local "buyers" and "sellers" will be able to register a bogus "sold" property at the land title office and artificially increase the value of their property.

The provincial government is looking for feedback on the proposed "Landowner Transparency Act".

Share your comments: fcsp@gov.bc.ca

From: .....
To: FCSP FIN:EX
Subject: 371038 - Government cracking down on hidden ownership of real estate
Date: Sunday, July 15, 2018 10:01:15 AM

Yes. I agree and support this idea.

Sent from my Samsung device

From: s.22
To: FCSP FIN:EX
Subject: 371041 Feedback on the white paper proposal of the Land Owner Transparency Act Sunday, July 15, 2018 12:20:07 PM

Hello,

I took a look at the white paper provided by the following link:
https://news.gov.bc.ca/releases/2018FIN0028-001241

On Page 27, discussions about the Use of Information Provided in Disclosure Reports, it says "Any person may search the publicly accessible information in the land transparency registry generally in the same way they may now search information contained in the land title registry. Searches may be made by land parcel identifier or by name. They must be made using the form established by the Administrator and be accompanied by the required fee."

My suggestion is, the land transparency registry should let any person search the legal or beneficial owner of each property free of charge.

s.22

s.22 In USA, I can get all these information for free.

With free access to these information, any person can find out who own's what from the registry. Sure, the owner's birth date and social insuance number will remain private to the general public. But at least we get to know the owner's name and what other real properties he/she owns in BC. In this way, any body could identify and report a suspicious tax evasion or money laundering, leading to further investigations by the law inforcement of Canada or from a foreign country.

If your government really wants to make housing more affordable to the honest tax payers in BC, you should make it easier for the general public to find frauds and provide leads to the law inforcement.

--
Best regards,
s.22

From: s.22
To: FCSP FIN:EX
Subject: 371043 Comment - Land Owner Transparency Act White Paper – June 2018 Sunday, July 15, 2018 8:34:39 PM

Dear Minister James,

I am a resident of Ontario and have read the proposed legislation with great interest. Property rights, ownership and protection afforded by the laws of our municipal, provincial and federal laws are crucial in our long term prosperity. Economist Hernando De Soto from Peru has written multiple articles on the foundational value of a strong property rights framework in the West.

Discussion questions

Are there ways to make the legislation more effective or more efficient?
- Use of blockchain technology could be one way to ensure all stakeholders, buyers, sellers and regulators have a real time view of the ownership of property titles in BC.
- Updating the land registry to a permissioned blockchain (such as Hyperledger Fabric) could be particularly useful
- A permissioned blockchain would allow accurate identification and provision this information to relevant stakeholders, including regulatory bodies
Examples of early experiments can be reviewed by looking at the Cook County, IL land registry and blockchain experiment in 2016

Does the draft legislation strike an appropriate balance between transparency and privacy?
As an end user and tax paying Canadian, the high level aim of creating transparency is a welcome move.
Again, blockchain could employ the use of smart contracts to facilitate information to each stakeholder based on their viewing rights as described in the design of the oversight mechanism.

Are there any other entities that might be used to hide ownership that are not addressed in the draft legislation?
Smart contracts could be used by private companies to store title of real property.
If this is done by private providers, it could become very difficult for the regulatory bodies to view and govern.
An early and hands-on approach to blockchain technology would likely become a boon as it would unlock billions of $$ locked up in real estate.

Are there any other comments on the draft legislation?
Given the sensitivity of the information recorded in land registries, it may be worth considering using blockchain based registry to run as a shadow for a period of time. This would mean that each transaction that is being recorded according to legal requirements on existing systems would also be recorded on blockchain based networks. In time, we will learn about the operational challenges and benefits and be able to make an informed decision of

whether blockchain based land registries make sense at provincial scale.

Does the draft legislation strike an appropriate balance between effectiveness and the compliance requirements for land owners?

Yes, it seems appropriately balanced.

I recognize there are many topics and concepts in this comment that may require further elaboration.
As required, I can make myself available to support the thinking around using blockchain to increase transparency and speed while reducing the cost and time it takes to update land records.

Thank you for your time and consideration.

s.22
s.22 ON

s.22

From:
To: FCSP FIN:EX
Subject: 371044 Comments on Land Owner Transparency Act
Date: white paper Tuesday, July 17, 2018 12:31:33 PM

Hi

First of all I would like you to thank all of you who are finally thinking about B.C. Citizens. All the steps taken by the govt are great.

Land owner transparency will give govt a lot of revenue. B.C. Resident can't buy even a one bedroom condo nowadays.

There is a lot of manipulation happening in the real estate industry. The difference between poor and rich is getting bigger and bigger.

The prices of real estate has doubled in 2.5 years. The townhouse which I wanted to buy 3 years ago for 3,50,000 now it's 6,50,000.

Two bedroom condo is 4,50,000 even in Langley.

The real estate agents are blowing real estate prices. Middle class person can't even buy a two bedroom condo.Chances are higher that every agent has at least one property to flip. Imagine there are 15000 agents in Bc . Some might have two some might have one. We need to restrict.

I would also like you to add couple more taxes:

1 people who have second house should pay extra tax so that first buyer should get a chance.

2 if you buy a pre sale property you can not sell it for 5 years.

3 govt should make a affordable housing fund where all the middle class people should put there money in and with the help of non profit housing should be made.

4. The foreign buyer should buy businesses not the houses. Business will give us jobs and help the economy.

5 . Get the real figures from real estate. The numbers they make up are no where close to what it is right now.

6. In england you can buy 50% share in land ownership with govt .

7 . What we need in BC are big company setting up there factories. So more people will get jobs so that govt will get more revenue. Like amazon.

Casino money.

Just keep blowing whistle and keep catching people and putting penalties on people who abuse the law. So that the rest dnt do it. You will see prices going down soon. even if the prices goes 50% down still it won't be that easy to buy a property in Vancouver. At least we should be able to buy a preoperty in Langley.

Please please build more condos and townhouse nobody wants houses anymore. We want 2 or three bedroom units close to transportation.

Thanks you all for your hard work.

B.C. Resident

Sent from my iPhone

From: s.22
To: FCSP FIN:EX
Subject: 371133 - Housing in bc
Date: Saturday, July 14, 2018 8:58:14 AM

We moved here from Alberta and s.22 we found BC way too disheartening and where we can own a home with a cul-de-sac and yard for the kids in ab- we couldn't even afford a town home here in the lower mainland s.22
s.22

s.22 I wish I could bill the liberals for that- but we have no option as s.22
s.22
s.22 ınd we have no hope of owning anything here. Even with a 100k downpayment!!!! Yet we easily qualified for a beautiful home in alberta where the neighbourhood still has life in it. BC is becoming a cold, sterile NON family friendly place to live. Sad sad sad

My kids made school friends here and they have cousins, aunties, uncles here. very very frustrating BC!! Do whatever you can to make this an affordable Canadian city again- then I can consider moving our family back. The rest of my family bought into this market years ago when it was affordable for hard working families to acquire homes. They had to budget and work hard- but could do it with work. Now- they couldn't do it without winning lottery- it has become unattainable for even hard average or above average Canadians.

s.22

From:
To: FCSP FIN:EX
Subject: Land Owner Transparency Act Consultation
Date: Saturday, July 21, 2018 2:34:45 PM

I strongly support making land ownership in BC much more transparent.

In my view, it is essential that the proposed legislation covers existing ownership, rather than only applying to future transactions.

Regards,
s.22

From:	s.22
To:	FCSP FIN:EX
Subject:	Feedback on Land Owner Transparency Act Consultation
Date:	Saturday, July 21, 2018 3:11:47 PM

Hello,

I request my name and email address to be withheld from any publication.

Overall, the proposed legislation is very useful and extremely necessary. I have the following suggestions:

> This legislation should ensure that every land title record record all interests held in the land, down to the individual level (i.e., no company can hide the information; all beneficiaries must be listed on the title). In this situation, if there are any changes to the ownership of the company, the title MUST be updated. If the title is not updated, then the change in ownership to the company will not be in effect.
>
> No lawyers are to be used as trustees for beneficial ownership, unless the beneficiary is under 19. All owners of interests in real estate must appear on title; there can be no withholding of information through the use of lawyers as a cover.
>
> No transfer of ownership of a company, which owns an interest in land, can be conducted unless the new owner pays the property transfer tax. If all directors, or a majority of, cease to be involved with the ownership of an interest in land, then the land is to be deemed sold, and property transfer taxes are to be collected. Any changes in ownership of a company of this nature are to be recorded on the title.
>
> A simple directory must be established to allow for a search of individual ownership across multiple properties. A search of any name should return all titles owned by that person. You should not have to incur a charge on myLTSA to attempt to find out what property is owned by that person; this information should be easily-accessed and transparently-provided without layers of processing.

Thank you,

s.22

Finn, Renee FIN:EX

From: s.22
Sent: Sunday, July 22, 2018 11:24 AM
To: FCSP FIN:EX
Subject: homeowner registration. etc.

hi
bring it on. the sooner the better.
how about increasing the 4N buyer's tax? the legislation is already in place.
how about releasing the dollar amounts received via the buyer's tax?

Miranda, Carrie FIN:EX

From: Dillon, Brian FIN:EX
Sent: July 23, 2018 1:58 PM
To: Dawkins, Christina FIN:EX
Cc: Allen, Leanne V FIN:EX
Subject: RE: Land Owner Transparency Act

Suggested reply:

>>>>>>>>>>

We are currently seeking the Minister's consent to extend the consultation period for one month until September 19 because of concerns raised by key stakeholders (legal and real estate professionals) about current time frame (too short, ends during the summer vacation). We anticipate it will take a month to analyze the feedback, prepare a consultation summary for public release, prepare briefing materials for the Minister. s.12,s.13

s.12,s.13

From: Allen, Leanne V FIN:EX
Sent: Monday, July 23, 2018 11:55 AM
To: Dawkins, Christina FIN:EX; Dillon, Brian FIN:EX
Cc: Michell, Jennifer FIN:EX
Subject: FW: Land Owner Transparency Act

Hey Chris or Brian,

Can you please advise.

Leanne

From: Michell, Jennifer FIN:EX
Sent: Monday, July 23, 2018 9:40 AM
To: Allen, Leanne V FIN:EX
Subject: FW: Land Owner Transparency Act

Hi Leanne

Can you advise?

Jennifer Michell
Director, Executive Operations & Strategic Initiatives
Office of the Deputy Minister | Ministry of Finance

From: Lennox, Brenda PREM:EX
Sent: Monday, July 23, 2018 9:34 AM
To: Michell, Jennifer FIN:EX

Cc: Colins, Tracey L PREM:EX
Subject: Land Owner Transparency Act

Hi Jennifer

Just want to follow up on the *Land Owner Transparency Act* RFL that has a white paper currently out for consultation. s.12,s.13

s.12,s.13 If the consultation ends on August 19th, please advise what is the earliest date you anticipate having draft materials on such an outcome for review. We can decide what forum for review would be the most timely and appropriate once we have a possible date for draft materials.

Happy to discuss further.

Thanks
Brenda

Brenda Lennox | Director
Cabinet Operations | Work (250) 387-7380 | Cell (250) 882-5356 | Brenda.Lennox@gov.bc.ca
617 Government Street | Victoria BC | CANADA

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From:	s.22
To:	FCSP FIN:EX
Subject:	Comments on Land Owner Transparency Act white paper
Date:	Tuesday, July 24, 2018 10:09:58 AM

Hello,

I encourage you to complete this necessary step to stop the obfuscation of who owns what property here in British Columbia.
At last we can have a true understanding of what is happening here in this province.
The LTSA's decision to start to charge to see who owns real estate in BC unnecessarily complicates journalists investigation, and the public's enquiring, just to pad their coffers with a little extra cash.

Keep up the excellent work, it's surely needed in this province.
With every bold move of yours, we are able to breathe just a little more easily, as the greed of a few is revealed, corrected, and for some I hope, punished.

Sincerely,
s.22

From: Finn, Renee FIN:EX
To: s.22
Subject: RE: Feedback
Date: Tuesday, July 24, 2018 2:33:00 PM

Dear Stakeholder:

Thank you for your submission on the public consultation for the Land Owner Transparency Act. Your submission will be carefully considered, along with all submissions received by the government by the close of the consultation period on August 19, 2018. The government will finalize the Land Owner Transparency Act after all of the feedback from the public consultation has been considered.

From: s.22
Sent: Tuesday, July 24, 2018 10:31 AM
To: FCSP FIN:EX
Subject: Feedback

Hi,

I am writing you to give my thoughts about the new proposed publicly accessible home-ownership database. I think overall it's a good idea, but I am weary about the unintended consequences of publishing it to the public.

If the purpose of this database is primarily for tax auditors and law enforcement, then why is there a need to have the database publicly accessible? The unintended consequences could be increased criminal activities such as kidnappings and extortion for those who own many properties or large, high-value properties. It could also be a way for unlawful tracking of people by criminals, increasing the risk of property damage and other types of crime.

Overall, I think British Columbian's deserve privacy in this matter. Again, I support this new registry if it is only accessible by government authorities (tax auditors, law enforcement etc). but I do not support it if it is going to be publicly available.

Thanks,

From: s.22

To: FCSP FIN:EX

Subject: 371465 Home ownership

Date: Thursday, July 26, 2018 7:07:57 AM

Dear BC Govt.,

I am anything but an NDP member but I must applaud you for finally focusing on one of the major culrpits not only in the housing crisis but also in the money laundering debacle.

Now it's time to focus on Air B and B as another reason for housing shortages. This is just a no brainer.

Finally, I sincerely hope you take a seriously second sober look at your proposed speculation tax. This make no sense in so many ways and is mean spirited and hurtful to many fine law abiding citizens.

Thank you,

s.22

From: s.22
To: FCSP FIN:EX
Subject: owner information land registry
Date: Thursday, July 26, 2018 11:06:09 AM

There is no market studies to show that this bill is going to solve the housing problem. This is only speculation. In fact, such a change will drive the real estate price by 30-40% down. Home owners will suffer. It can cause a real collapse of the economy. BC is built on the real estate market. This is the driving force of the economy in BC. Such a change would destroy the BC economy.
Before such a change and law is implemented, the government should make an enquire what will happen if the home values will drop by 30-40%. Owners will be upset. Banks will call their mortgages. Government will lose so much money from loss of property tax revenue and property sale tax. It is surely will create a negative spin on the economy instead of helping.
Passing such a law would be a mistake by any home owner.
Housing crises should be solved by municipalities. BC has plenty of land. Opening up land for development and changing bylaws would be a better way to solve housing problem. Because municipalities are rigid with full of red tapes, the housing problem will continue.
BC should retain the advantage why foreign investor are coming to BC. The purpose of the bill mixing apple and oranges. Ministry of finance and land title office is not going to solve housing problem. Closing tax loopholes are different purpose.
There will be a loophole some other way too.
The act does not detail what will be if there is a privacy breach and what steps to be taken. Surely, privacy breach is significant. The system is not able to handle any changes. The land title office has not enough source to handle such a change. The gov is not going to give more budget for such a change, thus, there will be another fiasco when the right hands does not know what the left does. Have a proven system first implemented with enough resource. Like anything else, there must be some way out of the system if things fail. Even politicians do not want to touch the housing market as they have vested interest to keep prices up. It just does not make sense to risk a housing market drop by 30-40%.
The proposed law does not detail how often the penalties would occur. when someone has a $3 million property, $50k is a drop in the bucket. For criminals $100k does not make a difference. The proposed law is going to cause a high stress and drop to the economy and the loss of revenue for the government is going to be huge.

s.22

s.22

From:
To: FCSP FIN:EX
Subject: 371577 - Comments on Land Owner Transparency Act white paper
Date: Monday, July 30, 2018 9:01:11 AM

Thank you for this opportunity. While I do not practice in this area I do have a few questions/comments after quickly reading the proposed legislation.

1. Section 10 & 12 require the reports to be filed on application to register an interest in land – if no application to change registration is made, as is often the case where title is held by a bare trust/nominee and only beneficial interest is transferred, there appears no mechanism to catch such transfers other than under s.15 – change in beneficiaries, which gives the reporting body (trustee?) two months to notify you of the change with respect to a previously filed disclosure statement. Is my understanding correct? How will you police such reporting changes?

2. Section 14 purports to deal with the matter of disclosure of existing beneficial ownership reports, however it only states in 14(1) that section 12 applies. Since section 12 only requires a report to be filed on application to register at LTO, it does not appear to compel disclosure of existing interests; even s.15 only deals with previously filed reports. Am I missing something? What mechanism requires existing trust arrangements to be disclosed and if so, when must this disclosure be made? I expect there are many such 'bare trust' arrangements out there and the penalties for failure to disclose are very significant– will the time period for initial disclosure be extended to allow a 'catch up'?

3. Are you planning to make changes to the PTTA to also tax transfers of beneficial interests or are these changes restricted to the stated purpose?

s.22

From:	s.22
To:	FCSP FIN:EX
Cc:	Heyman.MLA, George LASS:EX; Komnenic, Nadja LASS:EX; Minister, MAH MAH:EX; Minister, JTT JTT:EX
Subject:	371719 Comments on Land Owner Transparency Act white paper
Date:	Thursday, August 2, 2018 9:55:11 AM
Attachments:	image001.png Transparency_Act_Consultation_08022018.pdf

Hello,

Please accept my comments on the Land Owner Transparency Act. Thank-you.

Please share my comments with Honorable Selina Robinson with respect to including municipalities as a recognized taxing authority for purposes of the new Act.

Please share my comments with Honorable Bruce Ralston with respect to involving the private sector in cooperation with the Land Title and Survey Authority for purposes of administering the new Act.

Regards,

s.22

August 2nd, 2018

VIA EMAIL

Financial and Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria, BC V8W 9V1

Attention: Minister of Finance, Carole James

Dear Madam:

Re: Land Owner Transparency Act Consultation

I am writing to provide feedback on the Land Owner Transparency Act from the perspective of a Canadian citizen, resident of British Columbia and s.22 s.22 Speaking as a British Columbian, I am proud to be a part of the consultation process and I have three interests in this regard.

My primary interest as a citizen is to provide feedback that ensures a successful outcome for transparency in the region where we all live and work.

Just as important is my interest as s.22 The Ministry must allow the private sector technology industry in BC to participate in the Land Owner Transparency process.

Finally, is my interest as s.22 Land Ownership Transparency will allow all housing authorities to encourage more opportunities to provide more affordable housing for British Columbians.

Part 1: Definition, Interpretation and Application
Discussion questions:

Are the definitions and interpretation provisions clear?

Yes.

Are any other interpretative provisions needed?

My request to the Minister is to refer to the UK consultation paper to ensure BC's legislation is effective when compared to other jurisdiction's transparency legislation.

*Note: The UK consultation paper is named "Enhancing transparency of beneficial ownership information of foreign companies undertaking certain economic activities in the UK"

Part 2: Transparency Declarations and Disclosure Report
Discussion questions:

Do the disclosure reports capture the appropriate information about beneficial interests in land?

The "DIVISION 3 – REASONABLE EFFORTS REQUIREMENTS FOR REPORTING BODIES" section should use the more onerous standard of "best efforts" or bona fide efforts rather than "reasonable efforts".

Is there other information that should be disclosed?

1. Include a country-recognized proof of citizenship and country of residence of beneficial owners for the purposes of sharing this information with jurisdictions in the country of residence and citizenship of the beneficial owner.

2. Where disclosure exemptions have been granted, the information related to the exemption should be captured by the registry (e.g. exemption reason, name, position name or title, and contact information for both the person requesting the exemption and the person granting the exemption).

Are there changes that would make this Part more effective?

Rules that govern disclosure in other jurisdictions should be comparable in terms of their strictness and guidelines so that those seeking to avoid disclosure are not encouraged to find the weakest enforcement regime to exploit.

Are there changes to this Part that would increase efficiency for land owners?

The Land Title and Survey Authority and the MyLTSA system is viewed as world class in many respects. However, for greater efficiencies and if practicable, I would support language to allow the private sector to partner in the development and operation of some of the components of the enforcement regime including the collection and dissemination of registry information.

To be clear, partnering does not result in an inferior system, it allows the private sector to bring efficiencies and competition to ensure the best overall outcome. By allowing their participation, the British Columbian technology industry would bring great benefits towards the goal of increased transparency. The result of their participation would potentially enable the growth of a new technology industry developed around transparency in the property industry. The British Columbian technology industry wants to be and should be part of the solution. I was concerned when I learned that a BC company named Phantom Secure became widely known globally as the creator of a leading crime-enabling devices used by organized crime. Let's all work together to create a reputation globally as a place where both government and industry in BC are all working together to clean up our act. The technology industry wants to be a part of that.

Part 3: Use of Information Provided in Disclosure Reports
Discussion questions:

Does the draft legislation strike an appropriate balance between transparency and privacy?

Under the definition of "taxing authority", Municipal governments should also be included as they are a taxing authority and have an interest in knowing the more sensitive information of beneficial ownership records. In cases where municipalities grant business licenses, this information would be beneficial to municipalities for purposes of enforcing business licenses that rely on verifying principal ownership (e.g. Short-term Rental Bylaws, Vancouver's empty homes tax).

Are there concerns about disclosing any category of information, either as part of the publicly accessible information or as part of the information available only to tax, law enforcement and regulatory agencies?

No.

Do the provisions in the Part provide adequate tools to vulnerable people to have information obscured or omitted?

A person of age less than 19 years should make the guardian of the youth accountable as proxy and the proxy's information be fully accessible. I've read about many situations where students are the registered home owner of multimillion dollar homes. Let's not allow an under 19 years of age exemption be an exploitable loophole.

Are there other factors the government should be considering respecting access to information provided to the public and/or government and agencies

1. Fees for searches should not be set at a level that deters the use of the beneficial ownership searchable data. The fees should be levied more heavily on those beneficial owners and their agents, rather than those performing the searches.

2. The registry should also have an established mechanism, so the information can be made available to officials from counties outside of Canada so that individuals with citizenship outside of Canada do not escape the laws from their respective countries.

3. The registry should be made available as a webservice or RESTFul API for purposes of integrating with other data sets.

Part 4: Administration and Enforcement
Discussion questions:

Does the Act provide for the appropriate investigation powers for the Administrator?

Yes, with the caveat that experts with knowledge of the Charter of Rights and Freedoms in Canada and Canadian privacy legislation are consulted.

Are the maximum administrative penalties appropriate for contraventions of the Act?

I have no issue with the maximum administrative penalties. It's important to ensure the administrative penalties are consistent with other jurisdictions more broadly.

Part 5: General
Discussion questions:

Are there any concerns about this Part of the legislation?

No.

Part 6: Offences
Discussion questions:

Are the maximum fines appropriate for contraventions of the Act?

The maximum fines are appropriate for contraventions of the Act, but there should be a criminal component punishable by jail to the Act. Rules that govern disclosure in other jurisdictions should be comparable in terms of their strictness

and guidelines so that those seeking to avoid disclosure are not encouraged to find the weakest enforcement regime to exploit.

The following are penalties enacted by the UK for failure to properly abide by the reporting requirements.

- *A ban on a foreign entity selling or leasing a property without declaring its beneficial owner, with jail of up to five years and an unlimited fine for those failing to comply**
- *Up to two years imprisonment and an unlimited fine for individuals who fail to register or attempt to file false information**

*Note: Referenced from the UK consultation paper named "Enhancing transparency of beneficial ownership information of foreign companies undertaking certain economic activities in the UK"

Part 7: Regulations
Discussion questions:

Are the proposed regulation-making powers appropriate for the legislation?

Yes.

Part 8: Consequential Amendments
Discussion questions:

Are the proposed consequential amendments appropriate?

Item 85. Electronic Disclosure report should include making the report available as a webservice or RESTFul API

Item 86. Electronic Disclosure report should include making the report available as a webservice or RESTFul API

Item 87. Electronic Disclosure report should include making the report available as a webservice or RESTFul API

Item 94. "Transparency records" should include making the report available as a webservice or RESTFul API

Are any other consequential amendments needed to appropriately give effect to the proposed legislation?

No.

SCHEDULES 1 AND 2
Discussion questions:

Are the proposed exclusions appropriate?

Yes.

Are there any types of corporations listed that should not be exempted from the reporting requirements?

No.

Are there types of corporations that should be added to Schedule 1?

No.

Are the proposed exclusions from the definition of "relevant trust" set out in Schedule 2 appropriate?

No.

Are there any types of trusts listed that should not be exempted from the reporting requirements?

No.

Are there types of trusts that should be added to Schedule 2?

No

Sincerely,

s.22

From:	s.22
To:	FCSP FIN:EX
Subject:	371760 - Comments on Land Owner Transparency Act white paper
Date:	Thursday, August 2, 2018 7:20:26 PM

Love this, it's overdue. thanks for this and hope it is adopted as drafted

s.22

From:	s.22
To:	FCSP FIN:EX
Subject:	Comments on Land Owner Transparency Act white paper
Date:	Thursday, August 2, 2018 8:24:31 PM

Dear Sir/Madam:

I am fully in support of the government's plan to enact legislation to create a transparent registry of property ownership in British Columbia.

I hope that the Act will be retroactive for at least the last ten (10) years. I also hope that the Act will be expanded to include all commercial real estate ownership as well.

It is vital that the public knows who owns what in our province - and that the necessary authorities at the municipal, provincial and federal levels all act on the information to ensure, inter alia, that the correct taxes are paid.

Thank you for bringing this much-needed legislation forward. Enforcement must be part of the Act.

Sincerely,

s.22

Sent from my iPhone

From: s.22
To: FCSP FIN:EX
Subject: 371765 - Comments on Land Owner Transparency Act white paper
Date: Friday, August 3, 2018 8:28:49 AM

automatically omitting information relating to individuals under the age of 19 or those legally incapable of managing their financial affairs

creating the ability for vulnerable individuals (e.g. victims of domestic violence) to apply to have their personal information omitted from the publicly accessible information;

It's been seen that when it comes to loopholes in our system, they have been used without conscience.
Could these parts of the act potentially be used as loopholes so as not to have to register your information? If so, how could such loopholes be mitigated?

Thank you
s.22

Sent from my iPhone

From:	s.22
To:	FCSP FIN:EX
Subject:	372011-1 LOTA discussion responses
Date:	Wednesday, August 1, 2018 12:53:15 PM

Hello,

I noticed that the Transparency Act white paper is accepting comments until August 19 - a Sunday. Is there a reason this isn't on a weekday? Could comments be accepted the following business day in the morning? We'd like to collect as much member feedback as possible, but also comply with the consultation timelines.

Best regards,

s.22

From:	Ron Usher
To:	FCSP FIN:EX
Cc:	Jacqui Mendes
Subject:	369971-3 RE: Land Owner Transparency White Paper - Extension Deadline September 19, 2018
Date:	Thursday, August 9, 2018 10:42:41 AM

Lori: Please add the CEO of BC Notaries, Jacquie Mendes, to your email list for this (and other) consultations.

Jacqui Mendes JMendes@society.notaries.bc.ca Her direct phone at our offices in Vancouver is s.22

Thank you.

Ron

Ron Usher, B.Sc., J.D., RI,
General Counsel and Commissioned Notary Public
The Society of Notaries Public of B.C.
Suite 700 - 625 Howe Street,
Vancouver, B.C., Canada V6C 2T6

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From: Finn, Renee FIN:EX [mailto:Renee.Finn@gov.bc.ca] **On Behalf Of** FCSP FIN:EX
Sent: August 3, 2018 12:36 PM
Subject: Land Owner Transparency White Paper - Extension Deadline September 19, 2018

Dear Stakeholder:

As you are aware, the B.C. government is currently consulting on a white paper that sets out

the draft framework for the *Land Owner Transparency Act*. This legislation would establish the first publicly accessible registry on beneficial ownership in Canada. As indicated in the white paper, and in my email of June 20th, the deadline for feedback was originally set at August 19th, 2018.

We've heard from stakeholders that they need more time given the complexity of the draft legislation. Your input is valuable to us, and so we are extending the consultation until September 19, 2018.

Please direct any comments to fcsp@gov.bc.ca as indicated in the white paper.

Sincerely,

Lori Wanamaker
Deputy Minister of Finance

s.22

From:
To: FCSP FIN:EX
Subject: 372066 Comments on Land Owner Transparency Act white paper
Date: Saturday, August 11, 2018 1:40:43 PM

Hi fcsp
Do you have plan take rent income tax from house owner almost every house they have rent income at least $1000 to over $5000 even lot of people they have over 2 houses but they don't pay rent income tax.
They can enough pay property tax why government don't any actions.
Some house owner lives China & Korea but they can make rent income over $5000/M.
s.22 I saw many people like that please cosider this matter.
I don't want Canada is lower level country.
Next generation is not hope because politics is low like east Asia please make fair laws.
Thanks

s.22

From:
To: FCSP FIN:EX
Subject: 372067 Land Owner Transparency Act consultation feedback
Date: Sunday, August 12, 2018 11:07:13 PM

TO: BC Ministry of Finance

RE: Land Owner Transparency Act

I would like to comment that I think the proposed Land Owner Transparency Act is an excellent initiative, and I fully support it.

Thank you to the Ministry for your work on this project. I sincerely hope that we see this passed into law as soon as possible.

Sincerely,
s.22

From:	Josh
To:	FCSP FIN:EX
Subject:	372115 Comments on Land Owner Transparency Act white paper
Date:	Tuesday, August 14, 2018 1:05:13 PM
Attachments:	UBCM LOTA Submission.pdf

Hello,

Please find attached the Union of BC Municipalities submission on the LOTA white paper.

Feel free to contact me if you need any further information.

Best,

Josh van Loon
Senior Policy Analyst
Union of BC Municipalities | www.ubcm.ca
60-10551 Shellbridge Way | Richmond, BC V6X 2W9
Phone: 604-270-8226 ext. 113 | **jvanloon@ubcm.ca**

Union of BC Municipalities Positions on the Proposed *Land Owner Transparency Act*

Submission to the Ministry of Finance
August 2018

Background

This submission is in response to a letter from Deputy Minister Wannamaker dated June 20, 2018, seeking feedback on the White Paper on the *Land Owner Transparency Act*.

The Union of British Columbia Municipalities (UBCM) represents 100% of the local governments in BC, and has advocated for policy and programs that support its membership's needs since 1905. We are a policy-based organization, guided by member positions established through resolutions at our annual convention. UBCM membership presently consists of 161 Municipalities, 28 Regional Districts and 8 First Nations.

UBCM has been actively engaged in supporting members' interests with regards to housing, including through the work of a Special Committee on Housing, convened in August 2017. This Committee released its final report, *A Home for Everyone*[1] on February 1, 2018, structuring recommendations around 4 key policy shifts: a rental housing strategy, a demand management strategy, a comprehensive homeless strategy, and a collaborative all government approach towards housing affordability.

UBCM positions on the White Paper reflect both recommendations put forward in *A Home for Everyone,* and member endorsed resolutions addressing affordability.

Positions on the Draft Legislation

Overall Intent

The stated purpose of the proposed *Land Owner Transparency Act* to increase transparency of land ownership by eliminating the ability to hide ownership through vehicles like trusts and shell corporations aligns closely with UBCM policy. In particular, *A Home for Everyone* recommends that the province require declaration of beneficial ownership for transactions that are currently not registered at the Land Title Office such as bare land trust agreements, to close a major loophole in the current foreign-buyers tax. Further, our membership in 2016 endorsed the following resolution calling for measures to discourage speculation and to address tax evasion:

> Whereas it is well known that Vancouver has become one of the least affordable places to live in the developed world, and that the housing situation in Metro Vancouver has reached a crisis point;

[1] http://www.ubcm.ca/assets/Whats~New/UBCM%20Housing%20Strategy.pdf

And whereas speculation in residential real estate, particularly by foreign investors, is having a significant impact on housing prices and affordability for those living and working in the Metro Vancouver area;

And whereas housing is a necessity for all residents, and not simply a commodity of trade;

And whereas unaffordable housing results in lost productivity as workers commute longer distances, it impacts economic growth as more household income is devoted to housing costs and as skilled workers leave Vancouver, and it negatively affects the diversity of our communities;

And whereas it has been suggested that foreign investors avoid paying the applicable taxes on real estate investments through various means:

Therefore be it resolved that UBCM urge the provincial government, and the federal government through the Federation of Canadian Municipalities, to take immediate action to discourage speculation in real estate, particularly by foreign investors, and to ensure that foreign real estate investors pay a fair share of provincial and federal taxes.

Information Sharing and Use of Data

As documented in recent media, property purchasers have adopted wide-ranging, often highly creative approaches to evade taxes. While collection of data on beneficial ownership is an important first step in addressing tax fraud, we would encourage the province to take further steps to ensure that the data are effectively used for enforcing tax law, with due consideration to potential privacy concerns. As recommended in *A Home for Everyone*, we have called for:

Improved data collection, data development and data sharing- these are necessary to support evidence based policy and ensure accountability. It is recommended that the Province and federal government work together to address these needs, including:
• Creation of a pre-sale registry.
• Publication of aggregate data on pre-sales.

• Investigation and follow-up on the findings of reports such as “Low Incomes and High House Prices in Metro Vancouver”[2] to identify additional data needs and actions to address tax avoidance in real estate.
• Ensuring better co-ordination of agencies responsible for monitoring and regulating the relations between property transactions and capital flows, including CRA, FINTRAC, the banks, and the Real Estate Council of BC.

While further ongoing efforts will be needed to effectively address tax fraud, we commend the province for outlining several additional steps towards cracking down and closing loopholes in *Homes for BC.*

Conclusions

The Union of BC Municipalities is supportive of the proposed legislation as it directly addresses our recommendations on the need for measures to limit tax evasion, in conjunction with a broader suite of measures to promote affordability. This legislation represents an important first step towards addressing current loopholes that enable tax evasion.

We would like to thank the Ministry of Finance for the opportunity to provide local government perspectives to inform the development of the *Land Owner Transparency Act*.

Inquiries regarding this submission may be directed to Josh van Loon, Senior Policy Analyst, at jvanloon@ubcm.ca or (604) 270-8226 Ext. 113.

[2] http://siteeconomics.com/wp-content/uploads/2017/04/High-House-Prices-and-Low-Incomes-April-2017.pdf

Miranda, Carrie FIN:EX

From:	Raines, Heather BCA:EX
Sent:	August 14, 2018 9:55 AM
To:	Dawkins, Christina FIN:EX
Cc:	Dedeluk, Lisa BCA:EX; Bates, Duane W BCA:EX; Grant, Jason R BCA:EX
Subject:	Land Owner Transparency Registry
Attachments:	2018-08-14ToMoF_LandOwnerTransparencyRegistry.pdf

Good morning,

Further to your conversation with Lisa Dedeluk, I have attached is a letter from Jason Grant regarding the Land Owner Transparency Registry and Act.

Thank you,

Heather Raines
Executive Coordinator, Office of the President and CEO

heather.raines@bcassessment.ca
T 1-866-valueBC (825-8322) x 00305 | C 250-889-6291
400 – 3450 Uptown Blvd. | Victoria, BC V8Z 0B9 | bcassessment.ca

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Victoria BC V8Z 0B9

BC ASSESSMENT

August 14, 2018

Christina Dawkins
Ministry of Finance - Financial and Corporate Sector Policy Branch
Room 012 – 617 Government Street
Victoria, BC V8W 9N7

Sent by email

Re: *Land Owner Transparency Act* – Land Owner Transparency Registry

Dear Ms. Dawkins,

As part of the Province's 30-Point Plan for Housing Affordability, I understand that the Province is establishing a new, publicly accessible registry of who owns real estate in British Columbia. BC Assessment would like to discuss the opportunity to have access to the database (or a portion thereof), as it relates to the transfer of ownership.

BC Assessment's (BCA) legislative mandate is to establish and maintain uniform real property assessments throughout British Columbia (BC) in accordance with the *Assessment Act*, which requires that properties be assessed at their actual value. For the vast majority of properties in the Province, actual value is defined as the market value of the fee simple interest in land and improvements. Additionally, the *Assessment Act* requires that BCA reflect current and correct ownership information for all properties throughout BC. Local governments, regional districts, and First Nations look to BCA to produce an accurate and stable assessment roll with a high level of customer acceptance.

Assessed values are produced through appraisal review of sales transactions received through various sources. Recently, BCA has seen an increase in the use of commercial property owners transferring shares, especially for high valued properties such as large retail shopping centers, to transfer ownership. The ability to track and review these sales is vital to BCA's business and the service we provide. BCA's current methodology of tracking share transfers utilizes address changes, however, not all share transfers include an address change which makes them difficult and laborious to discover and track. Notwithstanding, BCA's efforts, it is estimated that only a portion of these share transfers are identified.

In addition, BCA has also seen an increase of investment properties sold (transferred) from and to non-individuals (i.e., corporations). These sales are reviewed to determine if they are arm's lengths transactions by contacting the sales participants. Further, properties transferred into a holding shell corporation have a higher propensity to be

sold via a share transfer in the future, bypassing typical sale protocols.

BCA access to a central database of registered beneficial owners will:

- aid BCA in easily identifying share transfers,
- facilitate the research of commercial transaction from and to non-individuals and improve sales analysis.
- improve the quality, equity and uniformity of the assessment roll, and
- benefit the property owners and Local governments in BC.

From the Land Owner Transparency Registry, BCA is only requesting access to the name, phone number and email address of each beneficial interest land holder. Access to additional personal and confidential information is not required.

I would be happy to discuss this opportunity further, and strongly feel that the steps being taken to register this information will be valuable to government, BCA, and most importantly, the citizens of British Columbia.

Sincerely,

Jason Grant
President and Chief Executive Officer
BC Assessment

Appendix – Background Information on Share Transfers

Share transfers occur when all or part of a company's shares are sold. Where the company's assets include real property, no Land Titles Survey Authority (LTSA) title transfer will occur because the name of the company has not changed as the real property has been sold with the rest of the corporate assets.

If the company holding the real estate asset is created for the sole purpose of holding a legal title, no property transfer tax would be payable by the purchaser. Under current legistlation, property transfer tax is payable only when a transfer is registered at LTSA. There is a growing trend of companies being formed for the sole purpose of holding real estate assets.

BCA's appraisers may be unaware that a transaction occurred and may have difficulty obtaining basic information such as the transaction date and sale price that would normally be accessible for transactions registered at LTSA. As no sale price is registered for commercial properties transacted in this manner, the sale price is difficult to quantify. This causes challenges for appraisers in a market with an already limited number transactions.

From January 1st 2013 to December 31st, 2017

Property Type	# Transactions	# Transfer Sales	% of Total
Industrial Lower Mainland	1,842	102	6%
Hotel Sales	113	8	7%
Motel Sales	240	41	17%
Major Retail	154	34	22%

For Major Retail Properties (Shopping Malls) the number of sales available to set and calibrate the assessment roll would increase by 22% if BCA had access to share transfer information.

Some examples of previous, substantial share transactions in Vancouver include the s.21 Also, the recently publicized sale of the s.21 s.21 Although not registered at LTSA, the sale and transaction price was publisized in the media due to disclosure requirements for public corporations. Disclosure requirements are not required for private corporations and foreign wealth funds.

The correct identification of share transfers would increase the pool of sales available to determine assessed values. Failure to identify all share transfers would negatively impact BCA's ability to build the annual assessment roll. This, in turn, has the potential to increase the number of corrections BCA is required to make, affecting roll stability for BCA's municipal customers. Roll stability is a critical issue for local governments because each correction to the assessment roll has an impact in the tax collected by taxing jurisdictions.

Number of Commercial Share Transfers Identified per Year

Year	# of Share transfers
2017	123
2016	243
2015	91
2014	85
2013	70
Avg. 2013 -2017	**122**

**Number of transactions between January 1 and July 18, 2018. The table above shows the increase year over year of share transfers sales. This trend is expected to continue over time*

Number of Commercial transactions purchased by a non-individual

Year	# of Non individual transfers
2018	912
2017	1,925
2016	1,830
2015	1,566
2014	1,465
2013	1,405
Avg. 2013 -2017	**1,638**

**Number of transactions between January 1 and July 18, 2018.The table above shows the increase year over year of non-individual commercial sales transactions. This trend is expected to continue over time.*

From:	Michael Dodick
To:	FCSP FIN:EX
Subject:	372208 Response of STEP Canada to the Land Owner Transparency Act White Paper – June 2018
Date:	Thursday, August 16, 2018 10:39:33 AM
Attachments:	TETC 18 08 09 STEP LOTA Submission.pdf

Dear Minister James,

On behalf of Ruth March, Chair of STEP Canada, and Timothy Matthews, Chair of STEP Canada's Trust and Estate Technical Committee, please find enclosed the STEP Canada submission in regards to the Land Owner Transparency Act White Paper – June 2018.

We appreciate the invitation to provide our comments.

The authors would be pleased to discuss our comments with you at your convenience.

Best regards, Michael

MICHAEL DODICK | Chief Operating Officer, STEP Canada

STEP
ADVISING FAMILIES ACROSS GENERATIONS

45 Sheppard Avenue East, Suite 510 | Toronto, ON | M2N 5W9
Tel: 416.491.4949 ext. 223 | Fax: 416.491.9499 | www.step.ca

Mark your calendars: STEP Canada's 21st national conference is June 6th and 7th, 2019

August 17, 2018

Carole James
Minister of Finance and Deputy Premier
Financial & Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria, BC V8W 9V1

Submitted via email: fcsp@gov.bc.ca

Re: Response of STEP Canada to the Land Owner Transparency Act White Paper – June 2018

The Society of Trust and Estate Practitioners (Canada) ("**STEP Canada**"), with the assistance of three members of its Vancouver Branch, has reviewed the *Land Owner Transparency Act White Paper – June 2018* (the "**White Paper**") and provides this response to the Government of B.C.'s request for comments.

STEP Canada is part of STEP Worldwide, the leading international organization for trust and estate professionals. STEP's mandate is to provide a forum for discussion and to advance practitioners' knowledge of tax, accounting, administrative, statute, and case law through regular branch seminars, symposia, and an annual national conference. STEP Canada also makes representations of a technical nature to government, policymakers and related professional bodies, with the goal of promoting better understanding of trusts and estates, and improving related law and policy. There are 20,000 members worldwide and over 2,600 members in Canada, operating as professionals in the trust, legal, accounting, financial planning and insurance industries. Fundamentally, all of the members of STEP Canada and STEP Worldwide are engaged in advising their clients on matters relating to the ownership and transfer of property.

Given STEP Canada's focus on trusts and estates, this response does not address issues that may arise in provisions of the proposed *Land Owner Transparency Act* (the "**LOTA**") as it affects real property and corporate law.

A. General Comments

While our comments are for the most part organized to follow the structure of the proposed LOTA and the questions for discussion posed by the government in the White Paper, we wish to preface our specific comments with the following comments of a more general nature.

1. The Government Has Not Allowed Adequate Time to Properly Consider and Comment

We note at the outset that it is neither fair nor appropriate to release the draft LOTA for public consideration and input at the very beginning of summer, with only a 60-day period allowed for submissions. This is simply not a sufficient amount of time to permit relevant stakeholders to consider all the implications arising from legislation of this scope and import. The comments provided in this submission reflect the concerns identified by a small number of STEP members in British Columbia and, because of the time constraints, is not as comprehensive as STEP Canada would have liked.

Further, we were dismayed to see the government has elected to bring into force some of the provisions of the LOTA by way of Regulation to the *Property Transfer Act* (Minister of Finance and Deputy Premier Order No M287) before any submissions on the LOTA have been provided and reviewed.

Suite 510, 45 Sheppard Avenue East, Toronto ON M2N 5W9
www.step.ca

STEP Canada strongly urges the government to extend the period for consultation beyond the new date of September 19, 2018, and withdraw the Regulation until the consultation process is completed and the concerns raised by various stakeholders have been addressed.

2. The Stated Policy Is Not Supported By The Substance of the Legislation

In the Foreword to the White Paper, the proposed *Land Owner Transparency Act* ("LOTA") is presented as part of a plan designed to tackle foreign and domestic speculation, close real estate and tax loopholes, protect renters, crack down on tax fraud and boost housing supply. The specific components of this plan stressed most in the Foreword and in the Summary focus on cracking down on tax fraud and money laundering.

With respect, in our view, these statements do not appear to express the true intentions of the LOTA, which is ill-suited to collecting information relevant to taxation and which appears to be designed to establish a public registry of what, for most individuals, is their most valuable asset. Equivalent information is not publicly available with respect to other valuable assets of an individual, such as portfolio investments, bank accounts and the like, except where there is a clear public-policy reason for making such information available, such as in the case of individuals and other entities who hold significant interests in public corporations.

While there may be justifiable policy considerations in making appropriate information available to taxation authorities, law enforcement agencies and financial sector regulators, nothing in the Foreword or in the Summary articulates a compelling policy reason for publicly "outing" individuals who hold indirect interests in real property in British Columbia where those individuals have chosen legal means of registering title in another manner.

3. Harmonizing Disclosure Legislation

The LOTA, if it is enacted, will add to an increasingly crowded landscape of reporting obligations referable to financial and other interests, yet seems to have been drafted with little regard to how it might be made to work in harmony with other relevant legislation.

Since 2000, there has been an unprecedented increase in the amount of information entities of all kinds are required to collect with respect to transactions involving money and other property. Examples include: The *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, S.C. 2000, c. 17; the U.S. *Foreign Accounts Tax Compliance Act* (effectively implemented in Canada by Part XVIII of the *Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.)* (the "*Income Tax Act* (Canada)"), and the Common Reporting Standard under *the Convention on Mutual Assistance in Tax Matters* (implemented in Canada by Part XIX of the *Income Tax Act* (Canada).

In December 2017, Canada's federal, provincial and territorial finance ministers agreed to pursue legislation to strengthen beneficial ownership transparency with respect to corporations and other legal entities. And in July of this year, the federal Minister of Finance published draft legislation which will impose additional filing and reporting obligations on most express trusts (Legislative Proposals Relating to Income Tax and Other Legislation, July 27, 2018).

The primary stated purpose of each of these regimes is to combat tax fraud and/or money laundering. The addition of the proposed LOTA will further increase the burden on affected entities by requiring them to collect different information, in a different format and to prepare and make additional filings on different timelines from what is required under the other regimes.

If, as stated in the Foreword and the Summary to the proposed LOTA, the objective is to combat tax fraud and money laundering, one would think that the information required to be collected and reported would be harmonized with the information contemplated by those other regimes. One would

also expect that legislative drafting would be consistent with those regimes. STEP Canada's review of the LOTA makes clear that it is not.

4. The Proposed LOTA places excessive reliance on the use of Regulations

STEP Canada notes that references to 'prescribed' matters abound in the draft legislation, resulting in significant uncertainty in a number of its provisions. Leaving the door open to what may be significant changes to the legislation in this manner is inappropriate, given the intrusive scope of the LOTA. We will recommend several times in this letter that the proposed LOTA be revised to spell out more of the substance in the actual legislation.

B. Part 1 - Definitions, Interpretation and Application - Response to Discussion Questions

1. Are the definitions and interpretation provisions clear?

2. Are any other interpretation provisions needed?

In STEP Canada's submission, many of the definitions and interpretation provisions are not clear. This lack of clarity is exacerbated by the difficulty we have had in understanding them by comparing them to terms used in other legislation that the LOTA is presumably designed to support, such as for example the British Columbia *Property Transfer Tax Act* (the "PTTA") and the *Income Tax Act* (Canada). Some examples identified by STEP Canada are as follows.

The proposed LOTA will define a "beneficial owner" in relation to an interest in land (s. 1) as an 'individual who has a 'beneficial interest in respect of the interest in land' 'registered or to be registered in the name of a trustee of a relevant trust' (s. 2). In contrast, the additional foreign buyer's tax imposed by the recent amendments to the British Columbia *Property Transfer Tax Act* applies where a beneficiary of a trust who is a foreign entity 'holds a beneficial interest in the residential property to which the taxable transaction relates'. Neither the proposed LOTA nor the PTTA provide any guidance as to the difference between (a) *holding a beneficial interest in* residential property, and (b) *having a beneficial interest in respect of an interest* in land. What is the difference between having a beneficial interest *in* something and having a beneficial interest *in respect of* it? What is the difference between having a beneficial interest in *a particular thing* and having a beneficial interest *in respect of an interest in that thing*? Will reporting be required in respect of beneficiaries who have only remote contingent interests in property held under a trust?

Similarly, the proposed LOTA will require reporting in respect of an individual who is a "beneficial owner" in respect of an interest in land, while Part XIX of the *Income Tax Act* (Canada) requires reporting in respect of a "controlling person" in respect of an entity for the purposes of the Common Reporting Standard. The definition of "beneficial owner" is materially different from the definition of "controlling person".

Similar questions present themselves with respect to the concept of a "corporate interest holder" in s. 1 and s. 3, which define a "corporate interest holder" in respect of a relevant corporation as an individual who (a) has legal or beneficial ownership or control, directly or indirectly of 25% of the votes or value of the corporation (the "25% votes or value test"), (b) has the right to appoint or remove from office the majority of the board of directors of the corporation, (c) has the right to exercise significant influence or control over the corporation, or (d) has a prescribed right or interest.

By contrast, the additional foreign buyer's tax imposed by the British Columbia *Property Transfer Tax Act* applies to a "foreign corporation", which includes a corporation that is controlled, directly or indirectly in any manner whatever, within the meaning of s. 256 of the *Income Tax Act* (Canada). While elements of the definition "corporate interest holder" are relevant to a determination of control for this purpose, the 25% votes or value test is not. Similarly, having the right to exercise significant influence or control does not necessarily mean one has the level of control contemplated by s. 256 of the *Income*

Tax Act (Canada), and could be broad enough to include types of control (e.g. under a franchise agreement) that are expressly excluded from the concept of direct or indirect control in s. 256.

Further, the definition of 'corporate interest holder' in s. 3 does not appear to be specifically relevant to any other test under the *Property Transfer Tax Act* or the *Income Tax Act* (Canada). Neither the Foreword nor the Summary explain how information collected in respect of "corporate interest holders" will be of use in applying other concepts that are of significant importance under *the Income Tax Act* (Canada), such as "related", "affiliated", "associated" and "specified shareholder" (which uses a 10% threshold, where shares held by certain other related and connected parties are also taken into account).

Another uncertainty is found in the definition of 'relevant trust' which excludes trusts listed in Schedule 2. That schedule includes alter ego trusts, joint partner trusts, and testamentary trusts. (Also listed are trusts where the trustee is the Public Guardian and Trustee, pension trusts and First Nations trusts.) While Schedule 2 references the *Income Tax Act* definitions of alter ego trusts and joint partner trusts, it fails to provide a similar reference for a testamentary trust. There seems no reason to omit referencing the *Income Tax Act* definition of a testamentary trust, nor for omitting non-testamentary spouse trusts.

Finally, the definition "settlor" is circular, in that it defines a "settlor" as a "settlor" who is not also a trustee of the trust or beneficial owner of the relevant interest in land. This presumably will not capture a person who is not the creator of a trust, but has subsequently made a large transfer to it. The information relating to settlors collected under the proposed LOTA will not be helpful in applying the PTTA or the enhanced income tax reporting requirements for trusts announced by the federal Minister of Finance on July 27 of this year (both of which expressly include certain persons who are not the creator of a trust but who have subsequently made large transfers to it). Moreover, it will make it impossible to discern from the reporting who the settlor of the trust is, where the settlor is also a trustee or beneficial owner. The policy reason for this is not clear.

Much of the information required to be provided in respect of a corporation under s. 7 can easily obtained from a relevant corporate registry. For British Columbia companies in particular, it seems redundant to require a reporting body to obtain, report on, and update from time to time, information that is already readily accessible from a simple search made through BC Registry and Online Services. Has the government considered whether there are other, more efficient means of ensuring this information is available to the appropriate parties, for example by requiring relevant corporations to be extra-provincially registered in British Columbia under Part 11 of the British Columbia *Business Corporations Act*?

We have mentioned above the significant reliance the proposed LOTA places on the use of regulations. The definitions of both 'beneficial owner' in s. 2 and 'corporate interest holder' in s. 3 also include an individual who has a 'prescribed right or interest'. Schedule 2 also makes reference to a 'prescribed person or entity' in 1(g)(vi), leaving uncertainty as to who will be included as a 'beneficiary' of an excluded trust. The use of 'prescribed' is repeated in ss. 7 - 9 of the LOTA in relation to other information that may have to be provided by a reporting body. The White Paper does not include any draft regulations, leaving us unable to comment meaningfully on these aspects of the LOTA. We are of the view that it is not appropriate for the legislature to leave so much of its work to the executive branch.

C. Part 2 – Transparency Declarations and Disclosure Reports - Response to Discussion Questions

1. Do the disclosure reports capture the appropriate information about beneficial interests in land?

In STEP Canada's submission, the disclosure that would be collected under the proposed LOTA is not well suited to the stated purpose of cracking down on tax fraud and money laundering. Moreover, it would impose excessive and inconsistent requirements to collect and report information on reporting bodies to whom is applies. STEP Canada is unclear how the government expects to be able to make use of the information collected under the proposed LOTA to enforce provincial or federal income tax law.

STEP Canada notes that the United Kingdom has introduced draft legislation (the *Registration of Overseas Entities Bill*) with a similar purpose: to combat money laundering and achieve greater transparency in the UK property market by establishing a new beneficial ownership register of overseas entities that own UK property. However, in the impact assessment provided with the draft Bill, the UK government specifically excluded trusts. It stated:

> As was set out in our response of March 2018 to the call for evidence on the register, and consistent with the commitment made at the 2016 Anti-Corruption Summit, we do not consider that trusts should be included on the register. Trusts do not have legal personality in their own right and so are not capable of entering into contracts. They are also commonly used for reasons including protecting assets for children and vulnerable adults, meaning that legitimate grounds exist for ensuring that information on the beneficial owners of trusts is not made publicly available.'

STEP Canada urges the British Columbia government to adopt the UK approach for trusts.

Turning to the specific provisions for disclosure reports, s. 15 places the burden upon a reporting body to ensure that the reports be updated when there is a change in the interest holders. The time line for doing so is extremely short, and the penalties (discussed later in this submission) are significant. It may prove difficult for a reporting body to meet these reporting requirements and it is suggested that a six month period would be more reasonable.

The reporting requirements of a disclosure report where the reporting body is a trustee (s. 18(2)) also impose the unreasonable obligation to identify the beneficial interest and powers of the beneficial owner as described in s. 2. While the power to revoke a trust (and receive the 'interest in land' is easily identified in a trust deed, the extent of a beneficial owner's interest in land may not be so readily identified. What if the interest is as a contingent beneficiary? What if the interest is vested subject to divestment? What if a beneficiary has the right to receive income from the trust but has no specific interest in the underlying property of the trust?

The requirement that a reporting body who is a trustee 'obtain extracts from relevant records' is also unclear. What records are relevant in respect of a trust? Compared to corporations and partnerships which are subject to a statutory regime of reporting, trust records are not maintained in any registry and may vary significantly from trust to trust.

Subsection 19(1) deals with the situation of an interest holder who is not capable: the reporting body is required to make reasonable efforts to obtain information about that incapability. This places an unfair burden on the reporting body as the information may be subject to privacy laws.

The requirement in s. 20 that a reporting body make 'reasonable efforts' to give notice to interest holders of the disclosure report is troubling. As an interest holder is entitled to object to having his or

her information publicly accessible (s. 38, discussed further below), the notice requirements should be extended and made mandatory.

Section 22 addresses the problem of a reporting body being unable to obtain all information needed to complete a report or to give notice to interest holders. Once again, there is a requirement in subsection 3(d) for 'prescribed information' with no indication of what that might entail.

2. Is there any other information that should be disclosed?

No.

3. Are there changes that would make this Part more effective?

As is noted in the comments above, the LOTA requires the collection of information that has no specific application to relevant provincial tax legislation (*e.g.* the *Property Transfer Tax Act*) or federal tax legislation (e.g. the *Income Tax Act* (Canada)). If the purpose of the legislation is to assist in administering and enforcing such legislation, then it should be crafted to collect information that is relevant in applying that legislation.

4. Are there changes to this Part that would increase efficiency for landowners?

Division 3 of Part 2 requires reporting bodies to make reasonable efforts to obtain and confirm the accuracy of identification information and other key information about interest holders and, in the case of a trustee, the settlors of the trust. However, there is no corresponding obligation on an interest holder to provide such information to a reporting body who requests it. Consideration should be given to including provisions that do so. For example, s. 237(1.1) of the *Income Tax Act* (Canada) requires a person to provide their social insurance number or other designated number to a person who requests it where the requestor is required to make an information return including the number.

If trusts are to be included in the LOTA, STEP Canada submits that the provisions of the LOTA relating to trusts should also be refined. As is noted above, the definition "beneficial owner", and in particular, the term "has a beneficial interest in respect of the interest in the land" are ambiguous and should be clarified. Improving this and other imprecise definitions would make it easier for reporting bodies to comply with the legislation. It is unreasonable to impose such significant obligations on so many people to collect and report the information contemplated in the LOTA without more clarity.

D. Part 3 – Access to Information Provided in Disclosure Reports - Response to Discussion Questions

1. Does the draft legislation strike an appropriate balance between transparency and privacy?

Part 3 of the LOTA is perhaps one of the most troubling parts of the legislation as it addresses the access to information provided in the Disclosure Report. In STEP Canada's submission, there is no good policy reason for making the information collected under the proposed LOTA available to the public. Indeed, the view of STEP Canada is that the opposite is the case.

The public is not tasked with administering or enforcing laws relating to tax and money-laundering and the government has not cited any support for the simple assertion that a publicly available database will help to foster accurate reporting. Providing information on beneficial ownership to the public, especially given the many ways in which it the information proposed to be collected is not relevant to most applicable tax legislation, will surely lead to misunderstandings, false accusations and potentially worse results.

Moreover, the statements that a publicly available database *may be* important for tenants, contractors, and others who deal with land owners, or *could also* help financial institutions, lawyers, notaries, real estate agents and others are not compelling. We are unaware of any sentiment that the land registry system under the *Land Title Act* is not working for these parties. On the contrary, contractors have well established rights to file liens against properties themselves. Financial institutions are sophisticated parties, familiar with methods and structures for land ownership, and are advised by lawyers and notaries who have the training and the skills to do so.

Despite the government's stated goal of preserving the integrity of that system (and the inclusion of s. 5 of the LOTA), adding a parallel registry of beneficial ownership will result in beneficial owners being named in litigation relating to land, whether they are proper parties or not. It cannot be good policy to enact legislation that *will* result in a significant intrusion on the privacy of numerous individuals, simply because the best the government can say in support of doing so is that it *may* be important or *could* also help third parties who already have well-established tools for dealing with land and land owners under British Columbia's *Land Title Act* and land registry system.

2. Are there concerns about disclosing any category of information, either as part of the publicly accessible information or as part of the information available only to tax, law enforcement and regulatory agencies?

Again, STEP Canada has significant concerns with the proposal to make any part of the information collected under the LOTA public. Specifics of these concerns are set out elsewhere in this submission.

3. Do the provisions in the Part provide adequate tools to vulnerable people to have information obscured or omitted?

A serious concern is the extent of the powers given to the Administrator to decide what should and should not be included in a publicly accessible database. Once a transparency declaration and disclosure report have been filed – together referred to as a 'transparency record' – the Administrator must not make identification information accessible for search and inspection for 30 days (s. 28(2)), although identification information of individuals under 19 or incapable must be 'obscured or omitted' (s. 37). It is unclear what action would consist of 'obscuring' as opposed to 'omitting' information in a public data base, and clarification on this point is needed.

While s. 20 of the proposed LOTA requires a reporting body to notify an interest holder of the reporting body's (a) intention to file a disclosure report, and (b) having done so, the section does not appear to provide any strict timelines for giving such notice. Assuming that a reporting body has given the required notice to an interest holder promptly upon filing a disclosure report, that individual has only 30 days to make an application to have information 'obscured or omitted'. This is an insufficient time frame for the interest holder to prepare for and make the application, particularly if that individual is vulnerable but not incapable.

Where an individual does make an application, the test to be applied is whether the individual 'believes that making that information publically accessible could reasonably be expected to threaten the safety or mental or physical health' of the individual or a member of the individual's household (s. 38(1)). Assuming that the individual has such a belief, it is unclear how the Administrator will determine whether that belief is 'reasonable' (s. 39(1)(b)) without the individual providing detailed and likely confidential information. There appears to be no framework for maintaining privacy of that information, and it is hard to imagine that the individual will have sufficient time to gather the necessary information.

STEP Canada also considers inadequate the process for determining the obscuring or omitting of an individual's information: the protection is entirely discretionary. The statutory provisions leave too much power in the discretion of the Administrator. The example given in the government's summary of the LOTA of 'vulnerable individuals' refers to domestic violence and suggests that the discretion will be

exercised only sparingly, in cases of proven danger with specifically identified antagonists. However, there are numerous reasons, aside from tax fraud and money laundering, that a person might have good reason to keep information about their assets private, for example:

(a) An individual who lives in, or travels to, or has family who lives in or travels to another country where crimes such as kidnapping are common, may wish to keep details of his or her asset holdings and wealth confidential. This is a real concern, and not unusual among our clients from certain parts of, for example, Latin America.

(b) Disclosure of an individual's property holdings might be detrimental to his or her business interests. There is no clear policy reason why a person's property holdings should be any less deserving of confidentiality and protection from business competitors than the balance in the person's bank account or the recipe for Coca-Cola.

(c) Vulnerable adults may be preyed upon by individuals with access to the information in the registry.

While we acknowledge that s. 36 of the proposed LOTA prohibits the use of publicly available information for solicitation, harassment, or "prescribed purposes", we do not consider these restrictions or the proposed administrative and quasi-criminal fines for violating them (under ss. 57 and 75) to be adequate protection from the abuses that could result from making this information public.

Another concern of the review process is the lack of due process: the Administrator is the person responsible for maintaining records and public access to them, and yet is also the person who adjudicates whether to make the information public (s. 39). Once the Administrator reaches a decision on an application to omit or obscure information of an individual, notice must be given to the individual, and there is an additional 30 days after notice before the information is available to the public (where the Administrator determines that the individual has failed to establish the evidence necessary for his or her belief). There is no appeal from the Administrator's decision, leaving the individual in the unfortunate position of seeking relief from the court for either a writ of mandamus or judicial review within yet another very short time period.

Finally, s. 43 gives the Administrator very broad powers to independently omit or obscure information, annotate a filed disclosure statement, make changes to information, remove information or add information. It is unclear why such broad powers are needed, and there is no stated policy reason for doing so.

4. Are there other factors the government should be considering respecting access to information provided to the public and/or government and agencies?

The right to search by law enforcement personnel (s. 30) is very broad. There is no requirement that a proceeding has been commenced: a search may be undertaken 'with a view to a law enforcement proceedings or from which a law enforcement proceeding likely to result'. It is unclear who (if anyone) is responsible for determining if the law enforcement personnel have reasonable grounds to undertake a search.

E. Part 4 – Administration and Enforcement - Response to Discussion Questions

1. Does the Act provide the appropriate investigation powers for the Administrator?

STEP Canada is concerned that there is no independent and neutral person exercising the Administrator's powers, given the significant powers granted to that officer and the potential exposure

of personal information to the public. The Administrator is appointed by the chief executive officer of the Land Title and Survey Authority, and must be an employee of that Authority.

In addition to the Administrator's powers discussed in the comments to Question 3 of Part 3, the inspection powers include the power to:

- enter a place where a reporting body carries on business or records relating to the reporting body are kept, and examine those records;
- require a person to produce or provide access to records and things in a person's possession or control that may be relevant to the inspection;
- require a person to answer questions and 'otherwise provide information'; and
- remove 'a record or thing' from a place.

Such powers would, in other circumstances, require a search warrant. The only time that a search warrant is required under s. 51 is when the place is a private residence, and only if the consent of the owner or occupier is not provided. The only other restriction on the Administrator's powers is where the record is in possession of a lawyer who claims solicitor-client privilege. (The issue of solicitor-client privilege is addressed below, under the comments to Part 7.)

STEP Canada takes the position that it is unreasonable to expect a reporting body or person to have all records, things and information on hand to provide to the Administrator without notice. There should be a specified (and reasonable) period of time provide records, things or information before the power to enter and inspect is exercised. Alternatively, and at the very least, the Administrator should be required to give a reasonable period of notice to a person or business before carrying out inspections.

2. Are the maximum administrative penalties appropriate for contraventions of the Act?

STEP Canada is concerned not only about the size of the penalties but also the process under which they are assessed and appealed.

Administrative penalties for obstructing the Administrator's inspections are provided in s. 57 (along with contravention of other parts of the LOTA). The penalty must not exceed $50,000 for contravention by a corporation or limited liability company and $25,000 in the case of an individual. These are significant for legislation which radically changes the privacy rights of citizens, and the Administrator appears to have significant discretion in deciding the quantum. It is also of some concern that the Administrator determines not only the penalty but also adjudicates any objection to the contravention or penalty by the individual receiving notice of the penalty.

The LOTA also provides for the imposition of a penalty where a person has provided false or misleading information in a transparency declaration, disclosure report, application under ss. 38 or 41, or an application under s. 61. However, it makes no distinction between situations where the information has been provided unknowingly or due to mere negligent error and situations where it has been provided wilfully or due to gross negligence. In our view, this is inappropriate, especially given the regularity with which it is likely that a relevant person will not have direct knowledge of the information that is required to be reported.

Where the Administrator imposes a penalty of less than $10,000 (for a corporation or limited liability company) or $5000 (for an individual), only written submissions to the Administrator are permitted, and must be made within 30 days of receiving notice. An oral hearing may only be requested if the penalties exceed those amounts. Only after the Administrator has made a determination of the review

may a person apply to the court for judicial review and the application must be commenced within 30 days of the person receiving a copy of the order.

