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Vision: A Home for Every Albertan

Mission: Advocate for Housing Choices

Philosophy: One Voice – One Industry

Honourable Deron Bilous
Minister of Municipal Affairs, Minister of Service Alberta,
Deputy Government House Leader
204 Legislature Building
10800 - 97 Avenue
Edmonton, AB T5K 2B6

sent via email

September 22, 2015

Dear Minister:

The Canadian Home Builders' Association – Alberta would like to thank you for our involvement throughout the Municipal Government Act (MGA) Review process. As representatives of the residential construction industry, we strive to achieve housing affordability and choice for all Albertans. We have concerns over a number of outstanding issues being addressed as part of the MGA Review. We feel it is imperative that the province spends additional time conducting research and consulting with stakeholders to develop policy for the numerous non-consensus items that have yet to be addressed. These items have substantial implications on housing affordability and without the proper research and assessment, new policy could make housing less affordable for all Albertans.

To our knowledge, none of the stakeholders have received any communication from the province on its position related to any of the policy areas currently under review. As a result, it is unclear whether our concerns and the implications identified have been fully understood. While we understand the timeline commitments of the past government, it is critical that any new policies in the MGA be weighed against their impact on housing affordability and the economy. Rushing to complete policy based on an arbitrary schedule will have substantial impacts on the cost of housing province-wide. This is a position shared by many of the stakeholders involved in the process.

Please find attached our submission which was prepared by the Joint CHBA – Alberta / UDI Alberta MGA Review Committee. The submission summarizes our concerns related to a number of the non-consensus items. We wish to continue helping the province develop an updated MGA that benefits all Albertans and hope that you will provide the necessary time needed to do so.

Sincerely,

Jim Rivait
Chief Executive Officer

Enclosure

CC: Tally Huttchinson, President, CHBA – Alberta
Gary Sandberg, Assistant Deputy Minister, Municipal Services and Legislation Division,
Municipal Affairs
Members of the Joint CHBA – Alberta / UDI Alberta MGA Review Committee

Introduction

The Canadian Home Builders' Association – Alberta is appreciative of the opportunity to be involved throughout the process of the MGA Review. There have been numerous issues and items that have achieved consensus through the thoughtful discussion of all stakeholders. However, we are extremely concerned that a number of the non-consensus items that remain outstanding have not been given the appropriate level of assessment or consideration. These issues, if not addressed properly, will have significant long-term impacts on the economy and housing affordability across the province.

The development and home construction industry plays a valuable role in the success of the province. The following provides a brief overview of the impacts of the new home building and renovation in 2014:

- 138,000 on-site and off-site jobs. This does not include the considerable work carried out by engineers, surveyors, architects and planners who spend years in the design and approval of these projects before a shovel even hits the ground.
- \$9.0 billion in wages which are then spent throughout communities in the province.
- \$19.8 billion in investment value. Home ownership is the largest single wealth-builder for most families.

CHBA – Alberta and UDI Alberta (through the Joint CHBA – Alberta / UDI Alberta MGA Review Committee) are very concerned that some proposed policies have not considered the impact on housing affordability and broader economic vitality. Increases to development costs are passed on to home owners through price increases and are ultimately paid for and financed through mortgages. As increased development charges, taxes and restrictions to development are imposed, the more expensive housing will become. The majority of developers and builders construct homes for the largest segment of the housing market which includes young families, seniors on fixed incomes, first time home buyers and those in lower economic brackets. When housing becomes more expensive, a greater proportion of the population can no longer afford a home. The 2014 statistics, which are outlined above, demonstrates that our industry plays a major role in the provincial economy and, therefore, it is imperative for both housing affordability and economic activity that a balanced approach be taken as part of policies for the MGA.

Moving forward, CHBA – Alberta requests additional time to work with the province and other stakeholder groups to ensure that we are developing viable solutions that will work for all Albertans. While we understand that significant time has already been spent on this process, we have yet to see or hear the province's position on the numerous MGA issues where stakeholder consensus has yet to be achieved. Even though we have spent a considerable amount of time and effort in presenting our positions on these matters, we do not yet know if we have, in fact, been heard. This is evidenced by the fact a number of consensus items identified by the province, were never actually agreed to. We would suggest that the province prepare a position paper on the MGA which outlines the direction that the province is considering taking toward the development of legislation. All stakeholders can then provide thoughtful and considered input and research on this position paper and then legislation can be crafted in a considerate manner.

