



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

STANDING COMMITTEE ON PUBLIC ACCOUNTS

(Reference: [Inquiry into commercial rates](#))

Members:

MRS V DUNNE (Chair)
MS T CHEYNE (Deputy Chair)
MS B CODY
MS N LAWDER

PROOF TRANSCRIPT OF EVIDENCE

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This is a **PROOF TRANSCRIPT** that is subject to suggested corrections by members and witnesses. The **FINAL TRANSCRIPT** will replace this transcript within 20 working days from the hearing date, subject to the receipt of corrections from members and witnesses.

Secretary to the committee:
Dr B Lloyd (Ph: 620 50137)

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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Amended 20 May 2013

The committee met at 11.00 am.

BARR, MR ANDREW, Chief Minister, Treasurer, Minister for Social Inclusion and Equality, Minister for Tourism and Special Events and Minister for Trade, Industry and Investment

NICOL, MR DAVID, Under-Treasurer, Chief Minister, Treasury and Economic Development Directorate

MINERS, MR STEPHEN, Deputy Under Treasurer, Economic, Budget and Industrial Relations, Chief Minister, Treasury and Economic Development Directorate

SALISBURY, MR KIM, Executive Group Manager, Revenue Management, Chief Minister, Treasury and Economic Development Directorate

THE CHAIR: Good morning and welcome to the third public hearing of the public accounts committee's inquiry into commercial rates. Today the committee will hear from the Treasurer, Mr Barr, and his officers. I will ask each witness if they have read and understood the pink privilege statement on the table in front of them. Today's hearings will be broadcast, recorded and transcribed. Witnesses will receive a proof transcript for their consideration from the committee secretary. Any requests for corrections can go to him.

If any questions are taken on notice, please liaise with the secretary. Standing order 245D(b) now provides that questions taken on notice are to be answered within five days of receipt of the uncorrected proof *Hansard* of proceedings. That is a good new standing order. That being said, I welcome the Treasurer to these hearings and we will begin. Treasurer, do you wish to make an opening statement?

Mr Barr: No thank you.

THE CHAIR: As we are all aware, there has been a lot of discussion in the last little while in relation to commercial rates. I notice the paper that was submitted to the public accounts committee during the annual reports hearings—the thing that springs to mind was Braddon in particular—said something along the lines that in about 2016 they noticed that there had been a big increase in rates, a big increase in valuations in Braddon and there was a long description. But it goes on to say that at one stage the commissioner or the Under Treasurer or someone, ACT Revenue—Commissioner for Revenue—wrote to property owners to advise that there was a review being undertaken. Could the committee receive a copy of that letter or a version of that, the shell of that?

Mr Barr: Yes.

THE CHAIR: And presumably when the Revenue Office did reviews in Phillip and Fyshwick and various other places, was there similar correspondence sent out to owners at that time?

Mr Salisbury: I appear as the Executive Director, Revenue Management Division and also the Revenue Commissioner. I held that position from 2012 to early 2019. I am not currently in that position. I am acting in a position in the Health Directorate at the moment, just for the record.

In relation to the letter that went to property owners in Braddon, I am happy to present that to the committee. In relation to the re-gradings that happened in those other places, there was no correspondence with the property owners prior to that re-grading taking place.

THE CHAIR: So what prompted the different approach in Braddon?

Mr Salisbury: We understood that the Braddon re-grading would be quite significant in terms of the number of properties involved, given the precinct of Braddon, and we expected, given the evidence that we had, that the uplifts would be quite significant.

THE CHAIR: When exactly did you as the Commissioner for Revenue write to the Braddon leaseholders?

Mr Salisbury: I do not recall the exact date. It will obviously be on the letters but it was some period before we made the determinations for 2017.

THE CHAIR: We will be able to see that from the correspondence. In relation to Braddon you said that you expected, Mr Salisbury, that the uplift in Braddon would be quite substantial. What were the factors that made you think that the uplift would be quite substantial?

Mr Salisbury: We had observed the sales in Braddon and we were aware that there had been a number of lease variations in Braddon which were basically changing the character of Braddon from a commercial precinct with mechanical shops and caryards into a mixed use development which had a residential component and we knew that the residential component would have been driving values in Braddon. So there were those factors that were at play.

THE CHAIR: In relation to—and I am not sure who is the person to answer this question—the actual levy on a particular property, what are the factors that are taken into consideration? And I will give an example which was given to the committee recently: a block of land which is currently being used as commercial offices—it has a value because it is commercial—is in an area which is capable of having the lease varied to a higher use of residential and mixed use. The owner goes about that process but for a variety of reasons does not act on it. They might plan to do it down the track. They do not immediately pull down the building and turn it into something residential or renovate the building and turn it into residential.

Is there consideration given for the actual use rather than the potential use if there is a change for lease purpose in the rating process? If the lessee is continuing to operate the building as a commercial building or the lease as a commercial lease and has not redeemed the potential uplift in value by converting, is there consideration given to the actual use at the time of rating or do you always go for the highest and best use?

