

TO: THE PUBLIC ACCOUNTS COMMITTEE

1. The ACT Barr Labor government has increased Land Tax on units from (an average) \$550 to \$2150 per year and Rates from (an average) \$550 to \$1550 per year. These huge increases are UNFAIR, UNCONSCIONABLE, UNCONSTITUTIONAL, AND POSSIBLY ILLEGAL.
2. FIRSTLY: Labor inflicted these massive increases by manipulating the 'Total Unimproved Value of Land' formula to unconscionably inflate the value of average units (worth about \$350,000) grossly beyond their market value. Those same averages units calculated on the NSW formula would attract ZERO Land Tax and would have to be inflated to twice their value (approx.) \$700,000 to pay the same Land Tax that Labor now imposes on them.
3. SECONDLY: Labor claims the increases ensure unit investors pay their 'fair share' for ACT services. In truth, the increases unfairly force all ACT unit investors to pay between \$2150 and \$3700 more per year for ACT services than (over) 90% of all ACT residents. Labor also claims the increases mean 'fairer' tax by eliminating Stamp Duty. S.D. has not been eliminated and, even if it was, Labor refuses to refund any of the S.D. that unit investors have already paid.
4. THIRDLY: Labor says the main purpose of the increases was 'to make unit investors pay Land Tax & Rates equal to house investors'. This violates the very purpose and spirit of Land Tax. In Australia, it has always been a convention that unit investors pay less Land Tax because they do not have major rights which house investors have: such rights being: (1) To have their land in entirety; (2) To use their land as they see fit; (3) To subdivide their land; (4) To build on their land; (5) To develop their land; and, (6) To not have to pay costs such as Strata Levies.
5. FOURTHLY: Labor justifies the increases by saying they were a way to circumvent the unfair tax revenue raising options it was restricted by. Circumvention of Federal tax arrangements is implicitly in breach of the Australian Constitution (Sections 51, 96, et al).
6. FIFTHLY: Sect. 114 of the AUST. CONSTITUTION states: "A State shall not, without the consent of the Parliament of the Commonwealth, ... impose any tax on any property of any kind belonging to the Commonwealth, ..." All ACT land is Commonwealth (Crown) property, and the ACT government only has management of that property. While it may be argued that the imposition of Rates is 'management', Labor's imposition of Land Tax is in direct breach of Sect. 114 of the Aust. Constitution. If the Federal government has specifically given consent for Labor to impose Land Tax, then the unfair and destructive way such consent has been abused by Labor should dictate that it be put to Federal Parliament that such consent be immediately withdrawn. (NB: It can be argued on many grounds that Sect. 22. of the ACT Self Government Act does not negate Sect. 114 of the Aust. Constitution).
7. SIXTHLY: All ACT land is possessed only by LEASEHOLD. Labor has no right to make NON-LAND OWNERS (lessees) pay Land Tax as if they own land FREEHOLD. This is contrary to all the protocols of leasing. No land ownership should mean no Land Tax. Yet, Labor unfairly forces all ACT unit investors to pay (an average) \$2150 more Land Tax per year than all other Australian unit investors (of similar value units) who all own their units FREEHOLD.
8. SEVENTHLY: Australian governments only have the right to impose Land Tax on the basis that the investor has a viable and profitable asset, with the main benefit being Capital Gain. That basis has been negated by Labor's deliberate targeting of the ACT unit market for destruction via these increases. ACT unit devaluation is unparalleled in Australia. Even Labor agrees that Capital gain on ACT units is dead but, says that they still have the right to impose Land Tax on the basis that unit investor income is positive (however small). The imposition of tax based on income breaches both the 'Income Tax Act of 1942' & the 'States Grants (Income Tax reimbursement) Act of 1942'. By definition of these acts, (and tenant of Sect. 51 of the Aust. Constitution) such breaches require the forfeiture of all Federal funding to the ACT.
9. EIGHTHLY: The ACT unit market is considered POISON to investors. These massive Labor increases are too high to absorb or to pass onto tenants. Investors must cut losses and sell in a 'Labor decimated unit market', crystallising their losses. The savings, the incomes and, even the superannuation of small investors, who purchased ACT units in good faith, have been retrospectively and reprehensibly destroyed by labor's greedy money grab.
10. Labor's disgraceful behaviour should be a matter for a Royal Commission.

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