Once legislation is introduced, we would respectfully request a six month period to thoroughly review the draft MGA document to ensure that it is understandable, consistent, and does not introduce any unintended consequences to housing affordability and growth in Alberta. This review period would also allow for changes, amendments, and clarifications to the MGA.

Issue 5: Enforcement of the MGA

Should the current approach of relying on the courts to enforce compliance with the MGA be maintained, or should some other legislated mechanism be introduced?

Status Quo - The MGA provides a high degree of municipal autonomy and enforcement is at the local level, through the courts, or, in certain circumstances by the Minister.

Option 1 - Enhance the use of existing provincial enforcement mechanisms, such as municipal inspectors or assessment auditors, to deal with clarification and non-compliance to the MGA.

Option 2 - Enable the establishment of a provincial or local Municipal Ombudsman to deal with non-compliance to the MGA and allow for specialized oversight roles, such as an Assessment Commissioner and/or a Provincial Planning Officer.

Municipal Preference – Status Quo

Industry Preference – Option 1

CHBA – Alberta Comments

- For many years there has been a lack of enforcement on municipalities who have not followed the MGA. This issue had been brought forward with previous governments who did not take action.
- Enhancing provincial enforcement of the MGA is necessary to ensure that municipal processes are responsible, effective, accountable and transparent to provide clarity for all parties.
- From time-to-time municipalities have been known to introduce policies and bylaws that are beyond their legal authority. For example, in certain provinces, applicants have the ability to challenge the content of a development/servicing agreement if they feel it is not within the authority of the municipality having jurisdiction.
- It is important that Provincial and/or third party oversight be in place to ensure the Act is enforced as intended. Changes in municipal staff and Council are frequent, often drastically changing the relationship between local government, its residents and the business community. The MGA needs to provide policy that goes beyond this and provide stability for residents and businesses.
- An inspector at the Provincial level would be an effective means in ensuring enforcement of the MGA and requiring the necessary transparency and accountability of local government. A similar process has been employed in British Columbia. An enhanced enforcement process would also help decrease the considerable costs and delays associated with taking matters before the provincial courts.

How Does This Impact Albertans?

A lack of proper enforcement of the MGA reduces the accountability of local Councils. An inspector will ensure that local governments are properly applying the rules and policies of the MGA.

Issue 13: Participant Bias on Municipal Appeal Boards

What requirements, if any, should the Province place on municipal appeal boards through legislation to reduce bias or perception of bias?

Status Quo - Municipal councillors and public members can form part of any municipal appeal boards.

Option 1 - Municipal councillors would continue to sit on appeal boards. Require that the bylaws that establish the subdivision and development appeal board and the assessment review boards, the municipality must include a procedure by which the appeal board would address real and perceived participant bias of board members. When a participant bias exists, the board member would not be allowed to participate in the decision. All board members would be trained about participant bias.

Option 2 - Prohibit councillors from sitting on appeal boards and create a regional pool of members. Legislate a separation between policy, administrative, and quasi-judicial functions, and clarify that no person can take part in more than one of these functions at a time. Prohibit previously elected councillors from sitting on appeal boards for a length of time after their term has ended.

Option 3 - Municipal councillors would continue to sit on appeal boards. On appeals related to land dedication and points of law, allow appellants to choose to appeal at the municipal or provincial level.

Municipal Preference – Status Quo

Industry Preference – Option 2

CHBA – Alberta Comments

- This is identified as an area of consensus where consensus was never achieved.
- Councillors should be prohibited from sitting on decision-making bodies as it creates a conflict of interest with their role as councillor. Impartiality is critical to a fair and transparent appeal process. A councillor(s) cannot be considered impartial when they are considering an appeal of the very decision they were previously a part of making.
- It is unclear to us why anyone would want to put themselves in a position of bias or conflict of interest yet many councillors consistently do. It also has the potential to allow a minority of councillors to potentially overrule the direction given by a majority of councillors held at an open session of Council or public hearing.

How Does This Impact Albertans?

Albertans deserve an impartial and unbiased appeal process. An impartial process will make local governments accountable to correctly applying the policy documents they have enacted.

