



**Review of the
Municipal Government Act**
City of Edmonton Submission

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Preamble

In November 2013, the Government of Alberta officially launched a review of the Municipal Government Act (*MGA*), the guiding legislation for all municipalities in Alberta. This is the first formal and complete review of the legislation since its inception in 1995. At that time, the *MGA* was considered leading edge in the country, particularly because of the newly-introduced concept of *natural person powers* for municipalities.

The *MGA*, which pulls together legislation related to municipal governance, assessment & taxation, and planning & development, takes a one-size-fits-all approach to all Alberta municipalities, from summer villages to big cities. This presents significant limitations towards supporting the more complex challenges facing Alberta's two largest cities -- Edmonton and Calgary (which, based on the 2013 Municipal Affairs population list, account for over 51% of Alberta's entire population).

While the City of Edmonton appreciates participating in the full review of the *MGA*, our detailed analysis has galvanized our conviction that a Big City Charter is required to adequately equip Edmonton to be more effective and efficient in addressing local needs and achieving global greatness. While it is not clear how work on the Charter and the *MGA* review process will proceed or interact, what is clear is that many of the issues affecting Edmonton today are also present in other municipalities in Alberta, the key differences being the scale of the impact and the ability that larger urban centres have in responding to those needs if given the right legislative and financial tools.

This paper therefore is structured to provide a description of the key high-level issues that the City of Edmonton (through consultation with a cross-section of community stakeholders from Education, Business, Industry, Non-Profits and various Communities of Interest) considers critical for the Government of Alberta to address during its review of the *MGA* (in terms of issues that broadly apply across all municipalities, and those issues that reflect the more specific needs and opportunities of big cities), within the framework established by the Government of Alberta. That is, the review is structured to invite comment on the existing legislation and based on three major areas: Governance and Administration; Assessment and Taxation; Planning and Development.

It is important to also note that, for brevity, this paper does not expand on the many high-level concepts embedded in the *MGA* that are considered key strengths and should be preserved such as, but not limited to: the recognition of the municipality's primary role in providing good government, services and facilities that address the needs of their residents; the existing separation of roles between elected officials and administration; the ability for municipalities to exercise natural person powers; providing municipalities with the latitude to legislate in the public interest, etc...).

Framing these issues papers, and in the interest of aligning this work with that of the Big City Charter, we begin with an overarching description of the roles, responsibilities and revenue picture for Alberta's largest cities, particularly Edmonton, in Alberta.

1.0 THE THREE PILLARS OF A NEW LEGISLATIVE FRAMEWORK: ROLES, RESPONSIBILITIES, AND REVENUES

1.1 Edmonton Must Position Itself for Global Success

Edmonton is a big city at the centre of an important economic region, and a recognized leader in areas such as engineering, waste management, health research & development, and manufacturing/logistics. However, the existing legislative framework, the current relationship between the Government of Alberta and the City of Edmonton, and the fiscal arrangements that underpin these two aspects, limit both parties' ability to fully realize their potential in terms of economic prosperity, quality of life for Albertans and return on investment for taxpayers.

In order to ensure that Edmonton can draw the human and capital investment required to sustain economic growth and advance as a global leader, we must reconsider the relationship between the City and the Province; and together we need to take a hard look at the three pillars that make up this relationship: the roles, responsibilities *and* revenues (or fiscal sustainability); essentially who is doing what and how it gets paid for.

In having these conversations we are presented with an opportunity to begin to establish a partnership between the City of Edmonton and the Province supported by a new legislative framework. It is an opportunity to break down barriers to delivering the services our citizens expect; and an opportunity to create an environment in which Edmonton can continue to grow and position itself as a global city, while strengthening the position of both the Edmonton Region and Alberta. It is an opportunity for us to work toward our best possible future together.

1.2 Urban Growth: An Alberta Success Story

Alberta has sustained one of the most rapid moves to urbanization in Canada since the early 1960's, with its two largest cities continuing to be among the fastest growing in the nation. Edmonton alone grew over 11% between the 2006-2011 censuses, more than double the national rate of growth. This population shift has significantly changed the face of the province – and will continue to do so in this direction based on Government of Alberta growth projections (*Alberta Population Projection 2013 – 2041, August 16, 2013*).

More than 51% of Albertans now live in the cities of Edmonton and Calgary and, according to the Conference Board of Canada, these two cities will continue to be the two fastest growing Canadian metropolitan areas for years to come. Furthermore, Edmonton and Calgary contribute 68% of Alberta's total GDP. Edmonton has the 2nd largest urban Aboriginal population in Canada (55,000), and is expected to have an urban Aboriginal population of 100,000 by 2025. Foreign born immigrants represent

22% of the population, and this proportion of population is expected to grow to 29% by 2025.

As a big city, Edmonton is under significant pressure to provide services, programs, facilities and infrastructure to support the new populations that are calling our city home. This pressure exists also because of the role the City of Edmonton plays on behalf of the region and northern Alberta, through the provision of major infrastructure and services such as specialty sporting and event centres, transit network expansion, and family and social supports, on top of core transportation and utility services. There are significant costs associated with rapid growth that need to be considered in assessing the appropriateness of current legislative and revenue tools in today's context.

Most economic activity in the developed world—such as innovation, trade, production, technological development, and knowledge growth—originates in cities and city regions. Geopolitical borders are less relevant to where economic activity originates, as money and capital flow to where the returns are greatest, and labour moves to where opportunity resides. This requires cities and city regions to compete with other cities in the global economy for investments, capital, labour, and location choice from non-place-bound firms. Within this economic reality, Alberta's future is linked to the fortunes of big cities such as Edmonton, one of the province's key economic engines.

The changing face of Alberta points to the need to bring about significant changes to the existing legislative framework. It is increasingly evident that the *MGA*'s current one-size-fits-all approach does not provide the legislative foundation that the cities need while ensuring smaller municipalities and rural areas are able to thrive as well. An amended *MGA* must take this urban shift into consideration, and work to incorporate the range of challenges and day-to-day business municipalities of all sizes face to meet the needs of their citizens; for Alberta's two largest cities, the new *MGA* should also be complemented by Big City Charters that can better enable them to manage growth and succeed over the long term.

1.3 Roles, Responsibilities and the Fiscal Imbalance: The Edmonton Context

A key factor in embarking on a discussion of a new legislative framework is the strong link between municipal finance (and the continued success of Alberta and its big cities) and a conversation of roles and responsibilities.

Since the time in which provincial-municipal relationships were first constructed in Canada, municipal responsibilities, particularly in Alberta's largest cities, have expanded tremendously along with their populations. This expansion in

responsibilities has been a response to significant need expressed by citizens, and the understanding that cities need to provide a sufficient level of service to be attractive and competitive. This is compounded by the increasing scale and complexity of issues that a big city like Edmonton faces to meet citizens' needs in areas such as public transit, police and fire protection, affordable housing, and support for urban Aboriginal people and newcomers. Big cities are stretched to deliver these services within the limits of current financial tools and funding arrangements.

Areas of provincial responsibility include housing, health care, social services, and education. However, as noted in the Appendix, Edmonton now addresses a number of these major public policy areas. In fact, municipalities, and big cities in particular, are taking on more and more of the roles and responsibilities that have traditionally resided with other orders of government. Furthermore, non-governmental social service providers are increasingly approaching Edmonton City Council with funding requests that have traditionally been the domain of the provincial government. A holistic review is needed in order to clarify the areas of interest in question and engage in thoughtful dialogue to formally improve clarity of roles, while recognizing that with increased sharing of social policy responsibilities requires increased sharing of available revenue streams.

The multitude of ways that the City works to address social policy issues is a reflection of the responsiveness and adaptability of City Council to address the needs of our community. Recognition is needed of the complex interactions between interdependent systems that can provide long-term payback through other sectors (e.g., City investments into providing low-income residents with access to recreation can result in reduced health care and correctional service costs down the line).

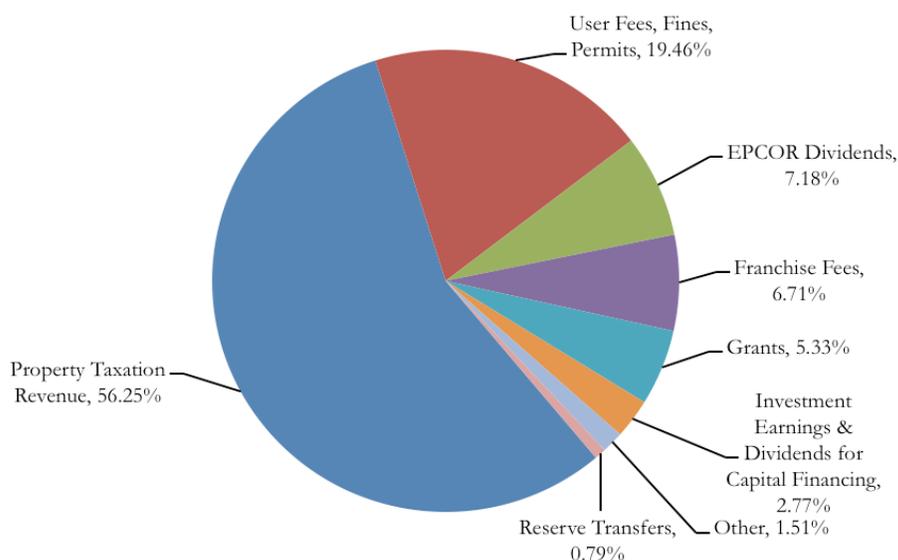
Edmonton's role in the region is no less significant. The infrastructure and services delivered by the City and paid for by Edmontonians benefits the 1.2 million people across the Edmonton Region, driving the regional economy and raising the profile of our region and Alberta across Canada and around the world. Recognition for Edmonton's place and contributions in the region needs to be accounted for in any conversation of roles and responsibilities related to the establishment of a new legislative framework – be it the *MGA* review, the Big City Charter discussions, or both. Changes are ultimately required to address regional fiscal inequities, ensure more effective regional planning that can make the best use of land and infrastructure, and deliver long-term benefits for the region as a whole.

