

19th May 2017



Property Tax Setbacks

The High Court issued a ruling by Justice Frank Seepersad on Friday 19th May 2017 that the Valuation Return Forms (VRFs), which property owners had been required to complete for the implementation of the Property Tax, were to be subject to a “...*stay of the implementation and/or enforcement...*”. That stay is pending the full hearings of the judicial review case brought by former AG, Anand Ramlogan SC, on behalf of former PP Minister, Devant Maharaj. The State has already filed an appeal and that is to be heard at the Appeal Court on Monday 22nd May 2017.

This important national policy is now before the Courts for determination as to the legality of its implementation at this time. To be sure, there are sharp political rivalries at stake here and heavy questions of how do we attain good public administration.

On the part of the parties in the former PP, there is no apparent consensus. The UNC leader Kamla Persad-Bissessar SC, has called for the VRFs to be ripped-up and stated her absolute opposition to the Property Tax in strong terms. I heard former PP Minister, Dr Bhoehendradatt Tewarie, saying on radio two Sundays ago that there is no fundamental objection to Property Tax - his concern was that the tax must be fair, lawful and transparent. That seems fair and reasonable, until one considers that Tewarie is an MP for the UNC. The political leader of the COP, Dr Anirudh Mahabir, ends all their several Press Releases by stating - “*The COP has never said we want no tax on property. We want a fair, reasonable and transparent tax and continue to pursue that objective.*”

Whatever the satisfaction gained by the political objectors from this interim ruling, there is precious little political gain to be had from these manoeuvres. The COP made 'Axe the Tax' a flagship part of their 2010 election campaign and the PNM lost the national elections in May of that year. The PP (UNC & COP, with others) won 29 seats to hold office for 5 years and 3 months.

The interim ruling

These excerpts from Justice Seepersad's ruling are at the heart of this matter -

“...In democratic societies there should always exist a circumstance where the law creates a climate of certainty. Citizens have the right to understand why they are mandated to behave in a certain way and more importantly to be properly informed as to the sanctions to be imposed on them if they fail to comply with the law. The public interest can never be served by the sanctioning of any process which imposes an obligation to act if that process is not premised upon a foundation which is lawful and constitutional...” (para 35)

“...The concept of separation of powers must be revered and strenuously defended. The executive arm of the state should never be permitted to exceed its jurisdiction and to eviscerate the authority vested in the legislative arm of the state and laws cannot be amended by ministerial decree or by way of press release...” (para 36)

Question – If the Property Tax was such an unfair and flawed law, *Why was no action taken in all that time to either repeal or amend it?* It all reminds me of the sickening cycle in which a political party in opposition criticises a policy strongly, wins office and promptly forgets its lines, only to lose office again and revert to protesting the same policy or law they could have removed or fixed. I am fed up of it and I am not alone.

As for the Minister of Finance, we are now over 19 months past the September 2015 elections and this policy was part of the very first budget speech, delivered a few weeks later. It is staggering that we are now seeing such an important national policy being put on trial on grounds of dates and the extent to which the VRF matches the clauses in the Act and so on. I trust that the Minister will hold his advisers responsible for this debacle.

I await the Appeal Court hearing and ruling with great interest. Despite the present imbroglio within which the judiciary is now operating, I do believe that we are well served by a quality bench.

E-Filing?

The real question is why is it not possible to file online? We can buy airline tickets via Caribbean Airlines or file our Income Taxes with the Board of Inland Revenue online, so what is the problem here?

In this information age, the government was not able to create an accessible database into which property owners could have directly uploaded the required property details. Why not adopt this more efficient method to gather the information? We can, and must, do better. At least the delays imposed by the legal challenges will give the Ministry of Finance the time to rectify this issue.

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