The City of Calgary

Submission to the Government of Alberta

Municipal Government Act Review

June 13, 2014

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Onward! Investing in great communities and a vibrant urban fabric.

THE CITY OF CALGARY
CITY MANAGER'S OFFICE

2014-1248

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Introduction

Alberta's municipalities have played, and will continue to play, a key role in the growth and development of the province. It is in municipalities where most Albertans reside, where commerce flows and opportunities abound.

The *Municipal Government Act* (*MGA*) has been the guiding legislation for municipalities for 20 years. Since the *MGA* was enacted, Alberta has changed significantly, and so, too, have municipalities and the expectations of the Albertans who live within them. Municipalities large and small are facing growing demands for a broader range of municipal services beyond the traditional "services to property." Albertans today look to their municipalities to provide an increasing number of services to support their social well-being, contribute to their economic prosperity and help protect their environment.

It is in Alberta's biggest cities where the changing face of municipalities is most evident. Calgary, for example, has grown to a population of well over one million. With such growth come large-scale challenges – diverse and complex demographic, social, financial, economic and environmental situations unfamiliar to smaller municipalities. The City of Calgary is seeking the legislative authority necessary to meet these challenges and ensure Alberta's biggest city continues to anchor the province's prosperity.

The City of Calgary (The City) has developed its submission for the *MGA* review within the context that the Act is the prevailing legislation and applies to all municipalities. Our proposed amendments reflect the changes that will enable Calgary and other municipalities to work within the parameters of the *MGA*. That is, our proposed amendments should empower all Alberta municipalities to improve their operational efficiency and service to citizens, and meet their mandate of providing good government, necessary and desirable services and facilities, and developing and maintaining safe and viable communities. However, amendments to the *MGA* cannot address all of the challenges that are specific to a city of Calgary's size. For this reason, when the Government of Alberta resumes the discussions with Calgary and Edmonton on legislation unique to the big cities (Charters), The City will be much more directive in the legislative authority we require, and will be seeking more flexibility and authority than that reflected in our proposed *MGA* amendments.

Within this context, our *MGA* submission identifies 12 key issue areas for The City under the three themes of the *MGA* review: Governance and Administration, Planning and Development, and Assessment and Taxation. Recommendations to address these key issue areas are supported by more detailed amendments presented in table form. The submission also identifies several provisions within the *MGA* that are working well for The City.

Introduction

This comprehensive review of the *MGA*, the first since the legislation was enacted in 1994, is an important first step in modernizing the provincial-municipal relationship in Alberta. The City appreciates the opportunity to provide its perspective, and looks forward to working with the Government of Alberta to provide municipalities with tools that will better meet the current and future needs of the citizens we serve.

1. Governance and Administration

1.1 Council Governance and Decision Making

The City recommends that the *MGA* continue to provide municipalities with broad-scope authority that enables local councils to make decisions and provide services in the best interests of their community. In some instances, less provincial oversight is required for a municipality the size of Calgary.

Recommendations:

The City recommends that the decision-making authority of municipal councils be retained or increased in relation to accountability, governance, and revenue and taxation. Municipal accountability could be further supported with a mechanism such as a code of conduct for councillors; however, more discussion with municipalities would be required before determining the sanctions that would be imposed. Municipal councils should have the authority to determine the parameters of this accountability and the *MGA* should provide the necessary power to enforce it.

Municipal councils should determine which decision-making and appeal boards (e.g. planning commissions; subdivision and appeal; assessment review) will have representation from the municipal council, and the number of councillors that will be appointed. Council, in a shareholder capacity, should oversee the operation of its controlled corporations and the duties of its municipally-appointed directors. If the *MGA* requires a municipality to have a conflict of interest policy, then the municipal council should determine the specific requirements of that policy.

1.1 Council Governance and Decision Making

Recommendation	*Additional Details*
Include provisions to help foster municipal transparency (e.g. a code of conduct for councillors).	An accountability mechanism that speaks to the role of councillors could be useful. Municipal councils should have the authority to determine the accountability of their councillors and the *MGA* should provide the necessary power to enforce it.
Maintain municipal councils' authority to make council appointments to decision-making and appeal boards.	The municipal council should continue to have the authority to determine which decision-making and appeal boards (e.g. planning commissions; subdivision and appeal; assessment review) will have representation from council, and the number of councillors that will be appointed.

1. Governance and Administration

A municipal council should maintain oversight of the operation of its controlled corporations and the duties of its municipally-appointed directors.	Municipalities that create controlled corporations should have the authority to determine the governance structure of the new corporation. Boards of directors should clearly understand their duties under the *MGA* and director duties under the *Business Corporations Act*. Appropriate oversight would be provided through a high-quality governance framework, in which a municipal council exercises its governance through the board appointment process and receives regular, high quality reporting from the corporation.
Include provisions for councillor disclosure rules.	Greater clarity regarding conflicts of interest for councillors could be helpful to protect the interests of the municipality. Some provinces require councillors to disclose real estate holdings and business or contractual interests, which helps support transparency and provides clarification about the types of interests that can result in a conflict. However, while the *MGA* could require a municipality to have a conflict of interest policy, each municipal council should determine the specific requirements of their policy.
Recommend that to be consistent with other orders of government, electoral ward boundaries and the number of councillors should remain a decision of municipal councils.	No additional comments.

1.2 Financial Administration

The City recommends that the *MGA* continue providing municipalities with broad authority for municipal financial accountability and transparency. The City is well-managed and financially stable, with an excellent credit rating. The City already provides a high degree of financial transparency and accountability, which includes engaging citizens on financial matters and providing a wide range of financial information on its public website. However, amendments to the mechanisms for calculating and reporting debt would enable The City to use debt more effectively as a financing tool.

Recommendations:

The City recommends that financial matters be further discussed as part of the development of City Charters. In the interim, The City recommends that the *MGA* clarify municipal use of various forms of debt and payment commitments as well as methods for calculating and reporting debt. This includes explicitly authorizing the use of derivatives; excluding long-term payments that are funded through operating budgets; considering municipal assets when calculating debt servicing limits; clarifying how guarantees and bullet debt are to be reflected in debt calculations; and clarifying how Public Private Partnerships should be reported as a funding mechanism.

1. Governance and Administration

1.2 Financial Administration

Recommendation	*Additional Details*
Do not decrease the current municipal borrowing and investment limits.	Provincial oversight through the *MGA* dictates debt and debt servicing limits and the type of investments municipalities may use. Until the Calgary Charter is enacted, The City will be able to work within these limits and the Major City Investment Regulations.
Do not increase the current level of provincial oversight of municipal finances.	Greater oversight of finances by the Government of Alberta, particularly in the area of approving investments, could slow decision-making and impede municipal operations.
The existing requirements for financial transparency and accountability are sufficient.	The City currently posts annual and other financial reports on investments, reserves and long-term liability on its website. Making this a requirement could be a burden for some municipalities.
Do not increase the existing petition period of 15 days for debt bylaws.	Mass electronic communication has enabled information to be communicated quickly and easily. Even with the current petition periods, borrowing bylaws take more than 60 days to approve from the date of inclusion in an agenda to full approval, which requires an additional 30 days after the second and third reading of a bylaw.
Continue to use the calendar year as the municipal budget year. Municipal year ends should not be aligned with the provincial fiscal year.	Changing the year end would be a significant undertaking and would impose a financial and administrative burden on municipalities.
Amend the *MGA* borrowing section(s) to explicitly authorize use of derivatives by municipalities; for example, for borrowing/funding purposes, for risk management to hedge interest rate and foreign currency risk, and for commodity hedging.	Provincial oversight through the *MGA* dictates debt and debt servicing limits, along with limits on the type of investments. The *MGA* generally does not preclude The City from undertaking financing and investment activities that are deemed prudent and provide benefit to the municipality with no or little additional financial risk. Additional provincial limits or procedures, particularly in the area of approving borrowing and investing, could slow decision-making and impede municipal operations.

Exclude long term payments (e.g. contractual agreements) from the debt calculation and statement of financial position as a liability if they are funded through operating budgets.	Long-term payment obligations may, under Generally Accepted Accounting Principles, be identified as a commitment. These liabilities should be included in the operating cost of services and covered through rates and fees.
The *MGA's* financial focus on debt and debt servicing limits should take into consideration municipal assets, including liquid financial assets and total financial health as represented by accumulated surpluses.	The *MGA* contains total debt and debt servicing tests. It does not consider other factors such as the level of accumulated surplus, level of reserves, infrastructure deficits and growth prospects, which are taken into consideration by external credit rating agencies. *MGA* tests are rudimentary and are not necessarily a good measure of the financial health of a municipality when considered in isolation.
Clarifying how guarantees and bullet debt are treated within the debt and debt servicing limit calculations would result in the limits providing a better measure of the risk associated with debt issuance. The City proposes excluding any debt serviced by revenues that are also excluded from the calculation, unless the debt servicing costs are likely to exceed the related revenue. Similarly for the *MGA* debt ratios, The City would like to use a weighting for guarantees that provides recognition of the risk associated with the guarantees.	The denominator for the *MGA* debt servicing calculations is revenue. Current *MGA* definitions of revenue exclude government transfers related to capital; however, the numerator includes the related prorated bullet debt.
Long-term payment obligations could clarify how Public Private Partnerships (P3) should be reported as a funding mechanism.	P3s, which include private sector financing (debt and equity), are an indirect form of debt. The private sector's financing is repaid over the term of the P3. The repayment of private sector financing impacts the *MGA* debt servicing limit.

1.3 Environmental Stewardship

Responsibility for stewardship of the environment is shared amongst all orders of government. To fulfil their responsibilities, municipalities require the authority and tools to effectively protect the environment and environmentally significant areas within their boundaries. Responsible stewardship also requires a consistent provincial approach to monitoring and regulation, to ensure accountability from all municipalities. Clearly defining and distinguishing authority for environmental stewardship between governments would provide a more effective and efficient process, provide the clarity required to effectively manage the environment, and lead to improved outcomes for both Calgary and Alberta.

In addition, municipalities are impacted by several other pieces of environmental legislation that overlap and intersect with each other and with the *MGA* – such as the *Water Act*, Environmental Reserve guidelines, Wetland Conservation Plan, Alberta Environment guidelines, *Alberta Land Stewardship Act*, and Draft South Saskatchewan Regional Plan. A lack of alignment of various provincial acts, policies, plans and tools creates confusion and conflict over authority. For municipalities and the province to be effective stewards of the environment, these various legislative instruments must align.

1. Governance and Administration

Recommendations:

Aligning the various provincial environmental acts, policies and plans with the *MGA* would allow for improved environmental stewardship in Alberta. Clearly defining and distinguishing between municipal and provincial authority would result in improved environmental outcomes. Expanding the definition of Environmental Reserve (ER) to include lands for protection and conservation would redirect the focus of ER towards environmental stewardship and away from simply undevelopable land.

1.3 Environmental Stewardship

Recommendation	*Additional Details*
Stormwater management, reporting and accountability should be consistent throughout the province.	Inconsistent application, where only license holders are being held accountable, is inequitable.
Environmental stewardship and authority should be clearly defined and distinguished between municipalities and province.	Lack of clarity, alignment and authority for environmental stewardship results in patchwork stewardship, and inefficient and ineffective long-term results.
Expand municipal power over the environment. Align municipal and provincial powers.	Watersheds are impacted by activities in regions outside of municipal boundaries and outside of a municipality's control.
Address non-point source emissions and the limited ability of municipalities to impact them. Manage air quality within an airshed rather than locally.	Municipalities have no control over non-point source emissions which subsequently impact air control within municipal boundaries, which Alberta Environment monitors. Area or non-point sources are those sources which are numerous, widespread, and are not easily regulated through the traditional approval method (e.g. vehicles, home furnaces, consumer products).
Expand the definition of ER to include lands for protection and conservation purposes, including riparian and watershed lands. Add 664(1)(c)(i) to include provision of habitat and biodiversity, flood water conveyance and storage, and bank and shore stabilization.	ER is the only tool available for municipalities to protect and conserve the environment. As it currently stands, environmental reserve is defined as *engineering* reserve – that which cannot be built on. To be responsive to modern environmental protection needs, the definition needs to change from its current scope of land to reflect environmental stewardship, watershed protection, and environmentally significant areas protection principles.