Section 58 sets out factors for the Administrator to consider. While STEP Canada objects in principle to the Administrator both imposing (on an entirely discretionary basis) and adjudicating the penalties, it considers that there should be an additional factor: "any other factors which may be relevant."

Section 59 requires that notice of the administrative penalty must specify certain information. The notice should require that the determination of the factors under section 58 be provided in such notice so that the person has sufficient notice of the reasons for the penalty.

Section 61 provides 14 days for a person to pay the penalty or give a notice of dispute. This is an insufficient time period, particularly since the penalties are so substantial, and this time period should be extended. Likewise, the 30 day time period to deliver written submissions under ss. 61(2) should be extended. Further, ss. 61(6) should include that an order made under ss. 61(5) should provide written reasons for the decision. Finally, the time period for launching a judicial review application under ss. 61(6)(d) and ss. 62(2) should be extended, as well as the time period for paying any penalties under subsection 62(1).

Section 65 provides that a notice of an administrative penalty cannot be given more than 2 years after the date on which the Administrator first learned of the act or omission comprising the contravention. The result of this is that there is no effective limitation period for imposing an administrative penalty unless notice is given to the Administrator, even where the reporting body made all reasonable efforts and has filed a declaration believing it to be true to the best of their knowledge. The resulting lack of finality of certainty in respect of the filings made under the LOTA is highly prejudicial to reporting bodies. In addition, over time, records may be lost or disposed. An ultimate time limit should be added under s. 65, similar to the one which appears in ss. 78(1)(a). However, STEP Canada proposes that the limitation period should align with the two year general limitation period found in the *Limitation Act*. For an administrative penalty, we suggest that this ultimate time limit should be two years from the date of the relevant act or omission (e.g. the date of filing a disclosure report).

Finally, broad discretion to expend penalties collected for 'purposes specified by written authorization of the minister' (s. 67) opens the door to abuse of the imposition of penalties where that authorization benefits the organization to which the Administrator is responsible.

F. Response to Discussion Question of Part 5

1. Are there are any concerns about this Part of the legislation?

Section 70 provides protection for the Administrator, deputy Administrator or a person acting under the authority of a warrant from legal proceedings for damages. The exception is where the protected person has acted in bad faith. The term good faith is well recognized in trust law, but is not easily identified other than in specific circumstances. It would be better to identify the circumstances giving rise to bad faith in the LOTA; alternately, adopting existing statutory language such as that found in s. 96 of the Trustee Act may be more appropriate.

Section 69 appears to create a strict liability offence for providing false or misleading information, or omitting a material fact. Insofar as the Administrator and delegates are protected from liability, the LOTA should also extend that protection to a person described in s. 69.

Section 73 addresses the service of documents by referring to as yet undrafted regulations. The concern here is that there is insufficient information provided about notice, which in turn gives rise to concern that a person will not actually receive notice. In light of the very restrictive time limits in the LOTA (as discussed in the comments of Part 3), this is a significant omission. In addition, we do not see

a good policy reason for providing in the LOTA that a notice given in accordance with an as-yet unpublished regulation shall be "conclusively deemed" to have been received.

G. Part 6 – Offences - Response to Discussion Question

1. Are the maximum fines appropriate for contraventions of the Act?

No. STEP Canada considers the maximum fines to be punitive in nature given the radical change the LOTA makes to privacy legislation. It is noted that these fines are, for the most part, imposed for the same contraventions of the LOTA described as administrative penalties in Part 4 Division 3.

Where an administrative penalty has been imposed and paid, an individual, company or partnership may still face civil proceedings many years later. The limitation period for prosecuting an offence is six years from the date on which the act or omission is alleged to have occurred (s. 78). This is considerably more than the usual period two year period found in the *Limitation Act* for most proceedings in BC. The two-year period applies only where the Administrator issues a certificate after the date on which the Administrator learns of the act or omission.

Section 77 also makes it an offence for officers, directors, managers, and agents of a corporation or limited liability company who authorize, permit, or participate in the commission of the offense, even if the corporation or limited liability company is not prosecuted or convicted. It is unclear why such double jeopardy is required where there has been a proceeding brought against the corporation or limited liability company.

H. Part 7 – Regulations Response to Discussion Question

1. Are the proposed regulation-making powers appropriate for the legislation?

Subsection 82(2) delegates to the Lieutenant Governor in Council the power to establish certain procedures related to documents over which solicitor-client privilege is asserted. Specifically, the Lieutenant Governor in Council is empowered to set the procedures for seizing and holding potentially privileged records while the legitimacy of a solicitor-client privilege claim is determined. The Lieutenant Governor in Council is also empowered to establish a right to apply to the Supreme Court to "resolve" a claim of solicitor-client privilege and "how the court is to deal with such an application".

The drafting of section 82 is confusing, and its interaction with Parts 4 and 6 of the LOTA is not articulated in a readily understandable way. However, these provisions, together with section 53 of the LOTA, are so broadly drafted that they would appear to permit the Administrator to inspect privileged records in the possession of a lawyer so long as the inspection is "in accordance with the regulations". This would be an extreme, and likely invalid, incursion on the quasi-constitutional right of solicitor-client privilege, which the Supreme Court of Canada has said "is fundamental to the proper functioning of our legal system and a cornerstone of access to justice" (see *Alberta (Information and Privacy Commissioner)* v. *University of Calgary*, 2016 SCC 53).

Even if these provisions are interpreted narrowly, such they would require the Lieutenant Governor in Council to propound regulations establishing a procedure for determining whether a record is in fact privileged, STEP Canada is of the view that they represent an inappropriate delegation of the legislature's responsibility for setting out a transparent, considered and predictable framework for balancing the goals of the legislation with solicitor-client privilege. For example, in the *Income Tax Act* (Canada) (at s. 232), the *Criminal Code* (Canada) (at s. 488.1), and the British Columbia *Income Tax Act* (at s. 59), procedures for making a determination of privilege with respect to records in the possession of a lawyer are set out in the legislation itself. Neither the Foreword nor the Summary to the White Paper offer any reason as to why this type of commonly used legislative structure would not be used in the proposed LOTA.

We note as well that while s. 53 would allow the administrator to examine and remove a record, s. 82(1) refers to circumstances where a record is to be "examined, removed or seized" and s. 82(2) appears to authorize the Lieutenant Governor in Council to make regulations establishing procedures for allowing a lawyer's record to be "seized". Presumably it is not the intention of the government to permit the Lieutenant Governor in Council to make regulations allowing for the seizure of records, which is typically something that would require a warrant.

Finally, STEP Canada has concerns about s. 82(2)(b), which allows the Lieutenant Governor in Council to make regulations "establishing a right to apply to the Supreme Court to resolve a claim of solicitor client privilege". Given the place of solicitor client privilege in our legal system, we would think that there is an inherent right to apply to the Supreme Court for an order recognizing and enforcing that right; it should not be necessary for the legislation or the Lieutenant Governor in Council to create it.

STEP Canada urges the government to revise the draft legislation to clarify and ensure that the fundamental right of solicitor-client privilege will not be compromised by this new regime.

I. Part 8 – Consequential Amendments

This Part deals with consequential amendments and in light of the truncated consultation time frame, the authors have been unable to consider them in any detail.

J. Schedules 1 & 2

STEP Canada defers to professional bodies and individuals who practice corporate law with respect to the questions posed about Schedule 1. This submission has addressed certain concerns about Schedule 2 in the discussion of Part 1.

Several members of the STEP Canada Tax Technical Committee participated in discussions concerning our submission and contributed to its preparation, in particular:

Fiona Hunter (Horne Coupar)
Peter Glowacki (BLG)
Ian Worland (Legacy Tax + Trust Lawyers)

We would be pleased to discuss our comments with you at your convenience.

Yours very truly,

Ruth March

Timothy Matthews

Ruth March
Chair, STEP Canada
KPMG LLP

Timothy Matthews
Chair, STEP Canada Trust and
Estate Technical Committee
Stewart McKelvey

From: s.22

To: FCSP FIN:EX

Subject: 372249 Comments on Land Owner Transparency Act white paper

Date: Friday, August 17, 2018 9:26:17 AM

Excellent idea. There are a few homes in our area that lay empty, have been sold and are in disarray. No-one has moved in..

Once this Public Registry is in effect, are we able as neighbours report these findings of sold homes and no-one lives there?

Thank you

s.22

From: s.22
To: Minister, FIN FIN:EX
Subject: Land Owner Transparency Act Questions
Date: August 17, 2018 4:35:21 PM

Hi there,

I was reviewing the Land Owner Transparency Act White Paper and I was wondering if I could schedule a call to discuss some questions I have.

My questions are more so about how this Act will affect shareholders who must disclose the transfer of their shares and whether this transfer would then be subject to property transfer tax (or is there a plan to make this transfer subject to property transfer tax in the future).

Thank you,

s.22

s.22

From:
To: FCSP FIN:EX
Cc: s.22
Subject: 372367 Land Owner Transparency Act
Date: Sunday, August 19, 2018 1:05:10 PM

To Whom It May Concern,

RE: Land Owner Transparency Act White Paper

The Act seems to focus on removing privacy rights for all landowners. While the Act ostensibly targets corporations and trusts the paper states, “This disclosure requirement will apply to all land in BC ...”

To my knowledge that information is already available at the Land and Survey Authority of BC and BC Registry and Online Services. I don’t believe most homeowners are aware how easy it is to get their mailing address and occupation details.

Further, I’m not certain how making ownership info more easily available to the general public will protect renters or prevent criminal activity (Fraud, money laundering, etc.) within the market.

However, my greatest concern is protecting vulnerable homeowners from predators. The paper states that those at risk can apply to have their names removed from the registry. Unfortunately, it does not state what information would be required for the omissions.

Will the registry require legal documentation to support physical harm claims or will a brief call and/ or email suffice?

In addition, what information will landlords be able to access online about non- land owners and tenants?

Thank you for the opportunity to express my thoughts on this paper.

Best regards,

s.22

Sent from my iPhone

Sent from my iPhone

s.22

From:
To: FCSP FIN:EX
Subject: 372368 Ministry of Finance
Date: Sunday, August 19, 2018 1:07:29 PM

To Whom it may concern,

I am opposed the "White Paper Land Owner Transparency Act". It seems, on the outset to be addressing concerns about large corporations and tax loopholes with the protection of tenants in mind. Upon further inspection it would have a profound affect on the safety and privacy all Canadian home owners.

To address the "tenant protection" issue. We are not only dealing with large corporations but regular home owners with a room for rent or a mortgage helper suite. If a perspective tenant is leery about the home in which he wishes to rent a room or a suite, he or she can ask the perspective landlord to produce that information. The perspective landlord can get an official copy of the information from the Land Registry Office if he or she so desires.

What about people who have taken the trouble to move away from someone who is a threat to them? You can't just go around handing out personal information to anyone who asks under the guise of tenant protection - who protects the home owner??

To my dismay I discovered (after reading this proposal) that the rules ***already in place*** allow anyone (with my name and 15 dollars) to waltz into the land registry office and be graciously supplied with my land ownership information - including my mailing address, the bank with which I carry my mortgage and my job description!!

Please, please don't make this information even easier to attain - protect the privacy and safety of *all Canadians*. Change the ridiculous rules already in place that infringe upon the rights of those who own property. Thank you.

Sincerely,
s.22

From: s.22
To: FCSP FIN:EX
Subject: 372369 Comments on Land Owner Transparency Act white paper
Date: Sunday, August 19, 2018 4:26:30 PM

Thank you for presenting this document.
I have the following comments to add:

1. Perhaps the white paper should require the personal information of all of those who provide loans and gifts to buyers, including individuals, corporations, trusts and partnerships or other entities including charities (foundations) and not-for-profit groups.

I have become aware of consortium-type arrangements for the purchase of residential properties in BC. For example, a person, Mr. A, who is a Canadian -resident or at least present in Canada may make an offer to purchase a BC home or condo for say, $1,000,000. Mr. A, who may be a Chinese national then quickly returns to China to round up funds for this personal purchase. Apparently Chinese nationals may legally remove up to $50,000 each per year (based on approximate Canadian dollar equivalent) from China. So Mr. A only needs $50,000 or his own money plus the same amount from a group of 19 Chinese non-residents. Of course the number of people needed will depend on the circumstances. Mr. A returns to Canada to pay "cash" for the home/ condo. The money is likely paid to his lawyer in trust. Mr. A has an arrangement to be on title as the owner, live there and therefore the entire capital gain will be tax-free when the home/condo is sold. Then the borrowed or "gifted" funds plus tax free appreciation can be returned to the Chinese "investors". There are private agreements dealing with the details.

There are around 2 billion people in China. The population of one major city is the same or bigger than the entire population of Canada. There are plenty of people who might be interested in this activity. I recently picked up a copy of "Canadian Chinese RealEstateWeek" magazine at an open house. Pretty much all except for the title is written in Chinese, presumably Mandarin. There are 48 pages of residential listings - some are even priced in Chinese currency. So there is a lot of marketing going on - hopefully not a surprise to you.

2. Please revoke the veil of "privilege" that has and is allowing lawyers to protect foreign and other purchasers from legislative measures such as these. Lawyers do not deserve to offer the right of privilege that leads to shielding persons from disclosures that would otherwise be required or activities that are otherwise prohibited.

3. I believe your penalties proposed are insufficient - please refer to item 1 above - a $50,000 or even $100,000 penalty is a drop in the bucket for persons having the amount of money (illegal or otherwise) that is pouring into Canada. For example, perhaps this should be the greater of $50,000 per year and 1% per month of property value at start of year or date of purchase for year 1; 5% per month for year 2 and subsequent years. That would be a 60% penalty for year 2 and onward. This might get someone's attention.

4. Please ban foreign ownership of all residential property in BC - all areas, including "vacation" areas. Canadian citizens deserve to have the chance to own a piece of their own country. However, they do not have the right to enjoy ever increasing tax-free capital gains on this property. Speculators should understand that the market goes up and down. It's time that happened here with real estate - that is drop the market.

5. Please consider dropping the share ownership percentage to 20% from 25%. I believe this would be working back to more consistency with the previous BC foreign ownership restrictions (from around 20 years ago). By the way, please consider reinstating this foreign ownership restriction for ALL BC real estate, businesses and other items. I would be interested to know the combined value of these properties that are currently owned by non-residents, including communist governments, for example, farm land, ski resorts and related mountain areas, retirement homes, pharmacies, other businesses and real estate.

Best Regards!

s.22

s.22

From:
To: FCSP FIN:EX
Subject: 372371 Wish to speak to AG re this - what I can tell about Whistler !!!!!
Date: Sunday, August 19, 2018 4:41:06 PM

Absolutely get rid of Bare Trusts.

That is one of the reasons why there is such a frenzy in the real estate market at the moment - they are about to be exposed.

Can we get a motion to start registering Bare Trusts tomorrow?

s.22 · prime real estate that the strata property management company is participating in stealing my property for the owner/developer and cronies. Bare Trusts are being used in this work.

Try and get someone to examine the property that is set up to burn down - yes - where is Technical Safety BC - there is NO ONE for Whistler /Squamish. I was fortunately able to access the Fire Services Act and have my own property investigated and an order made. If the BC Libs had still been in it would be the Fire Safety Act and it would not matter that "some persons" had put a baseboard heater over poly in my crawlspace with the control switch in a Electrical Room that I cannot access as well as repeatedly try and flood me and start an electrical fire and change a huge pile of implied easements to help themselves to my property via s69 Strata Property Act. Because I WOULD BE LIABLE!!!! LOOK AT THE FIRE SAFETY ACT AND CORRECT IT PLEASE

s.22

From: Josh
To: FCSP FIN:EX
Subject: 372115-2 LOTA Consultation inquiry
Date: Monday, August 20, 2018 2:08:33 PM

Hello,

I note that the comment period has now been extended to September 19.

Can you please advise when comments on the white paper will be made public and posted on the Ministry of Finance website?

Best,

Josh van Loon
Senior Policy Analyst
Union of BC Municipalities | www.ubcm.ca
60-10551 Shellbridge Way | Richmond, BC V6X 2W9
Phone: 604-270-8226 ext. 113 | **jvanloon@ubcm.ca**

Page 139 to/à Page 140

Withheld pursuant to/removed as

s.12;s.14

Miranda, Carrie FIN:EX

From: Norman, Tiffany FIN:EX
Sent: August 24, 2018 11:49 AM
To: Dawkins, Christina FIN:EX; Dillon, Brian FIN:EX
Cc: Wong, Gina G FIN:EX
Subject: s.22 re: Land Owner Transparency Act

Hi Chris,

Brian and I spoke to s.22 this morning to discuss his questions about LOTA. Here is a summary of the discussion.

His main concern was that he wanted to know if a transfer of shares or beneficial ownership would trigger property transfer tax under LOTA. We indicated that LOTA is a disclosure statute that is intended to provide the government with greater information about who owns land in BC, and it will not trigger property transfer tax. The government has indicated that the information will be used to inform future policy; however, we don't know what that might be or if it would involve applying PTT to transfers of beneficial ownership. We did indicate that, even if government were to decide to tax transfers of beneficial ownership, this would more likely be accomplished through the *Property Transfer Tax Act*, rather than through amendments to LOTA. We mentioned this because s.22 asked if it was possible that the government would go through the consultation and then come back in the spring with a substantially altered piece of legislation that created tax implications.

s.22 was also interested in knowing when the legislation will come into force. We indicated that this is subject to the results of the consultation, but that government is targeting the Spring 2019 session. However, the legislation would come into force sometime after that (12-18 months or so) in order to build the system, educate the public, create regulations, etc.

s.22 was also asked how the requirement for existing land owners to disclose beneficial owners would be enforced. We said that it would likely be easier in the case of corporations, as a notice of the requirement to comply could be sent to all corporations that are registered land owners, but that we would likely need to undertake some public education to ensure that trustees are aware of the obligations.

Thanks,

Tiffany Norman
Policy and Legislative Analyst
Financial and Corporate Sector Policy Branch
Ministry of Finance
T: 778-698-5271

From: Dawkins, Christina FIN:EX
Sent: Monday, August 20, 2018 9:42 AM
To: Norman, Tiffany FIN:EX; Dillon, Brian FIN:EX
Subject: s.22 re: Land Owner Transparency Act

Not sure if I forwarded this to you....

From: Miranda, Carrie FIN:EX
Sent: Friday, August 17, 2018 2:45 PM
To: Dawkins, Christina FIN:EX
Cc: Wong, Gina G FIN:EX; Justesen, Josh T FIN:EX
Subject: s.22 re: Land Owner Transparency Act

Hi Chris,

Please have staff return the call below and if you could please reply to me with a summary once complete.

Thanks so much,

Carrie

From: Justesen, Josh T FIN:EX
Sent: Friday, August 17, 2018 2:14 PM
To: Miranda, Carrie FIN:EX
Subject: s.22 re: Land Owner Transparency Act

Good afternoon,

The DMO just received a call from public caller s.22

s.22 was phoning with questions about the Land Owner Transparency Act and its impact on property taxes.

Can you please direct this to an office that can discuss the act with s.22

Thanks very much,

Josh Justesen
Administrative Coordinator
Deputy Minister's Office | Ministry of Finance
Phone: (250) 387-1660 | Josh.Justesen@gov.bc.ca

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s.22

From:
To: FCSP FIN:EX
Subject: 372597 Comments on Land Owner Transparency Act white paper [BLC-ACTIVE.FID1584050]
Date: Friday, August 24, 2018 12:53:38 PM

Some of my clients are concerned about the public's right to know about their assets (and possible residency). Their concern relates to the safety and security of themselves and their family members.s.22

s.22

There may be compelling social reasons for government wanting to know the identity of persons that have a significant financial interest in certain assets but, just as other personal information is subject to confidentiality, so should be this information. The disclosure of this information should be at least as confidential and protected from public access as one's tax filings.

s.22

s.22

From:
To: FCSP FIN:EX
Subject: 372598 Land Owner Transparency Act Consultation
Date: Friday, August 24, 2018 2:08:54 PM

Hello;

I'd like to add some comments as a BC resident interested in this legislation and proposed new Land Owner Transparency Act.

First, I am not critical of the proposed legislation, but would like to be heard and comment on one specific detail, that is Section 6.

Land excluded from application of Act
6. *This Act does not apply in relation to any of the following: (a) treaty lands; (b) Nisga'a Lands, and Category A Lands and Category B Lands, as defined in the Nisga'a Final Agreement; (c) Sechelt lands, as defined in the Sechelt Indian Band Self-Government Act (Canada); (d) a reserve, as defined in section 2 (1) [definitions] of the Indian Act (Canada); (e) prescribed land.*

There are a number of reserves and treaty lands such as those in Nisga'a that are being developed where properties are effectively "sold" under 99 year leases (head lease between the band/Crown, development agreements in place). These are as close to fee simple as you can get on leasehold. Examples in Kamloops at Sun Rivers, Tsawwassen, Okanagan Indian Band Lands (Cottages on Osoyoos) and elsewhere.

If the intent of the legislation is to properly identify people and not allow them to hide income sources, real property ownership/beneficiaries, for tax purposes and otherwise, I imagine that this clause will allow people and corporations to continue to do that on Indigenous land (if hiding of ownership is indeed happening). Reserve lands are extremely scarce and limited. There are more than 200 individual Indigenous Nations in BC, with the vast majority still having their land managed under the Indian Act.

The proposed Act is silent on the lands that are managed by Indigenous groups who have elected to removed themselves from 32 sections of the Indian Act regarding self-governance of reserve lands through the First Nations Land Management Act (FNLMA). Nations can enter a process to manage their reserve lands absent federal oversight in what is referred to as Land Code. On a quick reading, it appears Indigenous Nations who have ratified Land Code appear to fall outside this proposed legislation. However, if they do not, but have elected to not have their lands managed through federal institutions, does that not expose these nations to potentially unforseen issues?

If this loophole artificially increases demand for reserve land and development of reserve land, this may have the unintended consequence of further putting Indigenous people at risk of what I could describe as colonial capitalism. Think about that for a second. Limited land being used by people seeking (untraceable) profits on the backs of an already marginalized population. The preceding sentence was for effect, but the point stands.

Please consider this situation during this period of public input.

As a background, and to qualify these comments, s.22
s.22

Again, I do appreciate the proposed legislation, but implore you to consider the implications of Section 6 as opposed to simply "ignoring" the issue and kicking the can down the road. Addressing it sooner rather than later will go a long way.

Sincerely,
s.22

From:	FCSP FIN:EX
To:	s.22
Subject:	RE: Land Ownership Transparency Act
Date:	September 25, 2018 4:24:33 PM
Attachments:	image002.jpg image003.png

372674

s.22

Thank you for your email of August 26, 2018, addressed to Shauna Brouwer, Assistant Deputy Minister of the Policy and Legislation Division of the Ministry of Finance, regarding the Land Owner Transparency Act White Paper consultation. As the Executive Director of the Financial and Corporate Sector Policy Branch, which is leading the consultation process, I have been asked to respond.

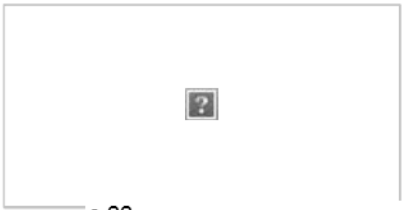
Comments received through the consultation process are currently being reviewed by ministry staff and have not yet been posted on the Ministry of Finance website. Information on the results of the consultation will be posted after all the comments have been reviewed.

I would like to thank you again for taking the time to write.
Sincerely,
Original signed by:
Chris Dawkins

Executive Director

Financial and Corporate Sector Policy Branch
Ministry of Finance

Ministry of Finance – Financial & Corporate Sector Policy Branch



s.22

From:
Sent: Sunday, August 26, 2018 9:12 AM
To: FIN OFFICE FIN:EX
Subject: Land Ownership Transparency Act

Dear Ms. Brouwer,

Can you please tell me whether the comments received to date by the Ministry respecting the Land Ownership Transparency Act are posted on the Ministry's website and, if so, where on that website they can be found?

Thanks,
s.22

From: FIN OFFICE FIN:EX
Sent: Wednesday, July 4, 2018 5:45 PM

To: s.22

Subject: Letter from Ministry of Finance

Ref: 368694

s.22

Thank you for your email of May 18, 2018, addressed to the Honourable David Eby, Attorney General, regarding your detailed recommendations for requiring declarations of beneficial ownership of real estate. As the Assistant Deputy Minister of the Policy and Legislation Division of the Ministry of Finance, I am pleased to respond.

As you are aware, the government has committed to establishing a new, publicly accessible registry of who owns real estate in British Columbia. Recently, the BC government released a white paper which includes a discussion of proposed framework as well as a draft copy of the legislation. The white paper can be found here. Any further comments you may have regarding beneficial ownership disclosure would be welcome as part of the white paper consultation process. The deadline for feedback is August 19, 2018.

I would like to thank you again for taking the time to write.

Sincerely,

Shauna Brouwer
Assistant Deputy Minister
Policy and Legislation Division
Ministry of Finance

From:	s.22
To:	FCSP FIN:EX
Subject:	373596 Commentary on the draft Land Owner Transparency Act
Date:	Sunday, September 9, 2018 1:44:33 PM
Attachments:	BC submission LOTA.docx

Dear Sirs,

I attach my comments and recommendations respecting the draft Land Owner Transparency Act.

Regards,
s.22

September 9, 2018

Financial and Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria, BC V8W 9V1

Sent by email to fcsp@gov.bc.ca

Dear Sirs,

Commentary on Land Owner Transparency Act ("LOTA")

As a Canadian citizen concerned about money laundering in Canada, I would like to thank the British Columbia government for its leadership in introducing transparency legislation that makes it more difficult for money launderers to hide their proceeds of crime.

I would also like to commend the drafters of the legislation for the thought and care they put into the draft LOTA. Their elegant craftsmanship has made the review process a much easier task.

Here are my comments and recommendations concerning the draft LOTA.

1 Initial Disclosure Reports

"The purpose of this requirement is to have a complete picture of beneficial ownership of land in British Columbia available in the land owner transparency registry at that date."[1]

The draft legislation is structured such that corporations, trustees and partners of a partnership ("Reporting Bodies") who are registered owners of interests in land are required to file initial disclosure reports identifying Interest Holders (as defined in the draft legislation). Individuals who are registered owners of interests in land and are not Reporting Bodies (i.e., there are no Interest Holders) are not required to file an initial disclosure report.

The problem with this structure is that it facilitates plausible deniability for non-complying individuals.

While corporations are easily identified as such by their name in the Land Registry, all other nominee owners are not, making it impossible for the administrator to tell by the registered name whether "John Smith" is a trustee, a partner of a partnership or simply an individual owning both the legal and beneficial interest in land.

That means individual nominees/trustees/partners who, on behalf of money launderers, purchased BC land before the legislation is implemented can, with relative impunity, simply not comply with the requirement to file an initial disclosure report. The chances of their being caught are minimal because,

[1] Land Owner Transparency Act White Paper – June 2018, p. 18.

unlike a corporation, they are not easily identified as acting on behalf of third party beneficial owners. And if caught, they can simply claim they didn't know they had to make the filing, in which case they will likely get a minimal fine as punishment or, if caught after the six-year limitation period, no penalty at all.

Recommendation: Expand s.14 to require that an individual registered owner of an interest in land must file an initial disclosure report indicating whether or not he holds the property on behalf or for the benefit of any other person.

That requirement, which is the missing piece in a universal system of initial disclosure by registered owners, would not only give the Government a more "*complete picture of beneficial ownership of land in British Columbia*," but also eliminate plausible deniability for money launderers and other persons who may wish to ignore, without significant consequence, the initial disclosure reporting obligations under the Act.

2 Transparency Declarations

The potential for abuse by way of plausible denial is also present under the draft requirements for transparency declarations. An individual transferee acting as a nominee for a third party could falsely declare that the interest in land was not being registered in the name of a Reporting Body. The chances of his false disclosure being discovered would be minimal and, if caught, he could credibly claim that he did not know that acting as a nominee required him to make that disclosure.

The ability to credibly make that claim can be eliminated by requiring that where a transferee declares the interest in land will not be held by a Reporting Body, he shall further declare that he doesn't act on behalf of a third party.

Recommendation: Where the transferee indicates in his transparency declaration that the interest in land will not be registered in the name of a reporting body, he should be required to also "declare that he is not acting on behalf of any other person and upon registration he will be the sole beneficial owner of the transferred interest in land."

3 Prison Sentences for False or Misleading Information

The integrity of information provided in transparency declarations and disclosure reports will be significantly increased if the penalties for providing false or misleading information includes imprisonment. This is particularly true in the case of money launderers, who generally consider relatively modest monetary fines (as compared to the value of the property) as a cost of doing business.

Further, sanctions that include possible prison sentences provide an effective tool for law enforcement officials when questioning declarants who have made false declarations. A frontman for money launderers is unlikely to disclose their names if facing only a fine because the money launderers can simply reimburse him the full amount of that fine. But when threatened with a potential prison sentence, the frontman is much more likely to cooperate with law enforcement officials in return for a lesser penalty.

Providing this extra tool for law enforcement officials is not a small matter. That's because money launderering is an extremely difficult crime to investigate and prosecute. According to financial crimes expert Raymond Baker, enforcement against money laundering fails 99.99% of the time.[2]

In part, that's because money laundering is a two-part crime—there must first be an underlying predicate crime for the offence of money laundering to exist.

As a result, police cannot even determine if a money laundering crime has been committed unless and until they successfully follow the money back to the predicate crime, which often involves tracing money through multiple trusts and companies in multiple jurisdictions, and before the police get too close, the money launderers can simply add two or three more companies and trusts.

In other words, money laundering is a rabbit hole that never ends, which means it will continue to be extremely difficult to prosecute unless legislators create a crime at the top of the ML rabbit hole (such as the making of a false declaration) and attach meaningful penalties, such as imprisonment, to that crime.

That new tool will enable police to more effectively use the threat of prosecution to convince the declarant to disclose the relevant information needed to prosecute. The greater the penalty, the greater the chances that the declarant will choose cooperation with police.

In terms of appropriate penalty for false disclosures under provincial legislation, I refer you to s. 122 of the Ontario Securities Act[3], which sets the penalty for misleading statements as "*a fine of not more than $5 million or to imprisonment for a term of not more than five years less a day, or to both.*"

Recommendation: Change the penalty for s.69(1)(a) and (b) offences such that a person who provides false or misleading information in a transparency declaration or disclosure report is liable to a fine of not more than $5 million or to imprisonment for a term of not more than five years less a day, or to both.

4 Identification

One of the key elements of a public registry is that the beneficial owner be identified in a manner that minimizes masking by criminals and allows the world (law enforcement officers, journalists, civil society, etc.) to recognize who that person is. Part of the problem is that it is not uncommon for persons to hold more than one citizenship and passport or to be commonly known by a name other than their legal name.

Recommendation:

(i) ***Require disclosure of all names by which the beneficial owner is commonly known.*** "Wang Xiu Ying" should disclose that she is also commonly known as "Harriet Wang." This information should be made public to help civil society more easily identify the beneficial owner.

(ii) **Require disclosure of all passports held by the beneficial owner.** This disclosure (to be made to the administrator but not placed on the public registry) will prevent persons from masking

[2] Raymond W. Baker, *Capitalism's Achilles Heel* (Hoboken, NJ: John Wiley & Sons, Inc., 2005) p. 173.
3 Securities Act, R.S.O. 1990, c. S.5

their identity by using a different passport in separate disclosures (whether that disclosure be in B.C., or on a public registry in another jurisdiction).

(iii) ***Require disclosure of all citizenships held by the individual*.**

5 Sanctioned Persons, PEPS and HIOs

It is important that government regulators, law enforcement agencies, businessmen, tenants, contractors and civil society know whether a beneficial owner of land is a sanctioned person, a politically exposed person, or the head of an international organization (as defined by FATF) so that appropriate risk measures can be taken.

Recommendation: Transparency declarations and disclosure reports should indicate whether the declarant or any interest holder, settlor, or trustee is a sanctioned person, a PEP or an HIO and, if so, disclose the reason why (e.g. Governor of Cayman Islands; son of President of FIFA).

6 Complex ownership structures

Where the ownership structure is complex, it can be difficult, confusing and time consuming to confirm and understand ultimate beneficial ownership.

Recommendation

Where the ownership structure is complex, and in all cases where it consists of more than three entities (whether corporations, partnerships, trusts, nominees or any combination thereof), a diagram shall be filed with the administrator showing how each of the entities in that structure are interconnected.

7 Source of Funds

One of the key pieces of evidence needed in determining whether is person is secretly acting on behalf of a third party is to require his disclosure of source of funds. Ideally, the LOTA would require that all transparency declarations and disclosure reports include disclosure of source of funds. But that obligation would make disclosures significantly more complicated and the LOTA a much more complex registry to administer. However, requiring disclosure of source of funds would be extremely helpful in investigations by the administrator, and therefore he should be given power to demand such disclosure in that limited context.

Recommendation

Amend s. 51(1) (Inspection Powers) such that when the Administrator is conducting inspections to determine whether the LOTA and the regulations are being or have been complied with, he shall have the power to require a person to disclose by way of affidavit the source of funds used to purchase the land in question.

8 Ownership levels

As noted by Global Witness, "In the extractives sector even a 1% stake in a company is a relationship worth reporting, given the high corruption risks and profits."[4]

Recommendation: In s. 3(1) - change 25% to 10%.

[4] https://www.globalwitness.org/en-gb/blog/10-lessons-uks-public-register-real-owners-companies/

I hope the above recommendations are of assistance in drafting this import legislation. If you have any questions, please feel free to contact me.

Regards,

s.22

From:	Maria Dupuis
To:	Minister, FIN FIN:EX
Subject:	Land Owner Transparency Act White Paper – Draft Legislation with Annotation––OIPC File No. F18-76549
Date:	September 11, 2018 11:37:22 AM
Attachments:	Letter to Carole James(11Sept18).pdf

Please find attached Sept. 11, 2018 letter from Commissioner Michael McEvoy regarding the above noted subject.

Maria Dupuis, Executive Coordinator
(250) 387-0777 Email: mdupuis@oipc.bc.ca

on behalf of
Michael McEvoy
Information and Privacy Commissioner for BC

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Office of the
Information &
Privacy Commissioner
for British Columbia
Protecting privacy. Promoting transparency.

September 11, 2018

Honourable Carole James
Minister of Finance and Deputy Premier
Room 153 Parliament Buildings
Victoria, BC V8V 1X4

Dear Minister:

Re: *Land Owner Transparency Act* White Paper – Draft Legislation with Annotation—OIPC File No. F1876549

I write regarding the Land Owner Transparency Act (LOTA) white paper and accompanying consultation draft. I appreciate that establishing a Registry that is accessible to government and select others such as law enforcement and regulatory bodies will be of assistance to these entities by providing the information they need to conduct their investigations and crack down on tax fraud and those engaged in money laundering.

However, after careful review, I am concerned that the Ministry has not provided a sufficient rationale for making the proposed Registry accessible to members of the public. While I understand the government's goal is to help end hidden ownership in the real estate market in BC, it remains unclear to me how a public-facing registry achieves this end. If government desires to explain overall home ownership trends to British Columbians, this could be done through publication of an aggregate data set, a far less privacy intrusive alternative.

While I appreciate being asked to participate in government's consultation process in this matter, my role as Commissioner is to assess the implications for the protection of privacy of any proposed legislation. As regulator, I have ongoing concerns about the proposed public registry.

I would be pleased to meet with you to further discuss this matter.

Sincerely,

Michael McEvoy
Information and Privacy Commissioner
for British Columbia

Mail PO Box 9038, Stn Prov. Govt, Victoria BC V8W 9A4 **Location** 4th floor, 947 Fort Street, Victoria BC
Tel. 250-387-5629 | **Fax** 250-387-1696 | Toll free through Enquiry BC 800-663-7867 or 604-660-2421 (Van.)
Twitter **@BCInfoPrivacy** | **www.oipc.bc.ca**

From:	Suzanne Morris
To:	FCSP FIN:EX
Cc:	Scott Dutchak
Subject:	373802 TELUS LOTA Submission
Date:	Wednesday, September 12, 2018 12:50:00 PM
Attachments:	TELUS LOTA Submission Sept 12, 2018.pdf

To Whom it May Concern,

Please find attached TELUS' submission in respect of the proposed Land Owner Transparency Act.

We appreciate the opportunity to provide our feedback on this legislation and look forward to next steps in the process.

Best Regards,

Suzanne Morris
Senior Counsel, TELUS Communications Inc.

7th Floor, 510 West Georgia Street
Vancouver, B.C. V6B 0M3
Tel: 604-695-6409
Fax: 604-439-1261
e-mail: suzanne.morris@telus.com

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Suzanne Morris
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By Email: fcsp@gov.bc.ca

September 12, 2018

Financial and Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria, BC
V8W 9V1

Re: Proposed Land Ownership Transparency Act ("LOTA")

As a public company headquartered in British Columbia with over 7,000 employees located here and a long history of real estate ownership in the province, TELUS has a keen interest in BC's legislative framework related to land ownership. We commend both the government's actions aimed at preventing tax evasion, fraud and money laundering and this process to engage the public. We have reviewed the June 2018 LOTA White Paper and are pleased to provide the below comments and recommendations aimed at ensuring the legislation achieves the government's intent.

We have limited our critical review to those areas which may especially impact TELUS from its perspective in British Columbia as a:

- registered owner of hundreds of titles;
- tenant under dozens of leases;
- registered holder of tens of thousands of statutory rights of way and easements; and
- public company with various affiliates and predecessor companies.

Our specific comments are as follows:

1. **Definition of "interest in land"**
   The draft uses an inclusive definition identifying a few specific interests as well as "(e) a prescribed, estate, right or interest" which leaves it open to the government to add any interest in land. There are many interests in land, the ownership of which would not realistically be associated with fraud, money laundering or tax evasion. Such interests would clearly include easements, statutory rights of way granted pursuant to section 218 of the *Land Title Act* and covenants granted pursuant to section 219 of the *Land Title Act*. TELUS holds tens of thousands of rights of way. The open-ended definition of "interest in land" creates uncertainty.

Recommendation: *Specific interests (such as rights of way) which would not realistically be associated with fraud, money laundering or tax evasion should be expressly excluded in the definition of "interest in land."*

2. **Leases**

The definition of "interest in land" includes "(c) a right to occupy land under a lease, if the term of the lease is 10 years or more." The definition gives rise to a few issues: (1) Does the term include options to renew (as is the case under the *Property Transfer Tax Act*)? (2) Why 10 years? Under the *Property Transfer Tax Act*, the threshold for payment of tax on a transfer of a lease is 30 years. Is any material fraud, money laundering or tax evasion likely to be associated with leases of just 10 years, or leases at all? (3) There is currently no absolute obligation to register leases in the Land Title Office and to the extent that registration is addressed therein, building leases are specifically exempted. Accordingly, most leases in the province are not registered. If this provision were ever extended to unregistered leases, an enormous burden would be created for tenants and government alike and would not achieve additional value in supporting the government's intent.

Recommendation:

(1) Delete "leases" from the definition of "interest in land".

(2) In the alternative,

(a) clarify whether the term includes renewal terms,

(b) change 10 years to 30 years; and

(c) expressly limit leases to leases registered in the Land Title Office.

3. **Public company exclusion**

TELUS Communications Inc. ("TCI") is a public company and, as such, excluded from the definition of "relevant corporation" in Schedule 1 of the draft legislation. In many cases, the companies holding TELUS' extensive interests in land in the province are wholly-owned subsidiaries of TCI. As such, there is no issue of "hidden ownership" by an individual corporate interest holder. If subsidiaries of TCI do not receive the benefit of the public company exclusion, TELUS is concerned that proposed section 14 (*Disclosure report required from pre-existing owner*) would result in a significant investment of administrative resources without additional value in achieving the government's intent.

Recommendation: *At a minimum, make clear (e.g. in Schedule 1) that a wholly-owned subsidiary of a public company is not a "relevant corporation". Ideally, make clear that an affiliate of a public company is not a "relevant corporation".*

4. **Predecessor Companies**

Tens of thousands of the TELUS properties and other interests in land in the province are registered in the names of predecessor companies (for example, British Columbia Telephone Company) which have become part of TCI through a series of corporate amalgamations. The practice of TELUS is to update such titles as they are transferred; otherwise, updating titles every time a corporate reorganization took place would be a massive and expensive undertaking. TELUS is concerned that proposed section 14 (*Disclosure report required from pre-existing owner)* may have the effect of requiring very extensive and costly title-by-title updating.

We expect there may be many other entities in the same circumstances on which an extensive administrative burden would be placed, without furthering the intent of the legislation.

***Recommendation**: Make clear that compliance with section 14 does not require title to be updated if the registered owner or interest holder is a predecessor of the current owner company.*

5. **Bulk registration/compliance process**
   TELUS is concerned that proposed section 14 (*Disclosure report required from pre-existing owner*) will have the effect of requiring very extensive and costly title-by-title disclosure and reporting, where a single relevant corporation holds multiple interests. Such a disclosure regime would require extensive administrative resources and capacity with no added value in achieving the government's intent.

   We expect there may be many other entities in the same circumstances on which a needlessly inefficient burden would be placed.

   ***Recommendation**: Facilitate compliance with section 14 on a part-by-party, rather than title-by-title, basis for relevant corporations which hold multiple interests.*

Thank you for considering our submission. If you have any questions, please do not hesitate to contact me at suzanne.morris@telus.com or 604-695-6409.

Sincerely,

Suzanne Morris
Senior Counsel, TELUS Communications Inc.

cc: Scott Dutchak, VP – Real Estate, TELUS

s.22

From:
To: FCSP FIN:EX
Subject: 373826 Land Owner Transparency Act Consultation
Date: Friday, September 14, 2018 8:09:22 AM

First of all, thank you to the NDP BC government for taking steps to halt the embarrassing and financially crippling actions of the past 20+ years which made Greater Vancouver and BC in general a place where any and everyone felt welcome to park their illicit funds in our "safe" real estate.

While I don't expect the sitting government to get everything right, or to follow through on all the concepts immediately, I truly appreciate the approach, the thinking, the intention and the steadfastness in the face of virulent attacks.

Re Land Owner Transparency I will be brief: to create public visibility into the beneficiary owners of property in British Columbia is both long over due and critical for our future as a society.

We NEED to have an environment that encourages Gen X and Millennials to become part of the fabric of our communities, rather than driving them away with pathetically low wages and insanely high housing costs.

One of the BEST steps that can be taken is to make BC RE first and foremost for the long-term residents of the Province. Many countries around the world have restrictions on who can buy what kind of RE for this very reason. We should be no exception - in fact, we are desperately in need of those measures tout de suite!

Thank you and Full Steam Ahead!

s.22

From:	s.22
To:	FCSP FIN:EX
Subject:	373832 Property owner transparency
Date:	Friday, September 14, 2018 9:27:09 AM

Good morning,

Please make the new changes to the property transfer paperwork retroactive. It will be benificial to the residents of BC to know who owns property in our Province and ensure they are paying their share of taxes.

Thank you,

s.22

s.22
From:
To: FCSP FIN:EX
Subject: 373834 BC Gov"t White Paper to add transparency to CURRENT owners...
Date: Friday, September 14, 2018 10:55:02 AM

Yes. This is important to get transparency on CURRENT owners and past owners of *ALL* properties in BC and in Canada.

This is to allow the Provincial and Federal Government and the CRA to go after the money launderers, tax evasions, speculators, and non-Canadian Citizens who are abusing our Canadian system and not paying their share of tax.

All bank institutions must report large quantities of money transfer as well to detect money laundering.

From:	s.22
To:	FCSP FIN:EX
Subject:	373838 Feedback on the white paper proposal of the Land Owner Transparency Act
Date:	Friday, September 14, 2018 1:18:54 PM

To whom it may concern,

As you may have noticed, the tax authority of China and CRA have both joint the Common Reporting Standard for the automatic exchange of information regarding bank accounts of non-residents in both countries.

I am just wondering, once the registry of home ownership in BC is built, will our provincial government follow the same path and exchange information regarding home ownership information of non-residents with the Chinese government as well? This will certainly be a very power tool to crack down money laundering and tax evasion.

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Best regards,
s.22

From:	s.22
To:	FCSP FIN:EX
Subject:	373847 Land Owner Transparency Act feedback
Date:	Friday, September 14, 2018 3:49:31 PM

To Whom it May Concern:

My feedback on the above White Paper is as follows:

It is my understanding that the Income Tax Act requires a purchaser of real property, including the "right" to buy a pre-sale condo or townhouse, to withhold income tax (and remit it to the Receiver General of Canada) at the time of purchase, under certain circumstances. Specifically, this is required if the vendor of the property or "right", is a non-resident of Canada who has not obtained a Clearance Certificate from CRA (which is issued if the vendor has paid the income tax directly to the Receiver General), and presented it to the purchaser. If they have presented a Clearance Certificate ("CC") the purchaser is not required to withhold any amount from the price they pay the vendor. On the other hand, if no CC is provided by the vendor, the purchaser is required to find out if the vendor is a non-resident, and if so, must withhold the estimated income tax payable on the vendor's gain on sale (and remit it to the Receiver General). In the event the purchaser does not withhold the income tax (and pays the vendor in full), and CRA are subsequently unsuccessful in obtaining the income tax from a non-resident vendor, then the CRA have the right to collect the income tax owing from the purchaser, unless the purchaser has exercised "due diligence" in trying to find out if the vendor is a non-resident, and concluded that they are not. Therefore, the Income Tax Act puts the onus on the buyer of the property or "right", to determine the residency status of the vendor, and act accordingly, or suffer the consequences of paying the vendor's income tax (in addition to the purchase price paid). I believe that determining the residency status of a vendor could be extremely difficult and precarious, especially where language issues are prevalent, and the purchaser is at the mercy of the information provided by the vendor (especially one that is trying to avoid paying the tax). This is probably a difficult challenge even for the CRA with all of their powers and sources of information, let alone an individual buying a property or "right" on an occasional basis. This problem is seriously compounded by the subjective nature of what qualifies as "due diligence" in making this determination.

The new registry of owners being proposed in the White Paper, appears to gather most of the salient information regarding the residency status of the owner of the property or "right". As such, a logical extension of this proposed new registry in my view, would be to use it as the determining factor as to whether a purchaser had to withhold income tax on the purchase of real property or a pre-sale condo. If the registry indicated a non-resident owner, and no Clearance Certificate was presented by the vendor or their lawyer, then the purchaser should automatically withhold the tax. If the new registry indicates the vendor is a resident of Canada, then no withholding would be required. In this way checking the registry and acting accordingly, would constitute "due diligence" and absolve the purchaser from having to pay the tax on behalf of the vendor. In summary, I believe there should be a meeting of the minds between the Provincial Government and the CRA to discuss formalizing an agreement that if a purchaser checks with the registry to determine if the vendor is a non-resident, that would suffice to meet their “due diligence” obligation, in determining whether they should withhold tax, or not.

s.22

s.22

From:
To: FCSP FIN:EX
Subject: 373848 Comments on Land Owner Transparency Act white paper
Date: Friday, September 14, 2018 9:00:30 AM

To whom it may concern,
My views are my own and not my employer.

I support improving transparency for the reasons cited in the paper. BC can no longer be a haven for money laundering. The effects in real estate particularly have put prices far out of line with incomes forcing many young tax-paying local families to leave. This will hollow out the province. Thank you for your good work to address this major issue.

s.22

From:	Sandy Abley
To:	FCSP FIN:EX
Cc:	sdaniels@farris.com; Nicole@bcheritagelaw.com; s.22 srennie@cbabc.org
Subject:	373925 CBABC Wills & Trusts Subsection (Vancouver) Endorsement of STEP Canada"s Response to the Land Owner Transparency Act White Paper - June 2018
Date:	Monday, September 17, 2018 1:58:52 PM
Attachments:	4442009-1-CBA BC Wills and Trusts (Vancouver) Letter to Carole James re Land Owner Transparency Act White Paper 2018.pdf TETC_18_08_09_STEP_LOTA_Submission.pdf

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To Ms. Carole James:

Please see the attached letter and enclosure regarding the CBABC Wills & Trusts Subsection (Vancouver) endorsement of STEP Canada's response to the "Land Owner Transparency Act White Paper - June 2018".

Regards,
Sandy Abley

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THE CANADIAN
BAR ASSOCIATION
British Columbia Branch

September 17, 2018

VIA EMAIL (fcsp@gov.bc.ca)
Carole James
Minister of Finance & Deputy Premier Financial &
Corp. Section Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Gov't
Victoria, BC V8W 9V1

RE: Endorsement of the STEP Canada's Response to the "Land Owner Transparency Act White Paper – June 2018"

The Canadian Bar Association ("CBA") is recognized as the national and international voice of Canadian lawyers on matters of law and justice, and the advocate for the interests of its members and the legal profession.

As the essential ally and advocate of all members of the legal profession, the CBA is committed to enhancing the professional and commercial interests of a diverse membership and to protecting the independence of the judiciary and the Bar. The Association represents over 35,000 lawyers, judges, Quebec notaries, law teachers and law students across Canada, including more than 7,000 members of the CBA BC Branch ("CBABC").

The CBABC Wills & Trusts Subsection of Vancouver is comprised of BC lawyers who are concerned with all aspects of succession law and practice including wills, probate and administration, testamentary and *inter vivos* trusts, mental competency as it relates to succession, estate planning and adult guardianship, and necessary ancillary areas such as the *Income Tax Act* and the *Land Title Act*.

As the current Chair of the CBABC Wills & Trusts Subsection of Vancouver (the "Subsection"), I wish to advise the Government of the Subsection's full endorsement of the Society of Trust and Estate Practitioners (Canada)'s ("STEP Canada") submissions to you, dated August 17, 2018, and enclosed here for your ease of reference. This endorsement reflects the views of members of the Subsection only and do not necessarily reflect the views of the CBABC as a whole.

Should you wish to discuss our endorsement of STEP Canada's submissions, please reach out to me (sabley@harpergrey.com) and our Vice-Chair, Lauren Blake (LBlake@legacylawyers.ca). You may also reach out to Stuart Rennie, the CBA BC Legislation & Law Reform Officer (srennie@cbabc.org) and he will pass your comments on to the Subsection's Executives.

Sincerely,

Sandra M. Abley, Chair
CBABC Wills & Trusts Subsection of Vancouver

Enclosure

August 17, 2018

Carole James
Minister of Finance and Deputy Premier
Financial & Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria, BC V8W 9V1

Submitted via email: fcsp@gov.bc.ca

Re: Response of STEP Canada to the Land Owner Transparency Act White Paper – June 2018

The Society of Trust and Estate Practitioners (Canada) ("**STEP Canada**"), with the assistance of three members of its Vancouver Branch, has reviewed the *Land Owner Transparency Act White Paper – June 2018* (the "**White Paper**") and provides this response to the Government of B.C.'s request for comments.

STEP Canada is part of STEP Worldwide, the leading international organization for trust and estate professionals. STEP's mandate is to provide a forum for discussion and to advance practitioners' knowledge of tax, accounting, administrative, statute, and case law through regular branch seminars, symposia, and an annual national conference. STEP Canada also makes representations of a technical nature to government, policymakers and related professional bodies, with the goal of promoting better understanding of trusts and estates, and improving related law and policy. There are 20,000 members worldwide and over 2,600 members in Canada, operating as professionals in the trust, legal, accounting, financial planning and insurance industries. Fundamentally, all of the members of STEP Canada and STEP Worldwide are engaged in advising their clients on matters relating to the ownership and transfer of property.

Given STEP Canada's focus on trusts and estates, this response does not address issues that may arise in provisions of the proposed *Land Owner Transparency Act* (the "**LOTA**") as it affects real property and corporate law.

A. General Comments

While our comments are for the most part organized to follow the structure of the proposed LOTA and the questions for discussion posed by the government in the White Paper, we wish to preface our specific comments with the following comments of a more general nature.

1. The Government Has Not Allowed Adequate Time to Properly Consider and Comment

We note at the outset that it is neither fair nor appropriate to release the draft LOTA for public consideration and input at the very beginning of summer, with only a 60-day period allowed for submissions. This is simply not a sufficient amount of time to permit relevant stakeholders to consider all the implications arising from legislation of this scope and import. The comments provided in this submission reflect the concerns identified by a small number of STEP members in British Columbia and, because of the time constraints, is not as comprehensive as STEP Canada would have liked.

Further, we were dismayed to see the government has elected to bring into force some of the provisions of the LOTA by way of Regulation to the *Property Transfer Act* (Minister of Finance and Deputy Premier Order No M287) before any submissions on the LOTA have been provided and reviewed.

Suite 510, 45 Sheppard Avenue East, Toronto ON M2N 5W9
www.step.ca

STEP Canada strongly urges the government to extend the period for consultation beyond the new date of September 19, 2018, and withdraw the Regulation until the consultation process is completed and the concerns raised by various stakeholders have been addressed.

2. The Stated Policy Is Not Supported By The Substance of the Legislation

In the Foreword to the White Paper, the proposed *Land Owner Transparency Act* ("LOTA") is presented as part of a plan designed to tackle foreign and domestic speculation, close real estate and tax loopholes, protect renters, crack down on tax fraud and boost housing supply. The specific components of this plan stressed most in the Foreword and in the Summary focus on cracking down on tax fraud and money laundering.

With respect, in our view, these statements do not appear to express the true intentions of the LOTA, which is ill-suited to collecting information relevant to taxation and which appears to be designed to establish a public registry of what, for most individuals, is their most valuable asset. Equivalent information is not publicly available with respect to other valuable assets of an individual, such as portfolio investments, bank accounts and the like, except where there is a clear public-policy reason for making such information available, such as in the case of individuals and other entities who hold significant interests in public corporations.

While there may be justifiable policy considerations in making appropriate information available to taxation authorities, law enforcement agencies and financial sector regulators, nothing in the Foreword or in the Summary articulates a compelling policy reason for publicly "outing" individuals who hold indirect interests in real property in British Columbia where those individuals have chosen legal means of registering title in another manner.

3. Harmonizing Disclosure Legislation

The LOTA, if it is enacted, will add to an increasingly crowded landscape of reporting obligations referable to financial and other interests, yet seems to have been drafted with little regard to how it might be made to work in harmony with other relevant legislation.

Since 2000, there has been an unprecedented increase in the amount of information entities of all kinds are required to collect with respect to transactions involving money and other property. Examples include: The *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, S.C. 2000, c. 17; the U.S. *Foreign Accounts Tax Compliance Act* (effectively implemented in Canada by Part XVIII of the *Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.)* (the "*Income Tax Act* (Canada)"), and the Common Reporting Standard under *the Convention on Mutual Assistance in Tax Matters* (implemented in Canada by Part XIX of the *Income Tax Act* (Canada).

In December 2017, Canada's federal, provincial and territorial finance ministers agreed to pursue legislation to strengthen beneficial ownership transparency with respect to corporations and other legal entities. And in July of this year, the federal Minister of Finance published draft legislation which will impose additional filing and reporting obligations on most express trusts (Legislative Proposals Relating to Income Tax and Other Legislation, July 27, 2018).

The primary stated purpose of each of these regimes is to combat tax fraud and/or money laundering. The addition of the proposed LOTA will further increase the burden on affected entities by requiring them to collect different information, in a different format and to prepare and make additional filings on different timelines from what is required under the other regimes.

If, as stated in the Foreword and the Summary to the proposed LOTA, the objective is to combat tax fraud and money laundering, one would think that the information required to be collected and reported would be harmonized with the information contemplated by those other regimes. One would

also expect that legislative drafting would be consistent with those regimes. STEP Canada's review of the LOTA makes clear that it is not.

4. The Proposed LOTA places excessive reliance on the use of Regulations

STEP Canada notes that references to 'prescribed' matters abound in the draft legislation, resulting in significant uncertainty in a number of its provisions. Leaving the door open to what may be significant changes to the legislation in this manner is inappropriate, given the intrusive scope of the LOTA. We will recommend several times in this letter that the proposed LOTA be revised to spell out more of the substance in the actual legislation.

B. Part 1 - Definitions, Interpretation and Application - Response to Discussion Questions

1. Are the definitions and interpretation provisions clear?

2. Are any other interpretation provisions needed?

In STEP Canada's submission, many of the definitions and interpretation provisions are not clear. This lack of clarity is exacerbated by the difficulty we have had in understanding them by comparing them to terms used in other legislation that the LOTA is presumably designed to support, such as for example the British Columbia *Property Transfer Tax Act* (the "PTTA") and the *Income Tax Act* (Canada). Some examples identified by STEP Canada are as follows.

The proposed LOTA will define a "beneficial owner" in relation to an interest in land (s. 1) as an 'individual who has a 'beneficial interest in respect of the interest in land' 'registered or to be registered in the name of a trustee of a relevant trust' (s. 2). In contrast, the additional foreign buyer's tax imposed by the recent amendments to the British Columbia *Property Transfer Tax Act* applies where a beneficiary of a trust who is a foreign entity 'holds a beneficial interest in the residential property to which the taxable transaction relates'. Neither the proposed LOTA nor the PTTA provide any guidance as to the difference between (a) *holding a beneficial interest in* residential property, and (b) *having a beneficial interest in respect of an interest* in land. What is the difference between having a beneficial interest *in* something and having a beneficial interest *in respect of* it? What is the difference between having a beneficial interest in *a particular thing* and having a beneficial interest *in respect of an interest in that thing*? Will reporting be required in respect of beneficiaries who have only remote contingent interests in property held under a trust?

Similarly, the proposed LOTA will require reporting in respect of an individual who is a "beneficial owner" in respect of an interest in land, while Part XIX of the *Income Tax Act* (Canada) requires reporting in respect of a "controlling person" in respect of an entity for the purposes of the Common Reporting Standard. The definition of "beneficial owner" is materially different from the definition of "controlling person".

Similar questions present themselves with respect to the concept of a "corporate interest holder" in s. 1 and s. 3, which define a "corporate interest holder" in respect of a relevant corporation as an individual who (a) has legal or beneficial ownership or control, directly or indirectly of 25% of the votes or value of the corporation (the "25% votes or value test"), (b) has the right to appoint or remove from office the majority of the board of directors of the corporation, (c) has the right to exercise significant influence or control over the corporation, or (d) has a prescribed right or interest.

By contrast, the additional foreign buyer's tax imposed by the British Columbia *Property Transfer Tax Act* applies to a "foreign corporation", which includes a corporation that is controlled, directly or indirectly in any manner whatever, within the meaning of s. 256 of the *Income Tax Act* (Canada). While elements of the definition "corporate interest holder" are relevant to a determination of control for this purpose, the 25% votes or value test is not. Similarly, having the right to exercise significant influence or control does not necessarily mean one has the level of control contemplated by s. 256 of the *Income*

Tax Act (Canada), and could be broad enough to include types of control (e.g. under a franchise agreement) that are expressly excluded from the concept of direct or indirect control in s. 256.

Further, the definition of 'corporate interest holder' in s. 3 does not appear to be specifically relevant to any other test under the *Property Transfer Tax Act* or the *Income Tax Act* (Canada). Neither the Foreword nor the Summary explain how information collected in respect of "corporate interest holders" will be of use in applying other concepts that are of significant importance under *the Income Tax Act* (Canada), such as "related", "affiliated", "associated" and "specified shareholder" (which uses a 10% threshold, where shares held by certain other related and connected parties are also taken into account).

Another uncertainty is found in the definition of 'relevant trust' which excludes trusts listed in Schedule 2. That schedule includes alter ego trusts, joint partner trusts, and testamentary trusts. (Also listed are trusts where the trustee is the Public Guardian and Trustee, pension trusts and First Nations trusts.) While Schedule 2 references the *Income Tax Act* definitions of alter ego trusts and joint partner trusts, it fails to provide a similar reference for a testamentary trust. There seems no reason to omit referencing the *Income Tax Act* definition of a testamentary trust, nor for omitting non-testamentary spouse trusts.

Finally, the definition "settlor" is circular, in that it defines a "settlor" as a "settlor" who is not also a trustee of the trust or beneficial owner of the relevant interest in land. This presumably will not capture a person who is not the creator of a trust, but has subsequently made a large transfer to it. The information relating to settlors collected under the proposed LOTA will not be helpful in applying the PTTA or the enhanced income tax reporting requirements for trusts announced by the federal Minister of Finance on July 27 of this year (both of which expressly include certain persons who are not the creator of a trust but who have subsequently made large transfers to it). Moreover, it will make it impossible to discern from the reporting who the settlor of the trust is, where the settlor is also a trustee or beneficial owner. The policy reason for this is not clear.

Much of the information required to be provided in respect of a corporation under s. 7 can easily obtained from a relevant corporate registry. For British Columbia companies in particular, it seems redundant to require a reporting body to obtain, report on, and update from time to time, information that is already readily accessible from a simple search made through BC Registry and Online Services. Has the government considered whether there are other, more efficient means of ensuring this information is available to the appropriate parties, for example by requiring relevant corporations to be extra-provincially registered in British Columbia under Part 11 of the British Columbia *Business Corporations Act*?

We have mentioned above the significant reliance the proposed LOTA places on the use of regulations. The definitions of both 'beneficial owner' in s. 2 and 'corporate interest holder' in s. 3 also include an individual who has a 'prescribed right or interest'. Schedule 2 also makes reference to a 'prescribed person or entity' in 1(g)(vi), leaving uncertainty as to who will be included as a 'beneficiary' of an excluded trust. The use of 'prescribed' is repeated in ss. 7 - 9 of the LOTA in relation to other information that may have to be provided by a reporting body. The White Paper does not include any draft regulations, leaving us unable to comment meaningfully on these aspects of the LOTA. We are of the view that it is not appropriate for the legislature to leave so much of its work to the executive branch.

C. Part 2 – Transparency Declarations and Disclosure Reports - Response to Discussion Questions

1. Do the disclosure reports capture the appropriate information about beneficial interests in land?

In STEP Canada's submission, the disclosure that would be collected under the proposed LOTA is not well suited to the stated purpose of cracking down on tax fraud and money laundering. Moreover, it would impose excessive and inconsistent requirements to collect and report information on reporting bodies to whom is applies. STEP Canada is unclear how the government expects to be able to make use of the information collected under the proposed LOTA to enforce provincial or federal income tax law.

STEP Canada notes that the United Kingdom has introduced draft legislation (the *Registration of Overseas Entities Bill*) with a similar purpose: to combat money laundering and achieve greater transparency in the UK property market by establishing a new beneficial ownership register of overseas entities that own UK property. However, in the impact assessment provided with the draft Bill, the UK government specifically excluded trusts. It stated:

> As was set out in our response of March 2018 to the call for evidence on the register, and consistent with the commitment made at the 2016 Anti-Corruption Summit, we do not consider that trusts should be included on the register. Trusts do not have legal personality in their own right and so are not capable of entering into contracts. They are also commonly used for reasons including protecting assets for children and vulnerable adults, meaning that legitimate grounds exist for ensuring that information on the beneficial owners of trusts is not made publicly available.'

STEP Canada urges the British Columbia government to adopt the UK approach for trusts.

Turning to the specific provisions for disclosure reports, s. 15 places the burden upon a reporting body to ensure that the reports be updated when there is a change in the interest holders. The time line for doing so is extremely short, and the penalties (discussed later in this submission) are significant. It may prove difficult for a reporting body to meet these reporting requirements and it is suggested that a six month period would be more reasonable.

The reporting requirements of a disclosure report where the reporting body is a trustee (s. 18(2)) also impose the unreasonable obligation to identify the beneficial interest and powers of the beneficial owner as described in s. 2. While the power to revoke a trust (and receive the 'interest in land' is easily identified in a trust deed, the extent of a beneficial owner's interest in land may not be so readily identified. What if the interest is as a contingent beneficiary? What if the interest is vested subject to divestment? What if a beneficiary has the right to receive income from the trust but has no specific interest in the underlying property of the trust?

The requirement that a reporting body who is a trustee 'obtain extracts from relevant records' is also unclear. What records are relevant in respect of a trust? Compared to corporations and partnerships which are subject to a statutory regime of reporting, trust records are not maintained in any registry and may vary significantly from trust to trust.

Subsection 19(1) deals with the situation of an interest holder who is not capable: the reporting body is required to make reasonable efforts to obtain information about that incapability. This places an unfair burden on the reporting body as the information may be subject to privacy laws.

The requirement in s. 20 that a reporting body make 'reasonable efforts' to give notice to interest holders of the disclosure report is troubling. As an interest holder is entitled to object to having his or

her information publicly accessible (s. 38, discussed further below), the notice requirements should be extended and made mandatory.

Section 22 addresses the problem of a reporting body being unable to obtain all information needed to complete a report or to give notice to interest holders. Once again, there is a requirement in subsection 3(d) for 'prescribed information' with no indication of what that might entail.

2. Is there any other information that should be disclosed?

No.

3. Are there changes that would make this Part more effective?

As is noted in the comments above, the LOTA requires the collection of information that has no specific application to relevant provincial tax legislation (*e.g.* the *Property Transfer Tax Act*) or federal tax legislation (e.g. the *Income Tax Act* (Canada)). If the purpose of the legislation is to assist in administering and enforcing such legislation, then it should be crafted to collect information that is relevant in applying that legislation.

4. Are there changes to this Part that would increase efficiency for landowners?

Division 3 of Part 2 requires reporting bodies to make reasonable efforts to obtain and confirm the accuracy of identification information and other key information about interest holders and, in the case of a trustee, the settlors of the trust. However, there is no corresponding obligation on an interest holder to provide such information to a reporting body who requests it. Consideration should be given to including provisions that do so. For example, s. 237(1.1) of the *Income Tax Act* (Canada) requires a person to provide their social insurance number or other designated number to a person who requests it where the requestor is required to make an information return including the number.