Mr Salisbury: The legislation requires that the valuation is based on the unimproved value of the land and the legislation sets out what that means. It describes what that is. Essentially it is the market value of that land, given willing buyers and willing sellers, and with consideration of the highest and best use of that land. So that would take into consideration the elements of the lease that give development rights to it.

THE CHAIR: Could I just go back to a thing that has come up a lot. It came up actually in the discussion about taxes in unit plans. You mentioned the market value, but valuations are based on unimproved value. I am just trying to get out what the nexus is between the valuation and market value. There seems to be a contradiction there.

Mr Salisbury: I do not necessarily see a contradiction. The definition of—

THE CHAIR: That might be the difference between a finance specialist and a generalist but, bear with me, there does seem to be a contradiction that when we are establishing the value of the property it is based on its unimproved value but then when you read out the criteria you said that we were looking at the market value determined by a willing buyer and a willing seller. I am just trying to work out how those two things fit together.

Mr Salisbury: It would be a willing buyer and a willing seller of a vacant block of land that is—

THE CHAIR: A hypothetical vacant block?

Mr Salisbury: A hypothetical vacant block of land.

MS CHEYNE: We have had some evidence so far that the increases in commercial rates have had a real impact on confidence in the economy and in terms of people wanting to invest in the ACT. Is that true from your data? And if not, why not?

Mr Barr: From a territory-wide perspective, the data would not support that position. We have seen increased levels of investment and business growth, the fastest growth in gross state product of any state or territory consistently for some period. We can, and will, furnish the committee with all of the economic statistics as they relate to the territory, the number of businesses operating and the overall contribution of each of the industry sectors, as measured by the Australian Bureau of Statistics. That data is available publicly, of course, as well. The committee can avail itself of that information.

There would not appear to be any supporting evidence to suggest that, for example, the ACT economy was in recession or, for example, the number of businesses operating in the territory was in freefall. In fact, the data shows the exact opposite. We have had very strong growth in the territory economy, outside the public sector in particular.

MS CHEYNE: Could it maybe be that there is a change in terms of the businesses and the investment that we are seeing? Perhaps there are some businesses and investments that are decreasing but others are increasing, and overall there is an increase?

Mr Barr: Yes, that would be the case in any economy, that you would see ebbs and flows in particular sectors. I think one of the more interesting elements of the ACT's economic growth in recent times is how broadly based it has been. In fact, most industry sectors have seen growth. But there are other national and global trends that are impacting. An example of that would be the impact of online commerce on bricks and mortar retail for example, or foreign competition, for example, in the fashion sector. The arrival of multinational brands like Zara, H&M and others has seen some

Australian fashion retailers go out of business in recent times. And that has had some impact in the ACT. There are a number of high-profile Australian fashion retailers, for example.

But when you look across the different industry sectors in the ACT you do see pretty broad-based growth. But there are factors of competition at play. Another example is department stores versus specialist retailers. Consumer habits will change and that will have impacts on certain industry sectors. More broadly the situation and the data would indicate quite strong growth, some sectors obviously at all-time high levels of growth and economic contribution. Others have been growing more consistently with the total territory growth rate.

MS CHEYNE: I will try to find the quote. Ms Lawder might recall this as well. There was an assertion—I do not wish to misspeak or paraphrase—from one of the business owners in Phillip, who owns a car dealership, that he saw the increase in commercial rates, and I am trying not to put words in his mouth, almost as a stealthy attempt to move car businesses out of Phillip. Is that the intention of increasing commercial rates?

Mr Barr: No. The ACT's planning and zoning system does set aside certain areas for service or other light industrial uses. But it would be fair to observe over time that where new estates have been created in order to meet growth in demand for those sorts of services there has been a transition of some businesses; the relocation of some businesses from one precinct to another. For example, there are new industrial estates associated with Canberra's growth. Hume, Beard and part of the expansion of land in Fyshwick, for example, have seen some relocation of business operations.

Similarly planning changes, or active planning changes, in terms of land use in Braddon have seen that area change from its use 80 years ago, and even 40 years ago and 20 years ago. In some instances it has seen a change.

Interestingly the collective that has been Phillip Traders Association three or four years ago was advocating quite strongly for Phillip to transition in a similar way that Braddon had, in light of other changes in the broader Woden district. But there has not been the same level of planning change and only a certain part of that Phillip services precinct had its land uses altered to allow for a range of other activities. I think that you could make the broader statement that no, that is not the intent. But there has been some agitation for a broader range of uses in part of the Phillip services precinct.

THE CHAIR: Perhaps on notice—I am not quite sure whether you, Chief Minister, are the right person to answer this or whether we should be asking the planning minister—just for the benefit of the committee, could we have some sort of breakdown of what those proposed changes were through the master plan process?

Mr Barr: Sure, yes.

THE CHAIR: And which bits were affected?

Mr Barr: Yes. I think that should not be difficult to furnish to the committee.