1. Governance and Administration

Allow municipalities to consider the appropriateness of setback waivers prior to provincial submission. Rights of appeal would be retained.	This would reduce long processing times.
Allow redesignation of land for additional environmental reserve land to address inadequate setbacks of the past.	Inadequate setbacks do not allow for environmental protection and conservation.

1.4 Municipal Accountability

The City has identified a number of recommendations that would help clarify accountability regarding the maintenance of municipal and provincial infrastructure, as well as the enforcement of bylaws.

Recommendations:

The City recommends that the *MGA* clearly identify accountability for the inspection and maintenance of municipal and provincial roadways. Specifically, title to municipal roads should remain with the municipalities, which are responsible for keeping them in a reasonable state of repair. The *MGA* should clarify that municipalities are not responsible for providing service on facilities that are provincially-owned, for example provincial highways. Further, the *MGA* should be amended to clarify the provisions allowing municipalities to deal with unsightly and unsafe properties.

1.4 Municipal Accountability

Recommendation	*Additional Details*
It should be clarified that municipalities are not required to provide services on provincial highways.	There are some areas where municipalities are not responsible for providing service as the facility is provincially-owned, for example provincial highways.
Maintain the current limits and protection relating to the maintenance, operation and inspections of roads, public places and public works.	The current limits and protection work well.
Title to municipal roads should remain with the municipality.	No additional comments.
Revise definitions S.546 (b) “unsightly condition”, (i) in respect of a structure, includes a structure whose exterior shows signs of significant physical deterioration, ~~and~~ <u>that is partly demolished, decayed, or in a state of disrepair, that constitutes a hazard to the health or safety of the public or emergency service providers, or that is a fire hazard to itself or to surrounding lands or buildings</u>, and (ii) in respect of land, includes land that shows signs of a serious disregard for general maintenance or upkeep, and	It would be beneficial to better define a dangerous and unsightly property with respect to structures and land, to take into account hazard and safety considerations for the public and emergency service providers, and support the authority of designated fire officials for the purpose of fire prevention and safety activities.

includes property containing ashes, junk, cleanings of yards or other rubbish or refuse, equipment or machinery, the accumulation of wood shavings, paper, sawdust, dry and inflammable grass or weeds or other combustible material. Amend S.542 to: 542 (1) If this or any other enactment or a bylaw authorizes or requires anything to be inspected, remedied, enforced or done by a municipality, a designated officer of the municipality may, after giving reasonable notice to the owner or occupier of land or the structure to be entered to carry out the inspection, remedy, enforcement or action, (a) enter on that land or structure at any reasonable time, and carry out the inspection, enforcement or action authorized or required by the enactment or bylaw, (b) ~~request~~ require anything to be produced to assist in the inspection, remedy, enforcement or action, and (c) make copies of anything related to the inspection, remedy, enforcement or action.	The *MGA* allows a bylaw enforcement officer to request identification, but a person is not obliged to provide it.

**** The underlined wording would replace the wording which is struck out.***

2. Planning and Development

2.1 Funding Municipal Infrastructure

The City supports the principle that those who benefit from growth should pay for the infrastructure required, to the degree to which they benefit from that growth. However, the *MGA* does not explicitly authorize municipalities to collect levies and development charges for all municipal infrastructure required to support the sustainable development of complete communities. Municipalities and developers require stability, predictability and consistency regarding what infrastructure can be included in levies and development charges. Through the levy, development charges and oversize contribution systems, municipalities can help ensure that growth pays its fair share for the required infrastructure to create complete communities. However, this system will only work if mechanisms for charging these costs are clear, stable and predictable.

Recommendations:

The City recommends amendments to the *MGA* that would ensure new communities and redeveloping areas pay their fair share of the cost of infrastructure required to create complete communities.

- **Off-Site Levies**

  An off-site levy helps pay for municipal infrastructure required outside or "off" the site of a development or subdivision. The *MGA* allows off-site levies to be collected for some of the municipal infrastructure needed as a result of new development. However, court challenges have highlighted the limitations of the current sections of the *MGA* and the Principles and Criteria for Off-Site Levy Regulations. The City recommends that the *MGA* be amended to allow municipalities to determine what additional infrastructure may be included in off-site levies, beyond the infrastructure currently listed. The *MGA* and the Principles and Criteria for Off-Site Levy Regulations also need to be clarified regarding when and how off-site levies may be applied. The City further recommends that dispute resolution remain with the courts, as the potential impacts of these challenges call for the courts' high level of scrutiny.

- **Redevelopment Levies**

  Calgary's Municipal Development Plan encourages appropriate redevelopment that supports the revitalization of existing communities, through the creation of new units, uses or lots on previously developed land. In some situations, redevelopment pressure will require upgraded infrastructure to accommodate this additional population. The *MGA* currently allows redevelopment levies to be charged and used to fund land purchases required for open space, school sites and recreation facilities. However, these levies do not pay for all of the infrastructure required to support the growth in population resulting from the redevelopment. To ensure that growth arising from redevelopment

pays its fair share, The City recommends that the *MGA* be amended to allow municipalities the ability to determine the additional infrastructure that may be included in redevelopment levies, aligning with the off-site levies. The *MGA* should also clarify when a redevelopment levy may be charged.

- **Development Charges**

  In addition to off-site or redevelopment levies, municipalities may require as a condition of a development permit or subdivision approval that an applicant pay for roads, walkways, public utilities and parking and loading facilities. Development charges may pay for or require the construction of certain infrastructure that extends beyond the site of development. This has created some uncertainty in the courts regarding the distinction between a development charge and an off-site levy. This is problematic in that collection of an off-site levy may only occur once. The City requests clarity in the section on development charges to ensure distinction between them and off-site levies.

- **Oversize Contributions**

  Through the *MGA,* municipalities may require that subdivision or development permit applicants construct or pay for infrastructure that is larger than what is currently required (e.g. larger capacity wastewater systems). This facilitates future growth in municipalities and ensures that growth can continue without needing to rebuild existing infrastructure whenever a new community is developed. To ensure this cycle, when future development occurs, collection of monies through development agreements takes place. This money proportionately pays back, with interest, the developer that initially funded the oversize capacity. This system works only if future developers are required to pay back the first developer. As a result of a recent court challenge, this requirement to pay back was brought into question. The *MGA* requires clarity to ensure that municipalities can recover the costs from future developers to repay the first developer that funded the oversize contribution.

- **Process and Implementation**

  The City recommends that several current *MGA* provisions for implementing fees and levies remain unchanged, including: the bylaw process for off-site and redevelopment levies; the mechanisms for collecting levies; municipal authority to determine the amount of levies or development charges that may be collected; and municipal authority to prioritize and allocate levy monies.

- **Inter-jurisdictional Infrastructure**

  Currently, when infrastructure is constructed that straddles or benefits multiple jurisdictions, there are no mechanisms to compel both jurisdictions to pay their fair share of the cost based on the benefit they receive. As a result, the burden of funding this infrastructure falls entirely on the municipality undertaking the construction. To address this issue, The City recommends that a new section be added to the *MGA* that would spread the burden of cost between the jurisdictions that benefit from the infrastructure based on the level of benefit they receive. This new section, and any supporting regulations, would need to provide guidance on determination of the relative contributions and dispute resolution.

2.1 Funding Municipal Infrastructure

Recommendation	*Additional Details*
Clarify S.648(4) that a municipality is able to impose off-site levies incrementally and is not restricted to the first application on a site to impose all off-site levies.	This will help allow a municipality to recover costs for new and expanded works required to service the development.
Clarify that the restriction contained in S.648(4) applies only to an off-site levy passed for specific infrastructure of each category listed in S.648.	This would allow multiple off-site levies to be passed for different types of infrastructure and for multiple off-site levies to be charged incrementally for different pieces of infrastructure.
Clarify which capital costs are eligible for inclusion in an off-site levy in the regulations.	The Principles and Criteria for Off-Site Levy Regulations do not provide clarity on the costs that are eligible for inclusion in the calculation of off-site levies. Specifically, the wording is unclear with regards to the inclusion of financing charges as valid costs.
Clarify the *MGA* and the Principles and Criteria for Off-Site Levy Regulations regarding when and how off-site and redevelopment levies may be applied.	No additional comments.

Clarify in S.650 and S.655 that the requirement to construct or pay for infrastructure extending beyond the subject site does not constitute an off-site or redevelopment levy.	Development charges may be used to pay for or construct certain infrastructure that extends beyond the site seeking approval creating some overlap and confusion with the levy system.
Ensure that the off-site and redevelopment levies in S.647 and S.648 may cover the costs of infrastructure upgrades when an area is undergoing redevelopment with the provision that the municipality is responsible for the life-cycle costs of the infrastructure. The infrastructure in question should be determined by the municipality.	The *MGA* should allow for the collection of levies for core infrastructure upgrades when an area is undergoing redevelopment provided that the municipality pays for the life-cycle cost. This is particularly important in the case of redevelopment that involves significant population intensification. In these cases it may be necessary to not only replace infrastructure but also expand its capacity due to increased population.
Municipalities should be granted the authority to determine additional infrastructure that may be included in levies in S.647 and S.648, beyond the infrastructure currently allowed.	Amending the *MGA* needs to occur to ensure that new communities and redeveloping areas pay their share of the cost of infrastructure required to provide municipal services and create complete communities. To achieve this, municipalities need the ability to define what infrastructure is required to create these complete communities. This can potentially occur through a list of infrastructure, beyond that in S.648, included in their Municipal Development Plans, which will ensure citizen and stakeholder input into the process of identifying the infrastructure required.
The list of appropriate charges for a redevelopment levy in S.647 should include the items included under S.648.	The *MGA* needs to be amended to ensure that new communities and redeveloping areas pay their share of the cost of infrastructure required to provide municipal services and create complete communities.
Add to S.651 Oversize Contributions that municipalities should be at liberty to recover, without any avenue to appeal, the costs from future developers to repay the first developer for the oversize contribution. The remainder of S.651 should remain unchanged.	If infrastructure must be built with a certain oversize component, a municipality should be able to impose that obligation on a developer if the developer wishes to proceed with development. However, equally important is that once the initial oversize contribution is imposed and paid by the first developer, the municipality be at liberty to recover those costs from future developers to repay the first developer for the oversize contribution.

Clarify that where provision of infrastructure is accelerated to accommodate development both capital and operating costs are recognized as expenses to be funded by developers.	Including operating costs as part of the infrastructure that may be funded by developers will help in allowing projects to proceed prior to the normal servicing thresholds or plans being met.
Add a new Inter-jurisdictional Infrastructure section to the *MGA* to create a mechanism for charging inter-municipal levies when the infrastructure constructed provides a benefit to multiple jurisdictions.	Currently one municipality cannot compel another jurisdiction to cost share certain infrastructure through levies or mandate an amount. Clarity around off-site levies for infrastructure that straddles municipal boundaries is needed. Current limitations of the *MGA* and requirements of the governing regulation make joint funding initiatives extremely complicated.
The prioritization / allocation of levy monies should not be formalized within statutory plans.	Prioritization and allocation could be done through many methods and not solely through one means.
The mechanisms for collecting fees should remain unchanged.	The current process for collecting fees works well.
The bylaw process for off-site and redevelopment levies as outlined in S.647(1), S.648(6) and S.649 should remain unchanged.	Through the bylaw process, council makes decisions regarding levies in a Public Hearing that provides the public with the opportunity for input.

2.2 Municipal Reserves

When land is being developed, the *MGA* enables municipalities to dedicate portions of developable land as reserve land for public uses, in order to meet the current and future needs of citizens. The *MGA* enables up to 10 per cent of the developable area of subdivided lands to be dedicated to municipal reserve (MR), school reserve (SR), or as municipal and school reserve (MSR). This land may be used for a public park, recreation area, or for school board purposes. The *MGA* does not specify how reserve is to be divided between schools, open space and other municipal uses; however, Calgary school boards tend to take, on average, 60-75 per cent of the dedicated reserves requirement, with very little municipal reserve remaining for other municipal uses. If a school board declares that a reserve parcel (SR or MSR) is no longer required for school purposes, that land may be dedicated as Community Services Reserve (CSR) for such uses as a library, police station, fire station, day care, senior citizens or special needs facility, affordable housing or for other municipal facilities.