If trusts are to be included in the LOTA, STEP Canada submits that the provisions of the LOTA relating to trusts should also be refined. As is noted above, the definition "beneficial owner", and in particular, the term "has a beneficial interest in respect of the interest in the land" are ambiguous and should be clarified. Improving this and other imprecise definitions would make it easier for reporting bodies to comply with the legislation. It is unreasonable to impose such significant obligations on so many people to collect and report the information contemplated in the LOTA without more clarity.

D. Part 3 – Access to Information Provided in Disclosure Reports - Response to Discussion Questions

1. Does the draft legislation strike an appropriate balance between transparency and privacy?

Part 3 of the LOTA is perhaps one of the most troubling parts of the legislation as it addresses the access to information provided in the Disclosure Report. In STEP Canada's submission, there is no good policy reason for making the information collected under the proposed LOTA available to the public. Indeed, the view of STEP Canada is that the opposite is the case.

The public is not tasked with administering or enforcing laws relating to tax and money-laundering and the government has not cited any support for the simple assertion that a publicly available database will help to foster accurate reporting. Providing information on beneficial ownership to the public, especially given the many ways in which it the information proposed to be collected is not relevant to most applicable tax legislation, will surely lead to misunderstandings, false accusations and potentially worse results.

Moreover, the statements that a publicly available database *may be* important for tenants, contractors, and others who deal with land owners, or *could also* help financial institutions, lawyers, notaries, real estate agents and others are not compelling. We are unaware of any sentiment that the land registry system under the *Land Title Act* is not working for these parties. On the contrary, contractors have well established rights to file liens against properties themselves. Financial institutions are sophisticated parties, familiar with methods and structures for land ownership, and are advised by lawyers and notaries who have the training and the skills to do so.

Despite the government's stated goal of preserving the integrity of that system (and the inclusion of s. 5 of the LOTA), adding a parallel registry of beneficial ownership will result in beneficial owners being named in litigation relating to land, whether they are proper parties or not. It cannot be good policy to enact legislation that *will* result in a significant intrusion on the privacy of numerous individuals, simply because the best the government can say in support of doing so is that it *may* be important or *could* also help third parties who already have well-established tools for dealing with land and land owners under British Columbia's *Land Title Act* and land registry system.

2. Are there concerns about disclosing any category of information, either as part of the publicly accessible information or as part of the information available only to tax, law enforcement and regulatory agencies?

Again, STEP Canada has significant concerns with the proposal to make any part of the information collected under the LOTA public. Specifics of these concerns are set out elsewhere in this submission.

3. Do the provisions in the Part provide adequate tools to vulnerable people to have information obscured or omitted?

A serious concern is the extent of the powers given to the Administrator to decide what should and should not be included in a publicly accessible database. Once a transparency declaration and disclosure report have been filed – together referred to as a 'transparency record' – the Administrator must not make identification information accessible for search and inspection for 30 days (s. 28(2)), although identification information of individuals under 19 or incapable must be 'obscured or omitted' (s. 37). It is unclear what action would consist of 'obscuring' as opposed to 'omitting' information in a public data base, and clarification on this point is needed.

While s. 20 of the proposed LOTA requires a reporting body to notify an interest holder of the reporting body's (a) intention to file a disclosure report, and (b) having done so, the section does not appear to provide any strict timelines for giving such notice. Assuming that a reporting body has given the required notice to an interest holder promptly upon filing a disclosure report, that individual has only 30 days to make an application to have information 'obscured or omitted'. This is an insufficient time frame for the interest holder to prepare for and make the application, particularly if that individual is vulnerable but not incapable.

Where an individual does make an application, the test to be applied is whether the individual 'believes that making that information publically accessible could reasonably be expected to threaten the safety or mental or physical health' of the individual or a member of the individual's household (s. 38(1)). Assuming that the individual has such a belief, it is unclear how the Administrator will determine whether that belief is 'reasonable' (s. 39(1)(b)) without the individual providing detailed and likely confidential information. There appears to be no framework for maintaining privacy of that information, and it is hard to imagine that the individual will have sufficient time to gather the necessary information.

STEP Canada also considers inadequate the process for determining the obscuring or omitting of an individual's information: the protection is entirely discretionary. The statutory provisions leave too much power in the discretion of the Administrator. The example given in the government's summary of the LOTA of 'vulnerable individuals' refers to domestic violence and suggests that the discretion will be

exercised only sparingly, in cases of proven danger with specifically identified antagonists. However, there are numerous reasons, aside from tax fraud and money laundering, that a person might have good reason to keep information about their assets private, for example:

(a) An individual who lives in, or travels to, or has family who lives in or travels to another country where crimes such as kidnapping are common, may wish to keep details of his or her asset holdings and wealth confidential. This is a real concern, and not unusual among our clients from certain parts of, for example, Latin America.

(b) Disclosure of an individual's property holdings might be detrimental to his or her business interests. There is no clear policy reason why a person's property holdings should be any less deserving of confidentiality and protection from business competitors than the balance in the person's bank account or the recipe for Coca-Cola.

(c) Vulnerable adults may be preyed upon by individuals with access to the information in the registry.

While we acknowledge that s. 36 of the proposed LOTA prohibits the use of publicly available information for solicitation, harassment, or "prescribed purposes", we do not consider these restrictions or the proposed administrative and quasi-criminal fines for violating them (under ss. 57 and 75) to be adequate protection from the abuses that could result from making this information public.

Another concern of the review process is the lack of due process: the Administrator is the person responsible for maintaining records and public access to them, and yet is also the person who adjudicates whether to make the information public (s. 39). Once the Administrator reaches a decision on an application to omit or obscure information of an individual, notice must be given to the individual, and there is an additional 30 days after notice before the information is available to the public (where the Administrator determines that the individual has failed to establish the evidence necessary for his or her belief). There is no appeal from the Administrator's decision, leaving the individual in the unfortunate position of seeking relief from the court for either a writ of mandamus or judicial review within yet another very short time period.

Finally, s. 43 gives the Administrator very broad powers to independently omit or obscure information, annotate a filed disclosure statement, make changes to information, remove information or add information. It is unclear why such broad powers are needed, and there is no stated policy reason for doing so.

4. Are there other factors the government should be considering respecting access to information provided to the public and/or government and agencies?

The right to search by law enforcement personnel (s. 30) is very broad. There is no requirement that a proceeding has been commenced: a search may be undertaken 'with a view to a law enforcement proceedings or from which a law enforcement proceeding likely to result'. It is unclear who (if anyone) is responsible for determining if the law enforcement personnel have reasonable grounds to undertake a search.

E. Part 4 – Administration and Enforcement - Response to Discussion Questions

1. Does the Act provide the appropriate investigation powers for the Administrator?

STEP Canada is concerned that there is no independent and neutral person exercising the Administrator's powers, given the significant powers granted to that officer and the potential exposure

of personal information to the public. The Administrator is appointed by the chief executive officer of the Land Title and Survey Authority, and must be an employee of that Authority.

In addition to the Administrator's powers discussed in the comments to Question 3 of Part 3, the inspection powers include the power to:

- enter a place where a reporting body carries on business or records relating to the reporting body are kept, and examine those records;
- require a person to produce or provide access to records and things in a person's possession or control that may be relevant to the inspection;
- require a person to answer questions and 'otherwise provide information'; and
- remove 'a record or thing' from a place.

Such powers would, in other circumstances, require a search warrant. The only time that a search warrant is required under s. 51 is when the place is a private residence, and only if the consent of the owner or occupier is not provided. The only other restriction on the Administrator's powers is where the record is in possession of a lawyer who claims solicitor-client privilege. (The issue of solicitor-client privilege is addressed below, under the comments to Part 7.)

STEP Canada takes the position that it is unreasonable to expect a reporting body or person to have all records, things and information on hand to provide to the Administrator without notice. There should be a specified (and reasonable) period of time provide records, things or information before the power to enter and inspect is exercised. Alternatively, and at the very least, the Administrator should be required to give a reasonable period of notice to a person or business before carrying out inspections.

2. Are the maximum administrative penalties appropriate for contraventions of the Act?

STEP Canada is concerned not only about the size of the penalties but also the process under which they are assessed and appealed.

Administrative penalties for obstructing the Administrator's inspections are provided in s. 57 (along with contravention of other parts of the LOTA). The penalty must not exceed $50,000 for contravention by a corporation or limited liability company and $25,000 in the case of an individual. These are significant for legislation which radically changes the privacy rights of citizens, and the Administrator appears to have significant discretion in deciding the quantum. It is also of some concern that the Administrator determines not only the penalty but also adjudicates any objection to the contravention or penalty by the individual receiving notice of the penalty.

The LOTA also provides for the imposition of a penalty where a person has provided false or misleading information in a transparency declaration, disclosure report, application under ss. 38 or 41, or an application under s. 61. However, it makes no distinction between situations where the information has been provided unknowingly or due to mere negligent error and situations where it has been provided wilfully or due to gross negligence. In our view, this is inappropriate, especially given the regularity with which it is likely that a relevant person will not have direct knowledge of the information that is required to be reported.

Where the Administrator imposes a penalty of less than $10,000 (for a corporation or limited liability company) or $5000 (for an individual), only written submissions to the Administrator are permitted, and must be made within 30 days of receiving notice. An oral hearing may only be requested if the penalties exceed those amounts. Only after the Administrator has made a determination of the review

may a person apply to the court for judicial review and the application must be commenced within 30 days of the person receiving a copy of the order.

Section 58 sets out factors for the Administrator to consider. While STEP Canada objects in principle to the Administrator both imposing (on an entirely discretionary basis) and adjudicating the penalties, it considers that there should be an additional factor: "any other factors which may be relevant."

Section 59 requires that notice of the administrative penalty must specify certain information. The notice should require that the determination of the factors under section 58 be provided in such notice so that the person has sufficient notice of the reasons for the penalty.

Section 61 provides 14 days for a person to pay the penalty or give a notice of dispute. This is an insufficient time period, particularly since the penalties are so substantial, and this time period should be extended. Likewise, the 30 day time period to deliver written submissions under ss. 61(2) should be extended. Further, ss. 61(6) should include that an order made under ss. 61(5) should provide written reasons for the decision. Finally, the time period for launching a judicial review application under ss. 61(6)(d) and ss. 62(2) should be extended, as well as the time period for paying any penalties under subsection 62(1).

Section 65 provides that a notice of an administrative penalty cannot be given more than 2 years after the date on which the Administrator first learned of the act or omission comprising the contravention. The result of this is that there is no effective limitation period for imposing an administrative penalty unless notice is given to the Administrator, even where the reporting body made all reasonable efforts and has filed a declaration believing it to be true to the best of their knowledge. The resulting lack of finality of certainty in respect of the filings made under the LOTA is highly prejudicial to reporting bodies. In addition, over time, records may be lost or disposed. An ultimate time limit should be added under s. 65, similar to the one which appears in ss. 78(1)(a). However, STEP Canada proposes that the limitation period should align with the two year general limitation period found in the *Limitation Act*. For an administrative penalty, we suggest that this ultimate time limit should be two years from the date of the relevant act or omission (e.g. the date of filing a disclosure report).

Finally, broad discretion to expend penalties collected for 'purposes specified by written authorization of the minister' (s. 67) opens the door to abuse of the imposition of penalties where that authorization benefits the organization to which the Administrator is responsible.

F. Response to Discussion Question of Part 5

1. Are there are any concerns about this Part of the legislation?

Section 70 provides protection for the Administrator, deputy Administrator or a person acting under the authority of a warrant from legal proceedings for damages. The exception is where the protected person has acted in bad faith. The term good faith is well recognized in trust law, but is not easily identified other than in specific circumstances. It would be better to identify the circumstances giving rise to bad faith in the LOTA; alternately, adopting existing statutory language such as that found in s. 96 of the Trustee Act may be more appropriate.

Section 69 appears to create a strict liability offence for providing false or misleading information, or omitting a material fact. Insofar as the Administrator and delegates are protected from liability, the LOTA should also extend that protection to a person described in s. 69.

Section 73 addresses the service of documents by referring to as yet undrafted regulations. The concern here is that there is insufficient information provided about notice, which in turn gives rise to concern that a person will not actually receive notice. In light of the very restrictive time limits in the LOTA (as discussed in the comments of Part 3), this is a significant omission. In addition, we do not see

a good policy reason for providing in the LOTA that a notice given in accordance with an as-yet unpublished regulation shall be "conclusively deemed" to have been received.

G. Part 6 – Offences - Response to Discussion Question

1. Are the maximum fines appropriate for contraventions of the Act?

No. STEP Canada considers the maximum fines to be punitive in nature given the radical change the LOTA makes to privacy legislation. It is noted that these fines are, for the most part, imposed for the same contraventions of the LOTA described as administrative penalties in Part 4 Division 3.

Where an administrative penalty has been imposed and paid, an individual, company or partnership may still face civil proceedings many years later. The limitation period for prosecuting an offence is six years from the date on which the act or omission is alleged to have occurred (s. 78). This is considerably more than the usual period two year period found in the *Limitation Act* for most proceedings in BC. The two-year period applies only where the Administrator issues a certificate after the date on which the Administrator learns of the act or omission.

Section 77 also makes it an offence for officers, directors, managers, and agents of a corporation or limited liability company who authorize, permit, or participate in the commission of the offense, even if the corporation or limited liability company is not prosecuted or convicted. It is unclear why such double jeopardy is required where there has been a proceeding brought against the corporation or limited liability company.

H. Part 7 – Regulations Response to Discussion Question

1. Are the proposed regulation-making powers appropriate for the legislation?

Subsection 82(2) delegates to the Lieutenant Governor in Council the power to establish certain procedures related to documents over which solicitor-client privilege is asserted. Specifically, the Lieutenant Governor in Council is empowered to set the procedures for seizing and holding potentially privileged records while the legitimacy of a solicitor-client privilege claim is determined. The Lieutenant Governor in Council is also empowered to establish a right to apply to the Supreme Court to "resolve" a claim of solicitor-client privilege and "how the court is to deal with such an application".

The drafting of section 82 is confusing, and its interaction with Parts 4 and 6 of the LOTA is not articulated in a readily understandable way. However, these provisions, together with section 53 of the LOTA, are so broadly drafted that they would appear to permit the Administrator to inspect privileged records in the possession of a lawyer so long as the inspection is "in accordance with the regulations". This would be an extreme, and likely invalid, incursion on the quasi-constitutional right of solicitor-client privilege, which the Supreme Court of Canada has said "is fundamental to the proper functioning of our legal system and a cornerstone of access to justice" (see *Alberta (Information and Privacy Commissioner)* v. *University of Calgary*, 2016 SCC 53).

Even if these provisions are interpreted narrowly, such they would require the Lieutenant Governor in Council to propound regulations establishing a procedure for determining whether a record is in fact privileged, STEP Canada is of the view that they represent an inappropriate delegation of the legislature's responsibility for setting out a transparent, considered and predictable framework for balancing the goals of the legislation with solicitor-client privilege. For example, in the *Income Tax Act* (Canada) (at s. 232), the *Criminal Code* (Canada) (at s. 488.1), and the British Columbia *Income Tax Act* (at s. 59), procedures for making a determination of privilege with respect to records in the possession of a lawyer are set out in the legislation itself. Neither the Foreword nor the Summary to the White Paper offer any reason as to why this type of commonly used legislative structure would not be used in the proposed LOTA.

We note as well that while s. 53 would allow the administrator to examine and remove a record, s. 82(1) refers to circumstances where a record is to be "examined, removed or seized" and s. 82(2) appears to authorize the Lieutenant Governor in Council to make regulations establishing procedures for allowing a lawyer's record to be "seized". Presumably it is not the intention of the government to permit the Lieutenant Governor in Council to make regulations allowing for the seizure of records, which is typically something that would require a warrant.

Finally, STEP Canada has concerns about s. 82(2)(b), which allows the Lieutenant Governor in Council to make regulations "establishing a right to apply to the Supreme Court to resolve a claim of solicitor client privilege". Given the place of solicitor client privilege in our legal system, we would think that there is an inherent right to apply to the Supreme Court for an order recognizing and enforcing that right; it should not be necessary for the legislation or the Lieutenant Governor in Council to create it.

STEP Canada urges the government to revise the draft legislation to clarify and ensure that the fundamental right of solicitor-client privilege will not be compromised by this new regime.

I. Part 8 – Consequential Amendments

This Part deals with consequential amendments and in light of the truncated consultation time frame, the authors have been unable to consider them in any detail.

J. Schedules 1 & 2

STEP Canada defers to professional bodies and individuals who practice corporate law with respect to the questions posed about Schedule 1. This submission has addressed certain concerns about Schedule 2 in the discussion of Part 1.

Several members of the STEP Canada Tax Technical Committee participated in discussions concerning our submission and contributed to its preparation, in particular:

Fiona Hunter (Horne Coupar)
Peter Glowacki (BLG)
Ian Worland (Legacy Tax + Trust Lawyers)

We would be pleased to discuss our comments with you at your convenience.

Yours very truly,

Ruth March

Timothy Matthews

Ruth March
Chair, STEP Canada
KPMG LLP

Timothy Matthews
Chair, STEP Canada Trust and
Estate Technical Committee
Stewart McKelvey

From:	Jeff Hart
To:	FCSP FIN:EX
Cc:	Mitchell Gropper
Subject:	373928 Comment Letter on Land Owner Transparency Act White Paper (Farris)
Date:	Monday, September 17, 2018 4:08:32 PM
Attachments:	image001.png Comment Letter re Land Owner Transparency Act (September 17, 2018).pdf

Hello,

On June 20, 2018, the B.C. government published the *Land Owner Transparency Act* White Paper: Draft Legislation with Annotations and requested comments on the draft act. Please find enclosed a comment letter from Farris, Vaughan, Wills & Murphy LLP in response to this request.

Best regards,
Jeff

Jeff Hart
Associate

FARRIS

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Thank you.

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September 17, 2018

BY EMAIL: fcsp@gov.bc.ca

Financial and Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria BC V8W 9V1

Dear Sirs/Mesdames:

Re: Request for Comments on the *Land Owner Transparency Act*
White Paper: Legislation with Annotations

We write in response to the Ministry of Finance's request for comments on the proposed *Land Owner Transparency Act* (the "**Act**") made available to the public on June 20, 2018. We appreciate the opportunity to offer comments. We believe it is in the public interest for the Province of British Columbia and its residents to collect and disclose the beneficial interests of the parties involved in real estate transactions in British Columbia and feel it is a natural next-step to prevent tax avoidance and evasion in British Columbia. However, we are concerned that the detailed disclosure requirements and the impact on purchasers for whom privacy is an important investment consideration may negatively affect the construction industry. As such, the Act will have an impact on the construction industry and the availability of much needed housing.

Our specific concerns are the following:

1. **General**: Before enacting the proposed Act, we urge the Province of British Columbia to conduct and publish an economic analysis of the impact of the Act on the construction industry and the supply of affordable housing in British Columbia. The construction industry employs a significant part of British Columbia's labour force, particularly in the lower mainland of British Columbia. A minimum level of pre-sale condominiums sold is required by banks and other construction lenders as a condition to construction financing without which construction financing is not available. The disclosures required under the Act could adversely affect these pre-sales of condominiums and other residential housing developments. Without pre-sales, there is no financing and without financing there is no construction. Before implementing the Act, an analysis of the anticipated economic effect of the Act on pre-sales is critical to ensure the objectives of the Act will not have material unintended consequences.

2. **Equal Obligations All Business Entities:** We suggest there should be the same exemptions applicable to relevant corporations, relevant trusts, and relevant partnerships. We note two

different exemptions available to relevant corporations under the Act that are not available to relevant partnerships or relevant trusts: (i) certain types of corporate interest holders are excluded from the definition of a corporate interest holder; and (ii) publicly traded corporations are excluded from the definition of a relevant corporation.

(a) Corporate Interest Holder Qualities: In particular, section 3 of the Act states that an individual is a corporate interest holder if that individual (i) has legal / beneficial ownership of 25% or more of the equity or voting rights of the relevant corporation, (ii) has the right to appoint or remove the majority of the board of directors of a relevant corporation, or (iii) has the right to exercise significant influence or control over the relevant corporation (the "**Corporate Interest Holder Qualities**"). All of the Corporate Interest Holder Qualities should similarly apply equally to those partnership interest holders and beneficiaries of business trusts. We would like to also like to point out that currently there is no disclosure required by the *Partnership Act* or a similar Act governing relevant trusts that oblige these business entities to disclose on a routine basis to any governmental entity all of its limited partners of a partnership or beneficiaries of a business trust, as applicable.

(b) Publicly Traded Corporations: While a relevant corporation that is a public company is exempted from filing a disclosure report, publicly traded partnerships or publicly traded trusts that are not mutual fund trusts, real estate investment trusts, or SIFT trusts are not exempted. This exemption should similarly apply equally to publicly traded partnerships or publicly traded trusts that are not mutual fund trusts, real estate investment trusts, or SIFT trusts.

3. **Significant Influence or Control**: In section 3(1)(c), we suggest further delineation of what is captured by the meaning 'significant influence or control over the relevant corporation' in the context of a whether an individual is a corporate interest holder.

4. **Pre-Existing Corporations**: The obligation in section 14 that obliges pre-existing reporting bodies to report all current interest holdings will be administratively unworkable and will likely take years to complete.

5. **Obligation to File an Updated Disclosure Report**: The obligation under section 15 will increase the cost of the already unaffordable real estate in British Columbia. Section 15 requires a reporting body to file an updated disclosure report when the current disclosure report is inaccurate (in whole or in part because of a change in beneficial ownership). The continuous disclosure required to comply with the section 15 would necessitate increased legal, financial, and in-house costs to reporting bodies that have changes in their interest holders, however frequent the change may be. These costs will ultimately be passed to home buyers.

It is our view that the implementation of the Act in its current form will create certain problems for the British Columbia housing market. Some of the objectives outlined in the proposed Act have already been implemented in the new version (version 31) of the Property Transfer Tax Return form for taxable transactions on and after September 17, 2018. In light of these changes, we are concerned that the Province of British Columbia will not consider or reflect upon the comments included in this comment letter in a meaningful way. We urge the Province of British Columbia to critically engage with the content of this letter. It is our view that the concerns listed above should be addressed before the Act is brought into force.

Yours truly,

Farris, Vaughan, Wills & Murphy LLP

From:	Transparency Canada (TI CA)
To:	FCSP FIN:EX
Cc:	office@taxfairness.ca; Alesia Nahirny (TI CA); Sasha Caldera
Subject:	373990 Response to Land Owner Transparency Act Consultation
Date:	Tuesday, September 18, 2018 12:45:26 PM
Attachments:	TIC and C4TF Consultation on Land Owner Transparency Act FINAL.pdf

Financial and Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria BC V8W 9V1
E: fcsp@gov.bc.ca

September 18,

To Whom It May Concern,

In response to the Government of British Columbia's open call for consultations on the proposed Land Owner Transparency Act, please find attached a joint response for submission from Transparency International Canada and Canadians for Tax Fairness.

Transparency International Canada
c/o Maytree Foundation
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Toronto, Ontario, M5S 1M2

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September 17, 2018

Financial and Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria BC V8W 9V1
E: fcsp@gov.bc.ca

To Whom It May Concern,

Re: Land Owner Transparency Act Public Consultation

Transparency International Canada ("TI-C") and Canadians for Tax Fairness (C4TF) would firstly like to commend the Government of British Columbia for taking the initiative to introduce much-needed reforms to make the ownership of real estate, legal entities and arrangements more transparent. The proposed Land Owner Transparency Act ("the Act"), if enacted with several key amendments, will become an effective tool in reducing money laundering, tax evasion and other criminal activity through BC real estate.

The amendments to the Act that TI-C and C4TF propose relate to:

1. Declarations for all owners
2. The inclusion of individual nominees (i.e., natural persons holding property on behalf of others)
3. Proportionate and dissuasive sanctions
4. Information disclosed to the Administrator
5. Accessibility of data
6. Enforcement

1. Beneficial Ownership Declarations

In order for the Act to be effective, it must achieve wide levels of compliance. As it stands, the draft Act only requires action from "reporting bodies" (i.e., corporations, trustees and partners of partnerships) with respect to submitting disclosure reports. Much of the property-owning public is likely to believe that the Act does not apply to them, or remain altogether unaware of its existence. The data submitted to the Administrator (and available to the Government) will be incomplete, and is unlikely to include many properties held through individual nominees (see below).

Recommendation

Transparency International Canada
77 Bloor Street West, Suite 1600
Toronto, ON, Canada, M5S 1M2

Canadians for Tax Fairness
192 Main Street, PO Box 19037
Ottawa, ON, Canada, K1S 3M1

TI-C and C4TF strongly recommend that the Government require all titleholders of residential property in BC to file an initial disclosure report indicating whether he or she is the beneficial owner of that property.

As the vast majority of titleholders are also the beneficial owners, a 'waiver' similar to that for the City of Vancouver Empty Homes Tax (which takes only a minute to complete online) would limit the burden on most homeowners. The waiver / disclosure form could also be mailed out along with annual property tax notices and collected from municipalities to ease the burden on the Government and homeowners.

While TI-C and C4TF acknowledge that it will require additional effort and expense to implement this recommendation, we believe it is crucial to ensuring the Act functions as it is intended. ("*The purpose of this requirement is to have a complete picture of beneficial ownership of land in British Columbia available in the land owner transparency registry at that date.")*[1]

2. Nominees

The current draft of the Act is not explicit in its inclusion of real estate held by natural persons on behalf of another beneficial owner. This omission will drastically limit the efficacy of the Act in deterring criminality and making the ownership of real estate more transparent.

It is unclear whether the definition of "relevant trust" in the draft Act includes bare trusts (i.e., the use of nominees). The legislation should more clearly state that all individuals holding property title on behalf of others must submit disclosure reports.

TI-C's 2016 report, "No Reason To Hide – Unmasking the Anonymous Owners of Canadian Companies and Trusts[2]," included a case study on the ownership of luxury properties in the Lower Mainland. That study found that of the 100 most valuable residential properties, 11% were owned through nominees.[3] The use of nominees as a means to obscure beneficial ownership appears to be a relatively recent phenomenon in Vancouver real estate; of the 42 properties purchased in the five years between 2011 and 2016, ten of them (23.8%) are owned through a nominee. That compares with only one of 58 properties owned through a nominee prior to 2011.

A 2015 study by a Vancouver-based academic and urban planning researcher also found that the use of nominees was prevalent in high-end residential real estate in Vancouver. That study examined 172 properties sold between August 2014 and February 2015 in three affluent

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[1] Land Owner Transparency Act White Paper – June 2018, p. 18.

[2] http://www.transparencycanada.ca/wp-content/uploads/2017/05/TIC-BeneficialOwnershipReport-Interactive.pdf

[3] In the absence of a public disclosure that an individual was in fact a nominee, we examined the 'occupation' field in title documents and assumed that individuals listing their occupation as 'homemaker,' 'housewife,' or 'student' were not the beneficial owners of the property to which they held title. That assumption was based on an understanding that individuals without any clear source of income are unlikely to have their own capital to purchase a home valued in the tens of millions of dollars.

Vancouver neighbourhoods, revealed that 60 of those properties (34.9%) were ostensibly owned by a homemaker or student.[4]

A 2004 study of 149 Proceeds of Crime cases successfully pursued by the RCMP across Canada found that nominees held title for over 60% of properties purchased with laundered money.[5] The nominees were typically family members or friends, but also included lawyers and business associates.

The use of nominees as a means to obscure beneficial ownership of property in BC is already prevalent and appears to be on the rise. The Act presents a unique opportunity to close that loophole, which would be exploited on a greater scale if the Act does not explicitly address it.

Recommendations

TI-C and C4TF strongly recommends that the Act be amended to explicitly include individual nominees (i.e., natural persons) who are listed as a property owner on title but who do not beneficially own the property.

Doing so would involve an attestation by individual titleholders that they are the sole beneficial owner of that property. If they are not, then a disclosure report would need to be filed identifying the property's (other) beneficial owners.

2. Proportionate and dissuasive sanctions

Compliance with the Act, like other laws, will depend in large part upon the risks associated with non-compliance. If a beneficial owner wishes to remain anonymous with no legitimate reason (i.e., a reason that would qualify them for an omission under Part 3, Section 38/39) they will consider the maximum fine as a potential cost of doing business. TI-C and C4TF are concerned that the current proposed penalties – $50,000 for administrative penalties and $100,000 for egregious contraventions of the Act – might not dissuade those laundering millions or tens of millions in illicit money through real estate. With the benchmark price of a detached Metro Vancouver home at $1.6 million, even a $100,000 fine may not be sufficiently dissuasive.[6]

Recommendations

Penalties under the Act would be more appropriate and effective as a deterrent if egregious violations of the Act were punishable by imprisonment and the seizure of properties linked to the violations.

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[4] https://www.slideshare.net/ayan604/ownership-patterns-of-single-family-homes-sales-on-the-west-side-neighborhoods-of-the-city-of-vancouver-a-case-study

[5] Stephen Schneider, "Money laundering in Canada: An analysis of RCMP cases," Nathanson Centre for the Study of Organized Crime and Corruption, March 2004, http://www.csd.bg/fileSrc.php?id=560.

[6] http://creastats.crea.ca/vanc/

TI-C and C4TF recommend that the BC Government make filing intentionally false disclosure reports and transparency declarations an indictable offence with punishment up to five years imprisonment.[7]

If individuals making intentionally false declarations risked imprisonment it would no longer be a straightforward financial calculation for individuals intent on laundering money through BC real estate. Law enforcement agencies conducting investigations into money laundering and predicate offences could use the threat of prosecution under the Act to uncover evidence of organized criminal activity.

Penalties for egregious violations would be more appropriate if they were connected to the properties whose beneficial owners were being hidden in breach of the Act. **TI-C and C4TF recommend that the Government consider fining individuals and corporate entities an amount based on the value of the properties involved (e.g., up to 50% of the total assessed value).** In egregious cases where the Government cannot extract payment, **TI-C and C4TF encourage the Government to consider a mechanism whereby the Administrator of the Act can empower relevant agencies to seize and liquidate property under civil forfeiture regulations.**

As an alternative to creating a new offence for false reporting, **the Act could be amended to give the Administrator power to request verification of documents from reporting bodies by way of affidavit.** This would allow the Administrator to request an affidavit or statutory in cases where there is reason to suspect breaches of the Act. In cases of untruthful declarations or refusal by reporting parties to declare, the Government would have recourse to Criminal Code sanctions under the Canada Evidence Act. *(NB: For reference, a similar provision exists in the Canada Business Corporations Act.)*[8]

3. Information contained in disclosure reports

The efficacy of the Act will depend in large part on the accuracy of the data disclosed by reporting bodies. In this regard TI-C and C4TF are encouraged that the proposed legislation gives the Administrator powers to verify information disclosed under the Act. It is vital that the

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[7] As a point of reference, the UK government recently proposed legislation to impose prison sentences of up to five years for individuals who sell or lease property through a foreign company without declaring its beneficial owner(s), and up to two years for individuals filing false information.
https://www.theguardian.com/business/2018/jul/23/offshore-owners-of-british-property-to-be-forced-to-reveal-names

[8] Canada Business Corporations Act Section 259:

> S.259(1) The Director [i.e., the registrar/administrator] may require that a document or a fact stated in a document required by this Act or the regulations to be sent to the Director shall be verified in accordance with subsection (2).
>
> S.259(2) A document or fact required by this Act or by the Director to be verified may be verified by affidavit or by statutory declaration under the Canada Evidence Act before any commissioner for oaths or taking affidavits.

Administrator regularly make use of these powers through audits and data analysis to encourage accurate reporting.

Recommendations

TI-C and C4TF recommend that the Act be amended to mandate that reporting bodies submit copies of government identification (e.g., a passport, drivers licence or permanent residency card) for each individual named in a disclosure report.[9]

Doing so would bring the Act in alignment with guidance by anti-money laundering authorities such as the Financial Transactions and Reports Analysis Center of Canada ("FINTRAC").[10] This is an important measure to protect against the submission of false names and intentionally misleading information.

TI-C and C4TF recommend that several fields of data be added to the proposed disclosure reports in order to make the information more accurate, namely:

- **Allocate unique identifiers** *(public)*. A unique identifier for each beneficial owner and reporting body would ensure that interested parties could search for all entries connected to that individual. This would reduce the room for error due to misspellings, incomplete names, etc. If the Government does not wish to make personal identifiers such as date of birth or home address available to the public, a unique identifier would still enable interested parties to search for data linked to a specific individual. *This information should be fully public.*
- **Full legal name** *(public)*. In the absence of a unique identifier, TI-C and C4TF recommend that the Act specify that reporting bodies include the full legal names of relevant individuals. Doing so would discourage the use of partial names and abbreviations, and omissions of middle names.
- **Partial date of birth** *(public).* In order to address the problem of common names, in the absence of a unique identifier for each beneficial owner and reporting body TI-C and C4TF recommend making public their month and year of birth. There are still likely to be multiple individuals with the same name, month and year of birth, but this information will make it easier to identify unique individuals.
- **Principal residential address** *(relevant authorities)*. TI-C and C4TF recommend that a home address be provided for individual beneficial owners (including corporate interest holders, trust beneficiaries, and partners), for ease of contact by relevant authorities.
- **Country of tax residency** *(relevant authorities)***.** In order for the data set to be more useful to tax authorities, TI-C and C4TF recommend that each beneficial owner's country of tax residency be included on disclosure reports.
- **Foreign Politically Exposed Person and Head of International Organization status** *(relevant authorities).* If a beneficial owner / interest holder qualifies as a foreign

[9] Copies of passports and government identification should not be made public, but should be submitted to the Administrator.
[10] http://www.fintrac.gc.ca/guidance-directives/client-clientele/Guide11/11-eng.asp

politically exposed person or head of international organization under the definitions set out in the Proceeds of Crime (Money Laundering) and Terrorist Finance Act ("PCMLTFA"), that information should be included in the disclosure report. (*Note: TI-C and C4TF do not see the need for domestic PEPs to be included in this provision, as this is intended as a deterrent to foreign government officials laundering the proceeds of corruption in BC real estate.)*

4. Accessibility of data

The proposed Act does not specify the format in which data will be made available to the public and relevant authorities, or the fees that will be charged to access that data.

By making the data available as a searchable web interface and as 'structured' data in machine-readable format, interested parties (both relevant authorities and public users) can analyze the data, spot mistakes and link it to other useful data sets.

Analysis by London-based advocacy group Global Witness found that when the paywall was removed from Companies House, the UK government's corporate administrator, its use grew exponentially from 6 million annual access requests to over 2 billion data searches a year. This shows that even a small fee creates a barrier to interested parties.[11]

Recommendations

TI-C and C4TF recommend that the BC Government make public data contained in disclosure reports available for free, online, in machine-readable format. This should be specified in the Act to ensure its implementation.

If the Government of BC is concerned about offsetting costs associated with implementing the Act, it could charge for obtaining copies of records but make searches of the database free to the public. The government could also consider increasing the fee for title registration in order to finance the Act's administration.

5. Enforcement

In order to assist the Administrator with enforcing compliance with the Act, **TI-C and C4TF recommend that a formalized process for reporting violations of the Act be introduced,** whether it is codified in the Act or developed by the Administrator and clearly communicated to the public. As we have seen with the Persons of Significant Control register in the UK (i.e., the beneficial ownership registry for UK companies), journalists and civil society have been crucial allies in identifying abuse by 'incorporation factories' and nominees.[12]

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[11] https://www.globalwitness.org/en/blog/10-lessons-uks-public-register-real-owners-companies/

[12] For instance, https://www.buzzfeed.com/janebradley/shell-companies-money-laundering-uk-paul-manafort?utm_term=.dy89jrKmO#.dckKQxo5D, https://www.globalwitness.org/en/blog/pursuit-hidden-owners-behind-uk-companies/

Under Section 40 of the draft Act, if "*a person who believes that reported information or publicly accessible information includes information in relation to the person that is incomplete or inaccurate"*, they are instructed to make a written request to the reporting body (i.e., the company or trustee that submitted the disclosure report). If an individual suspects a reporting body is intentionally violating the Act, they should have a means of raising the issue with the Administrator directly without alerting the reporting body.

While it does not involve any changes to the proposed legislation, TI-C and C4TF would emphasize the importance of robust enforcement to ensuring compliance with the Act. Enforcement is a crucial element to achieving the Act's goals of understanding who truly owns property in BC and insulating the real estate market from criminal activity.

* * *

Appended to this letter is a list of comments and recommended amendments regarding specific sections of the proposed Act.

TI-C and C4TF would like to take this opportunity to raise two other related issues that we consider crucial in the fight against money laundering, tax evasion and organized crime: beneficial ownership transparency for private companies registered in BC (and other Canadian jurisdictions), and additional scrutiny of source of funds used to purchase real estate.

There is currently no collection of beneficial ownership information for companies registered in Canada. We lag international standards on beneficial ownership set by the Financial Action Task Force (FATF), a multilateral anti-money laundering body of which Canada is a member.[13] BC companies are particularly attractive to those looking for secrecy, as nominee directors are permitted and shareholder information is not available unless the corporation provides it willingly to law enforcement upon request or mandatorily through a court order.

The government has proposed that directors of BC-registered companies collect and hold information on their beneficial owners. This falls short of existing FATF standards, which are becoming dated and are likely to be upgraded to emulate European Union legislation that came into force in June 2018 requiring all member states to make beneficial ownership publicly accessible by January 2020.

Canada's global allies and a broad group of stakeholders within the country have urged the federal government to enact beneficial ownership reforms for companies, and it has pledged to work with the provinces to do so. **TI-C and C4TF strongly encourage the Government of BC to lead in this initiative, by requiring the disclosure of beneficial ownership information for BC companies and advocating that other Canadian jurisdictions follow suit.** The case for this reform

[13] FATF standards require that "countries should ensure that there are adequate, accurate and timely information of the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities".

is set out in detail in our "No Reason To Hide" report and we would welcome the opportunity to discuss the issue in more detail, as it is perhaps the single most effective step that the government can take in the fight against money laundering, tax evasion and organized crime in Canada.

Lastly, TI-C and C4TF would like to draw attention to the need for disclosure of source of funds used to purchase real estate. Property is an attractive way to launder money in large part because of a lack of scrutiny of source of funds. While it would be difficult to include requirements to disclose source of funds under the scope of the proposed Act, **TI-C and C4TF recommend that the BC Government advocate for amendments to the PCMLTFA,** including a requirement that all reporting entities engaged in real estate-related transactions collect beneficial ownership information and source of fund declarations from their clients. **TI-C and C4TF also recommend that the Administrator be empowered to compel reporting bodies to provide source of funds information for property purchases** when conducting an investigation into potential violations of the Act. This information could then be shared with FINTRAC, the CRA and law enforcement if suspicions of criminal activity were identified.

* * *

On behalf of TI-C and C4TF, we would like to thank the Government of BC for its efforts to deter corruption, money laundering, tax evasion and other criminal activity by putting an end to opaque ownership. We are also grateful for the opportunity to comment on this important piece of legislation prior to its enactment.

Yours,

Alesia Nahirny
Executive Director
Transparency Interantional Canada

Sasha Caldera
Program Manager
Canadians For Tax Fairness

Appendix: Comments and proposed amendments to specific sections of the Act

The following proposed amendments do not include those outlined in the preceding letter. They are intended as supplementary recommendations as they relate to specific sections of the proposed Act in its current form.

Part 1 – Definition, Interpretation and Application

- Define "transferee", "beneficial interest".
- In the definition of "agreement for sale", remove the words *"over a period of time"*, as it is redundant.
- Clearly state that nominees (i.e., individuals who hold property on behalf of others) are included within the scope of the Act, rather than implying their inclusion through certain types of trusts. By focusing on the individuals (nominees), and not just the legal arrangements (trusts), the Act will more effectively close loopholes for opaque ownership.

Part 2 – Transparency Declarations and Disclosure Reports

- It is not clear who will be authorized to certify the declaration and what information needs to be provided to identify the certifier. The Act should require identification of the certifier (name, address, contact information,)
- Section 10(1) – As title can be held by a trust or a partnership, as well as by a trustee or a partner, include "a relevant trust" and "a relevant partnership" in this clause.
- Section 10 – As noted in the preceding letter, we recommend that Section 10 be amended to require that transparency declarations (or waivers) be submitted by all residential titleholders.
- Section 18(1) – As shareholder information is not published for most privately owned companies in Canada (and in many other jurisdictions), a "reasonable effort" to obtain corporate extracts disclosing the rights and interests referred to in Section 18(1)(a) should extend beyond simply pulling corporate records from the registry. It should involve the reporting body to obtain and disclose the current shareholder record, even if that involves requesting it from principals of another corporate entity (in cases where one corporate entity holds shares in another, which owns property in BC).
- Section 21(1)(e) – If acting on behalf of a legal entity (e.g., a law firm), include the name of the entity as well as the name, and position name/title of the certifying individual.
- We recommend requiring certifying individuals to provide government identification (e.g. drivers licence or passport number) so that relevant authorities can identify and contact them if required. (This information should not be public.)
- Section 22(2) – Is "class" defined when referring to "class of beneficiaries" of a relevant trust?

- Section 22(3)(b) and 22(3)(c) – Use the word "detail" rather than "summarize" when requiring reporting bodies to describe the efforts made to identify information relating to a beneficial owner / interest holder.

Part 3 – Access to Information Provided in Disclosure Reports

- Section 28 – The Act should specify for how long the Administrator should hold records and make historical information filed under the Act available to the public and relevant authorities. TI-C recommends that historical information be publicly available for at least 20 years.
- Section 35 – The Act should specify that the data collected and published under the Act be made available online and in open-data format.
- Section 39(3) – Individuals who have successfully applied for an omission from public disclosure should be subject to regular review (e.g., every two to five years) to ensure they still qualify.
- Section 39(3) – There should be a provision stating that once an individual who was exempted for being under 19 years of age reaches that age threshold, he/she is no longer exempt and the information will be updated.
- Section 44 – The Act could require the Administrator to conduct audits and take other proactive measures to verify the accuracy of data submitted by reporting bodies. (TI-C understands that it is impractical to independently verify all submissions, but would encourage the Government to stipulate that the Administrator conducts some verification.)

Part 4 – Administration and Enforcement

- General – The Administrator should be authorized to share any information gathered during inspections with financial regulators (Compliance Division of FINTRAC). That may require an MOU between the Administrator and the financial regulators. The Administrator should also be allowed to send voluntary information records (VIRs) to FINTRAC when they have reasonable grounds to suspect serious misuse or attempted misuse of the corporation or trust for illicit purposes.
- Section 53 – Most trusts in Canada are administered by lawyers. Clients require privilege on those documents. How will information about the trusts ever be accessible to the Administrator? This is a big loophole that needs to be addressed in order to avoid having opaque ownership through lawyer-administered trusts. Trusts containing BO information for the purposes of this Act must be accessible to the administrator.
- Section 54 – There should be a provision for a person to assist the Administrator in an inspection. See section 62(1) of the PCMLTFA[14] for an example of the type of text that may be used.

[14] PCMLTFA Section 62(1): An authorized person may, from time to time, examine the records and inquire into the business and affairs of any person or entity referred to in section 5 for the purpose of ensuring compliance with Part 1 or 1.1, and for that purpose may

- Section 61(2) – Delete the word “person” in the third line, which appears to be a typographical error.
- Section 64 – This section states that “officers, directors, managers or agents of a corporation or limited liability company” can have administrative penalties imposed upon them if the corporation or limited liability company for which they have responsibility contravenes the Act.
    - TI-C recommends that this provision be extended to third parties involved in the administration of trusts and partnerships.
    - Administrative penalties should also be available as an instrument to penalize third parties such as lawyers or notaries if they participated in a contravention of the Act.

Part 5 – General

- An annual report on activities and enforcement should be published by the Administrator.

Part 6 – Offences

- No comments (excepting those set out in the preceding letter).

Part 7 – Regulations

- No comments (excepting those set out in the preceding letter).

Part 8 – Consequential Amendments

- No comments (excepting those set out in the preceding letter).

Schedules 1 and 2

- No comments (excepting those set out in the preceding letter).

(a) at any reasonable time, enter any premises, other than a dwelling-house, in which the authorized person believes, on reasonable grounds, that there are records relevant to ensuring compliance with Part 1 or 1.1; (b) use or cause to be used any computer system or data processing system in the premises to examine any data contained in or available to the system;
(c) reproduce any record, or cause it to be reproduced from the data, in the form of a printout or other intelligible output and remove the printout or other output for examination or copying; and
(d) use or cause to be used any copying equipment in the premises to make copies of any record.
Marginal note: Assistance to Centre
(2) The owner or person in charge of premises referred to in subsection (1) and every person found there shall give the authorized person all reasonable assistance to enable them to carry out their responsibilities and shall furnish them with any information with respect to the administration of Part 1 or 1.1 or the regulations under it that they may reasonably require.

From:	Andy Longhurst
To:	FCSP FIN:EX
Cc:	Margaret McGregor
Subject:	374031 Land Owner Transparency Act Consultation submission
Date:	Tuesday, September 18, 2018 3:44:04 PM
Attachments:	180918 Longhurst_McGregor_Land Owner Transparency Act Submission.pdf

Financial and Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria, BC V8W 9V1
Re: Land Owner Transparency Act Consultation

Please find attached a submission to the public consultation from Dr. Margaret McGregor and myself.

Sincerely,

Andrew Longhurst

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Cell: 604.362.6554

The Importance of Landownership Transparency for Ensuring Quality and Accountability in Seniors' Residential Care

A submission in response to the Land Owner Transparency Act White Paper

Andrew Longhurst,[1] BA (Hons), MA

Dr. Margaret McGregor,[2] BA, MD, CCFP, MHSc, COE

September 2018

Submitted to: fcsp@gov.bc.ca

Introduction

Thank you for the opportunity to share our comments and recommendations regarding the proposed *Land Owner Transparency Act.* The BC government's draft legislation is intended to "increase transparency of landownership by eliminating the ability to hide ownership through vehicles like trusts and shell corporations."[3] As the Ministry of Finance white paper notes, "Under the Act, corporations, trustees and partners (reporting bodies) will be required to identify the individuals that have a beneficial interest in land, that have a significant interest in the landowning corporation or that have an interest in land through a partnership. The disclosure requirement will apply to all land in BC unless specifically excluded."[4]

This submission is focused on the relationship between landownership transparency and maintaining quality and accountability in the seniors' residential long-term care sector. In BC, residential care operators are not required to disclose details of corporate ownership or financial relationships, including beneficial ownership of land/real estate assets. We believe the proposed legislation will help the provincial government more effectively fulfill its oversight and stewardship role over the seniors' care

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[1] Andrew Longhurst is a Research Associate with the BC Office of the Canadian Centre for Policy Alternatives and the BC Health Coalition, and a policy analyst with the Health Sciences Association of BC. His research focuses on health care and social policy, and he has published on topics including residential long-term care restructuring, surgical services and harm reduction drug policy.

[2] Dr. Margaret McGregor is a family physician and Director of Community Geriatrics at the University of British Columbia, Department of Family Practice. She is a Research Associate with the Vancouver Coastal Health Research Institute's Centre for Clinical Epidemiology & Evaluation and the UBC Centre for Health Services Policy Research. Her research interest is in health services and policy research of frail seniors in primary care and community settings including residential long-term care.

[3] BC Ministry of Finance (2018), Land Owner Transparency Act White Paper: Draft Legislation with Annotations, p. 1.

[4] BC Ministry of Finance, 2018, p. 1.

system, in an effort to better understand the relationships between ownership, corporate structures and care quality.

Research and Policy Background

1. Residential long-term care facility ownership is identified in the peer-reviewed Canadian and international research literature as a key predictor of care quality.[5] In a review of this body of evidence, including systematic literature reviews, health services researchers have concluded that "for-profit facilities are likely to produce inferior outcomes."[6]

2. Findings from the Office of the Seniors Advocate's 2018 study provide further evidence of the importance of ownership and care quality. Based on a comparison of hospitalization rates between contracted facilities and public facilities, the Advocate concluded that "a consistent pattern emerges that shows a demonstrably greater use of the emergency department and hospital beds by residents from contracted long term care facilities versus residents from publicly run facilities and a stunning 54% greater likelihood that you will die in the hospital if you live in a contracted care facility versus a publicly operated facility."[7]

3. Although ownership is a key predictor of care quality for a particularly vulnerable population, BC's collects limited ownership information and does not publicly report beneficial ownership of residential care facilities, either beneficial ownership of operations or land/real estate assets.

4. Facility ownership based on three categories (for-profit, non-profit, public) is collected by Regional Health Authorities and the BC Ministry of Health but it is not made publicly available. The Office of the Seniors' Advocate publicly reports facts and characteristics of residential care facilities in its annual directory, but the Office does not publicly report any information related to facility ownership status or chain affiliation.

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[5] Margaret J. McGregor and Lisa A. Ronald (2011), *Residential Long-Term Care for Canadian Seniors: Non-Profit, For-Profit or Does It Matter?* IRPP; Charlene Harrington, Brian Olney, Helen Carrillo, and Taewoon Kang (2012), Nurse staffing and deficiencies in the largest for-profit nursing home chains and chains owned by private equity companies, *Health Services Research* 41(1): 106-128; Lisa A. Ronald, Margaret J. McGregor, Charlene Harrington, Allyson Pollock and Joel Lexchin (2016), Observational evidence of for-profit delivery and inferior nursing home care: when is there enough evidence for policy change? *PLoS Medicine 13*(4).

[6] McGregor and Ronald, 2011, p. 1.

[7] Office of the Seniors Advocate (2018), *From Residential Care to Hospital: An Emerging Pattern*.

5. Regional Health Authorities, the Ministry of Health, nor the Office of the Seniors' Advocate publicly report facility ownership interests as operators/licensees are not required to disclose corporate ownership structures (or any financial relationships), including beneficial owners of real estate assets.

6. Seniors' residential care is a capital-intensive sector, with increasing involvement from for-profit businesses,[8] especially for-profit chains, drawn to the sector "because they pursue profit through debt-based financial engineering and complex corporate structures."[9]

7. Over the last 20 years, corporate restructuring has led to increasingly complex corporate operational and ownership structures, often developed and used by private investment and equity firms.[10] A 2007 New York Times investigation of more than 1,200 residential care home facilities purchased by private investment groups found that, "on average, resident outcomes worsened after private equity groups bought the nursing homes and that their outcomes were worse relative to other nursing homes."[11] Congressional hearings subsequently followed the *New York Times* investigation.

8. As leading nursing home researchers have noted, "Over the past two decades, nursing home providers have developed increasingly complex operational structures. Strategies employed include diversifying into other long-term care services; creating multiple limited liability companies with operational roles; separating corporate assets from entities that manage the facilities; and selling the physical properties to Real Estate Investment Trusts. These strategies allow owners to protect themselves from being held accountable or liable for serious deficiencies in individual nursing homes while increasing profits."[12]

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[8] McGregor and Ronald, 2011, p. 10; Andrew Longhurst (2017), *Privatization and Declining Access to BC Seniors' Care: An Urgent Call for Policy Change*, Canadian Centre for Policy Alternatives—BC Office.

[9] Burns et al., 2016, p. 2.

[10] Government Accountability Office (2010), *Nursing Homes: Complexity of Private Investment Purchases Demonstrates Need for CMS to Improve the Usability and Completeness of Ownership Data*, US GAO.

[11] Janet Wells and Charlene Harrington (2013), *Implementation of Affordable Care Act Provisions to Improve Nursing Home Transparency, Care Quality, and Abuse Prevention*, Kaiser Commission on Medicaid and the Uninsured, The Henry J. Kaiser Family Foundation, pp. 4-5; Charles Duhigg (2007, Sep. 23), At many homes, more profit and less nursing, *The New York Times*.

[12] Wells and Harrington, 2013, p. 4.

9. For-profit chains are typically bought and sold frequently using debt-leveraged buyouts, inflating asset sales prices and leaving the chains loaded with more and more debt until the cash flow – from public funding – cannot meet the financing cost.[13] This is likely to result in recurrent financial crisis, bankruptcy, and chain failure.

10. The UK's largest residential long-term care provider – Southern Cross – collapsed in 2011 as a result of these risky business practices based on complex financial engineering, separation of property assets from operations, and successive asset flips to different investors.[14] The business model is structured around short-term asset flipping (3-5 years)[15] and the public taxpayer assumes all the financial risk of failure. Southern Cross's collapse created uncertainty for 31,000 residents and their families, as well as 44,000 employees.[16]

11. The for-profit seniors' residential care industry, with corporations and investors operating internationally, involves private investment capital flowing from across jurisdictions and the use of increasingly complex operational and ownership strategies in BC. Financial engineering through complex corporate structures and business models originated in jurisdictions that have had the greatest for-profit involvement in residential care, namely the US and England. However, as the industry has become globalized, with international chains and investors operating in Canada, BC should carefully learn from the experience elsewhere and take these public policy lessons seriously.

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[13] Burns et al., 2016, p. 3.

[14] Graham Ruddick (2015, Oct. 31), Crisis in UK care homes set to 'dwarf the steel industry's problems, *The Guardian*; Burns et al., 2016.

[15] Government Accountability Office, 2010, p. 7.

[16] Liz Lloyd, Albert Bannerjee, Charlene Harrington, Frode. F. Jacobsen, Marta Szebehely (2014), It is a scandal! Comparing the causes and consequences of nursing home media scandals in five countries, International *Journal of Sociology and Social Policy 34*(1/2), p. 7.

BC Context

12. In BC, trends indicate a movement towards for-profit chain ownership and greater complexity in corporate ownership and financial relationships, suggesting that there is urgency in improving disclosure requirements, data collection and public reporting of beneficial landownership.

13. In BC, regional (public) health authorities contract with non-profit and for-profit residential care operators for publicly funded services. Health authorities also own and operate residential care facilities. In 2016, health authorities owned and operated 32 per cent of publicly funded beds, 34 per cent by non-profit organizations, and 35 per cent by for-profit entities. There were a total of 25,874 publicly funded residential long-term care beds in 2016.[17]

14. Publicly funded residential care delivered by for-profit businesses is increasing at a faster rate than care delivered in facilities owned and operated by non-profit organizations. The number of residential care beds operated by health authorities and non-profit organizations declined 11 per cent while beds in the for-profit sector increased 42 per cent between 2001 and 2016.[18]

15. In a December 2016 submission to the Hon. Navdeep Bains, the federal minister responsible for reviewing foreign takeovers under the *Investment Canada Act*, the BC Health Coalition, a public health care advocacy organization, raised concerns about the takeover of BC's largest residential care chain, Retirement Concepts, by Cedar Tree Investments, a subsidiary of China-based Anbang Insurance Group, which operates as a private investment firm with a "murky ownership structure" as described by the *New York Times*.[19] The BC Health Coalition raised six key concerns based on the research evidence, the corporate profile of Anbang, and the experience in other jurisdictions.

16. A petition asking the federal government to reject the takeover garnered over 24,000 signatures.[20]

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[17] Analysis of the Office of the Seniors' Advocate's 2016 Residential Care Directory.

[18] Longhurst, 2017.

[19] BC Health Coalition (2016, Dec. 23), BC Health Coalition submission re: proposed acquisition of Retirement Concepts by Cedar Tree Investments.

[20] https://actions.sumofus.org/a/trudeau-don-t-sell-out-seniors-health-care

17. International trade experts raised concerns that the approval of the Anbang Insurance/Cedar Tree Investments acquisition will provide investor rights (unavailable to domestic companies) under international trade agreements that could make it difficult for the BC government and its health authorities to adequately regulate standards of care in the public interest.[21]

18. After Anbang's assets were taken under control by the Chinese government and its CEO was sentenced to 18 years for fraud, the BC Health Coalition wrote BC Minister of Health Adrian Dix in April 2018 to express concern and urge that additional steps be taken to protect seniors' in residential care.[22]

19. The private investment/private equity business model is typically based on complex corporate structures including the separation of the company holding the real estate assets from the day-to-day operations entity/entities – a business model that Anbang appears to employ. The private investment firm acquires the property assets and typically contracts the operations to another firm (who may have multiple subcontractors).

20. "In what has become an increasingly common business arrangement, owners of nursing homes outsource a wide variety of goods and services to companies in which they have a financial interest or that they control. Nearly three-quarters of nursing homes in the United States […] have such business dealings, known as related party transactions, according to an analysis or nursing home financial records by Kaiser Health News. Some homes even contract out basic functions like management or rent their own building from a sister corporation[.] In effect, "owners […] establish highly favorable contracts in which their nursing homes pay more than they might in a competitive market[,] [o]wners siphon off higher profits [from public dollars], which are not recorded on the nursing home's accounts."[23]

21. However, the Anbang case is one part of a larger story. In BC, Bill 29 (2002) and Bill 94 (2003) introduced significant instability in the sector by encouraging private, for-profit investment of seniors' care and 'contract flipping', facility owners and/or operators have unrestricted rights to contract out work (often performed by unionized staff) and re-tender commercial contracts at

[21] Scott Sinclair and Stuart Trew (2017, Feb. 27), Trade deal ups risks in Chinese firm's takeover of seniors' care giant, *The Tyee*.

[22] BC Health Coalition (2018, Apr. 9), BC Health Coalition concerns re: the recent takeover of Anbang Insurance by the Chinese government regulator.

[23] Jordan Rau (2017, Dec. 31), Care suffers as more nursing homes feed money into corporate webs, Kaiser Health News.

will. Specifically, Bill 94 encouraged private investors to enter the sector by opening the door to complex operational, ownership and financing relationships. A number of the facilities, including Wexford Creek and Stanford Village on Vancouver Island, built in the wake of Bill 94 have changed owners, terminated the entire workforce, and flipped staffing contracts multiple times.[24] These facilities operate under a general state of instability and insecurity for seniors, families and the workforce.

22. The ownership takeover of BC's largest chain, Retirement Concepts, by Anbang Insurance *only came to light because it triggered a review by the federal government* under the *Investment Canada Act* based on its value of more than $600 million. If the investment was valued at less than $600 million, it would not have triggered a review, and the public to this day may not have known that a foreign government now owns the largest chain of residential care facilities in the province.[25] A public registry of beneficial landownership would help ensure that foreign takeovers and acquisitions of for-profit care facilities may be scrutinized.

23. Beneficial ownership disclosure would begin to provide greater transparency about corporate and financial relationships in an industry that receives little financial scrutiny from regulators yet is 95 per cent taxpayer-funded.[26]

24. Beneficial landownership disclosure and public reporting would help the Ministry of Health, researchers, and the public better understand the relationship between for-profit residential care ownership, corporate structure, care quality and provide greater transparency and accountability in a publicly funded sector.

25. Although it is beyond the scope of the Ministry of Finance's consultation, the most significant public policy issue is the need to move away from contracting out publicly funded residential care to for-profit corporations. In the US, where the majority of publicly funded care is delivered by for-profit chains, the focus on greater regulatory oversight and transparency has led the chains to devise increasingly complex structures to obscure beneficial ownership, leaving regulators and

[24] Sam Fenn and Gordon Katic (2017, Oct. 26), A bath a week: one look at privately run seniors care, *The Tyee*; Nicholas Pescod (2016), Nanaimo care home sold to new owner, *Nanaimo News Bulletin*.

[25] The Associated Press (2018, May 10), Founder of Chinese company with billions in BC assets gets 18 years for fraud, CBC News.

[26] In 2016, 26,585 residential care beds were publicly funded (across all ownership types) while 1,463 beds were private pay, meaning that individuals paid the provider privately and without government subsidy.

the public unable to hold the industry accountable because owners and profits are hidden.[27] In acknowledging that for-profit entities deliver more than one-third of publicly funded care in BC, there should be increased oversight and transparency in the sector, but ultimately, the upstream solution is to phase out for-profit delivery and increase public and non-profit capacity.

26. The Canadian and international research evidence indicates that care provided on a for-profit basis, in general, is inferior care quality. The provincial policy direction over the 15 years has favoured increasing for-profit ownership and delivery of publicly funded residential care. Yet, my 2017 CCPA report demonstrated that this approach failed to increase the availability of these services based on the growing population of seniors over the age of 75.[28] The provincial policy direction should focus on increasing non-profit and public capacity. Recent research from the Seniors Advocate suggests that public delivery of residential care should be prioritized.[29]

27. Understanding care quality and public policy implications of residential care restructuring and chain ownership, will also require disclosure, data collection and public reporting of individuals and entities that have a direct or indirect ownership interest in or managing control of the *operations* of residential care facilities as well as delineating financial and business relationships and payments to other parties. However, we acknowledge this recommendation is beyond the scope of the *Land Owner Transparency Act* consultation.

[27] Marjie Lundstrom and Phillip Reese (2014, Nov. 10), Part 3: California falls short in disclosing nursing-home ownership, *The Sacramento Bee*; Charlene Harrington, Leslie Ross, and Taewoon Kang (2015), Hidden owners, hidden profits, and poor nursing home care: A case study, *International Journal of Health Services 45*(4), pp. 779-800.

[28] Longhurst, 2017.

[29] Office of the Seniors Advocate, 2018.

Responses to the discussion questions

Are there ways to make the legislation more effective or more efficient?

The white paper states that "for corporations, information that must be disclosed includes […] identification information about each individual (including name, citizenship and place of residence) who directly or indirectly controls 25 per cent or more of the shares or otherwise falls under the definition of a 'corporate interest holder' […]" We believe it is important to reduce the beneficial ownership threshold from 25 per cent to 5 per cent. We believe the threshold of 25 per cent is too high and may render the legislation less effective since information about each individual who directly or indirectly owns or controls less than 25 per cent will not be identified. This will reduce the effectiveness of the legislation and potentially encourage individuals with beneficial ownership interests to acquire just below 25 per cent in order to avoid disclosure. For example, an individual who owns or controls 24 per cent of the shares would not fall under the legislation.

Other key beneficial ownership thresholds used internationally have lower thresholds, including SEC (20 per cent), FATCA (10 per cent), CRS (10 per cent), High Risk or Politically Exposed Persons (a threshold as low as 1 per cent or 0.01 per cent is required), Dodd-Frank (sections 13(d) and 13(g)) (5 per cent).[30] Although related to beneficial ownership of operations (not property assets), California requires disclosure of individuals with a beneficial ownership interest of 5 per cent or more in a nursing home (i.e. senior's residential care),[31] and previous legislation in Ontario (*Nursing Homes Act, RSO 1990, c N.7*) required disclosure of individuals with 10 per cent or more of equity shares or an amount to permit the person to control the management and policies of the corporation.

Based on the degree of complex and concerning activities involving money laundering, financial transactions and real estate, lowering the threshold to 5 per cent would seem to be more appropriate considering the seriousness of the issue in BC. We recommend lowering the beneficial ownership threshold from 25 per cent to 5 per cent in the draft legislation.

Does the draft legislation strike an appropriate balance between transparency and privacy?

Yes, we believe the proposed legislation strikes an appropriate balance.

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[30] Dun & Bradstreet (2017), *Understanding Beneficial Ownership Structures*, p. 4.

[31] Marjie Lundstrom and Phillip Reese (2014, Nov. 10), Part 3: California falls short in disclosing nursing-home ownership, *The Sacramento Bee*.

Are there any other entities that might be used to hide ownership that are not addressed in the draft legislation?

We recommend unlimited liability companies (ULCs) and community contribution companies (CCCs), corporate structures available under BC's *Business Corporations Act*, be included in the draft legislation in order to ensure that these entities are not used to hide ownership.

Does the draft legislation strike an appropriate balance between effectiveness and the compliance requirements for landowners?

At this time, we believe the draft legislation strikes an appropriate balance between effectiveness and the compliance requirements for landowners. However, after the legislation is brought into force, we recommend that the government evaluate its effectiveness and bring into force changes that address any shortcomings or gaps in the draft legislation.

From: s.22
To: FCSP FIN:EX
Subject: 374089 Comments on Land Owner Transparency Act white paper [LL-Active.FID364972]
Date: Wednesday, September 19, 2018 11:42:38 AM

Dear Sirs and Mesdames:

From time to time s.22 s.22 Unions are typically organized as unincorporated associations. Because an unincorporated association is not able to be shown as the registered owner of land under the *Land Title Act*, a union will typically incorporate a company or society to hold property on its behalf. Often, the shares of the company or membership interests in the society will be held by members of the union executive and the company or society will hold the property as a bare trustee for the benefit of the union executive on behalf of the members of the union s.22
but my understanding is that the members of an unincorporated association are more or less considered co-owners of the association's property.

s.22 it occurred to me that under the proposed *Land Owner Transparency Act* ("LOTA"), the company, as a trustee, would be a "reporting body" and as such would be required to file a disclosure report in respect of any property owned by it. In the disclosure report it would be required to identify all of the beneficial owners of the property. Schedule 2 to the proposed LOTA, which lists the types of trusts which are excluded from the definition "relevant trust", does not appear to include a bare trust for the benefit of the union and its members. More generally, I do not see anything in the proposed LOTA that would provide relief for unions and their members in respect of arrangements s.22
s.22

I would be grateful if you would consider and clarify for me whether, under the proposed LOTA, an individual who is a member of a union that holds a beneficial interest in property in the manner described above (i.e. with a company or society holding legal title as bare trustee for the benefit of the union executive and its members) be considered a "beneficial owner" of the property by virtue of having "a beneficial interest in respect of the interest in land"? As you can imagine, it would be an administrative nightmare for the company acting as a bare trustee of property for a union with a large membership to have to make regular filings with the province listing the members who have beneficial interests in the property.

s.22

Page 208

Withheld pursuant to/removed as

s.22

From:	Docherty, Charles
To:	FCSP FIN:EX
Cc:	Stephens, Sandy
Subject:	374112 Confidential - Comments on Land Owner Transparency Act White Paper
Date:	Wednesday, September 19, 2018 1:53:24 PM
Attachments:	image003.png image004.png image005.png 190918 - Final Submission to B.C. Ministry of Finance Land Owner Transparency Act.docx

CONFIDENTIAL

The CBA's comments on the Land Owner Transparency Act White Paper are attached.