Issue 21: Additional Municipal Taxation and Levy Powers

Should municipalities be granted authority to levy new and broader types of taxes?

Status Quo - The current taxation powers are: property tax, business tax, special tax, well drilling equipment tax, business revitalization zone tax, local improvement tax, franchise fees, as well as fees and levies.

Option 1 - Allow for additional municipal taxation powers through binding public plebiscites for any new taxes as well as regional taxation powers.

Option 2 - Expand the use of special tax to include any municipal service where council can attribute the benefits derived from that service as benefitting a specific ratepayer group by a greater degree than by the rest of the municipality. Allow special tax bylaws to be in effect for three years at minimum. Expand the allowable timeframe beyond three years to impose a local improvement tax after a local improvement plan is prepared.

Option 3 - Transfer certain types of provincial taxation powers to municipalities and allow them to retain the revenues. Allow for additional municipal taxation powers that are applied at the discretion of the municipality.

Municipal Preference – Option 3

Industry Preference – Status Quo

CHBA – Alberta Comments

- We will not support new levies given their impact on housing affordability. Creating new levies will have considerable implications on the affordability of homes across the province. Additional levies will ultimately be paid for by the consumer (resident) – whether it is an individual who is purchasing a new home or paying their taxes. All changes to the MGA must be considered with this reality and the implications of housing affordability in mind.
- Any new taxes or levies should be applied fairly and equitably to everyone who benefits. If additional levies are created, they should only be applied to specific and known projects and the cost or charge must be a proportionate share based on everyone who benefits from it. Levies should only be used to assist in development of hard infrastructure costs required to service a neighbourhood. Regional infrastructure and soft services (police stations, recreation centres, libraries, etc.) should be funded by all property owners through the general tax system since everyone in the municipality benefits.

How Does This Impact Albertans?

The same homeowner who pays federal, provincial and municipal taxes currently will be responsible for paying these new taxes and levies. The impact of additional taxes needs to be considered against the adverse impact they would have on the provincial economy and quality of life of its residents.

Issue 24: Regional Funding Approaches

Should there be mandatory sharing of municipal tax revenues from non-residential development? If so, should redistribution of revenues be at the municipal, regional, or Provincial level?

Status Quo - Revenue sharing between municipalities is voluntary. Municipal Affairs informally encourages municipally-initiated regional agreements on various items through sharing of best practices, mediation support for local negotiations, and other tools.

Option 1 - Shared funding for regional service delivery is negotiated through mandatory Intermunicipal Development Plans or Growth Management Plans.

Option 2 - Legislate a linear and machinery and equipment property tax pooling formula that would allow revenues from new growth to be collected and distributed by the Province. Municipalities would be involved in the distribution methods.

Option 3 - Legislate a linear and machinery and equipment property tax pooling formula that would be collected and distributed by the Province to support municipal regional infrastructure projects, as approved by municipal regions. Municipalities would be involved in the distribution methods.

Municipal Preference – Option 1

Industry Preference – Option 1

CHBA – Alberta Comments

- We are in support of regional funding approaches for infrastructure and service delivery. It is important that mechanisms or policies be put in place that do not make businesses or residents susceptible to unrelated conflicts between neighboring municipalities.
- The province will need to monitor any of these agreements to ensure that the municipalities are provided fair and equitable decision making powers. If one or a few municipalities are provided with too much power it can adversely impact the viability of other municipalities. As an example, one reason housing has remained affordable in Edmonton is that there is competition throughout the region. Any agreement or policy that provides a single municipality within the region with too much control will allow that municipality to dictate where development occurs which ultimately erodes competition and housing affordability.

How Does This Impact Albertans?

Regional funding should benefit all Albertans if the proper mechanisms are put in place to ensure that no one municipality is provided with more powers than another.

Issue 25: Development Levies

What municipal purposes and infrastructure benefit new development including those types of infrastructure where the benefit is shared with existing development? What should the principles for determining amount of levies based on the concept of shared benefit between new and existing development?

Status Quo - Off-site levies can be used for sanitary sewer, storm sewer, roads, water and land in connection to these facilities. Redevelopment levies provide land for parks, land for school buildings, or land for recreation facilities. Off-site levies can only be collected once with respect to the land that is undergoing subdivision or development. Disputes around the calculation and use of offsite levies and redevelopment levies are dealt with through the courts.