The City faces four main issues concerning municipal reserves. First, school needs are hindering The City's ability to provide enough public open space for even the current uses of municipal reserves. Second, the current range of uses for MR limits The City's ability to accommodate its expanding service needs. Third, numerous municipal services need to be accommodated on a limited amount of MR. Fourth, when a large parcel of land undergoes redevelopment without subdivision, the mechanism for providing adequate open space is not available.

Recommendations:

Since new communities are designed with the intent to have a distinct identity, each community could have a different road network, open space layout, and other public services. In light of this, The City recommends that municipalities be given the authority to determine how to use available municipal reserve created at the time of subdivision. The City recommends that the current 30 per cent road dedication be combined with the 10 per cent municipal reserve to create a new, overall "public infrastructure" dedication of up to 40 per cent. The City also recommends a provision for a roads/reserve dedication on development or redevelopment of large parcels without subdivision.

2.2 Municipal Reserves

Recommendation	*Additional Details*
Combine the 30 per cent road dedication and the 10 per cent municipal reserve to create a new “public infrastructure” dedication of 40 per cent.	This amendment to Part 17 Div. 8 would provide municipalities with greater flexibility in determining how to use dedicated lands to meet community needs.
Amend S.671 to allow municipalities to determine uses for municipal reserve; revise community services reserve uses to apply to all reserve sites, not just surplus school sites; allow money in place of CSR in the same manner as for MR (S.667).	The current uses for municipal reserve are not accommodating growth.
Add the uses “school” and “open space” to CSR.	This amendment to S.671 would provide an incentive for school boards to declare reserve lands surplus.
Allow municipalities to require right-of-way dedications at the development permit stage, where the land has not been previously subdivided. Include a mechanism to require municipal reserve in absence of subdivision.	Part 17 Div. 8 only allows a subdivision authority to require a land dedication for roadways and utilities and land for municipal reserve, school reserve, municipal and school reserve (or money in place of land), if the parcel of land is the subject of a proposed subdivision (and which meets size thresholds). However, some parcels can be extensively developed without subdivision and may create the need for land for roads, utilities and other municipal or school board purposes.

2.3 Affordable Housing

Strong economic growth has put upward pressure on housing prices, resulting in a continued need for affordable housing options within Calgary. *MGA* amendments could provide additional legislative support to encourage the development of affordable housing.

The City employs a series of tools for the provision of affordable housing in support of both its Municipal Development Plan and Corporate Affordable Housing Strategy. *MGA* amendments would further support the development of complete communities that offer a variety of housing options at multiple price points.

Recommendations:

The City recommends that affordable housing be added to the list of municipal programs that may be addressed through a Municipal Development Plan and to the matters that may be provided for in a land use bylaw.

2.3 Affordable Housing

Recommendation	*Additional Details*
Amend S.632(3)(b)(ii) to include affordable housing in the list of municipal programs that may be addressed through a Municipal Development Plan. Amend S.640(4) to add affordable housing to the matters that may be provided for in a land use bylaw.	Currently the *MGA* allows for municipalities to provide incentives for certain types of development through mechanisms such as density bonusing and transfers. Clarity is required to ensure these mechanisms can be used to support the provision of affordable housing. Ensure that municipalities can, through the planning process, require development to consist of housing at multiple price points.

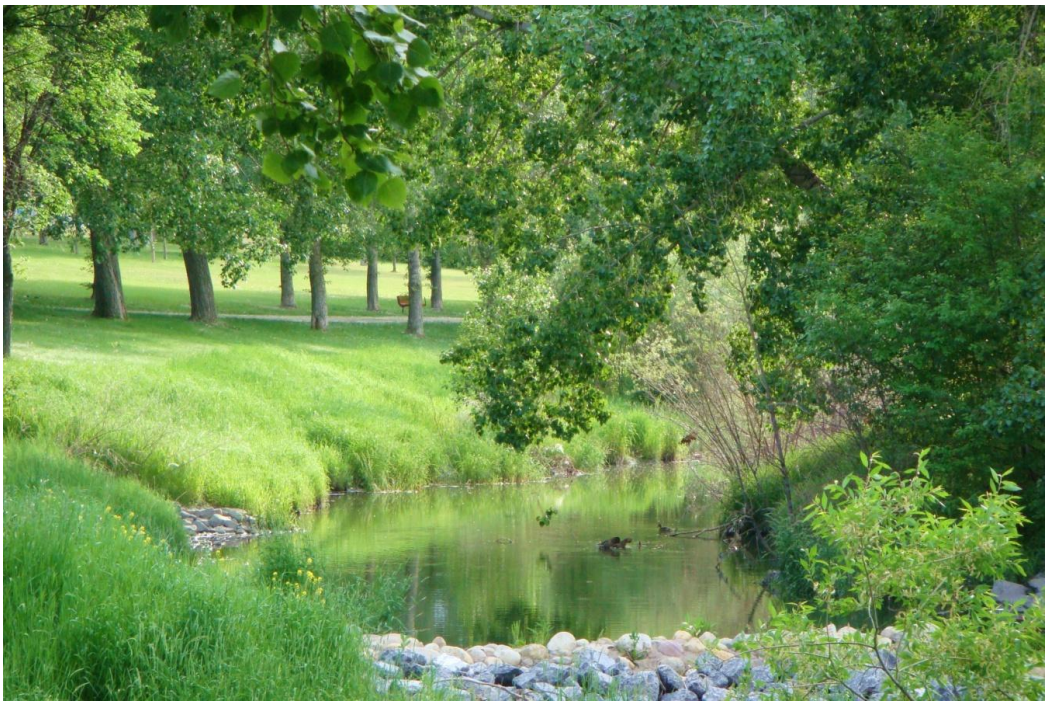
2.4 Brownfield Redevelopment

A brownfield site is a property where past actions have resulted in contamination and where there is an active potential for redevelopment. Brownfield sites include parcels of all sizes from corner gas stations to large areas encompassing many properties. Calgary's Municipal Development Plan encourages the remediation and redevelopment of brownfield sites in order to support the availability of competitively priced, easily serviceable and developable land.

Brownfield redevelopment contributes to achieving the goal of vibrant, complete communities and a sustainable environment. However, financial and liability concerns are significant impediments to brownfield redevelopment, and, unlike some provinces, Alberta has limited provincial brownfield legislation or programs to address these challenges and encourage redevelopment.

Recommendations:

Addressing brownfield redevelopment more specifically in the *MGA* would allow development of brownfield sites that have been left abandoned, vacant, derelict or underutilized, transforming them into productive spaces. The City recommends that increased levels of liability protection be provided when a municipality acquires contaminated land but had no role in the contamination, or subdivision/development applications have been approved on brownfield properties located within the municipality.



2.4 Brownfield Redevelopment

Recommendation	*Additional Details*
Including brownfield redevelopment more specifically in the *MGA* will allow development of brownfield sites that have been left abandoned, vacant, derelict or underutilized, transforming them into productive space.	Brownfield redevelopment contributes to achieving the goal of vibrant, complete communities and a sustainable environment. Financial and liability concerns are significant impediments to brownfield redevelopment and there is little or no specific provincial brownfield legislation or programs in Alberta to address these impediments and encourage brownfield redevelopment.
Exempt municipalities from liability claims arising from contaminated sites in the same manner that other bodies, such as Alberta Environment and Sustainable Resource Development, are exempt.	Municipalities are vulnerable to third party civil liability.
Add a provision that limits municipal liability on contaminated lands entered into the tax recovery process.	Although Section 424(1) allows municipalities to take title or not by using the word 'may,' which is how Calgary is currently dealing with those situations, a provision will be more helpful.

2.5 Oil and Gas Development within Municipal Boundaries

Municipalities have limited input into the planning and development of oil and gas facilities within their boundaries, despite potential impacts on citizens, emergency responders and future planning. Compounding this issue, municipal planning policies and processes are subordinate to any provincial or federal regulatory decisions, leaving minimal municipal recourse once these decisions are made.

The extraction of energy resources with high levels of sour gas creates safety issues for The City, requiring increased emergency preparedness and the development of emergency response plans. Although energy companies are responsible for the development of emergency planning zones, in the case of an emergency, City resources would be involved in the response, including the evacuation of residents. These residents may not be aware that they live in an emergency planning zone as land titles do not indicate proximity to oil and gas facilities. As Calgary continues to grow and develop in areas with significant energy deposits, the conflict between future development and resource extraction will only increase.

The City strongly supports the establishment of a working group – introduced through Motion 509 by MLA Sandra Jansen – to review whether adequate policies are in place for urban communities in regard to oil and gas development.

Recommendations:

Acknowledging municipalities as partners in the planning and development of oil and gas facilities within their boundaries and providing opportunities for meaningful input into the regulatory process could significantly improve land use planning practice and emergency response throughout Alberta.

2.5 Oil and Gas Development within Municipal Boundaries

Recommendation	*Additional Details*
Make oil and gas wells, batteries and pipelines subject to municipal planning processes. Delete S.618 (1)(b) and 618 (1)(c.)	The City is required to provide emergency response to any oil/gas incident, but with limited input into the planning process.
Add a clause to Section 619 requiring oil and gas facility applicants to have appropriate municipal development approvals prior to development.	The City is required to provide emergency response to any oil/gas incident, but with limited input into the planning process.
Delete Section 620 – Conditions prevail: A condition of a licence, permit, approval or other authorization granted pursuant to an enactment by the Lieutenant Governor in council, a Minister, a Provincial agency or Crown controlled organization as defined in the *Financial Administration Act* or a delegated person as defined in Schedule 10 to the *Government Organization Act* prevails over any condition of a development permit that conflicts with it.	Removing this provision will support the municipalities facing gas, oil and pipeline developments within municipal boundaries in representing the safety of their citizens. Currently, The City is having difficulty challenging Alberta Energy Regulator approvals for gas and oil development within city limits where community development is occurring, representing a significant concern for citizen safety, and an increased need for emergency response.

2.6 Improving Planning and Development

The City experiences ongoing challenges with several sections that pertain to planning and development matters, including development applications, Subdivision and Development Appeal Board (SDAB) timelines, utility servicing and heritage conservation.

Changes in the timelines and processes related to development applications and appeals would improve The City's ability to provide timely, consistent customer service on planning and development matters. In addition, providing more autonomy to municipalities regarding utility servicing would improve the ability to make consistent, prudent decisions regarding service connections. Improved alignment between the *MGA* and other provincial acts would strengthen the ability of municipalities to pursue options to preserve historically significant sites.

Recommendations:

The City recommends maintaining several provisions within the *MGA* that pertain to SDAB appeals as well as amendments that would improve the ability of SDABs to address large volumes of appeals. Other recommendations would improve the ability to process development applications; provide autonomy at the municipal level for the timing, construction and capacity of utility servicing; and align the *MGA* with the *Alberta Historic Resources Act* and the *Safety Codes Act* to improve opportunities for heritage conservation.

2.6 Improving Planning and Development

Recommendation	*Additional Details*
Extend the timeline for decision for discretionary development permits to 180 days.	Discretionary permits by their nature require greater review time by The City.
Change wording to "after 90 days are expired, the applicant has the opportunity to proceed with a deemed refusal…" on tentative plan of subdivision.	Extension agreements are time consuming.
Minimum requirements for a development permit application should continue to be determined at the municipal level.	Municipalities are knowledgeable of the minimum requirements for a development application.

Clarify, in S.692, that a proposed bylaw must receive three readings within two years of the commencement of a public hearing, or all previous readings are rescinded (if any were given) and a new public hearing must be held prior to further consideration of the bylaw.	No additional comments.
Provide municipalities with the authority to designate areas within their boundaries as “site plan control areas” where specific aspects of a development would be excluded from the permit appeal process.	No additional comments.
Authorize a development authority to increase the height and density of development in return for the provision of such facilities, services or matters established by a municipal council development authority.	No additional comments.
Do not change the appeal rights within Direct Control Districts as outlined in S.641.	S.641 represents an appropriate and workable approach to determining appeal rights in relation to Direct Control Districts.
Do not add the ability for subdivision or development authorities to amend their decisions.	Decisions need to be final to allow for certainty of rights and limits on appeals.
Subdivision appeals should continue to be heard by municipal SDABs unless there are compelling reasons, explicitly raised by regulators. Proximity to waterways or water treatment plants should not be considered a compelling reason for removing an appeal from SDAB jurisdiction.	Unless there are provincial jurisdictional requirements it is appropriate for these matters to be decided by SDABs.
Do not change S.629(b) requirements for a record of proceedings.	High quality audio recordings are appropriate for this purpose. Courts require transcripts which can be produced from recordings.
Do not change the rules for notification in S.686(3) relating to SDABs.	Variance in local practice should be determined by a municipality's land use bylaw and in all other ways left to the discretion of SDABs, incorporating their specialized expertise and knowledge of local conditions.

