

### **PRESERVING CONSERVATION RESERVE LANDS**

The draft provisions on Conservation Reserve say that such lands may be identified in a statutory plan and dedicated at the time of subdivision. Some landowners may object to the statutory plan designation, and would rather develop these lands than sell them to the City. They may be tempted to destroy the feature of the land that gives it conservation value, such as cutting down a tree stand. We ask that provisions be included in the Act that would:

1. impose a duty on a landowner to leave future Conservation Reserve lands in a natural state once they have been designated in a statutory plan; and
2. create substantial penalties for contravention.

### **CONSERVATION RESERVE LANDS AND THE CALCULATION OF MUNICIPAL RESERVE**

Under the draft legislation, Conservation Reserve lands are excluded from a developer's land area for the purpose of calculating Municipal Reserve. That concept makes sense in the case of Environmental Reserve, which is provided without compensation. However, if the municipality is paying market value for Conservation Reserve lands, such lands should be included in the land base for the purpose of calculating Municipal Reserve.

### **PRINCIPLES FOR CALCULATING MARKET VALUE**

We understand that regulations will provide further clarity around the principles of valuation of Conservation Reserve. We would like to suggest the following approach.

The basic principle is that compensation for Conservation Reserve would be done on the same basis that is used to calculate the amount of money that developers provide in lieu of municipal reserve. The City of Edmonton uses the following principles when calculating "cash-in-lieu".

1. The date of valuation is just prior to subdivision.
2. Qualified real estate appraisers arrive at a valuation *for the entire parcel in its undivided state* based on sales of comparable parcels. In the context of a typical greenfield development, valuations often pertain to larger parcels in the area of 80 acres to 160 acres .
3. The appraiser must base the market value estimate on highest and best use which accounts for probable future uses for the land. In investigating probable future uses of the land, the appraiser looks to the statutory plan and considers the range of uses that would be allowed over *the entire parcel* of land. In a suburban greenfield context, most of the land would be used for single-family residential development, a smaller portion for medium-density residential and a smaller amount for commercial uses. These different uses of land within the parcel, after subdivision, would each have different "retail"

values but the appraiser identifies comparable sales of raw land parcels, prior to subdivision, with a similar mix of uses and bases the value on those comparable sales.

4. Having arrived at a value for the larger titled parcel, it is a simple matter to arrive at a price per hectare of land, which can then be applied to the area of the Conservation Reserve.

These valuation principles could apply equally to lands designated as Conservation Reserve in a statutory plan. The draft Modernized MGA already establishes the time of valuation as the date of application of subdivision which is consistent with the cash in lieu of MR process.

Conservation Reserve will happen in the context of suburban greenfield development. This will usually involve relatively large parcels of land with a typical range of future uses. Municipalities already have extensive experience in calculating a per hectare value for lands of this sort.

This approach has several features that will be of advantage to municipalities, landowners and the Land Compensation Board.

1. It is fair. The City of Edmonton, as payor of compensation for Conservation Reserve lands is willing to abide by the same principles that apply when it is the recipient of cash in lieu of MR.
2. It is simple. The developer's appraiser arrives at a fair market value for the developer's entire parcel and the municipality compensates the developer in proportion to the size of the Conservation Reserve parcel. This approach obviates an entire category of disputes (that arise in expropriation) about whether the Conservation Reserve in question is more or less valuable than the parcel as a whole. The process contains a deliberate give-and-take. It is intended to prevent both the developer and municipality from claiming that the value of the Conservation Reserve is either more or less valuable as a separate parcel. Rather the valuation would be based on the gross titled parcel, as it is with cash in lieu of MR. The process is also intended to prevent both the developer and the municipality from arguing that creation of the Conservation reserve either reduces or enhances the value of the remaining developable lands.
3. It is efficient. In cases where cash in lieu of MR is necessary, the developer will have already supplied an appraisal. The same per-hectare value can be used to calculate the compensation for the Conservation Reserve. In cases where no cash in lieu is necessary, the developer and its appraiser are able to follow the same principles in the preparation of an appraisal as those that have been successfully utilized in the valuation of cash in lieu for many years. Developers and municipalities already have long experience with this approach. It works and it is predictable. This should reduce the need to resort to hearings before the Land Compensation Board on the issue of valuation of Conservation Reserve.

4. It respects the right of Council to make land use decisions in good faith. The approach compensates the owner fairly for the loss of otherwise developable land but it does not give him access to compensation for the financial consequences of the overall development scheme decreed by Council. This is consistent with the compensation principles outlined in section 621 of the MGA. It also avoids the prospect of inviting to the Land Compensation Board to speculate about the range of uses that Council might have applied to that site (other than the one that Council did, in fact, apply - through the planning process which includes substantial consultation with impacted landowners).