Option 1 - Maintain scope of off-site and redevelopment levies. Continue to allow municipalities to charge off-site levies only once. Establish a dispute resolution process in the levy bylaw process. Enhance the provisions for over-sizing infrastructure to clarify transfer of cost and recovery of any over-expenditure for franchise fees/utility costs.

Option 2 - Allow municipalities the flexibility to use, charge, and collect off-site levies as they deem appropriate. Municipalities would be able to re-collect levies following significant redevelopment. Enable municipalities to establish their own dispute resolution process for development levies.

Option 3 - Empower municipalities to negotiate different financing arrangements, such as the establishment of Community Finance Districts.

Municipal Preference – Option 2

Industry Preference – Option 3

CHBA – Alberta Comments

- New or increased levies need to be balanced carefully with the impact they will have on housing affordability. These levies are ultimately paid for by homeowners and result in making housing less affordable for all while making it entirely unaffordable for many in lower economic brackets. Levies should focus on needs (core infrastructure). The impact of these fees can be exacerbated as interest rates increase back to historically average levels. This will become a major stumbling block in housing affordability.
- Considerable work on development levies has been completed as part of the MGA Symposium Working Group on infrastructure financing. Alternative methods of financing infrastructure such as Community Finance Districts, could be employed to construct and pay for facilities that are contemplated in the MGA.
- Levies should not be used for regional infrastructure or soft infrastructure such as schools, recreation centres, libraries, etc.

- There is also the issue of oversizing – that is a developer front-ending the costs of oversizing infrastructure with the expectation of recouping the cost from future developments who benefit from it. The current “endeavor-to-assist” provision fails to adequately ensure that a developer is actually repaid for over sizing. Should some form of “endeavor-to-assist” remain in place, it is vital that firm requirements regarding repayment be established as part of the amended MGA.
- Transparent reporting of all levies, fees and other money collected must be mandated under the Act. The MGA should require that levies, where practical, be based on a zonal approach to determining the cost of a levy.
- Levies should be charged for specific infrastructure and not placed into a pool for a multitude of items which serve differing catchment areas as this practise leads to a lack of transparency with regard to what the levy is paid for. Indeed, clear reporting of all revenues and expenditures should be emphasized under the MGA. As noted in Item 5, CHBA – Alberta would prefer that the province introduce an Inspector system to ensure that municipalities are establishing levies which are charged in a consistent manner which is transparent, accountable and provides for the efficient use of funds.
- An important element beyond housing affordability is that infrastructure / facilities created through new development do not just benefit the residents of that specific area. It provides new or enhanced infrastructure for new and existing places of employment, retail, additional property taxes and other core services that benefit all municipal residents. While the degree of benefit is largely on those who reside in the new communities, there is still a degree of benefit for all who reside in the municipality which needs to be considered as part of policy. British Columbia has policies that recognize this (referred to as assist factor) and requires municipalities to contribute a portion of the funds for new infrastructure.

How Does This Impact Albertans?

New or increased levies are paid for by new homeowners and financed through mortgages. Any incremental increase in the cost of a home will eliminate segments of the population from being able to afford a home.

Issue 35A: Farm Property – Assessment of Farm Land Intended for Development

When should farm land purchased for future development be assessed and taxed?

Status Quo - Farm land is assessed and taxed annually at its agricultural use value until the year in which it is converted to a non-farm use.

Option 1 - Apply a market-value-based levy to the entire property when farm land is converted to a non-farm use, triggered by owner-initiated rezoning.

Option 2 - Allow municipalities to set owner-initiated rezoning as the trigger for convert farmland to market value assessment, with consideration of how scale affects pace of development.

Option 3 - Revise the definitions of farming operations and agricultural land use to clarify when conversion to non-farm use occurs.