Extend the timeline for rendering a decision on appeals from 15 days to 30 days in S.680(3).	Municipalities that experience a large volume of appeals struggle to meet the current deadline. Advertising requirements put an additional time constraint in drafting a decision.
An “affected party” should continue to be defined by SDABs on a case by case basis.	A factual inquiry can be best carried out by local SDABs that can determine who is affected by a development.
Provide the autonomy at the municipal level to determine the timing, construction and capacity of servicing in S.34.	The City has an ongoing challenge to fulfil the current requirement to provide servicing to an adjacent parcel.
Part 17 of the *MGA* should align with the *Alberta Historic Resources Act*.	The *MGA* is silent on the issue of heritage conservation. The *Alberta Historic Resources Act* provides a mechanism for municipalities to legally protect historic resources but does not relate to larger planning issues. Best practices in land use planning and heritage conservation suggest that heritage conservation needs to be integrated into land use planning. In Alberta, there are limited tools to support heritage conservation, particularly at the municipal level. Consequently, municipalities regularly ask the Government of Alberta to intervene in municipal heritage conservation issues. Aligning the two acts would significantly improve opportunities for heritage conservation and good land use planning practice in Alberta.
The *Safety Codes Act* and Part 17 of the *MGA* should be brought into alignment on issues of demolition control.	In Alberta, demolition is governed by the *Safety Codes Act*. Municipalities have no legal ability to delay or refuse demolition applications if the provisions of the *Safety Codes Act* are met. In many jurisdictions, the municipality has the ability to delay demolitions. This allows time to explore alternatives that may not result in demolition of historic resources.

3. Assessment and Taxation

3.1 Taxation and Revenue

Municipalities rely heavily on property taxation to provide a substantial, stable source of municipal revenues that fund numerous services for citizens. *MGA* amendments to The City's limited taxation authority would provide some additional flexibility within the existing structure. Amendments to the *MGA* would improve municipalities' ability to determine tax rates and would clarify the tax recovery process, including municipal liability if the lands are contaminated. In addition, while business taxes are being phased out in many municipalities, the business assessment and tax provision should be maintained as an option should municipalities require it in order to maintain or improve services.

The City also needs to explore new financing options to provide a more diverse and sustainable revenue base. Central to this exploration are options to lessen the reliance on the property tax and address the fiscal imbalance between The City and the provincial government. The key issues for The City include the need to diversify The City's revenue sources, lessen reliance on the property tax (a regressive revenue source), achieve long-term financial sustainability, provide predictability to allow long-range planning (infrastructure), and adequately respond to the pressure points that a big city experiences with increased growth.

Limitations of the Property Tax

The property tax remains the primary revenue source for all municipalities. The challenge of this revenue tool is its lack of ability to respond to the economy, and for high-growth communities like Calgary, an increase in population represents additional expenditures that outpace the related increase in property tax revenues.

Limitations of Existing Municipal Revenue Sources

One of The City's ongoing challenges is that its revenues do not increase at the same pace as its costs. This challenge is particularly acute during periods of rapid economic growth when the cost of commodities such as fuel, oil, gas, electricity and construction material increases faster than general inflation. User fees, the sale of City goods and services, and utility revenues tend to increase more slowly than municipal costs. Debt, or borrowing, is another existing source of financing for capital expenditures. The City has taken on more long-term debt as a means of bridging the revenue gap, and will continue to be close to its debt borrowing limits if no new revenue sources are available.

Limitations of Government Transfers

Grants and transfers from the provincial government are variable, with capital grants particularly hard to predict and incorporate into effective budgeting. For example, while the original Municipal Sustainability

Initiative grant totals have not changed, the program's timeline has been extended with the original amount of funding being spread over a longer timeframe. This has required the use of bridge-financing (debt) and increased interest costs in the millions of dollars in order to maintain the capital projects schedule.

Fiscal Imbalance

One of The City's growing challenges is that over the past two decades, the proportion of all tax revenues paid by residents and businesses in Calgary going to the federal and provincial governments has increased from 87 per cent in 1991 to 91 per cent in 2013. This means that a smaller proportion of the total taxes paid by Calgarians is available to pay for local municipal services and infrastructure, but service demands are increasing.

Recommendations:

- **Taxation**

  The City recommends maintaining the property tax and the business assessment/tax; providing more authority over differential tax rates; and clarifying tax recovery provisions.

- **Revenue**

  The City recommends that the Government of Alberta consider providing municipalities with access to new revenue sources and additional revenue-sharing opportunities that would improve the fiscal capacity of municipalities and diversify their revenue bases. The City should retain the authority to determine the appropriate use of the additional revenues.

  While The City is looking for new sources of revenue, it is also important to maintain current revenue sources, specifically franchise fees. The City supports the current legislation that governs the ability of municipalities to negotiate franchise agreements and the methodology to determine the franchise fee component, and requests that no changes be made.

3. Assessment and Taxation

3.1 Taxation and Revenue

Recommendation	*Additional Details*
Provide municipalities with access to new sources of revenue and council with the authority to determine if, how and when such new revenue sources will be used, and to provide for more revenue sharing opportunities with the Government of Alberta.	Without new and additional sources to diversify and sustain its revenue base, The City will not be in a position to adequately respond to the infrastructure and service demands of a large, growing population.
Maintain the collection of franchise fees based on the current methodology.	The basis for the franchise fees is S.360, which permits a council to make a tax agreement with an operator of a public utility who occupies the municipal property. Instead of paying tax or other fees or charges payable to the municipality, the tax agreement may provide for a payment to the municipality in place of the tax and other fees or charges. The franchise fee can be considered a payment in return for a number of valuable benefits received by the public utility. The utility receives the right to distribute energy within the municipality (the franchise); the utility does not pay lease payments or other fees for the use of the municipal rights-of-way; and the utilities are permitted to pass this expense onto the ratepayers. This is an important revenue stream for The City of Calgary.
Maintain the assessment and taxation function as a source of revenue.	Property assessment and taxation is a necessary revenue source as it is substantial and predictable.
Do not impose a factor or ratio that links tax rates among residential and non-residential property. Currently no standard ratio is widely used in Canada, because circumstances differ vastly from municipality to municipality.	Any legislated ratio between residential property tax rate and non-residential property tax rate would have major tax implications for property owners, especially if it was significantly different than the current ratio in the municipalities.

3. Assessment and Taxation

3.2 Assessment

The City of Calgary supports the principles of market value assessment, the annual assessment cycle, the use of mass appraisal, and the administrative tribunal framework. Generally, the current assessment system works well as tax distribution tool.

A number of amendments could build on operational efficiencies gained with the one-level assessment complaint structure, clarify exemption provisions, facilitate the flow of assessment information and improve the fairness, accuracy and equitability of assessment values. Foremost, the system should be simple, efficient, and safeguard against delays and abuses.

- **Assessment Complaints**

The City of Calgary recommends that the existing assessment complaint structure be retained, with improvements and a shorter complaint period. Within this framework, property and business owners can

discuss concerns and correct errors; and disputes can be heard quickly and efficiently by an impartial board that is specifically designed to serve the owners of different types.

Retaining the current complaint structure for property and business assessments is a key priority. Now, complaints are heard once by an assessment-type-specific board with the option to appeal to the courts on matters of law or jurisdiction. The Local Assessment Review Board (LARB) hears complaints on the assessments of residential properties with three or fewer dwellings, and businesses. The Composite Assessment Review Board (CARB) hears multi-residential and non-residential property assessment complaints. Together, they are referred to as Assessment Review Boards or the ARBs.

The ARB structure enables the most efficient customer service and use of human and financial resources in the municipality where the majority of complaints in Alberta are heard. Thirty per cent of Alberta's total assessed value is in Calgary but as shown below about 60 per cent of all complaints heard across the province are in Calgary. When combined with Edmonton's, assessment complaints filed in the two major cities account for over 80 per cent of the total filed in all of Alberta.

Calgary's share of the province's assessment complaints:

Municipality	# of Complaints Heard by LARB	# of Complaints Heard by CARB	Total Complaints Heard
Alberta Total*	**2,890**	**2,888**	**5,776**
Calgary	**1,724**	**1,727**	**3,451**
Share of Total	**59.65%**	**59.80%**	**59.75%**
Edmonton	379	856	1,235
Share of Total	13.11%	29.64%	21.38%
Calgary and Edmonton	2,103	2,583	4,686
Share of Total	72.77%	89.44%	81.13%

*2011, the most recent numbers available from Municipal Affairs at the time of writing

3. Assessment and Taxation

Industry Issues

Some industry stakeholders have asked the provincial government for a new two-level provincial board structure with an alternative form of dispute resolution in addition to the tribunal process, and different business cycle timeframes. The City of Calgary has significant concerns with potential ramifications related to these proposals.

Two-Level Structure

Alberta had two-level boards until 2009 when the structure was replaced. Then, all formal complaints were heard first at a general purpose ARB and decisions could be appealed at the provincial Municipal Government Board (MGB). Unsuccessful appeals at the MGB could be advanced through the courts.

During that time, the majority of assessment complaints in Calgary were subsequently heard by the MGB. There was not enough time each year for the MGB to schedule, hear, and provide decisions on all of the annual appeals they received. From the initial complaint through to the final MGB decision, the process stretched well beyond the annual cycle and assessment complaints could not be completed during the relevant tax year. As a result, property and business owners had no certainty in terms of their own tax liability for long periods of time and significant tax revenue was at risk for The City after the fiscal year was over.

Ultimately, the sustainability of annual assessment was put at risk. For example, in 2010, a year after the complaint structure changed from two-levels to the current one-level, $18.4 billion in 2009 assessment complaint value was still unresolved because of the inefficiencies of the two-level structure. Due to the resource allocation needed for defending assessments, and the duplication and redundancy of the complaint structure, assessment quality was also at risk. All these issues were improved when the provincial government brought in the current, one-level administrative tribunal structure for assessment complaints.

Alternative Dispute Resolution

Alternative dispute resolution (ADR) is a collective term for a means to settle a dispute or come to an agreement short of litigation and with or without the help of a third party. The City of Calgary investigated alternative dispute resolution models for assessment complaints but ultimately opposes them. The benefits attributed to ADR are provided with The City of Calgary Assessment business unit's customer service initiatives and by the existing ARB composition and structure. Each year, Calgary produces nearly 475,000 market value property assessments and over 26,000 business assessments. Its assessors address tens of thousands of customer inquiries and thousands of assessment complaints. In addition, The City of Calgary offers two specialized opportunities outside of the formal complaint process:

3. Assessment and Taxation

The Advance Consultation Period (ACP) takes place each fall when assessment values are being finalized for the next year. Invitations are sent to all non-residential property and business owners, encouraging them (and/or their agents) to take part, to view preliminary values, share or correct information and discuss any concerns.

The Customer Review Period (CRP) takes place immediately after assessment notices are mailed in January. During that time, all residential and non-residential property and business owners are encouraged to review their assessment information and contact the business unit if they have concerns or would like to update their property/ business details. Any factual or valuation related errors that are agreed upon between the parties during CRP are corrected for that assessment year. In addition, assessment staff is available for telephone and in-person appointments if other issues or information need to be discussed.

The ARB framework allows property and business owners to file a complaint if they still have concerns. Local Assessment Review Boards (LARBs) provide a homeowner-friendly setting to dispute assessment values. LARB board members generally reside in the same municipality as the property in the complaint. The local component in board members' knowledge can be helpful to homeowners who are unfamiliar with presenting a formal complaint about their property. Composite Assessment Review Boards (CARBs) have local and provincial members to hear complaints on the more complex issues of multi-residential and non-residential properties. For both LARBs and CARBs, property owners and business owners may represent themselves or appoint a professional tax representative (agent) or a lawyer.

