



Response to the Queensland Government's Claims

Valuation of Land and Other Legislation Amendment Bill 2010

The Queensland Government has made a number of claims in relation to their proposed changes to Queensland's valuation system. The intent of this document is to examine these claims in detail and clarify the real implications of this Bill.

Claim #1 The Government must introduce retrospective legislation to ensure the last three valuations issued can not be challenged.

This claim is: **FALSE**

Legal advice suggests that there is no avenue to revisit past valuations that were not disputed or were settled through the objection/appeal process.

In any case, the government can overcome this concern by enacting a simple amendment to the effect that past valuations not currently subject to the objection/appeal process cannot be challenged. This is consistent with the principles of natural justice.

Claim #2 If the legislation is not passed, Queensland's councils will need to repay \$600 million dollars in rates.

This claim is: **FALSE**

The government appears to have based its figure of \$600 million on the flawed assumption that the last three valuations could be contested. As noted above this is simply not the case.

Further, even assuming the State Government is unsuccessful in all of the cases currently subject to the objection/appeal process, a total of no more than \$10 million of previously collected rates would be owing to property owners. The Property Council and Shopping Centre Council have advised the Minister that property owners would be willing to accept repayment via offsets on future rates bills, meaning that councils would not need to stump up their debt immediately.

Claim #3 If the legislation is not passed, the Queensland Government will need to repay \$300 million dollars in land tax.

This claim is: **FALSE**

Again, the government has based this figure on the incorrect assumption that three years worth of valuations could be contested.

Similar to the situation for councils, assuming the State Government is unsuccessful in all of the cases currently subject to the objection/appeal process, a total of no more than \$25 million of previously collected land tax would be owing to property owners.

Claim #4 This legislation simply reinstates valuation law that has been in place for 70 years which was changed by Queensland's Court of Appeal in the Pacific Fair Case.

This claim is: **FALSE**

Experts such as the Queensland's past Valuer Generals, the Queensland Law Society, Queensland's leading private valuation firms and Queensland's leading industry bodies all agree that this is a radical change to Queensland's system.

The Queensland Court of Appeal did not change the law or make new law, they applied the current law introduced in line with 70 years of established practice.

Queensland has always used 'unimproved value' as the basis for setting valuations; that is the value of the land without improvements. This Bill proposes to include elements such as leases and business goodwill, which have nothing to do with the land, they relate to the business on the land.

Claim #5 This legislation must pass before valuations are issued for 2010/11 in March.

This claim is: **FALSE**

The simple fact is that valuations can be issued without any change to the legislation. There is no requirement for this new legislation to be in place for valuations to be issued in March.

In fact, the 2010/11 valuations that will be issued in March are based on valuations as at 1 October 2009. This was before the Pacific Fair decision was handed down by the Queensland Court of Appeal.

Furthermore, should the government so desire, there is actually no requirement for them to issue valuations except in local government areas that have not been valued for 5 years. This would be a minority and not be relevant in any of Queensland's growth council areas.

Claim #6 This legislation only affects the 'big end of town'.

This claim is: **FALSE**

Nowhere in the legislation does it make reference to big business, shopping centres, large commercial or industrial properties.

The principles outlined in this legislation can be applied as easily to a unit, small business, house and farm as they can to Australia's largest shopping centres. In fact, these principles are required to be applied to all classes of land.

Claim #7 The proposed objection and appeal process is fair and modern.

This claim is: **FALSE**

The reality is quite the contrary. The Queensland Law Society (QLS) has said that the proposed objection and appeals process will infringe on the rights and liberties of individuals and will see the government largely determining the outcome, not the Land Court. A case of Caesar judging Caesar.

While the 45-day appeal deadline remains, the new requirements in terms of the detail and quantity of information needed for an appeal may render the process virtually unworkable.

Claim #8 This legislation only impacts on the property industry.

This claim is: **FALSE**

This legislation impacts directly on every Queenslanders - with investment and jobs the major casualties.

Industry groups such as Agforce, the Chamber of Commerce and Industry Queensland (CCIQ), the Urban Development Institute of Australia (UDIA), the Queensland Law Society (QLS) and the Real Estate Institute of Australia (REIQ) have all spoken out against the Bill.

These industry bodies recognise this is not just a big business issue; if this legislation is passed as is, Queensland's small and medium sized business will endure increased costs through higher land tax and council rates with next to no rights to appeal.

Claim #9 If this legislation is not passed, commercial and industrial property owners will receive a massive discount on their rates and land tax bill at the expense of ordinary homeowners.

This claim is: **FALSE**

There is no discount available to commercial and industrial property owners in the current legislation that would continue if this Bill was not passed.

The reality is that the Court of Appeal found that the government had been over valuing property in these sectors and subsequently collecting too much tax from these property owners. According to the legislation in place, they have in reality paid more than their fair share in the past.

If the State Government is concerned that there is inequity in the land tax paid between different sectors, all they need to do is adjust the rate in the dollar accordingly.

Similarly, if local governments are concerned that there is inequity in the council rates paid between different sectors, all they need to do is adjust the rate in the dollar accordingly.