MS LAWDER: Treasurer, your letter to the committee mentions that 70 per cent of

properties experienced rate increases lower than the average. And, of course, that would mean 30 per cent have average or above average increases. We spoke about the best use, if you like, and the unimproved value but, in the example of the Phillip car dealership, how would you assess its best use when it is zoned for those low-cost kinds of industries? What would the best use of that land be that would have driven such increases?

Mr Salisbury: I understand that what drove the increases in the values in Phillip were purchasing by car dealers to acquire a number of limited sites that would allow car dealing in Phillip. Phillip is of limited size and a number of those sites were obviously seen as quite desirable locations. And what we saw was bidding for those sites above what we had seen previously for sales in that particular area.

THE CHAIR: So what you are saying, Mr Salisbury, is that there was a desire to stake out Melrose Drive essentially and that there has been pressure on other businesses there because the car dealers want to stake out Melrose Drive?

Mr Salisbury: I cannot really talk to people's intentions. All I can do is observe what we saw happen in the market.

THE CHAIR: What did you see happening in the market? Did you see some businesses being transformed from one thing to a car dealership?

Mr Salisbury: We saw sites that could potentially be used for car dealerships. The prices that were paid to acquire those sites were higher than they had previously been.

MS LAWDER: Were they previously vacant land or—

Mr Salisbury: Some are redevelopment sites. I am not sure whether some are vacant land or not but they had the potential to be car dealerships.

MS LAWDER: That frontage, just assuming we are talking about Melrose Drive, is an attractive frontage for a business such as a car dealership—I would presume, not knowing too much about car dealerships—but will that have a flow-on effect to all of the other businesses in the Phillip precinct because of the cost of those blocks?

Mr Salisbury: What it does is establish a sort of a market rate for commercial land in that area. Where the lease of a particular site is similar to one nearby then that would have a flow-on onto that, but it would come down to the specifics of the lease and what is allowed on that land.

MS LAWDER: Sort of the average price in the precinct as a whole does not mean that other individual sites will increase their rating value?

Mr Salisbury: It may. There may be a flow-on effect, again where it is a similar type—has similar lease purposes.

THE CHAIR: Across the Phillip area, for instance, how many leases would be capable of accommodating caryards, car sites?

Mr Salisbury: I do not know that. We could find that out. It would mean going through each lease of each property to determine what they could do on that property.

THE CHAIR: Yes, because I presume that not everything is capable of being a caryard in Phillip.

Mr Salisbury: That is correct.

MS LAWDER: The part I was referring to in the Treasurer's submission refers to the table at attachment (a) illustrating changes in commercial rates and average unimproved values across the territory, and it references Braddon, city, Fyshwick, Gungahlin, Phillip and "other". Is Hume included in "other" or is Hume treated differently?

Mr Salisbury: Sorry, can I just have a look at that thing you are referring to?

MS LAWDER: Yes. It is page 6, I think, of this portion. It is a table.

THE CHAIR: The letter that the Chief Minister provided to this committee in November.

MS LAWDER: It is a little table above the graph. Have you found the one I am referring to?

Mr Salisbury: Yes. My understanding of that table is that it would include the impact of valuations and also the application of the rating factors as well.

THE CHAIR: Yes but what does "other" refer to? What are the other areas that we are referring to?

MS LAWDER: Does that mean Hume is included in that "other"?

Mr Salisbury: We might have to take that on notice.

THE CHAIR: Great.

Mr Salisbury: Unless there is somebody—

MS LAWDER: Okay; and, if possible, if you are able to tell me the number in Hume and the percentage of the total suburb that would apply in this table of above 100 per cent increases in commercial rates, that would be helpful, thank you.

THE CHAIR: I want to go back to Braddon as an example, because there have been some spectacular issues in relation to Braddon, and go back to some of the things that happened in 2016. It says in this letter, the attachment to the Chief Minister's letter, "In 2016 it was apparent that the values in Braddon had not kept pace with the development of the suburb." I suppose this may sound slightly naive but how come the Revenue Office and the valuation office had not noticed the changes that had been going on in Braddon until 2016?

Mr Salisbury: I think we had noticed the changes going on in Braddon and it was very

much on our radar that at some point we would need to have an in-depth review of Braddon. By the time 2016 rolled around there was sufficient evidence in the market—there had been many transactions—so that we could form a reasonable basis for assessing what the values were in Braddon.

THE CHAIR: The legislation requires that in determining valuations you consider each lease. That does not happen, does it? Every year when there is a valuation process, when the valuation office determines the valuations for rating purposes, they do not consider each lease in the territory?

Mr Salisbury: I think that what the legislation requires is that each year every property value needs to be redetermined. The legislation does not specify how that redetermination should be made.

THE CHAIR: Chief Minister, do you think that the legislation should specify how the redetermination takes place?

Mr Barr: That is an interesting question that I can give some thought to. It would be very expensive and time consuming—yes.