Several different ADR models were considered - none of which achieve greater efficiency, transparency, fairness or equity in the assessment complaints process. The existing ARB structure, coupled with The City of Calgary Assessment business unit's customer service initiatives, achieves the results intended by ADR more effectively.

Model 1: *Required non-binding ADR as part of the complaint process*

Model 1 requires ADR as part of the complaint process, but the ADR component is not binding on either party. In this model, the assessed person would file a complaint, take part in ADR and, regardless of whether an agreement is reached, either party could choose to move forward with an ARB hearing.

Analysis

Embedding ADR into the complaint process would require a new set of rules for disclosure, procedure, presentation, and so on. The ADR component would also require new external mediators and administrative structures. The City of Calgary already devotes all assessment staff

resources to providing customer service and potential dispute resolution in the time leading up to the formal hearing, during ACP and CRP.

Model 1 would effectively create another level of hearings in the complaint process. For The City of Calgary valuation staff, the subsequent year's valuation work would then have to take place much earlier in the year for them focus on both ADR and ARBs. Under the old system, a similar compression of work plans risked reducing assessment quality and increasing the number of complaints filed. Under the current legislation, assessment quality standards in every municipality are monitored on an aggregate level by the Government of Alberta. This is to ensure fairness and equity in property assessments. Model 1 exposes the municipality's entire assessment roll to additional risk through the erosion of quality standards.

The model also creates inequities between property assessments that are, and are not, party to ADR. Assessment values produced through an ADR process would be determined outside of the mass appraisal market value approach that is used for other properties: ADR values are achieved through site-specific negotiation. Embedding such a process in the *MGA* would create a formalized, aggregate process for having some values determined through mediation, and site-specific appraisal, and some through mass appraisal. This is unfair and inequitable for property and business owners.

Model 2: *Optional ADR for residential properties*

Model 2 differs in that ADR would be an option available to property owners prior to the complaints process. This model is intended to reduce the number of complaints filed with the ARBs.

Analysis

Model 2 delivers no additional benefit to the taxpayer or the municipality because The City of Calgary's customer service programs (described above) already provide opportunities for discussion and dispute resolution prior to filing a complaint. Should discussions with the assessor not lead to an agreement, the property or business owner has the option of filing a complaint on the assessment with the ARBs.

Like Model 1, Model 2 serves to add another level to the complaint hearing process and business changes would be needed to accommodate this. It would require large municipalities to shift their work plans so that valuation for the following year's roll takes place much earlier.

Model 2 complicates the issues of embedded unfairness and inequity seen in Model 1. Its process would allow assessment values to be determined through localized mediations (i.e. ADR) apart from the mass appraisal market value analysis used for all other properties on the assessment roll and in the ARB complaints process.

Both Models 1 and 2 add unnecessary costs to taxpayers without improving the existing customer service and ARB-based complaints process.

Model 3: *ADR as a parallel process to the current complaints system*

Model 3 allows ADR to occur at the same time as LARB and CARB hearings. In this model, ADR serves as an option for property and business owners who do not want to take part in ARB processes.

Analysis

Model 3, like Models 1 and 2, would embed unfairness and inequity in the *MGA*. Assessment values determined through ADR would be achieved through site-specific negotiation and outside of the mass appraisal market value approach used in the ARB-based complaints process and used for property assessments that are not disputed. This is unfair, inequitable and non-transparent.

As intuitively attractive as ADR is, this analyses demonstrates its practical flaws. Embedding ADR in the *MGA* would complicate a streamlined complaint process and extend the length of time it takes to resolve the concerns of property and business owners. It would compromise the fairness, accuracy, equity and transparency of the existing valuation and assessment complaints process.

Different Business Cycle Timeframes

Some industry stakeholders are also asking for a valuation and physical condition date of January 01 in the year prior to the taxation year. Each roll year would then have a 24 month operational cycle. The City of Calgary supports a March 01 alignment of the valuation and physical condition dates but recommends retaining the annual assessment cycle.

Complaint Period

A 2009 amendment to the legislation extended the deadline for filing all complaints from 30 to 60 days. This wait-period now comprises 17 per cent of the assessment year. The change was initially requested by the professional tax representative (agent) community for their non-residential property and business owner clients. Residential property owners have made use of the Customer Review Period to have their assessment concerns addressed whether it is 30 or 60 days. The extended 60 day period has not been well-utilized by the agent community. During the 60-day complaint period, the number of inquiries from the owners and agents for non-residential property and business owners remains low.

Changing the complaint period from 60 to 30 days would provide for a more efficient use of time within the annual cycle, while still allowing sufficient time for property and business owners to review and compare their assessments, make inquiries, and prepare to file a complaint, if necessary.

Appropriate Board Membership

The current structure allows municipalities to provide specialized local knowledge and capacity that benefits the assessment review process, and provides reassurance to members of the public that their complaints will be given a well-informed consideration. Establishing boards at the local level also allows municipalities to determine and allocate the appropriate financial and human resources. Municipalities should have the ability to tailor qualifications, pre-requisites and other training according to the needs of their boards and/or scale(s) of their local economies.

Industry has suggested that the current complaint structure lacks expertise, independence and oversight, especially in regards to high-value properties. Some have suggested that they would be better served by a fully provincially-operated board. However, the current board structure ensures relevant expertise and appropriate local/provincial representation. Commercial, industrial and other complex non-residential

property assessments are heard by an independent board that does include provincial representation and oversight. The Composite Assessment Review Boards (CARB) is fully dedicated to serving the needs of those property owners and their professional representatives. Calgary's ARBs have invested considerably in developing expertise, capacity and tools for hearing assessment complaints. A cooling-off period for former industry professionals prior to recruitment and board appointment can be used to address concerns about any appearance of bias.

Other Issues

The issue of decision standards and criteria applied in complaint hearings is of concern because board decisions where assessed values are not confirmed often make reference to site-specific rather than mass appraisal approaches to value. This introduces unfairness and inequity between assessments that are and are not disputed; therefore clarity is requested.

Receiving relevant information about complaint matters is an important issue for assessors. Currently, the information is not provided early enough in the process to allow for the most efficient use of municipal resources. The City of Calgary is interested in provisions that allow a longer timeframe for the review of complainant evidence and rebuttal, as well as earlier notification of the real issues that will be raised at the hearing.

The City of Calgary is also interested in provisions related to clarifying the current legislation and addressing stakeholder concerns respecting procedural matters (for example, corrections to assessments under complaint, awarding costs in business complaints, authorizing agent representation, written decisions, postponements and adjournments, and quality control or audit provisions to support legislative requirements for Board decisions).

Recommendations:

- The current administrative tribunal framework and one-level complaint structure should be retained; the complaint process should limit the number of times a complaint can be heard/re-heard in a year.
- The complaint period should be 30 days.
- Complainant disclosure deadlines should be linked to the date that the complaint was filed rather than the hearing date. Respondent disclosure deadlines should be linked to the hearing date, in order to allow more time to review relevant information about complaint matters prior to preparing disclosure.
- The legislation should allow corrections to be made to an assessment once a complaint has been filed, within certain parameters (e.g. corrections to physical property characteristics, assessed rates).
- The legislation should include provisions to allow the awarding of costs in business assessment hearings.

3. Assessment and Taxation

- Provisions should require the authorization of agency to be filed with the Assessment Review Board before or at the same time as the complaint form.
- Provisions for written reasons for all Assessment Review Board decisions should be retained.
- The legislation should include quality control or audit provisions to support legislative requirements for Assessment Review Board decisions.
- The legislation should be strengthened to clarify the assessment decision standards and criteria to be used for assessment complaint hearings.

Recommendations for Wording Changes:

Existing Legislation	Proposed Legislation
Matters Regarding Assessment Complaints Regulation	***Matters Regarding Assessment Complaints Regulation***
Sections 4(2)(a)(i), 8(2)(a)(i), 21(2)(a)(i), 33(2)(a)(i) and 39(2)(a)(i) **(2)** If a complaint is to be heard by a local [composite] assessment review board, the following rules apply with respect to the disclosure of evidence: (a) the complainant must, at least 21 [42] days before the hearing date, (i) disclose to the respondent and the local assessment review board the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and	**Sections 4(2)(a)(i), 8(2)(a)(i), 21(2)(a)(i), 33(2)(a)(i) and 39(2)(a)(i)** **(2)** If a complaint is to be heard by a local [composite] assessment review board, the following rules apply with respect to the disclosure of evidence: (a) the complainant must, ~~at least 21 [42] days before the hearing date~~, no more than 30 days after filing a complaint to be heard by the LARB and no more than 45 days after filing a complaint to be heard by the CARB, * (i) disclose to the respondent and the local assessment review board the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and

Existing Legislation	Proposed Legislation
Matters Regarding Assessment Complaints Regulation	***Matters Regarding Assessment Complaints Regulation***
Costs **52(1)** Any party to a hearing before a composite assessment review board or the Municipal Government Board may make an application to the composite assessment review board or the Municipal Government Board, as the case may be, at any time, but no later than 30 days after the conclusion of the hearing, for an award of costs in an amount set out in Schedule 3 that are directly and primarily related to matters contained in the complaint and the preparation of the party's submission.	**Costs** **52(1)** Any party to a hearing before a local assessment review board (business assessment only), composite assessment review board or the Municipal Government Board may make an application to the local assessment review board, the composite assessment review board or the Municipal Government Board, as the case may be, at any time, but no later than 30 days after the conclusion of the hearing, for an award of costs in an amount set out in Schedule 3 that are directly and primarily related to matters contained in the complaint and the preparation of the party's submission. *Note: add "local assessment review board (business assessment only)" to remaining subsections of Section 52.

Existing Legislation	Proposed Legislation
Municipal Government Act	***Municipal Government Act***
	Complaints **460(12)** If an agent files a complaint on behalf of an assessed person, a complaint is invalid unless Schedule 4 is filed in advance of, or at the same time as Schedule 1, to the assessment review board.

- **Information Flow**

Provisions that allow for the inspection of property, information collection from property owners and remedies through the courts if requests are not complied with are necessary for the assessor to carry out its function. The amendments recommended below address omissions and ambiguity in the current legislation.

The current wording for the collection of information specifies its use as "preparing an assessment or determining if a property is to be assessed." Amendments are needed to clarify that this information is for all the assessment purposes contemplated by the legislation. Agents for assessed persons have sometimes indicated that information they provide to assessors may only be used for preparing property-specific assessments and not any other assessment purpose, including mass appraisal-related processes and in responses to complaints. Requests for inspections needed to prepare for hearings have been refused on the basis of the wording of the legislation. Without the use of this information, fair, accurate and equitable assessments cannot be prepared and assessors would not have the material they need to explain assessments to property owners and Assessment Review Boards.

On occasion, the information provided is found to be incorrect or incomplete. The legislation should be amended to clarify that assessors are not necessarily bound by information given by the person to whom the information request was made. This recommendation has support from the legislation of three other provinces. In Section 16(4) of the *Municipal Assessment Act* of Manitoba it states "Information and documentation that is provided to an assessor under this section is not binding on the assessor in making an assessment." In Section 9(1) of the *Assessment Act* of Newfoundland and Labrador it states that "an assessor or a commissioner is not bound by information given." In Section 15(4) of the *Assessment Act* of British Columbia, it says that an assessor "is not bound by the information provided, but may, if the authorized person has reason to doubt its accuracy, assess the property in the manner and for the amount the authorized person believes to be correct." The recommendation is in keeping with The City of Calgary business practices and mitigates possible future risk in assessment complaints.

The legislation should be amended to allow for new technologies and tools for information collection while on an inspection. For consistency, the penalties for failure to comply with inspection requests should be the same as for failure to provide information to the assessor.

Recommendations:

- The legislation should clarify that assessment information requested by and provided to the assessor may be used for mass appraisal, communications and defence purposes as well as the preparation of assessments.

- The legislation should allow for more explicit powers of information collection on property inspection (e.g. photographs as well as the use of any new inspection-related tools that may become available as these technologies develop).
- The legislation should specify that no complaint on the assessed value can be filed if inspection instructions for that property are not followed.
- The legislation should clarify that the assessor is not bound by the information given.