Thank you.

Charles

ASSOCIATION DES BANQUIERS CANADIENS | CANADIAN BANKERS ASSOCIATION

Charles Docherty | Senior Legal Counsel | Conseiller juridique principal

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Page 210 to/à Page 213

Withheld pursuant to/removed as

s.13

From:	DLamirande@lsbc.org
To:	FCSP FIN:EX
Cc:	president@lsbc.org; DAvison@lsbc.org; AWhitcombe@lsbc.org
Subject:	374137 Land Owner Transparency Act White Paper Consultation
Date:	Wednesday, September 19, 2018 2:43:16 PM
Attachments:	2096283 - 2018-09-19 - President Kresivo LT Hon. Minister Carole James re Land Owner Transparency Act White Paper Consultation.PDF

Please find attached our letter of today's date with respect to the above-noted matter. A paper copy will follow via courier.

Yours truly,

Drew Lamirande | Senior Executive Assistant
Office of the Executive Director/Chief Executive Officer
The Law Society of British Columbia
845 Cambie Street, Vancouver, BC V6B 4Z9
t 604.443.5725 | BC toll-free 1.800.903.5300

Regulating in the public interest | www.lawsociety.bc.ca

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The Law Society
of British Columbia

September 19, 2018

The Honourable Carole James
Minister of Finance and Deputy Premier
PO Box 9048 STN Prov Govt
Victoria BC
V8W 9E2

Miriam Kresivo, QC
President

Office Telephone
604.605.5394
Office Email
president@lsbc.org

Dear Hon. Minister Carole James:

Re: Land Owner Transparency Act White Paper Consultation

The Law Society of British Columbia welcomes the government's efforts to increase the transparency of land ownership in BC to prevent tax evasion, fraud and money laundering. The proposed *Land Owner Transparency Act* (the "*Act*") and the creation of a publicly accessible, beneficial ownership registry are important steps towards this worthwhile objective. When the Law Society met with The Hon. David Eby, Attorney General last fall and again earlier this year, we discussed the importance of addressing beneficial ownership. The Law Society is encouraged by the steps the government is taking, and it is our hope that our comments will help you achieve the public interest objectives identified in the White Paper.

The mandate of the Law Society provides that it is to uphold and protect the public interest in the administration of justice by, among other things, preserving and protecting the rights and freedoms of all persons. In that context, one of the public's essential rights is the ability to seek legal advice and services within the protection of solicitor-client privilege. The Law Society appreciates the inclusion of section 53 in the *Act,* but has serious concerns about establishing the mechanism for dealing with claims of solicitor-client privilege by way of regulation. The Law Society is of the view that it is preferable, when seeking to place limits on an important civil right essential to fundamental justice and the rule of law, that the provisions be contained in the governing statute, rather than by way of regulation.

We welcome the opportunity to assist the government in developing an approach to claims of solicitor-client privilege that ensures the appropriate balance between maintaining the privilege, while providing a means to advance the public interest

objectives of the legislation in circumstance where access to lawyers' records may be required.

The Law Society also supports the certification of the accuracy and completeness of transparency declarations and disclosure reports by the transferee or reporting body and that subscribers' obligations are confined to ensuring that transparency declarations and disclosure reports have been certified as required and a true copy is in the possession of the subscriber.

In addition to ensuring solicitor-client privilege is properly protected in the legislation, it would also be useful if the enforcement contemplated in the legislation extended beyond law enforcement per se. In particular, searches for law enforcement purposes (s. 30) are presently limited to those conducted by a constable, officer or employee of a police force. We would suggest that there may be circumstances in a Law Society investigation or proceeding where it would be beneficial to the public interest for the Law Society to have recourse to the search provisions of the *Act,* in addition to the provisions of the *Legal Profession Act* and Law Society Rules.

It is clear that considerable thought has been given to the structure of the *Act*, in an effort to capture the various means by which beneficial ownership of land may be hidden. However, the definitions and provisions of the *Act* with respect to partnerships appear to create an ambiguity with respect to limited partners. Sections 25 and 55(2) of the *Partnership Act,* [RSBC 1998] c. 348, suggest the property right of limited partners is an interest in personal property, not land. Section 4(a) of the *Act* appears to contemplate that limited partners are not included as "partnership interest holders" because they do not have an interest in land. If that is the case, however, then it is unclear what is intended by including limited partnerships within the definition of "relevant partnership". If the intent is to require the disclosure of limited partners' property interest in a general partnerships' interest in land, we believe further consideration needs to be given to this matter.

The Law Society recognizes that the proposed *Act* needs to fit within broader government objectives as well. There is an opportunity with the *Act* to assist in resolving family law disputes fairly and in a timely fashion. Considerable delay and cost can result from a family law dispute where property is hidden by one spouse from another. Government may wish to explore opportunities within the *Act* to permit searches for a spouse's beneficial ownership in property and explore the potential for a charge to be put on title to prevent a registered owner from selling the land while a claim is underway in court regarding a spouse with beneficial ownership / interest in the property. The *Act* should also clarify whether a spouse who separates has to register beneficial title to land, because separation triggers an interest in family property even if it is not in the spouse's name. Similarly with co-habitation marriage

agreements that provide for a property right in trust. There may be value in ensuring the language in the *Act* supports ongoing efforts to modernize family law.

Lastly, while the key priority of the *Act* is to increase transparency of land ownership, the Law Society emphasizes the importance of ensuring an appropriate balance with privacy rights. We believe it is essential the information collected be stored in a manner consistent with the provisions of the *Freedom of Information and Protection of Privacy Act,* R.S.B.C. 1996, c. 165, with particular reference to sections 30 and 30.1. Furthermore, any databases should have comprehensive cybersecurity protections to prevent unlawful access to information, as well as providing for robust audit and investigation standards to ensure compliance and identify and mitigate any possible data breaches.

In closing, the Law Society appreciates the government taking steps to establish a registry of beneficial land ownership. My colleagues at the Bencher table and I look forward to working with you to address the protection of solicitor-client privilege and the other opportunities we have identified.

Yours truly,

Miriam Kresivo, QC
President

cc

Financial and Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria, BC
V8W 9V1

From:	Alycia Coulter
To:	FCSP FIN:EX
Subject:	372011-2 CHBA BC submission to LOTA
Date:	Wednesday, September 19, 2018 3:32:04 PM
Attachments:	CHBABC_LOTAsubmission2018.pdf

Hello,

Please see the attached submission to the Land Owner Transparency Act consultation from CHBA BC.

Best,

Alycia Coulter

Manager, Government and Public Relations

Canadian Home Builders' Association of BC

400-6400 Roberts Street, Burnaby, BC

V5G4C9

t. 604-432-7112 ext. 302
www.chbabc.org

CANADIAN
HOME BUILDERS' ASSOCIATION
BRITISH COLUMBIA

Leading Advocate of the Residential Construction Industry in BC

September 19, 2018

Submission to the *Land Owner Transparency Act* Consultation
Submitted by email at fcsp@gov.bc.ca

About Canadian Home Builders' Association of BC (CHBA BC)

CHBA BC represents over 2,000 members in the residential construction industry who work as home builders, renovators, tradespeople, service professionals, and others. CHBA BC members are small and medium-sized businesses creating jobs and economic benefits in all areas of the province.

Overall, the residential construction industry represents over 200,000 on-site and off-site jobs, $11.9 billion in wages, and $25 billion in investment value.

CHBA BC is not opposed to transparency measures. Home building is already a transparent and regulated industry, where permits are registered and approved by municipalities before any work can commence. However, additional transparency measures, applied equally on home builder corporations as they will be on individual land owners within a corporation, should not become an administrative burden or impede the speed of the development process, which is already in need of process improvements.

As it relates to the transparency discussion questions, CHBA BC is pleased to see that privacy is a concern for the provincial government. It is also a significant concern for CHBA BC. It is not relevant for the public to be aware of any additional information not already contained in B.C. Assessment data. CHBA BC is not concerned with additional information retained only to tax agencies and government, but the public benefit is unclear.

In some cases, it may invite additional speculation if the provincial government, agencies or home builders are not able to shield their identities in areas of possible development - either public or private. The adjacent sites inherently become much more valuable and invite speculation, especially given the lengthy time in the development approvals process between purchase and development notices.

In addition, there are outstanding questions to resolve for disclosure of data. It states on page 18 that:

> This Division also requires the filing of disclosure reports where there is no legal transfer of an interest in land in two circumstances:
> 1. Existing owners of land that are relevant corporations, trustees and partners will be required to file a disclosure report by no later than a date to be prescribed. The purpose

of this requirement is to have a complete picture of beneficial ownership of land in British Columbia available in the land owner transparency registry at that date.
2. Reporting bodies will also be obligated to file an update disclosure report within two months of becoming aware of a change in beneficial ownership.

Required fees must be paid for the filing of all disclosure reports.

These remaining questions include:

- Will multiple reports have to be submitted for the same unit, even if it is from the same beneficial owner before purchase and no legal transfer takes place? For example, if a lot is subdivided into multiple units to be registered separately for purchase. It would not make sense to file multiple reports in the development process where it remains within the same beneficial ownership until the unit is purchased. Or, the time period to report changes should be increased to decrease the administrative burden.
- What will the fee costs be for these reports? If multiple reports and fees will take place per development unit, these fees will have to be absorbed by new home buyers. In large-scale developments, these fees could compound quickly and are counter to housing affordability.
- Will these reports impact any part of the development process? There is no reason that other aspects of development should be curtailed or stalled in any way if there are volume issues that result from either initial disclosures required or regular reporting.

CHBA BC believes further discussion with industry must take place on these questions before any policy is implemented. What may seem reasonable for individual homeowners to complete could be very time consuming and expensive for legitimate companies that require land to build on, and are not the intended target with this legislation.

It is positive to contribute to this discussion and it is clear much more consultation is needed. CHBA BC is pleased to contribute to any further discussions on this topic. Thank you for the opportunity to contribute.

From: JRyu@lsbc.org
To: FCSP FIN:EX
Subject: 374137-2 Inquiry re Proposed Land Owner Transparency Act
Date: January 11, 2019 2:25:08 PM

Hi there,

I was wondering if I could inquire into the status of the proposed Land Owner Transparency Act. I understand that the consultation closed September 19, 2018 and that comments received will be posted on the Ministry of Finance website eventually. I was wondering whether this has been done yet and, if so, where I can find the latest news on this.

Thanks in advance for your assistance in this matter.

Sincerely,

Jane Ryu | Paralegal
Law Society of British Columbia
845 Cambie Street, Vancouver, BC V6B 4Z9
t 604.443.5782 | toll-free 1.800.903.5300

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From:	Norma Miller
To:	FCSP FIN:EX
Cc:	Darlene Hyde; Minister, FIN FIN:EX s.17 XT:Bond, S LP:IN; Marks, Beverly LASS:EX
Subject:	374141 Response to Land Owner Transparency Act White Paper
Date:	Wednesday, September 19, 2018 4:06:58 PM
Attachments:	2018-09-19 BCREA LOTA response.pdf

Please find attached the British Columbia Real Estate Association's response to the *Land Owner Transparency Act* White Paper.

Thank you for the opportunity to comment.

Regards,

Norma Miller
Government Relations Manager
British Columbia Real Estate Association
1420 – 701 Georgia Street West | PO Box 10123, Pacific Centre | Vancouver, BC V7Y 1C6
604.742.2789 | nmiller@bcrea.bc.ca

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BRITISH COLUMBIA
REAL ESTATE
ASSOCIATION

September 19, 2018

Financial and Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria, BC V8W 9V1
Submitted by email: fcsp@gov.bc.ca

RE: *Land Owner Transparency Act* (*LOTA*) White Paper

At a high level, the British Columbia Real Estate Association (BCREA) supports measures that improve transparency in real estate transactions. While we appreciate the opportunity to comment on this draft legislation, it is complex and cannot be fully understood without the details that will be contained in the accompanying regulation.

With the information we have so far, we see that *LOTA* will increase the time—and, therefore, the cost—of real estate conveyance for transactions involving applicable trusts and corporations. The "reasonable efforts" required of reporting bodies may be extensive and time consuming, and we expect more guidance will be provided regarding what is meant by "reasonable efforts."

We appreciate that the draft legislation considers the issue of privacy, but further thought is needed on this front. For example, some landlords who hire licensed property managers prefer the anonymity that comes from that arrangement. This is especially important in cases where difficult tenants have been evicted and may seek retribution.

Publishing names at all reminds BCREA of our long-standing request for REALTORS® to once again have access to name data on BC Assessment rolls. For many years, REALTORS® accessed this information through a data exchange agreement with BC Assessment, and then the names were removed from this resource in 1998 for privacy reasons. Posting names to a publicly-accessible registry seems to run counter to that decision. If the proposed registry is implemented, will there be a penalty for people who use the data for marketing or harassment, as seen in s. 69 of the *Assessment Act*?

> **Use of and access to information in records**
> **69** (1) Subject to the requirements of this section and section 68 and any prescribed limits on the fees that may be charged, if this Act, or a regulation under this Act, requires or

1420 – 701 Georgia Street W, PO Box 10123, Pacific Centre, Vancouver, BC V7Y 1C6
President James Palanio | **President-Elect** Michael Trites | bcrea@bcrea.bc.ca | **604.683.7702** (tel)
Past President Jim Stewart | **Chief Executive Officer** Darlene Hyde | **www.bcrea.bc.ca** | 604.683.8601 (fax)

Quality of Life

> authorizes the disclosure or public inspection or other use of or access to a record, including an assessment roll, a person may obtain a copy of the record or assessment roll on payment of any fee that may be set for the copy by the assessment authority or by the chair of the board, as the case may be.
>
> (2) A person must not, directly or indirectly, use the assessment roll or information contained in the assessment roll or a record referred to in subsection (1) as follows:
> (a) to obtain names, addresses or telephone numbers for solicitation purposes, whether the solicitations are made by telephone, mail or any other means;
> (b) to harass an individual;
> (c) for other uses or purposes specified by regulation.
>
> (3) A person who wishes to inspect or obtain a copy of a record referred to in subsection (1) may be required to complete a declaration in the prescribed form
> (a) specifying the purpose for which the information is to be used, and
> (b) certifying that the information contained in the record will not be used in a manner prohibited under subsection (2).
>
> (4) A person who contravenes subsection (2) commits an offence.

As we understand it, all property owners will be impacted because everyone will have to complete a transparency declaration, to note whether disclosure requirements are triggered. Our biggest concern on this front is with the initial implementation: will all existing property owners have to file transparency declarations by a given date? If so, will the Land Title and Survey Authority have the capacity to process that volume of declarations?

Since February 2018, the BC Government has introduced the following transparency initiatives:

- *LOTA* White Paper,
- Information Collection Regulation, under the *Property Transfer Tax Act*, which requires additional information to be reported through the Property Transfer Tax return by individuals with significant interest in a corporation or trust that acquires property, and
- *Real Estate Development Marketing Amendment Act 2018*, which will require developers to collect and report comprehensive information about the assignment of pre-sale condominium purchases.

With the effort involved to make all of these disclosures, causing increased time and cost, BCREA wants to see the government get the most value out of the data. To that end, we ask for more information about how these measures will be coordinated and the data aggregated. Ideally, a comprehensive approach will also include a public evaluation component to determine whether the measures have been effective.

Finally, we urge the government to develop and implement *LOTA* with care. The real estate market has been subject to a staggering number of legislative and policy changes since 2016, resulting in significant frustration and confusion for professionals and consumers. The circulation of this white paper indicates an intention to avoid unintended negative consequences, and BCREA welcomes further opportunities to provide input as *LOTA* and its supporting regulation take shape.

Please contact me directly if BCREA can be of assistance (dhyde@bcrea.bc.ca; 604.742.2787).

BCREA is the professional association for about 23,000 REALTORS® in BC, focusing on provincial issues that impact real estate. Working with the province's 11 real estate boards, BCREA provides continuing professional education, advocacy, economic research and standard forms to help REALTORS® provide value for their clients.

To demonstrate the profession's commitment to improving Quality of Life in BC communities, BCREA supports policies that encourage economic vitality, provide housing opportunities, respect the environment and build communities with good schools and safe neighbourhoods.

Sincerely,

Darlene Hyde
Chief Executive Officer

Copies: Hon. Carole James, Minister of Finance (FIN.Minister@gov.bc.ca)
Shirley Bond, MLA – Prince George-Valemount (shirley.bond.mla@leg.bc.ca)
Tracy Redies, MLA – Surrey-White Rock (tracy.redies.mla@leg.bc.ca)
Donna Barnett, MLA – Cariboo-Chilcotin (donna.barnett.mla@leg.bc.ca)

From:	Christina Dhesi
To:	FCSP FIN:EX
Cc:	Held, Graham BCA:EX; Christina Dhesi; David Aberdeen
Subject:	374146 Land Owner Transparency Act White Paper – June 2018 Consultation
Date:	Wednesday, September 19, 2018 4:08:41 PM
Attachments:	LandTransparencyWhitePaper_2018AIC-BC.pdf
Importance:	High

Hello,

Please see the attached letter addressed to the Financial and Corporate Sector Policy Branch, Ministry of Finance regarding feedback for the Land Owner Transparency Act White Paper – June 2018. The Appraisal Institute of Canada – BC Association (AIC-BC) President, Graham Held, respectfully submits this letter for your consideration as part of the public consultation process on behalf of the AIC-BC membership.

Should you require more information or have any questions, please contact me directly by my coordinates below.

Thank you for this opportunity.

Sincerely,

Christina Dhesi, BA, DULE
Executive Director | BC Association Appraisal Institute of Canada
1130 – 1090 West Georgia Street | Vancouver, BC V6E 3V7
D +1 778 945 7772 | T +1 604 284 5515 | F +1 604 284 5514
christina@appraisal.bc.ca

Appraisal Institute of Canada
British Columbia

We have moved! Our new address is 1130 – 1090 West Georgia Street, Vancouver, BC V6E 3V7

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Appraisal Institute of Canada
British Columbia

September 19th, 2018

The Honourable Carole James, Minister of Finance and Deputy Premier
Financial and Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria, BC V8W 9V1

Dear Honourable Carole James,

Re: Consultation on the Land Owner Transparency Act Draft Legislation

On behalf of the Appraisal Institute of British Columbia – BC Association (AIC-BC), we would like to thank the Ministry of Finance for the opportunity to provide feedback on the proposed Land Owner Transparency Act legislation.

AIC-BC is the Provincial Association of the Appraisal Institute of Canada (AIC) within British Columbia and the Yukon. AIC-BC represents approximately 1,200 members and delivers AIC's member programs and services within the region. AIC is the premier real property valuation association in Canada. Founded in 1938 and representing over 5,400 Members, AIC is a self-regulating professional organization that grants the distinguished Accredited Appraiser Canadian Institute (AACI) and Canadian Residential Appraiser (CRA) designations to individuals across Canada and around the world. Our Members adhere to nationally and internationally recognized standards – the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP) – and are respected worldwide for the rigorous designation program and ongoing professional development requirements.

AIC has a long history of providing valued, independent opinions about property value. In 2017, AIC-BC Members conducted over 260,000 third-party appraisals with an overall of approximately $359 billion. This represented $213 billion in residential property and $146 billion in non-residential property, including commercial, industrial, as well as many other types of real estate. Furthermore, we have many Members who provide in-house expertise to private and public interests including (but not limited to) governments, crown corporations/agencies, corporations, and mortgage insurers.

AIC-BC Members are committed to working with legislators, government, and stakeholders within the real estate industry to ensure that the market, and more importantly consumers, are protected. We believe our Members' unbiased opinions and strong valuation fundamentals result in a sustainable and healthy marketplace that enables all British Columbians to prosper.

The Land Owner Transparency Act White Paper acknowledges that its purpose is to eliminate the ability to hide true ownership through legal entities. Allegations of criminal behaviour within the real estate industry in BC is a concern to us. An AIC-BC appraiser provides structured reporting documentation and gathers information from on-site activities, transaction activities, bona fide purchasers, and objective data about normal marketplace activity – all information allowing appraisers to identify and warn of abnormal behaviour that may indicate fraudulent activity such as inflated prices, false transactions,

Appraisal Institute of Canada – British Columbia
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Vancouver, BC V6E 3V7

frequent or rapid transactions, “straw buyers,” counterfeit documents, data manipulation, or mortgage fraud. All this detail can trigger red flags related to fraudulent or criminal activity. As an organization that has an independent role in a real estate transaction, we recognize the importance of transparency as means to lessen the risk of tax evasion and fraud within the real estate industry and are supportive of the initiatives taken by the Government of BC to increase market transparency.

The Act highlights that a detailed registry will be made available to tax, law enforcement, and regulatory bodies and that limited information will available to the public for a fee. AIC-BC believes that it is important that all stakeholders within the real estate industry have access to public records of land registry in an equitable way. We believe professional appraisers play an integral role in the real estate sector and that access to comprehensive, reliable, and affordable market data helps to deliver quality appraisals which ensure that the public is protected.

AIC-BC Members have a professional duty to provide a minimum of three-years of sales history and other critical information such as purchaser and vendor details, yet access to reliable information is becoming more difficult, especially in the case of private sales or those that have transacted by share transfer, nominees, and other trusts or corporations. The proposed registry is particularly important to help mitigate risk when confirming parties involved in a transaction to ensure that market information is correctly interpreted and utilized within valuation reports; however, it is also necessary to provide this access in a timely and reasonable manner. Online disclosure registration and reduced fees for real estate stakeholders should be implemented to ensure that unnecessary costs and delays are not passed on to the consumer.

The proposed legislation is limited to the collection of ownership details, yet AIC-BC believes that greater potential can be realized if the “prescribed information” collected was expanded to include physical property and sale data and linked to other reliable data sources. Search restrictions, increased fees, and inconsistent information continue to impact the overall real estate industry and its professionals. As such, we recommend that existing public registries be amalgamated whereby the proposed registry will capture all pertinent ownership, property, and sales information. A comprehensive and central registry that is accurate and affordable can be used effectively by professional market facilitators such as appraisers to assist them in their role of protecting the public.

We would like to extend an invitation to the Ministry of Finance to work with AIC-BC on developing a registry that is specific and useful to real estate professionals and that will, thus, add value to consumers and the industry overall.

In the interim, we remain available to answer any questions that you, your office, or department may have.

Respectfully,

Graham Held
President | Appraisal Institute of Canada – British Columbia

Appraisal Institute of Canada – British Columbia
1130 – 1090 West Georgia Street
Vancouver, BC V6E 3V7

From:	Umbach, Greg
To:	FCSP FIN:EX
Subject:	374148 Response letter to White paper on LOTA
Date:	Wednesday, September 19, 2018 4:26:50 PM
Attachments:	Letter re LOTA.pdf

Please see attached letter regarding the proposed Land Owner Transparent Act.

Regards,

Greg Umbach
Partner
greg.umbach@blakes.com
Dir: 604-631-3378

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Greg Umbach
Partner
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September 19, 2018

VIA EMAIL: fcsp@gov.bc.ca

Financial and Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Govt.
Victoria BC V8W 9V1

RE: *Land Owner Transparency Act*

Dear Sirs:

I understand that the Real Property Section of the Canadian Bar Association and the Society of Trust and Estate Practitioners (Canada) have submitted comments regarding the proposed *Land Owner Transparency Act* ("**LOTA**") which comments I support. In addition, I submit the following comments regarding specific issues:

1. I am concerned that the legislation inadvertently creates an obligation to pay property transfer tax on the registration of a beneficial interest. *The Property Transfer Tax Act* in section 2(1) states that "on application for registration of a taxable transaction at a land title office, the transferee must", pay tax and file a return. A taxable transaction includes any transfer or grant of a right or estate in land. Upon enactment of the LOTA the obligation to file a disclosure declaration with the Land Title and Survey Authority may be interpreted as a registration at a land title office and therefore require payment of PTT even if the legal title is not being transferred. I do not believe it is clear that section 5(2) of the LOTA prevents this interpretation since the *Property Transfer Tax Act* does not set the threshold for payment of the PTT as a registration under the *Land Title Act* but rather a registration "at a land title office". This ambiguity should be clarified with express language that submission of the disclosure declaration alone does not trigger the obligation to pay PTT but may if combined with a registration of a transfer of legal title.

2. Schedule 1 and Schedule 2 section 1 (e) need clarification. It is not clear whether the transfer of a beneficial title to a corporation that is owned by a pension plan authorized under an enactment of Canada or a province would be excluded from the definition of a relevant corporation or if a trust governed by a registered pension plan would be excluded from the definition of a relevant trust. It is common for pension plans to register legal title in the name of a corporate nominee and to hold the beneficial interest in a second corporation which is qualified as an *Income Tax Act* section 149 (1)(o) company or similar tax exempt entity. In this instance the stated purpose of the LOTA to ensure compliance with tax obligations is not applicable because the section 149 entities are not liable for tax. In addition, an *Income Tax*

Act section 149 (1)(o) company must be owned by a pension plan and therefore the ultimate owners will be the pension plan members and it is assumed no one plan member could own 25% or more of the plan. I suggest that a clearer exclusion for *Income Tax Act* section 149 type companies, limited partnerships comprised of section 149 companies and section 149 trusts be included in the final legislation.

3. Under Part 3 of the LOTA there is no procedure for an individual to complain about misuse of personal information nor is there a requirement for notification of individuals upon the registrar becoming aware of a breach of security for personal information. I also believe there should be express provisions protecting certain elements of disclosed information such as social insurance numbers, tax numbers and birthdates so that it is clear these elements should not be part of any publicly accessible search and must be kept confidential despite any application under the *Freedom of Information and Protection of Privacy Act* or similar legislation. The reason for this express requirement in LOTA is that the Land Title and Survey Authority will be responsible for collection and protection of the information and if a FIPPA request is received the Authority must go through the process under FIPPA to analyse if the information can be disclosed whereas if the prohibition on disclosure is expressed in LOTA then that analysis is not necessary and a request for private information can be rejected.

Generally, I respect the concerns that STEP (Canada) has expressed regarding the definitions used in LOTA. They are not clear generally and appear to be overbroad or ambiguous intentionally which creates confusion in trying to interpret the requirements under the Act. More consultation and refinement on these items is necessary.

We appreciate the opportunity to provide feedback on these additional items.

Regards,

Greg Umbach

GWU/snh

51105052.1

From:	Muneesh Sharma
To:	FCSP FIN:EX
Subject:	374149 BOMA BC LOTA White Paper Response
Date:	Wednesday, September 19, 2018 4:33:55 PM
Attachments:	2018-09-19 LOTA white paper response - BOMA BC.pdf

Hello,

Please find attached BOMA BC's response to the *Land Owner Transparency Act* White Paper Draft Legislation.

Thank you for the opportunity comment. Please let me know if we can provide any further information.

Thanks,

Muneesh Sharma
Director of Government Affairs and Communications

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September 19th 2018

Hon. Carole James
Minister of Finance
Province of British Columbia
c/o Financial and Corporate Sector Policy Branch

By email to: fcsp@gov.bc.ca

RE: *Land Owner Transparency Act* White Paper

Dear Minister James,

On behalf of the Building Owners and Managers Association of British Columbia (BOMA BC), I would like to thank you for the opportunity to respond to the Ministry's *Land Owner Transparency Act* White Paper.

We support increasing the transparency of landownership in British Columbia. Initial discussions with our members did not identify any major concerns with the draft legislation.

Our members were interested to learn more about how the registry would work in practice. For example, would property managers have an obligation to update the beneficial registry with any changes in the shareholdings or beneficial ownership of the property, or does that responsibility rest solely with the owner? Can owners delegate the responsibility to update the registry to other parties?

We look forward to being involved as the registry is developed and welcome further opportunities to provide input. Thank you again for the opportunity to comment.

Founded in 1911, the Building Owners and Managers Association of British Columbia (BOMA BC) is the largest commercial real estate industry association in the province. Our association has over 400 corporate members that own or manage the majority of commercial space throughout BC, as well as the businesses that support them. BOMA BC is an affiliated member with BOMA Canada and BOMA International.

Sincerely,

Damian Stathonikos
President
Building Owners and Managers Association of British Columbia

From:	Stuart Rennie
To:	FCSP FIN:EX
Cc:	Sarvi Veylan
Subject:	374155 CBABC Real Property Section"s submissions on the Land Owner Transparency Act White Paper
Date:	Wednesday, September 19, 2018 4:55:39 PM
Attachments:	CBABC Real Property Section Submission LOTA Sept 19 2018.pdf ATT00001.htm

TO: Financial and Corporate Sector Policy Branch
Ministry of Finance PO Box 9418 Stn Prov Govt Victoria BC V8W 9V1

Sir/Madam:

On behalf of the Real Property Section of the Canadian Bar Association (British Columbia Branch), I attach a copy of the Section's submissions.
Comments or questions may be directed to:

SARAVAN VEYLAN

Co-chair, CBABC Real Property Section

Tel.: (604) 608-4570

Email:sveylan@mltaikins.com

Stuart

Stuart Rennie
Legislation and Law Reform Officer
Canadian Bar Association (British Columbia Branch)
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SUBMISSIONS OF THE CANADIAN BAR ASSOCIATION (BRITISH COLUMBIA BRANCH)

TO THE

BC MINISTRY OF FINANCE

REGARDING THE

LAND OWNER TRANSPARENCY ACT WHITE PAPER

Issued By:

Canadian Bar Association
British Columbia Branch
Real Property Section
September 19, 2018

Table of Contents

PREFACE **2**

SUBMISSIONS **4**

OVERVIEW OF THE LAND OWNER TRANSPARENCY ACT 4
LOTA: PART BY PART 7
Part 1 – Definitions, Interpretation And Application *7*
Part 2 –Transparency Declarations And Disclosure Reports *8*
Part 3 – Access To Information Provided In Disclosure Reports *11*

CONCLUSION **12**

PREFACE

Formed in 1896, the purpose of the Canadian Bar Association (British Columbia Branch) (the "CBABC") is to:

- Enhance the professional and commercial interests of our members;
- Provide personal and professional development and support for our members;
- Protect the independence of the judiciary and the Bar;
- Promote access to justice;

- Promote fair justice systems and practical and effective law reform; and

- Promote equality in the legal profession and eliminate discrimination.

The CBA nationally represents approximately 35,000 members and the British Columbia Branch itself has over 7,000 members. Our members practice law in many different areas. The CBABC has established 76 different sections to provide a focus for lawyers who practice in similar areas to participate in continuing legal education, research and law reform. The CBABC has also established standing committees and special committees from time to time.

The CBABC Real Property Section is comprised of members of the CBABC who are concerned with law which establishes and regulates the rights and the wishes and regulates the rights and obligations of the owner, mortgagee, landlord and tenant in the use and disposition of land and interests in land and which provides the facilities for the public recording of ownership of interests in land. The CBABC Real Property Section's (the "Section") submissions reflect the views of some members of the Section only and do not necessarily reflect the views of the CBABC as a whole.

SUBMISSIONS

The Section is pleased to respond to the request for submissions from the Ministry of Finance.

In June 2018, the Ministry released its *Land Owner Transparency Act* White Paper: Draft Legislation with Annotations. The White Paper sets out policy recommendations for a proposed land owner transparency registry to end hidden ownership in real estate to prevent tax avoidance and evasion. The White Paper also includes an annotated copy of the draft legislation, the *Land Owner Transparency Act*.

On August 18, 2018, members of the Section met to consider submissions for the Ministry. These Section's submissions are a result of that meeting. The Section takes the position that is not the job of the Section to question the policy behind the LOTA, but rather to point out unforeseen consequences based on wording and/or effect of the LOTA in order to improve the efficiency effectiveness of the LOTA.

Where questions or issues set out in the LOTA and/or White Paper are not considered by the Section in these submissions, this does not mean that the Section either accepts or rejects these matters, but that the Section has no comment on these matters at this time.

Overview of the Land Owner Transparency Act

The stated purpose of the *Land Owner Transparency Act* (LOTA) is to identify those owing land in BC, and identify those holding a beneficial interest in land via trust, corporations or through a partnership.

There are three major aspects to the LOTA:

1. Nature of new disclosure.
2. Defining interest in land.
3. Timing of registration.

As a matter of policy, the Section has a question as to whether increasing filing fees, property transfer tax, transaction costs generally, work to undermine the reliability of the Torrens system by incentivizing off-register transactions and the proliferation of unregistered interests. If the aim of the LOTA is to address tax leakage, this could be achieved with something similar to the Ontario model, which does not necessitate the creation of a separate registry for beneficial ownership.[1]

Similarly, if the aim of the LOTA is to facilitate corporate transparency, the right to examine any BC corporation's CSR at its records office (which right was abolished by the introduction of the *Business Corporations Act*) would be a more straightforward approach.

Policy drivers and rationale for the legislation appear to be numerous and beyond the scope of the stated objective, but are ultimately unclear.

The requirement made by the LOTA to disclose interest holders, at the individual level, of all corporate structures, will be onerous for large-scale commercial transactions. It is predicted that such disclosure will increase transaction costs significantly, in addition to the cost increase resulting from additional tax burden, there will be increased deadweight costs resulting from additional practitioner time, due diligence, and formal/filing requirements.

---

[1] See section 5.0.1 of the *Land Transfer Tax Act*, R.S.O. 1990, c. L.6 (http://canlii.ca/t/5320r) and Prescribed Information for the Purposes of Section 5.0.1 (O. Reg. 120/17)(http://canlii.ca/t/52x81). See also Ontario Ministry of Finance's Non-Resident Speculation Tax Bulletin (https://www.fin.gov.on.ca/en/bulletins/nrst/)

As a matter of policy, the question is raised as to whether the additional transaction costs perceived to be endemic to the LOTA are ultimately counter-productive to the problem of housing affordability. The perceived irony is that the LOTA intended to strengthen an existing land title registry system and address housing affordability appears certain to generate additional costs of title insurance.

The Section also predicts that there will be significant impacts on the viability and attractiveness of British Columbia as an investment destination, as a result of this level of disclosure required by the LOTA. For example, owners at the shareholder level of multi-tenant residential buildings may have a legitimate interest in not being publicly identifiable by every individual tenant.

The Section is concerned that the Torrens system is undermined as a de-facto result of a beneficial ownership registry. Further questions are raised as to impacts on the ability of real property practitioners to provide opinion as to good and marketable title, or as to all necessary registrations, going forward.

This raises a recurring uncertainty as to whether the LOTA is intended to convey what real property practitioners would understand as a “beneficial interest” in land to shareholders, partners of partnerships, or whether these “beneficial interests” are merely described as such for the purpose of imposing disclosure and tax obligations on such persons. In other words, is a shareholder of 25% or more of a corporate registered a “beneficial owner” of the property, such that a properly advised lender would seek a beneficial mortgage from such person, or are they merely being catalogued as a “beneficial owner” for the purposes of imposing *Property Transfer Tax Act* and disclosure obligations?

The Section has concerned raised regarding current commercial transactions in BC: How do real estate practitioners give title opinions on good and marketable title?

LOTA: Part by Part

The LOTA has 8 Parts:

- Part 1 – Definitions, Interpretation And Application;
- Part 2 –Transparency Declarations And Disclosure Reports;
- Part 3 – Access To Information Provided In Disclosure Reports;
- Part 4 – Administration And Enforcement;
- Part 5 – General;
- Part 6 – Offences;
- Part 7 – Regulations;
- Part 8 – Consequential Amendments.

The Section has made comments on some, but not all of the LOTA's Parts.

Part 1 – Definitions, Interpretation And Application

The Section raised a question regarding the statute's implementation date. A member of the Section raised the point that much of the information will already be required by new *Property Transfer Tax Act* changes. Effective September 17, 2018, the Information Collection Regulation (B.C. Reg. 166/2018) under the *Property Transfer Tax Act* requires specified types of trustees and corporations that acquire property to identify all individuals as specified with a significant interest in the corporation or trust on the property transfer tax return.

The *Property Transfer Tax Act* required information is:

a. Individual or legal names;

b. Contact information;

c. Date of birth;

d. Relevant social insurance number or tax number;

e. Date of birth; and

f. Country of citizenship.

A member of the Section also noted that beneficial interest is very broad, so that beneficiaries of discretionary trust and contingent interests may be captured. Schedule 2 to LOTA lists exemptions. These exemptions do not capture these trusts – query as to whether LOTA drafters intentionally meant to exclude these trusts.

There appears to be inconsistency between the definitions and scope of beneficial ownership in LOTA and the parallel provisions in sections 2 and 12.13 of the of the *Property Transfer Tax* Act. The Section recommends that definitions between the LOTA and the *Property Transfer Tax* Act be amended so they are harmonized. The amending legislation should clearly state the rationale as to why there is a difference.

Regarding the definition of "corporate interest holder" in section 1 (inter alia, a person holding "25% or more of value of equity") of LOTA, how is "the equity of that corporation" in section 3(1)(a)(i) determined? Is it determined by preferred shares? Voting shares?

Similarly, under section 3(1)(a)(ii) of the LOTA, what is the value of “equity” or “voting rights”?

Part 2 –Transparency Declarations And Disclosure Reports

Regarding Part 2’s transparency declarations, there is a question as to what are “reasonable efforts” required to be made to determine that an individual has not previously been declared incapable will be? The Section recommends that the Ministry review the recent decision *Kau v. The Queen*, 2018 TCC 156 (CanLII) in this regard.[2]

[2] See http://canlii.ca/t/htc4n

The Section notes that the content of required disclosure reports is detailed and this will result in considerable time and money necessary to put these materials together.

As with *Property Transfer Tax Act*'s declarations, the "settlors" of trusts appear to be captured, which, in many personal estate-planning contexts, is an 'unrelated' individual (e.g. a family friend) "providing a coin". The Section questions the usefulness of this inclusion.

Regarding the updated disclosure report required in section 15, the Section questions whether two months is enough time to get affairs in order? The Section questions as to what is the onus/liability on lawyers to advise clients to file.

The Section is concerned that the LOTA's required information is not necessarily going to be consistent with the *Property Transfer Tax* Form.[3]

From a real property practitioner's practice point: If you act for a lender, will you ask to see this form before you file?

Part 2 imposes large record keeping requirements on corporations, trustees and partners. The Section questions how would a real property practitioner properly comply with these record keeping requirements? While the Law Society of British Columbia has provided some recent guidance, the LOTA is silent on the "how to" comply with this record keeping.[4]

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[3] See https://ltsa.ca/news/ministry-finance-updated-property-transfer-tax-return-version-31-now-available

[4] See "Notice to the Profession: New property transfer tax return requirements in effect September 17, 2018" https://www.lawsociety.bc.ca/about-us/news-and-publications/news/2018/new-property-transfer-tax-return%c2%a0requirements-in-e/ (September 7, 2018).

Regarding reference to trustees in Division 3, the information provided includes settlors of trust (even though often little to deal with).

In Division 3, section 19 requires that, for the purpose of preparing a disclosure report, a reporting body must make reasonable efforts to identify whether any of the interest holders are individuals in respect of whom a court or qualified professional has determined that the individual is incapable of managing that interest holder's financial affairs. The Section questions how, regarding the determination of incapacity, how do you do reasonable diligence on adult guardianship applications?

Further, the Section asks: What is a reasonable effort to determine whether these individuals are incapable?

Similarly, the LOTA refers to "qualified professional" twice. Once in section 19(1) where a qualified professional has determined that the individual is incapable of managing that interest holder's financial affairs. The second time is in section 37(1)(b) where the administrator must omit information from being publicly accessible where a qualified professional has determined that the individual is incapable of managing that interest holder's financial affairs. The LOTA does not define "qualified professional". The Section asks, given that a qualified professional could span various legal and health professionals, what professional(s) qualify as "qualified professional" mean?

Regarding Divisions 3 (Reasonable Efforts Requirements for Reporting Bodies) and Division 4 (Content of Disclosure Reports in the references to "reasonable efforts", the Section notes there is a general issue in the case law with "reasonableness". Courts often get into technical analyses on the subject of reasonableness. Further, regarding reasonable efforts regarding "influence or control" (as part of the definition of "corporate interest holder" in section 3(1)(c) of the LOTA, what does one have to do to make "reasonable efforts"?

Part 3 – Access To Information Provided In Disclosure Reports

The LOTA contemplates a two-tiered database for providing access to information. One database is public-facing containing names and addresses as provided for in section 35. The second database is only accessible by law enforcement and government as set out in sections 29, 30 and 31: this second database would disclose personal information of individuals like Dates of Birth and Social Insurance Numbers.

The question is raised as to the usefulness of this secondary registry and whether this is reflective of public or government mistrust toward lawyers as responsible gatekeepers for identifying money-laundering and criminal behaviour?

Another question is raised as to whether the 2 month filing window to correct a no-longer accurate disclosure declaration will result in a de-facto transaction freeze. See our Section's discussion above as to whether lenders need to be concerned with beneficial interest holders as owners capable of undermining the borrower's (and subsequently, the lender's title. A logistics concern that was raised is that this registry may always be stale and thus information not updated, and not something that can be relied upon by lawyers, lenders and other stakeholders.

A member of the Section commented that it appears contrary to the stated and apparent goals of the LOTA for the Land Title and Survey Authority of British Columbia to have recently revised its database to no longer display a registered owner's name on a PID search (without payment for each individual title).

CONCLUSION

As a Section, we would be pleased to discuss our submissions further with the Ministry, either in person or in writing, in order to provide any clarification or additional information that may be of assistance to the Ministry.

All of which is respectfully submitted.

SARAVAN VEYLAN
Co-chair, CBABC Real Property Section
Tel.: (604) 608-4570
Email:sveylan@mltaikins.com

From:	Cassandra McColman
To:	FCSP FIN:EX; Minister, FIN FIN:EX
Subject:	374171 RE: Land Owner Transparency Act Consultation
Date:	Wednesday, September 19, 2018 5:39:30 PM
Attachments:	UDI Letter - September 19, 2018 - LOTA White Paper Response.pdf

Good afternoon,

Please find attached the submission by the Urban Development Institute – Pacific Region, in response to the White Paper on the *Land Owner Transparency Act*.

Warm regards,
Cassandra McColman

Cassandra McColman | Policy and Research Coordinator
Urban Development Institute
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September 19, 2018

The Honourable Carole James
Minister of Finance and Deputy Premier
PO Box 9418 Stn Prov Govt
Victoria, BC V8W 9V1

Re: Proposed Land Owner Transparency Act

Dear Minister James,

On behalf of the over 850 members of the Urban Development Institute (UDI), we respectfully submit our comments regarding the proposed *Land Owner Transparency Act* (*LOTA*) *White Paper*. UDI recognizes there is a need to build public confidence in the real estate industry to ensure that everyone pays their fair share of taxes and that any potentially fraudulent activity is eliminated. We have endorsed the Province's efforts to establish a multi-agency task force to address tax fraud and money laundering in the BC real estate marketplace, and want to work with all levels of Government in these efforts. UDI has also supported the Ministry on the development of the Presale Assignment Registry.

Even though the proposed measures will add substantial administrative costs, fees and delays to real estate transactions and development projects, UDI is supportive of *LOTA* in principle. However, UDI is significantly concerned at the prospect of unfettered public access to a beneficial ownership registry (Registry) that includes personal information of parties who are not beneficial owners (as that term is legally recognized) of real property, or who have no ability to control or even influence decisions that could result in their identification in a public registry. We take no issue with the Registry information being available to the federal and provincial governments and their respective relevant authorities and agencies, including law enforcement, but we see no justifiable reason to make all information collected under *LOTA* available to the public at large.

We also note that there are often *bona fide* commercial purposes for purchasers – whether public bodies or private entities – not to have commercially sensitive information to be publicly known for both proprietary reasons unique to a particular transaction and for reasons to curb speculation. If reducing land speculation is a goal of the Province then making this information immediately and widely known will be counter-productive. At the very least, there should be an allowance for delayed reporting to protect commercially sensitive transactions.

We were pleased that the Ministry publicly released the draft legislation for comment. UDI would encourage this practice for other legislation and regulations in the future. As a general principle, the more notice our industry has, then the more we are able to comply with them. Further, interpretive guidance issued by the Ministry will be a valuable resource. One of the ongoing problems for accurate reporting of additional property transfer (foreign buyers) tax is the lack of guidance from the Ministry to repeated questions from industry to clarify how the tax is being assessed and what information is to be provided. For *LOTA* to operate efficiently, those who are subject to its requirements should have the benefit of timely and accurate information as to its requirements.

We offer the following initial comments on *LOTA*:

Part 1: Definitions, Interpretation and Application

- The definition of "relevant trust" includes a reference to "express trust". However, "express trust" is not defined in the statute. We ask that it be defined, and that clear examples be provided in guidance materials as to what comprises an "express trust".

- LOTA needs to be very clear in how bare trusts are to be addressed. Are they included under "relevant trusts"? Bare trusts are a popular tool used under the federal *Income Tax Act* for many years and the Province has in the past avoided providing definitional guidance around them. With the introduction to *LOTA*, it is our view that the Province can no longer avoid providing legislative language around bare trusts, and that legislative language will also require further Ministry guidance materials to provide greater clarity for filings to be made under *LOTA*.

- As one example, it is important for the Ministry to provide a definition of "settlor" under *LOTA*. Despite numerous requests for clarity on this point since the introduction of the additional property transfer tax, the Ministry has not provided any clarity on this point. It should also be noted that the definition of settlor in the *Property Transfer Tax Act* is different from what is commonly thought to be a settlor in law, and is not consistent with the definition used in *LOTA*.

- We understand from the language regarding the 25% rule described in Section 3 that no reporting under *LOTA* will be required if there are more than four individuals with equal shares of the ownership of a property. However, if this is not the expectation of the Ministry, then the definition of "beneficial owner" under Section 2 needs to be clarified.

- There is a disconnect with the definition of "*corporation*" between the *Land Title Act* and the *Business Corporations Act*. Does the government anticipate the difference in definitions as an issue for *LOTA* and specifically with regard to the definition or "*corporate interest holder*" (Section 3)?

- There are other clarifications needed under Section 3 regarding "*corporate interest holder*":

    - The inclusion of a "value of equity" test is too vague and effectively imposes a daily obligation to assess the ownership of a property where no actual transfer has occurred since there can be different classes of

shares with different valuations. The voting rights test in section 3(1)(a)(ii) should be adequate for the government's purpose.

- Under Section 3(1)(c), a definition of what "… *significant influence or control over the relevant corporation*," is needed.

- "*common Interests*" is not defined under Section 3 (2) (b).

- Under Section 4 ("*Partnership Interest Holder*"), UDI asks the Government to consider applying the 25% rule noted above to partnerships – especially limited partnerships and limited liability partnerships (which typically comprise professional service partnerships with office leases). As with corporations, the increased administrative costs would not be warranted in situations in which there are numerous individuals involved, each with little effective ownership/control of a property . It would also provide a consistent approach in *LOTA* between partnerships and corporations.

- To ensure consistency of language throughout *LOTA*, we recommend that Section 7(a) be amended from "*provide the corporation's or company's…*" to "*provide the relevant corporation's or company's…*".

- Also, under Section 7(a)(iii), UDI recommends that "*if applicable*" be added after "*head office address*"

- Lastly, the inclusion of leases under the definition of *"interest in land"* is an unnecessary extension of the application of LOTA that is unlikely to amount to anything more than a significant burden for the Province to manage. We note that the *Property Transfer Tax Act* only triggers transfer tax for leases as equivalents to ownership for leases (including renewal terms) of more than 30 years. The definition of "*interest in land*" in *LOTA*, as drafted, would likely capture thousands of additional leases to no material benefit. Further, given the Province's recent changes to the *Residential Tenancy Act*, the definition may now capture residential tenancy agreements where terms convert to periodic tenancies.

Part 2: Transparency Declarations and Disclosure Reports

Under Section 15, "*Reporting bodies will also be obligated to file an updated disclosure report within two months of becoming aware of a change in beneficial ownership*." UDI recommends that a different approach be taken in which reporting bodies provide disclosure reports with updates in beneficial ownership every six months. This would reduce the administrative burden of *LOTA*, which will likely be quite high for reporting bodies with significant land holdings.

Part 3: Access to Information Provided in Disclosure Reports

As noted above, UDI supports the establishment of a Registry in which key information regarding who beneficially owns real property is shared with tax auditors and law enforcement. This should assist the efforts of agencies to combat money laundering and tax evasion. However, UDI is concerned that access to the Registry information would be available beyond the federal and provincial governments and their respective authorities and agencies, including law enforcement. If commercially sensitive information is shared beyond government and the necessary authorities,

this could undermine both the private and public sectors' abilities to acquire land without triggering speculation. As the Province has done with the additional property transfer tax, and the Province's proposed pre-sale assignment reporting, the information can be collected, assessed and disseminated on an aggregated basis, but public access to individual filings is not contemplated.

In terms of our industry, there will be impacts on competition as the proprietary information of our members (e.g. when they assemble sites for future projects) will be released to their competitors and land speculators. It is our understanding that one of the overarching goals of the Government is to increase reduce real estate speculation. *LOTA* will only increase speculation if the Registry is accessible to the public at large. When the Province, TransLink, BC Hydro, BC Housing, local governments and our members assemble sites for projects, the Registry will effectively act as an invitation for others to purchase abutting sites and flip them at a higher price, which will drive up land costs that will be passed onto tenants and purchasers. New important public sector projects like housing, highways, transit and commercial/industrial developments will become more expensive to assemble and build.

We note that in 2007 the Province of B.C. purchased 15 single room occupancy (SRO) buildings, and reportedly was able to reduce the land costs by shielding the Province's purchase activities through the use of numbered companies to complete the purchases. At the time, this approach was broadly supported by all stakeholders.

One option for the Ministry could be for *LOTA* to allow the public access to information on the "beneficial owner" (as this term has traditionally been defined) of a site. However, information beyond who owns a beneficial owner entity could be limited to law enforcement and government tax auditors. It is not clear what public policy benefits would arise from making this information also available to the public. If there are any, they would be outweighed by the negative impacts of increased speculation and land prices. Further, the *Business Corporations Act* and *Partnership Act* do provide public access to certain corporate and partnership information. LOTA should not become a shortcut for the public to circumvent the restrictions to information established under those statutes.

If the Government does proceed with public access to the Registry, we also ask that personal information such as the principal residence of individuals (Section 8(d)) not be released for privacy and security reasons. Again, it is not clear why such information would have to be publicly accessible if the relevant tax and law enforcement agencies have access to the information.

We ask that Section 28(2) be amended to double the time period between when the Registrar accepts disclosure reports and when personal information is publicly posted on the Registry from 30 to 60 days. This will ensure that there is enough time for:

a) people to be notified by a reporting body that personal information about them will appear on the Registry; and

b) those who have concerns about their information being made public to apply to the administrator to omit or obscure the information from the Registry under sections 38 and 39.

Schedules 1 and 2 (Exemptions)

LOTA includes several exemptions for corporations and trusts in Schedules 1 and 2. We ask that there be similar exclusions under paragraph (a) of the definition of "*relevant corporation*" (Schedule 1) for partnerships if the partnership (usually a limited partnership or a limited liability partnership) is a reporting issuer as contemplated by the *Securities Act*, as they are the equivalent of public companies. Alternatively, a Schedule for partnership exclusions should be added. Such a schedule should also include professional services partnerships. Societies and non-profit corporations should also be considered for exemptions in Schedule 1.

We also recommend for Schedule 2 that hybrid charitable trusts and spousal trusts be added as exclusions under paragraph (d) of the definition of "relevant trust". It is not clear whether "charitable trust" under Schedule 2 would include hybrid charitable trusts and so, for sake of clarity, we ask that it be specifically added. If joint spousal trusts are included in the exemption list then spousal trusts should similarly be included in the exemption list.

Thank you again for publicly releasing the *LOTA White Paper*. We hope this is a practice that will be adopted more frequently by the Government in the future. Although UDI is supportive of *LOTA*, we ask that you consider the recommendations we have made to improve the legislation – especially with regard to limiting public access to the Registry. If you or Ministry staff have any questions regarding our response, please do not hesitate to contact us. We would be pleased to discuss them further. We would also be interested in discussing future regulations under *LOTA* and Ministry Bulletins.

Yours sincerely,

Anne McMullin
President & CEO

From:	Michelle Travis
To:	FCSP FIN:EX
Subject:	374174 UNITE HERE Submission to Land Owner Transparency Act Consultation
Date:	Wednesday, September 19, 2018 10:55:19 PM
Attachments:	UNITE HERE Local 40 Submission - Land Owner Transparency Act Consultation.pdf

To: Financial & Corporate Sector Policy Branch

Please find attached UNITE HERE Local 40's submission regarding the Land Owner Transparency Act Consultation. Please feel free to contact me if you have any questions regarding this submission.

Kind regards,
Michelle Travis
UNITE HERE Local 40
(604) 473-4805

Land Owner Transparency Act Consultation
Ministry of Finance
Submission by UNITE HERE Local 40
September 19, 2018

UNITE HERE Local 40 supports the framework set out in the proposed *Land Owner Transparency Act* which will require disclosure of beneficial ownership of real estate. We commend the province for proposing a new public beneficial ownership registry which will be the first of its kind created in Canada. This registry will be a critical tool to curb hidden ownership which enables tax dodging and fraud.

The Panama Papers and other global data leaks exposed just how widespread the use of shell companies and trusts has become to hide assets. Governments have been forced to reckon with lost tax revenues and are adopting new tools to prevent corruption and other abuses. Although Canada has made commitments to strengthen transparency of corporate ownership, our country lags other G20 nations that are adopting public registries and other reporting mechanisms. Without movement on the federal level, it is up to Canada's provinces to take the lead on this issue and to create a model for beneficial ownership disclosure.

A public beneficial ownership registry is in the public interest

Public disclosure of beneficial ownership is necessary for cracking down on the use of anonymous corporations and trusts that avoid taxes and launder money. A Toronto Star/CBC investigation last year demonstrated how Canada has emerged as a tax haven in its own right. Canada's lax corporate registration requirements on the federal and provincial level has enabled anonymity on the part of owners, and its many international tax agreements allow money to be easily moved in and out of the country.

There has been much press about the role of anonymous shell companies and trusts used to acquire residential property in Vancouver. Secrecy in the real estate market is certainly not limited to the residential sector. In recent years, there have been several large real estate transactions in the hospitality, commercial and senior living sectors in which overseas buyers with murky ownership have acquired large portfolios of Canadian real estate – some with property holdings in B.C. This raises questions about who is behind the money and why the buyer needs secrecy.

Public disclosure of beneficial ownership is one of the simplest tools we can use to combat the secrecy which enables tax evasion and fraud. A public registry will deter those looking for shadowy vehicles to hide assets and will assist law enforcement and tax authorities to more effectively conduct investigations. Greater transparency in ownership will also serve the public interest by reducing corruption and promoting fairness.

International consensus growing around the need for corporate transparency
On the federal level, Canada's commitment to adopting a public beneficial ownership registry has been tepid. Yet, there has been a growing international consensus on the need for action to crack down on tax evasion and tax avoidance. Governments, including those in the G20 and the OECD, are adopting a variety of tools to tackle this problem. Other countries have adopted or committed to public registries to disclose beneficial ownership behind corporate entities, trusts and real estate and, in some cases, this disclosure is required to participate in public procurement.

Among those nations adopting public beneficial registries:

- The UK was the first G20 country to establish a publicly accessible central registry of beneficial ownership to show who really owns and controls UK companies. In addition, the UK will also require domestic and foreign companies who enter into public procurement contracts to disclose beneficial ownership.[i]
- The EU has agreed to create public registers of beneficial ownership in every member state. EU countries will also open up beneficial information on trusts.
- Other countries which have adopted, or are committed to, public beneficial ownership registries include Norway, the Netherlands, Ukraine, Slovakia, India, among many others.

Recommendations:
UNITE HERE Local 40 supports the B.C. government's proposal and views this as a crucial step to address lax corporate reporting for real estate holdings. UNITE HERE Local 40 urges the B.C. government to explore additional measures to discourage the use of anonymous companies and trusts to evade taxes:

- **The province should require all corporate entities to disclose beneficial ownership.** The misuse of corporate vehicles to commit fraud or evade taxes is not limited to holders of real estate. Canada has notoriously lax standards for those setting up companies. As Transparency International has pointed out, obtaining a library card requires more rigorous identity checks than setting up corporations. Anonymous shell companies without detectable landholdings do not appear to be captured in the Land Owner Transparency Act. This gap could be closed by requiring all registered corporations to publicly disclose beneficial ownership information when filing annual corporate reports with the province.

  Uniform disclosure of beneficial ownership can more effectively combat efforts to circumvent the public registry (e.g. by separating ownership of land from the residence or business that occupies the land or through lease agreements). It would not only serve the public interest to protect those who could be victimized by fraud, it would also help level the playing field for businesses that are playing by the rules.

- **The 25% ownership threshold is too high.** According to Global Witness, one in ten UK companies did not list a beneficial owner because none of their beneficial owners met the threshold.[ii] To avoid a similar problem in B.C., UNITE HERE Local 40 urges the province to eliminate the 25% reporting threshold for corporate interest holders and, instead, include all direct and indirect interest holders regardless of the percentage held.

- **Adopt additional disclosure rules for trusts.** While most trusts may be used for legitimate purposes, their confidential nature makes them ripe for money laundering and tax evasion. Trusts provide even more anonymity for beneficial owners than corporate vehicles and play a significant role in corruption cases and tax dodging. To combat the use of trusts for shielding assets or fraudulent activity, UNITE HERE Local 40 urges the province to consider a beneficial ownership register for trusts. Trusts should be required to disclose all persons related to a trust, such as beneficial owners, all settlors, protectors, trustees, direct and potential beneficiaries, and any other person mentioned in the trust deed with control over the trust.

- **Access to beneficial ownership information should not be cost prohibitive**. UNITE HERE Local 40 urges the province to make this information freely available to the public. While charges to produce copies are reasonable, beneficial ownership information serves the public interest and should not be out of reach for those without means. We urge the province to make the public registry free to search and obtain information, as is the case in other jurisdictions, such as the UK.

UNITE HERE Local 40 represents thousands of workers throughout British Columbia who work in hotels, food service and airports.

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[i] "Beneficial Ownership Transparency," Department for Business Innovation and Skills (UK), March 2016 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/512333/bis-16-161-beneficial-ownership-transparency.pdf; and Speech by the Rt Hon David Cameron MP: Anti-Corruption Summit 2016: PM's closing remarks, Transcript, May 12, 2016. https://www.gov.uk/government/speeches/anti-corruption-summit-2016-pms-closing-remarks

[ii] "Public Registries of Beneficial Ownership: State of Play 2017," Civil Forum for Asset Recovery, 2017. http://cifar.eu/wp-content/uploads/2017/03/Beneficial-ownership-the-state-of-play-2017.pdf

s.22

From:
To: FCSP FIN:EX
Subject: 374386 LOTA Feedback
Date: Sunday, September 23, 2018 10:45:04 AM
Attachments: LOTA_feedback.pdf

Dear Minister James and colleagues,

Thank you for the opportunity to provide feedback on the Land Owners Transparency Act White Paper. Kindly find attached my feedback letter.

I look forward to receiving your reply. Should any elements of the attached become part of a public discussion, I request that my name, address and email address be kept confidential.

Sincerely,
s.22

Sept. 19, 2018

CONFIDENTIAL

Attn: Carole James
Minister of Finance and Deputy Premier
Financial and Corporate Sector Policy Branch
Ministry of Finance
P.O. Box 9418, Stn Prov Govt
Victoria, B.C.
V8W 9V1

Dear Minister James,

RE: Land Owner Transparency Act White Paper -- Discussion

"We know where you live." This particular combination of words is not innocuous – not to anyone, not even to a school-age child.

If your proposed registry is implemented, will teachers ever be able to fail a student again, without fear of retaliation from immature students and angry parents? Will lawyers ever be able to take on an unpopular case without fear of public mobbing? Will jurors ever be able to convict a criminal again, without fear of retribution on their families?

What will you tell the family of the teacher or professor, the doctor or lawyer, police officer or civil servant, or bullied child when they become the victim of harassment and related crimes enabled by your proposed registry?

Both the spirit and the implementation of this proposed law threaten the very core of democracy, in which ideas and opinions can be exchanged freely and safely in public.

In tandem with social media, this registry will unleash a new dimension of hate and harassment, anxiety and fear. It places public safety – a constitutional right – at risk, in the name of financial reporting, which will be taken out of the hands of relevant experts who have a professional obligation to respect privacy laws and confidentiality guidelines.

It will also contribute to the deterioration of professional disciplines, in which law, engineering, and medical students are held to high standards of practice, because professors will be increasingly reluctant to fail students who should be failed on the basis of their academic performance.

The following core questions arise from this White Paper and require public clarification:

As you state in the foreword to the White Paper, the purpose of the proposed registry is to "help give tax auditors, law enforcement agencies and federal and provincial regulators the information they need to conduct their investigations… into tax frauds and… money laundering" (p. i).

If this is genuinely your sole motivation, why will the proposed registry be open to the public? Why is this information not restricted to the relevant professionals mentioned above? How precisely will "a publicly available database… help to foster accurate reporting by registered land owners" (p. 2)? By encouraging neighbour to snoop on neighbour, as was the case in certain totalitarian states? How will the inevitable "unintended" consequences of pitting citizen against citizen be effectively handled? To what extent have resources been earmarked to fund anti-harassment programs, policies, and initiatives?

Further, what law enforcement training programs have been proposed to identify and prevent the inevitable increase in "misuse of publicly accessible information" (p. 31)? How much money has been earmarked for such programs and policies? Without commensurate financial resources dedicated to such prohibition and to new administrative positions to deal with resulting lawsuits directed against the Province of British Columbia, your proposed registry exacerbates the clogging of the courts.

Ms. James, please consider the wellbeing of BC residents, who need to feel safe in their homes. As it stands, this proposed registry enables harassment.

Thank you for the opportunity to provide feedback on the White Paper. I look forward to your reply.

Should elements of this letter be made public, I request that my name and address be withheld for reasons of confidentiality.

Sincerely,

s.22

From:	Norman, Tiffany FIN:EX
To:	Dawkins, Christina FIN:EX; Dillon, Brian FIN:EX; Primeau, Joseph FIN:EX; Leslie, Danielle; Johnston, Craig; Porter, Michelle L FLNR:EX; Buchan, David FLNR:EX; Vert, Patrick FLNR:EX
Cc:	Peck, Nancy AG:EX; Fowles, Jim AG:EX
Subject:	Policy issues raised through LOTA consultation
Date:	August 27, 2018 9:46:04 AM
Attachments:	TETC 18 08 09 STEP LOTA Submission.pdf s.12,s.14 2018-08-14ToMoF_LandOwnerTransparencyRegistry.pdf

Good morning,

As we have begun to receive some more substantive submissions on the LOTA white paper, some issues have been raised that will require discussion by the Legal and Legislation Sub-Committee. Attached are the following submissions:

- Submission from the Society of Trust and Estate Practitioners (STEP) Canada
- Submission from BC Assessment

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s.13

s.13 . It sounds that the comments will be primarily technical in nature. We also expect to receive formal submissions for the Notaries and CBA committees.

Sincerely,

Tiffany Norman
Policy and Legislative Analyst

Financial and Corporate Sector Policy Branch
Ministry of Finance
T: 778-698-5271

August 17, 2018

Carole James
Minister of Finance and Deputy Premier
Financial & Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria, BC V8W 9V1

Submitted via email: fcsp@gov.bc.ca

Re: Response of STEP Canada to the Land Owner Transparency Act White Paper – June 2018

The Society of Trust and Estate Practitioners (Canada) ("**STEP Canada**"), with the assistance of three members of its Vancouver Branch, has reviewed the *Land Owner Transparency Act White Paper – June 2018* (the "**White Paper**") and provides this response to the Government of B.C.'s request for comments.

STEP Canada is part of STEP Worldwide, the leading international organization for trust and estate professionals. STEP's mandate is to provide a forum for discussion and to advance practitioners' knowledge of tax, accounting, administrative, statute, and case law through regular branch seminars, symposia, and an annual national conference. STEP Canada also makes representations of a technical nature to government, policymakers and related professional bodies, with the goal of promoting better understanding of trusts and estates, and improving related law and policy. There are 20,000 members worldwide and over 2,600 members in Canada, operating as professionals in the trust, legal, accounting, financial planning and insurance industries. Fundamentally, all of the members of STEP Canada and STEP Worldwide are engaged in advising their clients on matters relating to the ownership and transfer of property.

Given STEP Canada's focus on trusts and estates, this response does not address issues that may arise in provisions of the proposed *Land Owner Transparency Act* (the "**LOTA**") as it affects real property and corporate law.

A. General Comments

While our comments are for the most part organized to follow the structure of the proposed LOTA and the questions for discussion posed by the government in the White Paper, we wish to preface our specific comments with the following comments of a more general nature.

1. The Government Has Not Allowed Adequate Time to Properly Consider and Comment

We note at the outset that it is neither fair nor appropriate to release the draft LOTA for public consideration and input at the very beginning of summer, with only a 60-day period allowed for submissions. This is simply not a sufficient amount of time to permit relevant stakeholders to consider all the implications arising from legislation of this scope and import. The comments provided in this submission reflect the concerns identified by a small number of STEP members in British Columbia and, because of the time constraints, is not as comprehensive as STEP Canada would have liked.

Further, we were dismayed to see the government has elected to bring into force some of the provisions of the LOTA by way of Regulation to the *Property Transfer Act* (Minister of Finance and Deputy Premier Order No M287) before any submissions on the LOTA have been provided and reviewed.

