

March 31, 2016

B.C. Court of Appeal sides with City on managed forest lands taxation

On Jan. 29, 2016 the BC Court of Appeal issued its judgment on TimberWest Corporation's appeal of the BC Supreme Court decision upholding the City's 2014 Tax Rates Bylaw. In its ruling, the BC Court of Appeal unanimously dismissed TimberWest's argument that the City did not have the authority to raise the tax rate on managed forest lands within City boundaries. The 60-day period for TimberWest to appeal to the Supreme Court of Canada expired on March 29 without such an application, meaning the BC Court of Appeal's ruling is final.

"We are pleased to hear that the BC Court of Appeal has upheld the City's 2014 Tax Rates bylaw," says Mayor Andy Adams. "The decision to raise property taxes in 2014 on managed forest lands simply brings the tax rates on TimberWest's properties in Campbell River to the provincial average over a three-year phase-in period. The City recognizes TimberWest as a valued taxpayer and are happy this court case is behind us."

The BC Court of Appeal found that the Supreme Court correctly interpreted the relevant legislation, and upheld the City's position that the Province, through section 14 of the *Local Government Act* and other taxing legislation, provides specific authority to local governments to set separate tax rates within the same property class where, as in this case, there has been a municipal boundary extension approved through legislation.

"The judgment made in this case is of interest to local governments throughout the province as there are examples of many other municipalities that have similarly set differential tax rates through a municipal boundary extension, which have now been upheld at both the Supreme Court and the Court of Appeal," says Ron Bowles, the City's general manager of corporate services and chief financial officer. "As a result of the appeal, the City of Campbell River will continue to follow Council's tax policy of charging the provincial average tax rate on managed forest lands within City boundaries, except for lands where provincial restrictions apply."

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Background

- During the January 2014 financial planning meetings, Campbell River City Council approved tax rate increases for managed forest lands and utilities tax classes to be phased in over multiple years that would bring rates in line with the provincial average for these property classes.
- The policy to increase taxation on these two classes aimed to address long-term funding needs while minimizing residential property taxes increases.
- Council provided advance notice to companies affected by the increase.
- The increase would affect all class 7 (managed forest land) properties in the city except for the Merrill and Ring lands, which are charged a rural rate according to a Provincial order set when these properties were incorporated into the city.
- The increase restores tax levels for TimberWest properties classified as managed forest lands to a rate similar to what the company was paying in 2008, without protest, phased in over three years.
- The BC Supreme Court announced its support of the City's position on Jan. 23, 2015.
- On Jan. 29, 2016 the BC Court of Appeal unanimously upheld the Supreme Court decision.
- TimberWest had until March 29, 2016 to seek leave to appeal to the Supreme Court of Canada.