Recommendations for Wording Changes:

Existing Legislation	Proposed Legislation
Municipal Government Act	***Municipal Government Act***
Right to enter on and inspect property **294(1)** After giving reasonable notice to the owner or occupier of any property, an assessor may at any reasonable time, for the purpose of preparing an assessment of the property or determining if the property is to be assessed, (a) enter on and inspect the property, (b) request anything to be produced to assist the assessor in preparing the assessment or determining if the property is to be assessed, and (c) make copies of anything necessary to the inspection. **(2)** When carrying out duties under subsection (1), an assessor must produce identification on request.	**Right to enter on and inspect property** **294(1)** After giving reasonable notice to the owner or occupier of any property, an assessor may ~~at any reasonable time, for the purpose of preparing an assessment of the property or determining if the property is to be assessed,~~ do the following, including but not limited to, (a) enter on and inspect the property, (b) take any measurements of any improvements on the property, (c) take photographs or any other possible recording or measurement that is technologically possible of any part of the property, (d) request anything to be produced to assist the assessor in preparing the assessment or determining if the property is to be assessed, and (e) make copies of anything necessary to the inspection. **(2)** When carrying out duties under subsection (1), an assessor must produce identification on request.

(3) An assessor must, in accordance with the regulations, inform the owner or occupier of any property of the purpose for which information is being collected under this section and section 295.	**(3)** An assessor must, in accordance with the regulations, inform the owner or occupier of any property of the purpose for which information is being collected under this section and section 295. **(4)** An assessor may use any information obtained in this section to prepare assessments, determine if a property is to be assessed, determine if properties are assessed equitably, or any other purpose contemplated by Parts 9, 10, 11 and 12 of the MGA. **(5)** No person may make a complaint in the year following the assessment year under section 460 or, in the case of linear property, under section 492(1), about an assessment if the person has refused to allow the assessor to inspect the property under subsection (1) within 30 days from the date of the request.

Existing Legislation	Proposed Legislation
Municipal Government Act	***Municipal Government Act***
Duty to provide information **295(1)** A person must provide, on request by the assessor, any information necessary for the assessor to prepare an assessment or determine if property is to be assessed. **(2)** An agency accredited under the Safety Codes Act must release, on request by the assessor, information or documents respecting a permit issued under the Safety Codes Act. **(3)** An assessor may request information or documents under subsection (2) only in respect of a property within the municipality for which the assessor is preparing an assessment. **(4)** No person may make a complaint in the year following the assessment year under section 460 or, in the case of linear property, under section 492(1) about an assessment if the person has failed to provide the information requested under subsection (1) within 60 days from the date of the request.	**Duty to provide information** **295(1)** A person must provide, on request by an assessor, ~~any information necessary for the assessor to prepare an assessment or determine if property is to be assessed~~ any information to prepare assessments, determine if a property is to be assessed, determine if properties are assessed equitably, or any other purpose contemplated by Parts 9, 10, 11 and 12 of the MGA. **(2)** An agency accredited under the Safety Codes Act must release, on request by the assessor, information or documents respecting a permit issued under the Safety Codes Act. **(3)** An assessor may request information or documents under subsection (2) only in respect of a property within the municipality for which the assessor is preparing an assessment. **(4)** No person may make a complaint in the year following the assessment year under section 460 or, in the case of linear property, under section 492(1) about an assessment if the person has failed to provide the information requested under subsection (1) within ~~60~~ 30 days from the date of the request. **(5)** An assessor is not bound by information pursuant to this section. **(6)** An assessor may use any information obtained in this section to prepare assessments, determine if a property is to be assessed, determine if properties are assessed equitably, or any other purpose contemplated by Parts 9, 10, 11 and 12 of the MGA.

Existing Legislation	Proposed Legislation
Municipal Government Act	*Municipal Government Act*
Court authorized inspection and enforcement	**Court authorized inspection and enforcement**
296(1) An assessor described in section 284(d)(i) or a municipality may apply to the Court of Queen's Bench for an order under subsection (2) if any person	**296(1)** An assessor described in section 284(d)(i) or a municipality may apply to the Court of Queen's Bench for an order under subsection (2) if any person
(a) refuses to allow or interferes with an entry or inspection by an assessor, or	(a) refuses to allow or interferes with an entry or inspection by an assessor, or
(b) refuses to produce anything requested by an assessor to assist the assessor in preparing an assessment or determining if property is to be assessed.	(b) refuses to produce anything requested by an assessor to ~~assist the assessor in preparing an assessment or determining if property is to be assessed~~ prepare assessments, determine if a property is to be assessed, determine if properties are assessed equitably, or any other purpose contemplated by Parts 9, 10, 11 and 12 of the MGA.
(2) The Court may make an order	**(2)** The Court may make an order
(a) restraining a person from preventing or interfering with an assessor's entry or inspection, or	(a) restraining a person from preventing or interfering with an assessor's entry or inspection, or
(b) requiring a person to produce anything requested by an assessor to assist the assessor in preparing an assessment or determining if property is to be assessed.	(b) requiring a person to produce anything requested by an assessor to ~~assist the assessor in preparing an assessment or determining if property is to be assessed~~ prepare assessments, determine if a property is to be assessed, determine if properties are assessed equitably, or any other purpose contemplated by Parts 9, 10, 11 and 12 of the MGA.
(3) A copy of the application and each affidavit in support must be served at least 3 days before the day named in the application for the hearing.	**(3)** A copy of the application and each affidavit in support must be served at least 3 days before the day named in the application for the hearing.

Transparency

The issue of access to information is also a priority because the current direction on what information must be provided to an assessed person is imprecise and the time limit to respond to requests may be too short in mass request circumstances. Municipalities are obliged to provide property owners and their authorized agents 'all' assessment information, including content that does not assist either party in ascertaining the accuracy or fairness of their assessments. The inefficiencies produced by such requests limit municipalities' ability to provide equitable services to all inquirers and prepare for hearings before Assessment Review Boards.

To help the property owner be sure that the assessor has prepared an adequate assessment, the information should be clear and understandable. Highly technical information can cause confusion and, counter intuitively, reduce the appearance of transparency. The information that is relevant for property owners' understanding includes the factual details about the property (e.g. size, type, age), the identity and description of the key factors and variables (e.g. vacancy rate, traffic influence, market area) and any other adjustments used in preparing the assessment (e.g. time adjustments). Ideally, with amendments to the legislation, it will be possible to communicate this information electronically using a template.

For the process to be equitable, the information provided should be useful and understandable to all property owners. Mathematical components like coefficients vary across property types and change from year-to-year. When coefficients have been included in information provided, focus shifts from the values that have been prepared to technical elements and whether the process the legislation requires assessors to use (mass appraisal) is the correct way to assess property for taxation.

Recommendations:

- The legislation should define a list of the information that must be provided under the provisions currently in sections 299 and 300 of the *MGA*.
- The legislation should allow for a fee for access to information providing that it does not exceed the reasonable costs incurred by the municipality in providing the information.
- The legislation should clarify that the municipality does not have to release assessment information that pertains to the analysis used to determine any coefficient.
- A provision that allows assessment information to be communicated electronically or online should be added.

- **Exemptions**

The City of Calgary Assessment business unit is the repository of property and business tax exemption status information and the decision maker regarding eligibility for most tax exemptions in Calgary. Property tax exemption requirements are an extremely important issue for local taxpayers and non-profit organizations because current criteria and interpretations are not clear enough to ensure consistency

within and across jurisdictions. Significant resources are consumed in vetting eligibility, and decisions are subject to complaint with increasing frequency.

The City of Calgary and other stakeholders are interested in clear provisions related to different types of charitable or benevolent non-profit organizations, different kinds of non-market/non-profit housing properties and seniors' accommodation, and the tax treatment of new and emerging models of non-profit operations (e.g. revenue generating, cost-recovery, public-private partnerships).

Suggestions for revisions include:

- Bring the main elements of the Community Organization Property Tax Exemption Regulation into the *MGA*, or consolidate exemptions in a new division of the *MGA*
- Consolidate the various "charitable or benevolent" types and make eligibility contingent on the entity's registration as a charity with the Canada Revenue Agency
- Provide specific direction as to how different types of non-market/non-profit housing properties, seniors' accommodation and new or emerging models of non-profit operations should be treated within the legislation
- Add refined definitions for "held by" and "general public"
- Remove the phrase "used in connection with" and replace it with the phrase "used chiefly for" in tax exemption provisions
- List explicitly all property uses that should qualify for a property tax exemption in the "used in connection with" sections
- Replace "fees" with "a fee, rent or charge" and add "on a per use basis" after "a minor entrance or service fee" in the Regulation criteria for exemption
- Insert the phrase "nominal annual" before "membership fee" in the Regulation criteria for exemption

Currently, some types of exemptible entities and properties have to apply for exemption every year while other types do not have to apply at all. The *MGA* does not require an application or renewal for its tax exemptions and the Community Organization Property Tax Exemption Regulation, which does, does not apply to all properties and property uses. These omissions and the related administrative procedures compromise the accuracy of exemption data and provide tax benefits and liabilities in error.

Apart from crown and municipal property, provisions should require application and renewal procedures for all assessable properties where a tax exemption is desired. The current annual applications required by the Regulation use significant administrative resources for all parties. A reapplication cycle based on typical property use changes for exemption type would increase administrative efficiencies, improve data quality and reduce tax revenue risk. Renewal cycles could be developed locally, based on a data analysis of how often different types of organizations and property uses typically change locations. Types of organizations that do not change location frequently could be asked to renew on a three or five year cycle, for example, rather than annually.

Recommendations:

- Clarify and consolidate provincial policy - particularly on 'charitable or benevolent' – and provide clear wording and criteria that will allow municipalities to carry the policies out; non-market residential is of particular concern (e.g. low cost, seniors' housing).
- Permit municipalities to establish a requirement for an application and renewal cycle, or other similar administrative procedure, for all non-governmental, assessable properties where a tax exemption is desired.
- Add provisions to assist with the recovery of unpaid grants in place of taxes.

- **Market Value Assessment Administration**

Classification of Property

Currently there are four property classes in Alberta: residential, non-residential, farm land, and machinery and equipment. The class structure is an administrative issue because of the differences between use, permitted use, intended use, and related interpretations but it also has broader classification, planning and tax implications.

Outside of residential property, the legislation limits a council's ability to create additional classes and subclasses. Most provinces have established more than these four: generally, the residential class is split into single-residential and multi-residential; the non-residential class is often divided into commercial and industrial, sometimes with more subclasses like light industrial, major industrial, office building, shopping centre, etc. It permits more accurate classification for assessment purposes and groupings are more understandable for property owners. The additional classes also allow municipalities to better carry out planning policies and to set municipal tax policy.

Clear definitions and criteria for classification are very important. Some concerns have been reported in provinces like Ontario where the province-wide assessment body uses a very large number of classes as well as multiple subclasses. The legislation should specify how to divide property into different classes/sub-classes where there is more than one use. If provisions are not easy to administer, the biggest assessment complaint issue may become the classification of a property rather than the fairness, accuracy and equity of assessments.

Recommendations:

- The structure of the classes should be altered so that the non-residential property class is the "catch all" class rather than the residential class.
- The legislation should include provisions to divide the non-residential assessment class into subclasses for the purposes of setting independent tax rates.

- Criteria regarding actual use and the uses permitted by the land use designation should contemplate the notion of intent as it can be a significant issue in assessment complaints. If “intent” is retained as part of property classification, clear criteria are needed to establish intended use.

Supplementary and Progressive Assessments

Progressive and supplementary assessments allow municipalities to assess the value of partially complete properties (progressive assessments) and properties completed during the tax year, after the annual assessments were prepared (supplementary assessments). The *MGA* allows supplementary assessment as an option for municipalities and progressive assessments may be prepared at year end for some property types.

Current legislation limits the conditions under which a supplementary assessment may be prepared, but doesn’t provide sufficient clarity to ensure consistency in application and administration. For example, machinery and equipment property used in manufacturing and processing cannot be assessed until those improvements “are complete or begin to operate”. Other properties are not subject to supplementary assessment until "completed and/or occupied". The meaning of these terms is often a topic of debate and conflicting interpretations before Assessment Review Boards; sometimes significant tax consequences result. The existing provisions for when the assessments may be prepared should be clarified.

