

## Proposals for fair taxation in New Brunswick





## Who we are.

The New Brunswick Real Estate Association (NBREA) represents more than 800 agents, salespeople and affiliate members throughout the province. We are also partners in protecting the public interest through co-regulation with The Financial and Consumer Services Commission (FCNB).

New Brunswick REALTORS® are trusted advisors who help consumers make some of the largest purchases of their lives. Our members are in the business of supporting communities – not just selling homes. REALTORS® value quality schools and parks, safe neighbourhoods, a strong economy and efficient transportation choices.

Home buyers and sellers trust REALTORS® for their insights every day. New Brunswick REALTORS® assisted with more than 7,000 home sales in 2016, as recorded through the MLS® systems in the province. The insights REALTORS® gain through their work are valuable to policy makers and reflect the opinions of many New Brunswickers.

As REALTORS® we likely visit more homes to talk with people about their hopes and dreams than individuals in any other profession. We learn from our clients the things they value, and what their concerns are.

Together we work hard to promote public policy in a shared belief in a quality of life in New Brunswick. That **Quality of Life** philosophy is based on five principles important to REALTORS® in building better communities. Over the years we have applied these principles to our volunteer work, fundraising, and advocacy for changes in provincial laws.

- **Ensuring Economic Vitality**  
Quality of life starts with a good job. The key to our quality of life is a strong economy.
- **Preserving our Environment**  
REALTORS® recognize that one of the most important elements of our quality of life is clean air and water, parks and open space.
- **Protecting Property Owners**  
A strong economy depends on preserving the investment people have made in their homes and protecting the ability to freely own, use, buy and sell property.
- **Building Better Communities**  
Communities with good schools, safe neighbourhoods, reliable public services and transportation, beautiful parks and open space are healthy communities. Better communities are created when governments are our partners and sufficient fund schools and infrastructure systems which are essential for a community's quality of life.
- **Providing Housing Opportunities**  
Quality of life means having a roof over your head. We all want a safe, decent, and affordable home near where we work, shop, and play. A community needs a choice of affordable housing with a range of design, costs, and locations.

Real estate plays an integral role in our economy. Residential real estate provides housing for families. It's often the greatest source of wealth and savings for many of them.

Home ownership is a dream and a goal shared by residents of New Brunswick. For generations, families from all backgrounds have worked hard and saved diligently in the pursuit of buying a home. Home ownership was the backbone of decades of economic growth and opportunity, and laid a foundation of success for new residents as well.

## **The housing market is a pillar of the New Brunswick economy.**

In the period 2012 - 2014, home sales on the Multiple Listing Service (MLS®) created 1,740 direct and indirect jobs in New Brunswick. These were in the construction, financial, insurance, real estate and legal industries (Altus Group study, 2015).

Home buyers in our region generated approximately \$200 billion in home-related expenditures in that 2012 - 2014, with every home purchase generating an average of \$32, 125 in additional consumer spending on everything from renovations to furniture (Altus Group study, 2015).

Home resales create move-up space and spark demand for new housing construction. The residential construction industry (both new housing and renovations) contributed over \$1.9 billion to the provincial economy annually, and creates 19,400 direct and indirect jobs annually— with wages totaling more than \$1 billion (Home Builders Association, 2015)

Home ownership also provides numerous social benefits. Homeowners demonstrate higher levels of civic engagement, support stable communities, and see their children perform better in school (Habitat for Humanity, 2012). In addition, a greater percentage of homeowners than renters demonstrate their engagement in the issues affecting their communities by voting in municipal and provincial elections (Ipsos Reid, 2014).

However, recent government initiatives have had a negative impact on the housing market, driving up closing costs through the 2 per cent increase in the HST, and the increase in the land transfer tax. As the New Brunswick division of the Canadian Homebuilders Association pointed out in a letter to the premier in April of 2016, the increase in the HST put housing affordability out of the reach of many first time home buyers, affecting the existing real estate market and the new homes market in the process.

These provincial tax changes have been compounded by federal initiatives. In testimony before the House of Commons Finance Committee in January 2017, Stuart Levings, CEO of Genworth Financial said the federal government "had gone too far" in restricting restrictions on first-time buyers, "making it harder for them to gain a foothold in the housing market." Genworth is Canada's largest private mortgage insurer.