Despite the significant demands of building and maintaining infrastructure and services that benefit an urban and regional population, 94% of the taxes paid by Edmontonians, per household, go to other levels of government. Further to this, current fiscal tools available to Edmonton and other municipalities (i.e. property tax) do not keep up with the cost of municipal inflation or grow with the economy.

There is a significant imbalance when current revenue streams are compared to the roles and responsibilities that the City has taken on since the *MGA* was introduced in 1995. Simply put, the fiscal arrangements for the City of Edmonton (described in more detail in the section below) do not create the conditions for long-term success and sustainability for the City or the Province.

1.4 The Revenue Picture

Over the past ten years, various concerns have been raised over the short- and long-term viability of Canadian municipalities, and their ability to provide the infrastructure and services required for satisfying the needs of citizens in a metropolitan area, while keeping Canadian cities competitive in a globalizing world. In this time period, the City of Edmonton has experienced increased expenditure pressures for numerous reasons, but at the same time has attained no diversification in its revenue generating tools. The City financed its 2013 operating budget from the following revenue sources: residential and commercial property taxes (56.25%); user fees, fines & permits (19.46%); EPCOR dividends (7.18%); franchise fees (6.71%); grants (5.33%); investment earnings & dividends for capital financing (2.77%); other (1.51%); and reserve transfers (0.79%).



Property tax is the only taxation tool that Alberta municipalities have and is regressive and inelastic. Property tax is considered to be regressive as it bears no relation to income; it is based on an assessment of property wealth as measured under varying provincial regulations. It is also inelastic, in that it does not directly grow or recede with the economy.

For Edmonton, a city with one of the highest percentages of low-income earners in Alberta, the inelasticity of property tax tends to place an unfair burden on homeowners with fixed incomes. It also impacts renters by placing an increasing burden on rental property owners.

However, the fact that almost 10% of the City's revenues come from EPCOR dividends and investment earnings demonstrates that the City has worked hard to diversify its revenues within existing legislative frameworks.

1.5 The Revenue Conversation: Next Steps

Given the current fiscal picture in Alberta, the City of Edmonton needs to explore immediate solutions that provide stability so Edmonton can continue to grow and be competitive as a global city.

All of this points to a need for a new mix of revenue tools and transfers that includes property tax that Edmonton can access to deliver the services and infrastructure that are required to meet citizens' needs and to be an attractive and competitive municipality. As well, a diversity of revenue sources tends to be more equitable overall than any single tax. Just as the Province does not rely on one form of taxation, neither should Edmonton to ensure an equitable tax structure that distributes the cost of running the municipality appropriately. The following should be considered for inclusion in the new legislative framework going forward:

- Tools and transfers which recognize that Alberta's two largest cities have costs that are different and exceed the norm.
 - Relates to the externalities we face such as higher social needs, centre of a region, capital city (and largest northern city), correctional facilities, major transit network, and social housing.
- Tools and transfers that can erase inequities between municipalities.
 - The property tax and assessment system in its current application reinforces inequities between municipalities.
 - The cost of spillovers or externalities must be taken into consideration if Edmonton is going to be able to continue to provide services that the region accesses.

- Tools and transfers that are elastic and recognize - and by extension continue to spark - the contributions that big cities make to Alberta's economic growth.
- Tools and transfers that support the roles and responsibilities Edmonton is required to deliver.

The City of Edmonton has not identified specific revenue sources in these categories that would be most effective to meet its needs. To get to this more granular level requires meaningful discussions with the Government of Alberta around what can be considered. Bold, high-impact ideas established through the Big City Charters -- complemented by improvements within the MGA -- need to be on the table. The ultimate result needs to be a reduced reliance on property taxes, and diversification of our revenue sources.

The City of Edmonton wants to partner with the Province to determine how to collectively move forward on a fiscal framework that optimizes the use of public funds toward our shared goal of a prosperous and competitive province and city. This involves understanding the vertical fiscal issues that exist between the Province and Edmonton and the horizontal fiscal issues that exist between Edmonton and the municipalities in the Edmonton Region. It also requires having an open and honest conversation about tax tools within the province and how they should be optimally applied to ensure an overall tax burden that promotes the economic agendas we share.

1.6 Conclusion

As referenced earlier in this paper, the City emphasizes that the essential conversations relating to roles, responsibilities and revenues cannot take place in isolation of each other; the conversations currently underway regarding the establishment of a new legislative framework must address all three pillars.

While Big City Charter discussions have initiated, they need to take place alongside the broader *MGA* review. These are, and need to be, separate processes, but there is potential for them to be aligned and mutually supporting.

At a high level, an ideal end state to the establishment of a new legislative framework is a new relationship based on partnership; recognition of capable governance; clearly defined roles and responsibilities; a commitment to mutual respect; and a shared vision of a prosperous Alberta which includes economically vibrant and sustainable big cities.

Both the City and the Province have a great deal to gain from having a comprehensive conversation regarding the three pillars referenced in this paper. With a new partnership between the Government of Alberta and Edmonton underpinned by a common understanding of roles and responsibilities and aligned fiscal resources,

announcements that impact either partner will not come as a surprise, and alignment of initiatives and policies will occur in a more seamless fashion.

Edmonton can enhance the prosperity of the province and the region through infrastructure projects, investment attraction, human capital and skills development, but this can only be achieved over the long term with significant structural changes. It is our hope that the establishment of a new legislative framework, established through the Big City Charter and *MGA* discussions, will provide the foundation necessary for this success.

City of Edmonton's MGA Review

MISSION STATEMENT

To provide the Government of Alberta with the key high-level issues that the City of Edmonton believes are important for a new *MGA* to be successful, through the development of issue papers addressing existing legislation across three major pillars: Governance & Administration; Assessment & Taxation; Planning & Development.

VISION & VALUES STATEMENT

In order to ensure Albertans receive the best services possible, within a stronger and more prosperous Alberta, **the new MGA should:**

not take a one-size fits all approach to serving all of Alberta's municipalities (this approach does not support the more complex and unique needs of big cities)

support municipalities by providing them with predictable funding and the financial tools needed to be more fiscally sustainable over the long term

provide municipalities with increased flexibility and support role clarity needed to respond to local needs

remove restrictions that prevent municipalities from being more effective and efficient in how they collaborate, engage and support their local decision making processes

complement efforts between the City of Edmonton, the City of Calgary and the Government of Alberta to create Big City Charters

enable regional approaches that result in orderly development and equitable distribution of the benefits and costs associated with growth of regional significance

recognize the already high standards of responsibility and accountability that big cities demonstrate

leverage the unique abilities of larger urban centres to help establish best practices and drive economic growth through higher levels of autonomy

3.0 GOVERNANCE & ADMINISTRATION

In order for cities to move forward in an increasingly complex and globally competitive environment, the *MGA* must be an instrument that recognizes and supports Alberta's two largest cities in their role as autonomous corporations accountable to a local population base. It needs to embody the acknowledgment that big cities drive the economy of the entire province, and increasingly provide infrastructure and social services to an extended region. The *MGA* needs to set the tone for a relationship that benefits all Albertans, by providing big cities with the ability to determine governance structures that will allow them to thrive and prosper for the benefit of the entire province.

In moving forward with a renewed *MGA*, the City of Edmonton's underlying principle for governance is a recognition of the unique importance and contribution of big cities to the well-being of the Province (leading to an enhanced Provincial-Municipal relationship), and a framework of increased municipal authority and flexibility in determining its governance structures and processes in order to meet its needs now, and in the future. In doing so, the *MGA* should preserve responsive, transparent and accountable local governments by imparting clarity of roles, clear authority, and independence between Administration and the elected body with the continuance of a Council/Chief Administrative Officer model.

3.1 Issue Paper 1 – Relationship with Big Cities (*big cities*)

Recommendation:

The *MGA* needs to recognize and emphasize a new relationship with big cities – a partnership based on mutual respect, consultation on matters of shared importance, and treatment of Alberta's two largest cities as akin to an order of government. This recognition will serve as a catalyst to independent dealings nationally and internationally.

The *MGA* needs to recognize the wide range of services provided uniquely by Alberta's two largest cities and should require mutual cooperation in delivering those services for the benefit of all Albertans. Additionally a recognition of big cities as salient to the province's economic well-being is essential.

The Government of Alberta and big cities need to agree on and clearly articulate a shared vision that highlights and respects big cities as economic and social drivers for Alberta. The *MGA* could require this vision to be mutually developed and agreed to.

Current Issues:

The relationship between big cities and the Government of Alberta must be reflected in a legislative framework and enhanced clarity in roles and responsibilities for service delivery that reflects the current and possible future state. A requirement for a

strong relationship between the Province and the urban, economic and social drivers of Alberta is lacking, and will ultimately impede growth and success.

A better defined relationship would improve services to citizenry. A framework for a new relationship could facilitate alignment of service delivery with greater integration of social services.