Municipal Preference – No area of consensus

Industry Preference – Status Quo

CHBA – Alberta Comments

- Land should be assessed and taxed based on its current use, not its potential future use. Under the current system this allows developers to be stewards for the land, preserving the agricultural use until a time it is ready to be developed. Taxation of farmland will result in the premature conversion of farmland to non-agricultural uses. Municipalities do not tax homes based on the potential future improvements a homeowner may make, the same should be the case for land.
- Farmland does not benefit from municipal services such as water and sewer systems so it makes little sense to tax them at rate that would indicate they do. In the same way, farmland does not receive internal road maintenance, such as street sweeping or snow removal, or garbage pickup, and it has a very minimal impact on all other municipal services including fire, police and ambulance services.
- Land owners are at the mercy of administration and council for planning approvals, and access to road and major servicing infrastructure may not be readily available. To increase taxes when approvals and services are not available is unfair.
- Prematurely taxing farm land will result in higher lot costs which would serve as yet another barrier to housing affordability.

How Does This Impact Albertans?

Taxing lands based on their potential future use will result in the premature loss of active farmland and increased lot purchase costs which are ultimately paid for by the homeowner.

Issue 35B: Farm Property – Assessment of Farm Land Converted for Development

How should farm land converted for development be assessed and taxed?

Status Quo - Farm land is assessed and taxed annually at its agricultural use value until the year in which it is converted to a non-farm use.

Option 1 - Implement a tax payback option which would be provided back to the municipality. A levy could be applied to previous year(s) taxes similar to what has been implemented in Manitoba.

Municipal Preference – No area of consensus

Industry Preference – Status Quo

CHBA – Alberta Comments

- Property should be taxed based on its current use, not ownership.
- This would put the municipality in a conflict of interest situation. Taxing on the future use of land (presumably because it is identified in some future plan like the MDP) is unfair because the municipality has not granted any approvals and does not currently provide the same extent of services. The amount of services would not exceed the amount of services provided to a single homeowner currently residing in that municipality.
- A tax payback or levy would lead to the premature conversion of farmland. If the land is being taxed at a rate related to its future use, it will lead to developers taking topsoil from the site, premature grading and removing vegetation. Requiring this tax payback would also make it difficult for smaller communities to grow. The cost of paying back taxes for a parcel of land could reduce the viability of development in small towns given the margins are generally tighter. A similar program was put in place in New Brunswick (FLIP – Farm Land Identification Program) and it has prevented a number of smaller communities from growing.

How Does This Impact Albertans?

Taxing lands based on their potential future use will result in the premature loss of active farmland and will limit the ability for smaller municipalities to grow due to the increased cost of land.

Issue 44A: Criteria Review for Non-Profit and Community Organization Property Tax Exemptions

How can the Province ensure that assessment and tax exemptions related to community/non-profit organizations are applied consistently and appropriately across the Province?

Status Quo - Some terms used to define which properties are entitled to receive an exemption are ambiguous, including “charitable”, “benevolent”, and “general public”. There are different opinions on the interpretation of COPTER, which has led to essentially identical properties receiving different exemption statuses depending on the municipality they are located in. A number of court cases have interpreted tax exemptions for non-profit organizations in such a way as to apply those exemptions to property used by for-profit entities.

Option 1 - Address the concerns over the Community Organization Property Tax Exemption Regulation (COPTER) in the regulatory review to be completed by the end of 2016.

Municipal Preference – Option 1

Industry Preference – Status Quo

CHBA – Alberta Comments

- Listed as a consensus item though this is not the case.
- Municipalities have previously tried to impose taxes on facilities and land owned by Residents Associations through COPTER. This essentially serves as ‘double-taxation’ given homes backing onto these facilities and in the immediate vicinity already pay higher taxes due to the benefit of the proximity of the facility. Recent changes to the Regulations were introduced to encourage the development of facilities which serve the community in which these facilities are located, thus allowing for the development of community based facilities which are economically sustainable. Instead of creating facilities which rely on voluntary contributions from community members, fund raising activities such as bingos or casinos or grants, Residents Associations are self-funded by residents of the community. In many instances, these facilities reduce the burden of municipalities to provide similar services / facilities.
- Both the Cities of Edmonton and Calgary have unsuccessfully attempted to challenge the interpretation of these regulations by the Municipal Government Board (MGB). Most recently, the City of Edmonton was denied Leave to Appeal the MGB ruling. This is a system which works well and benefits residents within the community that these facilities serve.

How Does This Impact Albertans?

Changing the regulation to not exempt Residents Associations from municipal taxes will, in effect, double charge residents on taxes for these facilities and will also discourage the development of economically sustainable community based facilities.

Issue 46: Decision-Making Timelines

How should the MGA address timelines for the review, decision and approval of subdivision and development permit applications and the appeal of subdivision or development permit decisions?

