

INTERNATIONAL COUNCIL OF SHOPPING CENTERS CANADIAN LAW CONFERENCE GOVERNMENT RELATIONS UPDATE

Thank you Monty for the very generous introduction, and to the organizing committee for this opportunity to update you on ICSC Government Relations in Canada.

Last year I told the tale of how ICSC, in conjunction with other industry groups, staved-off threatened parking tax legislation in Quebec. Regrettably, this dreaded idea is very much alive, kicking and spreading. More about this in a moment.

Last November, I represented the Canadian Division at the Government Relations Leadership Conference in Chicago. Attended by our Chairman Kathleen Nelson, our President Mike Kercheval and other major ICSC players, it was obvious how high Government Relations now ranks on the ICSC list of priorities. The Board of Trustees created a Government Relations Advisory Board, which includes each Divisional Vice-President. So Canada sits at this table along with the four US Divisions. Government Relations Staff Vice-President Herb Tyson, whom some of you met at Whistler in January, has assumed staff responsibility for Canada. I speak with Herb frequently.

In Chicago I talked about the parking tax. They reacted “Keep it North of the border” and “Don’t give-up the fight”. The last few months, with parking tax action in both Lower Mainland BC and in Quebec, have been challenging to say the least. But for those of us who are passionate about urging governments to realize that they just can’t keep, taxing commercial real estate to pay for public spending, it sure is an exciting ride.

At the Whistler Conference opening breakfast in January, Chairman Kathleen Nelson thanked, on behalf of the entire industry, our BC Government Relations Chair Ted Williams of Ivanhoe Cambridge, for Ted’s monumental efforts in organizing and driving forward a wide-ranged coalition, fighting the Greater Vancouver Transportation Authority also known as Trans Link. Trans Link is bent on building the finest public transit system anywhere, at a price tag currently pegged at \$6 Billion Dollars, and using a parking tax, on both paid and unpaid parking, to finance this grandiose plan. Ted’s group recently re-named itself Think Link. Think Link’s mission statement tells all:

“Think Link is a coalition for responsibly financed transportation. Its members are in favour of improving the transportation system, but are opposed to multi-billion dollar plans that are not responsibly financed. Think Link members include boards of trade, ratepayers associations, industry associations and private sector companies.”

ICSC has been very much in the forefront, with the support and hard work of our BC membership, owners/developers and retailers alike. Many felt that with public sentiment favouring the improvement of public transit, Think Link had little chance of defeating the financials plan. On February 27, 2004, the Greater Vancouver Regional District Board voted on Trans Link's financial plan. The meeting took all day and the vote was 57 to 56 in favour of the plan, which shows how divided opinion really is on this issue in BC. After the vote, a motion was adopted to instruct the parking tax implementation committee to recommend a flat tax to be levied against commercial real estate at large, as opposed to a tax on parking spaces. This would clearly permit a more widespread distribution of the tax burden. Think Link is confident that even those voting in favour of the plan should support the flat tax over the parking tax. Think Link members are committed to staying on top of matters, meeting monthly, devising and implementing future strategies.

Quebec – We thought we were done, especially since Quebec's Liberals while in opposition supported us. Now governing, the mere fact that the Minister of Finance would even consider legislation authorizing municipalities with populations of at least 100,000, being the major Quebec markets, to levy a parking tax caused us to react vociferously.

The Quebec coalition ICSC, UDI, BOMA, Chambers of Commerce, retail groups and the parking lot operator association have met and continue to meet with key Provincial ministers and Liberal caucus members to plead the case. We held a press conference recently. The room was packed with journalists. Being the sole anglo on the panel, and having answered a question in English, after the press conference I was "scrummed" by a sea of microphone waiving members of the fifth estate. One guy said to me "Can you feel the love?" Should I answer "no comment?" "I plead the 5th". Anyway, TV, radio and newspaper coverage later, I told how disastrous this parking tax would be for our industry.

We have good reason to be encouraged. Last Friday we met with Finance Minister Yves Séguin in one of numerous public pre-budget consultations he has convened. Several groups, ranging from the Coalition for Public Transit to the City of Montreal are urging the parking tax. The Minister is well aware of the file. He openly recognized that public transit requires a ten year global solution and not a band-aid type approach and must be viewed as part of the overall reform of municipal financing. He is well aware that political leaders of other major Quebec cities consider this a bad idea and told us so.

We are also encouraged that Minister of Transport Yves Marcoux is reported to favour public-private partnerships, in spite of protestations from organized labour. We have been preaching the public-private partnership alternative throughout.

I have always felt, with justification, and reiterate once again, that the parking tax is cancerous. Ontario's Provincial Government has floated the idea, as some municipalities push to end the 5% tax increase cap instituted by the Mike Harris Conservatives. Let's not kid ourselves – municipalities are desperate for funding and are being saddled with increased responsibility. Commercial real estate bears a heavy tax burden already and there just has to be limits imposed.

It is no surprise that all five of the current Divisional Government Relations Chairs are lawyers. Liz Holland – of Central, is Asset Manager/General Counsel of Merle Hay Mall in Chicago. Jeff Newman – Eastern, Ted Sandler – Southern, Gary Glick – Western and myself Canadian, practice in law firms. Each of these organizations recognizes the residual value the industry's visibility brings.

Yes it is a lot of work, but for me, the best marketing a shopping centre attorney can do: assist the clients in protecting the economic viability of their industry.

So get involved in your provinces and be passionate about the work you will do. You won't regret it.

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