Edmonton and Calgary were initially incorporated by Charter legislation that is paramount to the *MGA*. New Charter legislation that will recognize the role of Alberta's larger cities is under discussion. It is therefore important to consider which parts of the *MGA* should continue to apply to the province's largest cities, and which parts will be in the City Charters for the cities to develop through their own bylaws and policies.

The legislative role and authorities of Alberta's large cities should be recognized in the *MGA*, by exempting them from rules of general application where the larger cities have the resources to manage functions and develop rules appropriate to their level of expertise.

Meaningful consultation, cooperation and collaboration between the Province and municipalities in relation to legislative changes that affect them should be included in the *MGA*.

Legislative changes that impact municipalities should require, at minimum, comprehensive consultation with municipalities. Legislation that affects municipalities is not limited to the *MGA*. The *Freedom of Information and Protection of Privacy Act*, *Local Authorities Election Act*, legislation dealing with land, utilities and other matters, can significantly affect a municipality. Recognition of how other provincial legislation interacts with the *MGA* and has unintended impacts on municipalities as a body akin to another order of government needs to be addressed through defined mechanisms.

Large municipalities are encountering significantly more issues than contemplated when they were established or even when the new *MGA* was passed by the legislature. For example, municipalities are struggling to manage multi-faceted problems such as brownfields created by abandoned gas stations, regional issues, affordable housing needs, and the impact of school sites on urban in-fill development. Municipalities need a forum to discuss these issues with the provincial government and other involved entities such as school boards to find cooperative solutions, and new flexible tools, authorities and resources to help municipalities address them in an appropriate manner for their residents.

Examples:

Currently there are no consultation requirements and mechanisms in the *MGA* to ensure that municipal perspectives are fully addressed in the legislative process in a manner befitting another accountable legislative body.

Furthermore, there is no issue resolution forum for new legislation and problems such as brownfields, and areas where the province's, school boards, and large cities issues intersect.

3.2 Issue Paper 2 – Municipal Governance (*big cities*)

Recommendation:

The *MGA* needs to provide big cities with the flexibility to determine their own governance model with respect to local governance matters, while preserving the principles of providing responsive, transparent and accountable local governments.

Current Issues:

The *MGA* should preserve responsive, transparent and accountable local governments by imparting clarity of roles, clear authority, and independence between Administration and the elected body with the continuance of a Council/Chief Administrative Officer model. With these principles, a big city needs greater control and, perhaps more importantly, flexibility over its governance affairs. Good governance practices employed in a big city are different from what smaller municipalities may require. The one size fits all approach to governance in the *MGA* does not address the demands placed on big cities.

The Minister's unilateral ability to dissolve a Council without public consultation does not respect the spirit of local democracy. The *MGA* should allow a big city to establish, by bylaw, its own process and criteria for dissolving Council (or putting questions to Council). This would respect the democratic rights of the electorate of larger cities by providing local citizens with the authority to dissolve Council.

Mayors are often called upon to negotiate multilateral, time sensitive agreements on behalf of a big city. In the current *MGA*, the Mayor for the City of Edmonton is just one of 13 Councillors with responsibility for chairing meetings and signing off on minutes and negotiable instruments for the City. Council should have the ability to pass resolutions or bylaws to delegate certain responsibilities for that kind of work to the Mayor where it deems that to be appropriate. Currently, Council can only delegate by bylaw to the Chief Administrative Officer, designated officers and council committees.

The duties and role of Councillors in municipal governance is not well defined. The Mayor and Councillors of a large city are, by analogy, the "Board" of the municipal

corporation, giving policy direction to the City administration. They are also called upon to act as the residents' representatives on the City's non-profit and for-profit corporations and other bodies. The *MGA* could clearly establish them in this role, and confirm that as elected officials of the City, their primary obligation is to act in the best interests of the City regardless of the duties they are assigned by virtue of office.

Councillor conflict of interest rules as currently established are problematic because they are overly prescriptive. Councillors are required to vote on matters if they are present unless the Councillor or the Councillor's employer, partner, parents or parents in-law, or children have a pecuniary interest in the matter. Councillors would therefore be required to vote on matters affecting their twin brother's business, next door neighbour's zoning issue, or a matter that the Councillor previously had close business dealings with no immediate pecuniary interest. Councillors should have the ability to determine on a case by case basis where they have conflicts. If a conflict reasonably exists, the Councillor should be excused from voting by stating that there is a conflict, and the general nature of the conflict. Common law legal rules governing conflicts of interest are quite broad and continually evolving. It is impossible to prescribe all of the situations in which a voter may apprehend a conflict of interest, but Councillors are attuned to the wishes of the electorate in relation to whether they should or should not be involved in a particular matter.

Council needs the flexibility to determine when functions should be delegated and the power to delegate powers, duties and functions by resolution, bylaw or policy and to any individual or committee it deems appropriate. Currently delegation must always be done by bylaw and that is not a practical or effective way to conduct the City's business in many cases.

Edmonton is capable of developing their own procedural and conduct rules. Legislated rules governing how many readings must be done to pass a bylaw, delegate powers, duties and functions, when bylaws must be used, could be more efficiently addressed through simple Council resolutions or policies. There is no need to require Council to pass bylaws to "adopt" typographical corrections bylaws, to add amounts to the tax roll, or to establish records destruction schedules. Big cities, like other corporate entities, frequently delegate these functions to administration as part of managing corporate matters. Records retention and destruction schedules are not included in bylaws, as records groups and processes are continually evolving and schedules need continual update.

Currently, Council committees are defined to include all committees boards or agencies created by a municipality under the authority of the *MGA*. That includes Business Revitalization Zones, Assessment Review Boards, Subdivision and Development Appeal Boards and quasi-judicial boards established by Council to hear

appeals of other City actions. Council committees are not one size fits all. The essential nature and processes of quasi-judicial bodies do not fulfill a purpose that is similar to a Council advisory board on design standards. Municipalities should be able to establish different types of boards, committees, agencies and other bodies, with appropriate procedural rules to meet the purpose for their creation.

Any committee created by Council is treated the same under the *MGA* with a requirement of open door meetings, minutes and formal processes of governance. There may be a need to create other bodies like a task force that is formed to do in depth research or stakeholder consultation that really does not fit that mold. Council should be able to have the flexibility to create structures other than those simple public types of committees that are included in the *MGA*.

Examples:

The *MGA*'s one-size fits all approach is often ill suited to meet the changing needs of big cities in a number of key areas including: council processes; method of delegating authority; when to pass bylaws, motions, resolutions or policies; Council code of conduct and enforcement; bylaw approval and enforcement; election rules and procedures; membership on Assessment Review Boards (the need to have or not have provincial members); petition requirements; public notice and time requirements; and the methods and standards to support public involvement.

Currently, Council may only delegate through bylaw, but in many cases, a simple motion or resolution delegating a matter can be more efficient and reduce a lot of unnecessary subordinate legislation. A good example of this is section 553, which requires a Council to add amounts owed to the City to the tax roll. As delegation can only be done by bylaw, this adds an unnecessary step to the process that a municipality follows to deal with snow removal and other debts.

Councils in a big city should be able to delegate some authorities to pass bylaws or budget to Committees in cases where it sees fit. This could allow for greater responsiveness and flexibility, as well as increased public engagement.

The *MGA* requires a Municipal Government Board Member to sit on every Composite Assessment Review Board (CARB). While this may be necessary for small municipalities, it is unnecessary for big cities that could benefit from establishing their own procedures (such as postponements) with respect to proceedings.

Big cities have the expertise to establish more tailored processes and procedures for conducting fair and democratic elections that reflect the needs of larger urban centres. However, when the *MGA* was put together elections were carved out and dealt with separately through the *Local Authorities Election Act* (largely because the legal

requirements for elections are lengthy). Many sections of the *MGA* still deal with election matters (such as sections 147, 148, 150, 157, 158 to 166) that could be pulled out and moved into the *Local Authorities Election Act*, so all election legislation is in one place. Regardless of the location, provisions in the *MGA* should permit Alberta's two largest cities to pass their own election rules and procedures, including rules for campaign financing while maintaining the same timing as occurs through the rest of the province.

The thresholds established in the *MGA* for deeming a petition to be successful are very high and may restrict public involvement in a big city. For example, the number of signatures required in the period of time specified in the *MGA* is difficult to achieve in a big city, and petitions impacting only one region of the city require the same number of signatures as petitions that impact the entire city.

The standards for public involvement as set out in the *MGA* are either too prescriptive or irrelevant for a big city. Councils in a big city need the ability to set their own and much likely higher standards of public involvement in a philosophy of openness and transparency. As well, requiring public notice requirements in newspapers is costly and not as effective for big cities with many more alternatives for notifying the public. For Subdivision and Development Permit Applications the City needs the authority to set its own limits for approvals to enable greater flexibility and to ensure timelines are achievable for the public and the City.

3.3 Issue Paper 3 – Municipal Structures (*big cities*)

Recommendation:

The *MGA* needs to provide the Chief Administrative Officer (CAO) of a big city with the flexibility needed to most effectively manage all aspects of the municipal corporation's operations and administration in accordance with strategic policy direction from Council (through preserving the continuance of a Council/CAO model).

The focus of the legislation needs to be on the role played by the CAO, not itemizing the discrete powers, duties and functions that a CAO would perform. The CAO manages the corporation for the purpose of implementing the policy and strategic goals of the municipality's Council. In the case of big cities, the role of CAO should be broad, with the powers normally associated with that corresponding position in other large corporate structures.