Home affordability is very important to New Brunswickers and it is a wealth builder for most New Brunswick families. Those New Brunswickers who do invest into a new home or a renovation and bear the HST increase, will have to finance this increase over the amortization period of their mortgages and in the end this will contribute to the overall debtload of homeowners in this province.





## A Property Tax System that is fair and transparent

Since 2010, NBREA has been advocating for a modernization of the property tax system and municipal reform. The sheer magnitude of change implied a phased-in approach, so the government could coordinate modernization with revenue adjustments for both municipalities and the provincial treasury. NBREA recognizes that these taxation adjustments cannot be done in a vacuum, and cannot be done for short-term gains. We recognize the financial challenges the government faces in developing solutions to property taxation issues.

NBREA first expressed concern about the provincial property tax system in 2010 by publishing a comprehensive review of property tax issues in New Brunswick, recommending the first priority be making the property tax system fair for all residents.

The Association defines "fairness" as meaning there is a statistical methodology for calculating assessment increases based on real market conditions. This means recognition in the system that prices can go down, or remain unchanged, and increases are not considered a "norm". Fairness refers to property owners and not municipalities, as municipalities have access to alternative revenue sources; property owners do not.

Property value assessments have been identified as being at the heart of the issue as they do not reflect real market conditions. As the primary driver of the property tax system in New Brunswick, many owners believe there are problems with how property value assessments are calculated, with their accuracy, and how they are presented.

**NBREA believes if a property is sold within a taxation year, the actual amount the property is sold for should be used as the property value assessment. If a property is not sold, then the amount the property was previously sold for, plus applied annual increases, should determine what the assessed value is.**

NBREA also recommended applied annual increases in property value assessments should be based on the annual increase in the average property price in an identified area. Doing this will eliminate potential "spikes" that occur because of new construction in an area or because of buyers paying more than asking price for properties.

Also, it is the tax rate that should provide the equitable distribution of the property tax burden, and not the assessment. In other words, the assessment is used only to determine the value of the real property being taxed, while the tax rate is used to determine tax revenues or distribute the tax burden. Using assessment for any purpose other than determination of real market value of a property only aggravates deficiencies in the system.

It is essential that the frequency of re-inspections be increased, but there are other implications in the equitable application of the "real market value" concept that must also be addressed. This also includes acknowledgement of the possibility that real market value may decline. As stated in the NBREA white paper, real estate markets are based on supply and demand determining the appropriate sale price for a property. There are motivated sellers and buyers who agree on a price, and that price reflects the current market value of the property.

The issues associated with property value assessment have been identified by REALTORS® in New Brunswick as a major issue impeding economic development.

**ISSUE ONE: A review of the Assessment Act**

The provincial government should conduct a review of New Brunswick's Assessment Act, which is 50 years old this year (2016), to ensure the province has a fair property tax system that helps – not hinders – economic activity and growth.



This review must address property tax fairness, especially the double taxation on non-owner occupied properties, and the calculation method for residential assessment. This is tied to the long-discussed municipal reform in the province.

The review must also include the assessed value for forest and agricultural land set out in the legislation.

**REALTORS® propose: A review of the New Brunswick Assessment Act to ensure it meets the modern aspects of today's real estate realities.**

**ISSUE TWO: A question of fairness. Tax what is, not what if.**

The current policy of using EITHER purchase price OR assessed value (whichever is higher) is unfair. With other commodities consumers are taxed on the actual price. The current policy also cannot reflect real market conditions for the property involved. If there is a market downturn within the 12 month assessment cycle, it would be reflected immediately in the real price paid. It may only be reflected in the assessed value years later. In real estate, the real value of a property is what a buyer is willing to pay, not what someone thinks it could be worth.

Government policy should be to apply the tax on the actual purchase price if the real property is being transferred as a result of a registered transaction. Just as other provincial taxes are applied to the actual price, the same policy should apply in a real estate transaction. The government should not be applying tax on an amount they believe is higher; the tax should be applied on what the consumer actually paid.

The current version of the New Brunswick Real Property Transfer Tax Act states that:

2(1.03) On or after April 1, 2016, every person who tenders a deed for registration in the Province shall pay, before the deed is registered, a tax computed at the rate of 1% of the greater of (a) the consideration for the transfer, OR (emphasis added) (b) the assessed value of the real property.