Status Quo - The MGA specifies timelines for issuing decisions and lodging appeals for subdivision and development applications.

Option 1 - Clarify timelines for decision-making processes of subdivision and development permit applications. Specify within the legislation the stage at which an application is deemed complete and the date from when a decision must be made.

Option 2 - Provide flexibility for municipalities to determine, by bylaw following a public hearing, reasonable timelines for the decision-making processes on subdivision and development applications, and recourse when timelines are not met.

Municipal Preference – Option 2

Industry Preference – Option 1

CHBA – Alberta Comments

- A developer should retain the ability to extend the timelines. There are cases where both parties are working in good faith and need to exceed timelines.
- Municipalities should not be able to extend circulation times simply because referral agencies have not responded. If the referral agency or department does not respond within the established timeframe, then they should be deemed to have no concerns. This should apply to all levels of planning including: Statutory Plan Amendments; Land Use Bylaw Amendments; subdivision applications; development agreements; engineering review; development permits; building permits.
- The definition of affected person and materially affected person under MGA (particularly for SDAB) needs clarity.
- SDAB decisions should be made in writing and include rationale.
- All timelines during the planning approval process must include accountability measures. There are no consequences to municipalities if timelines such as this are not met, but costly implications for applicants and, eventually, residents and business owners. Should the timelines not be met, the application should be deemed approved.
- An appeal mechanism should be available to address disputes.
- There is a need for additional clarity and efficiency with applications. Delays can result in lost construction seasons and significant holding costs. This does not simply apply to developers, this significantly impacts homeowners who may want to build a house or a

garage. Municipalities should be required to provide clear application requirements and guidelines that are consistently applied to all applicants.

How Does This Impact Albertans?

The lack of an adequate supply of readily available homes to satisfy a demand is the single biggest contributor to the cost of housing. Without clear and accountable timelines, all residents are susceptible to costly delays in the application process.

Issue 47D: Content of Planning Instruments

What matters should be addressed within planning instruments such as Growth Management Plans, Intermunicipal Development Plans (IDPs), and Municipal Development Plans (MDPs)?

Status Quo - The required and optional content of each planning instrument is outlined within the MGA. Growth Management Plans contents are set out within the regulation for the growth management board.

Option 1 - The regulation establishing the Growth Management Board identifies the required Growth Management Plan contents, but must also include planning, delivery, and funding for regional services. In addition to current requirements, IDPs include land use and density, as well as planning, funding, and delivery for regional services. Regional services include:

- emergency services;
- transportation and transit;
- infrastructure;
- recreation;
- social services; and
- economic development.

Where parties to the IDP agree that a service is not required, parties will have the ability to opt out.

Municipal Preference – No area of consensus

Industry Preference – Option 1

CHBA – Alberta Comments

- We are in support of the collaboration of adjacent municipalities as it relates to infrastructure and service delivery. In preparing legislation and the subsequent plans it is important that control and administration of the services follow a clear and fair process. Someone developing in municipality A should not be held up simply because municipality B does not want development occurring there. If the policies and requirements of the various plans are met, development should be able to proceed without interference and within a mandated timeline.
- Regional Partnerships should be made mandatory in areas surrounding Alberta's largest municipalities; however, no municipality should be able to veto another municipality's plans and municipalities must be able to determine their own destinies within the confines of a regional partnership.

How Does This Impact Albertans?

Collaboration between municipalities should help benefit all residents. It is important that mechanisms or policies be put in place that do not make businesses or residents susceptible to unrelated conflicts between neighboring municipalities.

Issue 50: Land Dedication

What types of reserve land should be dedicated during subdivision? How should the reserve land amounts be calculated?

Status Quo - Up to 10 per cent of the land can be dedicated as Municipal Reserve (MR), School Reserve (SR) or Municipal and School Reserve (MSR). Up to an additional 5 per cent may be dedicated as MR, SR or MSR if the development meets a certain density requirement. Calculation of MR, SR and MSR occurs after Environmental Reserve (ER) lands have been dedicated. There is no indication on whether MR, SR or MSR is calculated before or after roads and utilities are dedicated.