THE CHAIR: I appreciate that. But the thing is that, as it currently reads, the plain man's reading of the legislation is that the valuation office has to consider every lease. It clearly does not happen and I agree with the Chief Minister that it probably is not practical. But in the process it seems again that the plain man owner of property in Braddon seems to be sort of scratching his head saying, "How is it that the Revenue Office did not notice that we were paying more for land in Braddon and that things were happening in Braddon that were quite transforming Braddon?"

There was a long period, probably five years, when the valuation office had not been into Braddon for a thorough review of those 60 or 100 blocks there, when there was quite clearly transformation happening. I am not advocating that the valuation office should review every lease but I am advocating that it might be better if the legislation sort of reflected reality, rather than some—

Mr Barr: Another way to put that might be that the legislation be very clear and not have the potential to have people misinterpret the process. I can see that some may adopt the interpretation that you have outlined. You can also see others would adopt the interpretation that the Revenue Commissioner has indicated. To the extent that clarity there would be a useful outcome, that is something I am very happy to have a look at. But I agree. I do not think it is practical. I share your view in regard to the practicality of every single lease being reviewed every single year.

THE CHAIR: But I do want to sort of drill down into what was treasury, the Revenue Office, the economic development directorate, doing over the previous five or six years to not notice that perhaps we should be looking at uplifted rates in Braddon?

Mr Barr: If I could just make one observation, that is perhaps a slightly unfair characterisation, given what the Revenue Commissioner has outlined, but you can imagine a counter circumstance where there are one or two sales and immediately they rush in and they would be accused of being pre-emptive, of not having enough market

information with which to undertake such a review. There is a balancing act, clearly, and there will be again a variety of opinions as to: is it one, is it two, is it three, is it four? What level of transaction is necessary to then trigger a precinct-wide examination?

Clearly there was, I think, a process that did involve communication with those in the precinct and that I think is good practice. And I want to acknowledge that, in writing to everyone in advance of commissioning a more detailed piece of work, that is something I think that we would all agree is a good practice.

THE CHAIR: Were there any revaluations done before the letter went out in 2016?

Mr Salisbury: There would have been a number of revaluations done where there would have been a lease variation charge.

Mr Barr: That is a different context to Phillip. But I think that one of the potential outcomes out of this is that, if the committee wishes to make a recommendation around how the Revenue Office should operate, what would be best practice around communication in advance of undertaking such a process; and if the committee has a view that there would be a certain number of transactions that would then automatically trigger such a process, I think that would be a useful discussion and consideration for us to have because I imagine this situation may occur again in the future. So that would be potentially a useful way forward.

I do not know what that number would be. And I think it would be useful to get some—

THE CHAIR: It would be useful to have a discussion about what is—

Mr Barr: Have a discussion about it, yes.

THE CHAIR: And it might depend on the precinct.

Mr Barr: Yes.

THE CHAIR: But the other factor about the Braddon precinct is that there have been substantial planning changes which triggered—

Mr Barr: That is true.

THE CHAIR: This did not happen by accident. This did not happen outside the purview of government.

Mr Barr: Sure.

THE CHAIR: The government holds all the levers. You had made the planning decisions to allow this to happen.

Mr Barr: The government holds some of the levers. We were not doing the redevelopment ourselves—

THE CHAIR: The government knew that because of decisions that the government had made the nature of Braddon was changed, because of the planning decisions—

Mr Barr: Yes, it—

THE CHAIR: which allowed people to acquire—uplifting the value of their property by increasing heights, by changing uses et cetera. And that was a deliberate and agreed decision.

Mr Barr: That is correct. Obviously the timing of when that would occur is in the hands of the private sector and the property owners. I recall at the time that there was perhaps an expectation that some things would happen a lot more quickly than they eventually did, because I think the timing of the planning uplift changes coincided with the global financial crisis and a credit crunch, and it was difficult for some at that time to obtain the finance they needed to undertake that redevelopment. So it did happen a little bit later than you might have anticipated. But clearly it did happen. It has happened. And it will continue to in Braddon.

THE CHAIR: It certainly will. And there are still vacant blocks and boarded-up buildings which detract from the site. But in the process of doing that—and I will come back to a thing that Mr Salisbury and I have discussed a couple of times already—there were valuations and uplift in valuations which were also retrospective so that there were a couple of leases where people received back-rates uplift over a four and five-year period.

I know that as a result of those changes in people's rating circumstances, unexpected by them, some people had to sell their property. Some of those properties are now empty and boarded up. There is a lot of building going on but maybe the market has got as much as it can cope with at the moment.

I want to sort of drill down into the decision to retrospectively increase people's rates, the decisions that caused people to sell their property because they were given 28 days to retrospectively pay five or four years worth of back rates. Would there have been better ways of managing those issues?

Perhaps we are now wiser, with hindsight. It seems to me to be a pretty ham-fisted way of doing it. And it did adversely impact on people and some of those buildings are now empty and boarded up. Would there have been a better way of doing it? For instance, if you suddenly feel that you can justify five years worth of back-rates, is 28 days reasonable for allowing people to make those changes or to come to terms with and address those issues?