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www.step.ca

STEP Canada strongly urges the government to extend the period for consultation beyond the new date of September 19, 2018, and withdraw the Regulation until the consultation process is completed and the concerns raised by various stakeholders have been addressed.

2. The Stated Policy Is Not Supported By The Substance of the Legislation

In the Foreword to the White Paper, the proposed *Land Owner Transparency Act* ("LOTA") is presented as part of a plan designed to tackle foreign and domestic speculation, close real estate and tax loopholes, protect renters, crack down on tax fraud and boost housing supply. The specific components of this plan stressed most in the Foreword and in the Summary focus on cracking down on tax fraud and money laundering.

With respect, in our view, these statements do not appear to express the true intentions of the LOTA, which is ill-suited to collecting information relevant to taxation and which appears to be designed to establish a public registry of what, for most individuals, is their most valuable asset. Equivalent information is not publicly available with respect to other valuable assets of an individual, such as portfolio investments, bank accounts and the like, except where there is a clear public-policy reason for making such information available, such as in the case of individuals and other entities who hold significant interests in public corporations.

While there may be justifiable policy considerations in making appropriate information available to taxation authorities, law enforcement agencies and financial sector regulators, nothing in the Foreword or in the Summary articulates a compelling policy reason for publicly "outing" individuals who hold indirect interests in real property in British Columbia where those individuals have chosen legal means of registering title in another manner.

3. Harmonizing Disclosure Legislation

The LOTA, if it is enacted, will add to an increasingly crowded landscape of reporting obligations referable to financial and other interests, yet seems to have been drafted with little regard to how it might be made to work in harmony with other relevant legislation.

Since 2000, there has been an unprecedented increase in the amount of information entities of all kinds are required to collect with respect to transactions involving money and other property. Examples include: The *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, S.C. 2000, c. 17; the U.S. *Foreign Accounts Tax Compliance Act* (effectively implemented in Canada by Part XVIII of the *Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.)* (the "*Income Tax Act* (Canada)"), and the Common Reporting Standard under *the Convention on Mutual Assistance in Tax Matters* (implemented in Canada by Part XIX of the *Income Tax Act* (Canada).

In December 2017, Canada's federal, provincial and territorial finance ministers agreed to pursue legislation to strengthen beneficial ownership transparency with respect to corporations and other legal entities. And in July of this year, the federal Minister of Finance published draft legislation which will impose additional filing and reporting obligations on most express trusts (Legislative Proposals Relating to Income Tax and Other Legislation, July 27, 2018).

The primary stated purpose of each of these regimes is to combat tax fraud and/or money laundering. The addition of the proposed LOTA will further increase the burden on affected entities by requiring them to collect different information, in a different format and to prepare and make additional filings on different timelines from what is required under the other regimes.

If, as stated in the Foreword and the Summary to the proposed LOTA, the objective is to combat tax fraud and money laundering, one would think that the information required to be collected and reported would be harmonized with the information contemplated by those other regimes. One would

also expect that legislative drafting would be consistent with those regimes. STEP Canada's review of the LOTA makes clear that it is not.

4. The Proposed LOTA places excessive reliance on the use of Regulations

STEP Canada notes that references to 'prescribed' matters abound in the draft legislation, resulting in significant uncertainty in a number of its provisions. Leaving the door open to what may be significant changes to the legislation in this manner is inappropriate, given the intrusive scope of the LOTA. We will recommend several times in this letter that the proposed LOTA be revised to spell out more of the substance in the actual legislation.

B. Part 1 - Definitions, Interpretation and Application - Response to Discussion Questions

1. Are the definitions and interpretation provisions clear?

2. Are any other interpretation provisions needed?

In STEP Canada's submission, many of the definitions and interpretation provisions are not clear. This lack of clarity is exacerbated by the difficulty we have had in understanding them by comparing them to terms used in other legislation that the LOTA is presumably designed to support, such as for example the British Columbia *Property Transfer Tax Act* (the "PTTA") and the *Income Tax Act* (Canada). Some examples identified by STEP Canada are as follows.

The proposed LOTA will define a "beneficial owner" in relation to an interest in land (s. 1) as an 'individual who has a 'beneficial interest in respect of the interest in land' 'registered or to be registered in the name of a trustee of a relevant trust' (s. 2). In contrast, the additional foreign buyer's tax imposed by the recent amendments to the British Columbia *Property Transfer Tax Act* applies where a beneficiary of a trust who is a foreign entity 'holds a beneficial interest in the residential property to which the taxable transaction relates'. Neither the proposed LOTA nor the PTTA provide any guidance as to the difference between (a) *holding a beneficial interest in* residential property, and (b) *having a beneficial interest in respect of an interest* in land. What is the difference between having a beneficial interest *in* something and having a beneficial interest *in respect of* it? What is the difference between having a beneficial interest in *a particular thing* and having a beneficial interest *in respect of an interest in that thing*? Will reporting be required in respect of beneficiaries who have only remote contingent interests in property held under a trust?

Similarly, the proposed LOTA will require reporting in respect of an individual who is a "beneficial owner" in respect of an interest in land, while Part XIX of the *Income Tax Act* (Canada) requires reporting in respect of a "controlling person" in respect of an entity for the purposes of the Common Reporting Standard. The definition of "beneficial owner" is materially different from the definition of "controlling person".

Similar questions present themselves with respect to the concept of a "corporate interest holder" in s. 1 and s. 3, which define a "corporate interest holder" in respect of a relevant corporation as an individual who (a) has legal or beneficial ownership or control, directly or indirectly of 25% of the votes or value of the corporation (the "25% votes or value test"), (b) has the right to appoint or remove from office the majority of the board of directors of the corporation, (c) has the right to exercise significant influence or control over the corporation, or (d) has a prescribed right or interest.

By contrast, the additional foreign buyer's tax imposed by the British Columbia *Property Transfer Tax Act* applies to a "foreign corporation", which includes a corporation that is controlled, directly or indirectly in any manner whatever, within the meaning of s. 256 of the *Income Tax Act* (Canada). While elements of the definition "corporate interest holder" are relevant to a determination of control for this purpose, the 25% votes or value test is not. Similarly, having the right to exercise significant influence or control does not necessarily mean one has the level of control contemplated by s. 256 of the *Income*

Tax Act (Canada), and could be broad enough to include types of control (e.g. under a franchise agreement) that are expressly excluded from the concept of direct or indirect control in s. 256.

Further, the definition of 'corporate interest holder' in s. 3 does not appear to be specifically relevant to any other test under the *Property Transfer Tax Act* or the *Income Tax Act* (Canada). Neither the Foreword nor the Summary explain how information collected in respect of "corporate interest holders" will be of use in applying other concepts that are of significant importance under *the Income Tax Act* (Canada), such as "related", "affiliated", "associated" and "specified shareholder" (which uses a 10% threshold, where shares held by certain other related and connected parties are also taken into account).

Another uncertainty is found in the definition of 'relevant trust' which excludes trusts listed in Schedule 2. That schedule includes alter ego trusts, joint partner trusts, and testamentary trusts. (Also listed are trusts where the trustee is the Public Guardian and Trustee, pension trusts and First Nations trusts.) While Schedule 2 references the *Income Tax Act* definitions of alter ego trusts and joint partner trusts, it fails to provide a similar reference for a testamentary trust. There seems no reason to omit referencing the *Income Tax Act* definition of a testamentary trust, nor for omitting non-testamentary spouse trusts.

Finally, the definition "settlor" is circular, in that it defines a "settlor" as a "settlor" who is not also a trustee of the trust or beneficial owner of the relevant interest in land. This presumably will not capture a person who is not the creator of a trust, but has subsequently made a large transfer to it. The information relating to settlors collected under the proposed LOTA will not be helpful in applying the PTTA or the enhanced income tax reporting requirements for trusts announced by the federal Minister of Finance on July 27 of this year (both of which expressly include certain persons who are not the creator of a trust but who have subsequently made large transfers to it). Moreover, it will make it impossible to discern from the reporting who the settlor of the trust is, where the settlor is also a trustee or beneficial owner. The policy reason for this is not clear.

Much of the information required to be provided in respect of a corporation under s. 7 can easily obtained from a relevant corporate registry. For British Columbia companies in particular, it seems redundant to require a reporting body to obtain, report on, and update from time to time, information that is already readily accessible from a simple search made through BC Registry and Online Services. Has the government considered whether there are other, more efficient means of ensuring this information is available to the appropriate parties, for example by requiring relevant corporations to be extra-provincially registered in British Columbia under Part 11 of the British Columbia *Business Corporations Act*?

We have mentioned above the significant reliance the proposed LOTA places on the use of regulations. The definitions of both 'beneficial owner' in s. 2 and 'corporate interest holder' in s. 3 also include an individual who has a 'prescribed right or interest'. Schedule 2 also makes reference to a 'prescribed person or entity' in 1(g)(vi), leaving uncertainty as to who will be included as a 'beneficiary' of an excluded trust. The use of 'prescribed' is repeated in ss. 7 - 9 of the LOTA in relation to other information that may have to be provided by a reporting body. The White Paper does not include any draft regulations, leaving us unable to comment meaningfully on these aspects of the LOTA. We are of the view that it is not appropriate for the legislature to leave so much of its work to the executive branch.

C. Part 2 – Transparency Declarations and Disclosure Reports - Response to Discussion Questions

1. Do the disclosure reports capture the appropriate information about beneficial interests in land?

In STEP Canada's submission, the disclosure that would be collected under the proposed LOTA is not well suited to the stated purpose of cracking down on tax fraud and money laundering. Moreover, it would impose excessive and inconsistent requirements to collect and report information on reporting bodies to whom is applies. STEP Canada is unclear how the government expects to be able to make use of the information collected under the proposed LOTA to enforce provincial or federal income tax law.

STEP Canada notes that the United Kingdom has introduced draft legislation (the *Registration of Overseas Entities Bill*) with a similar purpose: to combat money laundering and achieve greater transparency in the UK property market by establishing a new beneficial ownership register of overseas entities that own UK property. However, in the impact assessment provided with the draft Bill, the UK government specifically excluded trusts. It stated:

> As was set out in our response of March 2018 to the call for evidence on the register, and consistent with the commitment made at the 2016 Anti-Corruption Summit, we do not consider that trusts should be included on the register. Trusts do not have legal personality in their own right and so are not capable of entering into contracts. They are also commonly used for reasons including protecting assets for children and vulnerable adults, meaning that legitimate grounds exist for ensuring that information on the beneficial owners of trusts is not made publicly available.'

STEP Canada urges the British Columbia government to adopt the UK approach for trusts.

Turning to the specific provisions for disclosure reports, s. 15 places the burden upon a reporting body to ensure that the reports be updated when there is a change in the interest holders. The time line for doing so is extremely short, and the penalties (discussed later in this submission) are significant. It may prove difficult for a reporting body to meet these reporting requirements and it is suggested that a six month period would be more reasonable.

The reporting requirements of a disclosure report where the reporting body is a trustee (s. 18(2)) also impose the unreasonable obligation to identify the beneficial interest and powers of the beneficial owner as described in s. 2. While the power to revoke a trust (and receive the 'interest in land' is easily identified in a trust deed, the extent of a beneficial owner's interest in land may not be so readily identified. What if the interest is as a contingent beneficiary? What if the interest is vested subject to divestment? What if a beneficiary has the right to receive income from the trust but has no specific interest in the underlying property of the trust?

The requirement that a reporting body who is a trustee 'obtain extracts from relevant records' is also unclear. What records are relevant in respect of a trust? Compared to corporations and partnerships which are subject to a statutory regime of reporting, trust records are not maintained in any registry and may vary significantly from trust to trust.

Subsection 19(1) deals with the situation of an interest holder who is not capable: the reporting body is required to make reasonable efforts to obtain information about that incapability. This places an unfair burden on the reporting body as the information may be subject to privacy laws.

The requirement in s. 20 that a reporting body make 'reasonable efforts' to give notice to interest holders of the disclosure report is troubling. As an interest holder is entitled to object to having his or

her information publicly accessible (s. 38, discussed further below), the notice requirements should be extended and made mandatory.

Section 22 addresses the problem of a reporting body being unable to obtain all information needed to complete a report or to give notice to interest holders. Once again, there is a requirement in subsection 3(d) for 'prescribed information' with no indication of what that might entail.

2. Is there any other information that should be disclosed?

No.

3. Are there changes that would make this Part more effective?

As is noted in the comments above, the LOTA requires the collection of information that has no specific application to relevant provincial tax legislation (*e.g.* the *Property Transfer Tax Act*) or federal tax legislation (e.g. the *Income Tax Act* (Canada)). If the purpose of the legislation is to assist in administering and enforcing such legislation, then it should be crafted to collect information that is relevant in applying that legislation.

4. Are there changes to this Part that would increase efficiency for landowners?

Division 3 of Part 2 requires reporting bodies to make reasonable efforts to obtain and confirm the accuracy of identification information and other key information about interest holders and, in the case of a trustee, the settlors of the trust. However, there is no corresponding obligation on an interest holder to provide such information to a reporting body who requests it. Consideration should be given to including provisions that do so. For example, s. 237(1.1) of the *Income Tax Act* (Canada) requires a person to provide their social insurance number or other designated number to a person who requests it where the requestor is required to make an information return including the number.

If trusts are to be included in the LOTA, STEP Canada submits that the provisions of the LOTA relating to trusts should also be refined. As is noted above, the definition "beneficial owner", and in particular, the term "has a beneficial interest in respect of the interest in the land" are ambiguous and should be clarified. Improving this and other imprecise definitions would make it easier for reporting bodies to comply with the legislation. It is unreasonable to impose such significant obligations on so many people to collect and report the information contemplated in the LOTA without more clarity.

D. Part 3 – Access to Information Provided in Disclosure Reports - Response to Discussion Questions

1. Does the draft legislation strike an appropriate balance between transparency and privacy?

Part 3 of the LOTA is perhaps one of the most troubling parts of the legislation as it addresses the access to information provided in the Disclosure Report. In STEP Canada's submission, there is no good policy reason for making the information collected under the proposed LOTA available to the public. Indeed, the view of STEP Canada is that the opposite is the case.

The public is not tasked with administering or enforcing laws relating to tax and money-laundering and the government has not cited any support for the simple assertion that a publicly available database will help to foster accurate reporting. Providing information on beneficial ownership to the public, especially given the many ways in which it the information proposed to be collected is not relevant to most applicable tax legislation, will surely lead to misunderstandings, false accusations and potentially worse results.

Moreover, the statements that a publicly available database *may be* important for tenants, contractors, and others who deal with land owners, or *could also* help financial institutions, lawyers, notaries, real estate agents and others are not compelling. We are unaware of any sentiment that the land registry system under the *Land Title Act* is not working for these parties. On the contrary, contractors have well established rights to file liens against properties themselves. Financial institutions are sophisticated parties, familiar with methods and structures for land ownership, and are advised by lawyers and notaries who have the training and the skills to do so.

Despite the government's stated goal of preserving the integrity of that system (and the inclusion of s. 5 of the LOTA), adding a parallel registry of beneficial ownership will result in beneficial owners being named in litigation relating to land, whether they are proper parties or not. It cannot be good policy to enact legislation that *will* result in a significant intrusion on the privacy of numerous individuals, simply because the best the government can say in support of doing so is that it *may* be important or *could* also help third parties who already have well-established tools for dealing with land and land owners under British Columbia's *Land Title Act* and land registry system.

2. Are there concerns about disclosing any category of information, either as part of the publicly accessible information or as part of the information available only to tax, law enforcement and regulatory agencies?

Again, STEP Canada has significant concerns with the proposal to make any part of the information collected under the LOTA public. Specifics of these concerns are set out elsewhere in this submission.

3. Do the provisions in the Part provide adequate tools to vulnerable people to have information obscured or omitted?

A serious concern is the extent of the powers given to the Administrator to decide what should and should not be included in a publicly accessible database. Once a transparency declaration and disclosure report have been filed – together referred to as a 'transparency record' – the Administrator must not make identification information accessible for search and inspection for 30 days (s. 28(2)), although identification information of individuals under 19 or incapable must be 'obscured or omitted' (s. 37). It is unclear what action would consist of 'obscuring' as opposed to 'omitting' information in a public data base, and clarification on this point is needed.

While s. 20 of the proposed LOTA requires a reporting body to notify an interest holder of the reporting body's (a) intention to file a disclosure report, and (b) having done so, the section does not appear to provide any strict timelines for giving such notice. Assuming that a reporting body has given the required notice to an interest holder promptly upon filing a disclosure report, that individual has only 30 days to make an application to have information 'obscured or omitted'. This is an insufficient time frame for the interest holder to prepare for and make the application, particularly if that individual is vulnerable but not incapable.

Where an individual does make an application, the test to be applied is whether the individual 'believes that making that information publically accessible could reasonably be expected to threaten the safety or mental or physical health' of the individual or a member of the individual's household (s. 38(1)). Assuming that the individual has such a belief, it is unclear how the Administrator will determine whether that belief is 'reasonable' (s. 39(1)(b)) without the individual providing detailed and likely confidential information. There appears to be no framework for maintaining privacy of that information, and it is hard to imagine that the individual will have sufficient time to gather the necessary information.

STEP Canada also considers inadequate the process for determining the obscuring or omitting of an individual's information: the protection is entirely discretionary. The statutory provisions leave too much power in the discretion of the Administrator. The example given in the government's summary of the LOTA of 'vulnerable individuals' refers to domestic violence and suggests that the discretion will be

exercised only sparingly, in cases of proven danger with specifically identified antagonists. However, there are numerous reasons, aside from tax fraud and money laundering, that a person might have good reason to keep information about their assets private, for example:

(a) An individual who lives in, or travels to, or has family who lives in or travels to another country where crimes such as kidnapping are common, may wish to keep details of his or her asset holdings and wealth confidential. This is a real concern, and not unusual among our clients from certain parts of, for example, Latin America.

(b) Disclosure of an individual's property holdings might be detrimental to his or her business interests. There is no clear policy reason why a person's property holdings should be any less deserving of confidentiality and protection from business competitors than the balance in the person's bank account or the recipe for Coca-Cola.

(c) Vulnerable adults may be preyed upon by individuals with access to the information in the registry.

While we acknowledge that s. 36 of the proposed LOTA prohibits the use of publicly available information for solicitation, harassment, or "prescribed purposes", we do not consider these restrictions or the proposed administrative and quasi-criminal fines for violating them (under ss. 57 and 75) to be adequate protection from the abuses that could result from making this information public.

Another concern of the review process is the lack of due process: the Administrator is the person responsible for maintaining records and public access to them, and yet is also the person who adjudicates whether to make the information public (s. 39). Once the Administrator reaches a decision on an application to omit or obscure information of an individual, notice must be given to the individual, and there is an additional 30 days after notice before the information is available to the public (where the Administrator determines that the individual has failed to establish the evidence necessary for his or her belief). There is no appeal from the Administrator's decision, leaving the individual in the unfortunate position of seeking relief from the court for either a writ of mandamus or judicial review within yet another very short time period.

Finally, s. 43 gives the Administrator very broad powers to independently omit or obscure information, annotate a filed disclosure statement, make changes to information, remove information or add information. It is unclear why such broad powers are needed, and there is no stated policy reason for doing so.

4. Are there other factors the government should be considering respecting access to information provided to the public and/or government and agencies?

The right to search by law enforcement personnel (s. 30) is very broad. There is no requirement that a proceeding has been commenced: a search may be undertaken 'with a view to a law enforcement proceedings or from which a law enforcement proceeding likely to result'. It is unclear who (if anyone) is responsible for determining if the law enforcement personnel have reasonable grounds to undertake a search.

E. Part 4 – Administration and Enforcement - Response to Discussion Questions

1. Does the Act provide the appropriate investigation powers for the Administrator?

STEP Canada is concerned that there is no independent and neutral person exercising the Administrator's powers, given the significant powers granted to that officer and the potential exposure

of personal information to the public. The Administrator is appointed by the chief executive officer of the Land Title and Survey Authority, and must be an employee of that Authority.

In addition to the Administrator's powers discussed in the comments to Question 3 of Part 3, the inspection powers include the power to:

- enter a place where a reporting body carries on business or records relating to the reporting body are kept, and examine those records;
- require a person to produce or provide access to records and things in a person's possession or control that may be relevant to the inspection;
- require a person to answer questions and 'otherwise provide information'; and
- remove 'a record or thing' from a place.

Such powers would, in other circumstances, require a search warrant. The only time that a search warrant is required under s. 51 is when the place is a private residence, and only if the consent of the owner or occupier is not provided. The only other restriction on the Administrator's powers is where the record is in possession of a lawyer who claims solicitor-client privilege. (The issue of solicitor-client privilege is addressed below, under the comments to Part 7.)

STEP Canada takes the position that it is unreasonable to expect a reporting body or person to have all records, things and information on hand to provide to the Administrator without notice. There should be a specified (and reasonable) period of time provide records, things or information before the power to enter and inspect is exercised. Alternatively, and at the very least, the Administrator should be required to give a reasonable period of notice to a person or business before carrying out inspections.

2. Are the maximum administrative penalties appropriate for contraventions of the Act?

STEP Canada is concerned not only about the size of the penalties but also the process under which they are assessed and appealed.

Administrative penalties for obstructing the Administrator's inspections are provided in s. 57 (along with contravention of other parts of the LOTA). The penalty must not exceed $50,000 for contravention by a corporation or limited liability company and $25,000 in the case of an individual. These are significant for legislation which radically changes the privacy rights of citizens, and the Administrator appears to have significant discretion in deciding the quantum. It is also of some concern that the Administrator determines not only the penalty but also adjudicates any objection to the contravention or penalty by the individual receiving notice of the penalty.

The LOTA also provides for the imposition of a penalty where a person has provided false or misleading information in a transparency declaration, disclosure report, application under ss. 38 or 41, or an application under s. 61. However, it makes no distinction between situations where the information has been provided unknowingly or due to mere negligent error and situations where it has been provided wilfully or due to gross negligence. In our view, this is inappropriate, especially given the regularity with which it is likely that a relevant person will not have direct knowledge of the information that is required to be reported.

Where the Administrator imposes a penalty of less than $10,000 (for a corporation or limited liability company) or $5000 (for an individual), only written submissions to the Administrator are permitted, and must be made within 30 days of receiving notice. An oral hearing may only be requested if the penalties exceed those amounts. Only after the Administrator has made a determination of the review

may a person apply to the court for judicial review and the application must be commenced within 30 days of the person receiving a copy of the order.

Section 58 sets out factors for the Administrator to consider. While STEP Canada objects in principle to the Administrator both imposing (on an entirely discretionary basis) and adjudicating the penalties, it considers that there should be an additional factor: "any other factors which may be relevant."

Section 59 requires that notice of the administrative penalty must specify certain information. The notice should require that the determination of the factors under section 58 be provided in such notice so that the person has sufficient notice of the reasons for the penalty.

Section 61 provides 14 days for a person to pay the penalty or give a notice of dispute. This is an insufficient time period, particularly since the penalties are so substantial, and this time period should be extended. Likewise, the 30 day time period to deliver written submissions under ss. 61(2) should be extended. Further, ss. 61(6) should include that an order made under ss. 61(5) should provide written reasons for the decision. Finally, the time period for launching a judicial review application under ss. 61(6)(d) and ss. 62(2) should be extended, as well as the time period for paying any penalties under subsection 62(1).

Section 65 provides that a notice of an administrative penalty cannot be given more than 2 years after the date on which the Administrator first learned of the act or omission comprising the contravention. The result of this is that there is no effective limitation period for imposing an administrative penalty unless notice is given to the Administrator, even where the reporting body made all reasonable efforts and has filed a declaration believing it to be true to the best of their knowledge. The resulting lack of finality of certainty in respect of the filings made under the LOTA is highly prejudicial to reporting bodies. In addition, over time, records may be lost or disposed. An ultimate time limit should be added under s. 65, similar to the one which appears in ss. 78(1)(a). However, STEP Canada proposes that the limitation period should align with the two year general limitation period found in the *Limitation Act*. For an administrative penalty, we suggest that this ultimate time limit should be two years from the date of the relevant act or omission (e.g. the date of filing a disclosure report).

Finally, broad discretion to expend penalties collected for 'purposes specified by written authorization of the minister' (s. 67) opens the door to abuse of the imposition of penalties where that authorization benefits the organization to which the Administrator is responsible.

F. Response to Discussion Question of Part 5

1. Are there are any concerns about this Part of the legislation?

Section 70 provides protection for the Administrator, deputy Administrator or a person acting under the authority of a warrant from legal proceedings for damages. The exception is where the protected person has acted in bad faith. The term good faith is well recognized in trust law, but is not easily identified other than in specific circumstances. It would be better to identify the circumstances giving rise to bad faith in the LOTA; alternately, adopting existing statutory language such as that found in s. 96 of the Trustee Act may be more appropriate.

Section 69 appears to create a strict liability offence for providing false or misleading information, or omitting a material fact. Insofar as the Administrator and delegates are protected from liability, the LOTA should also extend that protection to a person described in s. 69.

Section 73 addresses the service of documents by referring to as yet undrafted regulations. The concern here is that there is insufficient information provided about notice, which in turn gives rise to concern that a person will not actually receive notice. In light of the very restrictive time limits in the LOTA (as discussed in the comments of Part 3), this is a significant omission. In addition, we do not see

a good policy reason for providing in the LOTA that a notice given in accordance with an as-yet unpublished regulation shall be "conclusively deemed" to have been received.

G. Part 6 – Offences - Response to Discussion Question

1. Are the maximum fines appropriate for contraventions of the Act?

No. STEP Canada considers the maximum fines to be punitive in nature given the radical change the LOTA makes to privacy legislation. It is noted that these fines are, for the most part, imposed for the same contraventions of the LOTA described as administrative penalties in Part 4 Division 3.

Where an administrative penalty has been imposed and paid, an individual, company or partnership may still face civil proceedings many years later. The limitation period for prosecuting an offence is six years from the date on which the act or omission is alleged to have occurred (s. 78). This is considerably more than the usual period two year period found in the *Limitation Act* for most proceedings in BC. The two-year period applies only where the Administrator issues a certificate after the date on which the Administrator learns of the act or omission.

Section 77 also makes it an offence for officers, directors, managers, and agents of a corporation or limited liability company who authorize, permit, or participate in the commission of the offense, even if the corporation or limited liability company is not prosecuted or convicted. It is unclear why such double jeopardy is required where there has been a proceeding brought against the corporation or limited liability company.

H. Part 7 – Regulations Response to Discussion Question

1. Are the proposed regulation-making powers appropriate for the legislation?

Subsection 82(2) delegates to the Lieutenant Governor in Council the power to establish certain procedures related to documents over which solicitor-client privilege is asserted. Specifically, the Lieutenant Governor in Council is empowered to set the procedures for seizing and holding potentially privileged records while the legitimacy of a solicitor-client privilege claim is determined. The Lieutenant Governor in Council is also empowered to establish a right to apply to the Supreme Court to "resolve" a claim of solicitor-client privilege and "how the court is to deal with such an application".

The drafting of section 82 is confusing, and its interaction with Parts 4 and 6 of the LOTA is not articulated in a readily understandable way. However, these provisions, together with section 53 of the LOTA, are so broadly drafted that they would appear to permit the Administrator to inspect privileged records in the possession of a lawyer so long as the inspection is "in accordance with the regulations". This would be an extreme, and likely invalid, incursion on the quasi-constitutional right of solicitor-client privilege, which the Supreme Court of Canada has said "is fundamental to the proper functioning of our legal system and a cornerstone of access to justice" (see *Alberta (Information and Privacy Commissioner)* v. *University of Calgary*, 2016 SCC 53).

Even if these provisions are interpreted narrowly, such they would require the Lieutenant Governor in Council to propound regulations establishing a procedure for determining whether a record is in fact privileged, STEP Canada is of the view that they represent an inappropriate delegation of the legislature's responsibility for setting out a transparent, considered and predictable framework for balancing the goals of the legislation with solicitor-client privilege. For example, in the *Income Tax Act* (Canada) (at s. 232), the *Criminal Code* (Canada) (at s. 488.1), and the British Columbia *Income Tax Act* (at s. 59), procedures for making a determination of privilege with respect to records in the possession of a lawyer are set out in the legislation itself. Neither the Foreword nor the Summary to the White Paper offer any reason as to why this type of commonly used legislative structure would not be used in the proposed LOTA.

We note as well that while s. 53 would allow the administrator to examine and remove a record, s. 82(1) refers to circumstances where a record is to be "examined, removed or seized" and s. 82(2) appears to authorize the Lieutenant Governor in Council to make regulations establishing procedures for allowing a lawyer's record to be "seized". Presumably it is not the intention of the government to permit the Lieutenant Governor in Council to make regulations allowing for the seizure of records, which is typically something that would require a warrant.

Finally, STEP Canada has concerns about s. 82(2)(b), which allows the Lieutenant Governor in Council to make regulations "establishing a right to apply to the Supreme Court to resolve a claim of solicitor client privilege". Given the place of solicitor client privilege in our legal system, we would think that there is an inherent right to apply to the Supreme Court for an order recognizing and enforcing that right; it should not be necessary for the legislation or the Lieutenant Governor in Council to create it.

STEP Canada urges the government to revise the draft legislation to clarify and ensure that the fundamental right of solicitor-client privilege will not be compromised by this new regime.

I. Part 8 – Consequential Amendments

This Part deals with consequential amendments and in light of the truncated consultation time frame, the authors have been unable to consider them in any detail.

J. Schedules 1 & 2

STEP Canada defers to professional bodies and individuals who practice corporate law with respect to the questions posed about Schedule 1. This submission has addressed certain concerns about Schedule 2 in the discussion of Part 1.

Several members of the STEP Canada Tax Technical Committee participated in discussions concerning our submission and contributed to its preparation, in particular:

Fiona Hunter (Horne Coupar)
Peter Glowacki (BLG)
Ian Worland (Legacy Tax + Trust Lawyers)

We would be pleased to discuss our comments with you at your convenience.

Yours very truly,

Ruth March

Timothy Matthews

Ruth March
Chair, STEP Canada
KPMG LLP

Timothy Matthews
Chair, STEP Canada Trust and
Estate Technical Committee
Stewart McKelvey

Page 274 to/à Page 280

Withheld pursuant to/removed as

s.12;s.14

Office of the President and CEO
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BC ASSESSMENT

August 14, 2018

Christina Dawkins
Ministry of Finance - Financial and Corporate Sector Policy Branch
Room 012 – 617 Government Street
Victoria, BC V8W 9N7

Sent by email

Re: *Land Owner Transparency Act* – Land Owner Transparency Registry

Dear Ms. Dawkins,

As part of the Province's 30-Point Plan for Housing Affordability, I understand that the Province is establishing a new, publicly accessible registry of who owns real estate in British Columbia. BC Assessment would like to discuss the opportunity to have access to the database (or a portion thereof), as it relates to the transfer of ownership.

BC Assessment's (BCA) legislative mandate is to establish and maintain uniform real property assessments throughout British Columbia (BC) in accordance with the *Assessment Act*, which requires that properties be assessed at their actual value. For the vast majority of properties in the Province, actual value is defined as the market value of the fee simple interest in land and improvements. Additionally, the *Assessment Act* requires that BCA reflect current and correct ownership information for all properties throughout BC. Local governments, regional districts, and First Nations look to BCA to produce an accurate and stable assessment roll with a high level of customer acceptance.

Assessed values are produced through appraisal review of sales transactions received through various sources. Recently, BCA has seen an increase in the use of commercial property owners transferring shares, especially for high valued properties such as large retail shopping centers, to transfer ownership. The ability to track and review these sales is vital to BCA's business and the service we provide. BCA's current methodology of tracking share transfers utilizes address changes, however, not all share transfers include an address change which makes them difficult and laborious to discover and track. Notwithstanding, BCA's efforts, it is estimated that only a portion of these share transfers are identified.

In addition, BCA has also seen an increase of investment properties sold (transferred) from and to non-individuals (i.e., corporations). These sales are reviewed to determine if they are arm's lengths transactions by contacting the sales participants. Further, properties transferred into a holding shell corporation have a higher propensity to be

sold via a share transfer in the future, bypassing typical sale protocols.

BCA access to a central database of registered beneficial owners will:

- aid BCA in easily identifying share transfers,
- facilitate the research of commercial transaction from and to non-individuals and improve sales analysis.
- improve the quality, equity and uniformity of the assessment roll, and
- benefit the property owners and Local governments in BC.

From the Land Owner Transparency Registry, BCA is only requesting access to the name, phone number and email address of each beneficial interest land holder. Access to additional personal and confidential information is not required.

I would be happy to discuss this opportunity further, and strongly feel that the steps being taken to register this information will be valuable to government, BCA, and most importantly, the citizens of British Columbia.

Sincerely,

Jason Grant
President and Chief Executive Officer
BC Assessment

Appendix – Background Information on Share Transfers

Share transfers occur when all or part of a company's shares are sold. Where the company's assets include real property, no Land Titles Survey Authority (LTSA) title transfer will occur because the name of the company has not changed as the real property has been sold with the rest of the corporate assets.

If the company holding the real estate asset is created for the sole purpose of holding a legal title, no property transfer tax would be payable by the purchaser. Under current legistlation, property transfer tax is payable only when a transfer is registered at LTSA. There is a growing trend of companies being formed for the sole purpose of holding real estate assets.

BCA's appraisers may be unaware that a transaction occurred and may have difficulty obtaining basic information such as the transaction date and sale price that would normally be accessible for transactions registered at LTSA. As no sale price is registered for commercial properties transacted in this manner, the sale price is difficult to quantify. This causes challenges for appraisers in a market with an already limited number transactions.

From January 1st 2013 to December 31st, 2017

Property Type	# Transactions	# Transfer Sales	% of Total
Industrial Lower Mainland	1,842	102	6%
Hotel Sales	113	8	7%
Motel Sales	240	41	17%
Major Retail	154	34	22%

For Major Retail Properties (Shopping Malls) the number of sales available to set and calibrate the assessment roll would increase by 22% if BCA had access to share transfer information.

Some examples of previous, substantial share transactions in Vancouver include the s.21 . Also, the recently publicized sale of the s.21 s.21 Although not registered at LTSA, the sale and transaction price was publisized in the media due to disclosure requirements for public corporations. Disclosure requirements are not required for private corporations and foreign wealth funds.

The correct identification of share transfers would increase the pool of sales available to determine assessed values. Failure to identify all share transfers would negatively impact BCA's ability to build the annual assessment roll. This, in turn, has the potential to increase the number of corrections BCA is required to make, affecting roll stability for BCA's municipal customers. Roll stability is a critical issue for local governments because each correction to the assessment roll has an impact in the tax collected by taxing jurisdictions.

Number of Commercial Share Transfers Identified per Year

Year	# of Share transfers
2017	123
2016	243
2015	91
2014	85
2013	70
Avg. 2013 -2017	**122**

**Number of transactions between January 1 and July 18, 2018. The table above shows the increase year over year of share transfers sales. This trend is expected to continue over time*

Number of Commercial transactions purchased by a non-individual

Year	# of Non individual transfers
2018	912
2017	1,925
2016	1,830
2015	1,566
2014	1,465
2013	1,405
Avg. 2013 -2017	**1,638**

**Number of transactions between January 1 and July 18, 2018.The table above shows the increase year over year of non-individual commercial sales transactions. This trend is expected to continue over time.*

From:	Van Iderstine, Robert
To:	Norman, Tiffany FIN:EX
Cc:	Blais, Louise; Stang, Aaron; Fulton, Elaine
Subject:	FW: BCLOTA: Queries regarding information sharing
Date:	September 11, 2018 1:52:10 PM

Hi Tiffany.

As discussed, we received this inquiry from our Charities Directorate in regards the the draft Land Owner Transparency Act s.13,s.16
s.13,s.16

Would you or your colleagues at BC Ministry of Finance be able to provide any insight to the questions below?

Please let me know if you require any further information, but as my knowledge in this area is quite limited, please feel free to contact Louise Blais directly if you would like any further clarification on the questions posed.

Thanks in advance for your assistance.

Robert
Robert Van Iderstine

Account Executive, Client Relations, Pacific Region
Canada Revenue Agency / Government of Canada
Robert.VanIderstine@cra-arc.gc.ca / Tel: 604-666-8504 / Cell: 778-239-5647

Chargé de comptes, Région Pacifique
Agence du revenu du Canada / Gouvernement du Canada
Robert.VanIderstine@cra-arc.gc.ca / Tél. : 604-666-8504 / Tél. cell : 778-239-5647

From: Blais, Louise
Sent: September-05-18 1:25 PM
To: Van Iderstine, Robert <Robert.VanIderstine@cra-arc.gc.ca>
Subject: BCLOTA: Queries regarding information sharing

Robert,

As discussed, s.16
s.16

While we welcome the new source of information LOTA will provide, we pose the following questions regarding its access and disclosure provisions:

s.13,s.16

Louise Blais
Technical Policy Advisor | Conseiller technique aux politiques
Policy, Planning and Legislation Division | Division de la politique, planification et législation
Charities Directorate | Direction des organismes de bienfaisance
Legislative Policy and Regulatory Affairs Branch | Direction générale de la politique législative et des affaires réglementaires
Canada Revenue Agency | Agence du revenu du Canada
613-670-9721
Louise.Blais@cra-arc.gc.ca

From: Norman, Tiffany FIN:EX
To: Vert, Patrick FLNR:EX
Subject: RE: Policy issues raised through LOTA consultation
Date: September 18, 2018 2:25:15 PM

Hi Patrick,

Just to follow up on my email last week – I am in the process of creating a summary of issues raised through the LOTA consultation and will be sending something out to the policy sub-working group once that is completed. We got a few more substantive submissions in the last week that I need to go through – but I hope to get at least a preliminary summary out next week to flag any issues that will require further discussion by the policy group.

Thanks,

Tiffany Norman
Senior Policy Advisor
Financial and Corporate Sector Policy Branch
Ministry of Finance
T: 778-698-5271

From: Norman, Tiffany FIN:EX
Sent: Thursday, September 13, 2018 6:58 AM
To: Sinkwich, Jill D FIN:EX; Vert, Patrick FLNR:EX
Subject: Re: Policy issues raised through LOTA consultation

Hi Patrick,

I can follow up with a bit more detail on Monday, but we haven't done any formal organization of comments into themes yet - we will do this after the consultation period closes next week.

In general, we have been organizing the responses into some very high-level themes. These are:

1. Supportive (many of these are simple one-sentence responses from the public - "I'm glad government is doing something about this")

2. Non-supportive (the most common issues raised are privacy issues.)

3. Suggestions (those with some specific suggestions-about how to improve the legislation. We haven't received too many of these - I sent some of the more substantive ones about two weeks ago, I believe.

Hope that helps!

Thanks,

Tiffany

From: Sinkwich, Jill D FIN:EX
Sent: Wednesday, September 12, 2018 3:07:21 PM
To: Vert, Patrick FLNR:EX
Cc: Norman, Tiffany FIN:EX
Subject: RE: Policy issues raised through LOTA consultation

Hi Patrick – I don't know about this, as I have not worked on LOTA since early spring ☹.

Tiffany knows everything, and s.22

Hope all is well with you.

From: Vert, Patrick FLNR:EX
Sent: Tuesday, September 11, 2018 3:34 PM
To: Sinkwich, Jill D FIN:EX
Cc: Norman, Tiffany FIN:EX
Subject: RE: Policy issues raised through LOTA consultation

Hi Jill, I'm wondering how the consultation feedback is being collated (e.g. common themes, issues, etc). Is there a summary like this that is ready to be shared? My director was curious about the general tenor.

Patrick Vert ¦ Senior Legislative Analyst¦ Ministry of Forests, Lands and Natural Resource Operations and Rural Development ¦2nd Floor – 780 Blanshard Street V8W 9V1¦☎ : (250) 953-3480

From: Norman, Tiffany FIN:EX
Sent: Monday, August 27, 2018 9:46 AM
To: Dawkins, Christina FIN:EX; Dillon, Brian FIN:EX; Primeau, Joseph FIN:EX; Leslie, Danielle; Johnston, Craig; Porter, Michelle L FLNR:EX; Buchan, David FLNR:EX; Vert, Patrick FLNR:EX
Cc: Peck, Nancy AG:EX; Fowles, Jim AG:EX
Subject: Policy issues raised through LOTA consultation

Good morning,

As we have begun to receive some more substantive submissions on the LOTA white paper, some issues have been raised that will require discussion by the Legal and Legislation Sub-Committee. Attached are the following submissions:

- Submission from the Society of Trust and Estate Practitioners (STEP) Canada
- Submission from BC Assessment

s.13,s.14

s.13

s.13 It sounds that the comments will be primarily technical in nature. We also expect to receive formal submissions for the Notaries and CBA committees.

Sincerely,

Tiffany Norman
Policy and Legislative Analyst
Financial and Corporate Sector Policy Branch
Ministry of Finance
T: 778-698-5271

From:	Dawkins, Christina FIN:EX
To:	Norman, Tiffany FIN:EX; Dillon, Brian FIN:EX
Subject:	FW: BC Land Owner Transparency Act, White Paper Consultation
Date:	September 19, 2018 12:46:39 PM
Attachments:	White Paper.pdf 368934 DM email.pdf CRA Feedback - Proposed BC LOTA Sept 2018 (2).docx

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From: Camilleri, Francis FIN:EX
Sent: Wednesday, September 19, 2018 12:23 PM
To: Dawkins, Christina FIN:EX
Cc: Goss, Jordan T FIN:EX
Subject: FW: BC Land Owner Transparency Act, White Paper Consultation

Hi Christina,

Attached is a password protected copy of the CRA's feedback on the LOTA White Paper. The CRA has requested that their feedback remain confidential, and that it not get published or posted. I have assured them that we will respect this request. Password to follow under separate cover.

Regards,

Francis G. Camilleri, CPA,CMA
A/ Executive Director
Income Taxation Branch
Ministry of Finance
Phone: (778) 698-1793

Please consider the environment before printing this email.

From: Van Iderstine, Robert [mailto:Robert.VanIderstine@cra-arc.gc.ca]
Sent: Wednesday, September 19, 2018 11:35 AM
To: Camilleri, Francis FIN:EX
Cc: Pasquotti, Ric I FIN:EX; Reaveley, Travis FIN:EX; Stang, Aaron; Fulton, Elaine
Subject: BC Land Owner Transparency Act, White Paper Consultation

Hi Francis.

Enclosed please find the CRA's consolidated feedback regarding the proposed Land Owner Transparency Act (LOTA) legislation. The word document is encrypted for both Ric and Travis.

For ease of reference, we created a word document that contains the White Paper's opening remarks and placed the CRA feedback under the various discussion questions from the White Paper.

As noted in the White Paper "Forward" and "How to Participate," the CRA requests our feedback remain confidential and not be posted on the Ministry of Finance website.

We ask that you forward the CRA's feedback to the Ministry of Finance, Financial and Corporate Sector Policy Branch. Should either of your areas like clarification on the responses provided or wish to discuss the feedback in more detail, please do not hesitate to contact us.

We would like to express our appreciation for this opportunity to consult on this significant piece of legislation.

Thank you.

Robert Van Iderstine

Account Executive, Client Relations, Pacific Region
Canada Revenue Agency / Government of Canada
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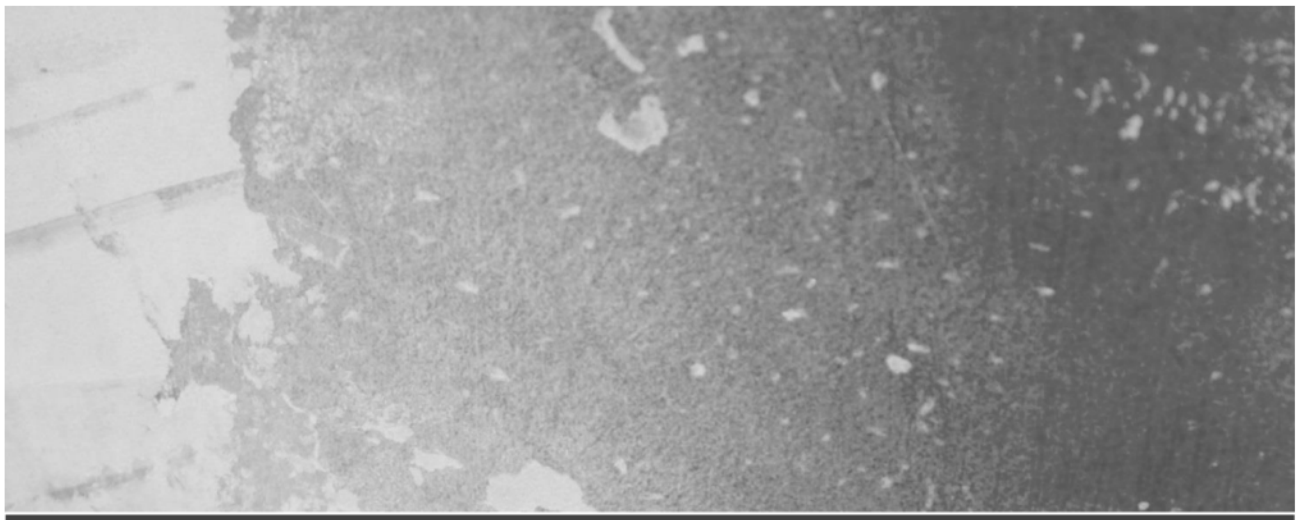

Land Owner Transparency Act White Paper:

Draft Legislation with Annotations

June 2018

BRITISH COLUMBIA | Ministry of Finance

Foreword from the Honourable Carole James, Minister of Finance and Deputy Premier

In Budget 2018, the B.C. government launched Homes for BC: A 30-Point Plan for Housing Affordability in British Columbia. This comprehensive plan to address the housing crisis includes new measures to tackle foreign and domestic speculation, close real estate and tax loopholes, protect renters, crack down on tax fraud and boost housing supply.

The 30-point plan commits to end hidden ownership in real estate to prevent tax avoidance and evasion. For too long, people have used legal entities to hide the true ownership of real estate in B.C. The use of entities such as numbered companies, offshore and domestic trusts, and corporations has made it difficult to expose tax frauds and those engaged in money laundering.

This problem is well documented. In 2016, Transparency International Canada released a report indicating that of the 100 most valuable residential properties in Greater Vancouver, nearly one-third were owned by shell companies. Furthermore, data leaks such as the Panama Papers and the Paradise Papers have provided examples of Canada's reputation as an attractive place to create anonymous companies and hide wealth.

While other jurisdictions have sought to apply land transfer tax to transfers of beneficial ownership, these policies have not necessarily resulted in improved transparency to prevent tax avoidance and evasion. In order to prevent tax evasion, fraud and money laundering, the provincial government needs to end hidden ownership, ensuring the ability to look through legal entities, like offshore trusts, and find out who is behind them.

We need immediate, comprehensive and forward-looking action and that is why we are tackling hidden ownership by creating a new, publicly accessible, beneficial ownership registry.

This registry will be the first-of-its kind in Canada and will provide valuable information about the true ownership of real estate in B.C. It will hold public records on the individuals behind numbered companies, offshore and domestic trusts, and corporations. As a result, the registry will help give tax auditors, law enforcement agencies and federal and provincial regulators the information they need to conduct their investigations. It will also help those government agencies to crack down on tax frauds and those engaged in money laundering.

The beneficial ownership registry complements other initiatives we are undertaking to crack down on tax fraud and close tax loopholes. For instance, our government is moving to require additional information about beneficial ownership on the Property Transfer Tax form to support tax audit and enforcement. We are also working with the federal government and other provinces and territories to amend corporate legislation so corporations are required to hold accurate information on beneficial owners in their own records office.

This White Paper sets out policy recommendations for the proposed land owner transparency registry and includes an annotated copy of the draft legislation together with discussion questions. We want to hear how this registry may impact you; your comments and feedback will help make this registry as effective as possible. The legislation will be finalized after we have considered the received feedback.

I want to thank you in advance for engaging with us as we work to end tax evasion and hidden ownership in B.C. I look forward to hearing your comments on the draft legislation in this White Paper. Together, our work to establish a beneficial ownership registry will help return a sense of fairness to B.C.'s real estate market.

Sincerely,

Carole James

Minister of Finance and Deputy Premier

How to Participate

This White Paper is provided for public discussion and comment.

Comments on the White Paper are open until the end of the day, August 19, 2018 and should be directed, in electronic form to fcsp@gov.bc.ca or mailed to:

Financial and Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria BC V8W 9V1

Public Nature of Consultation Process

The Ministry of Finance will share comments it receives with other branches of government and the Land Title and Survey Authority, which will be responsible for the administration of the new Act.

Unless confidentiality is specifically requested, comments received electronically will be posted on the Ministry of Finance website to add to the transparency and interactivity of the process. Other written comments may be placed or referenced on the website. Although responses requesting confidentiality will not be placed on the website, freedom of information legislation may require that responses be made available to members of the public who request access.

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Summary

The draft legislation in this White Paper sets out a framework for the *Land Owner Transparency Act* (Act). The purpose of the Act is to increase transparency of landownership in BC by eliminating the ability to hide ownership through vehicles like trusts and shell corporations. Under the Act, corporations, trustees and partners (reporting bodies) will be required to identify the individuals that have a beneficial interest in land, that have a significant interest in the landowning corporation or that have an interest in land through a partnership. This disclosure requirement will apply to all land in BC unless specifically excluded.

The framework under the Act creates new disclosure requirements for reporting bodies in three situations:

- on any application to register an interest land in the name of a reporting body;
- any time there is a change of interest holders or beneficial owners (even when this does not result in a transfer of legal title to the land); and
- during an initial transition period all those holding an interest in land for a beneficial owner will be required to file a disclosure report.

The information to be collected varies depending on the type of entity that owns the land; however, in all cases, the intent of the legislation is to identify the individual(s) who fundamentally own and control the land. For corporations, information that must be disclosed includes:

- identification information about the corporation itself (including name, head office and business or incorporation number);
- identification information about each individual (including name, citizenship and place of residence) who directly or indirectly owns or controls 25% or more of the shares or otherwise falls under the definition of a "corporate interest holder";
- each corporate interest holder's date of birth, social insurance number or individual tax number, and the nature of the interest in the reporting corporation; and
- information about the person completing the report (including name, position name or title, and contact information).

Where the legal owner of the land is a trustee:

- identification information about the trustee, beneficial owner(s) and settlor(s);
- date of birth and social insurance number or individual tax number of beneficial owner(s) and settlor(s); and
- information about the person completing the report.

For partnerships:

- identification information about the partnership (including name, head office and business number);
- identification information about individuals that have an interest as a partner in the interest in the land or are a corporate interest holder in a corporation that is a partner;
- date of birth and social insurance number or individual tax number of these individuals; and
- information about the person completing the report.

The legislation recognizes that corporate or other structures used to own land can be very complicated and, in some cases, the reporting body may not be able to determine or confirm the identity of the individuals who ultimately own or control the corporation. In these cases, the reporting body is required to take steps to try and determine the identity of the individuals who control the corporation, outline the steps that were taken to identify the appropriate individuals, and provide the reasons the identity could not be confirmed.

The proposed legislation seeks to preserve and maintain the integrity of the land title system by clarifying that persons dealing with legal interests in land are not affected by transparency declarations and disclosure reports filed under the legislation and that these documents are not records filed under the *Land Title Act*.

The basic identification information disclosed under the Act will be publicly available. Transparency is a core element of this legislation and is a key part of the government's efforts to crack down on tax fraud and close loopholes. A publicly available database will help to foster accurate reporting by registered land owners. In addition, a publicly accessible data base of beneficial ownership may be important for tenants, contractors and others who deal with land owners. A public database of beneficial ownership of land could also help financial institutions, lawyers, notaries, real estate agents and others who have a statutory or professional duty to inquire into and confirm the beneficial ownership identity.

One of the key priorities of the legislation is to balance the need for increased transparency with the privacy concerns associated with a public database. The proposed Act includes a number of provisions to address these concerns including the following:

- restricting the information that is available to the public and allowing more sensitive information such as social insurance numbers and dates of birth to be available only to authorized entities such as law enforcement agencies and tax authorities;
- automatically omitting information relating to individuals under the age of 19 or those legally incapable of managing their financial affairs;
- creating the ability for vulnerable individuals (e.g. victims of domestic violence) to apply to have their personal information omitted from the publicly accessible information;
- requiring that the person filing the report contact corporate interest holders, beneficial owners and/or partnership interest holders in writing to advise them of the right to apply to omit information from the publicly accessible information; and

- creating a mandatory 30 day waiting period before making information in the disclosure report publicly available to provide an opportunity for vulnerable individuals to make an application to omit information.

Other key proposals in the draft legislation include provisions relating to compliance and enforcement. Examples include:

- requiring the registrar of land titles to refuse to accept an application to register an interest in land if a completed transparency declaration and, if applicable, a completed disclosure report is not provided;
- creating administrative penalties up to $50,000 for designated contraventions of the Act;
- creating criminal offences with penalties up to $100,000 for designated contraventions of the Act; and
- giving the administrator the power to conduct inspections in order to determine whether the Act and the regulations have been complied with.

Discussion questions

Are there ways to make the legislation more effective or more efficient?

Does the draft legislation strike an appropriate balance between transparency and privacy?

Are there any other entities that might be used to hide ownership that are not addressed in the draft legislation?

Are there any other comments on the draft legislation?

Does the draft legislation strike an appropriate balance between effectiveness and the compliance requirements for land owners?

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LAND OWNER TRANSPARENCY ACT

Contents

PART 1 – DEFINITIONS, INTERPRETATION AND APPLICATION

1 Definitions
2 Meaning of "beneficial owner"
3 Meaning of "corporate interest holder"
4 Meaning of "partnership interest holder"
5 Application of *Land Title Act*
6 Land excluded from application of Act
7 Identification information in respect of corporations
8 Identification information in respect of individuals
9 Identification information in respect of relevant partnerships

PART 2 –TRANSPARENCY DECLARATIONS AND DISCLOSURE REPORTS

Division 1 – Transparency Declarations

10 Transparency declaration required with application to register
11 Refusal of registration if transparency declaration not filed or signed

Division 2 –Disclosure Reports

12 Disclosure report required with application to register
13 Refusal of registration if disclosure report not filed or signed
14 Disclosure report required from pre-existing owner
15 Disclosure report required on change of interest holders
16 Filing of new disclosure report to correct previous report

Division 3 – Reasonable Efforts Requirements for Reporting Bodies

17 Identification information and other information
18 Identification of interests held by interest holders
19 Identification of incapacity
20 Notice to interest holders

Division 4 – Content of Disclosure Reports

21 Content requirements
22 Requirements if reporting body unable to obtain information

Division 5 – Certification and Electronic Signatures

23 Certification of transparency declarations and disclosure reports
24 Electronic signing of transparency declarations and disclosure reports
25 Prohibition against wrongful incorporation of electronic signature

PART 3 – ACCESS TO INFORMATION PROVIDED IN DISCLOSURE REPORTS

26 Definitions for Part 3
27 Administrator's duty to keep records
28 Administrator's duty to make information available
29 Searches for tax purposes
30 Searches for law enforcement purposes
31 Searches by financial sector regulators
32 Restrictions on searches
33 Copy of transparency record as evidence
34 Fees for searches
35 Conditions and manner of conducting searches
36 Prohibition against misuse of publicly accessible information

37 Mandatory omission of information from publicly accessible information
38 Application to omit information if health or safety at risk
39 Determination of application to omit information
40 Request to reporting body to correct or change information
41 Application to correct or change information
42 Determination of application to correct or change information
43 Omissions, changes or annotations on administrator's initiative
44 Registrar not required to inquire into information
45 Records vest in Land Title and Survey Authority
46 Disposal of records

PART 4 – ADMINISTRATION AND ENFORCEMENT

Division 1 – Administration
47 Appointment of administrator and deputy administrators
48 General responsibilities of administrator
49 Administrator must report to minister
50 Delegation of administrator's powers and duties

Division 2 – Inspections
51 Inspection powers
52 Warrant to enter place to conduct inspection
53 Records in possession of lawyer
54 Prohibition against interfering with inspection
55 Administrator not compellable
56 Certified copies of records as evidence

Division 3 – Administrative Penalties
57 Imposition of administrative penalty
58 Factors administrator must consider
59 Notice of administrative penalty
60 Amount of administrative penalty
61 Payment or dispute of administrative penalty
62 Payment or judicial review of administrator's order
63 Relationship between administrative penalties and offences
64 Administrative penalty against officers or directors of corporation
65 Time limit for imposing administrative penalty
66 Enforcement of administrative penalty
67 Payment of administrative penalty

PART 5 – GENERAL
68 Prohibition against misuse of information obtained by reporting body
69 Prohibition against providing false or misleading information
70 Personal liability protection for administrator and deputy administrators
71 Form and manner of submitting documents
72 Manner of paying fees
73 Service of documents

PART 6 – OFFENCES
74 Offences relating to disclosure reports
75 Other offences
76 Penalties for offences
77 Offence by officer or director of corporation
78 Time limit for prosecuting offence
79 Section 5 of *Offence Act* does not apply

PART 7 – REGULATIONS
80 General regulation-making authority
81 Regulations in relation to Schedules 1 and 2
82 Regulations in relation to lawyers' records
83 Regulations in relation to exemptions

PART 8 – CONSEQUENTIAL AMENDMENTS
84 to 96 Consequential Amendments
97 Commencement

SCHEDULE 1

SCHEDULE 2

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PART 1 – DEFINITION, INTERPRETATION AND APPLICATION

Part 1: Definition, Interpretation and Application

This Part sets out key definitions used in the proposed legislation, including "beneficial owner," "corporate interest holder," "interest in land," "partnership interest holder" and "reporting body." It also incorporates certain definitions from the *Land Title Act* and clarifies that documents submitted under this Act are not documents filed under the *Land Title Act*. The Part details the identification information required to be disclosed in relation to corporations, individuals and partnerships.

Definitions

1 In this Act:

"administrator" means an administrator or deputy administrator appointed under section 47 *[appointment of administrator and deputy administrators]*;

"agreement for sale" means a contract for the sale of an interest in land under which the purchaser agrees to pay the purchase price over a period of time, in the manner stated in the contract, and on payment of which the vendor is obliged to transfer the interest in land to the purchaser;

"beneficial owner", in relation to an interest in land, means an individual who, in respect of the interest in land, is a beneficial owner within the meaning of section 2 *[meaning of "beneficial owner"];*

"corporate interest holder", in relation to a relevant corporation, means an individual who, in respect of the relevant corporation, is a corporate interest holder within the meaning of section 3 *[meaning of "corporate interest holder"]*;

"corporation" means a company, a body corporate, a body politic and corporate, an incorporated association or a society, however and wherever incorporated, but does not include a municipality or a corporation sole;

"disclosure report" means a report

(a) required to be filed under section 12 *[disclosure report required with application to register]*, 14 *[disclosure report required from pre-existing owner]* or 15 *[disclosure report required on change of interest holders],* or

(b) permitted to be filed under section 16 *[filing of new disclosure report to correct previous report]*;

"electronic disclosure report" means a disclosure report in electronic format;

"electronic transparency declaration" means a transparency declaration in electronic format;

"identification information" means the following:

(a) in respect of a corporation or limited liability company, the information described in section 7 *[identification information in respect of corporations]*;

(b) in respect of an individual, the information described in section 8 *[identification information in respect of individuals]*;

(c) in respect of a relevant partnership, the information described in section 9 *[identification information in respect of relevant partnerships]*;

"interest holder" means a beneficial owner, corporate interest holder or partnership interest holder;

"interest in land" means any of the following:

(a) an estate in fee simple referred to in section 23 (2) *[effect of indefeasible title]* of the *Land Title Act*;

(b) a life estate in land;

(c) a right to occupy land under a lease, if the term of the lease is 10 years or more;

(d) a right under an agreement for sale to

(i) occupy land, or

(ii) require the transfer of an estate in fee simple referred to in section 23 (2) of the *Land Title Act*;

(e) a prescribed estate, right or interest;

"law enforcement" means any of the following:

(a) policing, including criminal intelligence operations;

(b) investigations that lead or could lead to a penalty or sanction being imposed;

(c) proceedings that lead or could lead to a penalty or sanction being imposed;

"limited liability company" has the same meaning as in the *Business Corporations Act*;

"parcel identifier" means a permanent parcel identifier assigned to a parcel of land under section 58 *[description of land]* of the *Land Title Act*;

"partner" means the following:

(a) in relation to a partnership referred to in paragraph (a) or (b) of the definition of "relevant partnership" in this section, a partner in the partnership;

(b) in relation to a legal relationship described in paragraph (c) of the definition of "relevant partnership" in this section, a person who, in respect of the legal relationship, has powers and duties similar to those of a partner referred to in paragraph (a) of this definition;

"partnership interest holder", in relation to an interest in land that is partnership property registered or to be registered in the name of a partner of a relevant partnership, means an individual who, in respect of the interest in land, is a partnership interest holder within the meaning of section 4 *[meaning of "partnership interest holder"]*;

"partnership property" means the following:

(a) in relation to a partnership referred to in paragraph (a) or (b) of the definition of "relevant partnership" in this section, property that is "partnership property" within the meaning of the *Partnership Act*;

(b) in relation to a legal relationship described in paragraph (c) of the definition of "relevant partnership" in this section, property that, in respect of the legal relationship, is similar to partnership property referred to in paragraph (a) of this definition;

"permanent resident of Canada" means a permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada);

"personal information" has the same meaning as in Schedule 1 of the *Freedom of Information and Protection of Privacy Act*;

"principal residence" means the usual place where an individual makes his or her home;

"publicly accessible information" means the identification information that, under section 28 (1) (b) *[administrator's duty to make information available]*, is required to be made available for search and inspection by any person;

"relevant corporation" means a corporation or limited liability company but does not include

(a) a person or entity referred to in Schedule 1, or

(b) a person or entity added by regulation to Schedule 1;

"relevant partnership" means any of the following:

(a) a general partnership, limited partnership, limited liability partnership, professional partnership or foreign partnership within the meaning of the *Partnership Act*;

(b) a prescribed partnership;

(c) a legal relationship, created in another jurisdiction, that is similar to a legal relationship referred to in paragraph (a) or (b)

but does not include

(d) a prescribed partnership, or

(e) a prescribed legal relationship;

"relevant trust" means

(a) an express trust,

(b) a prescribed trust, or

(c) a legal relationship, created in another jurisdiction, that is similar to a legal relationship referred to in paragraph (a) or (b)

but does not include

(d) a trust referred to in Schedule 2,

(e) a trust added by regulation to Schedule 2, or

(f) a legal relationship, created in another jurisdiction, that is similar to a legal relationship referred to in paragraph (d) or (e);

"reported information" means the records and information that, under section 28 (1) (a), are required to be made available for search and inspection by the government, taxing authorities, police forces and financial sector regulators;

"reporting body" means a relevant corporation, a trustee of a relevant trust or a partner of a relevant partnership that is required to file a disclosure report under section 12 or 14;

"settlor", in relation to an interest in land registered or to be registered in the name of a trustee of a relevant trust, means a person that

(a) is a settlor of the relevant trust,

(b) is not a trustee of the relevant trust, and

(c) is not a beneficial owner of the interest in land;

"transparency declaration" means the declaration required to be filed under section 10 (1) *[transparency declaration required with application to register];*

"true copy" means

(a) in relation to a paper document, an exact copy of the document, and

(b) in relation to an electronic disclosure report or electronic transparency declaration, or in relation to the electronic form of any other document required or permitted to be submitted, filed or otherwise given to the registrar or administrator under this Act, a legible paper copy of the electronic document containing every material provision and particular contained in the original;

"trustee" means the following:

(a) in relation to a trust referred to in paragraph (a) or (b) of the definition of "relevant trust" in this section, a trustee of the trust;

(b) in relation to a legal relationship described in paragraph (c) of the definition of "relevant trust" in this section, a person who, in respect of the legal relationship, has powers and duties similar to those of a trustee referred to in paragraph (a) of this definition.

Meaning of "beneficial owner"

2 Subject to the exclusions, if any, in the regulations, an individual is a beneficial owner in respect of an interest in land registered or to be registered in the name of a trustee of a relevant trust if any of the following apply:

(a) the individual has a beneficial interest in respect of the interest in land;

(b) the individual has the power to revoke the relevant trust and receive the interest in land;

(c) the individual is a corporate interest holder in respect of a relevant corporation that has

(i) a beneficial interest in respect of the interest in land, or

(ii) the power to revoke the relevant trust and receive the interest in land;

(d) the individual has a prescribed interest.

Meaning of "corporate interest holder"

3 (1) Subject to the exclusions, if any, in the regulations, an individual is a corporate interest holder in respect of a relevant corporation if any of the following apply:

(a) the individual has legal or beneficial ownership or control, directly or indirectly, of

(i) shares of the relevant corporation representing 25% or more of the value of the equity of that corporation, or

(ii) 25% or more of the voting rights in respect of the relevant corporation;

(b) the individual has the right, directly or indirectly, to appoint or remove from office the majority of the board of directors of the relevant corporation;

(c) the individual has the right to exercise or does exercise, under a unanimous shareholders' agreement or otherwise, significant influence or control over the relevant corporation;

(d) the individual has a prescribed right or interest.

(2) For the purposes of subsection (1) (a) or (b), a direct or indirect interest, power or right includes an interest, power or right that an individual has

(a) alone,

(b) together with one or more persons with common interests, or

(c) through

(i) a corporation,

(ii) a trustee of a relevant trust, or of any other trust,

(iii) a personal or legal representative,

(iv) an agent, or

(v) any other intermediary.