2(1.04) Despite subsection (1.03), in respect of an agreement for sale or purchase executed before February 3, 2016, the percentage referred to in subsection (1.03) shall be read as 0.5%, regardless of the date on which the deed is tendered for registration.

*(Source: (CanLII) Real Property Transfer Tax Act, SNB 1983, c R-2.1)*

**REALTORS® propose: The land transfer tax be applied to the real sale price of the property, just as other goods and services are taxed on the actual amount paid.**

REALTORS® in New Brunswick would like to share these examples of how a Real Property Transfer Tax based on the assessed value (not the price paid) drove up the total cost of home ownership. The unfair application of the tax means buyers have less to spend on housewares, furnishings or renovations, which is the incremental spending that would help the provincial economy.

In September 2016, a single family home in **Woodstock** was sold for \$167,000. It was listed for \$179,900. At that price, the property had been on and off the market for more than 700 days. The tax assessment was \$242,800, or \$35,800 more than the actual price paid.

LTT on market value: \$1,670                      LTT on assessed value: \$2,428      (+\$758)

In February 2017, a home in the **Moncton** area sold for \$426,000. The assessed value was \$599,000. The buyer paid the transfer tax on the assessed value, which was \$173,000 more than the actual price paid.

LTT on market value: \$4,260                      LTT on assessed value: \$5,999      (+\$1,729)

In 2016 a 30 year old bungalow in **Rothsay** was listed for 6 months with an asking price of \$209,900. It eventually sold for \$185,000. The assessed value was \$290,000, so the buyer had to pay the Land Transfer Tax on an amount \$105,000 higher than what they actually paid for the home.

LTT on market value: \$1,850                      LTT on assessed value: \$290,000      (+\$1,050)

In 2016, a home in **Edmundston** was assessed at \$266,900. It actually sold for \$165,000, or \$101,900 below the assessed value. The buyer had to pay the Land Transfer Tax on the higher amount, rather than on the actual market value.

LTT on market value: \$1,650                      LTT on assessed value: \$2,669      (+\$1,019)

In 2016, a home in **Fredericton** sold for \$176,900. The assessed value was \$227,800. They buyer should have paid \$1,769.00 for the current Land Transfer Tax based on the actual sold price. Instead they had to pay \$2,270 – or \$501.00 more

LTT on market value: \$1,769                      LTT on assessed value: \$2,270      (+\$501)

In 2016, a single family bungalow in **Hartland** on 24 acres sold for \$55,000. The assessed value was \$112,900, so the buyer had to pay the tax on an amount \$67,900 higher than what they actually paid for the property.

LTT on market value: \$550                      LTT on assessed value: \$1,129      (+579)

In 2015, a church in **Saint John** sold for \$95,000. The listing was active for three months with an asking price of \$120,000. The assessed value was \$492,800, so the buyers had to pay the Land Transfer Tax on an amount almost five times what they actually paid for the property.

LTT on market value: \$950                      LTT on assessed value: \$4,928      (+\$3,978)

In 2015, a single family home in **Memramcook** was put on the market by CMHC with an asking price of \$39,900. The assessed value was \$88,300. After two price reductions in 2016, the home sold for \$13,500. The offer was from a single mother trying to buy her first home. The transfer tax was based on the assessed value, an amount that represented 7 per cent of the actual selling price. She had to back out of the transaction because the transfer tax made it impossible for her to finance. The only good news in this situation: CMHC agreed to refund her deposit.

LTT on market value: \$135                      LTT on assessed value: \$883      (+748)

*Note: The (+) figure indicates how much more the buyer paid because the assessed value was used to calculate the transfer tax, rather than the real "sold" price.*

## The land transfer tax is unfair to New Brunswick home buyers

The tax is unfair because it forces a small segment of taxpayers (property buyers) to fund services designed to benefit all citizens.

One of the distinctive differences between traditional property taxes and the land transfer tax is its impact on mobility. The transfer tax creates a dis-incentive for property owners to sell their homes and move. More owners remain in unsuitable housing, reducing the number of homes for sale. Traditional property taxes have the advantage of not discouraging mobility, as all property owners across the municipality contribute.