I do not know whether that is a policy issue for the Chief Minister to answer or a sort of practical one for the officials to answer.

Mr Nicol: I might ask Mr Salisbury to comment in general about how the office goes about dealing with taxpayers, rate payers, who have a large bill. It is very difficult to comment on specific cases, for some privacy reasons, but Mr Salisbury might want to comment on the sort of general approach in circumstances like that.

Mr Salisbury: Where the taxpayer gets an unexpected bill or has a large bill, or just has a problem making the payments on that bill, we would certainly open a dialogue with that taxpayer. We may agree on a repayment term or extend the period of payment for the taxpayer. But we would enter into a dialogue and try to meet the needs of that taxpayer.

THE CHAIR: And would you always charge interest in those circumstances?

Mr Salisbury: We might or we might not. I think we have come up with different outcomes, depending on the circumstances of the taxpayer.

MS LAWDER: I have a supp on that. A number of the submissions talked about how difficult the retrospectivity of the bill was for them. For example, if you used the calculator on the revenue.act.gov.au website and asked about the average unimproved value of the property, as it appears on your rate notice, it gives you an estimated rates payable. And there is a disclaimer. "In all circumstances, the calculations performed by you on this site do not replace the notice of assessment for any tax liability issued to you by the Commissioner for ACT Revenue."

It would seem to the average small business owner, especially, that calculating based on the average unimproved value, and getting a bit of an estimate, would save them from that bill shock instead of getting a notice of a retrospective assessment. Can you understand how difficult that would be for some businesses, especially small businesses, if, in good faith, they had a bit of an estimate of their rates due?

Mr Salisbury: Yes.

MS LAWDER: When you embarked on the tax reform process what consideration did you give to the capacity to pay or the impact on small business, as opposed to the revenue side of things? Did you do an impact assessment in that regard?

Mr Barr: Sorry, in relation to tax reform more broadly or a case where a property would be—

MS LAWDER: When you embarked on tax reform and started increasing commercial rates as part of that process back in 2012, I think was when it started, did you do an impact assessment of the effect on businesses when there were quite high increases in values but they were retrospectively applied to businesses?

Mr Barr: Regardless of whether tax reform had occurred, the circumstance you have highlighted would result in a now greater amount than what people would have then originally paid. So I guess the discussion would be only over the quantum. Prior to tax reform, commercial business would have received multiple bills from the ACT government. They would have also received a commercial land tax bill. And one of the elements of tax reform, in response to concern from the business sector, was: can we have one simple bill, please, not multiple land tax rates charges?

I guess the irony of some of the complaints around the perceived increase in rates is that that has not included the fact that they used to get two bills. They now no longer have a commercial land tax bill. So the starting point needs to have been what the two

bills were, combined, not just the single one.

MS LAWDER: Thank you for clarifying that.

Mr Barr: So that is a factor and that reduction in complexity—perhaps whilst I think it is very sound in public policy terms, probably it is not straightforward in communication terms—means that people tend to very quickly overlook the fact that a tax they used to pay has been abolished and just focus on the tax that they are currently paying.

MS LAWDER: If you are using this rates calculator to calculate your potential rates and then you are hit with retrospective rates for perhaps five years, which would not be apparent from using the government's own calculator to assist you, how could you possibly prepare as a business for paying that bill for retrospective—

Mr Barr: I guess in the instance where a retrospective charge was applied it would have been as a result of an action of the business owner. In this instance, it would seem a lease variation was what triggered it. To a certain extent the business owner would have been aware that they had varied the lease, because they would have initiated that.

There was a gap between that lease variation and the rates valuation catching up with that, but that is an issue of regret, clearly, and I think that these particular circumstances and cases have highlighted the fact that there would need to be better coordination so that there was not a bill shock coming later. But, as far as I am aware, it is not contested that the lease was varied and the value of the property went up as a result.

MS LAWDER: Are you saying there have been no retrospective payments required for businesses that have not changed their lease purpose clause?

Mr Salisbury: I think I can say yes.

MS LAWDER: You think you can say yes?

Mr Salisbury: Yes.

MS LAWDER: So it is only those who have changed their lease purpose clause or varied their lease?

Mr Salisbury: In terms of rates being assessed each year, it is done on the go forward year. We do not routinely go back and readjust those, unless there is a reason, as the Chief Minister signified, such as a lease variation. That is in the normal course of—

THE CHAIR: How did you not know that there was a lease variation for a number of years?

Mr Salisbury: We were not advised by the planning directorate that that lease variation had taken place until some period after.

THE CHAIR: That is actually a different answer to the answers I have received previously where I have been told—and I think that it was in one of the cases that went

to the ACAT—that the ACT government contended that it was the responsibility of the leaseholder to tell the Revenue Office that they had changed the lease. But amongst the valuation and conveyancing and legal experts I have spoken to, I have been told that there is no mechanism for doing that. And I think that we have had evidence here that there is no mechanism for doing that. Now we are actually hearing, Chief Minister, that it is the responsibility of the planning authority to do that?