Meaning of "partnership interest holder"

4 Subject to the exclusions, if any, in the regulations, an individual is a partnership interest holder in respect of an interest in land registered or to be registered in the name of a partner of a relevant partnership if the interest in land is partnership property and either of the following applies:

(a) the individual has an interest, as a partner in the relevant partnership, in the interest in land;

(b) the individual is a corporate interest holder in respect of a relevant corporation that is a partner in the relevant partnership and the relevant corporation has an interest, as a partner in the relevant partnership, in the interest in land.

Application of *Land Title Act*

5 (1) Unless the context indicates otherwise, and subject to subsection (2), in this Act,

(a) **"electronic"**, **"owner"**, **"parcel"**, **"register"**, when used as a verb, **"registrar"** and **"transferee"** have the same meaning as in section 1 *[definitions]* of the *Land Title Act*, and

(b) **"electronic signature"** and **"subscriber"** have the same meaning as in section 168.1 *[definitions]* of the *Land Title Act*.

(2) Transparency declarations, disclosure reports, applications and any other documents submitted to the registrar or filed with or given to the administrator under this Act are not instruments, records or documents deposited, filed, registered, kept or lodged under the *Land Title Act*.

Land excluded from application of Act

6 This Act does not apply in relation to any of the following:

(a) treaty lands;

(b) Nisga'a Lands, and Category A Lands and Category B Lands, as defined in the Nisga'a Final Agreement;

(c) Sechelt lands, as defined in the *Sechelt Indian Band Self-Government Act* (Canada);

(d) a reserve, as defined in section 2 (1) *[definitions]* of the *Indian Act* (Canada);

(e) prescribed land.

Identification information in respect of corporations

7 If a provision of this Act requires a reporting body to provide identification information in respect of a corporation or limited liability company, the reporting body must do the following:

(a) provide the corporation's or company's
  (i) name,
  (ii) registered office address, and
  (iii) head office address;
(b) if the corporation or company has a business number within the meaning of the *Income Tax Act* (Canada), provide the business number;
(c) identify the jurisdiction in which the corporation or company was incorporated, organized or formed;
(d) if the corporation or company has been continued or transferred into another jurisdiction, identify the jurisdiction into which the corporation or company was most recently continued or transferred;
(e) provide the incorporation, continuation, amalgamation or other identifying number or designation given to the corporation or company by the jurisdiction referred to in paragraph (c) or (d), as applicable;
(f) provide prescribed information.

Identification information in respect of individuals

8 If a provision of this Act requires a reporting body to provide identification information in respect of an individual, the reporting body must do the following:

(a) provide the individual's name;
(b) state whether or not the individual is a Canadian citizen or permanent resident of Canada;
(c) if the individual is not a Canadian citizen or permanent resident of Canada, identify the foreign country or state of which the individual is a citizen;
(d) if the individual's principal residence is in Canada, identify the city and province in which that principal residence is located;
(e) if the individual's principal residence is not in Canada, identify the city and country in which that principal residence is located;
(f) provide prescribed information.

Identification information in respect of relevant partnerships

9 If a provision of this Act requires a reporting body to provide identification information in respect of a relevant partnership, the reporting body must do the following:

(a) if the partnership has a registered business name, provide the name;
(b) if the partnership has a business number within the meaning of the *Income Tax Act* (Canada), provide the business number;
(c) by reference to a class of partnership referred to in the definition of "relevant partnership" in section 1, indicate the class of partnership that applies to the partnership;
(d) provide, as applicable,
  (i) the registered office address of the partnership,
  (ii) the head office address of the partnership, or
  (iii) the address of the partnership's principal business premises;

(e) identify the jurisdiction the laws of which govern the partnership or, if the partnership has a partnership agreement, the interpretation of the partnership agreement;

(f) if the jurisdiction referred to in paragraph (e) has issued an identifying number to the partnership, provide the number;

(g) provide prescribed information.

Discussion questions

Are the definitions and interpretation provisions clear?

Are any other interpretative provisions needed?

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PART 2 – TRANSPARENCY DECLARATIONS AND DISCLOSURE REPORTS

Part 2: Transparency Declarations and Disclosure Reports
This Part establishes the principal disclosure obligations imposed on transferees and land owners.

DIVISION 1 – TRANSPARENCY DECLARATIONS

Division 1: Transparency Declarations
This Division requires all transferees of an interest in land to file with the Administrator of the Act a declaration indicating whether or not the interest in land is to be registered in the name of a corporation, trustee or partner of a partnership that is required to file a disclosure report. The disclosure report must be certified and must usually be submitted electronically in accordance with the electronic filing procedures set out in the *Land Title Act*, along with the required filing fee. If the transparency declaration is not submitted or signed, the Registrar of Land Titles must refuse to accept the application to register the interest in land.

Transparency declaration required with application to register

10 (1) On an application to register an interest in land, the transferee must file with the administrator a declaration indicating whether or not the interest in land is to be registered in the name of

(a) a relevant corporation,

(b) a trustee of a relevant trust, or

(c) a partner of a relevant partnership

that is required to file a disclosure report under section 12 *[disclosure report required with application to register]*.

(2) For the purpose of filing a transparency declaration with an application to register an interest in land, a transferee must

(a) certify the declaration in accordance with section 23 *[certification of transparency declarations and disclosure reports]*, and

(b) if the application to register is submitted under Part 10.1 *[Electronic Filing]* of the *Land Title Act*,

(i) sign the declaration in accordance with section 24 *[electronic signing of transparency declarations and disclosure reports]*,

(ii) submit the declaration to the registrar in an electronic format, together with the application to register, and

(iii) pay the applicable filing fee by an electronic means.

(3) If the application to register referred to in subsection (2) is not submitted under Part 10.1 of the *Land Title Act*,

(a) the requirements set out in subsection (2) (b) do not apply, and

(b) the transferee must instead sign and submit the transparency declaration, and pay the applicable filing fee, in the manner required by the administrator.

Refusal of registration if transparency declaration not filed or signed

11 (1) If a transferee does not submit a transparency declaration with an application to register an interest in land, the registrar must refuse to accept the application to register the interest in land.

(2) If a transparency declaration is submitted with an application to register an interest in land but the declaration is not signed or, in the case of an electronic transparency declaration, is not signed in accordance with section 24 *[electronic signing of transparency declarations and disclosure reports],* the registrar must refuse to accept

(a) the application to register the interest in land, and

(b) the transparency declaration.

DIVISION 2 – DISCLOSURE REPORTS

Division 2: Filing of Disclosure Reports

Division 2 requires relevant corporations, trustees and partners ("reporting bodies") to file completed disclosure reports at the time of an application to register an interest of land. A corporation that is registering an interest in land as a trustee or partner generally must file under the provisions requiring disclosure by trustees or partners. If the disclosure report is not submitted or signed, the Registrar of Land Titles must refuse to accept the application to register the interest in land.

This Division also requires the filing of disclosure reports where there is no legal transfer of an interest in land in two circumstances:

1. Existing owners of land that are relevant corporations, trustees and partners will be required to file a disclosure report by no later than a date to be prescribed. The purpose of this requirement is to have a complete picture of beneficial ownership of land in British Columbia available in the land owner transparency registry at that date.
2. Reporting bodies will also be obligated to file an update disclosure report within two months of becoming aware of a change in beneficial ownership.

Required fees must be paid for the filing of all disclosure reports.

Disclosure report required with application to register

12 (1) On an application to register an interest in land in the name of

(a) a relevant corporation,

(b) a trustee of a relevant trust, or

(c) a partner of a relevant partnership,

the corporation, trustee or partner must file with the administrator a disclosure report completed in accordance with Divisions 3 *[Reasonable Efforts Requirements for Reporting Bodies]* and 4 *[Content of Disclosure Reports].*

(2) If a trustee of a relevant trust is also a relevant corporation and the interest in land referred to in subsection (1) is or will be held in trust, the trustee must comply with the provisions of Divisions 3 and 4 as those provisions are required to be applied

in respect of a trustee of a relevant trust, and not as those provisions are required to be applied in respect of a relevant corporation.

(3) The requirement for a trustee to file a disclosure report under subsection (1) (b) applies whether or not a trust instrument is or will be filed with the registrar under section 180 *[recognition of trust estates]* of the *Land Title Act*.

(4) If a partner of a relevant partnership is also a relevant corporation and the interest in land referred to in subsection (1) is or will be partnership property, the following rules apply:

(a) unless paragraph (b) of this subsection applies, the partner must comply with the provisions of Divisions 3 and 4 as those provisions are required to be applied in respect of a partner of a relevant partnership, and not as those provisions are required to be applied in respect of a relevant corporation*;*

(b) if all partners of the relevant partnership are relevant corporations and the interest in land is or will be registered in the name of all of those relevant corporations, each of those partners must comply with Divisions 3 and 4 as those provisions are required to be applied in respect of a relevant corporation, and not as those provisions are required to be applied in respect of a partner of a relevant partnership.

(5) Despite subsection (1) (c), a partner of a relevant partnership is not required to file a disclosure report if all partners of the relevant partnership are individuals and the interest in land is or will be registered in the name of all of those individuals.

(6) For the purpose of filing a disclosure report with an application to register an interest in land, a reporting body must do the following:

(a) certify the report in accordance with section 23 *[certification of transparency declarations and disclosure reports]*;

(b) if the application to register is submitted under Part 10.1 *[Electronic Filing]* of the *Land Title Act* ,

(i) sign the report in accordance with section 24 *[electronic signing of transparency declarations and disclosure reports]*,

(ii) submit the report to the registrar in an electronic format, together with the application to register, and

(iii) pay the applicable filing fee by electronic means.

(7) If the application to register referred to in subsection (6) is not submitted under Part 10.1 of the *Land Title Act,*

(a) the requirements set out in subsection (6) (b) do not apply, and

(b) the reporting body must instead sign and submit the disclosure report, and pay the applicable filing fee, in the manner required by the administrator.

Refusal of registration if disclosure report not filed or signed

13 (1) If a transferee submits a transparency declaration that indicates that an interest in land is to be registered in the name of a reporting body but a disclosure report and filing fee are not submitted with the declaration, the registrar must refuse to accept

(a) the application to register the interest in land, and

(b) the transparency declaration.

(2) If a disclosure report is submitted with an application to register an interest in land but the report is not signed or, in the case of an electronic disclosure report, is not signed in accordance with section 24, the registrar must refuse to accept

(a) the application to register the interest in land,

(b) the transparency declaration, and

(c) the disclosure report.

Disclosure report required from pre-existing owner

14 (1) If, immediately before the coming into force of this section,

(a) a relevant corporation,

(b) a trustee of a relevant trust, or

(c) a partner of a relevant partnership

is a registered owner of an interest in land, the corporation, trustee or partner must file with the administrator a disclosure report completed in accordance with Divisions 3 *[Reasonable Efforts Requirements for Reporting Bodies]* and 4 *[Content of Disclosure Reports].*

(2) Sections 12 (2) to (5) *[disclosure report required with application to register]* applies in respect of a disclosure report required to be filed under this section.

(3) Despite subsection (1), a relevant corporation, trustee of a relevant trust or partner of a relevant partnership is not required to file a disclosure report under this section if the interest in land referred to in subsection (1) is registered in the name of another owner on or before the date prescribed for the purpose of subsection (4).

(4) For the purpose of filing a disclosure report under this section, the reporting body must, on or before the prescribed date,

(a) certify the report in accordance with section 23 *[certification of transparency declarations and disclosure reports]*;

(b) sign the report in accordance with section 24 *[electronic signing of transparency declarations and disclosure reports]*,

(c) submit the disclosure report to the registrar in an electronic format, and

(d) pay the applicable filing fee by electronic means.

(5) The registrar must refuse to accept a disclosure report submitted under this section if

(a) the filing fee is not paid, or

(b) the report is not signed in accordance with section 24.

Disclosure report required on change of interest holders

15 (1) Within 2 months after a reporting body becomes aware that the previous disclosure report filed by the reporting body no longer discloses the current interest holders, the reporting body must file with the administrator a new disclosure report completed in accordance with Divisions 3 *[Reasonable Efforts Requirements for Reporting Bodies]* and 4 *[Content of Disclosure Reports]*.

(2) Section 12 (2) to (5) *[disclosure report required with application to register]* applies in respect of a disclosure report required to be filed under this section.

(3) Despite subsection (1), a reporting body is not required to file a disclosure report under this section if the reporting body is no longer the registered owner of the interest in land to which the previous disclosure report relates.

(4) For the purpose of filing a disclosure report under this section, the reporting body must

(a) certify the report in accordance with section 23 *[certification of transparency declarations and disclosure reports]*;

(b) sign the report in accordance with section 24 *[electronic signing of transparency declarations and disclosure reports]*,

(c) submit the report to the registrar in an electronic format, and

(d) pay the applicable filing fee by electronic means.

(5) The registrar must refuse to accept a disclosure report submitted under this section if

(a) the filing fee is not paid, or

(b) the report is not signed in accordance with section 24.

Filing of new disclosure report to correct previous report

16 (1) In addition to filing a new disclosure report as required under section 15, a reporting body may, at other times the reporting body considers necessary in order to complete or correct information provided in the previously filed disclosure report, file with the administrator a new disclosure report completed in accordance with Divisions 3 *[Reasonable Efforts Requirements for Reporting Bodies]* and 4 *[Content of Disclosure Reports].*

(2) Sections 12 (2) to (5) *[disclosure report required with application to register]* and 15 (4) and (5) apply in respect of a disclosure report permitted to be filed under this section.

DIVISION 3 – REASONABLE EFFORTS REQUIREMENTS FOR REPORTING BODIES

Division 3: Reasonable Efforts Required

This Division requires reporting bodies to make reasonable efforts to obtain and confirm the accuracy of identification information and other key information about interest holders and, in the case of a trustee, information about settlors of the trust. Reporting bodies must make reasonable efforts to notify interest holders about the right of an individual to apply to request that their identification information be omitted or obscured from the publicly accessible information under Part 3. The reporting bodies must make reasonable efforts to provide each interest holder with an extract of the completed disclosure report showing the information that will be disclosed about them.

Identification information and other information

17 (1) For the purpose of preparing a disclosure report, a reporting body must make reasonable efforts to obtain and confirm the accuracy of the following information in respect of each interest holder:

(a) the interest holder's identification information;

(b) the interest holder's date of birth;

(c) the interest holder's social insurance number or the individual tax number assigned to the interest holder by the Canada Revenue Agency, as applicable;

(d) prescribed information.

(2) In addition to the information referred to in subsection (1), a reporting body that is a trustee of a relevant trust must make reasonable efforts to obtain and confirm the accuracy of the following information in respect of each settlor of the relevant trust:

(a) the settlor's identification information;

(b) if the settlor is an individual, the information referred to in subsection (1) (b) and (c);

(c) prescribed information.

Identification of interests held by interest holders

18 (1) For the purpose of preparing a disclosure report, a reporting body that is a relevant corporation must make reasonable efforts, in respect of each corporate interest holder, to

(a) identify, by reference to the rights and interests described in section 3 (1) *[meaning of "corporate interest holder"]*, the rights and interests that the corporate interest holder has in respect of the relevant corporation, or

(b) obtain extracts from corporate records disclosing the rights and interests referred to in paragraph (a) of this subsection.

(2) For the purpose of preparing a disclosure report, a reporting body that is a trustee of a relevant trust must make reasonable efforts, in respect of each beneficial owner, to

(a) identify, by reference to the interests and powers described in section 2 *[meaning of "beneficial owner"]*, the interests and powers that the beneficial owner has in respect of the interest in land to which the report relates, or

(b) obtain extracts from relevant records disclosing the interests and powers referred to in paragraph (a) of this subsection.

(3) For the purpose of preparing a disclosure report, a reporting body that is a partner of a relevant partnership must make reasonable efforts, in respect of each partnership interest holder, to

(a) identify, by reference to the interests described in section 4 *[meaning of "partnership interest holder"]*, the interests the partnership interest holder has in respect of the interest in land to which the report relates, or

(b) obtain extracts from the partnership agreement or other relevant records disclosing the interests referred to in paragraph (a) of this subsection.

Identification of incapacity

19 (1) For the purpose of preparing a disclosure report, a reporting body must make reasonable efforts to identify whether any of the interest holders are individuals in

respect of whom a court or qualified professional has determined that the individual is incapable of managing that interest holder's financial affairs.

(2) In addition to making reasonable efforts to identify interest holders under subsection (1), a reporting body that is a trustee of a relevant trust must make reasonable efforts, in respect of settlors who are individuals, to identify whether any of those settlors are individuals in respect of whom a determination referred to in that subsection has been made.

Notice to interest holders

20 (1) For the purpose of preparing a disclosure report, a reporting body must make reasonable efforts to give written notice of the following to each interest holder:

(a) the purposes for which the information referred to in this Division is being sought;

(b) the right of an individual under section 38 *[application to omit information if health or safety at risk]* to request that some or all of the individual's identification information be omitted or obscured from publicly accessible information that may be searched and inspected under Part 3 *[Access to Information Provided in Disclosure Reports]*;

(c) that unless the individual makes a request under section 38 within 30 days after the filing of the report, the individual's identification information will be publicly accessible after the end of that 30-day period.

(2) In addition to making reasonable efforts to given notice to each interest holder under subsection (1), a reporting body that is a trustee of a relevant trust must make reasonable efforts, in respect of each settlor who is an individual, to give written notice to the settlor of the matters referred to in that subsection.

(3) After completing a disclosure report, a reporting body must make reasonable efforts to provide each interest holder or settlor, as applicable, with an extract from the completed report showing the information that will be disclosed in respect of that interest holder or settlor.

DIVISION 4 – CONTENT OF DISCLOSURE REPORT

Division 4: Content of Disclosure Report

This Division sets out the content requirements for the disclosure reports, including the reporting body's identification information, the identification information about interest holders (which will be publicly accessible under Part 3) and other confidential information (which will only be available to the government and tax, law enforcement and regulatory authorities). Reporting bodies that are unable to obtain or confirm the identity of interest holders must summarize the efforts made to do so.

Content requirements

21 (1) A reporting body must include all of the following in a disclosure report:

(a) the reporting body's identification information;

(b) subject to section 22,

(i) the information referred to in section 17 (1) *[identification information and other information]* and, if applicable, section 17 (2);

(ii) the information referred to in section 18 (1) *[identification of interests held by interest holders]* and, if applicable, section 18 (2) and (3);

(c) subject to section 22, if the reporting body, under section 19 (1) or (2) *[identification of incapacity]*, identifies any individuals for whom a determination of incapacity has been made, a statement indicating that the individual has that incapacity;

(d) the parcel identifier assigned to the parcel of land to which the report relates;

(e) the name, position name or title, telephone number and email address of the individual certifying the report;

(f) prescribed information.

(2) A reporting body that is a trustee of a relevant trust must, if a trust instrument in respect of a relevant trust has been registered under section 180 *[recognition of trust estates]* of the *Land Title Act*, also include in the disclosure report the reference number of the trust instrument.

(3) A reporting body that is a partner of a relevant partnership must also include in the disclosure report identification information in respect of the relevant partnership.

Requirements if reporting body unable to obtain information

22 (1) If a reporting body that is a relevant corporation or a partner of a relevant partnership is unable, despite reasonable efforts, to identify any individuals who are corporate interest holders or partnership interest holders, as applicable, the relevant corporation or partner must indicate that outcome in the report.

(2) If a reporting body that is a trustee of a relevant trust is unable, despite reasonable efforts, to identify any individuals who are beneficial owners, the trustee must include in the report a description of each class of beneficiaries of the relevant trust.

(3) If a reporting body is unable, despite reasonable efforts, to obtain or confirm some or all of the information referred to in section 17 *[identification information and other information]*, 18 *[identification of interests held by interest holders]* or 19 *[identification of incapacity]* in respect of an interest holder or settlor, as applicable, the reporting body must, in the disclosure report,

(a) provide the information, if any, that the reporting body obtained in respect of the interest holder or settlor,

(b) if the reporting body was not able to obtain some or all of the information in respect of the interest holder or settlor, summarize the efforts made to do so,

(c) if the reporting body was not able to confirm the accuracy of some or all of the information obtained in respect of the interest holder or settlor, summarize the efforts made to do so, and

(d) provide prescribed information.

(4) If a reporting body is unable, despite reasonable efforts, to give notice to each interest holder or settlor, as applicable, of the matters referred to in section 20 (1) *[notice to interest holders]*, the reporting body must, in the disclosure report,

(a) identify the interest holders or settlors to whom notice was given, or

(b) if the reporting body was not able to give notice to an interest holder or settlor, summarize the efforts made to do so.

DIVISION 5 – CERTIFICATION AND ELECTRONIC SIGNATURES

Division 5: Certification and Electronic Signatures

Division 5 requires transparency declarations and disclosure records to be certified to be complete and correct by the transferee or reporting body or someone with personal knowledge of the matters and with authority. The Division adopts the subscriber process used for filing of land title documents and property transfer tax returns.

Certification of transparency declarations and disclosure reports

23 (1) A transparency declaration or disclosure report from a transferee or reporting body must, if the transferee or reporting body is a corporation, be certified to be complete and correct by an individual who has

(a) personal knowledge of the matters certified, and

(b) actual authority to certify the declaration on behalf of the transferee or reporting body.

(2) A transparency declaration or disclosure report from a transferee or reporting body must, if the transferee or reporting body is an individual, be certified to be complete and correct by

(a) the transferee or reporting body, or

(b) an agent of the transferee or reporting body who has personal knowledge of the matters certified.

Electronic signing of transparency declarations and disclosure reports

24 (1) An electronic transparency declaration or electronic disclosure report is signed when the electronic signature of a subscriber has been incorporated into the electronic transparency declaration or electronic disclosure report in accordance with the policies established by the administrator.

(2) A subscriber must not incorporate the subscriber's electronic signature into an electronic transparency declaration or electronic disclosure report unless

(a) a true copy of the electronic transparency declaration or electronic disclosure report has been certified in accordance with section 23, and

(b) the true copy referred to in paragraph (a), or a copy of that true copy, is in the possession of the subscriber.

(3) The incorporation of the electronic signature of a subscriber into an electronic transparency declaration or electronic disclosure report in accordance with this section is a certification by the subscriber of the facts referred to in subsection (2) (a) and (b).

(4) A transferee or reporting body on whose behalf an electronic transparency declaration or electronic disclosure report has been filed under this Act, or any other person specified in the policies established by the administrator, must

(a) retain the true copy of the electronic transparency declaration or electronic disclosure report referred to in subsection (2) (a), or a copy of that true copy, for the period established by the administrator, and

(b) produce it to the administrator for inspection if requested by the administrator.

Prohibition against wrongful incorporation of electronic signature

25 A person must not

(a) incorporate the person's electronic signature into an electronic transparency declaration or electronic disclosure report without first complying with the provisions of this Division, or

(b) incorporate the electronic signature of another person into an electronic transparency declaration or electronic disclosure report.

Discussion questions

Do the disclosure reports capture the appropriate information about beneficial interests in land?

Is there other information that should be disclosed?

Are there changes that would make this Part more effective?

Are there changes to this Part that would increase efficiency for land owners?

PART 3 – ACCESS TO INFORMATION PROVIDED IN DISCLOSURE REPORTS

Part 3: Use of Information Provided in Disclosure Reports

This Part sets out the conditions and manner of conducting searches of the publicly accessible information (section 35) and searches for tax, law enforcement and regulatory purposes (sections 29, 30 and 31). Any person may search the publicly accessible information in the land transparency registry generally in the same way they may now search information contained in the land title registry. Searches may be made by land parcel identifier or by name. They must be made using the form established by the Administrator and be accompanied by the required fee.

The publicly accessible information is the identification information in respect of reporting bodies (relevant corporations, trustees and partners) that are currently registered owners of interests in land and identification information in respect of individuals who have a legal or beneficial interest in relation to those bodies or interests in land. Identification information about individuals includes name, city and province or country of residence and citizenship information (as set out in section 8).

Tax, law enforcement and regulatory agencies will be able to search all the information filed including additional information about interest holders such as date of birth, social insurance number, the nature of their beneficial interest and information about the person certifying the report.

This Part also provides for the mandatory omission of information about minors and incapable individuals from the publicly accessible information. It provides a procedure by which an individual may apply to the administrator to omit or obscure information if the person believes that making the information available could reasonably be expected to threaten the safety or mental or physical health of the individual or a member of the individual's household. A person may also request a reporting body to file a new disclosure report if the person believes the current report is incomplete or inaccurate. If the reporting body fails to do so, the person may apply to the Administrator to correct or change the information.

Definitions for Part 3

26 In this Part:

"financial sector regulator" means any of the following:

(a) the British Columbia Securities Commission continued under the *Securities Act*;

(b) the Financial Institutions Commission established under the *Financial Institutions Act*;

(c) the Financial Transactions and Reports Analysis Centre of Canada established under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada);

"law enforcement" means any of the following:

(a) policing, including criminal intelligence operations;

(b) investigations that lead or could lead to a penalty or sanction being imposed;

(c) proceedings that lead or could lead to a penalty or sanction being imposed;

"police force" means any of the following:

(a) the provincial police force within the meaning of the *Police Act*;

(b) a municipal police department within the meaning of the *Police Act*;

(c) the Royal Canadian Mounted Police;

"taxing authority" means an employee or officer of the government or the government of Canada who is responsible for administering or enforcing an enactment of the Province or Canada that provides for the imposition and collection of a tax or duty;

"transparency record" means either of the following:

(a) a transparency declaration that has been filed with the administrator under Division 1 *[Transparency Declarations]* of Part 2 *[Transparency Declarations and Disclosure Reports]*;

(b) a disclosure report that has been filed with the administrator under Division 2 *[Disclosure Reports]* of Part 2.

Administrator's duty to keep records

27 Subject to and in accordance with this Act and the regulations, the administrator must keep and maintain the following:

(a) transparency records;

(b) applications under section 35 (3) (b) *[conditions and manner of conducting searches]*;

(c) applications made under section 38 *[application to omit information if health or safety at risk]*;

(d) applications made under section 41 *[application to correct or change information]*;

(e) notices and submissions under section 61 *[payment or dispute of administrative penalty]*;

(f) all other documents received by the administrator under this Act.

Administrator's duty to make information available

28 (1) Subject to and in accordance with this Act and the regulations, the administrator must do the following:

(a) make transparency records and information provided in transparency records available for search and inspection by the government, taxing authorities, law enforcement agencies and financial sector regulators;

(b) make the following information provided in transparency records available for search and inspection by any person:

(i) identification information in respect of reporting bodies that are currently registered as owners of interests in land;

(ii) identification information in respect of individuals who are interest holders in relation to the reporting bodies or interests in land referred to in subparagraph (i);

(iii) prescribed information.

(2) Identification information in respect of an individual who is an interest holder must not be made publicly accessible under subsection (1) (b) until at least 30 days

after the disclosure report that includes that identification information has been accepted by the registrar for filing with the administrator.

Searches for tax purposes

29 A taxing authority may search and inspect transparency records and reported information for the following purposes:

(a) administering or enforcing an enactment of the Province or Canada that provides for the imposition and collection of a tax or duty;

(b) assisting another jurisdiction in or outside Canada in respect of the administration or enforcement of an enactment of that jurisdiction that provides for the imposition and collection of a tax or duty.

Searches for law enforcement purposes

30 A constable, officer or employee of a police force may search and inspect transparency records and reported information for the following purposes:

(a) conducting a specific investigation, in Canada,

(i) that is undertaken with a view to a law enforcement proceeding, or

(ii) from which a law enforcement proceeding is likely to result;

(b) assisting another law enforcement agency in Canada in a specific investigation described in paragraph (a);

(c) assisting an agency in a jurisdiction in or outside Canada, under an arrangement, written agreement, treaty or provincial or Canadian legislative authority, in respect of a law enforcement proceeding.

Searches by financial sector regulators

31 An officer or employee of a financial sector regulator may search and inspect transparency records and reporting information for the following purposes:

(a) administering or enforcing legislation for which the financial sector regulator is responsible;

(b) assisting another agency in Canada in the administration or enforcement of legislation that is similar to legislation for which a financial sector regulator is responsible;

(c) assisting an agency outside Canada, under an arrangement, written agreement, treaty or provincial or Canadian legislative authority, in the administration or enforcement of legislation that is similar to legislation for which a financial sector regulator is responsible.

Restrictions on searches

32 The regulations may impose restrictions on searches and inspections authorized under

(a) section 29 *[searches for tax purposes]*,

(b) section 30 *[searches for law enforcement purposes]*, or

(c) section 31 *[searches by financial sector regulators]*.

Copy of transparency record as evidence

33 (1) A copy of a transparency record, application, notice or any other document referred to in section 27 *[administrator's duty to keep records]* that is

(a) obtained from the administrator, and

(b) certified by the administrator to be a true copy of the transparency record, application, notice or document

is conclusive evidence of the transparency record, application, notice or document and is admissible in court as if it were the original.

(2) A certification of the administrator under subsection (1) in respect of the electronic form of a transparency record, application, notice or other document is conclusive evidence that

(a) the technology and procedure used by the administrator to receive, store, retrieve and copy the electronic form of the transparency record, application, notice or document is capable of recording and reproducing all significant details of that transparency record, application, notice or document, without any additions, deletions or changes, and

(b) the electronic form of the transparency record, application, notice or document was received, stored, retrieved and copied by the administrator in the usual and ordinary course of business.

(3) Copies of transparency records, applications, notices or other documents certified under this section may be given to any of the following:

(a) the government;

(b) a taxing authority;

(c) a police force;

(d) a financial sector regulator;

(e) a prescribed person.

Fees for searches

34 (1) Unless exempted under this section or the regulations, a person must pay the applicable fees before the person does either of the following:

(a) searches or inspects transparency records, reported information or publicly accessible information;

(b) obtains from the administrator copies of or extracts from transparency records, reported information or publicly accessible information.

(2) The following are exempt from paying fees referred to in subsection (1):

(a) the government;

(b) a taxing authority, if the taxing authority is searching, inspecting or obtaining copies or extracts for the purposes referred to in section 29 *[searches for tax purposes]*;

(c) a police force, if the police force is searching, inspecting or obtaining copies or extracts for the purposes referred to in section 30 *[searches for law enforcement purposes]*;

(d) a financial sector regulator, if the financial sector regulator is searching, inspecting or obtaining copies or extracts for the purposes referred to in section 31 *[searches by financial sector regulators]*;

(e) a prescribed person or entity, if the prescribed person or entity is searching, inspecting or obtaining copies or extracts for the purposes specified in the regulations.

Conditions and manner of conducting searches

35 (1) Publicly accessible information is open to search and inspection on reasonable conditions the administrator may impose.

(2) The administrator must provide for the following searches of publicly accessible information:

(a) a search of the parcel identifier for a parcel of land to ascertain the individuals who, in relation to the parcel of land, are

(i) corporate interest holders in respect of relevant corporations that are currently registered as owners of interests in land,

(ii) beneficial owners or settlors in respect of interests in land that are currently registered in the name of a trustee of a relevant trust, or

(iii) partnership interest holders in respect of interests in land that are currently registered in the name of a partner of a relevant partnership;

(b) a search of the name of an individual to ascertain the interests in land in relation to which the individual is an interest holder or settlor;

(c) a prescribed search.

(3) The administrator may direct the following:

(a) the manner of conducting searches or inspections of transparency records, reported information and publicly accessible information;

(b) that a search or inspection of transparency records, reported information or publicly accessible information be accompanied by an application that contains the information and is completed in the manner required by the administrator.

Prohibition against misuse of publicly accessible information

36 A person who obtains information from publicly accessible information must not use or disclose the information

(a) to solicit persons by telephone, mail or other means,

(b) to harass persons, or

(c) for prescribed purposes.

Mandatory omission of information from publicly accessible information

37 (1) If a disclosure report indicates that

(a) an individual is under 19 years of age, or

(b) a court or qualified professional has determined that an individual identified in the report is incapable of managing the individual's financial affairs,

the administrator must omit or obscure that individual's identification information from publicly accessible information.

(2) The administrator must omit or obscure the following from publicly accessible information:

(a) identification information specified in an application made under section 38 unless, after the end of the 30-day period referred to in section 39 (3) *[determination of application to omit information]*, the administrator decides under section 39 (1) (b) to cease omitting or obscuring that information;

(b) prescribed information.

Application to omit information if health or safety at risk

38 (1) An individual may apply to the administrator for some or all of the individual's identification information to be omitted or obscured from publicly accessible information if the individual believes that making that information publicly accessible could reasonably be expected to threaten the safety or mental or physical health of

(a) the individual, or

(b) a member of the individual's household.

(2) An individual who makes an application under this section must do the following:

(a) submit the application to the registrar;

(b) pay the applicable fee;

(c) specify in the application the particular information the individual seeks to have omitted or obscured and explain why the individual seeks to have that information omitted or obscured;

(d) specify in the application the address at which the individual is to be notified of the administrator's decision under section 39;

(e) submit to the registrar any records, information or verifications that the administrator may require.

(3) Promptly after an application has been submitted under this section, the administrator must omit or obscure from publicly accessible information the information specified under subsection (2) (c).

Determination of application to omit information

39 (1) After considering an application by an individual for specified information to be omitted or obscured from publicly accessible information, the administrator may do either of the following:

(a) continue omitting or obscuring the specified information;

(b) if the administrator considers that making some or all of the specified information publicly accessible could not reasonably be expected to threaten the safety or mental or physical health of the individual or a member of the individual's household, and subject to subsection (3), cease omitting or obscuring that information.

(2) The administrator must notify the individual who made the application of a decision made under this section.

(3) If the administrator makes a decision referred to in subsection (1) (b), the administrator may not cease omitting or obscuring the information until at least 30 days after giving notice under subsection (2).

Request to reporting body to correct or change information

40 By written request to the reporting body that provided the information, a person who believes that reported information or publicly accessible information includes information in relation to the person that is incomplete or inaccurate may request that the reporting body file a new disclosure report under section 16 *[filing of new disclosure report to correct previous report]* that includes the corrections or changes requested by that person.

Application to correct or change information

41 (1) A person may apply to the administrator for the administrator to make corrections or changes in respect of a filed disclosure report, or to reported information or publicly accessible information, if

(a) the person has requested the corrections or changes under section 40, and

(b) the reporting body to whom the request was made has not, within 3 months after receiving the request, filed a new disclosure report that includes the requested corrections or changes.

(2) A person who makes an application under this section must do the following:

(a) submit the application to the registrar;

(b) pay the applicable fee;

(c) include in the application a copy of the request made under section 40;

(d) specify in the application the particular corrections or changes requested by the person;

(e) specify in the application the address at which the individual is to be notified of the administrator's decision under section 42;

(f) submit to the registrar any records, information or verifications the administrator may require.

Determination of application to correct or change information

42 (1) In respect of an application for specified corrections or changes to be made in respect of a disclosure report, the administrator may, after considering the application, do either of the following:

(a) annotate the disclosure report so that some or all of the specified corrections or changes are noted in a way that does not conceal the original content of that disclosure report;

(b) make no annotations to the disclosure report.

(2) In respect of an application for specified corrections or changes to be made to reported information or publicly accessible information, the administrator may, after considering the application, do any of the following:

(a) make changes to, remove information from or add information to reported information or publicly accessible information to reflect some or all of the corrections or changes specified in the application;

(b) annotate reported information or publicly accessible information so that some or all of the specified corrections or changes are noted in a way that does not conceal the previous content of that information;

(c) make no changes, removals, additions or annotations to reported information or publicly accessible information.

(3) The administrator must notify the person who made the application of a decision made under this section.

Omissions, changes or annotations on administrator's initiative

43 The administrator may, on the administrator's own initiative, do any of the following:

(a) omit or obscure information from publicly accessible information if the administrator considers that making that information publicly accessible could reasonably be expected to threaten the safety or mental or physical health of an individual;

(b) annotate a filed disclosure report in a way that does not conceal the original content of the disclosure report;

(c) make changes to, remove information from or add information to reported information or publicly accessible information;

(d) annotate reported information or publicly accessible information.

Registrar not required to inquire into information

44 The registrar is not required, for completeness, accuracy or otherwise, to inquire into information included in

(a) transparency records, applications or any other document submitted to the registrar under this Act, or

(b) reported information or publicly accessible information.

Records vest in Land Title and Survey Authority

45 (1) Transparency records, and all other documents filed with or received by the administrator under this Act, vest in the Land Title and Survey Authority.

(2) The following are not subject to any process of attachment, execution or seizure:

(a) transparency records and documents referred to in subsection (1);

(b) reported information;

(c) publicly accessible information.

(3) Despite any Act, agreement or court order, a receiver must not exercise custody or control over any of the records, documents or information referred to in subsection (2).

Disposal of records

46 (1) Transparency records, and all other documents filed with or received by the administrator under this Act, must be kept in the location approved by the board of directors of the Land Title and Survey Authority.

(2) Transparency records and documents referred to in subsection (1) may be destroyed or disposed of only in accordance with

(a) the bylaws of the Land Title and Survey Authority, or

(b) section 3 *[status of assets if Authority is dissolved]* of the *Land Title and Survey Authority Act*.

Discussion questions

Does the draft legislation strike an appropriate balance between transparency and privacy?

Are there concerns about disclosing any category of information, either as part of the publicly accessible information or as part of the information available only to tax, law enforcement and regulatory agencies?

Do the provisions in the Part provide adequate tools to vulnerable people to have information obscured or omitted?

Are there other factors the government should be considering respecting access to information provided to the public and/or government and agencies?

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PART 4 – ADMINISTRATION AND ENFORCEMENT

Part 4: Administration and Enforcement

This Part provides for the appointment of the Administrator and Deputy Administrators who are responsible for the administration of the legislation. Broad inspection powers are provided to the Administrator to investigate and make determinations about whether the Act is being complied with, including the power to enter a place where a reporting body carries on business or where records relating to a reporting body are kept. It provides the Administrator with the power to require a person who may have relevant information to answer questions or to otherwise provide that information.

The Administrator is also provided with the authority to impose administrative penalties on a person who has contravened specified requirements of the legislation, such as failing to file an updated disclosure report (section 15), failing to make reasonable efforts to obtain and confirm beneficial ownership information (section 17) or providing false or misleading information (section 69). Maximum administrative penalties that can be imposed by the Administrator are $50,000 for a contravention by a corporation and $25,000 for an individual. The Part provides a procedure for a person to dispute an administrative penalty.

Division 1 – Administration

Appointment of administrator and deputy administrators

47 The chief executive officer of the Land Title and Survey Authority

(a) must appoint an employee of the Land Title and Survey Authority as the administrator, and

(b) may appoint employees of the Land Title and Survey Authority as deputy administrators.

General responsibilities of administrator

48 (1) Without limiting other powers or duties of the administrator under this Act, and subject to general policy direction given by the minister, the administrator is responsible for the general administration of this Act and the regulations.

(2) The administrator may develop and provide public information and education respecting this Act and the regulations.

Administrator must report to minister

49 The administrator must report to the minister, as required by the minister, on

(a) the administration and enforcement of this Act and regulations, and

(b) other matters the minister considers necessary in relation to this Act and the regulations.

Delegation of administrator's powers and duties

50 (1) The administrator may delegate to an employee or class of employees of the Land Title and Survey Authority any power or duty of the administrator under this Act, except the power to delegate under this section.

(2) A delegation under subsection (1)

(a) must be in writing,

(b) may be to a named person or class of persons, and

(c) may contain any conditions or restrictions the administrator considers appropriate.

(3) If the administrator has made a delegation of a power or duty, a reference to the administrator in relation to that power or duty includes the delegate.

Division 2 – Inspections

Inspection powers

51 (1) For the purpose of conducting inspections to determine whether this Act and the regulations are being or have been complied with, the administrator may, subject to this section, do any of the following:

(a) enter at any reasonable time a place where

(i) a reporting body carries on business, or

(ii) records relating to the reporting body are kept;

(b) examine records and things that may be relevant to the inspection;

(c) require a person to produce or provide access to records and things that are in the person's possession or control and may be relevant to the inspection;

(d) require a person who may have information, including personal information, relevant to the inspection to answer questions and otherwise provide that information;

(e) remove a record referred to in paragraph (b) for the purpose of examining the record or making copies or extracts.

(2) Except as authorized by a warrant issued under section 52, the administrator may enter a place occupied as a private residence only with the consent of the owner or occupier of the private residence.

(3) When conducting an inspection, the administrator must

(a) carry and present identification on request, and

(b) advise the owner, manager or person apparently in charge of the place in which the inspection is being conducted of the reason for the inspection.

(4) If the administrator removes a record or thing from a place, the administrator must

(a) provide a receipt for the record or thing, and

(b) return the record or thing within a reasonable time.

Warrant to enter place to conduct inspection

52 If satisfied by evidence on oath or affirmation that there are reasonable grounds to believe that there are, in a private residence or in any other place, records or things relevant to determining whether this Act and the regulations are being or have been complied with, a justice may issue a warrant authorizing a person named in the warrant to enter the place in accordance with the warrant in order to exercise the powers under section 51.

Records in possession of lawyer

53 Except in accordance with the regulations, the power under section 51 *[inspection powers]* to inspect records and things must not be used to inspect a record in the

possession of a lawyer if the lawyer at that time claims that a particular client or particular former client of the lawyer has solicitor-client privilege in relation to the record.

Prohibition against interfering with inspection

54 (1) In this section and sections 55 and 56 *[certified copies of records as evidence],* **"administrator"** includes a person other than the administrator who is authorized to exercise powers under a warrant issued under section 52 *[warrant to enter place to conduct inspection]*.

(2) If the administrator is conducting an inspection under this Division, a person must not do any of the following:

(a) obstruct the administrator in conducting the inspection;

(b) withhold, destroy, conceal or refuse to provide or produce information, records or things required by the administrator for the purposes of the inspection;

(c) provide false or misleading records or information to the administrator.

Administrator not compellable

55 The administrator must not disclose or be compelled to disclose any information, record or thing that is obtained in the course of an inspection unless the disclosure is necessary in the administration of this Act, or is otherwise required by law.

Certified copies of records as evidence

56 A copy or extract certified by the administrator as being a true copy of a record or extract examined or obtained by the administrator under this Division is admissible in evidence to the same extent as, and has the same evidentiary value as, the original record or thing without proof of the signature of the administrator.

Division 3 – Administrative Penalties

Imposition of administrative penalty

57 The administrator may give written notice to a person requiring the person to pay an administrative penalty if the administrator determines, based on information obtained from an inspection or any other source, that the person has contravened any of the following:

(a) a provision of Part 2 *[Disclosure Reports]*, other than a provision of

(i) section 10 *[transparency declaration required with application to register]*, or

(ii) section 12 *[disclosure report required with application to register]*;

(b) section 36 *[prohibition against misuse of publicly accessible information]*;

(c) section 54 *[prohibition against interfering with inspection]*;

(d) section 68 *[prohibition against misuse of information obtained by reporting body]*;

(e) section 69 *[prohibition against providing false or misleading information]*;

(f) a prescribed provision of this Act or the regulations.

Factors administrator must consider

58 Before the administrator imposes an administrative penalty on a person for a contravention, the administrator must consider the following:

(a) previous enforcement actions against the person under this Act;

(b) the gravity and magnitude of the contravention;

(c) whether the contravention was repeated or continuous;

(d) whether the contravention was deliberate;

(e) the person's efforts to correct the contravention.

Notice of administrative penalty

59 A notice of administrative penalty for a contravention must specify all of the following:

(a) the contravention;

(b) the amount of the administrative penalty;

(c) a person's option under section 61 *[payment or dispute of administrative penalty]* to either pay or request an opportunity to dispute the administrative penalty within the 14-day period referred to in that section.

Amount of administrative penalty

60 An administrative penalty for a contravention must not exceed

(a) $50 000, in the case of a contravention by a corporation or limited liability company, or

(b) $25 000, in the case of a contravention by an individual.

Payment or dispute of administrative penalty

61 (1) Within 14 days after a person receives notice of an administrative penalty for a contravention, the person must do one of the following:

(a) pay the administrative penalty;

(b) give written notice to the administrator requesting an opportunity to dispute the contravention or the amount of the administrative penalty.

(2) Subject to subsection (3), a person who gives notice under subsection (1) (b) requesting an opportunity to dispute a contravention or the amount of an administrative penalty person must deliver written submissions to the administrator within 30 days after receiving notice of the administrative penalty.

(3) If the amount of an administrative penalty specified in a notice of administrative penalty is

(a) $10 000 or more, in the case of an administrative penalty imposed on a corporation or limited liability company, or

(b) $5 000 or more, in the case of an administrative penalty imposed on an individual,

the person to whom the notice was given may request under subsection (1) (b) that the person be given the opportunity to dispute the administrative penalty by way of an oral hearing.

(4) If a person requests an oral hearing under subsection (1) (b), the administrator must hold the oral hearing within a reasonable time after receiving the request.

(5) Within a reasonable time after receiving written submissions or holding an oral hearing in respect of an administrative penalty for a contravention, the administrator

(a) must by order confirm whether the person committed the contravention, and

(b) if commission of the contravention is confirmed under paragraph (a), may by order

(i) confirm the penalty specified in the notice of administrative penalty,

(ii) impose a lesser penalty, or

(iii) impose no penalty.

(6) An order made under subsection (5) must specify all of the following, as applicable:

(a) the contravention;

(b) the amount of the administrative penalty;

(c) the requirement under section 62 to pay the penalty;

(d) the right to commence a judicial review application within the 30-day period referred to in section 62 (2).

(7) The administrator may exercise the powers under subsection (5) in the absence of a person who requests an oral hearing if the person fails to appear at the time scheduled for the oral hearing.

(8) The administrator must give a copy of an order made under subsection (5) to the person to whom the order relates.

Payment or judicial review of administrator's order

62 (1) A person in respect of whom an administrative penalty is confirmed or imposed by order under section 61 (5) must pay the penalty within 30 days after receiving the order.

(2) If a person makes an application for judicial review of an order made under section 61 (5), the application must be commenced within 30 days after the date on which the person received a copy of the order.

Relationship between administrative penalties and offences

63 (1) If the administrator imposes an administrative penalty on a person, a prosecution for an offence under this Act for the same contravention may not be brought against the person.

(2) A person who has been charged with an offence under this Act may not be subject to an administrative penalty in respect of the circumstances that gave rise to the charge.

Administrative penalty against officers or directors of corporation

64 If a corporation or limited liability company contravenes a provision referred to in section 57 *[imposition of administrative penalty]*, the administrator may, in accordance with this Division, impose an administrative penalty on an officer, director, manager or agent of a corporation or limited liability company who authorized, permitted or

participated in the contravention.

Time limit for imposing administrative penalty

65 (1) Notice of an administrative penalty for a contravention must not be given more than 2 years after the date on which the administrator first learned of the act or omission to which the contravention relates.

(2) A certificate purporting to have been issued by the administrator certifying the date referred to in subsection (1) is proof of that date.

Enforcement of administrative penalty

66 (1) If a person fails to pay the full amount of an administrative penalty required to be paid under this Act, the administrator may issue a certificate setting out the unpaid amount of the administrative penalty and the name of the person who owes it.

(2) A certificate issued under subsection (1) may be filed with the Provincial Court or Supreme Court.

(3) A certificate filed under subsection (2) has the same force and effect, and all proceedings may be taken on the certificate, as if it were a judgment of the court in favour of the Land Title and Survey Authority for the recovery of a debt in the amount specified in the certificate against the person named in the certificate.

Payment of administrative penalty

67 (1) An administrative penalty must be paid to the Land Title and Survey Authority.

(2) Administrative penalties paid to the Land Title and Survey Authority may be expended only for

(a) educating or providing information to reporting bodies and the public respecting this Act and the regulations, and

(b) purposes specified by written authorization of the minister.

Discussion questions

Does the Act provide for the appropriate investigation powers for the Administrator?

Are the maximum administrative penalties appropriate for contraventions of the Act?

PART 5 – GENERAL

Part 5: General
This Part provides general prohibitions against misuse of information and against providing false or misleading information. It provides immunity protection for individuals responsible for administering the statute. The Part also provides for the form and manner of submitting documents, paying fees and service of documents.

Prohibition against misuse of information obtained by reporting body

68 A reporting body that obtains personal information for the purposes of this Act in respect of an interest holder or settlor must not disclose or use the personal information except as follows:

(a) for the purpose of filing transparency declarations and disclosure reports with the administrator;

(b) for the purpose of providing information to the administrator for the purpose of an inspection under Part 4 *[Administration and Enforcement]*;

(c) with the consent of the individual to whom the information relates;

(d) as required or authorized by law;

(e) for prescribed purposes.

Prohibition against providing false or misleading information

69 (1) A person must not provide false or misleading information in any of the following:

(a) a transparency declaration;

(b) a disclosure report;

(c) an application made under section 38 *[application to omit information if health or safety at risk]*;

(d) an application made under section 41 *[application to correct or change information]*;

(e) a written submission or oral hearing under section 61 *[payment or dispute of administrative penalty]*.

(2) A person who omits a material fact from the information provided in a transparency declaration, disclosure report, application, written submission or oral hearing referred to in subsection (1) contravenes that subsection if the omission of the material fact makes the information provided false or misleading.

Personal liability protection for administrator and deputy administrators

70 (1) In this section, **"protected person"** means any of the following:

(a) the administrator;

(b) a deputy administrator;

(c) a person acting under authority of a warrant issued under section 52 *[warrant to enter place to conduct inspection]*.

(2) Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against a protected person because of anything done or omitted

(a) in the exercise or intended exercise of any power under this Act, or

(b) in the performance or intended performance of any duty under this Act.

(3) Subsection (2) does not apply in relation to anything done or omitted by a protected person in bad faith.

(4) Subsection (2) does not absolve the Land Title and Survey Authority from vicarious liability arising out of anything done or omitted by a protected person for which the Land Title and Survey Authority would be vicariously liable if this section were not in force.

Form and manner of submitting documents

71 (1) The following must be submitted, filed or given in the form and manner required by the administrator:

(a) transparency declarations, except to the extent expressly provided for in section 10 (2) *[transparency declaration required with application to register]*;

(b) disclosure reports, except to the extent expressly provided for in

(i) section 12 (6) *[disclosure report required with application to register]*,

(ii) section 14 (4) *[disclosure report required from pre-existing owner],* or

(iii) section 15 (4) *[disclosure report required on change of interest holders];*

(c) applications under section 35 (3) (b) *[conditions and manner of conducting searches];*

(d) applications under section 38 *[application to omit information if health or safety at risk]*;

(e) applications under section 41 *[application to correct or change information]*;

(f) notices and submissions under section 61 *[payment or dispute of administrative penalty].*

(2) Without limiting subsection (1), requirements respecting the form and manner of submitting, filing or giving transparency declarations, disclosure reports, applications and other documents referred to in that subsection

(a) may provide that specified provisions of the *Land Title Act* or the *Property Transfer Tax Act* apply, in whole or in part, with any additions and modifications that the administrator considers appropriate, and

(b) may impose requirements on officers, subscribers and other persons in relation to the form and manner of

(i) submitting, filing or giving the documents in an electronic format,

(ii) certifying, signing, attesting to, witnessing or proving execution of the documents, and

(iii) verifying the identity of persons

(A) who are submitting, filing or giving the documents, or

(B) on whose behalf the documents are submitted, filed or given.

Manner of paying fees

72 (1) The following must be paid at the time and in the manner required by the administrator:

(a) filing fees for transparency declarations and disclosure reports;

(b) fees for searches, inspections, copies or extracts referred to in section 34 (1) *[fees for searches]*;

(c) fees for applications under section 38 *[application to omit information if health or safety at risk]* or 41 *[application to correct or change information].*

(2) The board of directors of the Land Title and Survey Authority may set fees referred to in subsection (1).

Service of documents

73 (1) A notice, order or other document required or permitted to be given to or by the administrator under any of the following must be given in accordance with the regulations:

(a) section 39 (2) *[determination of application to omit information];*

(b) section 42 (3) *[determination of application to correct or change information];*

(c) Division 3 *[Administration Penalties]* of Part 4 *[Administration and Enforcement];*

(d) a prescribed provision of this Act or the regulations.

(2) A notice, order or other document given in accordance with subsection (1) is conclusively deemed to be received, in relation to a specified method of service, as provided in the regulations.

Discussion questions

Are there any concerns about this Part of the legislation?

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PART 6 – OFFENCES

Part 6: Offences
This Part sets out the offences for which a person may be prosecuted. Maximum fines that can be imposed by the courts in respect of a prosecution for an offence are $100,000 for a contravention by a corporation and $50,000 for an individual.

Offences relating to disclosure reports

74 A person who contravenes any of the following commits an offence:

(a) section 14 (1) *[disclosure report required from pre-existing owner]*;

(b) section 15 (1) *[disclosure report required on change of interest holders];*

(c) section 21 (1), (2) or (3) *[content requirements]*;

(d) section 22 (1), (2), (3) or (4) *[content if reporting body unable to obtain information];*

(e) section 25 (a) or (b) *[prohibition against wrongful incorporation of electronic signature].*

Other offences

75 A person who contravenes any of the following commits an offence:

(a) section *36 [prohibition against misuse of publicly accessible information];*

(b) section 54 *[prohibition against interfering with inspection];*

(c) section 68 *[prohibition against misuse of information obtained by reporting body];*

(d) section 69 *[prohibition against providing false or misleading information];*

(e) a prescribed provision of the regulations.

Penalties for offences

76 (1) A corporation or limited liability company that commits an offence under this Act is liable to a fine of not more than $100 000.

(2) An individual who commits an offence under this Act is liable to a fine of not more than $50 000.

Offence by officer or director of corporation

77 If a corporation or limited liability company commits an offence under this Act, an officer, director, manager or agent of a corporation or limited liability company who authorizes, permits or participates in the commission of the offence also commits an offence, whether or not the corporation or limited liability company is prosecuted or convicted.

Time limit for prosecuting offence

78 (1) The time limit for laying an information for an offence under this Act is

(a) 6 years after the date on which the act or omission that is alleged to constitute the offence occurred, or

(b) if the administrator issues a certificate described in subsection (2), 2 years after the date on which the administrator learned of the act or omission referred to in paragraph (a).

(2) A certificate purporting to have been issued by the administrator certifying the date referred to in subsection (1) (b) is proof of that date.

Section 5 of *Offence Act* does not apply

79 Section 5 *[general offence]* of the *Offence Act* does not apply to this Act or the regulations.

Discussion questions

Are the maximum fines appropriate for contraventions of the Act?

PART 7 – REGULATIONS

Part 7: Regulations

This Part provides broad authority to the government to make regulations contemplated under the new legislation. This includes very broad exemption powers in sections 81 and 83 to exclude types of corporations, trusts/trustees and partnerships from the disclosure requirements under the legislation and to make other exclusions from the legislation. Given the diversity of land ownership and business arrangements used in the province, further regulatory exemptions could be necessary. For example, certain types of ownership (time shares and fractional resort property ownership interests) or business arrangements (e.g., broadly held limited liability partnership interests) may be considered for exclusion from the some or all disclosure requirements under the legislation.

General regulation-making authority

80 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) respecting any matter for which regulations are contemplated by this Act;

(b) defining any word or expression used but not defined in this Act.

(3) The authority to make regulations under another provision of this Act does not limit subsections (1) and (2).

(4) In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:

(a) delegate a matter to a person;

(b) confer a discretion on a person;

(c) make different regulations in relation to

(i) different persons, trusts, partnerships, places, interests in land, reports, information, things, circumstances or transactions, or

(ii) different classes of persons, trusts, partnerships, places, interests in land, reports, information, things, circumstances or transactions;

(d) establish or define classes of persons, trusts, partnerships, places, interests in land, reports, information, things, circumstances or transactions.

Regulations in relation to Schedules 1 and 2

81 (1) For the purposes of paragraph (b) of the definition of "relevant corporation" in section 1 *[definitions]*, the Lieutenant Governor in Council may make regulations amending Schedule 1 by adding persons or entities to that Schedule.

(2) For the purposes of paragraph (e) of the definition of "relevant trust" in section 1 *[definitions]*, the Lieutenant Governor in Council may make regulations amending Schedule 2 by adding trusts to that Schedule.

(3) A regulation under this section may do any of the following:

(a) in the case of a regulation under subsection (1),

(i) add persons or entities to Schedule 1 by adding new provisions to that Schedule, or

(ii) delete persons or entities from Schedule 1 by amending or repealing provisions added under subparagraph (i);

(b) in the case of a regulation under subsection (2),

(i) add trusts to Schedule 2 by adding new provisions to that Schedule, or

(ii) delete trusts from Schedule 2 by amending or repealing provisions added under subparagraph (i).

Regulations in relation to lawyers' records

82 (1) In this section, **"lawyer's record"** means a record or part of a record to which all of the following apply:

(a) the record or part is in the possession of a lawyer;

(b) the record or part is about to be

(i) examined or removed for the purposes of an inspection under Division 2 *[Inspections]* of Part 4 *[Administration and Enforcement]*, or

(ii) seized for the purposes of the investigation of an offence under Part 6 *[Offences]*;

(c) at the time the record or part is about to be examined, removed or seized, the lawyer, in respect of that record or part, makes a claim of solicitor-client privilege for a client or former client.

(2) The Lieutenant Governor in Council may make regulations in relation to lawyers' records as follows:

(a) establishing procedures for allowing a lawyer's record to be retained or seized and held in a secure manner until

(i) the claim of solicitor-client privilege is waived by the lawyer's client or former client, or

(ii) the claim is determined, or the lawyer's record is otherwise dealt with, on application to the Supreme Court in accordance with the regulations;

(b) establishing a right to apply to the Supreme Court to resolve a claim of solicitor-client privilege regarding a lawyer's record retained or seized under paragraph (a), and establishing how the court is to deal with such an application.

Regulations in relation to exemptions

83 Despite any other provision of this Act, the Lieutenant Governor in Council may make regulations providing for exemptions, in whole or in part, from one or more provisions of this Act or the regulations, including, without limitation, regulations doing one or more of the following:

(a) exempting a person from a requirement to

(i) file a transparency declaration or disclosure report,

(ii) include or disclose specified information in a disclosure report, or

(iii) pay a fee under this Act;

(b) establishing circumstances in which an exemption applies;

(c) setting conditions of, or limitations on, the application of an exemption.

Discussion questions

Are the proposed regulation-making powers appropriate for the legislation?

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PART 8 – CONSEQUENTIAL AMENDMENTS

Part 8: Consequential Amendments
This Part provides for several consequential amendments to the *Land Title Act* and the *Land Title and Survey Authority Act*. For example, the proposed amendments clarify that legal title is not affected by disclosures under this proposed legislation and provide the necessary authority for the Land Title and Survey Authority to administer the new legislation.

84 Section 29 of the Land Title Act, R.S.B.C. 1996, c. 250, is amended by adding the following subsections:

(5) A person contracting or dealing with, taking from or proposing to take from a registered owner, an estate or interest in land, or a transfer or assignment of an estate or interest in land, is not affected by a transparency declaration or disclosure report filed with the administrator under the *Land Owner Transparency Act*, or by reported information or publicly accessible information made available for search under that Act, whether or not the person had express, constructive or implied notice or knowledge of the transparency declaration, disclosure report, reported information or publicly accessible information.

(6) The fact that the person who is contracting with, dealing with, taking from or proposing to take from a registered owner under subsection (2) had knowledge of a transparency declaration, disclosure report, reported information or publicly accessible information referred to in subsection (5), or that the person could have obtained knowledge of the transparency declaration, disclosure report, reported information or publicly accessible information by carrying out a search authorized under the *Land Owner Transparency Act*, is not evidence of fraud or bad faith for the purposes of subsection (2).

85 Section 168.1 is amended in the definition of* "subscriber" *by adding the following paragraph:

(f) electronic disclosure reports, electronic transparency declarations and the electronic form of any other documents that are required or permitted to be submitted, filed or otherwise given to the registrar or administrator under *Land Owner Transparency Act*;

***86 Section 168.1 is amended in paragraph (b) of the definition of "electronic* signature"**

(a) by striking out "and***" at the end of subparagraph (i.1),***

(b) by adding ", and***" at the end of subparagraph (ii), and***

(c) by adding the following subparagraph:

(iii) electronic disclosure reports, electronic transparency declarations and the electronic form of any other documents that are required or permitted to be submitted, filed or otherwise given to the registrar or administrator under the *Land Owner Transparency Act*;

87 Section 168.1 is amended in the definition of* "subscriber" *by adding the following paragraph:

(f) electronic disclosure reports, electronic transparency declarations or the electronic form of any other documents that are required or permitted to be submitted, filed or otherwise given to the registrar or administrator under the *Land Owner Transparency Act*;

88 ***Section 168.79 is amended by striking out "***For the purposes of this Act***" and substituting "***For the purposes of this Act, the *Land Owner Transparency Act*".***

89 ***Section 168.8 (b) (iii) is amended by striking out "***contemplated by this Part***" and substituting "***contemplated by this Part, the *Land Owner Transparency Act*".***

90 ***Section 168.81 (2) is amended by striking out "***the administrator under the *Property Transfer Tax Act*" ***and substituting "***the administrator under the *Land Owner Transparency Act* or the *Property Transfer Tax Act*".***

91 ***Section 168.82 is amended by striking out "***under this Act***" and substituting "***under this Act, the *Land Owner Transparency Act*".***

Land Title and Survey Authority Act

92 ***Section 1 of the Land Title and Survey Authority Act, S.B.C. 2004, c. 66, is amended in the definition of*** **"senior officer"**

(a) by striking out "and***" at the end of paragraph (b),***

(b) by adding ", and***" at the end of paragraph (c), and***

(c) by adding the following paragraph:

(d) the administrator under the *Land Owner Transparency Act*;

93 ***Section 4 (1) is amended***

(a) by striking out "and***" at the end of the paragraph (b.1),***

(b) by adding ", and***" at the end of the paragraph (c), and***

(c) by adding the following paragraph:

(d) to carry on necessary or advisable activities contemplated under the *Land Owner Transparency Act* related to the administration and enforcement of that Act and regulations under that Act, including, without limitation, managing, operating and maintaining information systems for the purposes of that Act and those regulations.

94 ***Section 5 (1) is amended***

(a) by striking out "and***" at the end of paragraph (b.1),***

(b) by adding ", and***" at the end of paragraph (c), and***

(c) by adding the following paragraph:

(d) transparency records, and all other documents filed with or received by the administrator under the *Land Owner Transparency Act*.

95 Section 19 (1) is amended by adding the following paragraphs:

(d.1) authorize the destruction of transparency records, and all other documents filed with or received by the administrator under the *Land Owner Transparency Act*;

(e.1) set fees payable under the *Land Owner Transparency Act* for

(i) filing transparency declarations and disclosure reports,

(ii) searching, inspecting or obtaining copies of or extracts from transparency records, reported information or publicly accessible information, and

(iii) other services provided by the administrator under that Act;

Discussion questions

Are the proposed consequential amendments appropriate?

Are any other consequential amendments needed to appropriately give effect to the proposed legislation?

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SCHEDULES 1 AND 2

SCHEDULES 1 AND 2

These schedules set out types of corporations and trusts that are exempted from reporting under the proposed legislation. Entities are excluded because they are unlikely to be used to obscure ownership of land in the province or they are already subject to disclosure and/or ownership oversight under other legislation. This includes government controlled corporations and publicly traded corporations which must generally disclose significant control persons under securities legislation. It also excludes regulated financial institutions from the requirement to report as a corporation (but not when they act as a trustee) and also excludes various types of trusts, such as charitable and testamentary trusts, from the reporting requirements under the Act.

SCHEDULE 1

(Note: see section 1, definition of "relevant corporation")

Exclusions under paragraph (a)
of definition of "relevant corporation"

1 For the purposes of paragraph (a) of the definition of "relevant corporation" in section 1 *[definitions]*, a person or entity that is any of the following is not a relevant corporation:

(a) a government reporting entity as defined in the *Budget Transparency and Accountability Act*;

(b) a government body as defined in the *Financial Administration Act*;

(c) a local public body as defined in the *Freedom of Information and Protection of Privacy Act*;

(d) a body referred to in Schedule 2 *[Public Bodies]* of the *Freedom of Information and Protection of Privacy Act*;

(e) a corporation incorporated by a municipality under section 185 *[ownership of corporations]* of the *Community Charter;*

(f) a corporation incorporated by a regional district under section 265 *[inspector approval required for incorporation or acquisition of corporations]* of the *Local Government Act;*

(g) a public company as defined in the *Business Corporations Act*;

(h) a corporation incorporated or continued by an enactment;

(i) a water utility as defined in the *Water Utility Act;*

(j) a designated airport authority as defined in the *Airport Transfer (Miscellaneous Matters) Act* (Canada);

(k) a port authority as defined in the *Canada Marine Act* (Canada);

(l) an independent school as defined in the *Independent School Act;*

(m) a strata corporation as defined in the *Strata Property Act*;

(n) a savings institution;

(o) an insurance company;

(p) a trust company;

(q) a pension fund society within the meaning of the *Pension Fund Societies Act*.

SCHEDULE 2

(Note: see section 1, definition of "relevant trust")

Exclusions under paragraph (d) of definition of "relevant trust"

1 For the purposes of paragraph (d) of the definition of "relevant trust" in section 1 *[definitions]*, the following are not relevant trusts:

(a) a charitable trust;

(b) a testamentary trust;

(c) an alter ego trust or joint spousal or common-law partner trust, as defined in the *Income Tax Act* (Canada);

(d) a trust the trustee of which is the Public Guardian and Trustee;

(e) a trust in respect of a pension plan registered under a pension enactment of the Province or under the pension legislation of another province or Canada;

(f) a trust in respect of a pooled registered pension plan within the meaning of the *Pooled Registered Pension Plans Act*;

(g) a trust in respect of which each beneficiary is, or is a citizen or member of, one or more of the following:

(i) a treaty first nation;

(ii) the Nisga'a Nation;

(iii) a band as defined in the *Indian Act* (Canada);

(iv) the Sechelt Indian Band as established under the *Sechelt Indian Band Self-Government Act* (Canada);

(v) the Westbank First Nation as defined in the agreement approved under the *Westbank First Nation Self-Government Act* (Canada);

(vi) a prescribed person or entity;

(h) property vested in a person licensed or appointed under the *Bankruptcy and Insolvency Act* (Canada);

(i) a mutual fund trust within the meaning of the *Income Tax Act* (Canada);

(j) a real estate investment trust as defined in the *Income Tax Act* (Canada);

(k) a SIFT trust as defined in the *Income Tax Act* (Canada).