Current Issues:

The CAO of a big city manages a multi-billion dollar corporation with over 10,000 full-time equivalent staff who implement Council policy decisions. Section 207 and 208 of the *MGA* are very narrow in essentially providing that the CAO's functions are

largely administrative or clerical. For example, the list of CAO tasks in the legislation, such as keeping records and minutes or the corporate seal, do not properly represent the duties undertaken by a big city CAO. Defining the CAO as the "administrative head" of a municipality does not reflect the breadth of major responsibilities required to effectively manage an organization of this size and magnitude. A more flexible approach that recognizes these complexities, does not rely on a static list of legislated duties, and expands beyond current limitations for delegating power (which require bylaw approval and is restrictive because it is limited to City employees and designated officers) is required.

Examples:

The *MGA* does not acknowledge the more complex role that a big city CAO performs and afford the broad authority needed to perform that role. For example, unless Council specifies otherwise, a big city CAO should not have to return to Council for delegated authority or to approve negotiated agreements that are necessary to implement Council's direction in a timely manner. The CAO of a large municipality may need to delegate decision making authority to a committee of individuals including City employees, designated officers, outside experts, and others. For example, major capital projects such as the Light Rail Transit construction involves teams of senior managers, engineering, finance and other experts to help make decisions, but limitations in delegation preclude those groups from having actual decision making power.

3.4 Issue Paper 4 – Natural Person Powers (*big cities*)

Recommendation:

The *MGA* needs to allow big cities to exercise their natural person powers within their full spheres of jurisdiction, to establish controlled corporations without Ministerial approval, so as to provide the services and be able to profit from such ventures that ultimately benefit the citizens of the municipality.

Current Issues:

Municipalities are incorporated bodies accountable both to their electorate and the Minister for providing good governance within their geographic boundaries. There is no juridical reason to limit municipalities from exercising their natural person powers in accordance with ordinary corporate governance principles. For example, municipalities should be able to perform the same functions as any other corporate body with natural person powers, such as incorporate a for-profit or non-profit company to perform work if corporate delivery of services serves the City's residents in the most efficient manner.

Currently if a big city wants to have a controlled corporation (a for-profit corporation in which more than 50% of the shares are owned by the municipality) then the

municipality must have provincial approval. The Minister may impose limits on the terms and conditions of operating such a controlled corporation. In addition, there are limits under the *MGA* (Section 73 of the *MGA* and through the accompanying Controlled Corporations Regulation) that restrict a big city from doing work other than in a province or territory that adjoins Alberta.

Examples:

The City of Edmonton has the expertise and equipment, and ought to be able to profit from its expertise in the marketplace, no matter where that market is located. There does not need to be direct Ministerial approval for such controlled corporations. Examples of this include waste management and drainage.

3.5 Issue Paper 5 – Liability and Risk (*all municipalities*)

Recommendation:

The *MGA* needs to extend immunities from suit and restrictions on liability to wholly owned municipal corporations. This would allow all municipalities to select the best service delivery model for a project without being limited by significant insurance costs, or limited insurance coverage, because the work is not being done by the municipal corporation itself.

Current Issues:

Municipalities incorporate entities as vehicles for efficient service delivery or project development. However, municipal immunities do not extend to corporations that are wholly owned by a municipality, despite the fact that they work for the municipality. Many of the companies are non profit and may also be part of P3 funding arrangements.

Examples:

If the City of Edmonton wishes to operate major municipal service networks at arms length through a corporate delivery vehicle, it should be allowed to choose whether an incorporated body or an in-house project would be more efficient. Municipalities have immunities from water and sewer issues that are not extended to other water service corporations.

4.0 ASSESSMENT & TAXATION

When the *MGA* was first being created, the intention was to have the sections comprising assessment and taxation in its own piece of legislation. This is because the principles and issues surrounding assessment and taxation are set in a significantly different context than the remainder of the document. Where good governance often requires flexibility to ensure dexterity, assessment and taxation principles should be legislatively clear and defined.

This section is divided into three parts and is articulated as follows:

- Principles: Form the fundamental basis of any legislative change. Principles guide and justify all subsequent changes.
- Priorities: Are broad in scope, but clear in focus. Priorities identify areas in need of improvement. While priorities can encompass a wide variety of issues, they are always grounded in over-arching principles.
- Issues: Involve specific problems where change is required. While issues in themselves are particular, they can be interconnected and require multiple reforms to resolve. Issue definitions and examples are confined to high level problems. Exceptions can and will exist

The following are the principles that were used to guide the development of assessment and taxation related issue papers:

- Fairness, Equity and Accuracy – Through internationally recognized standards of market value mass appraisal, all properties are assessed and taxed based on common principles to achieve fairness, equity and accuracy.
- Openness and Transparency – The City should strive to provide easy access to assessment information while maintaining a consistent and clear market value approach. Decision on tax policy must be clearly separated from the assessment approach.
- Legislative Clarity, Efficiency and Stability - The legislation must clearly articulate provincial government policy while maintaining an efficient and stable assessment and taxation system.
- Administrative Consistency, Efficiency and Stability - There must be a clear separation between the policy setting mandate of the provincial government and the administration of the assessment and taxation system.

The following are the priorities that serve as the overarching vision in addressing issues related to assessment and taxation:

- Identify and Confirm a set of Principles - Above all, the City of Edmonton believes it vital and necessary to identify and confirm a set of principles. This will guide and justify all subsequent changes. The principles should include fairness, equity, transparency, legislative clarity, efficiency, stability, municipal sustainability and administrative consistency.

- Separate the Assessment and Taxation Functions - There has always been a need and intent to clearly separate the assessment and taxation functions. Based on the above principles, assessment provisions must be clear, concise and allow for minimal latitude by the assessment profession (ensuring fairness, equity and accuracy). To reflect openness and transparency, there should be minimal tax policy reflected in the assessment process. Municipalities should also be provided the necessary latitude to effect change through tax policy.
- Ensure Municipal Sustainability - Provincial property tax abatement policies have a direct effect on municipalities and their ratepayers. This is especially a concern with regulated assessments (linear property, machinery and equipment, farm property and railway) and the associated education property tax where significant abatement policies are given. The tax burden associated with regulated properties does not disappear, but is simply transferred to the remaining ratepayers. This is similarly a concern with municipal tax exempt properties. Properties such as hospitals, post-secondary institutions and some publicly supported housing accommodations service a regional need and demand municipal services, but the costs of those services are borne by the taxpayers within the host municipality.
- Ensure an Independent Administration - According to the principles of clarity, efficiency and stability, there needs to be a clear separation between the policy setting mandate of the provincial government (elected officials), and the administration of the assessment and taxation system (civil service). Administration should have the power to clarify legislation without Ministerial authority. Beyond adhering to the above stated principles, it also eases expectations of elected provincial representatives while stabilizing the system's process.

4.1 Issue Paper 6 - Enhanced Data Collection and Dissemination (*all municipalities*)

Recommendation:

The *MGA* needs to provide increased clarity on the powers that enable all municipalities to collect and use information. Stronger enforcement mechanisms are also required to ensure compliance.

A request for information should require a municipality to provide all the relevant property information used to prepare an assessment, but not all property information within a municipality's possession.

Current Issues:

A proper exchange of information is paramount to ensure a strong assessment system. Sections 294/295 of the *MGA* are meant to allow all municipalities to collect information from property owners in order to prepare a coherent assessment roll while sections 299/300 are designed to allow property owners to request information from municipalities to better understand how the assessment roll was prepared. Both sections require updating.

Examples:

Municipal assessment relies on gathering information for developing a mass appraisal model. Recent Court of Appeal decisions reduce the ability of a municipality to gather information for mass appraisal purposes under 294/295 – undermining the entire basis of the assessment process.

In the past, the City of Edmonton attempted to gain lease rate information from industrial property owners. While this fell under the 294/295 provisions, the City received poor response rates. It should be clearly stated that without solid property information the basis of the City's assessment and tax base is at risk.

Section 299/300 requests must be processed within 14 days. Of the slightly over 400 requests received in 2013, close to 300 were requested during the months of January and February. Applications can request greater detail than is reasonable or easily accessible such as building plans, blueprints and correspondence records.

4.2 Issue Paper 7 - Clearer Assessment Cycles (*all municipalities*)

Recommendation:

The condition and valuation date needs to be combined and moved to an early point in the year to support earlier notification to property owners of their property's assessed value in September.

A new cycle has the benefits of:

- completion of many ARB decisions before tax bylaw, which will reduce City risk and budget need while providing property owners with greater certainty;
- minimal corrections/refunds and tax notice reprints;
- clearer monthly payment program;
- improved workload distribution – valuation and court cycle separated;
- little to no variance for City budget purposes;
- enhanced communication, including sending assessment notices before the budget is set and ARB decisions being reflected in tax notices.

Current Issues:

The current assessment cycle is based around two key dates: the valuation date of July 1 and the condition date of December 31. Property assessments are meant to take account of the value of a property (what it would sell for) on July 1, being in its condition as of December 31. This concept is not intuitive and difficult to explain to property owners. In addition, setting the condition date to December 31 prevents assessment notices from being sent before the beginning of January.

