



INFORMATION BRIEFING NOTE

Date: November 18, 2020

Prepared For: Kaye Krishna, Deputy Minister of Municipal Affairs and Housing

Title: Impact of Seagull Decision

Issue: A recent Property Assessment Appeal Board (PAAB) decision could significantly impact how properties with development potential are assessed, and potentially reverse a previous PAAB decision (Amacon).

BACKGROUND:

The Seagull Leasing (Seagull) property located in the Marpole area of Vancouver is currently used as a Canada Post Distribution Centre and classified as Class 5 (Light Industry). Seagull appealed the 2017 and 2018 classification to the PAAB on the grounds that a portion of the property should be in Class 6 (Business and Other) as the unused airspace above the building is land with no other use, and Class 6 captures properties that do not fall into any other class. *Note: Section 10 of the Prescribed Classes of Property Regulation (Regulation) authorizes a split valuation for properties that have two or more prescribed classifications.*

The PAAB's October 2020 decision found that the entire Seagull property should remain in Class 5 and not be split classified; this effectively reversed a previous decision on split classification (Amacon) outlined below. The decision did not affect the assessed value of the property (\$5.2M for 2017 and \$11.2M for 2018).

DISCUSSION:

The 2014 PAAB Amacon decision found that a property's airspace or unbuilt density could be considered 'land' (confirmed by the BC Supreme Court (BCSC)) and split classified as residential (Class 1) as it was vacant and had no current use (authorized under section 1(1)(c) of the Regulation). In 2016, the PAAB further concluded that the specific zoning of the property must determine the portion of the value attributable to unbuilt density.

The PAAB Seagull decision also states that the Amacon decision was incorrect and essentially reverses previous direction on how to split classify properties with development potential where there is a current use and unbuilt density. Although the Seagull decision confirms that unbuilt density can be considered land, unlike the Amacon ruling it finds that all density above the roofline contributes to the current use and that the entire subject property should remain in Class 5.

s.13; s.14

s.13; s.14

s.13



Ministry of
Municipal Affairs
and Housing

s.13

PREPARED BY:

Marika Glickman, Senior Policy Advisor
Property Assessment Services Branch

APPROVED BY:

Silas Brownsey, Assoc. Deputy Minister
Strategic Planning and Land Use Division

DATE APPROVED:

November 16, 2020