Discussion questions

Are the proposed exclusions appropriate?

Are there any types of corporations listed that should not be exempted from the reporting requirements?

Are there types of corporations that should be added to Schedule 1?

Are the proposed exclusions from the definition of “relevant trust” set out in Schedule 2 appropriate?

Are there any types of trusts listed that should not be exempted from the reporting requirements?

Are there types of trusts that should be added to Schedule 2?

BRITISH COLUMBIA

368934

June 20, 2018

Dear Stakeholder:

The B.C. government has committed to establishing a registry of beneficial ownership in real estate, as part of its 30-Point Plan for Housing Affordability. The government is taking action to address tax evasion and identify tax fraud and money laundering in order to return fairness and transparency to the real estate market in British Columbia.

This white paper sets out the draft framework for the Land Owner Transparency Act for discussion.

The draft legislation proposes to collect information on beneficial ownership in a public registry administered by the Land Title and Survey Authority of British Columbia. Under the Act, corporations, trustees and partners (reporting bodies) that hold a registered interest in land will be required to report on beneficial ownership through disclosure reports.

The deadline for feedback is **August 19, 2018**. Please direct any comments as indicated in the white paper.

Sincerely,

Lori Wanamaker, FCPA, FCA
Deputy Minister

Ministry of Finance

Office of the Deputy Minister

Mailing Address:
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617 Government Street
Victoria BC

CRA's feedback to BC's Land Owner Transparency Act White Paper

Background

The B.C. government has committed to establishing a registry of beneficial ownership in real estate, as part of its 30-Point Plan for Housing Affordability. The government is taking action to address tax evasion and identify tax fraud and money laundering in order to return fairness and transparency to the real estate market in British Columbia.

This white paper sets out the draft framework for the Land Owner Transparency Act for discussion.

The draft legislation proposes to collect information on beneficial ownership in a public registry administered by the Land Title and Survey Authority of British Columbia. Under the Act, corporations, trustees and partners (reporting bodies) that hold a registered interest in land will be required to report on beneficial ownership through disclosure reports.

The Canada Revenue Agency appreciates the opportunity to provide feedback on the draft Land Owner Transparency Act white paper. We are pleased to see the advent of this legislation, the first of its kind in Canada. The information that will be collected and subsequently shared with the CRA will be beneficial in the administration of our various tax programs. The draft legislation and annotations have been reviewed by our stakeholder program areas and their feedback is consolidated and rolled up in this document which is outlined under the specific discussion questions.

Summary

The draft legislation in this White Paper sets out a framework for the *Land Owner Transparency Act* (Act). The purpose of the Act is to increase transparency of landownership in BC by eliminating the ability to hide ownership through vehicles like trusts and shell corporations. Under the Act, corporations, trustees and partners (reporting bodies) will be required to identify the individuals that have a beneficial interest in land, that have a significant interest in the landowning corporation or that have an interest in land through a partnership. This disclosure requirement will apply to all land in BC unless specifically excluded.

The framework under the Act creates new disclosure requirements for reporting bodies in three situations:

- on any application to register an interest in land in the name of a reporting body;
- any time there is a change of interest holders or beneficial owners (even when this does not result in a transfer of legal title to the land); and
- during an initial transition period all those holding an interest in land for a beneficial owner will be required to file a disclosure report.

The information to be collected varies depending on the type of entity that owns the land; however, in all cases, the intent of the legislation is to identify the individual(s) who fundamentally own and control the land. For corporations, information that must be disclosed includes:

- identification information about the corporation itself (including name, head office and business or incorporation number);
- identification information about each individual (including name, citizenship and place of residence) who directly or indirectly owns or controls 25% or more of the shares or otherwise falls under the definition of a "corporate interest holder";
- each corporate interest holder's date of birth, social insurance number or individual tax number, and the nature of the interest in the reporting corporation; and
- information about the person completing the report (including name, position name or title, and contact information).

Where the legal owner of the land is a trustee:

- identification information about the trustee, beneficial owner(s) and settlor(s);
- date of birth and social insurance number or individual tax number of beneficial owner(s) and settlor(s); and
- information about the person completing the report.

For partnerships:

- identification information about the partnership (including name, head office and business number);
- identification information about individuals that have an interest as a partner in the interest in the land or are a corporate interest holder in a corporation that is a partner;
- date of birth and social insurance number or individual tax number of these individuals; and
- information about the person completing the report.

The legislation recognizes that corporate or other structures used to own land can be very complicated and, in some cases, the reporting body may not be able to determine or confirm the identity of the individuals who ultimately own or control the corporation. In these cases, the reporting body is required to take steps to try and determine the identity of the individuals who control the corporation, outline the steps that were taken to identify the appropriate individuals, and provide the reasons the identity could not be confirmed.

The proposed legislation seeks to preserve and maintain the integrity of the land title system by clarifying that persons dealing with legal interests in land are not affected by transparency declarations and disclosure reports filed under the legislation and that these documents are not records filed under the *Land Title Act*.

The basic identification information disclosed under the Act will be publicly available. Transparency is a core element of this legislation and is a key part of the government's efforts to crack down on tax fraud and close loopholes. A publicly available database will help to foster accurate reporting by registered land owners. In addition, a publicly accessible data base of beneficial ownership may be important for tenants, contractors and others who deal with land owners. A public database of beneficial ownership of land could also help financial institutions, lawyers, notaries, real estate agents and others who have a statutory or professional duty to inquire into and confirm the beneficial ownership identity.

One of the key priorities of the legislation is to balance the need for increased transparency with the privacy concerns associated with a public database. The proposed Act includes a number of provisions to address these concerns including the following:

- restricting the information that is available to the public and allowing more sensitive information such as social insurance numbers and dates of birth to be available only to authorized entities such as law enforcement agencies and tax authorities;
- automatically omitting information relating to individuals under the age of 19 or those legally incapable of managing their financial affairs;
- creating the ability for vulnerable individuals (e.g. victims of domestic violence) to apply to have their personal information omitted from the publicly accessible information;
- requiring that the person filing the report contact corporate interest holders, beneficial owners and/or partnership interest holders in writing to advise them of the right to apply to omit information from the publicly accessible information; and
- creating a mandatory 30 day waiting period before making information in the disclosure report publicly available to provide an opportunity for vulnerable individuals to make an application to omit information.

Other key proposals in the draft legislation include provisions relating to compliance and enforcement. Examples include:

- requiring the registrar of land titles to refuse to accept an application to register an interest in land if a completed transparency declaration and, if applicable, a completed disclosure report is not provided;
- creating administrative penalties up to $50,000 for designated contraventions of the Act;
- creating criminal offences with penalties up to $100,000 for designated contraventions of the Act; and
- giving the administrator the power to conduct inspections in order to determine whether the Act and the regulations have been complied with.

Discussion questions

- Are there ways to make the legislation more effective or more efficient?
- Does the draft legislation strike an appropriate balance between transparency and privacy?
- Are there any other entities that might be used to hide ownership that are not addressed in the draft legislation?

s.13,s.16

- Are there any other comments on the draft legislation?

s.13,s.16

- Does the draft legislation strike an appropriate balance between effectiveness and the compliance requirements for land owners?

Part 1: Definition, Interpretation and Application

This Part sets out key definitions used in the proposed legislation, including “beneficial owner,” “corporate interest holder,” “interest in land,” “partnership interest holder” and “reporting body.” It also incorporates certain definitions from the *Land Title Act* and clarifies that documents submitted under this Act are not documents filed under the *Land Title Act*. The Part details the identification information required to be disclosed in relation to corporations, individuals and partnerships.

Discussion questions

- Are the definitions and interpretation provisions clear?

s.13,s.16

- Are any other interpretative provisions needed?

Part 2: Transparency Declarations and Disclosure Reports

This Part establishes the principal disclosure obligations imposed on transferees and land owners.

Division 1: Transparency Declarations

This Division requires all transferees of an interest in land to file with the Administrator of the Act a declaration indicating whether or not the interest in land is to be registered in the name of a corporation, trustee or partner of a partnership that is required to file a disclosure report. The disclosure report must be certified and must usually be submitted electronically in accordance with the electronic filing procedures set out in the *Land Title Act*, along with the required filing fee. If the transparency declaration is not submitted or signed, the Registrar of Land Titles must refuse to accept the application to register the interest in land.

Division 2: Filing of Disclosure Reports

Division 2 requires relevant corporations, trustees and partners ("reporting bodies") to file completed disclosure reports at the time of an application to register an interest of land. A corporation that is registering an interest in land as a trustee or partner generally must file under the provisions requiring disclosure by trustees or partners. If the disclosure report is not submitted or signed, the Registrar of Land Titles must refuse to accept the application to register the interest in land.

This Division also requires the filing of disclosure reports where there is no legal transfer of an interest in land in two circumstances:

1. Existing owners of land that are relevant corporations, trustees and partners will be required to file a disclosure report by no later than a date to be prescribed. The purpose of this requirement is to have a complete picture of beneficial ownership of land in British Columbia available in the land owner transparency registry at that date.
2. Reporting bodies will also be obligated to file an update disclosure report within two months of becoming aware of a change in beneficial ownership.

Required fees must be paid for the filing of all disclosure reports.

Division 3: Reasonable Efforts Required

This Division requires reporting bodies to make reasonable efforts to obtain and confirm the accuracy of identification information and other key information about interest holders and, in the case of a trustee, information about settlors of the trust. Reporting bodies must make reasonable efforts to notify interest holders about the right of an individual to apply to request that their identification information be omitted or obscured from the publicly accessible information under Part 3. The reporting bodies must make reasonable efforts to provide each interest holder with an extract of the completed disclosure report showing the information that will be disclosed about them.

Division 4: Content of Disclosure Report

This Division sets out the content requirements for the disclosure reports, including the reporting body's identification information, the identification information about interest holders (which will be publicly accessible under Part 3) and other confidential information (which will only be available to the government and tax, law enforcement and regulatory authorities). Reporting bodies that are unable to obtain or confirm the identity of interest holders must summarize the efforts made to do so.

Division 5: Certification and Electronic Signatures

Division 5 requires transparency declarations and disclosure records to be certified to be complete and correct by the transferee or reporting body or someone with personal knowledge of the matters and with authority. The Division adopts the subscriber process used for filing of land title documents and property transfer tax returns.

Discussion questions

- Do the disclosure reports capture the appropriate information about beneficial interests in land?

s.13,s.16

- Is there other information that should be disclosed?
- Are there changes that would make this Part more effective?

s.13,s.16

- Are there changes to this Part that would increase efficiency for land owners?

Part 3: Use of Information Provided in Disclosure Reports

This Part sets out the conditions and manner of conducting searches of the publicly accessible information (section 35) and searches for tax, law enforcement and regulatory purposes (sections 29, 30 and 31). Any person may search the publicly accessible information in the land transparency registry generally in the same way they may now search information contained in the land title registry. Searches may be made by land parcel identifier or by name. They must be made using the form established by the Administrator and be accompanied by the required fee.

The publicly accessible information is the identification information in respect of reporting bodies (relevant corporations, trustees and partners) that are currently registered owners of interests in land and identification information in respect of individuals who have a legal or beneficial interest in relation to those bodies or interests in land. Identification information about individuals includes name, city and province or country of residence and citizenship information (as set out in section 8).

Tax, law enforcement and regulatory agencies will be able to search all the information filed including additional information about interest holders such as date of birth, social insurance number, the nature of their beneficial interest and information about the person certifying the report.

This Part also provides for the mandatory omission of information about minors and incapable individuals from the publicly accessible information. It provides a procedure by which an individual may apply to the administrator to omit or obscure information if the person believes that making the information available could reasonably be expected to threaten the safety or mental or physical health of the individual or a member of the individual's household. A person may also request a reporting body to file a new disclosure report if the person believes the current report is incomplete or inaccurate. If the reporting body fails to do so, the person may apply to the Administrator to correct or change the information.

Discussion questions

- Does the draft legislation strike an appropriate balance between transparency and privacy?

- Are there concerns about disclosing any category of information, either as part of the publicly accessible information or as part of the information available only to tax, law enforcement and regulatory agencies?

s.13,s.16

- Do the provisions in the Part provide adequate tools to vulnerable people to have information obscured or omitted?

s.13,s.16

- Are there other factors the government should be considering respecting access to information provided to the public and/or government and agencies?

Part 4: Administration and Enforcement

This Part provides for the appointment of the Administrator and Deputy Administrators who are responsible for the administration of the legislation. Broad inspection powers are provided to the Administrator to investigate and make determinations about whether the Act is being complied with, including the power to enter a place where a reporting body carries on business or where records relating to a reporting body are kept. It provides the Administrator with the power to require a person who may have relevant information to answer questions or to otherwise provide that information.

The Administrator is also provided with the authority to impose administrative penalties on a person who has contravened specified requirements of the legislation, such as failing to file an updated disclosure report (section 15), failing to make reasonable efforts to obtain and confirm beneficial ownership information (section 17) or providing false or misleading information (section 69). Maximum administrative penalties that can be imposed by the Administrator are $50,000 for a contravention by a corporation and $25,000 for an individual. The Part provides a procedure for a person to dispute an administrative penalty.

Discussion questions

- Does the Act provide for the appropriate investigation powers for the Administrator?

s.13,s.16

- Are the maximum administrative penalties appropriate for contraventions of the Act?

s.13,s.16

Part 5: General

This Part provides general prohibitions against misuse of information and against providing false or misleading information. It provides immunity protection for individuals responsible for administering the statute. The Part also provides for the form and manner of submitting documents, paying fees and service of documents.

Discussion questions

- Are there any concerns about this Part of the legislation?

Part 6: Offences

This Part sets out the offences for which a person may be prosecuted. Maximum fines that can be imposed by the courts in respect of a prosecution for an offence are $100,000 for a contravention by a corporation and $50,000 for an individual.

Discussion questions

- Are the maximum fines appropriate for contraventions of the Act?

s.13,s.16

s.13,s.16

Part 7: Regulations

This Part provides broad authority to the government to make regulations contemplated under the new legislation. This includes very broad exemption powers in sections 81 and 83 to exclude types of corporations, trusts/trustees and partnerships from the disclosure requirements under the legislation and to make other exclusions from the legislation. Given the diversity of land ownership and business arrangements used in the province, further regulatory exemptions could be necessary. For example, certain types of ownership (time shares and fractional resort property ownership interests) or business arrangements (e.g., broadly held limited liability partnership interests) may be considered for exclusion from the some or all disclosure requirements under the legislation.

Discussion questions

- Are the proposed regulation-making powers appropriate for the legislation?

s.13,s.16

Part 8: Consequential Amendments

This Part provides for several consequential amendments to the *Land Title Act* and the *Land Title and Survey Authority Act*. For example, the proposed amendments clarify that legal title is not affected by disclosures under this proposed legislation and provide the necessary authority for the Land Title and Survey Authority to administer the new legislation.

Discussion questions

- Are the proposed consequential amendments appropriate?
- Are any other consequential amendments needed to appropriately give effect to the proposed legislation?

Schedules 1 and 2

These schedules set out types of corporations and trusts that are exempted from reporting under the proposed legislation. Entities are excluded because they are unlikely to be used to obscure ownership of land in the province or they are already subject to disclosure and/or ownership oversight under other legislation. This includes government controlled corporations and publicly traded corporations which must generally disclose significant control persons under securities legislation. It also excludes regulated financial institutions from the requirement to report as a corporation (but not when they act as a trustee) and also excludes various types of trusts, such as charitable and testamentary trusts, from the reporting requirements under the Act.

Discussion questions

- Are the proposed exclusions appropriate?

s.13,s.16

- Are there any types of corporations listed that should not be exempted from the reporting requirements?
- Are there types of corporations that should be added to Schedule 1?
- Are the proposed exclusions from the definition of “relevant trust” set out in Schedule 2 appropriate?

- Are there any types of trusts listed that should not be exempted from the reporting requirements?

s.13,s.16

- Are there types of trusts that should be added to Schedule 2?

From:	Ron Usher
To:	FCSP FIN:EX
Subject:	369971-4 "LOTA" Submission, BC Notaries and The Society of Notaries Public of BC
Date:	Thursday, September 20, 2018 2:27:49 PM
Attachments:	LOTA Response SNPBC and BCNA.pdf

Here is the submission of the BC Notaries Association and the Society of Notaries Public of B.C.

Ron Usher

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September 19, 2018

Carole James
Minister of Finance and Deputy Premier
Financial & Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria, BC V8W 9V1

Submitted via email: fcsp@gov.bc.ca

Re: Joint Submission of the BC Notaries Association & The Society of Notaries Public of B.C. to the Land Ownership Transparency Act ("LOTA") White Paper of June 2018

The Society of Notaries Public of B.C. is the statutory regulator for the practice of Notaries Public ("Notaries") in B.C. Members of the Society are legal practitioners that, in the last year, have represented clients in over 110,000 real estate related transactions. The professional work done by Notaries is essentially the same as that provided by lawyer members of the Law Society. It is normal in B.C. for both lawyers and Notaries to represent the parties to a real estate transaction.

The BC Notaries Association is the representative organization for Notaries Public. Members of the Association are practising and retired notaries and notary students. The Association promotes and supports British Columbia notaries public in all communities of the Province and advocates on behalf of its members to industry, government, agencies, and boards on matters which affect and interest members.

We have jointly reviewed the White Paper and available responses to it, including the submissions of STEP (The Society of Estate and Trust Practitioners), UBCM (Union of BC Municipalities), and the draft response of the Real Estate Section of the Canadian Bar Association, BC Branch (CBABC)

We are supportive of the appropriate and prompt collection of all owing Provincial and Federal taxes supported by the collection and sharing of high quality information provided at the right time by the right parties. Notaries mandated to comply with and are fully committed to "AML" (Anti-money laundering) initiatives by way of the highest ethical standards and compliance with the Federal FINTRAC legislation.

LOTA will also possibly provide, for the first time, accurate information on the citizenship and residency of land owners in B.C. This will allow for the consideration and development of effective public policy regarding land ownership.

Our submissions are listed below for your consideration. For all of them, we would be pleased to meet with you and your officials to expand and discuss this important initiative. The overall theme of our comments is the inherent complexity of implementing innovative policy goals with the day to day details of the purchase and sale of real estate in B.C.

1. **Cost:** Our initial estimation is that the obligations created by LOTA will result in significant additional costs for all BC land transactions which will be borne by buyers and sellers in all income brackets. New obligations, documents, searches, filings, explanations will result in higher disbursements and fees as a result of the time and care needed to ensure client understanding and compliance.

2. **Complexity:** The proposed regime is complex, with many ambiguous details. For example, the term "reasonable" is used 33 times in LOTA. Given the serious penalties, it is not reasonable for consumer and their advisors to have to anticipate what a judge or administrator may deem, in hindsight, what "reasonable" means. We would highly recommend taking the time to define what is "reasonable" as precisely as possible.

3. **Regulations:** LOTA uses the term "prescribed" in 30 places. This much reliance on the future drafting of regulations is perhaps an indication that more work is needed on the translation of policy objectives into statutory obligations.

4. **Record Keeping:** It will be very important to have precise clarity on obligations to keep the records that support the creation, execution, and filing of "transparency declarations" and "disclosure reports."

5. **Education:** We strongly recommend that officially sanctioned government educational materials be developed for distribution to real estate buyers and sellers. The sale and purchase process starts long before the consumer is at the Notary's office when transaactions must be closed fairly quickly. It will be critical to alert consumers to the obligations of LOTA and the information that will be needed before there is a binding contract of purchase and sale. These "official" materials should be considered to be "reasonable" statements of what is required by LOTA

6. **Other options:** For example, for many decades corporate shareholder information was available at the registered offices of BC companies. This "transparency" can be restored with very simple amendments to the Business Corporations Act.

7. **Tax Collection:** . Taxes resulting from the sale of property are determined at the time of sale. Collecting data from purchasers about sellers is collecting low quality information from the wrong people at the wrong time. In most instances, buyers have never even met the seller. Make sure there are clear requirements that take into account the actual way real estate transactions work, taking into account reasonable expectations of privacy. If the policy objective is the improvement of income tax law compliance, move the focus of legislative requirements to the seller. We recommend requiring sellers to provide a "Notice of Disposition" at the time of sale. The personal information on that notice should not be disclosed to the buyer

8. **Identification numbers:** Consider requiring all purchasers of land to have either a Social Insurance Number, an Individual Tax Number "ITN" or a business number issued by the CRA. This requirement would allow for much easier tracking by Federal and Provincial agencies.

9. **Alignment with other laws:** It will be particularly important to align LOTA requirements with the Property Purchase Tax ("PTT") returns. The goal should be to eliminate duplication and

make the PTT form just about the property collection of PTT. It is important to align LOTA with Federal legislation as well as other BC Statutes.

10. **The Torrens System:** Notaries have been involved with our Torrens system of land registration since the very first transaction in 1861. Our version of Torrens does allow for the registration of land to be in the name of a Trustee. The trust document is filed and is publically available. This has worked well. A possible simple step would be to require that properties held in trust to be registered as currently provided for in the Land Title Act. It is of the utmost importance that the integrity and essential characteristics of our land title system be preserved.

11. **Consumer Impact:** We urge the government to work closely with "on the ground" practitioners so that procedures align with the practical reality of many transactions, particularly where property transfers are not purchases or sales. For example, "transmissions" of property ownership from deceased owners to their executors are common transactions in the administration of estates. These are not "trust" transactions that raise AML and tax evasion concerns, and compliance with LOTA could place anundue bueden on such executors who may not be real estate profesionsals.

12. **Technical Clarity:** The STEP submission has many excellent technical points which we agree need careful consideration. The "law of unintended consequences" always applies.

13. **"True Copy":** – The LOTA definition of true copy uses the term "exact." As this is essentially impossible, we would recommend that the definition use language like "the same in every material particular."

14. **"…value of the equity of that corporaton…" :**: This key phrase in s.3 will need to be more clearly defined.

15. **Incapacity: (s. 19):** This section suggests the need for impossible inquiries, as it would not be possible to canvas every potenitial "…qualified professional…" or court registry. The section does not consider the role of lawful appointments made in Powers of Attorney or s.7 Representation Agreements.

16. **Making it work:** This is an ambitious, complex scheme that will require very highly skilled staffing in addition to state of the art computer resources. If this is to proceed, it is critical that it be appropriately funded. B.C. had a requirement for "Citizenship declarations" from 1979 to 1998. They were collected, unexamined, in a warehouse until sent for destruction.

17. **Enforcement:** The agencies responsible for tax collection and policing need significantly increased resources to pursue investigations and to simply even respond to normal inquiries.

18. **Stigmatization:** We are concerned about the stigmatization of completely normal business structures and family transactions. Most companies and trusts are lawfully created and are used in compliance with provincial and federal legislation. For example, trusts have been used by BC Crown corporations for the purchase of land for the development of low-income housing.

We would be more than pleased to meet with you and your staff at your convenience to review these comments and to respond to any questions or concerns raised by other stakeholders. Together with real estate industry professionals, Society and Association members will be essential participants in the effective implementation of LOTA. You can be assured that we are committed to ongoing liaison with government and, when needed, the appropriate education of BC Notaries.

Your inquiries can be directed to Mr. John Mayr, Executive Director of The Society of Notaries Public of B.C. and Ms. Jacqui Mendes, C.E.O. of the BC Notaries Association.

Yours sincerely

The Society of Notaries Public of British Columbia

BC Notaries Association.

From:	Wallace, Bruce
To:	Dillon, Brian FIN:EX; Norman, Tiffany FIN:EX; Primeau, Joseph FIN:EX
Cc:	Wright, Ian (FIN); Trotman, Tamara (FIN); Beaupré, Maxime (FIN); Richard, Marc (FINTRAC/CANAFE); Nawrotek, Anna (FINTRAC/CANAFE); Fazzari, Katie (FINTRAC/CANAFE); Merrick Moore, Karyne (FINTRAC/CANAFE); Sirard, Stephane (FINTRAC/CANAFE)
Subject:	RE: BC Land Owner Transparency Act White Paper
Date:	September 21, 2018 1:30:29 PM
Attachments:	CORPORATE-#679050-v1-FINTRAC_Overview_-_For_B_C__Ministry_of_Finance_-_p....pdf

Now with attachment!

From: Wallace, Bruce
Sent: September-21-18 4:11 PM
To: 'Brian.Dillon@gov.bc.ca'; 'Tiffany.Norman@gov.bc.ca'; 'Joseph.Primeau@gov.bc.ca'
Cc: 'Wright, Ian (FIN)'; 'Trotman, Tamara (FIN)'; 'Beaupré, Maxime (FIN)'; Richard, Marc (FINTRAC/CANAFE); Nawrotek, Anna (FINTRAC/CANAFE); Fazzari, Katie (FINTRAC/CANAFE); Merrick Moore, Karyne (FINTRAC/CANAFE); Sirard, Stephane (FINTRAC/CANAFE)
Subject: RE: BC Land Owner Transparency Act White Paper

Dear Brian, Tiffany and Joseph:

I am following up on the call we had a few weeks back. Apologies for the delay.

The Financial Transactions and Reports Analysis Centre of Canada ("FINTRAC" or the "Centre") has been apprised of a Government of British Columbia (B.C.), Ministry of Finance led, White Paper which explores the development of a *Land Owner Transparency Act*. FINTRAC wishes to provide the following comments on the White Paper, as the proposals contained therein may have a direct impact on the Centre's operations. Among other proposals, the White Paper explains that the B.C. Government plans to develop a "registry that will help give tax auditors, law enforcement agencies and federal and provincial regulators the information they need to conduct their investigations. It will also help those government agencies to crack down on tax frauds and those engaged in money laundering."

More specifically, we note that the White paper sets out the proposed conditions and manner for conducting searches in this registry for tax, law enforcement and regulatory purposes, as per the proposed sections 29, 30 and 31.
While FINTRAC believes that having access to the proposed registry could help it in fulfilling its operational mandates, the manner in which FINTRAC is referred to in the White Paper risks impeding FINTRAC's use of the registry information. Specifically, section 26 in the White Paper includes FINTRAC as a "Financial Sector Regulator" – however, it is important to note that FINTRAC has two distinct operational mandates, "Compliance" and "Intelligence" (see section 40 of the PC(ML)TFA).
On the one hand, FINTRAC ensures compliance with the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PC(ML)TFA) and its regulations. In doing so, FINTRAC ensure that those persons and entities to whom the Act and regulations apply (such as banks, credit unions/caisse populaires, and securities dealers, as well as designated non-financial sectors such as real estate developers/brokers/sales representatives, casinos and accountants, among others) comply with their legislated obligations, including obligations related to: record keeping, verifying customer identity, reporting of suspicious transactions and the registration of money service businesses. However, FINTRAC's Compliance sector would only garner a partial benefit from access to the information that would be available from the proposed registry described in the White Paper, as FINTRAC's Compliance sector ensures administrative compliance with the PC(ML)TFA and its

regulations and does not conduct analysis and assessment related to money laundering. That analysis and assessment is undertaken by FINTRAC's other separate operational "side", the Intelligence sector.

Under FINTRAC's second operational mandate, the Centre receives, collects, analyses, assesses and discloses information in order to assist in the detection, prevention and deterrence of money laundering and terrorist activity financing. When FINTRAC meets specific legislated thresholds for disclosure, it must disclose financial intelligence (referred to as "designated information" – a term defined in the Act) to police. When other, additional, legal thresholds are met, FINTRAC must also disclose the financial intelligence it has produced to other departments and agencies which are named in the Act. **These functions are distinct from the Centre's compliance-related functions.**

FINTRAC's analysis is greatly supported by access to external data sources, such as the registry that you are proposing to create, and FINTRAC is authorized to collect information that is relevant to money laundering that is stored in a database maintained by a government or an international organization, for purposes related to law enforcement or national security (see subparagraph 54(1)(b)(ii)). As such, the information that would be made available to FINTRAC in the LOTA's registry would significantly support the Centre's intelligence functions. Unfortunately, as it is written, FINTRAC's intelligence functions are not adequately reflected in sections 29, 30 and 31 of the White Paper – which, in our view, refers only to FINTRAC's compliance functions. Consequently, the eventual LOTA may not allow FINTRAC to access the information from the registry in a manner that would best support our mutual goal of helping to "crack down on money laundering", as described in your document.
For added reassurance, please also note that the protection of personal information from unauthorized disclosure is paramount in FINTRAC's operations and that it is an important part of FINTRAC's mandate (see paragraph 40(c)). The PCMLTFA includes serious offences for breaches of this responsibility (see section 74) and, further, requires a bi-annual audit from Canada's Privacy Commissioner (see subsection 72(2)).

I am also attaching a presentation to this email that further outlines FINTRAC's functions. FINTRAC welcomes the opportunity to work toward making amendments which would enhance the Centre's linkages to the White Paper's objective, so that FINTRAC's intelligence functions can be reflected. To this aim, I invite you to contact me directly by email at bruce.wallace@fintrac-canafe.gc.ca or by phone at 613- 992-8914.

Bruce Wallace
Manager | Gestionnaire
Policy and Coordination| Politique et coordination
bruce.wallace@fintrac-canafe.gc.ca
Telephone | Téléphone 613-992-8914

Financial Transactions and Reports Analysis Centre of Canada | Centre d'analyse des opérations et déclarations financières du Canada
234 Laurier Avenue West, Ottawa, ON K1P 1H7 | 234, avenue Laurier Ouest, Ottawa ON K1P 1H7
Facsimile | Télécopieur 613-943-7931
Government of Canada | Gouvernement du Canada

FINTRAC Overview

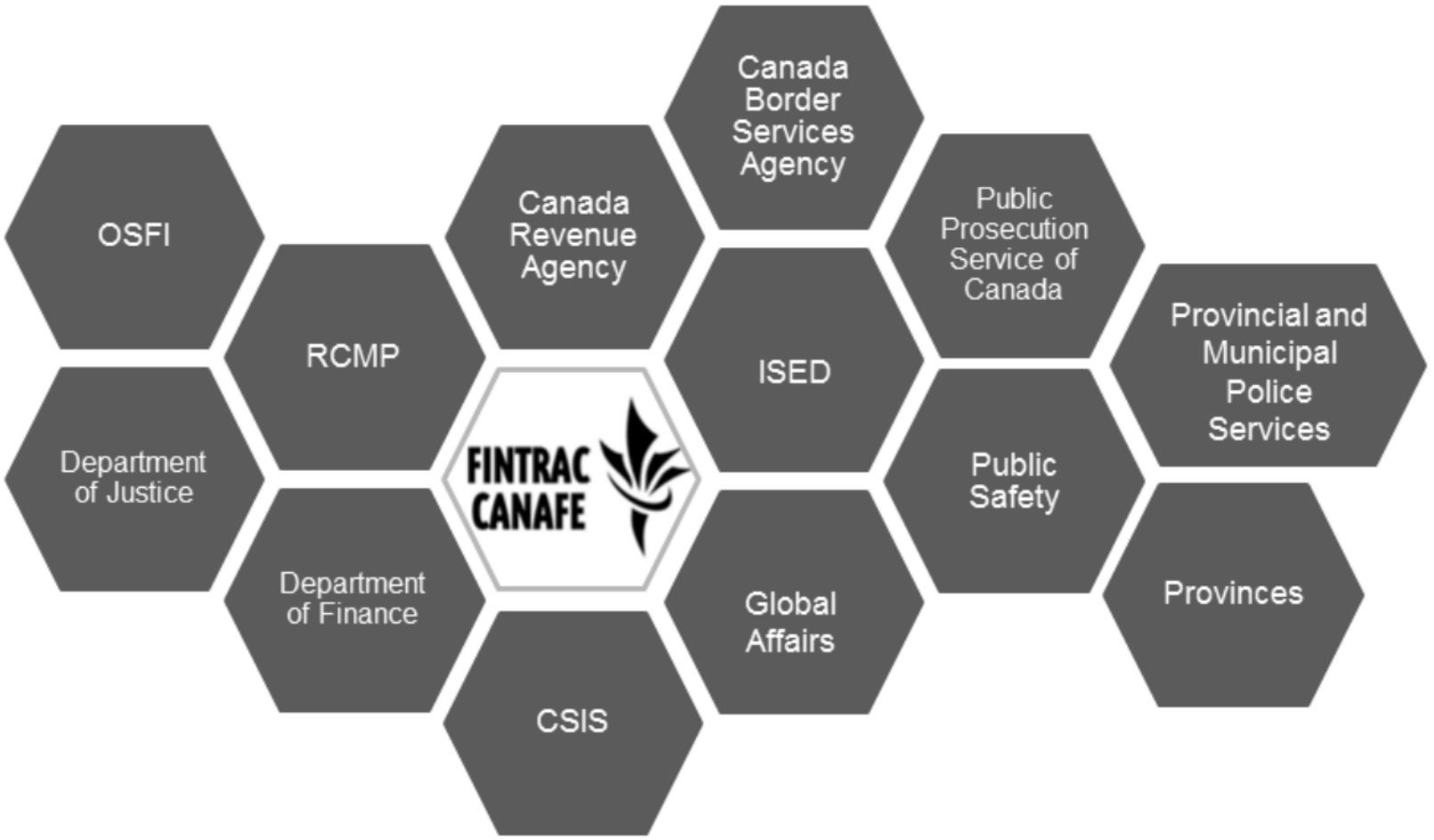
Presentation for the B.C. Ministry of Finance

Bruce Wallace
Manager, Strategic Policy and Reviews
Tel. 613-992-8914
Email: Bruce.Wallace@fintrac-canafe.gc.ca

Outline

1. Overview of the Canadian Regime
2. About FINTRAC and its Mandate
3. FINTRAC's Role
4. FINTRAC's Operations
5. Other Functions and Future Work

Canada's Anti-Money Laundering and Counter Terrorism Financing (AML/CFT) Regime



What is FINTRAC

- Canada's Financial Intelligence Unit & AML/CFT Supervisor
- Independent Agency
- Reports to Parliament through the Minister of Finance
- Headquarters: Ottawa
- Regional Offices: Vancouver, Toronto & Montreal
- AML/CFT legislation: The *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* - PCMLTFA

What We Do at a Glance

Canada's FIU

- Receive financial reports and other information
- More than 25 million reports received in 2017-18
- Conduct analysis: operational and strategic
- Disseminate intelligence (both operational and strategic) related to money laundering and terrorist financing

Ensuring compliance with AML/CFT Requirements

- Ensure compliance from Financial Institutions and Designated Non-Financial Businesses and Professions with requirements set out in the PCMLTFA

Also responsible for:

- Enhancing public awareness about AML/CFT
- Ensuring the protection of information and privacy

FINTRAC's Partners and Stakeholders

Reporting Entity Sectors

- Financial entities
- Accountants
- Securities dealers
- BC Notaries
- Casinos
- Dealers in precious metals and stones
- Life insurance
- Money services businesses
- Real estate
- s.16

AML/ATF Regime Partners

- Department of Finance
- Public Safety Canada
- Privy Council Office
- Royal Canadian Mounted Police
- Canadian Security Intelligence Service
- Canada Revenue Agency
- Communications Security Establishment
- Canada Border Services Agency
- Department of Justice
- Office of the Superintendent of Financial Institutions
- Municipal and provincial police forces
- Provincial Securities Regulators
- The Department of National Defence and Canadian Armed Forces

International Cooperation

- Foreign financial intelligence units
- 105 Tactical & 3 Supervisory MOU partners
- Egmont Group of Financial Intelligence Units
- Financial Action Task Force (FATF) and FATF-Style Regional Bodies (FSRBs)
- The Wolfsberg Group of International Financial Institutions

FINTRAC's Supervisory Function

- Ensures that Reporting Entities meet the requirements set out in the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA).
- In 2016-17, FINTRAC completed more than 500 compliance examinations and 94 outreach activities.

Administrative Monetary Penalties (AMPs)

- FINTRAC may issue a notice of violation when it has reasonable grounds to believe that a violation has been committed.
- Civil mechanism as opposed to criminal or penal.
- Number of challenges to the AMP Program.
- New AMP policy and other revisions currently being developed.

Report Types

In 2017-18, FINTRAC received 25,319,624 financial transaction reports

Report Type	Number Received
Suspicious Transaction Reports (STRs)	179,172
Electronic Funds Transfer Reports (EFTRs)	14,667,328
Large Cash Transactions Reports (LCTRs)	10,263,308
Cross-Border Currency/Seizure Reports (CBCRs)	66,281
Casino Disbursement Reports (CDRs)	199,817

Operational Intelligence

- In 2017-18, FINTRAC made 2,466 disclosures of actionable intelligence
- FINTRAC utilizes a thorough analytical process that makes use of information from multiple sources and reports
- When reasonable grounds to suspect that information would be relevant to the investigation or prosecution of ML/TF FINTRAC discloses information to partners
- Financial intelligence is disseminated to appropriate law enforcement and national securities agencies set out in the PCMLTFA

Other FINTRAC Functions

- Strategic Intelligence
  - Conducts research to support policy development
  - Provides sector-specific trends and typologies reports
  - Provides operational statistics, operational analyses.
- Innovation and FinTech Strategic Intelligence
  - Conducts on-going environmental scanning, research and analysis
  - Identifies AML/CFT risks and opportunities associated with FinTech
- Strategic Policy-International and Domestic
  - Develops and coordinates policy with our Department of Finance (FATF, FSRBs, bilateral, technical assistance and training)

Looking at the Future

- Improving Canada's AML/CFT regime
  - Implementing recent changes to the PCMLTFA and its regulations (Foreign Money Services Businesses)
  - Review of Canada's AML/CFT regime (including consultations and Parliamentary Review)
- Public Private Partnerships
  - Looking at ways to improve our informal partnerships
- Analytics Modernization
  - Finalize the implementation of our new technology solution
- Continuing FinTech Work
  - Virtual currencies, on-line gaming and gambling, alternative finance and lending, payment and remittances

Thank you

http://www.fintrac.gc.ca

Miranda, Carrie FIN:EX

From: Norman, Tiffany FIN:EX
Sent: September 27, 2018 11:10 AM
To: Dawkins, Christina FIN:EX
Cc: Dillon, Brian FIN:EX
Subject: RE: BCLOTA: Queries regarding information sharing

Hi Chris,

I just realized that after we spoke about this last week, I never sent a response to Robert about the questions regarding CRA sharing information. Do you think the following would be an appropriate response?

DRAFT

Hi Robert,

s.13

Thanks,

Tiffany Norman
Senior Policy Advisor
Financial and Corporate Sector Policy Branch
Ministry of Finance
T: 778-698-5271

From: Dawkins, Christina FIN:EX
Sent: Friday, September 21, 2018 3:26 PM
To: Norman, Tiffany FIN:EX
Cc: Dillon, Brian FIN:EX
Subject: RE: BCLOTA: Queries regarding information sharing

Hi Tiffany:

s.13

Chris

From: Norman, Tiffany FIN:EX
Sent: Friday, September 21, 2018 3:12 PM
To: Dawkins, Christina FIN:EX
Cc: Dillon, Brian FIN:EX
Subject: FW: BCLOTA: Queries regarding information sharing

Hi Chris,

s.13

Thanks,

Tiffany Norman
Senior Policy Advisor
Financial and Corporate Sector Policy Branch
Ministry of Finance
T: 778-698-5271

From: Van Iderstine, Robert [mailto:Robert.VanIderstine@cra-arc.gc.ca]
Sent: Tuesday, September 11, 2018 1:52 PM
To: Norman, Tiffany FIN:EX
Cc: Blais, Louise; Stang, Aaron; Fulton, Elaine
Subject: FW: BCLOTA: Queries regarding information sharing

Hi Tiffany.

As discussed, we received this inquiry from our Charities Directorate in regards the the draft Land Owner Transparency Act s.13,s.16

s.13,s.16

Would you or your colleagues at BC Ministry of Finance be able to provide any insight to the questions below?

Please let me know if you require any further information, but as my knowledge in this area is quite limited, please feel free to contact Louise Blais directly if you would like any further clarification on the questions posed.

Thanks in advance for your assistance.

Robert

Robert Van Iderstine

Account Executive, Client Relations, Pacific Region
Canada Revenue Agency / Government of Canada
Robert.VanIderstine@cra-arc.gc.ca / Tel: 604-666-8504 / Cell: 778-239-5647

Chargé de comptes, Région Pacifique
Agence du revenu du Canada / Gouvernement du Canada
Robert.VanIderstine@cra-arc.gc.ca / Tél. : 604-666-8504 / Tél. cell : 778-239-5647

From: Blais, Louise
Sent: September-05-18 1:25 PM
To: Van Iderstine, Robert <Robert.VanIderstine@cra-arc.gc.ca>
Subject: BCLOTA: Queries regarding information sharing

Robert,

As discussed, s.16
s.16

While we welcome the new source of information LOTA will provide, we pose the following questions regarding its access and disclosure provisions:

s.13,s.16

Louise Blais
Technical Policy Advisor | Conseiller technique aux politiques
Policy, Planning and Legislation Division | Division de la politique, planification et législation
Charities Directorate | Direction des organismes de bienfaisance
Legislative Policy and Regulatory Affairs Branch | Direction générale de la politique législative et des affaires réglementaires
Canada Revenue Agency | Agence du revenu du Canada
613-670-9721
Louise.Blais@cra-arc.gc.ca

From:	Marissa Chan-Kent
To:	Norman, Tiffany FIN:EX
Cc:	Jeff Fisher
Subject:	Re: LOTA submission
Date:	September 28, 2018 2:05:00 PM
Attachments:	image001.jpg image002.jpg image003.jpg image004.jpg image005.jpg image006.jpg UDI Letter - September 19, 2018 - LOTA White Paper Response.pdf

Hi Tiffany,

Thanks for the quick reply. We are available on Wednesday at 11:30 am. I'll send you a meeting invitation to hold the time. Is the number in your signature the best one to reach you at? As well, please see attached for our LOTA submission for discussion.

Looking forward to chatting soon.

Best,

Marissa Chan-Kent | Policy and Research Manager
Urban Development Institute
mchan-kent@udi.org Direct: 604.661.3033
udi.bc.ca

From: "Norman, Tiffany FIN:EX" <Tiffany.Norman@gov.bc.ca>
Date: Friday, September 28, 2018 at 1:57 PM
To: Marissa Chan-Kent <mchan-kent@udi.org>, Suzanne Anderson <Suzanne.Anderson@gov.bc.ca>
Subject: RE: LOTA submission

Hi Marissa,

I would be happy to speak with you about UDI's submission. Tuesday morning or any time on Wednesday would work best for me.

Thanks,

Tiffany Norman
Senior Policy Advisor
Financial and Corporate Sector Policy Branch
Ministry of Finance
T: 778-698-5271

From: Marissa Chan-Kent [mailto:mchan-kent@udi.org]
Sent: Friday, September 28, 2018 12:53 PM
To: Anderson, Suzanne A FIN:EX
Cc: Norman, Tiffany FIN:EX
Subject: Re: LOTA submission

Hi Suzanne – many thanks for facilitating this connection.

Good afternoon Tiffany – my colleague Jeff Fisher, VP and Senior Policy Advisor and I would like to connect with you regarding UDI's submission on the LOTA White Paper. Is there a preferable time that you are available to discuss?

Many thanks,

Marissa Chan-Kent | Policy and Research Manager
Urban Development Institute
mchan-kent@udi.org Direct: 604.661.3033
udi.bc.ca

From: Suzanne Anderson <Suzanne.Anderson@gov.bc.ca>
Date: Thursday, September 27, 2018 at 4:36 PM
To: Marissa Chan-Kent <mchan-kent@udi.org>
Cc: "Norman, Tiffany FIN:EX" <Tiffany.Norman@gov.bc.ca>
Subject: LOTA submission

Hi Marissa,

As discussed, I think you may want to contact Tiffany in respect of UDI's LOTA submission.

Suzanne

Suzanne Anderson | Senior Policy Advisor| Financial and Corporate Sector Policy Branch | Ministry of Finance | (778) 698-3895

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September 19, 2018

The Honourable Carole James
Minister of Finance and Deputy Premier
PO Box 9418 Stn Prov Govt
Victoria, BC V8W 9V1

Re: Proposed Land Owner Transparency Act

Dear Minister James,

On behalf of the over 850 members of the Urban Development Institute (UDI), we respectfully submit our comments regarding the proposed *Land Owner Transparency Act* (*LOTA*) *White Paper*. UDI recognizes there is a need to build public confidence in the real estate industry to ensure that everyone pays their fair share of taxes and that any potentially fraudulent activity is eliminated. We have endorsed the Province's efforts to establish a multi-agency task force to address tax fraud and money laundering in the BC real estate marketplace, and want to work with all levels of Government in these efforts. UDI has also supported the Ministry on the development of the Presale Assignment Registry.

Even though the proposed measures will add substantial administrative costs, fees and delays to real estate transactions and development projects, UDI is supportive of *LOTA* in principle. However, UDI is significantly concerned at the prospect of unfettered public access to a beneficial ownership registry (Registry) that includes personal information of parties who are not beneficial owners (as that term is legally recognized) of real property, or who have no ability to control or even influence decisions that could result in their identification in a public registry. We take no issue with the Registry information being available to the federal and provincial governments and their respective relevant authorities and agencies, including law enforcement, but we see no justifiable reason to make all information collected under *LOTA* available to the public at large.

We also note that there are often *bona fide* commercial purposes for purchasers – whether public bodies or private entities – not to have commercially sensitive information to be publicly known for both proprietary reasons unique to a particular transaction and for reasons to curb speculation. If reducing land speculation is a goal of the Province then making this information immediately and widely known will be counter-productive. At the very least, there should be an allowance for delayed reporting to protect commercially sensitive transactions.

We were pleased that the Ministry publicly released the draft legislation for comment. UDI would encourage this practice for other legislation and regulations in the future. As a general principle, the more notice our industry has, then the more we are able to comply with them. Further, interpretive guidance issued by the Ministry will be a valuable resource. One of the ongoing problems for accurate reporting of additional property transfer (foreign buyers) tax is the lack of guidance from the Ministry to repeated questions from industry to clarify how the tax is being assessed and what information is to be provided. For *LOTA* to operate efficiently, those who are subject to its requirements should have the benefit of timely and accurate information as to its requirements.

We offer the following initial comments on *LOTA*:

Part 1: Definitions, Interpretation and Application

- The definition of "relevant trust" includes a reference to "express trust". However, "express trust" is not defined in the statute. We ask that it be defined, and that clear examples be provided in guidance materials as to what comprises an "express trust".

- LOTA needs to be very clear in how bare trusts are to be addressed. Are they included under "relevant trusts"? Bare trusts are a popular tool used under the federal *Income Tax Act* for many years and the Province has in the past avoided providing definitional guidance around them. With the introduction to *LOTA*, it is our view that the Province can no longer avoid providing legislative language around bare trusts, and that legislative language will also require further Ministry guidance materials to provide greater clarity for filings to be made under *LOTA*.

- As one example, it is important for the Ministry to provide a definition of "settlor" under *LOTA*. Despite numerous requests for clarity on this point since the introduction of the additional property transfer tax, the Ministry has not provided any clarity on this point. It should also be noted that the definition of settlor in the *Property Transfer Tax Act* is different from what is commonly thought to be a settlor in law, and is not consistent with the definition used in *LOTA*.

- We understand from the language regarding the 25% rule described in Section 3 that no reporting under *LOTA* will be required if there are more than four individuals with equal shares of the ownership of a property. However, if this is not the expectation of the Ministry, then the definition of "beneficial owner" under Section 2 needs to be clarified.

- There is a disconnect with the definition of "*corporation*" between the *Land Title Act* and the *Business Corporations Act*. Does the government anticipate the difference in definitions as an issue for *LOTA* and specifically with regard to the definition or "*corporate interest holder*" (Section 3)?

- There are other clarifications needed under Section 3 regarding "*corporate interest holder*":

    - The inclusion of a "value of equity" test is too vague and effectively imposes a daily obligation to assess the ownership of a property where no actual transfer has occurred since there can be different classes of

shares with different valuations. The voting rights test in section 3(1)(a)(ii) should be adequate for the government's purpose.

- Under Section 3(1)(c), a definition of what "… *significant influence or control over the relevant corporation*," is needed.

- "*common Interests*" is not defined under Section 3 (2) (b).

- Under Section 4 ("*Partnership Interest Holder*"), UDI asks the Government to consider applying the 25% rule noted above to partnerships – especially limited partnerships and limited liability partnerships (which typically comprise professional service partnerships with office leases). As with corporations, the increased administrative costs would not be warranted in situations in which there are numerous individuals involved, each with little effective ownership/control of a property . It would also provide a consistent approach in *LOTA* between partnerships and corporations.

- To ensure consistency of language throughout *LOTA*, we recommend that Section 7(a) be amended from "*provide the corporation's or company's…*" to "*provide the relevant corporation's or company's…*".

- Also, under Section 7(a)(iii), UDI recommends that "*if applicable*" be added after "*head office address*"

- Lastly, the inclusion of leases under the definition of *"interest in land"* is an unnecessary extension of the application of LOTA that is unlikely to amount to anything more than a significant burden for the Province to manage. We note that the *Property Transfer Tax Act* only triggers transfer tax for leases as equivalents to ownership for leases (including renewal terms) of more than 30 years. The definition of "*interest in land*" in *LOTA*, as drafted, would likely capture thousands of additional leases to no material benefit. Further, given the Province's recent changes to the *Residential Tenancy Act*, the definition may now capture residential tenancy agreements where terms convert to periodic tenancies.

Part 2: Transparency Declarations and Disclosure Reports

Under Section 15, "*Reporting bodies will also be obligated to file an updated disclosure report within two months of becoming aware of a change in beneficial ownership*." UDI recommends that a different approach be taken in which reporting bodies provide disclosure reports with updates in beneficial ownership every six months. This would reduce the administrative burden of *LOTA*, which will likely be quite high for reporting bodies with significant land holdings.

Part 3: Access to Information Provided in Disclosure Reports

As noted above, UDI supports the establishment of a Registry in which key information regarding who beneficially owns real property is shared with tax auditors and law enforcement. This should assist the efforts of agencies to combat money laundering and tax evasion. However, UDI is concerned that access to the Registry information would be available beyond the federal and provincial governments and their respective authorities and agencies, including law enforcement. If commercially sensitive information is shared beyond government and the necessary authorities,

this could undermine both the private and public sectors' abilities to acquire land without triggering speculation. As the Province has done with the additional property transfer tax, and the Province's proposed pre-sale assignment reporting, the information can be collected, assessed and disseminated on an aggregated basis, but public access to individual filings is not contemplated.

In terms of our industry, there will be impacts on competition as the proprietary information of our members (e.g. when they assemble sites for future projects) will be released to their competitors and land speculators. It is our understanding that one of the overarching goals of the Government is to increase reduce real estate speculation. *LOTA* will only increase speculation if the Registry is accessible to the public at large. When the Province, TransLink, BC Hydro, BC Housing, local governments and our members assemble sites for projects, the Registry will effectively act as an invitation for others to purchase abutting sites and flip them at a higher price, which will drive up land costs that will be passed onto tenants and purchasers. New important public sector projects like housing, highways, transit and commercial/industrial developments will become more expensive to assemble and build.

We note that in 2007 the Province of B.C. purchased 15 single room occupancy (SRO) buildings, and reportedly was able to reduce the land costs by shielding the Province's purchase activities through the use of numbered companies to complete the purchases. At the time, this approach was broadly supported by all stakeholders.

One option for the Ministry could be for *LOTA* to allow the public access to information on the "beneficial owner" (as this term has traditionally been defined) of a site. However, information beyond who owns a beneficial owner entity could be limited to law enforcement and government tax auditors. It is not clear what public policy benefits would arise from making this information also available to the public. If there are any, they would be outweighed by the negative impacts of increased speculation and land prices. Further, the *Business Corporations Act* and *Partnership Act* do provide public access to certain corporate and partnership information. LOTA should not become a shortcut for the public to circumvent the restrictions to information established under those statutes.

If the Government does proceed with public access to the Registry, we also ask that personal information such as the principal residence of individuals (Section 8(d)) not be released for privacy and security reasons. Again, it is not clear why such information would have to be publicly accessible if the relevant tax and law enforcement agencies have access to the information.

We ask that Section 28(2) be amended to double the time period between when the Registrar accepts disclosure reports and when personal information is publicly posted on the Registry from 30 to 60 days. This will ensure that there is enough time for:

a) people to be notified by a reporting body that personal information about them will appear on the Registry; and

b) those who have concerns about their information being made public to apply to the administrator to omit or obscure the information from the Registry under sections 38 and 39.

Schedules 1 and 2 (Exemptions)

LOTA includes several exemptions for corporations and trusts in Schedules 1 and 2. We ask that there be similar exclusions under paragraph (a) of the definition of "*relevant corporation*" (Schedule 1) for partnerships if the partnership (usually a limited partnership or a limited liability partnership) is a reporting issuer as contemplated by the *Securities Act*, as they are the equivalent of public companies. Alternatively, a Schedule for partnership exclusions should be added. Such a schedule should also include professional services partnerships. Societies and non-profit corporations should also be considered for exemptions in Schedule 1.

We also recommend for Schedule 2 that hybrid charitable trusts and spousal trusts be added as exclusions under paragraph (d) of the definition of "relevant trust". It is not clear whether "charitable trust" under Schedule 2 would include hybrid charitable trusts and so, for sake of clarity, we ask that it be specifically added. If joint spousal trusts are included in the exemption list then spousal trusts should similarly be included in the exemption list.

Thank you again for publicly releasing the *LOTA White Paper*. We hope this is a practice that will be adopted more frequently by the Government in the future. Although UDI is supportive of *LOTA*, we ask that you consider the recommendations we have made to improve the legislation – especially with regard to limiting public access to the Registry. If you or Ministry staff have any questions regarding our response, please do not hesitate to contact us. We would be pleased to discuss them further. We would also be interested in discussing future regulations under *LOTA* and Ministry Bulletins.

Yours sincerely,

Anne McMullin
President & CEO

s.22

From:
To: FCSP FIN:EX
Subject: 370028-3 Land Owner Transparency Act Feedback
Date: Thursday, September 27, 2018 2:05:48 PM

Hello,

I sent feedback on the Land Owner Transparency Act on June 22, 2018 via email. I wish to withdraw my feedback, effective immediately. Please ensure this is done.

Thank you,

s.22

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s.22

Miranda, Carrie FIN:EX

From: Norman, Tiffany FIN:EX
Sent: October 3, 2018 9:58 AM
To: Dawkins, Christina FIN:EX; Primeau, Joseph FIN:EX; Dillon, Brian FIN:EX
Subject: Updated spreadsheet

Good morning,

I realized that I mistakenly skipped analyzing most of UDI's substantive comments in the consultation analysis spreadsheet. I have updated the document to include their recommendations.

\\SFP.IDIR.BCGOV\S105\S05006\FCSP\Tiffany\2018\Corporate\LOTA\Consultation analysis.xlsx

Tiffany Norman
Senior Policy Advisor
Financial and Corporate Sector Policy Branch
Ministry of Finance
T: 778-698-5271

From:	Norman, Tiffany FIN:EX
To:	Dillon, Brian FIN:EX; Primeau, Joseph FIN:EX; "Leslie, Danielle"; "Johnston, Craig"; Porter, Michelle L FLNR:EX; Buchan, David FLNR:EX; Vert, Patrick FLNR:EX; Peck, Nancy AG:EX; Fowles, Jim AG:EX
Cc:	Dawkins, Christina FIN:EX
Subject:	RE: Policy issues raised through LOTA consultation
Date:	October 5, 2018 11:49:42 AM
Attachments:	General LOTA responses.docx Consultation analysis.xlsx

Good morning everyone,

We have now finished an initial review of the LOTA responses received through the white paper consultation. I have two documents summarizing the responses received.

The first document includes an index of all the responses that were generally positive, negative or "other" (e.g. questions about the consultation process). These responses were generally quite succinct, so I have included a short summary of the comments received (22/24 respondents raising concerns were primarily worried about the data being publicly accessible).

The excel spreadsheet breaks down all the substantive submissions and each individual suggestion/recommendation included in them. Note that this is a draft document meant to "triage" the comments received and identify those that may require some further discussion with the L&L sub-working group – this is not a formal analysis of the response. It may be used as a general guide when we meet to determine the need for drafting instructions.

I will be sending out a meeting invitation (hopefully for late next week) for the L&L group to meet to discuss the submissions. If you want to see the full submissions, these are on the LOTA SharePoint. Note that for a number of these, you will see the covering email, but if you click the attachment link (the same way you would on an email in your inbox), it will open the full submission.

Sincerely,

Tiffany Norman
Senior Policy Advisor
Financial and Corporate Sector Policy Branch
Ministry of Finance
T: 778-698-5271

From: Norman, Tiffany FIN:EX
Sent: Monday, August 27, 2018 9:46 AM
To: Dawkins, Christina FIN:EX; Dillon, Brian FIN:EX; Primeau, Joseph FIN:EX; Leslie, Danielle; Johnston, Craig; Porter, Michelle L FLNR:EX; Buchan, David FLNR:EX; Vert, Patrick FLNR:EX
Cc: Peck, Nancy AG:EX; Fowles, Jim AG:EX
Subject: Policy issues raised through LOTA consultation

Good morning,

As we have begun to receive some more substantive submissions on the LOTA white paper, some

issues have been raised that will require discussion by the Legal and Legislation Sub-Committee. Attached are the following submissions:

- Submission from the Society of Trust and Estate Practitioners (STEP) Canada
- Submission from BC Assessment

s.13,s.14

s.13

s.13 It sounds that the comments will be primarily technical in nature. We also expect to receive formal submissions for the Notaries and CBA committees.

Sincerely,

Tiffany Norman
Policy and Legislative Analyst
Financial and Corporate Sector Policy Branch
Ministry of Finance
T: 778-698-5271

Responses In Support of LOTA			
#	**Cliff #**	**Individual / Organization**	**Summary**
1	369938	s.22	Transparency is important to combat money laundering
2	369941-1		I am thrilled that these steps are being taken. Will measures be retroactive?
3	369941-2		Banks and mortgage brokers should have access too
4	369942		This is a great step to stop hidden ownership. This should be retroactive and every home should be registered to reveal true ownership
5	369949		These changes are long overdue! There should be severe penalties for lying
6	369950		Thank you for these new regulations – this greatly improves transparency
7	369958		We totally support the BC government on LOTA – long overdue
8	369960		This is a fantastic move – wholeheartedly support it. (Should have been done 10 or more years ago)
9	369968		Long overdue to bring honesty and openness to land ownership in BC
10	369969		Wish to congratulate the government on its's proposal to create a public registry regarding land ownership in BC.
11	369973		Nice to see something being done about this. Will you make PTT apply to changes of beneficial ownership?
12	369975		I absolutely support the proposed legislation.
13	369976		It's a good start – but doesn't address Chinese students purchasing expensive properties (without income) and avoiding the foreign ntax.
14	369993		It's about time.
15	370000		I approve the creation of a public registry.
16	370001		Thank you for your efforts to end hidden ownership.
17	370104		I think you are doing a great thing here.
18	370189		I unequivocally laud and support the use of a BO registry
19	370420		I fully support the idea of making land title fully transparent
20	370422		I am in favour of transparency of ownership of property
21	370423		Thank you for implementing this policy
22	370573		I would like to express my strong support for a new, public registry
23	370692		I am in 100% support of this measure.
24	370827		This is an excellent idea
25	371038		I agree and support this idea
26	371044		Thank you for finally thinking about BC Citizens
27	371321		I strongly support making land ownership in BC more transparent
28	371348		Keep up the excellent work – it's surely need in this province
29	371465		I'm not a fan of the NDP but I applaud you for this
30	371760		Love this, it's overdue. Hope it is adopted as drafted.

		s.22	
31	371761		I am fully in support of this plan. Hope it will be retroactive for at least 10 years.
32	372067		LOTA is an excellent initiative and I fully support it.
33	372249		Excellent idea. When implemented will we be able to report our neighbours if no one lives there?
34	373826		Registry is long overdue and critical for our future as a society. We should consider implementing restrictions on who can buy what kind of real estate
35	373834		Yes. This is important to get transparency on CURRENT and past owners of ALL BC properties.
36	373848		I support improving transparency – thank you for your good work to address this major issue.
Responses raising concerns			
1	369946	s.22	Public access seems like a violation of privacy and may put private citizens at increased risk.
2	369947		Strongly disagree with making this publicly available. What about people avoiding abusive family members?
3	369951		Do not make this information public. You are putting lives at risk (ex. Victims of domestic abuse).
4	369953-1		I am concerned about the information being publicly accessible.
5	369955		Dumbest idea possible. You do think privacy is important? Socialist idiot.
6	369956		What is the purpose of making this public – how is this not a breach of the Canadian privacy act?
7	369957		What is the benefit in making this information public?
8	369977		This is an extreme violation of privacy and neglects to consider safety.
9	369995		I am very opposed to this initiative – this is an invasion of privacy.
10	370029		How is this different from the LTO? Seems like a duplication and a waste of time and money
11	370175		I have some concerns about the publicly accessible registry. As a homeowner, will my name and address be publicly available to search?
12	370177		I am deeply concerned is a severe breach of privacy that will put land owners at risk – this will cost a significant amount to build and there is already an ownership registry through the LTO.
13	370180		There are many privacy concerns here – but especially, the creation of a public registry may be used by criminals laundering money and used to hold children ransom.
14	370183		The listing of property ownership is unfair- I don't need my patients knowing where my children and family live. This may be dangerous.
15	370188		Please consider that there are those of us who work in client-facing industries that deserve some privacy.
16	370249		I have significant concerns about the creation of a "public registry". The current system using the LTO should be sufficient. I

		s.22	do agree that ownership of corporations/trust vehicles could be made searchable, but I don't think that anyone who knows me should be able to just go online and look at what I own.
17	370668		For the individual owner, making this information available to the general public is a huge breach of privacy. There are current mechanisms in place (e.g. go to LTO and pay a fee to have a title search done – from there you can go to the registrar of companies. Putting all the information in one place is a concern to me. This could put people at risk.
18	371496		There are no studies to show this will solve the housing problem. This change will drive real estate prices down by 30 -40% and will collapse the economy. The act does not say what will be done if there is a privacy breach. Penalties are not high enough.
19	372367		Seems like the act will remove privacy rights for all landowners (it says "disclosure requirements will apply to all land in BC")
20	372368		This will have a profound effect on the safety and privacy of all Canadian homeowners.
21	372597		Some of my clients are concerned about the public's right to know about their assets – safety and security concerns. This information does not need to be made public. s.22 s.22
22	370173		You can't be trusted. You pitched the empty house tax going after the RICH. Now anybody that owns a cottage will have to pay a fine. We already have a land Registry office – why isn't that enough? Can you guarantee this won't be used for witch hunts?
23	371350		I support this overall, but I have concerns about the information being publicly accessible. I think British Columbians deserve privacy.
24	374386		There will be a deterioration of professional standards because professors will be reluctant to fail students, as students will be able to find out where they live.
Other			
1	369944	s.22	If someone searches my name in the public registry, what exactly will they receive?
2	369971-1		In order to facilitate review – would be helpful to have the legislation in word format
3	369971-2		We plan to provide a formal response.
4	369971-3		Please add CEO of BC Notaries, Jacquie Mendez to your consultation email list.
5	370028-2		Forgot to state earlier – please accept my feedback under the condition of anonymity.
6	370069		Great article – was hoping for more info into an article I read about "benefits program division" – how many homeowners on welfare. Where can I find out more about this?

7	370179	s.22	Are we permitted to do a public campaign to support the consultation?
8	370181		Not sure the white paper addressed charitable donations/religious donations.
9	370421		I hold land through a numbered company and own 100% of the shares. If I sell my shares to someone else, will this bill mean there will be PTT applied on that sale?
10	370720		I believe my company will be able to help the government implement and maintain this system. I would love the opportunity to demonstrate the software.
11	372011		I notice that the consultation period ends on a Sunday. Will responses be accepted on the following business day?
12	372066		Do you have a plan to take rent income tax from home owners? Almost every house has rental income.
13	372115-2		I notice deadline has been extended to Sept. 19 – when will comments be posted on the ministry website?
14	369972		Could you incorporate this into the existing LTSA?
15	373832		Please make the changes to the Property Transfer paperwork retroactive.
16	371133		We would love to move to BC, we have family here, but BC is not affordable…it has become unattainable for many Canadians – even above average earners.