There is disagreement among stakeholders on whether incomplete property or property where industrial improvements are not in use should be assessed at all. Incomplete properties do have market value and The City of Calgary recommends that the ability to prepare progressive assessments be retained. Provisions should also be expanded to include all property types, specifically improvements/machinery and equipment that are not yet in operation. Whether a property is, or is capable of, generating revenue shouldn’t play a role in determining if it is assessable for property tax purposes.

Finally, as noted under the farm land section later in this submission, there is no provision to capture changes in assessed value due to re-zoning/land use designation changes. The City of Calgary has recommended that supplementary assessments be allowed for value changes to land, based on land use bylaws.

3. Assessment and Taxation

Recommendations:

- All property types should be subject to supplementary and progressive assessment.
- The trigger for when a supplementary assessment may be prepared must be clearly outlined in the legislation.
- The legislation should allow supplementary assessment and tax bylaws to be continuing bylaws rather than annual bylaws; supplementary assessments and the assessment roll will still be prepared annually.
- The legislation should permit municipalities to issue supplementary assessments for value changes due to re-zoning and land use bylaw changes.

Recommendations for Wording Changes:

Existing Legislation	Proposed Legislation
Municipal Government Act	***Municipal Government Act***
313(1) If a municipality wishes to require the preparation of supplementary assessments for improvements, the council must pass a supplementary assessment bylaw authorizing the assessments to be prepared for the purpose of imposing a tax under Part 10 in the same year. **(2)** A bylaw under subsection (1) must refer (a) to all improvements, or (b) to all designated manufactured homes in the municipality. **(3)** A supplementary assessment bylaw or any amendment to it applies to the year in which it is passed, only if it is passed before May 1 of that year. **(4)** A supplementary assessment bylaw must not authorize assessments to be prepared for linear property.	**313(1)** If a municipality wishes to require the preparation of supplementary assessments, the council must pass a supplementary assessment bylaw authorizing the assessments to be prepared for the purpose of imposing a tax under Part 10 ~~in the same year~~. **(2)** A bylaw under subsection (1) must refer (a) to the applicable property type, or (b) to all designated manufactured homes in the municipality **(3)** A supplementary assessment bylaw or any amendment to it ~~applies to the year in which it is passed, only if it is passed before May 1 of that year~~ remains in effect until such date council amends or repeals the bylaw. ~~**(4)** A supplementary assessment bylaw must not authorize assessments to be prepared for linear property.~~

Existing Legislation	Proposed Legislation
Municipal Government Act	*Municipal Government Act*
314(1) The assessor must prepare supplementary assessments for machinery and equipment used in manufacturing and processing if those improvements are completed or begin to operate in the year in which they are to be taxed under Part 10. **(2)** The assessor must prepare supplementary assessments for other improvements if (a) they are completed in the year in which they are to be taxed under Part 10, (b) they are occupied during all or any part of the year in which they are to be taxed under Part 10, or (c) they are moved into the municipality during the year in which they are to be taxed under Part 10 and they will not be taxed in that year by another municipality.	**314(1)** The assessor must prepare supplementary assessments for machinery and equipment used in manufacturing and processing if those improvements are completed or begin to operate in the year in which they are to be taxed under Part 10. **(2)** The assessor must prepare <u>other</u> supplementary assessments ~~for other improvements~~ if (a) <u>improvements</u> are completed in the year in which they are to be taxed under Part 10, (b) <u>improvements</u> are occupied during all or any part of the year in which they are to be taxed under Part 10, or (c) <u>improvements</u> are moved into the municipality during the year in which they are to be taxed under Part 10 and they will not be taxed in that year by another municipality. (d) <u>land, improvements, or land and improvements, are subject to a change in zoning or land use in the year in which they are to be taxed under Part 10.</u>

Existing Legislation	Proposed Legislation
Municipal Government Act	*Municipal Government Act*
Supplementary assessment roll **315(1)** Before the end of the year in which supplementary assessments are prepared, the municipality must prepare a supplementary assessment roll. **(2)** A supplementary assessment roll must show, for each assessed improvement, the following:	**Supplementary assessment roll** **315(1)** Before the end of the year in which supplementary assessments are prepared, the municipality must prepare a supplementary assessment roll. **(2)** A supplementary assessment roll must show, for each ~~assessed improvement~~ <u>supplementary</u>

	assessment, the following:
(a) the same information that is required to be shown on the assessment roll;	(a) the same information that is required to be shown on the assessment roll;
(b) the date that the improvement (i) was completed, occupied or moved into the municipality, or (ii) began to operate.	~~(b) the date that the improvement~~ ~~(i) was completed, occupied or moved into the municipality, or~~ ~~(ii) began to operate.~~ (b) for supplementary assessment prepared under section 314(1), the date the improvement began to operate, (c) for supplementary assessments prepared under section 314(2) (a), (b), or (c) the date that the improvement was completed, occupied or moved into the municipality, or (d) for supplementary assessments prepared under section 314(2) (d), the date that the property was subject to a change in zoning or land use.
(3) Sections 304, 305, 306 and 307 apply in respect of a supplementary assessment roll.	**(3)** Sections 304, 305, 306 and 307 apply in respect of a supplementary assessment roll.

Existing Legislation	Proposed Legislation
Municipal Government Act	*Municipal Government Act*
Supplementary assessment notices **316(1)** Before the end of the year in which supplementary assessments are prepared, the municipality must (a) prepare a supplementary assessment notice for every assessed improvement shown on the supplementary assessment roll, and (b) send the supplementary assessment notices to the assessed persons. **(2)** A supplementary assessment notice must show, for each assessed improvement, the following: (a) the same information that is required to be shown on the supplementary assessment roll; (b) the date the supplementary assessment notice is sent to the assessed person; (c) the date by which a complaint must be made, which date must be 60 days after the supplementary assessment notice is sent to the assessed person; (d) the address to which a complaint must be sent. **(3)** Sections 309(2), 310(1.1) and 312 apply in respect of supplementary assessment notices.	**Supplementary assessment notices** **316(1)** Before the end of the year in which supplementary assessments are prepared, the municipality must (a) prepare a supplementary assessment notice for ~~every assessed improvement~~ every supplementary assessment shown on the supplementary assessment roll, and (b) send the supplementary assessment notices to the assessed persons. **(2)** A supplementary assessment notice must show, for each ~~assessed improvement~~ supplementary assessment, the following: (a) the same information that is required to be shown on the supplementary assessment roll; (b) the date the supplementary assessment notice is sent to the assessed person; (c) the date by which a complaint must be made, which date must be ~~60~~ 30 days after the supplementary assessment notice is sent to the assessed person; (d) the address to which a complaint must be sent. **(3)** Sections 309(2), 310(1.1) and 312 apply in respect of supplementary assessment notices.

3. Assessment and Taxation

Farm Land

For taxation reasons, the assessed values for farm land are calculated based on the policy of taxing farm land on the productive agricultural value of the land rather than the market value of the land. The process for assessing farm land is laid out in the Alberta Farm Land Assessment Minister's Guidelines and based on the assumption that each property within the farm land property class will be continuously used for farming and will be farmed using the typical farming practices employed in the 1970s.

Provincial farm land policies are meant to encourage the owners of agricultural land to retain the property for agricultural use. A mix of assessment and tax exemptions, as well as constraints on tax rates, is used to carry out the policies and promote rural economic development and sustainability. However, farm land and farm property assessment principles should be in line with market value and a council should have the ability to set municipal tax policies for farm land. Whether directed by provincial or municipal policy, tax treatment should be administered using taxation rather than assessment.

Land in the farm land property class may be held for reasons other than bona fide farming operations and still receive the beneficial tax treatment of farm land. Where any "farming operations" are established on a parcel, the assessed value must be prepared using the regulated rate rather than its market value.

In defining farm land, the Matters Relating to Assessment and Taxation Regulation does not consider land use designation or if the designation allows for farming operations. Further, if the land use designation changes within the tax year, there is no provision to capture the market value change in assessed value as re-designation does not currently meet criteria for supplementary assessment.

The determination of whether certain agricultural practices qualify as "farming operations" in Calgary often rests with the Assessment Review Board. Board rulings generally apply to most, if not all, of a parcel even if only part of it is being used for "farming operations" and even if part of the property is being prepared for development (e.g. scraped).

A trigger within a definition of "farming operations" would allow the assessor to change the assessment class of property to reflect planned use and support existing provincial policy as it would not impact property intended to be retained for agricultural use. The City of Calgary proposes using the land use designation as the trigger for changing the property assessment class. There are other, earlier changes that could be used (like scraping, utility installation, trunk access, etc.) but land use designation changes have a fixed date that is established in bylaw form and so not open to misinterpretation.

Recommendations:

- The legislation should specify that council's third reading and approval of a Land Use Bylaw (zoning change) initiated by the owners' application, triggers a change from regulated farm land to market value assessment. The trigger would apply in situations where the development process is underway; for this reason, the focus is on owner-initiated applications only.
- The process and standard of assessing farm land and farm property should estimate its full market value.

Electronic Communications

The City of Calgary already uses new technologies and modern modes of communicating with property and business owners. However, existing legislation does not explicitly permit electronic communications for obtaining and distributing assessment information. No method of requesting or providing the information is specified. There are many administrative areas where the use of new and emerging technologies can increase efficiency and data accuracy. The number of assessment accounts and the number of inquiries, when compared with the number of assessment staff, cannot be managed in any other way.

The updated legislation should recognize electronic and other non-traditional modes of collecting and disseminating information. Provisions should ensure that citizens who do not have access to such technology are able to continue to communicate with assessors.

Recommendation:

- The legislation should include a provision to allow municipalities to receive and provide information and notices electronically, using secure online methods as well as any similar secure tools that may become available as these technologies develop.

Valuation and Physical Condition Dates

The valuation date is a fixed calendar day that is used in establishing market value for mass appraisal purposes. This legislated date is the same from year to year and is used by all assessors in Alberta. To meet provincial quality and audit requirements, property assessment values must estimate market values as of this date. The physical condition date is the 'cut off' date that assessors use for recording any physical changes to property. This calendar day is also set by the legislation and is the same from year to year.

3. Assessment and Taxation

Currently, each property assessment reflects market value as of July 01 and physical condition and property characteristics as of December 31. A mid-year valuation date with a physical condition date at year end can be confusing to taxpayers. It requires property owners to consider what a property might have been worth July 01 if it was in the same the physical state as six months later on December 31.

The City of Calgary proposes moving the physical condition and valuation date to March 01 of the year prior to the tax year. Alignment would address public confusion about the two dates, allow municipalities to properly reflect the physical state of each property prior to producing the assessment notices and add transparency to the process.

The March 01 date would allow work plans that are more responsive to the number of accounts and the number of complaints in individual municipalities. For example, operational adjustments and efficiencies around the March 01 valuation and physical condition dates would allow either of the following to be implemented:

- Assessment notices could be mailed earlier. A mailing in September in the year prior to the taxation year has been proposed as a working example. If the Assessment Review Boards are able to align their own work plans, hearings could be scheduled and concluded at earlier dates in the calendar year and more assessment complaints could be resolved prior to council setting the property tax rate. Assessment Review Board decisions made late in the tax year change the assessment base used to establish the tax rate. Any significant decrease in the assessment base after rates are set creates the potential that tax revenue requirements determined through the budget process may not be met.

- Assessment notices could still be mailed in January and the valuation modeling for the subsequent year's assessments could begin earlier. Providing that the annual cycle and current complaint processes are retained, earlier valuation and physical condition dates allow more time for assessment preparation. This would add to the quality of the values.

In keeping with other recommendations for expanded supplementary and progressive assessment provisions, an amendment to allow supplementary assessments after the March 01 physical condition date would be needed.

Recommendations:

- The legislation should permit the valuation date to change from July 01 to March 01 in the year prior to the taxation year.
- The legislation should permit the physical condition date to change from December 31 to March 01 in the year prior to the taxation year.

- If the physical condition and valuation dates for annual assessment are set at March 01, and a supplementary assessment is prepared after March 01, designate the physical condition date of the assessment for the next tax year as the effective date of the supplementary assessment.