Using the average price of a home in New Brunswick (\$164,000) as a guide, the increase in the land transfer tax resulted in an additional \$820 in costs for New Brunswick families. This will not only slow real estate sales in the long term, but it also becomes another obstacle to young families purchasing their first home. It's an additional cost for New Brunswickers who want to purchase a new home to meet their changing housing needs, and they are not receiving any added value for this increase.

This tax increase will only provide yet another obstacle to New Brunswickers investing and participating in our economy.

These are the same issues that prompted the government of Ontario in November 2016 to double its land transfer tax rebate, and help first time buyers address the affordability issue.



**ISSUE THREE: Eliminate double taxation on non-owner occupied residential properties.**

NBREA is again calling on the New Brunswick government to remove the inequity of double taxation on non-resident occupied residential properties. In 2012, the government's white paper on Property Tax issues announced a phased-in reduction of the tax, beginning in the 2013 fiscal year.

The New Brunswick government did as promised in 2013, despite criticism that the move would only benefit property owners, and not tenants. The planned adjustments ended in 2016. From the government's budget announcement:

<b>Residential Non-Owner Occupied Housing</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
The \$0.334 reduction on apartments, second homes and cottages will be reduced at a rate of \$0.06 per year for the first three years (2013, 2014 and 2015) and \$0.1540 in the last year (2016).	\$1.4573	\$1.3973	\$1.3373	\$1.2773	\$1.1233

In effect, the owners of these "non-occupied" properties are hit with a triple tax, again because of the effect of federal and provincial tax laws. If we are to succeed in encouraging home ownership and investment in New Brunswick, we must pay attention to the combined effect of taxes and policies from both levels of government.

**Tax Bill #1**

In New Brunswick, every real property is assessed and taxed as a means of paying for infrastructure and services. Every property owners receives this tax bill (tax bill #1 for New Brunswick homeowners)

**Tax Bill #2**

In New Brunswick this is the second property tax bill for homeowners. The annual provincial property tax bill is calculated over and above the municipal contribution for residential properties where the owner is not the full-time occupant. This means the property owner is, in effect, paying twice but gets NO additional services. There are approximately 20,000 properties in New Brunswick that are in this category. That's tax bill #2 for New Brunswick homeowners.

**Tax Bill #3**

In Canada, there are no capital gains tax on your house, provided it is your principal residence. If you own property here but don't live in it, you are taxable on the full amount of the increase in its value when you sell it. That's true even if you live in it part-time, as long as you have a principal residence somewhere else. That's tax bill #3 for New Brunswick property owners who invest in the province, but do not use the property as their principal residence.

In 2011, the year used by the New Brunswick government in its published backgrounder on the current property tax system, the effect is double taxation on the owners of an identical residential property not owner occupied, who still face the federal capital gains tax when they sell.

<b>Property Type</b>	<b>Provincial Tax</b>	<b>Municipal Tax (Average)</b>	<b>Total Tax</b>
Residential Owner-Occupied	\$ 0.00	\$ 1.51	\$ 1.51
Residential Non Owner-Occupied	\$ 1.46	\$ 1.51	\$ 2.97
Non-Residential	\$ 2.19	\$ 2.27	\$ 4.46

*2011 Property Tax Rates for Municipalities (per \$100 of assessed value)*

**REALTORS® propose: That the double taxation on non-owner occupied residential properties be eliminated.**

**Issue Four: Reduction of provincial tax on non-residential (commercial and business) properties.**

In its election brief on property tax issues, NBREA also pointed out that because of double taxation on commercial and business properties, New Brunswick had one of the highest property tax burdens on businesses in Canada. The government's 2012 white paper identified a \$0.33 reduction of the provincial property tax on businesses, to be phased in at a rate of \$0.0825 per year for four years.

Whatever the intent, New Brunswick still has one of the highest property tax burdens on businesses in Canada. We must work to ensure the New Brunswick government follows through with reductions originally proposed in 2012. It is the “chicken or the egg” syndrome for economic development: the province needs the revenue now, but the tax has an adverse effect on initiatives to establish new business, or expand existing businesses in the province.

The declining youth population and the overall tightening of the labour market is the biggest risk to New Brunswick's economic growth in the years ahead. If we cannot rebalance our labour market - particularly in our urban centres - with an influx of young talent it will hold back economic growth and exacerbate the fiscal challenges facing provincial and local government around the province. Creating the conditions favorable to job creation, including tax conditions suitable for the creation or expansion of business, is a major ingredient in attracting young talent.