Tab	Cliff #	Writer	Suggestion	Recommended Response	Comments
1	373596	s.22	Require that all registered owners file an initial disclosure report on whether or not land is held for someone else. Transparency declaration should include statement that buyer "is not acting on behalf of any other person, and upon registration he will be the sole beneficial owners of the interest in land Penalties should be $5 million or up to 5 years in prison Require disclosure of all passports and all names by which the beneficial owner is commonly known. Disclosure reports should indicate whether BO is a Sanctioned person, politically exposed person, or the head of an international organization. where ownership structure is complex, a diagram should be required. Require information about source of funds. Change threshold from 25% to 10%	s.13,s.16	
2	373802	Telus	Specific interests like rights of way, easements, etc. under section 218 and 219 of LTA should be expressly excluded Remove leases from the definition of "interest in land" or - clarify whether or not this includes renewal terms, change 10 to 30 year leases, and expressly limit to leases registered in LTO. Exclude wholly-owned subsidiaries of public companies. (Also consider excluding affiliates of public companies. predecessor companies - make it clear under s. 14 that the title doesn't need to be updated if registered owner is a predecessor of current owner. Allow bulk registration (by party, not by title) for relevant corporations with multiple interests.		
3	373847	s.22	Provide that if the LOTA registry says a person is a Canadian citizen/PR, this meets "due diligence" requirements for CRA to show you determined that withholding income tax was not required.		
4	373838		Suggesting automatic exchange of info with Chinese government (as they do with CRA)		
5	372598		Section 6 exclusion of indigenous lands puts indigenous people at risk of "colonial capitalism"		
6	372369		Require personal info of everyone who provided loans and gifts to buyers Remove attorney--client privilege "loopholes" Increase penalties - e.g. $50K per year and 1% per month of prop value. Ban foreign ownership of property Drop ownership share from 25% to 20%		
			Not enough time for consultation Stated policy is not supported by legislation (if it's about tax loopholes, why is information public)		

			Legislation should be harmonized (definitions don't match ITA, etc.)
			Excessive reliance on regulations
			Definitions are not clear (e.g. what is the difference between "holding a beneficial interest in a residential property" and "having a beneficial interest in respect of an interest in land"
			Concerns regarding difference between "corporate interest holder" and "controlling person" for foreign corps under PTTA.
			ITA referenced for alter ego trusts and joint partner trusts, but not testamentary trusts
			Definition of "settlor" is circular. "Settlor means 'a settlor'"
			Much of the info under section 7 can be found in the relevant corporate registry. Has the province considered requiring extra-provincial corporations to be registered in BC if they own land.
			UK is establishing a beneficial ownership register of overseas entities that own land and has excluded trusts - BC should consider doing the same
			Timeline to update information after a change (60 days) is too short and should be lengthened to six months
			s. 18(1) requires that reporting body identity the beneficial interest and powers of the beneficial owner as described in s. 2. This is unreasonable and may be very difficult
			Reporting body must obtain extracts from "relevant records." this is unclear
			s. 20 - 'reasonable efforts' to give notice to interest holders of the disclosure report. This should be mandatory so that interest holders are away of the ability to apply to obscure info.
			No requirement for an interest holder to provide information to a reporting body when requested (see s. 237 (1.1) of the Income Tax Act (Canada)
			No good reason to make the information publicly accessible
			Not clear on difference between "omit" and "obscure" - also, under section 20, no clear timeline for the reporting body to inform the BO of the intention to file a disclosure report
			The test for obscuring information is entirely discretionary and it seems there is not enough time for the individual to gather necessary information - also appears to be no framework for maintaining the privacy of this information.
			There may be other reasons that info should be omitted: e.g. (a) individual travels to countries where kidnapping is common, instances where disclosure might be detrimental to business interests, (c)vulnerable adults.
			There is no appeal right if administrator denies a request to omit info
			Section 43 gives the administrator broad powers to omit info on its own initiative - it is not clear whey this is needed
7	**372208**	**STEP**	Right to search by law enforcement is very broad and doesn't require that a proceeding has been commenced - only "with a view to law enforcement proceedings"
			There should be a specific and reasonable period of time for a person to produce records before the power to enter and inspect is exercised (it is unreasonable to assume that someone could produce these on demand without notice).
			Administrative penalties are too high - also a concern that the Administrator determines not only the penalty, but also adjudicates any objection to the contravention or penalty by the individual receiving the notice of the penalty.
			No distinction between incorrect information that has been provided unknowingly versus where there was a wilful concealing of information.
			Section 58 should include "any other factors which may be relevant"
			Notice under section 59 should be required to refer to factors under section 58 so that the person understands the reasons for the penalty and can respond

			Section 61 - 14 days is not enough time to dispute a penalty. Similarly, 30 day time period under 61(2) should also be extended. 61(6) should include that an order under 61(5) should include reasons for the decision. Time period for launching judicial review under 61(6)(d) and 62(2) should be extended as well as period for paying penalties under 62(1)	
			An ultimate time period should be added under section 65 (similar to the one in 78(1)(a). Right now - the limit is 2 years after "the Administrator learned of the Act or omission" - this is open-ended. Documents/information may be more difficult to find over time.	
			s. 67 - the ability to expend penalties collected "for purposes specified by written authorization of the minister opens the door to the abuse of the imposition of penalties where that authorization benefits the organization to which the Administrator is responsible.	
			Under section 70 - the circumstances giving rise to "bad faith" should be identified - or adoption of language in s. 96 of the Trustee Act	
			section 69 creates a liability offence for providing false or misleading information or omitting a material fact. As the Administrator and delegates are protected from liability - LOTA should extend that protection to a person described in s. 69	
			section 73 - concerned that this section refers to as yet undrafted regulation - especially given the restrictive time limits elsewhere in LOTA. Also concerned that notice given as in (undrafted) regulations shall be "conclusively deemed" to have been received.	
			Maximum fines are punitive and are too high. Also concerned that the civil proceedings may still be initiated six years from the date the act occurred (s. 78) this is much more than 2 years under the *Limitation Act*	p
			Section 77 - unclear why "double jeopardy" is required where there has been a proceeding brought against the corporation or LLC	
			The drafting of section 82(2) is confusing (LGinC can establish procedures related to documents over which solicitor-client privilege is asserted. The drafting of this section, together with section 53 of LOTA are so broad that that they appear to allow the Administrator to inspect privileged documents	
			Section 53 allows the administrator to examine and remove a record - section 82(1) says "examined, removed or seized" and section 82(2) also appears to allow for regulations t permit the "seizure" of records. Seizure typically requires a warrant.	
			Require declaration for ownership through bare trust agreements	
8	**372115**	**UBCM**	Improve data sharing (including publication of aggregate data, ensure better coordination between CRA, FINTRAC, Banks, and RECBC	
9	**371577**	s.22	How will you enforce section 10 and 12 requirements	
10	**371328**		Should require a record of BO with every land title.	
			No lawyers to be used as trustees for anyone over 19	
			PTT should apply to transfers of corporate interest holder	
			Info should be free to access	
11	**371043**		Block chain technology should be used	
12	**371041**		Searching should be free	
13	**371033**		Should require proof of payment when transferring land (to avoid conspiring "buyers" and "sellers" artificially driving up price	
14	**370717-2**		Should add an additional 15% annual tax/fine of property owned by a corporation that does not disclose BO. Should be reported annually with property taxes.	
15	**370717**		Close blind trust loophole	nominee/blind
			Create a rule that property can't be sold unless BO is verified	
			Charge an additional tax to keep BO info off public registry	
16	**370579**		Info should be posted on BC Assessment website	
			Searching should be free	
17	**370028**		Will LOTA closely mirror UK structure	
			How will we ensure that non BC companies follow the law?	
			Penalties should be higher - (e.g. freeze the ability to transfer asset, higher penalties.	**P**

s.22

			Decrease threshold (10%?)
18	**369954**		Clarify if SIN is available, it must be provided
			SIN numbers should be cross-checked - audit any that are not in the federal SIN registry
19	**369945**		Trust agreements must be registered to be enforceable
20	**373990**	**Transparency International Canada**	A declaration should be required from all title holders
			LOTA is not explicit that it includes real estate being held by natural persons on behalf of another beneficial owner (nominees)
			Not clear that "relevant trust" includes a bare trust
			Penalties should be higher - or allow for imprisonment and seizure of property
			The act could give the Administrator power to request the verification of documents from reporting bodies by way of affidavit
			Act should require reporting bodies submit a copy of government ID for each individual named in disclosure report
			Suggestion of additional information - unique identifier (public), full legal name (public), partial DOB (public), principal residential address (authorities), country of tax residency (authorities), foreign politically exposed person, and head of international organization status (authorities)
			Public data should be made available for free, online in machine readable format - this should be specified in the Act
			Under section 40, a person who believes that information includes incomplete or inaccurate info may make a written request to the reporting body. There should be an ability for someone to report directly to the administrator if they think the reporting body is intentionally violating the act
			There is a need for disclosure of source of funds - administrator should be able to compel this
			define, "transferee" and "beneficial interest" - remove "over a period of time" from "agreement for sale" as it is redundant.
			Suggestions for improving transparency declarations and disclosure reports - e.g. require full name, address and contact info of person filling out report
			Section 28 - should specify how long Administrator must hold records, and make historical info available to public for at least 20 years
			Section 35 should state that the data will be made available online and in open-data format
			Section 39 should explicitly state that once a person reaches 19, the previously obscured info becomes public
			Section 44 - Act could require Administrator to conduct audits and take other proactive measures.
			Administrator should be authorized to share info with financial regulators
			Most trusts are administered by lawyers - how will administrator have access to this data
			Section 54 - should be a provision for a person to assist the Administrator in an inspection - see section 62(1) of the PCMLTFA
			Section 61(2) delete word "person" in the third line - appears to be a typo
			section 64 - should be extended to 3rd parties involved in the administration of trusts and partnerships. Admin penalties should also be available to penalize third parties such as lawyers and notaries if they participated in contravention of the act.
21	**373928**	**Farris**	Province should publish an economic analysis of impacts of the legislation on the construction industry and supply of affordable housing
			Exemptions for corps, partners, trustees should match
			Request further clarification of what "significant influence or control means"
			Requiring pre-existing entities to report under s. 14 is unworkable and would take years
			section 15 (requirement to update after change) will increase housing costs because it will be very expensive for corporations

			offshore charities and not-for-profits are not governed by the same regulations as those registered in Canada. May be beneficial to include offshore entities as well (e.g. Anstalt, Stiftung and Sociedad Anonima - formed under European law"
			"reporting entity" could be expanded to include bare trusts, joint venture, foundation, society, association, fund
			Not clear that legislation includes real property held in individual ownership in the name of one person/spouse, for the benefit of another person/spouse
			For partnerships- there appears to be no ownership test. Does a person with a 1% partnership interest need to be reported?
			The definition of "relevant corporation" does not include a reference to legal relationships in other jurisdictions that are similar (trust and partnership sections do have this)
			CRA is particularly interested in ownership through an "offshore structure". There may be barriers here where the foreign jurisdiction has secrecy laws.
			may be useful to define "reasonable efforts"
			Is the Business number going to be available to tax authorities. BN is considered to be taxpayer information (but also may be considered a provincial identifier. Please take into consideration subsection 241(9.4) of the Income Tax Act
			30 day time limit for obscuring information (vulnerable individuals) may be too short.
22	**N/A**	**CRA**	Enforcement of penalties will be very difficult for non-residents if the true owners have been misrepresented. Inspections could not take place if records are stored offshore.
			Penalties are too low to deter non-compliance - consider adding a sliding scale tied to the value of the real estate. Penalties could be added to property taxes of the property in question and therefore be subject to consequences of non-payment (confiscation, sale for unpaid taxes, etc.)
			"broadly held Limited liability partnerships has not been defied.
			Fractional resort property ownership is not covered. Perhaps time share/resort owners should be required to update and provide info every 1 or two years, or an exclusion could be available for fractional ownership of less than a defined percentage or dollar value (e.g. $250,000)
			There is a risk of misuse of charitable organizations to conceal the ownership of assets. The exemptions in schedule 1 and 2 should be carefully considered
			Non-profit organizations (under federal ITA) do not need to be incorporated - not clear how an unincorporated non-profit org would be registered or if BO reporting would be required
			More info may be needed re: exclusion of indigenous trusts - does the first nation need to be in any particular state of treaty negotiations, will any trust of which a beneficiary is a citizen of an Indian Act band or a treaty first nation be excluded?
			Offshore charities or foundations should not be excluded from reporting requirements. Perhaps a "charitable trust" should be defined as a registered charity for the purposes of the ITA
23	**374149**	**Building Owners and Managers Association**	Will property managers have an obligation to update the registry?
			Concerned that the legislation inadvertently creates an obligation to pay PTT (filing a disclosure could be interpreted as "a registration at the LTO"
24	**374148**	**Blakes**	It is not clear whether or not a disclosure would be required for a corporation that is owned by a pension plan.
			Part 3 - no mechanism for an individual to complain about misuse of information, and no requirement to notify individuals if the registrar becomes aware of a breach of security - sensitive info like SIN numbers should be expressly forbidden from being provided publicly
			General comment: will increase time and cost of real estate transactions because "reasonable efforts" could be extensive and time consuming
			Privacy concerns need more consideration. IN some cases, landlords hire property managers to protect their privacy (especially important in cases where there are disgruntled tenants.)

25	**374141**	**BCREA**	Will there be a penalty for people who use name information for unauthorized purposes?
			Will all existing property owners have to file a transparency declaration
			BCREA is interested in knowing how new information (e.g. LOTA, PTT form info/REDMA will be coordinated and aggregated
			Urging general caution for implementation to avoid unintended impacts on real estate market.
26	**372011-2**	**Canadian Home Builder's Association**	Additional transparency measures applied on home builder corporations should not become an administrative burden
			Changes could invite additional speculation if prov. Gov't, agencies or home builders can't shield their identities - adjacent sites become inherently more valuable.
			Will multiple reports have to be submitted for the same unit - even if no change to BO (e.g. single lot subdivided into multiple units to be registered separately for purchase)
			What will fee be to report. If multiple fees are required per development unit, these fees will be passed onto consumers and will have a negative affect on housing affordability.
			Will these reports impact the development process?
27	**374137**	**Law Society of BC**	Law society has serious concerns about establishing the mechanism for dealing with claims of solicitor-client privilege by way of regulation. Would be more comfortable with this being included in the statute itself
			As long as the certifications of declarations and disclosure reports is limited to ensuring that they have been certified as prescribed and a true copy is in possession of the subscriber - no concerns
			Re: Limited Partners - sections 25 and 55(2) of the Partnership Act seem to suggest that limited partners may have an interest in personal property - not land. Why are limited partnerships included in the definition of "relevant partnership?:
			Family Law Act implications - consider ability to put charge on title to prevent a sale while a claim is underway, etc.
			Privacy and security are important. Info should be held in a manner consistent with FOIPPA - particularly sections 30 and 30.1
28	**374112**	**Canadian Bankers Association**	Greater clarity required re: definition of "beneficial owner" - the application of 25% threshold should be applied to relevant trusts - name and addresses of all beneficiaries who are entitled to 25% or more of the proceeds of the trust.
			Don't believe that beneficial owner captures "contingent beneficiaries" who have no right to property until a person passes away - this is consistent with exclusion of testamentary trust
			Actual address of individuals (including country, province and city of residence) should be provided
			Entities such as banks and their subsidiaries should be excluded
			Should be clear that a trust company is excluded when land is held in the name of the trust company as owner, but not when acting as a trustee for beneficial owners
			Should be clear that a "mortgage interest" is not considered an interest in land
			It will be very difficult for trust companies to comply with section 14 to disclosure pre-existing beneficiaries. Trust companies have a multitude of beneficiaries - this is much more difficult than it is for other corporations that only need to report on the beneficial ownership of their own corporation
			There should be at least 18 months following the passing of the legislation before it comes into force
29	**374089**	s.22	Consider exclusions for corporations acting as the trustee of a bare trust for the benefit of a union and its members
		Appraisal Institute of	Online disclosure registration and reduced fees for real estate stakeholders should be implemented to ensure that unnecessary costs and delays are not passed to consumer

30	374146	Appraisal Institute of Canada	Prescribed information should include physical property and sale date and should be linked to other reliable data services. We recommend that existing public registries be amalgamated to capture all ownership, property and sales info.
31	374171	Urban Development Institute	Although LOTA will add substantial administrative costs, fees and delays to real estate transaction sand development projects, UDI is supportive of LOTA in principle.
			Concerned with information being publicly accessible
			There may be commercial purposes not to have information publicly known - releasing this information could increase speculation. There should at least be the ability to delay the reporting of commercially sensitive transactions.
			Express trust should be defined
			Should be clear if bare trusts are included under relevant trusts
			Definition of settlor does not match PTTA
			Clarify if no one owns 25% - nothing is reported
			Definition of corporation in LOTA and BCA don't match
			"value of equity" is too vague and will require continuous review. The voting rights test should be sufficient
			Define what "significant interest or control" means
			"common interests" s. 3(2)(b) is not defined
			Consider applying 25% rule to partnership - especially limited partnerships and limited liability partnerships
			section 7(a) provide the "relevant" corporation's or company's…(for consistency)
			Under section 7(a)(iii) "if applicable" should be added after "head office address"
			Leases should not be included
			Suggest reporting BO info every 6 months instead of "when becoming aware of a change"
			Concern that public info will increase speculation - for example. In 2007 BC gov. purchased 15 single room occupancy buildings - and reduced land costs by shielding the province's purchase activities by using numbered companies. This was broadly supported.
			Principle residence should not be released
			s. 28(2) increase delay from 30 days to 60 days to ensure that a vulnerable individual has time to apply.
			Consider similar exclusions under "relevant corporation" for partnerships (e.g. partnerships can be reporting issuers and are the equivalent of a public company). A schedule for partnership exclusions could also be added;
			hybrid charitable trusts and spousal trusts should be added as exclusions under schedule 2.
32	373925	Canadian Bar Association (wills and trusts	Full support of STEP submission
			CBA is concerned that increasing filing fees, PTT and transaction costs generally is undermining the reliability of the Torrens system by incentivizing off-register transactions
			If the purpose is to facilitate corporate transparency, the right to examine a BC Company's Central Securities Register at its records office (abolished under the BCA) would be more straightforward
			Requirement to disclose interest holders of all corporate structures will be very onerous for large-scale commercial transactions. This will increase transaction costs significantly
			CBA predicts significant impacts on the viability and attractiveness of BC as an investment destination (e.g. multi-tenant residential buildings - owner may have legitimate reasons for not wanting to be publicly identifiable by tenants.)

			Concerned that the Torrens system is undermined as a de facto result of BO registry and creates questions about the ability of real property practitioners to provide opinion as to good and marketable title, or as to all necessary registrations going forward.
33	**374155**	**Canadian Bar Association (real property)**	Question as to whether or not the purpose is to impose tax obligations on beneficial owners
			CBA section is concerned regarding current commercial transactions in BC. How do real estate practitioners give title opinions on good and marketable title?
			Discretionary trusts and contingent interests not captured under schedule 2 exclusions - are these intended to be captured under LOTA?
			LOTA definitions and definitions in sections 2 and 12.13 of the PTTA do not align - these should be amended to be harmonized, or provide a clear reason for the difference.
			how is "the equity of that corporation" determined? Preferred shares? Voting shares? And under 3(1)(a)(ii) what is the value of "equity" or "voting rights"
			What is considered "reasonable efforts" to determine that a person has not been deemed incapable? And how do you do reasonable diligence on adult guardianship applications?
			should "qualified professional" (s. 19(1) and s. 37(1)(b)) be defined?
			section 15 - is two months enough time to get affairs in order?
			Concern that LOTA's required information is not consistent with PTTA form
			If you act for a lender - will you ask to see this form before you file?
			LOTA is silent on how to comply with record keeping requirements
			what is considered "reasonable efforts"
			Law enforcement/tax authorities have access to additional information - is this reflective of public or government mistrust of lawyers as responsible gatekeepers for identifying money laundering and criminal behaviour
			Will 2 month filing window create a de-facto transaction freeze (e.g. lenders will need to be concerned with BO's being capable of undermining the borrower's and subsequently, the lender's title
			Apparent goals of LOTA seemingly at odds with LTSA's recently revised database (to no longer display a registered owner's name on a PID search without payment for each individual title.
			Province should require all corporate entities to disclose beneficial ownership - not just those that hold real estate
34	**374174**	**Unite Here Local 40**	25% threshold is too high - should require information about all direct and indirect interest holders
			Create additional disclosure requirements for trusts -province should create a beneficial ownership register for trusts (not just those that hold real estate) and should collect info on beneficiaries, settlors, protectors, etc.
			Access to the information should not be cost prohibitive (and ideally free)
		s.22	Reduce threshold from 25% to 5%
35	**374031**		Suggest that ULCs and CCCs be included to ensure that these entities are not used to hide ownership
			After the legislation is brought into force, the government should conduct an evaluation of the effectiveness and bring into force any changes that address any shortcomings or gaps in the draft legislation.
36	**N/A**	**BC Assessment**	BC Assessment would like to have access to name, phone number and email address of each beneficial interest holder to help them do their work.
			LOTA will result in significant additional costs for all BC land transactions - will be borne by buyers and sellers in all Income brackets. New obligations for documents, searches, filings, explanations will result in higher fees.
			"reasonable" is used 33 times - this should be defined.
			"prescribed" is used in 30 places - this could be an indication that more work is needed on the translation of policy objectives into statutory obligations
			Very important to have precise clarity on obligations to keep records
			Recommend official sanctioned government education materials to be developed for distribution to real estate buyers and sellers.
			Corporate shareholder information used to be available at BC company records office - this could be restored through an amendment to the BCA

s.13

			Consider requiring all purchasers to have either a SIN number or an Individual Tax Number.
			Buyers may not have any information about sellers - they will be providing low quality information. Consider requiring sellers to provide a "notice of disposition" at the time of sale - this will be better for tax collection purposes.
			Important to align LOTA requirements with other requirements (e.g. PTT returns) Goal should be to eliminate duplication. Goal should e to align with federal legislation as well.
37	**369971-4**	**BC Notaries**	Torrens system - does not allow for the registration of land in the name of a trustee. The trust document must be filed and is publicly available - a simple step would be to require that properties held in trust be registered as currently provided for in the *Land Title Act*
			Urge the government to work closely with practitioners to ensure that procedures align with practical reality of transactions. E.g. transfer of property ownership from deceased owner to executors. These are not "trust" transactions that raise AML and tax evasion concerns.
			Agree with technical points in STEP submission
			"value of the equity of that corporation" should be more clearly defined
			s. 19 (incapacity) suggests the need for impossible inquiries. How could a corporation possibly canvas every possible "qualified professional or court registry to determine if a person is incapacitated. Also does not consider powers of attorney
			True copy - LOTA definition uses the term "exact" this is essentially impossible - would prefer language like "the same in every material particular"
			In order to make it work - it is critical that this is appropriately funded (for creation of computer resources and highly skilled staff)
			Agencies responsible for tax collection and policing need significantly increased resources to purse investigations and to respond to inquiries
			Concern that this stigmatizes business and trusts, many of which are lawful created and used for legitimate reasons.
38	**369970**	s.22	BC should consult anti-fraud and intelligence communities to ensure the framework has strength and that loopholes will not be exploited
39	**369953-2**		Perhaps it would be enough if I could order information about corporate owners through land titles, that way there is a cost barrier, similar to getting information about an individual land owner.
40	**369983**		If it is intended to be open to the public it must be at no charge or your will defeat the purpose. Access to court judgements should also be open to the public at no charge.
41	**370176**		SIN numbers are easily used for identity theft and should not be used – hackers will access the database. Penalties are too low will be considered “chicken feed” by money launderers. Professional corps and small business should be added to schedule 1.
42	**370327**		Registry should be accessible by law enforcement etc. General public should have some sort of barrier to accessing information (e.g. $89 fee per inquiry) to minimize access by opportunistic criminals)
			BC should refer to UK consultation paper to ensure that legislation is effective when compared to other jurisdiction's transparency legislation
			"bona fide efforts" or "best efforts" should be used instead of reasonable efforts
			Should require proof of citizenship and country of residence of BO's for the purposes of sharing this info with jurisdictions where BO resides
			Where exemptions apply (e.g. public company) exemption info should be captured by registry. E.g. a note on ABC Company's title that ABC Company is exempt because it is a public company.
			Rules that govern disclosure in other jurisdictions should be comparable in terms of strictness - avoid encouraging entities to exploit the weakest regime.
			LTSA should partner with the private sector in the development and operation of some of the components of enforcement regime including collection and dissemination of info.
43	**371719**		Municipal governments should be included under the definition of "taxing authority"

		s.22
		The "under 19" loophole may be exploited - e.g. a student listed as the owner of a multi-million dollar home.
		Search fees should be low so as to not deter people from searching
		Registry should have an established mechanism for sharing information to officials from other countries.
		Registry should be made available as a web service or RESTFul API for the purposes of integrating with other data sets
		Experts with knowledge of Charter of Rights and Freedoms and privacy legislation should be consulted to ensure that investigation powers are appropriate
		Maximum fines are appropriate but there should also be a criminal component (jail time)
44	**371765**	Re: omitting information for those under 19 and creating ability to obscure info for vulnerable individuals – we know that loopholes will be exploited without conscience. How can we mitigate the risk of these provisions being used as loopholes.
45	**372371**	Get rid of bare trusts. We should start registering these tomorrow

Miranda, Carrie FIN:EX

From: Norman, Tiffany FIN:EX
Sent: October 5, 2018 1:03 PM
To: Dawkins, Christina FIN:EX
Subject: LOTA documents

Here are the summary documents for the SharePoint.

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\\SFP.IDIR.BCGOV\S105\S05006\FCSP\Tiffany\2018\Corporate\LOTA\Consultation analysis.xlsx

Tiffany Norman
Senior Policy Advisor
Financial and Corporate Sector Policy Branch
Ministry of Finance
T: 778-698-5271

Miranda, Carrie FIN:EX

From: Norman, Tiffany FIN:EX
Sent: October 5, 2018 11:50 AM
To: Dillon, Brian FIN:EX; Primeau, Joseph FIN:EX; 'Leslie, Danielle'; 'Johnston, Craig'; Porter, Michelle L FLNR:EX; Buchan, David FLNR:EX; Vert, Patrick FLNR:EX; Peck, Nancy AG:EX; Fowles, Jim AG:EX
Cc: Dawkins, Christina FIN:EX
Subject: RE: Policy issues raised through LOTA consultation
Attachments: General LOTA responses.docx; Consultation analysis.xlsx

Good morning everyone,

We have now finished an initial review of the LOTA responses received through the white paper consultation. I have two documents summarizing the responses received.

The first document includes an index of all the responses that were generally positive, negative or "other" (e.g. questions about the consultation process). These responses were generally quite succinct, so I have included a short summary of the comments received (22/24 respondents raising concerns were primarily worried about the data being publicly accessible).

The excel spreadsheet breaks down all the substantive submissions and each individual suggestion/recommendation included in them. Note that this is a draft document meant to "triage" the comments received and identify those that may require some further discussion with the L&L sub-working group – this is not a formal analysis of the response. It may be used as a general guide when we meet to determine the need for drafting instructions.

I will be sending out a meeting invitation (hopefully for late next week) for the L&L group to meet to discuss the submissions. If you want to see the full submissions, these are on the LOTA SharePoint. Note that for a number of these, you will see the covering email, but if you click the attachment link (the same way you would on an email in your inbox), it will open the full submission.

Sincerely,

Tiffany Norman
Senior Policy Advisor
Financial and Corporate Sector Policy Branch
Ministry of Finance
T: 778-698-5271

From: Norman, Tiffany FIN:EX
Sent: Monday, August 27, 2018 9:46 AM
To: Dawkins, Christina FIN:EX; Dillon, Brian FIN:EX; Primeau, Joseph FIN:EX; Leslie, Danielle; Johnston, Craig; Porter, Michelle L FLNR:EX; Buchan, David FLNR:EX; Vert, Patrick FLNR:EX
Cc: Peck, Nancy AG:EX; Fowles, Jim AG:EX
Subject: Policy issues raised through LOTA consultation

Good morning,

As we have begun to receive some more substantive submissions on the LOTA white paper, some issues have been raised that will require discussion by the Legal and Legislation Sub-Committee. Attached are the following submissions:

- Submission from the Society of Trust and Estate Practitioners (STEP) Canada
- Submission from BC Assessment

s.13,s.14

s.13

s.13

s.13 It sounds that the comments will be primarily technical in nature. We also expect to receive formal submissions for the Notaries and CBA committees.

Sincerely,

Tiffany Norman
Policy and Legislative Analyst
Financial and Corporate Sector Policy Branch
Ministry of Finance
T: 778-698-5271

Responses In Support of LOTA			
#	Cliff #	Individual / Organization	Summary
1	369938	s.22	Transparency is important to combat money laundering
2	369941-1		I am thrilled that these steps are being taken. Will measures be retroactive?
3	369941-2		Banks and mortgage brokers should have access too
4	369942		This is a great step to stop hidden ownership. This should be retroactive and every home should be registered to reveal true ownership
5	369949		These changes are long overdue! There should be severe penalties for lying
6	369950		Thank you for these new regulations – this greatly improves transparency
7	369958		We totally support the BC government on LOTA – long overdue
8	369960		This is a fantastic move – wholeheartedly support it. (Should have been done 10 or more years ago)
9	369968		Long overdue to bring honesty and openness to land ownership in BC
10	369969		Wish to congratulate the government on its's proposal to create a public registry regarding land ownership in BC.
11	369973		Nice to see something being done about this. Will you make PTT apply to changes of beneficial ownership?
12	369975		I absolutely support the proposed legislation.
13	369976		It's a good start – but doesn't address Chinese students purchasing expensive properties (without income) and avoiding the foreign ntax.
14	369993		It's about time.
15	370000		I approve the creation of a public registry.
16	370001		Thank you for your efforts to end hidden ownership.
17	370104		I think you are doing a great thing here.
18	370189		I unequivocally laud and support the use of a BO registry
19	370420		I fully support the idea of making land title fully transparent
20	370422		I am in favour of transparency of ownership of property
21	370423		Thank you for implementing this policy
22	370573		I would like to express my strong support for a new, public registry
23	370692		I am in 100% support of this measure.
24	370827		This is an excellent idea
25	371038		I agree and support this idea
26	371044		Thank you for finally thinking about BC Citizens
27	371321		I strongly support making land ownership in BC more transparent
28	371348		Keep up the excellent work – it's surely need in this province
29	371465		I'm not a fan of the NDP but I applaud you for this
30	371760		Love this, it's overdue. Hope it is adopted as drafted.

		s.22	
31	371761		I am fully in support of this plan. Hope it will be retroactive for at least 10 years.
32	372067		LOTA is an excellent initiative and I fully support it.
33	372249		Excellent idea. When implemented will we be able to report our neighbours if no one lives there?
34	373826		Registry is long overdue and critical for our future as a society. We should consider implementing restrictions on who can buy what kind of real estate
35	373834		Yes. This is important to get transparency on CURRENT and past owners of ALL BC properties.
36	373848		I support improving transparency – thank you for your good work to address this major issue.

Responses raising concerns

		s.22	
1	369946		Public access seems like a violation of privacy and may put private citizens at increased risk.
2	369947		Strongly disagree with making this publicly available. What about people avoiding abusive family members?
3	369951		Do not make this information public. You are putting lives at risk (ex. Victims of domestic abuse).
4	369953-1		I am concerned about the information being publicly accessible.
5	369955		Dumbest idea possible. You do think privacy is important? Socialist idiot.
6	369956		What is the purpose of making this public – how is this not a breach of the Canadian privacy act?
7	369957		What is the benefit in making this information public?
8	369977		This is an extreme violation of privacy and neglects to consider safety.
9	369995		I am very opposed to this initiative – this is an invasion of privacy.
10	370029		How is this different from the LTO? Seems like a duplication and a waste of time and money
11	370175		I have some concerns about the publicly accessible registry. As a homeowner, will my name and address be publicly available to search?
12	370177		I am deeply concerned is a severe breach of privacy that will put land owners at risk – this will cost a significant amount to build and there is already an ownership registry through the LTO.
13	370180		There are many privacy concerns here – but especially, the creation of a public registry may be used by criminals laundering money and used to hold children ransom.
14	370183		The listing of property ownership is unfair- I don't need my patients knowing where my children and family live. This may be dangerous.
15	370188		Please consider that there are those of us who work in client-facing industries that deserve some privacy.
16	370249		I have significant concerns about the creation of a "public registry". The current system using the LTO should be sufficient. I

		do agree that ownership of corporations/trust vehicles could be made searchable, but I don't think that anyone who knows me should be able to just go online and look at what I own.
17	370668	For the individual owner, making this information available to the general public is a huge breach of privacy. There are current mechanisms in place (e.g. go to LTO and pay a fee to have a title search done – from there you can go to the registrar of companies. Putting all the information in one place is a concern to me. This could put people at risk.
18	371496	There are no studies to show this will solve the housing problem. This change will drive real estate prices down by 30 -40% and will collapse the economy. The act does not say what will be done if there is a privacy breach. Penalties are not high enough.
19	372367	Seems like the act will remove privacy rights for all landowners (it says "disclosure requirements will apply to all land in BC")
20	372368	This will have a profound effect on the safety and privacy of all Canadian homeowners.
21	372597	Some of my clients are concerned about the public's right to know about their assets – safety and security concerns. This information does not need to be made public. s.22 s.22
22	370173	You can't be trusted. You pitched the empty house tax going after the RICH. Now anybody that owns a cottage will have to pay a fine. We already have a land Registry office – why isn't that enough? Can you guarantee this won't be used for witch hunts?
23	371350	I support this overall, but I have concerns about the information being publicly accessible. I think British Columbians deserve privacy.
24	374386	There will be a deterioration of professional standards because professors will be reluctant to fail students, as students will be able to find out where they live.
		Other
1	369944 s.22	If someone searches my name in the public registry, what exactly will they receive?
2	369971-1	In order to facilitate review – would be helpful to have the legislation in word format
3	369971-2	We plan to provide a formal response.
4	369971-3	Please add CEO of BC Notaries, Jacquie Mendez to your consultation email list.
5	370028-2	Forgot to state earlier – please accept my feedback under the condition of anonymity.
6	370069	Great article – was hoping for more info into an article I read about "benefits program division" – how many homeowners on welfare. Where can I find out more about this?

s.22

7	370179	Are we permitted to do a public campaign to support the consultation?
8	370181	Not sure the white paper addressed charitable donations/religious donations.
9	370421	I hold land through a numbered company and own 100% of the shares. If I sell my shares to someone else, will this bill mean there will be PTT applied on that sale?
10	370720	I believe my company will be able to help the government implement and maintain this system. I would love the opportunity to demonstrate the software.
11	372011	I notice that the consultation period ends on a Sunday. Will responses be accepted on the following business day?
12	372066	Do you have a plan to take rent income tax from home owners? Almost every house has rental income.
13	372115-2	I notice deadline has been extended to Sept. 19 – when will comments be posted on the ministry website?
14	369972	Could you incorporate this into the existing LTSA?
15	373832	Please make the changes to the Property Transfer paperwork retroactive.
16	371133	We would love to move to BC, we have family here, but BC is not affordable...it has become unattainable for many Canadians – even above average earners.

Tab	Cliff #	Writer	Suggestion	Recommended Response	Comments
		s.22		s.13,s.16	
1	373596		Require that all registered owners file an initial disclosure report on whether or not land is held for someone else.		
			Transparency declaration should include statement that buyer is not acting on behalf of any other persons, and upon registration he will be the sole beneficial owners of the interest in land		
			Penalties should be $5 million or up to 5 years in prison		
			Require disclosure of all passports and all names by which the beneficial owner is commonly known.		
			Disclosure reports should indicate whether BO is a Sanctioned person, politically exposed person, or the head of an international organization.		
			Where ownership structure is complex, a diagram should be required.		
			Require information about source of funds.		
			Change threshold from 25% to 10%		
2	373802	Telus'	Specific interests like rights of way, easements, etc. under section 218 and 219 of LTA should be expressly excluded		
			Remove leases from the definition of "interest in land" or clarify whether or not this includes renewal terms, change 10 to 30 year leases, and express limit to leases registered in LTO.		
			Exclude wholly-owned subsidiaries of public companies. (We consider involving all types of public companies.		
			predecessor companies - make it clear under s. 14 that the title doesn't need to be updated if registered owner is a predecessor of current owner.		
			Allow bulk registration (by party, not by title) for relevant corporations with multiple interests		
3	373847	s.22	Provide that if the LOTA registry says a person is a Canadian citizen/PR, this meets "due diligence" requirements for CRA to show you determined that withholding income tax was not required.		
4	373831		Suggesting automatic exchange of info with Chinese government (as they do with CRA)		
5	372598		Section 5 exclusion of Indigenous lands puts Indigenous people at risk of "colonial capitalism".		
6	372369		Require personal info of everyone who provided loans and gifts to buyers		
			Remove attorney-client privilege "loopholes"		
			Increase penalties - e.g. $50K per year and 1% per month of property value.		
			Ban foreign ownership of property		
			Drop ownership share from 25% to 20%		
			Not enough time for consultation		
			Stated policy is not supported by legislation (if it's about tax loopholes, why is information public)		

				Legislation should be harmonized (definitions don't match ITA, etc.)
				Excessive reliance on regulations
				Definitions are not clear (e.g. what is the difference between "holding a beneficial interest in a residential property" and "having a beneficial interest in respect of an interest in land"
				Concerns regarding difference between "corporate interest holder" and "controlling person" for foreign corps under PTTA.
				ITA referenced for alter ego trusts and joint partner trusts, but not testamentary trusts
				Definition of "settlor" is circular. "Settlor means a settlor"
				Much of the info under section 7 can be found in the relevant corporate registry. Has the province considered requiring extra-provincial corporations to be registered in BC if they own land.
				UK is establishing a beneficial ownership register of overseas entities that own land and has excluded trusts - BC should consider doing the same
				Timeline to update information after a change (60 days) is too short and should be lengthened to six months
				s.12(1) requires that reporting body identify the beneficial interest and powers of the beneficial owners as described in s. 2. This is unreasonable and may be very difficult
				Reporting body must obtain extracts from "relevant records," this is unclear
				s.20 - 'reasonable efforts' to give notice to interest holders of the disclosure report. This should be mandatory so that interest holders are aware of the ability to apply to obscure info.
				No requirement for an interest holder to provide information to a reporting body when requested (see s. 237.1(1.1) of the Income Tax Act (Canada)
				No good reason to make the information publicly accessible
				Not clear on difference between "omit" and "obscure" - also, under section 20, no clear timeline for the reporting body to inform the ED of the intention to file a disclosure report
				The test for obscuring information is entirely discretionary and it seems there is not enough time for the individual to gather necessary information - also appears to be no framework for maintaining the privacy of this information.
				There may be other reasons that info should be omitted: e.g. (a) individual travels to countries where kidnapping is common, instances where disclosure might be detrimental to business interests, (c) vulnerable adults.
				There is no appeal right if administrator denies a request to omit info
				Section 43 gives the administrator broad powers to omit info on its own initiative. It is not clear why this is needed
7	371208	STEP		Right to search by law enforcement is very broad and does not require that a proceeding has been commenced - only "with a view to law enforcement proceedings"
				There should be a specific and reasonable period of time for a person to produce records before the power to enter and inspect is exercised (it is unreasonable to assume that someone could produce these on demand without notice).
				Administrative penalties are too high - also a concern that the Administrator determines not only the penalty, but also adjudicates any objection to the contravention or penalty by the individual receiving the notice of the penalty.
				No distinction between incorrect information that has been provided unknowingly versus where there was a wilful concealing of information.
				Section 58 should include "any other factors which may be relevant"
				Notice under section 59 should be required to refer to factors under section 58 so that the person understands the reasons for the penalty and can respond

s.13

s.13

			section 61 - 14 days is not enough time to dispute a penalty. Similarly, 30 day time period under 61(2) should also be extended. 61(5) should include that an order under 61(5) should include reasons for the decision. Time period for launching judicial review under 61(6)(d) and 62(2) should be extended as well as period for paying penalties under 62(1)
			An ultimate time period should be added under section 65 (similar to the one in 78(1)(a). Right now, the limit is 2 years after "the Administrator learned of the Act or omission" - this is open-ended. Documents/information may be more difficult to find over time
			s. 67 - the ability to expend penalties collected "for purposes specified by written authorization of the minister opens the door to the abuse of the imposition of penalties where that authorization benefits the organization to which the Administrator is responsible.
			Under section 70 - the circumstances giving rise to "bad faith" should be identified - or adoption of language in s. 96 of the Trustee Act.
			section 69 creates a liability offence for providing false or misleading information or omitting a material fact. As the Administrator and delegates are protected from liability, LOTA should extend that protection to a person described at s. 69
			section 73 - concerned that this section refers to as yet undrafted regulation - especially given the restrictive time limits elsewhere in LOTA. Also concerned that notice given as in (undrafted) regulations shall be "conclusively deemed" to have been received.
			Maximum fines are punitive and are too high. Also concerned that the civil proceedings may still be initiated six years from the date the act occurred (s. 78) this is much more than 2 years under the *Limitation Act*
			Section 77 - unclear why "double jeopardy" is required where there has been a proceeding brought against the corporation or LLC
			The drafting of section 82(2) is confusing (UBCM can establish procedures related to documents over which solicitor-client privilege is asserted. The drafting of this section, together with section 53 of LOTA are so broad that that they appear to allow the Administrator to inspect privileged documents
			Section 53 allows the administrator to examine and remove a record - section 82(1) says "examined, removed or seized" and section 82(2) also appears to allow for regulations to permit the "seizure" of records. Seizure typically requires a warrant.
8	372135	UBCM	Require declaration for ownership through bare trust agreements Improve data sharing (including publication of aggregate data, ensure better coordination between CRA, FINTRAC, Banks, and BCREBC
9	371577	s.22	How will you enforce section 10 and 12 requirements
10	371328		Should require a record of BO with every land title. No lawyers to be used as trustees for anyone over 19 FTT should apply to transfers of corporate interest holder Info should be free to access
11	371043		Block chain technology should be used
12	371041		Searching should be free
13	371039		Should require proof of payment when transferring land (to avoid conspiring "buyers" and "sellers" artificially driving up price
14	370737-2		Should add an additional 15% annual tax/fine of property owned by a corporation that does not disclose BO. Should be reported annually with property taxes.
15	370717		Close blind trust loophole Create a rule that property can't be sold unless BO is verified Charge an additional tax to keep BO info off public registry
16	370579		Info should be posted on BC Assessment website Searching should be free
17	370028		Will LOTA closely mirror UK structure How will we ensure that non BC companies follow the law? Penalties should be higher (e.g. freeze the ability to transfer asset, higher penalties

s.13

	s.22		Decrease threshold ($.05?)
18	369954		Clarify if SIN is available, it must be provided
			SIN numbers should be cross-checked - audit any that are not in the federal SIN registry
19	369945		Trust agreements must be registered to be enforceable
20	373990	Transparency International Canada	A declaration should be required from all title holders
			LCTA is not explicit that it includes real estate being held by natural persons on behalf of another beneficial owner (=nominee)
			Not clear that "relevant trust" includes a bare trust
			Penalties should be higher - or allow for imprisonment and seizure of property
			The act could give the Administrator power to request the verification of documents from reporting bodies by way of affidavit
			Act should require reporting bodies submit a copy of government ID for each individual named in disclosure report
			Suggestion of additional information - unique identifier (public), full legal name (public), partial DOB (public), principal residential address (authorities), country of tax residency (authorities), foreign politically exposed person, and head of international organization status (authorities)
			Public data should be made available for free, online in machine readable format - this should be specified in the Act
			Under section 40, a person who believes that information includes incomplete or inaccurate info may make a written request to the reporting body. There should be an ability for someone to report directly to the Administrator if they think the reporting body is intentionally violating the act
			There is a need for disclosure of source of funds - administrator should be able to compel this
			Define, "transferee" and "beneficial interest" - remove "over a period of time" from "agreement for sale" as it is redundant
			Suggestions for improving transparency declarations and disclosure reports - e.g. require full name, address and contact info of person filling out report
			Section 28 - should specify how long Administrator must hold records, and make historical info available to public for at least 20 years
			Section 35 should state that the data will be made available online and in open-data format
			Section 35 should explicitly state that once a person reaches 19, the previously obscured info becomes public
			Section 44 - Act could require Administrator to conduct audits and take other proactive measures.
			Administrator should be authorized to share info with financial regulators
			Most trusts are administered by lawyers - how will administrator have access to this data.
			Section 54 - should be a provision for a person to assist the Administrator in an inspection - see section 62(1) of the PCMLTFA
			Section 61(2) delete word "person" in the third line - appears to be a typo
			section 64 - should be extended to 3rd parties involved in the administration of trusts and partnerships. Admin penalties should also be available to penalize third parties such as lawyers and notaries if they participated in contravention of the act.
21	373978	Fortis	Province should publish an economic analysis of impacts of the legislation on the construction industry and supply of affordable housing
			Exemptions for corps, partners, trustees should match
			Request further clarification of what "significant influence or control means"
			Requiring pre-existing entities to report under s. 14 is unworkable and would take years
			Section 15 (requirement to update after change) will increase housing costs because it will be very expensive for corporations

s.13

22	N/A	CRA	offshore charities and non-for-profits are not governed by the same regulations as those registered in Canada. May be beneficial to include offshore entities as well (e.g. Anstalt, Stiftung and Sociedad Anonima - formed under European law)
			"reporting entity" could be expanded to include bare trusts, joint venture, foundation, society, association, fund
			Not clear that legislation includes real property held in individual ownership in the name of one person/spouse, for the benefit of another person/spouse.
			For partnerships there appears to be no ownership test. Does a person with a 1% partnership interest need to be reported?
			The definition of "relevant corporation" does not include a reference to legal relationships in other jurisdictions that are similar (trust and partnership sections do have this)
			CRA is particularly interested in ownership through an "offshore structures". There may be barriers here where the foreign jurisdiction has secrecy laws
			May be useful to define "reasonable efforts"
			Is the business number going to be available to tax authorities. BN is considered to be taxpayer information (but also may be considered a provincial identifier. Please take into consideration subsection 241(9.4) of the Income Tax Act
			30 day timelimit for obtaining information (vulnerable individuals) may be too short.
			Enforcement of penalties will be very difficult for non-residents if the true owners have been misrepresented. Prosecutions could not take place if records are stored offshore.
			Penalties are too low to deter non-compliance - consider adding a sliding scale tied to the value of the real estate. Penalties could be added to property taxes of the property in question and therefore be subject to consequences of non-payment (confiscation, sale for unpaid taxes, etc.)
			Jointly held limited liability partnerships has not been defined.
			Fractional resort property ownership is not covered. Perhaps time share/resort owners should be required to update and provide info every 1 or two years, or an exclusion could be available for fractional ownership of less than a defined percentage or dollar value (e.g. $250,000)
			There is a risk of misuse of charitable organizations to conceal the ownership of assets. The exemptions in schedule 1 and 2 should be carefully considered
			Non-profit organizations (under federal ITA) do not need to be incorporated - not clear how an unincorporated non-profit org would be registered or if BO reporting would be required
			More info may be needed re: exclusion of Indigenous trusts - does the first nation need to be in any particular state of treaty negotiations, will any trust of which a beneficiary is a citizen of an Indian Act band or a treaty first nation be excluded?
			Offshore charities or foundations should not be excluded from reporting requirements. Perhaps a "charitable trust" should be defined as a registered charity for the purposes of the ITA
23	374149	Building Owners and Managers Association	Will property managers have an obligation to update the registry?
24	374148	Blakes	Concerned that the legislation inadvertently creates an obligation to pay PTT (filing a disclosure could be interpreted as a registration at the LTO)
			It is not clear whether or not a disclosure would be required for a corporation that is owned by a pension plan.
			Part 3 - no mechanism for an individual to complain about misuse of information, and no requirement to notify individuals if the registrar becomes aware of a breach of security - sensitive info like SIN numbers should be expressly forbidden from being provided publicly
			General comment: will increase time and cost of real estate transactions because "reasonable efforts" could be extensive and time consuming
			Privacy concerns need more consideration. In some cases, landlords hire property managers to protect their privacy (especially important in cases where there are disgruntled tenants.)

s.13

25	374141	BCREA	Will there be a penalty for people who use name information for unauthorized purposes?
			Will all existing property owners have to file a transparency declaration
			BCREA is interested in knowing how new information (e.g. LOTA, PTT form info/REDMA will be coordinated and aggregated.
			Urging general caution for implementation to avoid unintended impacts on real estate market.
26	372016-2	Canadian Home Builder's Association	Additional transparency measures applied on home builder corporations should not become an administrative burden.
			Changes could invite additional speculation if prov. Gov't. agencies or home builders can't shield their identities - adjacent sites become inherently more valuable.
			Will multiple reports have to be submitted for the same unit - even if no change to BD (e.g. single lot subdivided into multiple units to be registered separately for purchase)
			What will fee be to report. If multiple fees are required per development unit, these fees will be passed onto consumers and will have a negative affect on housing affordability.
			Will these reports impact the development process?
27	374137	Law Society of BC	Law society has serious concerns about establishing the mechanism for dealing with claims of solicitor client privilege by way of regulation. Would be more comfortable with this being included in the statute itself.
			As long as the certifications of declarations and disclosure reports is limited to ensuring that they have been certified as prescribed and a true copy is in possession of the submitter - no concerns
			Re: Limited Partners - sections 23 and 55(2) of the Partnership Act seem to suggest that limited partners may have an interest in personal property - not land. Why are limited partnerships included in the definition of "relevant partnership"?
			Family Law Act implications - consider ability to put charge on title to prevent a sale while a claim is underway, etc.
			Privacy and security are important. Info should be held in a manner consistent with FOIPPA - particularly sections 30 and 30.1
28	374112	Canadian Bankers Association	Greater clarity required re: definition of "beneficial owner" - the application of 25% threshold should be applied to relevant trusts - names and addresses of all beneficiaries who are entitled to 25% or more of the proceeds of the trust.
			Don't believe that beneficial owner captures "contingent beneficiaries" who have no right to property until a person passes away - this is consistent with exclusion of testamentary trust
			Actual address of individuals (including country, province and city of residence) should be provided
			Entities such as banks and their subsidiaries should be excluded
			Should be clear that a trust company is excluded when land is held in the name of the trust company as owner, but not when acting as a trustee for beneficial owners
			Should be clear that a "mortgage interest" is not considered an interest in land
			It will be very difficult for trust companies to comply with section 14 to disclosure pre-existing beneficiaries. Trust companies have a multitude of beneficiaries - this is much more difficult than it is for other corporations that only need to report on the beneficial ownership of their own corporation
			There should be at least 18 months following the passing of the legislation before it comes into force
29	374039	s.22	Consider exclusions for corporations acting as the trustee of a bare trust for the benefit of a union and its members
			Online disclosure registration and reduced fees for real estate stakeholders should be implemented to ensure that unnecessary costs and delays are not passed to consumer

s.13

30	374148	Appraisal Institute of Canada	Prescribed information should include physical property and sale data and should be linked to other reliable data services. We recommend that existing public reg stries be amalgamated to capture all ownership, property and sa es info.
31	374171	Urban Development Institute	Although LOTA will add substantial administrative costs, fees and delays to real estate transaction and development projects, UDI is supportive of LOTA in principle.
			Concerned with information being publicly accessible.
			There may be commercial purposes not to have information publicly known - releasing this information could increase speculation. There should at least be the ability to delay the reporting of commercially sensitive transactions.
			Express trust should be defined
			Should be clear if bare trusts are included under relevant trusts
			Definition of sector does not match FITA
			Clarify if no one owns 25% - nothing is reported
			Definition of corporation in LOTA and BCA don't match
			"Value of equity" is too vague and will require continuous review. The voting rights test should be sufficient.
			Define what "significant interest or control" means
			"common interests" s. 3(2)(b) is not defined
			Consider applying 25% rule to partnership - especially limited partnerships and limited liability partnerships
			section 7(a) provide the "relevant" corporation's or company's... (for consistency)
			Under section 7(a)(iii) "if applicable" should be added after "head office address"
			Leases should not be included
			Suggest reporting BO info every 6 months instead of "when becomes aware of a change"
			Concern that public info will increase speculation - for example: in 2007 BC gov. purchased 15 single room occupancy buildings - and reduced land costs by shielding the province's purchase activities by using numbered companies. This was broadly supported.
			Principle residence should not be released
			s. 28(2) increase delay from 30 days to 60 days to ensure that a vulnerable individual has time to apply.
			Consider similar exclusions under "relevant corporation" for partnerships (e.g. partnerships can be reporting issuers and are the equivalent of a public company). A schedule for partnership exclusions could also be added.
			Hybrid charitable trusts and spousal trusts should be added as exclusions under schedule 2
32	373925	Canadian Bar Association (Wills and trusts	Full support of STEP submission
			CBA is concerned that increasing filing fees, PTT and transaction costs generally is undermining the reliability of the Torrens system by incentivizing off-register transactions
			If the purpose is to facilitate corporate transparency, the right to examine a BC Company's Central Securities Register at its records office (abolished under the BCA) would be more straightforward
			Requirement to disclose interest holders of all corporate structures will be very onerous for large-scale commercial transactions. This will increase transaction costs significantly
			CBA predicts significant impacts on the viability and attractiveness of BC as an investment destination (e.g. multi-tenant residential buildings - owner may have legitimate reasons for not wanting to be publicly identifiable by tenants.)

33	374155	Canadian Bar Association (real property)	Concerned that the Torrens system is undermined as a de facto result of BO registry and creates questions about the ability of real property practitioners to provide opinion as to good and marketable title, or as to all necessary registrations going forward.
			Question as to whether or not the purpose is to impose tax obligations on beneficial owners
			CBA section is concerned regarding current commercial transactions in BC. How do real estate practitioners give title opinions on good and marketable title?
			Discretionary trusts and contingent interests not captured under schedule 2 exclusions - are these intended to be captured under LOTA?
			LOTA definitions and definitions in sections 2 and 12.13 of the PTTA do not align - these should be amended to be harmonized, or provide a clear reason for the difference
			how is "the equity of that corporation" determined? Preferred shares? Voting shares? And under 5(1)(a)(ii) what is the value of "equity" or "voting rights"
			What is considered "reasonable efforts" to determine that a person has not been deemed incapable? And how do you do reasonable diligence on adult guardianship applications?
			should "qualified professional" (s. 19(1) and s. 37(1)(b)) be defined?
			section 15 - is two months enough time to get affairs in order?
			Concern that LOTA's required information is not consistent with PTTA form
			If you act for a lender, will you ask to see this form before you file?
			LOTA is silent on how to comply with record keeping requirements
			What is considered "reasonable efforts".
			Law enforcement/tax authorities have access to additional information - is this reflective of public or government mistrust of lawyers as responsible gatekeepers for identifying money laundering and criminal behaviour
			Will 2 month filing window create a de-facto transaction freeze (e.g. lenders will need to be concerned with BO's being capable of unfreezing the borrower's and subsequently, the lender's title
			Apparent goals of LOTA seemingly at odds with LTSA's recently revised database (to no longer display a registered owner's name on a PID search without payment for each individual title.
34	374174	Unite Here Local 40	Province should require all corporate entities to disclose beneficial ownership - not just those that hold real estate
			25% threshold is too high - should require information about all direct and indirect interest holders
			Create additional disclosure requirements for trusts -province should create a beneficial ownership register for trusts (not just those that hold real estate) and should collect info on beneficiaries, settlors, protectors, etc.
			Access to the information should not be cost prohibitive (and ideally free)
35	374031	Academic submission	Reduce threshold from 25% to 5%
			Suggest that LLCs and CCCs be included to ensure that these entities are not used to hide ownership
			After the legislation is brought into force, the government should conduct an evaluation of the effectiveness and bring into force any changes that address any shortcomings or gaps in the draft legislation
36	N/A	BC Assessment	BC Assessment would like to have access to name, phone number and email address of each beneficial interest holder to help them do their work.
			LOTA will result in significant additional costs for all BC land transactions - will be borne by buyers and sellers in all income brackets. New obligations for documents, searches, filings, explanations will result in higher fees.
			"reasonable" is used 33 times - this should be defined.
			"prescribed" is used in 30 places - this could be an indication that more work is needed on the translation of policy objectives into statutory obligations
			Very important to have precise clarity on obligations to keep records
			Recommend official sanctioned government education materials to be developed for distribution to real estate buyers and sellers.
			Corporate shareholder information used to be available at BC company records office - this could be restored through an amendment to the BCA

s.13

			Consider requiring all purchasers to have either a SIN number or an Individual Tax Number.
			Buyers may not have any information about sellers - they will be providing low quality information. Consider requiring sellers to provide a "notice of disposition" at the time of sale - this will be better for tax collection purposes.
			Important to align LOTA requirements with other requirements (e.g. PTT returns). Goal should be to eliminate duplication. Goal should e to align with federal legislation as well.
37	369971-4	BC Notaries	Torrens system - does not allow for the registration of land in the name of a trustee. The trust document must be filed and is publicly available - a simple step would be to require that properties held in trust be registered as currently provided for in the *Land Title Act*.
			Urge the government to work closely with practitioners to ensure that procedures align with practical reality of transactions. E.g. transfer of property ownership from deceased owner to executors. These are not "that" transactions that raise AML and tax evasion concerns.
			Agree with technical points in STEP submission.
			"Value of the equity of that corporation" should be more clearly defined.
			s. 19 (incapacity) suggests the need for impossible inquiries. How could a corporation possibly consult every possible "qualified professional" or court registry to determine if a person is incapacitated. Also does not consider powers of attorney.
			True copy - LOTA definition uses the term "exact" this is essentially impossible - would prefer language like "the same in every material particular"
			In order to make it work - it is critical that this is appropriately funded (for creation of computer resources and highly skilled staff)
			Agencies responsible for tax collection and policing need significantly increased resources to pursue investigations and to respond to inquiries.
			Concern that it's stigmatizes business and trusts, many of which are lawful created and used for legitimate reasons.
38	369970	s.22	ISC should consult anti-fraud and intelligence communities to ensure the framework has strength and that loopholes will not be exploited.
39	369953-2		Perhaps it would be enough if I could order information about corporate owners through land titles, that way there is a cost barrier, similar to getting information about an individual land owner.
40	369983		If this is intended to be open to the public it must be at no charge or your will defeat the purpose. Access to court judgements should also be open to the public at no charge.
41	370176		SIN numbers are easily used for identity theft and should not be used -- hackers will access the database. Penalties are too low will be considered "chicken feed" by money launderers. Professional corps and small business should be added to schedule 1.
42	370327		Registry should be accessible by law enforcement etc. General public should have some sort of barrier to accessing information (e.g. $50 fee per inquiry) to minimize access by opportunistic criminals)
			BC should refer to UK consultation paper to ensure that legislation is effective when compared to other jurisdiction's transparency legislation.
			"bona fide efforts" or "best efforts" should be used instead of reasonable efforts.
			Should require proof of citizenship and country of residence of BO's for the purposes of sharing this info with jurisdictions where BO resides.
			Where exemptions apply (e.g. public company) exemption info should be captured by registry. E.g. a note on ABC Company's title that ABC Company is exempt because it is a public company.
			Rules that govern disclosure in other jurisdictions should be comparable in terms of strictness - avoid encouraging entities to exploit the weakest regime.
			LTSA should partner with the private sector in the development and operation of some of the components of enforcement regime including collection and dissemination of info.
43	371719		Municipal governments should be included under the definition of "taxing authority".

s.22

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		The "under 19" loophole may be exploited - e.g. a student listed as the owner of a multi-million dollar home.
		Search fees should be low so as to not deter people from searching.
		Registry should have an established mechanism for sharing information to officials from other countries.
		Registry should be made available as a web service or RESTful API for the purposes of integrating with other data sets.
		Experts with knowledge of Charter of Rights and Freedoms and privacy legislation should be consulted to ensure that investigation powers are appropriate.
		Maximum fines are appropriate but there should also be a criminal component (jail time)
44	371765	Re-committing information for those under 19 and creating ability to obscure info for vulnerable individuals – we know that loopholes will be exploited without conscience. How can we mitigate the risk of these provisions being used as loopholes.
45	372371	Get rid of bare trusts. We should start registering these tomorrow

From:	Leslie, Danielle
To:	Norman, Tiffany FIN:EX
Subject:	RE: Policy issues raised through LOTA consultation
Date:	October 12, 2018 8:44:40 AM

Thanks!

Danielle Leslie
Legal Counsel
Land Title Division
Land Title and Survey Authority of British Columbia
Suite 200 – 1321 Blanshard Street, Victoria, BC V8W 9J3
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The LTSA Customer Service Centre telephone number is 1-877-577-LTSA (5872) or 604-630-9630.

This communication and all attachments are intended only for the addressee and are confidential. If you receive this communication in error, please delete it and notify me immediately. Thank you.

From: Norman, Tiffany FIN:EX [mailto:Tiffany.Norman@gov.bc.ca]
Sent: October 12, 2018 8:42 AM
To: Leslie, Danielle
Subject: RE: Policy issues raised through LOTA consultation

s.22

– I've updated the meeting invite with dial-in information.

Tiffany Norman
Senior Policy Advisor
Financial and Corporate Sector Policy Branch
Ministry of Finance
T: 778-698-5271

From: Leslie, Danielle [mailto:Danielle.Leslie@ltsa.ca]
Sent: Friday, October 12, 2018 8:38 AM
To: Norman, Tiffany FIN:EX; Dillon, Brian FIN:EX; Primeau, Joseph FIN:EX; Johnston, Craig; Porter, Michelle L FLNR:EX; Buchan, David FLNR:EX; Vert, Patrick FLNR:EX; Peck, Nancy AG:EX; Fowles, Jim AG:EX
Subject: RE: Policy issues raised through LOTA consultation

Good morning all,

I've come full circle since our first (second?) LOTA meeting way back in early spring and s.22
s.22 so will be attending this morning's meeting by telephone. My apologies. Craig Johnston has a conflicting engaging and is not able to attend today.

Speak with you soon,
Danielle

Danielle Leslie
Legal Counsel
Land Title Division
Land Title and Survey Authority of British Columbia

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This communication and all attachments are intended only for the addressee and are confidential. If you receive this communication in error, please delete it and notify me immediately. Thank you.

From: Norman, Tiffany FIN:EX [mailto:Tiffany.Norman@gov.bc.ca]
Sent: October 5, 2018 11:50 AM
To: Dillon, Brian FIN:EX; Primeau, Joseph FIN:EX; Leslie, Danielle; Johnston, Craig; Porter, Michelle L FLNR:EX; Buchan, David FLNR:EX; Vert, Patrick FLNR:EX; Peck, Nancy AG:EX; Fowles, Jim AG:EX
Cc: Dawkins, Christina FIN:EX
Subject: RE: Policy issues raised through LOTA consultation

Good morning everyone,

We have now finished an initial review of the LOTA responses received through the white paper consultation. I have two documents summarizing the responses received.

The first document includes an index of all the responses that were generally positive, negative or "other" (e.g. questions about the consultation process). These responses were generally quite succinct, so I have included a short summary of the comments received (22/24 respondents raising concerns were primarily worried about the data being publicly accessible).

The excel spreadsheet breaks down all the substantive submissions and each individual suggestion/recommendation included in them. Note that this is a draft document meant to "triage" the comments received and identify those that may require some further discussion with the L&L sub-working group – this is not a formal analysis of the response. It may be used as a general guide when we meet to determine the need for drafting instructions.

I will be sending out a meeting invitation (hopefully for late next week) for the L&L group to meet to discuss the submissions. If you want to see the full submissions, these are on the LOTA SharePoint. Note that for a number of these, you will see the covering email, but if you click the attachment link (the same way you would on an email in your inbox), it will open the full submission.

Sincerely,

Tiffany Norman
Senior Policy Advisor
Financial and Corporate Sector Policy Branch
Ministry of Finance
T: 778-698-5271

From: Norman, Tiffany FIN:EX
Sent: Monday, August 27, 2018 9:46 AM
To: Dawkins, Christina FIN:EX; Dillon, Brian FIN:EX; Primeau, Joseph FIN:EX; Leslie, Danielle; Johnston, Craig; Porter, Michelle L FLNR:EX; Buchan, David FLNR:EX; Vert, Patrick FLNR:EX

Cc: Peck, Nancy AG:EX; Fowles, Jim AG:EX
Subject: Policy issues raised through LOTA consultation

Good morning,

As we have begun to receive some more substantive submissions on the LOTA white paper, some issues have been raised that will require discussion by the Legal and Legislation Sub-Committee. Attached are the following submissions:

- Submission from the Society of Trust and Estate Practitioners (STEP) Canada
- Submission from BC Assessment

s.13,s.14

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s.13 It sounds that the comments will be primarily technical in nature. We also expect to receive formal submissions for the Notaries and CBA committees.

Sincerely,

Tiffany Norman
Policy and Legislative Analyst
Financial and Corporate Sector Policy Branch
Ministry of Finance
T: 778-698-5271

Miranda, Carrie FIN:EX

From: Dawkins, Christina FIN:EX
Sent: November 30, 2018 2:38 PM
To: Peters, Melissa GCPE:EX
Subject: Re: Question: Tech Brief

s.22

It would be some of me, Shauna, Brian and Tiffany but we should run it by Shauna.
s.22

Cheers
Chris

Sent from my iPhone

On Nov 30, 2018, at 2:03 PM, Peters, Melissa GCPE:EX <Melissa.Peters@gov.bc.ca> wrote:

> Chris – we have a media request (for mid-Dec, not urgent) for a tech brief on LOTA, and I'm wondering if we suggest it, who would be the best person to set them up with? Yourself? Shauna? Have you had media training/spoken with reporters before? Can we connect next week on this maybe? Just wanting to sound you out.
>
> Melissa Peters
> A/Communications Manager
> Ministry of Finance
> Desk: 250 356-5698
> Cell: 250-213-1634
> melissa.peters@gov.bc.ca

From:	s.22
To:	FCSP FIN:EX
Subject:	375497 Land owner Transparency Act
Date:	October 15, 2018 5:06:26 PM

Dear Sir,

Thank you for the ongoing efforts on tackling money laundering and opaque investments in BC real estate market.

Following the 30-point plant for Housing Affordability, I wanted to reach out and inquire if any additional information has been made public regarding the Land Owner transparency Act consultation. From the website, the consultation closed on Sept 19th and we should anticipate a formal change in Land title registration in BC in the near future?

Look forward to you reply.

Best Regards,
s.22