Mr Barr: I think in future it would be useful for that to be clarified, that there is perhaps in this instance a shared responsibility. It would not come as a surprise to the property owner that they had varied the lease, because they had undertaken and commenced that process.

THE CHAIR: And paid the money?

Mr Barr: Yes, sure. And in an ideal situation the government side of the interaction should have picked that up and it would be my expectation that there is better communication between the planning and leasing area and the Revenue Office. Equally though, individual taxpayers do also have a responsibility and that is something that I guess will always be a shared interaction; and that is the case, for example, on payroll tax, that there is a process where taxpayers make themselves aware of the law and their tax obligations. And I think an effective interaction between taxpayers and the Revenue Office is an important part of an effective tax administration system and it is not just—

MS LAWDER: Where is that outlined that it is the person's responsibility to advise the Revenue Office?

Mr Barr: In this instance specifically around a lease variation, I do not think that that is clear enough. That is the point I am making. But there are general obligations in relation to taxpayers to be aware of the taxes that they are liable for. I do not think that we want to get into a circumstance where we have to absolutely prescriptively write that down everywhere on everything.

I think people generally know that, whether you are a resident or a business, there will be some tax obligations that fall upon you and that part of your responsibility—and it is a shared responsibility—is that government needs to educate, advise and make as clear as possible people's tax obligations. But equally there is an obligation—it is not all a one-way street—for the taxpayer to be aware of.

But in this instance clearly there has been a problem. I would not like to see it repeated and my expectation would be that on the government's side there is better communication so that we do not have this sort of circumstance arise again. But what I do not think is in dispute is that leases were varied, that the value would have increased and that the tax obligations were in fact there.

The question then is, given the lag, how you would then manage and negotiate an appropriate time frame for a taxpayer to meet those obligations. I think that the Revenue Office have outlined that they have quite a considerable degree of flexibility to be able to respond to those circumstances. In the most extreme circumstances, clearly, there are appeal mechanisms and then there is a range of processes in place for a taxpayer if they felt that they disagreed with the Revenue Office's assessment and they have an appeal

avenue in that regard.

THE CHAIR: The Chief Minister, Ms Lawder and I are on a unity ticket on this one, I think. Thank you for that. And I thank you for the candour of those remarks. This might be something that comes out of this inquiry, that perhaps the simplest way is that when LVC is paid to the Revenue Office the other part of the Revenue Office, the valuation office, might be notified.

Mr Barr: Might be noted—yes, that would—

THE CHAIR: That might be the easiest way. I think that the issue was, for the lessees who have spoken to me, that they expected to pay; they thought that their rates would go up but then year on year on year they did not and they went—

Mr Barr: Then the notices did not—sure. Yes.

THE CHAIR: And then suddenly—

MS CHEYNE: Yes. They are not going to be saying, “Hello. I am ready to pay more rates.”

Mr Barr: Sure. In that instance, human nature would tend to indicate that you may not volunteer, “I expected that bill to go up but—

THE CHAIR: No, but they expected that their rates went up and they did not and so they assumed, wrongly, that these things had been taken into consideration and their rates were not going up as much as they anticipated.

Mr Barr: That they had anticipated, yes.

THE CHAIR: And then suddenly, “Thank you very much. Can we have \$600,000?” I think that in that particular case I would say—although, Mr Salisbury, you say that there were very flexible approaches—I do not think there was flexible approach in that.

Mr Barr: I cannot comment on the individual case but I think more broadly it has highlighted, as I have indicated, an area where there can be administrative improvements. And again they will resolve that in advance of a recommendation of the committee, but again, should you wish to comment on that particular theme, I think we will be able to give a very positive response to that. And it would be my expectation that—

THE CHAIR: Do not anticipate too much.

Mr Barr: these things are resolved now and that this circumstance is not repeated in the future.

Mr Salisbury: We have certainly invested in our systems and processes to try to ensure that that happens.

MS CHEYNE: My questions are related. In the circumstances we have been talking

about, how many of those affected businesses have taken up alternative payment plans? Do you have stats on that or at least anecdotal evidence?

Mr Salisbury: I do not have that with me. We could take that on notice. Obviously there are a number of taxpayers who have taken up repayment terms and we would have that as a gross sort of number.

MS CHEYNE: And just in terms of that communication, was it made abundantly clear to them that they could take up that option?

Mr Salisbury: In relation to the retrospective assessment?

MS CHEYNE: Yes.

Mr Salisbury: I do not think—

MS CHEYNE: We are talking about the ones who have really been hit with the big shock. Across the board how are we communicating to people that there are other options for them in terms of payment?

Mr Salisbury: I would have to review what the rates notice says about that.

MS CHEYNE: Does it say “pay now”?

THE CHAIR: Yes, and what it said then and what it says now.