**REALTORS® propose: The provincial tax on non-residential (commercial and business) properties in the province be reduced to help encourage business development.**



## The 2017 property tax controversy

In a news conference in Moncton on April 3<sup>rd</sup>, 2017, New Brunswick Premier Brian Gallant revealed the extent of the property assessment controversy involving fabricated property values in various regions of the province. He announced an extension of the 2017 appeal deadline to August 1, 2017; the premier also announced that former Chief Justice Joseph Robison would lead an inquiry into who in Service New Brunswick did what, when, and why.

According to the Premier, Justice Robertson was to review all administrative policies and procedures in place related to the assessment process over the past seven years. That includes a review of the assessment methodology, factors related to timing and deadlines, and the use of the various technological aids, quality control processes, and the use of formulas to estimate values. However, on June 5<sup>th</sup> the government announced that Auditor General Kim MacPherson would be completing the review of the province's property assessment system.

NBREA believes equal or greater emphasis should be placed on developing the property tax system of the future, considering the important role it plays on both the overall revenue for the province, and our potential for economic growth. NBREA has recommended the government also establish a task force with a mandate to recommend changes to the property tax system so it is perceived as fair and reasonable, based on sound methodology. In our proposal the task force would focus on the future, incorporating any relevant recommendations from Justice Robertson.

**REALTORS® propose the creation of a Task Force with a mandate to consult with all stakeholders in the development of a fair and equitable property tax system. This includes recommendations on who does the assessment, the guidelines that are used, and the rights and procedures for appeal.**

**NBREA is recommending a comprehensive review of the province's entire property tax structure, to ensure that New Brunswick follows best practices, and is competitive in a global marketplace with a fair and equitable tax system.**

NBREA members are here to help resolve these complex issues, providing the expertise of REALTORS® in New Brunswick who deal with these property tax issues every day as they help families make the single biggest investment of their life.

We would recommend the Task Force members include not only members of the legislature, but stakeholder representation to ensure a thorough investigation of issues and proposed solutions.

In his April 3<sup>rd</sup> news conference, the New Brunswick Premier also announced plans to introduce legislation moving the responsibility for property assessments to an independent agency. The New Brunswick Real Estate Association is studying the implications of this change.

## **The impact of federal initiatives to “cool” the housing market**

The federal government has taken a number of measures in 2016 to try and bring balance to the Canadian housing markets. As of February 15, 2016, any sales price over \$500,000 requires a 10% down payment, meaning a \$700,000 home will require a \$45,000 down payment: 5% on \$500,000 and 10% on the remaining \$200,000.

Canada's average home price in January 2017 was \$454,976 while New Brunswick's average home price is \$164,000.

There are eight markets in Canada that have average home prices greater than \$500,000 and none of them are found in New Brunswick. This is an example where the statistics show housing in New Brunswick is still very affordable. However, there is still an active market for homes over \$500,000 in the province.

On October 3rd, 2016, the federal Minister of Finance announced a series of measures the government said would bring consistency to mortgage insurance rules by standardizing eligibility criteria for high- and low-ratio insured mortgages, including a mortgage rate stress test. The measures were also designed to improve tax fairness by closing loopholes surrounding the capital gains tax exemption on the sale of a principal residence. The government also announced plans to consult on how to better protect taxpayers by ensuring that the distribution of risk in the housing finance system is balanced.

The Finance Minister's changes to regulations affecting mortgage lending has added to housing market uncertainty among buyers and sellers. For first-time home buyers, the stress test for those who need mortgage default insurance will cause them to rethink how much home they can afford to buy.

In his testimony before the House of Commons Finance Committee, the Senior Vice-President of CMHC, Steve Mennill, said that CMHC estimated that the credit curbs led to a 15 to 20 per cent reduction in applications for mortgage insurance. "The majority of those were first-time home buyers" he noted.

First-time home buyers, particularly in housing markets with a lack of affordable inventory of single family homes, may be priced out of the market by the new regulations. First-time home buyers support a cascade of other homes changing hands, making them the linchpin of the housing market.

Organized real estate, including the New Brunswick Real Estate Association, is concerned with the government's change to mortgage qualifying rules. NBREA and the Canadian Real Estate Association (CREA) are data driven decision-makers and will compile re-sale data to monitor and report on the impact to the federal government.

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