With a complaint period of 60 days, assessment complaints do not begin until March causing most Assessment Review Board (ARB) decisions to be rendered after the tax

rate bylaw is set. This poses significant risk to the City as any decisions that reduce the property's assessment affect the City's bottom line. Property owners appealing their assessments are similarly uncertain of their final tax bill until ARB decisions are finalized. The final months of ARB hearings also directly overlap with the period in which assessors should be preparing the following year's assessment roll.

Examples:

Examples have existed in the past where multi-million dollar office towers appeal and successfully reduce their assessment value by tens of millions of dollars. Decisions by the ARB to reduce assessments so significantly after tax rates are set can effectively reduce the City's bottom line by millions of dollars. If such decisions take place earlier in the year, the City could properly set rates to ensure budgetary requirements are met.

4.3 Issue Paper 8 – Simplified Complaint Process (*all municipalities*)

Recommendation:

The assessment complaint period needs to be reduced from 60 to 30 days. This will aid municipalities in comprehensively addressing any assessment concerns and support property owners by addressing their assessment concerns in a more timely fashion – providing tax certainty before the payment deadline.

Current Issues:

A detailed review of the complaint process, including timelines and disclosure regulations, is required. While well-intended, the current legislation effectively provides complainants with a minimum of 96 days after assessment notices are mailed to prepare their case before proceeding to the Assessment Review Board. The City of Edmonton, in contrast, has a maximum of 28 days to respond to a complainant's disclosure. This issue is aggravated by the fact that a majority of high-value properties file complaints on the last day via agent submission.

Legislative requirements surrounding complaint forms are poorly defined allowing the submission of boilerplate complaints that do not specify the problems at hand. City staff are unable to properly prepare a response to non-residential complaints until full disclosure is provided 42 days prior to a hearing. A City response is expected 28 days thereafter.

The current one-tier complaint system has dramatically improved tax certainty for municipalities and property owners. This one-tier system should be maintained and the above recommendation further improves upon a more expedient resolution to valuation concerns.

Examples:

An assessment notice is mailed to a prospective owner on January 2nd giving him/her 68 days to respond (60 days plus the day notices are mailed with an additional 7 days to be “received”). Once a complaint is filed, the property owner must only submit detailed information 42 days prior to his/her hearing (minimum 28 days after the complaint deadline). This results in a minimum of 96 days for an owner to prepare a submission, but can extend to approximately 300 days for later scheduled hearings. By contrast, there is an imbalance when it comes to expectations placed on the City of Edmonton which can only respond once detailed information is submitted and is required to respond within 28 days of receiving that information. Last year, the City handled 1,938 ARB complaints.

4.4 Issue Paper 9 - Improved Administrative Processes (all municipalities)**Recommendation:**

The *MGA* needs to:

- a. enhance Administrative efficiencies through new measures such as: digital mailing, continuous bylaws, delegation of tax cancellation authority, collection of BRZ budget through property tax mechanism, and the renewal of exemptions without annual forms.
- b. clearly separate the provincial assessment functions of administration from the policy setting mandate of the elected officials. This would be consistent with the principles of administrative consistency, efficiency and stability while also augmenting the Province’s ability to clarify administrative issues for municipalities and other stakeholders.

Current Issues:

In terms of municipal processes, a number of issues exist within the legislation. These include, but are not limited to, a need to update:

- the ability to collect and distribute information electronically (e.g. assessment notice)
- the development of continuous bylaws (e.g. supplemental bylaws pre-approved at budget)
- the delegation of tax cancellation authority under certain conditions
- the procedure for renewing exemptions (reducing red-tape for non-profits)
- how Business Revitalization Zone (BRZ) taxes are distributed (utilization of property tax mechanism)

In terms of provincial processes, a number of minor issues exist within the legislation. The lack of on-going clarification of provincial policies has resulted in inefficiencies to the administration of the assessment, taxation and equalization functions.

4.5 Issue Paper 10 - Farmland (all municipalities)

Recommendation:

Farmland needs to have:

- a. its value updated, which could be accomplished:
 - i. ideally by changing the productivity value of farmland to a market value (or)
 - ii. as a less preferred alternative, by updating the productivity value to reflect current valuation rates.
- b. its definition updated to provide clarity for assessors and property owners.
- c. a tax payback option provided to the local jurisdiction similar to what is implemented in Manitoba.

Current Issues:

Recognizing the importance of assisting Alberta's farmers, the Province instituted regulated assessment values on all farmland parcels. This regulated value was based on productive value, but has not changed since 1994 and is based on data from the 1970's and 1980's.

Within big cities, farmland classification can sometimes be used as a form of land-holding (paying lower taxes due to regulated land assessment that should be on market value). Unclear definitions blur the lines between vacant land on market value and farmland on regulated rates. Natural areas are also at risk because the legislation suggests tree-stands should be taxed at market value (higher than farmland rates) so that there is a temptation to remove these areas before development occurs.

Recognizing that the regulated assessment process is in place to assist farmers and not provide a subsidy to developers, Alberta could institute a tax-payback provision similar to the one implemented in Manitoba. This would require developers who rezone and scrape farmland to pay back-taxes on the land based on the difference between the amount paid at the regulated rate and/or lower tax rate and the amount owed using a market value assessment and/or non-discounted tax rate. Tax-paybacks could be implemented for a back-dated period of up to five years.

Examples:

The productive value of farmland determines its regulated value. The productive value set in 1994 was no more than \$350 an acre. That value should likely be three to four times higher by today's standards.

Several cases have occurred within the City of Edmonton where developers strip the arable soil from quarter sections in preparation for development, but still attempt to claim regulated farmland rates. While the City of Edmonton has attempted to reject these claims, on occasion courts have sided with the developer.

4.6 Issue Paper 11 – Machinery and Equipment (all municipalities)

Recommendation:

Machinery and Equipment needs to have:

- a. ideally, its assessment and taxation reference be abolished. This will result in a large percentage of the property currently assessed as machinery and equipment to become assessable as buildings and structures (or)
- b. as a less preferred alternative, its definition updated and embedded tax reductions reviewed.

Current Issues:

The current definition of Machinery and Equipment (M&E) is broad and potentially includes everything from a coffee grinder to buildings and structures that other provinces would define as part of non-residential property improvements. The method of assessment is also outdated, causing much of the inventory to be undervalued. M&E has a provincial education tax rate of 0%. Due to the ongoing tax abatement policies, a large section of the industrial sector is shifting its tax burden to commercial and residential property owners (conservative estimates suggest that, across the province, the education tax burden being shifted is over \$350 million, and the municipal burden is close to \$500 million). Anything classified as M&E receives an automatic 25% depreciation to its value, followed by an additional 23% exemption from assessment. The legislated Construction Cost Reporting Guide subsequently provides 20-30% in further reductions.

Examples:

An industrial petroleum storage tank, with minor processing components, is considered M&E and therefore pays no provincial education tax. If charged municipal tax, it would only be assessed at approximately one-third its value (effectively reducing its taxes accordingly).

It is estimated that approximately 80% of the M&E inventory within Alberta would be assessed as buildings and structures within other provincial jurisdictions. The tax burden avoided is subsequently shifted to residential and commercial property owners.

4.7 Issue Paper 12 – Linear Property (all municipalities)

Recommendation:

Linear property needs to have:

- a. its valuation updated to reflect current values.
- b. its definition updated to reflect rapid changes in technology.

Current Issues:

Linear property includes such things as pipelines, cable distribution, power generation and transmission lines. Unlike all other property, linear property is assessed and

regulated by the Province. As part of this assessment process, “discounts” (as outlined in the Construction Cost Reporting Guide) exist within the assessment value.

Linear property is a realm where technology is regularly changing (cell-phones and satellite televisions). Legislation must keep pace with or be flexible enough to deal with the changing environment.

Examples:

Telephone and cable TV lines are assessed and taxed as part of the linear assessment base. The reduction of customers utilizing this technology is accounted for within the assessment value. New technology, such as cell-phone towers, is only assessed based on the transmission tower and does not take account of the increasing customer base.

4.8 Issue Paper 13 – Education and Health (all municipalities)

Recommendation:

The MGA needs to consider grant funding similar to Ontario’s “Heads and Beds” grant, which provides a grant to all municipalities based on the number of students and short/long term beds within its borders (Post-Secondary Institutions / Hospitals / Extended Care Facilities).

Current Issues:

Alberta’s two largest cities are hubs for economic activity, but they also provide a number of services to the province as a whole. They are the centres for world-class health facilities, educational institutions, seniors’ accommodations and non-profit organizations. Municipalities receive no tax revenue from schools, hospitals, post-secondary institutions, and many long-term care facilities and non-profits while still providing services to these institutions at a significant cost. Recognizing that all Albertans benefit from these facilities while the costs are borne by local municipal taxpayers, grant funding should be provided.

Examples:

The University of Alberta’s student population is made up of 49% out-of-city students. Of this percentage, 26% are from out-of-province. City programs and services funded by Edmontonians support these students.

4.9 Issue Paper 14 – Exemption Review and Clarity (all municipalities)

Recommendation:

The MGA’s exemption procedures need to:

- a. be refined to more clearly delineate what is and is not exempt from either assessment or taxation. In this way taxpayers can determine how much tax is being shifted as a result of the exemption.
- b. consider provincial grants-in-lieu of taxes for non-profits. This would offset some of the additional cost urban taxpayers bear to support services benefiting the region and province’s greater good.

Current Issues:

The current definition of exemptions is unclear and leads to the inconsistent application of the exemption legislation across Alberta. At an administrative level, this also leads to a variety of challenges in determining what is exempt and what is not. Due to this internal uncertainty, property owners are hard pressed to know whether their property will be exempted.