Fee Simple Estate

In the process of real estate valuation, encumbrances, liens, and mortgages, are often adjusted for when estimating market value. Market value is the main valuation standard in the legislation and it is defined in the *MGA*, but conflict arises when taking into account the second assessment standard set out in the Matters Relating to Assessment and Taxation Regulation where a property "must be an estimate of the value of the fee simple estate". The term fee simple estate is not defined in the *MGA*. Professional standards and interpretations indicate that encumbrances that could impact market value were not intended to be considered in the valuation.

Recommendation:

- Include a definition of fee simple estate in the legislation.

School Support

Currently, the *MGA* requires municipalities to show the school support for each property on the assessment roll and notice; it is also reported on the secure portion of The City of Calgary website. The information is gathered per the School Act to identify which school board should receive the provincial taxes levied through each property's assessment. However, this is no longer how the Government of Alberta distributes education funding. School support should not be required information on the assessment roll or the assessment notice and it should not be a matter for complaint before Assessment Review Boards.

Recommendation:

- School support information should be removed from the assessment roll and as a matter for complaint before Assessment Review Boards.

Business Assessment

Business assessment and tax discussions generally focus on broad policy issues but there are also administrative issues that should be considered in the review. Business assessment should remain an option for municipalities - for tax purposes but also for Business Revitalisation Zone (BRZ) levies. The

3. Assessment and Taxation

City of Calgary and stakeholders have recommended using the non-residential property assessment base for BRZ levies but currently it is not approved for that purpose.

The *MGA* requires council to pass business assessment and business tax bylaws every year the tax is to be levied. Administrative efficiencies can be gained by retaining bylaws that do not change from year to year.

As noted in the Assessment Complaints and Appeals section, to align with other provisions, Assessment Review Boards should be permitted to award costs in business assessment complaint hearings.

Recommendations:

- The legislation should permit Business Revitalization Zone levies to use the non-residential property assessment base.
- The business assessment and tax provision should be retained as an option for municipalities.
- The legislation should allow business assessment and tax bylaws to be continuing bylaws rather than annual bylaws; business assessments and the business assessment roll would still be prepared annually.

Tax Cancellation, Reduction or Deferral of Taxes

The *MGA* provides that councils can only exercise the powers of the municipal corporation through bylaw or resolution. As such, a council may resolve to cancel, reduce or refund a prior year's tax, or tax arrears, but there is no provision for a council to delegate this authority and make policy guidelines for administration. Currently, each year Calgary's city council receives two extensive reports that request permission to correct individual errors on previous years' tax rolls. The preparation of these tax cancellation/correction reports involve several departments and require additional time from council and its associated committee. The majority of cancellations have marginal financial impact; the process is inefficient and delays decisions for taxpayers.

Recommendation:

- Council should be able to delegate the authority to make changes, subject to some limiting condition or policy.

Linear Property

The assessment of gas and oil wells, electric power property, pipelines, telecommunications and cable properties involves complex, technical processes and provincial property tax policy. In Alberta, most types of property are assessed for taxation based on the market value of the land and improvements (i.e. buildings, development, etc.). Linear property is assessed using a regulated procedure-based process that produces assessments that are not in keeping with this market value principle. Preferential treatment, property tax abatements and other industry-specific incentives have become embedded in the process of assessing the taxable value of properties of this type. At the province-wide level, this practice shifts a significant share of the education property tax burden from industry to all other taxpayers in Alberta. If special tax treatment is deemed to be appropriate for the owners of linear property, it should be administered transparently in the taxation process in a way that is easily understood by all property owners.

Most property types are assessed at the local level by municipally-appointed assessment professionals, but the assessment of linear property requires expanded expertise and experience, especially with properties that cross municipal boundaries. For this reason, linear property assessments should still be prepared by a provincial assessor. Changes to the standardized rates and regulated procedures used in linear property assessment would ensure a more equitable basis for tax distribution.

Recommendations:

- Responsibility for preparing linear assessments should remain at the provincial level.
- The legislation should permit the designated linear assessor to prepare supplementary and progressive assessments for linear property, whether or not the property is able to generate revenue.
- The treatment of linear property for assessment purposes should not include tax and industry incentives; any special tax treatment should be administered directly through tax policy.
- The assessment process used under the regulated procedure-based standard for linear property should produce assessments that estimate full market value, rather than only use value and/or production capability.
- The Alberta Construction Cost Reporting Guide should be updated regularly to reflect current typical costs, introduce market-value appropriate depreciation tables and a regulated construction cost reporting form.
- Definitions in the legislation should be revised to ensure that machinery and equipment property and linear property do not overlap.
- Add provisions to assist with the recovery of unpaid tax for linear properties.

Machinery and Equipment Property

Like linear property, machinery and equipment property used in manufacturing and processing operations is not assessed using market value principles. It is assessed by using non-market rates, excluding common costs, and is further reduced and exempted to provide preferential tax treatment and incentives for some industries. In addition, the owners of machinery and equipment property pay no provincial property tax.

Unlike residential, commercial and office properties, machinery and equipment property is exempt from annual assessment if it is partially complete. This exemption can extend to entire construction projects that may include machinery and equipment or components within commercial and industrial properties where manufacturing or processing occurs. These properties have market value, and continue to increase in value, before facilities are in operation or capable of generating revenue. For fairness and equity, all machinery and equipment property should be assessable for tax purposes, just as other properties are assessed before they are fully complete. If industry incentives are deemed to be appropriate, they should be administered in a way that is easily visible to all property owners.

Overall, the current intent of the provisions for this property class and its definitions are ambiguous. There are many manufacturing and processing components that may be assessed separately or may be assessed as part of a single property. For example, some commercial components could be considered to be the fixtures or personal property of a small business, and some industrial components may fall into both linear and machinery and equipment definitions. Assessors are not always able to determine what components should be assessed as part of the machinery and equipment property class. The definition of machinery and equipment should clearly outline what components and types of equipment are and are not included. Equity and consistency are of ongoing concern.

Municipalities should have the option of asking the provincial government to have major industrial machinery and equipment assessed by a provincial assessor on their behalf. Both machinery and equipment and linear property are complex and highly valuable. It is important that assessments are determined with consistency and equitably across jurisdictions.

Recommendations:

- The legislation should clarify that municipalities can exempt machinery and equipment property from assessment if it is not taxed.
- In this review, the appropriateness of the treatment of machinery and equipment property in the requisition formula should be reconsidered.
- Amendments should redefine and update machinery and equipment definitions and direction to allow assessors to assess equitably.

3. Assessment and Taxation

- Provisions should allow municipalities to issue supplementary and progressive assessments for machinery and equipment property, similar to other property types, whether or not the property is able to generate revenue.
- The Alberta Construction Cost Reporting Guide should be updated regularly to reflect current typical costs, introduce market-value appropriate depreciation tables and discontinue statutory reductions.
- The treatment of machinery and equipment property for assessment purposes should not include tax and industry incentives; any special tax treatment should be administered directly through tax policy.
- The process and standard of assessing machinery and equipment property should estimate its full market value.
- The legislation should allow municipalities the option to have a provincial assessor for machinery and equipment property.

Railway Property

Currently, local, municipally-appointed assessors are responsible for assessing the value of railway property in Alberta. Some types of railway property, like the main rail lines used to travel between different stops and stations, are assessed using rates and procedures laid out in provincial regulations. Other types of railway property, like stations and yards, are assessed based on the market value of the land and improvements made to it.

In Calgary, sales of railway-owned lands in the marketplace show the value of railway land increases along with the value increases of other properties. However, the assessment rates assessors must use for rail lines apply province-wide and so do not adequately account for municipal differences. The majority of railway is found in rural areas but higher land value, increased wear and tear, and increased superstructure needs, predominate in urban areas.

The cross jurisdictional composition of railways and lines, and the impact on tax revenues across municipal boundaries, make railway property as a class align more closely with the linear property class. As such, they should be included as property assessed by the designated linear assessor for the province rather than the municipality.

Recommendations:

- Retain the regulated procedure-based model for railway properties within a right-of-way and the market value approach for railway property, land and improvements outside the right-of-way.
- Assess regulated railway property at a value that accounts for rural and urban land value and traffic differences.
- Include regulated railway properties as linear property assessed by a provincial assessor.

Airport Property

Much of the infrastructure associated with the basic function of an airport (e.g. runways, roads) is exempt from assessment under the *MGA*. Non-government tenants of the Calgary Airport Authority are assessed and taxed for the property they hold like other property owners and tenants in Calgary. For example, vacant land is assessed using the sales approach; special purpose buildings are assessed using the cost approach; the remainder is assessed primarily using the income approach. These assessments are subject to the same tax rates as other properties. However, an amendment is needed to permit consistent administration and interpretation of who the 'assessed person' is for property leased from an airport authority. Currently, the legislation designates the leaseholder as the 'assessed person' if "the land and improvements are used in connection with the operation of an airport". The party responsible for the

taxes on the property should be the holder of the lease, licence or permit, without consideration of whether the leased property could be considered to be used in connection with the airport.

The Calgary Airport Authority is the 'assessed person' for the terminal and that assessment is prepared using standard costs of construction/replacement value and adjusted to account for the initial excess capacity of the terminal. This process is in keeping with the general accepted appraisal practices endorsed and recommended by the International Property Tax Institute, a consultancy of experts in this field. The approach achieves a good estimate of market value for this type of property. In considering the market value principle of assessment, there is a different purchaser motivation for the operation of an international airport and the operation of private or smaller airports. The legislation should be clarified regarding assessment methods. Calgary International Airport is by far the largest and busiest in Alberta and the manner of assessing its taxable value should continue to be in keeping with the approach recommended by International Property Tax Institute for international airports of this size.

Recommendations:

- The legislation should clarify that municipalities can assess international airports using airport valuation approaches endorsed by the International Property Tax Institute.
- Provisions should designate the assessed person as the holder of the lease, licence or permit without consideration of whether that portion of airport property could be considered to be "used in connection" with the airport.
- Provisions should assist with the recovery of unpaid tax for leaseholds in airport.

Annexed Property

A sunset clause should be required in conjunction with any special provisions in respect to assessment and taxation pursuant to a board order protection for an annexed parcel. The current approach to annexation does not include sufficient means to remedy deficiencies in existing agreements regarding assessment and taxation jurisdiction. Annexation orders that have been signed with no sunset clause create indefinite inequities between properties that fall within an annexation order and those that do not. Several annexation orders from early in Calgary's development include assessment, tax and other provisions for which there is no end date and so provide "transitional" protection to the annexed parcel on a permanent basis. For this reason, there are still isolated parcels that remain under board order protection despite being within the centre of the city.

Directions regarding the education property tax requisition for annexed parcels are unclear. The requisition lags by one year and is based on the previous year's assessment base. However, the revenue from the assessment base is always immediately effective on the date of annexation. For successful

assessment complaints on annexed property, the *MGA* is unclear about which municipality will fund the revenue loss, and the affected requisition, if the effective annexation date is not January 01 of the year.

Recommendations:

- The legislation should require a time limit on assessment and taxation conditions related to annexation orders and the proposed annexations of lands.
- Adequate and clear provisions that dictate the assessment and tax regime during the transition period between the Municipal Government Board hearing on an annexation application and provincial approval should be required.
- Provisions should allow municipalities to request the Municipal Government Board to amend annexation orders that do not have end dates for transitional assessment and taxation provisions.
- Clarify the provisions concerning the education tax requisition for annexed parcels.
- Provisions regarding which municipality will deal with the complaints and appeals remaining from previous years, or the current year, are needed.
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Conclusion

As Alberta continues to grow, to an expected five million within the next decade, its success will depend on vibrant cities that are capable of providing the essential infrastructure and services needed to attract and retain talented people, businesses and investments to support new economic growth.

The Government of Alberta's review of the *Municipal Government Act* shows leadership and commitment to Albertans and provides municipalities an excellent opportunity to provide meaningful input into this important piece of legislation.

The City of Calgary believes the recommendations provided in this *MGA* Review submission will not only benefit the citizens of Calgary, but will also enhance the quality of life for all Albertans. The City looks forward to working with the Government of Alberta to build a new relationship that will enable the two governments to work collaboratively in securing Alberta's success and ensuring Alberta is the place to be, now and in the future.


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