MS CHEYNE: If you could on notice, that would be excellent. I am sorry for being cheeky. We have had a decent bit of evidence so far about the valuation office and whether it is in the right place, whether there is a conflict of interest and whether it should be independent and also whether it is properly resourced. From what we have heard so far in terms of conflict of interest, with the valuation office sitting within the Revenue Office, it does seem that, even as closely as it is sitting, the communication there could be improved. So it makes me wonder: if it were then independent, would the communication be even harder to achieve?

Mr Barr: Yes, sure.

MS CHEYNE: It would be helpful to get your reflections on: is it properly resourced, is it in the right spot?

Mr Barr: That is a legitimate question to ask and I think it is important to understand the history of why we are where we are, in that prior to 2014 the ACT relied on the Australian valuation office, which is part of the Australian Taxation Office, under a fee-for-service arrangement. The coalition government in 2014 abolished the Australian valuation office and we had to bring that operation in house so—

THE CHAIR: Abolished?

Mr Barr: Yes.

THE CHAIR: There is an Australian valuation office now.

Mr Barr: We were previously able to undertake this task on a fee-for-service arrangement with the commonwealth.

THE CHAIR: Yes, I understand that, but are you saying that the reason that we are not undertaking that via fee for service is that there is no longer an Australian valuation office?

Mr Nicol: Yes. The commonwealth government abolished the Australian Valuation Office. We are in a—

THE CHAIR: So who does the commonwealth valuations?

Mr Nicol: I do not know. I would have to see—

Mr Barr: They may outsource it now to the private sector.

Mr Nicol: So we were in a position where we had to have this function. We had lost this function. The quickest and most pragmatic thing to do at the time was to create an internal unit within our revenue division to undertake this role. That is the history and why we are where we are at the moment.

THE CHAIR: I understand that the AVO no longer provided that service for us. I had not realised that the AVO actually closed. But other states and territories—

Mr Nicol: I am getting a nod.

THE CHAIR: Other states—I am not sure about the Northern Territory—have stand-alone valuation offices that are—

Mr Nicol: By and large, yes.

THE CHAIR: Are they attached to treasury/finance or are they—

Mr Nicol: I would have to take advice on the structures in each case. There is a slight difference in that in the states the local government is separate from state governments and so the valuation office is dealing more with local government rates and taxes rather than the state government rates and taxes, whereas we are obviously one level of government. So it is more integrated.

Mr Barr: Just to confirm, I have got the media release from the parliamentary secretary—

MS CHEYNE: Yes, we have got it too. It looks like it is now done by private sector providers, based on that.

Mr Barr: Yes. It did officially cease to provide services on 30 June 2014.

Mr Nicol: If I could make some other comments about the question?

MS CHEYNE: Yes, could you please?

Mr Nicol: One, we are a small jurisdiction in terms of this skill set. We are unique in terms of our land title system. We are not freehold. Our valuers in a sense have to have very particular knowledge that other valuers do not necessarily have across the country. My observation has been that it is very difficult to recruit valuers. They are not in abundance. I think there is a skill shortage. I think that is a relevant factor in how we source this advice.

The smallness of the market means that there are a lot of conflicts, I think, out there amongst valuers. There are a lot of valuers who, by necessity, represent private interests in the market. So there is an issue about how we obtain that advice.

The question of conflict of interest is an interesting one. The issue of valuations in the rating system does not affect the aggregate amount of revenue we collect; it affects the distribution of revenue amongst that space. It does have an effect for questions of lease variation charge. Potentially a government could increase the values there to rake in lots of revenue. There is no evidence that that has occurred.

All of those factors play into the question of how we continue and go forward with resourcing but, as the Chief Minister said, I think it is a question that is worth examining from time to time. I think the resourcing, like most functions of the ACT government, is tight but adequate. I think our bigger challenge is actually recruiting good staff. For example, the average age of our valuers is over 50, I think. Having that skill and continuance of service, guaranteeing that for the long term, is a challenge that we have. I think, for those reasons, that sways me to an internal service where we can have better control of that and if the valuation office were made independent it would be a small team and the question of its sustainability as a small team would be a challenge for them, I think, whereas in a bigger office it is easier to do and it is easier to give career paths et cetera to staff.

The final point I would make is: under our legislation—again it is not an insurmountable issue if change were to be contemplated—it is the Revenue Commissioner who makes the determination of values. There is not an independent office per se; it is the commissioner.

THE CHAIR: That is right, because in some jurisdictions the valuer-general, however described—

Mr Nicol: That is right. That is correct.

THE CHAIR: makes those determinations, but here—

Mr Nicol: Advice is given to the commissioner.

THE CHAIR: the commissioner is essentially the valuer-general for the purposes of the act, yes.

Mr Nicol: Essentially that is correct, yes.

MS CHEYNE: How are we attracting and retaining the valuers? Are any of them on—is it called an ARAN?