Furthermore, many of the exemptions from either assessment or taxation have not been reviewed from a legislative perspective for more than 50 years. An exemption does not mean that the tax burden disappears, but rather it is simply shifted to other taxpayers. Due to this implication, the reason for an exemption must remain appropriate and the exemption should be reviewed periodically to ensure that it remains relevant. Exemptions from assessment also obscure transparency as the actual shift in burden is not fully accounted.

Examples:

Given the current unclear definition of non-profit social housing and what is required to receive an exemption, its exemption status is applied inconsistently across the province.

Across Alberta, rural gas distribution systems are exempt from assessment while urban gas distribution systems are assessed and taxable. As a result, the total shifted provincial education tax burden cannot be calculated.

There are currently over 3,500 exemptions in the City of Edmonton which equates to approximately \$10 billion dollars in untaxed assessment value or approximately \$135 million dollars in shifted tax burden. The associated magnitude underlines the importance of reviewing all exemptions.

4.10 Issue Paper 15 – Regional Revenue Pooling and Compensation (*all municipalities*)

Recommendation:

The *MGA* needs to:

- a. allow linear and machinery & equipment assessment and resulting taxes to be pooled for a whole geographic area (larger than a municipality) to support regionally approved infrastructure projects. This would help deal with the issues of fiscal imbalance and inequity within the region.
- b. allow for municipal reimbursement for costs associated with the assessment and tax function required to collect the provincial education requisition.

Current Issues:

Linear property and machinery and equipment exist within particular municipalities, but are served by or service the region as a whole. While the City of Edmonton receives a relatively small portion of taxes from linear property assessment, the City

provides services for matters that arise from linear property whether inside the City boundary or in the surrounding adjacent areas. Similarly, large industrial properties, classified in large part as machinery and equipment, rely on the employee base and amenities of the city while locating their operations outside its borders. Both linear property and machinery and equipment revenue is currently distributed simply based on the municipality in which it is located, creating a feast and famine model for municipalities.

Examples:

Operators of linear property are considered the taxable entities. Although they benefit from services of big cities, they only pay taxes within the municipality in which they are located. Put another way, some municipalities receive linear revenue while others provide the services. Edmonton Fire Rescue, for example, will respond and provide support for another municipality when accidents occur with linear property (burst pipes, fallen lines etc.). While Edmonton provides support, the local municipality receives the full benefit of the linear property revenue.

Municipalities assess properties, mail tax notices and collect provincial education tax on behalf of the Province, but receive no compensation for the work performed on the Province's behalf. In contrast, municipalities are charged under a full-cost recovery model by the Province for the assessment of linear property.

4.11 Issue Paper 16 – Supplementary Assessment (*all municipalities*)

Recommendation:

The *MGA* needs to allow all municipalities to prepare supplementary assessments for land and implement progressive (for partially complete) and supplementary assessment for linear property.

Current Issues:

All municipalities have the ability to reassess property mid-year if major changes have occurred that change its value. The completion of major construction is one example. This is known as a supplemental assessment. This process does not exist, however, for land that moves from one zoning class to another. When vacant land is rezoned to a new class (Agricultural to Industrial, for example), there is a major uplift in the land's value. Municipalities are unable to capture this uplift in value until the following tax year. Fairness and equity suggests the same process should apply to all property owners.

A similar problem occurs with linear property. With a condition date of October 31, linear property completed after November 1 can not be added to the tax roll for the subsequent year. Linear property is also not assessed or taxed based on partially complete status as of the condition date.

Examples:

At the beginning of each year, the value of a residential property is captured in the annual assessment notice (December 31 condition date). This applies to partially completed homes as well as fully completed homes. If a building is partially completed and subsequently completed during the following year, the owner will receive a supplementary assessment representing the home's full value and will pay tax on the incremental assessment for the period that it is complete. Fairness and equity suggests the same rules should apply to property owners who experience a value-uplift due to a zoning change. If a quarter-section (160 acres) of farmland, assessed at \$350 an acre, is scraped and rezoned residential mid-year in preparation for development, the assessment value can increase to \$250,000 an acre. Without an ability to apply supplemental assessments to properly reflect the value change, the City of Edmonton recognizes hundreds of thousands of dollars in lost revenue.

Until linear property is 100% complete, it remains un-taxable. Furthermore, if the property is 100% complete on November 1st 2014, it would only start paying tax in the 2016 tax year.

4.12 Issue Paper 17 - Tax Toolkit (*big cities*)

Recommendation:

The *MGA* needs to:

- a. provide big cities with a limited ability to adjust non-residential tax rates between non-residential subclasses. This could be controlled via percent limits or Ministerial approval to avoid abuse, but would add to a municipality's set of tools to encourage smart growth and urban development.
- b. provide additional tax policy tools to address contaminated property.

Current Issues:

Big cities looking to manage urban growth and plan for future development strategies are in need of a tax toolkit. This would increase the options available to Alberta's two largest cities in how they apply property taxes. Taxing at lower rates for higher density or closer proximity to the urban centre's core could be some examples. The current provincial legislation does not allow big cities to adjust non-residential tax rates.

Alberta's two largest cities should also have access to a broader breadth of tax tools to address contaminated property. This will aid in the redevelopment of otherwise unproductive land.

Examples:

Council has, in the past, expressed an interest in implementing additional tools to encourage development on brownfield sites and downtown parking lots, but is unable to do so based on current limitations within the *MGA*.

5.0 PLANNING & DEVELOPMENT

Within the context of planning and development, the *MGA*, as currently drafted, raises a number of questions in terms of: who should pay for what; what is the right balance to strike between the private sector and public taxpayers as communities grow; are there unrealized opportunities for development to pay for itself; how might municipalities best provide for a full range of community amenities and natural areas through the development process (and what additional tools might a municipality need to do so); do we have the levers and flexibility we need to be competitive locally and globally and to achieve effective and lasting regional collaboration; and, how do we support access to safe, adequate and affordable housing?

Each of these and other questions are examined in greater detail below, as we examine how larger urban centres such as Edmonton can reduce their reliance on property taxes through the development process; make the most effective and strategic use of the opportunities they currently have; and enable Councils with the flexibility to ensure they have the tools needed to support healthy, complete and competitive communities over the long term.

5.1 Issue Paper 18 – Fees & Levies: Offsite Levies (*all municipalities*)

Recommendation:

The *MGA* needs to provide all municipalities with the ability to:

- a. charge offsite levies more than once on a parcel of land that is being re-developed for another use.
- b. charge offsite levies more than once on a parcel of land that is being developed in stages.
- c. use offsite levies to fund such things as parks, recreation centres, community centres, libraries, fire halls, transit and police stations that serve the community.
- d. charge an offsite levy separately on a parcel of land for each type of infrastructure contemplated in the *MGA*.

Current Issues:

Offsite levies can only be charged once against a parcel of land for items such as arterial roads and utilities. In addition, an offsite levy can not be charged separately for each type of infrastructure contemplated in the *MGA*. In order to stay competitive, where there is a large site with only a small portion being developed, the City may only wish to apply the levy on the portion of land or buildings being developed at that time rather than collecting the full levy for the whole parcel of land. The current *MGA* does not contemplate this practice. Ideally, the remaining levy can then be collected at a future point when the remnants are being developed.

Any redevelopment levies that the municipality applies can only be used to fund parks and green spaces and therefore do not help offset the cost of roads and utilities.

As well, offsite levies cannot be used for parks development. Currently, adjacent parcels are dedicated by developers or purchased over a number of years that eventually form the community park, with the land in very basic form (i.e., undisturbed or grade, level and seed). As a result most of the park sites need City funding to reach at least the Basic Level (final grading, trees, sports fixtures, social plazas) as well as levels above and beyond that. The current Capital Infrastructure Analysis identifies \$4 billion in needed upgrades, while the amount currently available is \$1.5 billion.

Examples:

In the case of potential annexed land, a large portion of land will have already paid a complete levy on the land portion, so if the City of Edmonton receives the land, it cannot charge an offsite levy for any of the infrastructure improvements it may need to supply, resulting in delayed development.

If the *MGA* permitted offsite levies for parks to be charged to allow funds to be collected to provide base level park development as defined by the municipality, the amenities could be built much sooner in the lifecycle of a neighborhood.

5.2 Issue Paper 19 – Fees & Levies: Ensuring Equity (*all municipalities*)

Recommendation:

The *MGA* needs to help balance the cost of providing infrastructure with the benefit that is derived from the users of that infrastructure. This can be done by either requiring rural municipalities to cover the cost of such things as provincial roads within its jurisdiction or by transferring development fees to those municipalities that are carrying a disproportionate burden.

Current Issues:

Counties adjacent to the City have an advantage when it comes to arterial roads. Counties tend to use highways, which are paid for and maintained by the Province, as arterial roads for businesses. This practice keeps the road levies much lower when compared to their urban neighbors. This allows businesses to settle near, but not in, the major centres and allows them to enjoy the urban amenities without contributing to them.

Examples:

Recently there have been a number of developers who have shared in the cost of overpasses. Cost sharing agreements such as these may help everyone bear the burden of development if non-participating developers were required to participate.

5.3 Issue Paper 20 – Fees & Levies: Complete Communities (all municipalities)

Recommendation:

The *MGA* needs to grant all municipalities with the authority to define what the features of a “complete community” are within their municipality. This could be defined through the approval of the Municipal Development Plan and provide the flexibility to establish more tailored parameters reflecting the needs of different communities within municipal boundaries.

