



City of Richmond

Report to Committee

To: General Purposes Committee **Date:** May 15, 2019
From: Cecilia Achiam **File:** 09-5350-01/2019-Vol
 General Manager, Community Safety 01
Re: **UBCM Resolution on Legislative Reform of Beneficial Ownership of Corporations and Land**

Staff Recommendation

That the proposed UBCM resolution titled “Transparency and legislative reform of beneficial ownership of land and corporations” be submitted to the Union of BC Municipalities as outlined in the staff report titled “UBCM Resolution on Legislative Reform of Beneficial Ownership of Corporations and Land”, dated May 15, 2019, from the General Manager of Community Safety.

Cecilia Achiam
 General Manager, Community Safety
 (604-276-4122)

REPORT CONCURRENCE	
ROUTED TO:	CONCURRENCE
RCMP	<input checked="" type="checkbox"/>
REVIEWED BY STAFF REPORT / AGENDA REVIEW SUBCOMMITTEE	INITIALS: CS
APPROVED BY CAO 	

Staff Report

Origin

At the Council meeting on February 11, 2019, Council passed the following resolution:

That the City put forward a resolution to the UBCM requesting legislative reform to create transparency around beneficial ownership of corporations and land.

Background

On April 2, 2019, the BC Ministry of Finance announced that it will table legislation, *Land Owner Transparency Act*, to establish a public registry of beneficial owners of property in B.C. All corporations, trusts and partnerships in BC will have to disclose their beneficial, often hidden, owners. Failure to disclose the beneficial ownership would result in fines of up to \$100,000 or 15% of the assessed property value, whichever is greater.

The new Land owner transparency registry is anticipated to be operational in 2020 when the *Land Owner Transparency Act* comes into force. The Land Title and Survey Authority will administer the new transparency registry through its website. Similar to land titles, basic property information, including names of all corporate interest holders, beneficial owners or partners, will be publicly accessible.

The Ministry of Finance further addressed both enforcement and privacy concerns by asserting that only:

“Tax authorities, law enforcement and regulatory agencies will have access to more detailed and sensitive information, such as the nature of their beneficial interest, place of residence, citizenship, tax number and information about the person completing the report. The registry will be self-funded through fees for filing and for searching. The Ministry of Finance will be responsible for enforcement. The Canada Revenue Agency (CRA) will have access to information and may use it to crack down on tax evasion.”¹

The Provincial Government made further disclosure amendments to the *Business Corporations Act* in an effort to close loop holes around money laundering and tax evasion. Private companies will now be required to hold current information on beneficial owners of shares and will eliminate bearer shares which are unregistered and are effectively anonymous. Again tax authorities, law enforcement and select regulators will have access to the private companies transparency register in effort to “crack down on white collar crime.”

Analysis

The Province did not propose a publicly accessible registry of corporate ownership. This omission and risk was identified by the BC Expert Panel on Money Laundering in BC Real Estate (Expert Panel) in their report, released on May 9, 2019:

¹ <https://news.gov.bc.ca/releases/2019FIN0037-000545>

“Recommendation 5

The BC Government should develop a discussion paper with draft legislation for consultation about the implementation of a full corporate beneficial ownership registry covering all legal persons that is consistent with best practices and that integrates with the Land Owner Transparency Act.”²

According to Dr. Peter German, in his report titled “Dirty Money - Part 2”, there are 92,280 residential properties in BC that were owned through corporate entities which amounted to 7% of his research dataset. He estimated the value of these corporate owned properties to be \$150.45 billion. He noted further that 29% of corporate owned properties, worth \$28.24 billion were purchased without a mortgage. Dr. German noted that there was significant risk and a nexus to money laundering associated with unfinanced or cash-only real estate transactions.³

The Federal Budget, released on March 19, 2019, only partially acknowledged the above concerns regarding beneficial ownership:

“...The Canada Business Corporations Act was amended to require federally incorporated corporations to maintain beneficial ownership information. In Budget 2019, the Government proposes further amendments to the Act to make the beneficial ownership information maintained by federally incorporated corporations more readily available to tax authorities and law enforcement.”⁴

The Federal Government, however, did not propose a public registry for beneficial ownership for corporations or land and it remains unclear as to what specific measures will be enacted to improve law enforcement’s and the CRA’s access to beneficial ownership identities. Given the paucity of anti-money laundering law enforcement resources, the Federal Government should seize the opportunity to engage the public and media in uncovering financial crime.