Mr Nicol: We do have ARANs but I am not sure we have any for our valuers. I might pass to Kim and—

Mr Barr: My recollection at the time, in 2014, was that we were actually able to take on some of the staff from the AVO who were—

Mr Nicol: We did.

Mr Barr: made redundant by the closure of the organisation. One potential solution to this issue in the future, were the commonwealth to re-establish such capability, then I think we would give serious consideration to re-entering a fee-for-service arrangement. I do not know whether the commonwealth will in the future see the need to have such a service.

MS CHEYNE: Have you made any representations to the commonwealth?

Mr Barr: Not at this point. There is no point making representations to the same government that closed it, but it may—

MS CHEYNE: But you might in the future?

Mr Barr: It may well be open to us to do so in the future. I do not know what appetite there would be for it, what has happened, whether there are concerns now that such a service does not exist at the commonwealth level. I must confess that I had enough issues to not have to also be the federal assistant treasurer, but that will be an interesting question to ask: what have been the implications five years on now, or nearly five years on, since the closure of that office? Mrs Dunne was very surprised to hear it and so was I at the time.

THE CHAIR: I had obviously missed that one at the time.

MS LAWDER: If I can ask you a question that might give a specific face to the issue, the Duxton in O'Connor employ people, they feel that they have brought vibrancy to the local shops. Local business people have invested their own money in the business and it is improving but they feel they are being slugged perhaps—again, I do not want to put words in their mouths—with large increases in their rates. How do you balance these types of issues about people who are putting their own hard-earned money into developing businesses and employing people and then paying more and more for that privilege?

Mr Barr: I guess the question is: what is the balance of all commercial taxes for territory businesses? Clearly our taxation model is moving towards a path that taxes one of the factors of production more heavily than the other two or three, depending on your view on how many factors of production there are. But traditionally land, labour and capital are considered the factors of production. Entrepreneurship might be added as a fourth factor.

PROOF

I think it would be a fair assessment to say that, of the three main factors of production, the ACT has sought to tax capital lightly. And we are phasing out our taxes on capital. A transaction tax with capital is highly mobile. And it will move around countries and around the world.

On labour we have a payroll tax regime that has a very high threshold which excludes most businesses. And it does have a high rate for those who do pay it. So it is very much a tax on, in large part, national and multi-national level operations. And then we have our taxes on land.

Any assessment of the relative economic efficiency in terms of both revenue predictability and whether a tax will distort an investment decision would show that land-based taxes have the least economic distortion, are the hardest to avoid and are the most predictable, in terms of their revenue, than the other extreme of transaction-based taxes being the most economically distortive.

The answer to the question is: you must look at the totality of all of the different tax lines. And then you get into a philosophical debate: how much tax should a government collect? And that is a matter of legitimate debate.

The question in my mind though is: if we are going to collect tax at X level then surely we should use, of our available tax collection methods, the ones that have the least distortionary impact on economic activity. And pretty well every analysis of the taxes that we are able to levy at a state and territory level indicate that land taxes are the least worst. If you have a view that any taxation is bad then I will couch it in the terms of land taxes are the least worst. If you have a view that taxation is part of a good civil society then land taxes are the best form of taxes. Choose your narrative in that regard. It is not contested. I am yet to see many people who are going to go and argue that we should be more at the capital and labour end of taxation and less at the land tax. I think clearly that is the better mix.

The answer for that specific business is that if they were operating in another jurisdiction they would be paying higher taxation on their labour and capital and possibly less on their land, although that would vary depending on where in the country or where in the world they operated. But the fact that they would be able to employ more people and not hit the payroll tax threshold would be a specific advantage of operating in the ACT. That is a policy setting that has been put in place to encourage employment. I guess they are the choices.

We can, of course, have an argument about how much tax in total government should collect and what proportion should come from business as opposed to households. And that is a debate and a contest that I guess we regularly have in Australian politics. But my view is that, given the amount of revenue that we are going to collect, surely we should use the revenue lines that are the least distortionary, the simplest, the fairest and the most efficient. And of the choices available to us—land tax or rates, payroll taxes or the various transaction taxes on capital transactions—they are at the worst end of the capital transaction taxes, and the best end is the land taxes.

THE CHAIR: I am very mindful of the time. Could I ask, on notice: you made the

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point, and it is a very important point, about the change in commercial rating value factors when the rating process changed. There were commercial rates and there were property taxes. When those two things came together, can we see how the rating factors changed to take account of the fact that—

Mr Barr: Yes, we can do that.

THE CHAIR: That is a useful part of a narrative. Does anyone have anything else, quickly? In that case, can I thank the Chief Minister and his officials for their attendance here today. I suspect that there might be some more questions on notice. But there also have been quite a few taken on notice. I remind people that standing order 245D(b) now requires that answers be provided within five days of receipt of the uncorrected proof transcript of proceedings.

That brings us to the close of our hearings today. And many thanks to the Treasurer and his officers for appearing. Thank you very much.

The committee adjourned at 12.06 pm.