Current Issues:

There is no provincial definition of a “complete community” nor are there defined roles on who pays for the items to make the community “complete”. The infrastructure components considered in Edmonton to be included in a complete community are such things as parks, recreation centres, community centres, libraries, fire halls and police stations and transit.

This issue becomes even more complex because the key factors to determine a complete community will likely vary from one municipality to another. In addition, in a large urban centre such as Edmonton, there may be variations between neighbourhoods or quadrants on what is a complete community.

Examples:

The City of Edmonton prepared the following definition of “Complete Communities” to support a number of its Strategic Plans: A community that is fully developed and meets the needs of the local residents through an entire lifetime. Complete communities provide certainty to residents on the provision of amenities and services and include a range of housing, commerce, recreational, institutional and public spaces. A complete community provides a physical and social environment where residents can live, learn, work and play.

5.4 Issue Paper 21 – Fees & Levies: Over-sizing Improvements Agreements (all municipalities)

Recommendation:

The *MGA* needs to provide all municipalities more clarity under the section allowing them to collect not only on incremental infrastructure costs (“over-sizing”) but also the “fair share” based on benefit. As well, there needs to be the authority to impose those costs on the other benefiting developers.

Current Issues:

When a developer comes in as the “front ender”, they are required to build roads, sewers, and other utilities that will benefit other developers. The City then collects a share from subsequent developers, on behalf of the first developer. In some cases subsequent developers are only charged the incremental charge and not the “fair share” based on benefit. This needs to be clarified.

Examples:

A road and existing utilities within the road right-of-way may ultimately benefit developments on both sides equally, so developers on each side of the road should be required to contribute equally to the cost of the infrastructure.

5.5 Issue Paper 22 – Fees & Levies: Cost Recovery (*all municipalities*)**Recommendation:**

The *MGA* needs to provide all municipalities with the ability to:

- a. recover operating costs for expanded services such as transit and fire within the first two years of development (rather than just capital costs when using levies). This would be helpful in allowing projects to proceed in advance of a municipality's planned ability to take on new operating costs resulting from growth prior to these services becoming reasonably viable.
- b. recoup the current day costs of bringing the infrastructure back up to "new" after construction traffic has generally ceased.

Examples:

Municipalities can charge developers to buy buses and for other capital expenditures such as infrastructure construction; however, the City does not have the ability to charge for the operating costs (i.e., staff to drive the buses). As well, when service roads enter a new area, they depreciate faster due to construction traffic from the other developers and contractors, but the developers are not responsible for any impacts on these. There is no levy for dealing with the ongoing maintenance and replacement costs that are above those incurred from normal usage.

5.6 Issue Paper 23 – Fees & Levies: Regional Facilities (*all municipalities*)**Recommendation:**

The *MGA* needs to provide for the collection of funds for a list of regionally defined facilities to help spread the fair share of cost to all regions that benefit, and not just the municipality where the facility resides.

Current Issues:

Items such as transit centres with Park & Rides, museums, art galleries, and the downtown arena are not only beneficial to the citizens of Edmonton, but they also benefit those in the surrounding communities and Northern Alberta, yet the City of Edmonton carries the largest burden, and at times the only burden, in regards to cost.

5.7 Issue Paper 24 – Natural Areas (*big cities*)**Recommendation:**

The *MGA* needs to provide big cities broader authority to protect nature in the land development process. The mechanism(s) to do so could range from an expanded definition of existing provisions (e.g., Environmental Reserve) or could include new mechanisms in the *MGA* altogether.

Current Issues:

Citizens in big cities increasingly recognize the value of protecting nature in large urban centres as critical to their well being. For example, natural areas preserve and protect urban biodiversity, support natural environmental processes such as flood control, and provide residents with access to nature close to home which is important for recreational benefits and health outcomes. Accordingly, Alberta's two largest cities are responding to the will of their citizens and passing sophisticated policies to protect nature.

Unfortunately, the ability to implement these policies is severely restricted because the *MGA* limits the authority of big cities to protect nature. This leaves big cities few options to protect nature through the land development process.

The *MGA* permits municipalities to take both Municipal and Environmental Reserve upon subdivision, but neither has a primary purpose of nature conservation. Municipalities may take up to 10 per cent of developable land at the time of subdivision for Municipal Reserve (MR) purposes, but this land is generally intended for schools, community centres and programmable park space, leaving little for the conservation of nature and the protection of ecological and biological processes.

Municipalities may also take any lands that are unsuitable for development due to environmental conditions as Environmental Reserve (ER). Such lands include steep slopes, swamps, gullies, ravines, natural drainage courses, flood prone areas, or land immediately adjacent to lakes, rivers, streams or other bodies of water. Lands may also be taken as ER in order to provide for water quality protection and public access. It is important to note that the definition of ER in the *MGA* focuses primarily on hazard land issues and was not intended to be used for ecological protection. The way that the ER provisions in the *MGA* are written are confusing and open to a multitude of interpretations. This lack of clarity does not help municipalities or private developers.

While ER can in some cases be used very effectively to protect nature as a secondary benefit, it is limiting. For example, ER provisions permit a municipality to require the dedication of a water body such as a wetland and a narrow buffer for pollution prevention and public access but not to protect forested lands. Municipalities in British Columbia, Ontario and Prince Edward Island have broader authority to protect nature.

In addition, ER can only be dedicated at the time of subdivision which can occur many years after wetlands and forests are identified for protection in statutory plans.

Examples:

Administration and the development industry have had different interpretations and views on the purpose, scope and criteria for ER under section 644(1) of the *MGA* (i.e. drainage course, preventing pollution, providing public access, flooding and slope instability, natural area conservation, etc. versus the develop-ability of land). The lack of clarity in the existing provision in the *MGA* causes daily conflict between local authorities and development proponents which lengthens approval timelines needlessly. All parties involved are seeking clarity in application.

The Province favours granting approvals for the drainage of wetlands in big cities and requires financial compensation be paid for this loss to rural municipalities to protect their wetlands. Big cities do not have a say in which wetlands are protected in this process. At the same time, big cities are then required to invest heavily to implement flood control measures to compensate for the increased flood risk caused by the wetland drainage approval. This approach results in a transfer of wealth from the big cities to the rural municipalities which results in poorer environmental performance and an increase in municipal taxation to pay for increased infrastructure costs where most of the population of Alberta lives. Rural municipalities, on the other hand, benefit from the current *MGA* and other provincial policies and regulations by getting enhanced environmental performance and reduced infrastructure costs in their jurisdictions.

5.8 Issue Paper 25 - Municipal Reserves (*all municipalities*)

Recommendation:

The *MGA* needs to:

- a. Revise cash-in-lieu provisions of Municipal Reserve (MR) land to create a “no net loss” conclusion. The loss that occurs in value between the time of subdivision approval and subdivision registration can be eliminated by equating the value of the MR land at the time of registration or as agreed upon between the parties.
- b. Enable municipalities to determine the appropriate uses for MR within their jurisdictions in order to best meet their needs. This could be accomplished by the *MGA* requiring MR lands to be used for “municipal purposes” and then requiring each municipality to define, by bylaw, what those municipal purposes are.
- c. Allow reserves to be taken or deferred at the outset of development. The recommended outcome is two-fold. First, the *MGA* should allow Environmental Reserve to be explicitly deferred in a similar fashion to MR. Second, the *MGA* could be amended to remove the restriction that the deferral of MR must be to the remaining parcel or to “other land of the same person”.

Overall, the new *MGA* should strike a balance between acknowledging the importance of the amount of MR lands in the planning and development of viable neighbourhoods but also consider the economics of undertaking private land development.

Current Issues:

In a big city, the high demand for land in developing neighbourhoods means that there is a strong incentive by the development industry to keep municipal reserve dedication to a minimum. In comparison, heavy programming requirements and citizen demand create a need for the municipality to use MR land as efficiently as possible. This shortage of public land is amplified by the need for land for other services beyond parks, such as natural areas, fire, police, libraries and affordable housing.

There are other potential public lands that could be acquired that are underutilized. A municipality is permitted to take 10% for school and park purposes and up to 30% for roads and Public Utility Lots. The full 30% is often underutilized because the *MGA* requires a municipality to only take the amount that is sufficient for the subdivision's needs; however, there are substantial pressures on the 10% MR that is allocated.

As the City seeks out and encourages infill situations, the increase in density leads to a reduction in the ratio of density to open space with no more MR to serve the increased population. This is particularly difficult as other issues come into play such as the lack of subdivisions in infill situations, which eliminates the ability to take reserve land.

By comparison, in greenfield development, the *MGA* is limiting in the way that it restricts the deferral of reserve land. There are practical realities which dictate that at times it is in the best interests of both the municipality and the developer to defer reserves. Under the current *MGA*, however, there are risks to doing so with Environmental Reserves. As well, the *MGA* does not allow deferment to a parcel owned by a different party, even with consent.

In addition to the above, the escalation in land value makes taking cash-in-lieu of MR, under the current *MGA*, an inefficient tool for municipalities. Currently, the value of MR must be calculated within 35 days of approval of the subdivision. This value period generally leads to an undervaluation of the land at the time of registration of the subdivision which can occur years in the future. When a municipality uses this accumulated cash to then purchase MR land (such as district parks) the net loss leads to a shortfall of funding.