There is no current consensus amongst the Provincial Governments and the Federal Government on whether to establish a public registry, such as in BC, or a secure law enforcement/regulator only accessible registry. However, the Federal and Provincial Ministers of Finance have announced a goal to have some form of an agreement in place by July 1, 2019. This agreement would likely mandate that all provincial and territorial corporations maintain accurate and up-to-date information on beneficial ownership that would be accessible to law enforcement.⁵

Given this lack of consensus, the Expert Panel recommended further that:

The BC Minister of Finance should encourage finance ministers across the country to implement the Agreement to Strengthen Beneficial Ownership

² https://news.gov.bc.ca/files/Combating_Money_Laundering_Report.pdf, pg. 76.

³ https://news.gov.bc.ca/files/Dirty_Money_Report_Part_2.pdf

⁴ <https://budget.gc.ca/2019/docs/plan/budget-2019-en.pdf>

⁵ <http://www.ourcommons.ca/Content/Committee/421/FINA/Reports/RP10170742/finarp24/finarp24-e.pdf> pg. 16

*Transparency and enhance the disclosure of beneficial ownership of corporations, as soon as possible.*⁶

Prior to the proposed deadline for reaching a national agreement in July, the Provincial Government should engage its provincial counterparts and the Federal Government to advocate for a public registry similar to what has been proposed in BC. A consistent transparency regime surrounding beneficial ownership is needed in place of the current inconsistent patchwork of federal and provincial disclosure regimes that enable owners of private corporations and land to hide their true identity.

It is important to note that the current provincial proposal of a beneficial ownership registry only addresses land ownership and not the broader issue of corporate beneficial ownership. Provincial companies are still at risk of being utilized by organized crime, tax evaders, and politically exposed persons in non-real estate based industries to hide their ownership identity from the public and media. For example, other high risk industries for financial and other crimes include: import and export, construction, money exchange services, digital currency, chemical industry, high value goods dealers and auction houses. While at the national level no public beneficial ownership registry of land or corporations has been proposed. The risk exists that criminals will simply shift to shell corporations in neighbouring provinces.

Financial Impact

None.

Conclusion

Only the Provincial Minister of finance has tabled this beneficial land ownership registry legislation and it is inadequate because it does not apply to other industries such as import and export based companies. The Federal Minister of Finance has not tabled any similar legislation so criminals and money laundering will likely move to other Provinces and rebound back on to BC. Last, a public registry is essential to allow the public, media, foreign governments and private sector companies (competitors) to act as a force multiplier in detecting fraud, money laundering etc. The creation of both a provincial and national level public registry of beneficial owners of land and corporations would be another important step towards assisting law enforcement in targeting tax evaders, tax fraudsters and money launders. A resolution to the UBCM requesting legislative reform to create transparency around beneficial ownership of corporations and land would signal strong local government support on this issue to the senior levels of government.

Based on Council's direction, staff have drafted the following proposed resolution to the UBCM for Council's consideration:

TRANSPARENCY AND LEGISLATIVE REFORM OF BENEFICIAL OWNERSHIP OF LAND AND CORPORATIONS

⁶ https://news.gov.bc.ca/files/Combating_Money_Laundering_Report.pdf. 76

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WHEREAS the provincial Ministry of Finance has not proposed legislation around the establishment of a publicly searchable registry around beneficial ownership of corporations;

AND WHEREAS the federal Minister of Finance has not proposed legislation for a public registry of beneficial ownership of land or corporations:

THEREFORE BE IT RESOLVED that the UBCM call on the provincial Minister of Finance to propose both a new provincial publicly searchable registry of corporate beneficial ownership and advocate to the federal Minister of Finance to create a new national public registry around beneficial ownership of corporations and land.



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