With the above challenges in mind, it must be remembered that community needs evolve over time and change as a municipality grows. MR land serves more than just school, park and recreational needs; it could also include social, cultural, spiritual and ecological benefits. The current legislation does not reflect new or different needs and outcomes of that benefit. MR land is a gathering place for individuals or groups to build social capital, increase tolerance and contribute to the development of healthy individuals and communities. The static nature of the legislation does not accommodate for these demands given the broader changing community needs.

Examples:

Currently, the City of Edmonton is required to remove the MR designation from surplus school sites before such can be used for other municipal purposes such as affordable housing. This process can be lengthy and costly and requires a Public Hearing.

In the Downtown Plan there is a shortage of open space which is made more apparent by the infill and high density housing that is currently taking place. The City is working on a strategy to look for ways to increase park availability. The *MGA* currently only allows new land dedication upon subdivision, which rarely takes place in infill situations.

In the Meadows ASP the City was required to purchase the district park at a rate of \$637,963 per hectare; whereas the funds that were provided as cash-in-lieu were accumulated three years earlier at a rate of \$185,249 per hectare. This substantial shortfall must be accommodated for.

5.9 Issue Paper 26 - City Regions (all municipalities)

Recommendation:

The *MGA* needs to ensure regional land-use planning occurs to the extent necessary to support regional interests of the greater good and promote three key areas of sound public policy: economic development; environmental sustainability; and efficient use of public infrastructure. That opportunity cannot be realized unless each City Region is planned (at least to some degree) as a single unit. If we do not do that, we will lose opportunities to: set aside land for strategic economic development; to preserve natural areas and prime farmlands; and to efficiently deliver the infrastructure and services that citizens and industry need.

Current Issues:

The *MGA* does not ensure regional land-use planning to the extent necessary to make the best use of land, drive economic growth to where it can be most effective and efficient, and make the best use of infrastructure dollars. In the Edmonton Region, the regulation establishing the Capital Region Board (CRB) compels a basic level of

regional collaboration but not to the extent necessary to achieve many of the benefits that regional planning and decision-making could offer. The City of Edmonton is a strong supporter of regional collaboration and encourage provincial efforts to modernize regional planning. The Province's focus on voluntary regional collaboration in Alberta leaves the CRB an outlier in the provincial context. This outlier status is a barrier to advancing more robust and innovative advancements in regional collaboration.

An exploration of the CRB regulation may also be in order to learn whether new provisions can be established to support the regulation (i.e. Priority Growth Areas that are extensions of urban areas rather than places for unserved counties to grow). Specifically there is significant inequity in the way Edmonton delivers, but is not compensated for, a whole range of big city services that benefit and arguably sustain the region. It is seen in the way that Edmonton provides core transportation and goods movement routes, provides big city police services (including but not limited to: spousal abuse teams, helicopter incident monitoring, child exploitation teams etc.) all emergency shelter housing, all transitional housing, a disproportionate share of other forms of non-market housing, social workers in libraries, etc.

These are services that benefit the region, as individuals in need come to Edmonton to receive these services since they are not available in the region. At the genesis of the CRB it was understood that such inequities needed to be corrected and as such the mandate of the CRB as spelled out in the Regulation included addressing cost sharing. Despite this initial agreement, consensus has not been achieved on any concrete solutions. A means to address this unfinished business, or introduce regional revenue sharing or some other transfer or revenue source to address these inequities is needed.

Examples:

The challenge is that, for historical reasons, the Edmonton Region consists of a big city surrounded by some two dozen smaller municipalities. Each of these local governments has (since the early 1990's) exercised their land-use powers without sufficient expectation of delivery on larger regional outcomes. Considering the long-term good of the region as a whole must become a priority. The *MGA* already allows for regional planning by allowing the Government to create regional commissions through regulations. That was the legal mechanism the Province used to create the CRB. However, the Act does not set out to the extent necessary the need for regional planning.

5.10 Issue Paper 27 – Affordable Housing (*big cities*)

Recommendation:

The *MGA* needs to provide big cities with the authority and the tools to support the achievement of complete communities through the provision of affordable housing as an integral requirement of land use, subdivision and development approval processes. The amendments to the *MGA* must also provide the ability to mitigate the loss of existing affordable housing stock as a result of redevelopment and condominium conversion of rental units.

Current Issues:

There is broad political recognition that "access to safe, adequate and affordable housing is fundamental to the physical, economic and social well-being of individuals, families and communities," and this has been specifically acknowledged by Edmonton City Council in its endorsement of various housing action plans and strategies. Further, The Way We Grow (Municipal Development Plan) 4.4.1 states that we should "Ensure neighbourhoods have a range of housing choice to meet the needs of all demographic and income groups and create more socially sustainable communities". And 4.4.1 states that we "Provide, in partnership with others, safe, accessible and long-term affordable housing in all areas of the city with a focus on LRT stations and transit centers".

Alberta's two largest cities face complex challenges with respect to the provision of affordable housing. While broad scope of responsibility has been transferred to municipalities to ensure development of safe and viable communities, the *MGA* provides an incomplete toolkit for a municipality to ensure the provision of a broad range of affordable housing as an integral requirement of land use and development approval processes.

The *MGA* provides limited powers to a municipality to require developers to contribute to the supply of affordable housing, either through the provision of units or cash -in-lieu of units as a condition of development approval. It does not provide the ability to impose approval conditions to mitigate the loss of existing affordable housing as a result of redevelopment or condominium conversions, nor the ability to market acquired units to fund affordable housing.

Express provisions in the *MGA* enabling the City to enter into housing agreements with respect to tenancy and the form of tenure of the housing units are needed, including: the ability to impose terms and conditions respecting the availability of housing units; the administration and management of housing units; and rents that may be charged and the rates at which rents may be increased over time.

Examples:

Currently the City of Edmonton only requires a contribution towards the provision of affordable housing as a condition of development permit approval for direct control rezoning applications, which involves the developer of new medium and high density residential projects to enter into an option agreement whereby the City can acquire up to 5% of the units in the project at 85% of the market value. It would be beneficial for the City to have the ability to make this requirement for all rezoning applications, not just direct control.

The City's ability to exercise this purchase option is only available if the residential project results in individually titled condominium units and also depends on the City's budgetary capacity and the relative cost of the units being offered by the developer. The City has no ability to require a cash-in-lieu of units payment, nor to impose conditions that would require the developer to provide modestly sized and priced units. In addition, the City cannot require developers constructing residential projects under conventional medium and high density zoning to make an affordable housing contribution, nor require developers to dedicate a portion of land in "green field" situations for affordable housing through conditions of subdivision approval or to pay a fee in lieu of a land contribution. In the interests of achieving a full range of affordable housing opportunities municipalities should also be empowered to require an affordable housing contribution from the low density component of new green field neighbourhoods, either through land dedication or a lot levy.

Provincial governments in British Columbia, Ontario and most recently Manitoba have provided municipalities with broad legislative powers to require the provision of affordable housing and to protect the existing supply of affordable rental stock as requirement of land development and building approval processes.

APPENDIX – Edmonton Major Public Policy Support Snapshot

Key Examples of Edmonton’s role in supporting provincial or federal mandate areas

Areas Traditionally Managed (in part or in whole) by Provincial or Federal Governments	Key Examples of City of Edmonton’s Roles and Responsibilities
Health Care	<ul style="list-style-type: none"> ▪ Edmonton Fire Rescue Services as part of the First Responder Medical Emergency services ▪ Family services including domestic violence interventions ▪ Build and maintain indoor/outdoor recreation facilities, active transportation infrastructure such as bike lanes, build/maintain parks.
Education	<ul style="list-style-type: none"> ▪ Edmonton Public Library supports provincial education mandate through leadership in early, school-aged and digital literacy programs and collaboration, as well as its provision of collections, free Wi-Fi and public computers.
Social Services	<ul style="list-style-type: none"> ▪ Mayor’s Task Force to Eliminate Poverty ▪ Supporting and increasing accessibility around a wide variety of programs and services for various communities of interest (e.g., Urban Aboriginals, Immigrants, Newcomers, Seniors, Students, Persons with Disabilities) ▪ Social Development Rapid Response Team ▪ Shelter Strategy - City staff building an understanding of City’s shelter service agencies in order to better align programs/services ▪ Agency Strategy - working with the Province to support vulnerable populations ▪ Provision of Disabled Adult Transit Service (DATS) ▪ Edmonton Public Library provides outreach services to support socially vulnerable citizens in order to build relationships and support various identified needs, including housing, employment, education, income and medical.
Policing, Public Safety, and Violence Reduction	<ul style="list-style-type: none"> ▪ Violence Reduction Strategy; Integrated Panhandling Strategy; 24/7 REACH Service Delivery Model ▪ INJERA-engaged about 40 Edmonton Police Service members and over 60 cultural administrators ▪ Edmonton is home to seven federal and provincial correctional facilities ▪ The Protection of Children Abusing Drugs Act and mental health transports ▪ Managing offenders on Probation (i.e. curfew checks)
Affordable Housing and Homelessness	<ul style="list-style-type: none"> ▪ Cornerstones Program to develop affordable housing units ▪ Edmonton Homeless Commission – 10 Year Plan to End Homelessness ▪ Street outreach intervention efforts to connect hard to reach street/homeless individuals
Key Economic / Trade corridors	<ul style="list-style-type: none"> ▪ Build, manage, maintain arterial and connector roads including the TransCanada Highway (Yellowhead) and interchanges linking to the Anthony Henday ring road. ▪ Port Alberta