Option 1 - Link the percentage required for reserve land to density. Specify that reserve land calculations would be based on the land remaining after ER is dedicated, but before road and utility allocations have been made. Revise cash-in-lieu provisions of MR to create “no net loss.” Remove the restriction on deferring MR only to the “remaining parcel” or “other land of the same person” and allow reserve to be dedicated or deferred at the outset of development.

Option 2 - Existing provisions for the amount of land to be dedicated would be maintained. Municipalities will have greater flexibility regarding how the 10% dedication of municipal reserve related to regional/neighbourhood parks and school sites is applied. This flexibility allows the dedication of up to 5% of the net title area solely as MR, and/or as money-in-lieu of reserves. The balance of up to 5% could be dedicated where necessary for a regional park or school for land within a defined area (basin) in the form of a cash-in-lieu payment (contribution). This payment includes a proportionate share of all of the costs associated, including necessary site servicing costs, on a “no net loss” basis to the developer providing the land for the park/school site, based on the proportionate share of benefit. The municipality will collect the proportional contributions for the area contribution system. Funds collected from the benefiting developers will be paid to the developer bearing the costs of the park/school site. If the 5% of the net title area is not fully utilized through the area contribution system, the municipality may require the dedication of land for MR or money-in-place of reserves for the remainder of the 5% entitlement. Notwithstanding the 5%/5% split, an additional up to 5% of land for MR or money-in-place of reserves may be required provided the subdivision meets the legislated density criteria.

Municipal Preference – Option 2

Industry Preference – Option 2

CHBA – Alberta Comments

- CHBA – Alberta is in agreement with other stakeholders on the following allocation of reserves:
 - 5% dedicated solely as MR or cash-in-lieu; and
 - Up to 5% dedicated as either MR, SR or MSR. If the land is within a defined basin, a cash-in-lieu payment (levy) payment can be made for a proportionate share of the costs associated with the park / school intended to serve the basin. Municipalities

would serve as the 'banker' and be responsible for collecting funds from the benefiting developers and providing it to the responsible developer. Any outstanding amount would be dedicated as MR or cash-in-lieu.

- The amount required is reasonable, will provide necessary park space for new communities and provide for the allocation of school and special reserves as needed.
- As outlined for Issue 51 (Permitted Uses of Reserve Lands) it is important that dedicated land be used for how it is intended. Lands dedicated for parks and schools should be developed as such and not allocated for different uses in the future.

How Does This Impact Albertans?

The establishment of clear reserve allocations for specific uses will provide assurances to Albertans who invest in a home that lands planned for parks and schools will be developed as such while ensuring that all neighborhoods will have park space within close proximity.

Issue 51: Permitted Uses of Reserve Lands

What should be the scope of uses for reserve land?

Status Quo - There are several types of reserve land, each with specified uses and purposes. Inclusionary zoning for affordable housing is not identified as a use on reserve lands.

Option 1 - Allow municipalities to repurpose Municipal Reserve (MR), School Reserve (SR), and Municipal and School Reserve (MSR) to the broader Community Services Reserve (CSR), provided that legislated public consultation processes are followed. Facilitate stacking of complementary uses on reserve lands, provided that the primary use remains consistent with the reserve designation.

Option 2 - Expand the scope of Municipal Reserve or Municipal and School Reserve land to allow municipalities more flexibility in the use of reserve land similar to uses allowed on Community Services Reserve.

Option 3 - Establish reserve land principles that stipulate how reserve dedication must be related to use. Inclusionary zoning for affordable housing is not identified as a use on reserve lands.

Municipal Preference – Option 1

Industry Preference – Option 1

CHBA – Alberta Comments

- Utilization of dedicated lands should be restricted to the uses it was dedicated for. If land is dedicated for park space or a school, it should be used for this purpose and not be permitted for any other use.
- In recent years we have seen municipalities use lands previously dedicated for schools or park space transformed for other forms of unrelated development, much to the surprise of residents. When someone purchases a home there should be assurances on the land uses surrounding them.
- If municipalities need additional lands for other uses, it should be purchased and rezoned based on what is proposed.

How Does This Impact Albertans?

Without clear rules regulating the use of reserve lands, residents cannot be sure if the future park or school space dedicated to a municipality will ever be used for this purpose.

Issue 52A: Environmental Reserve (ER) Definition

How should Environmental Reserve (ER) be defined? Should the purpose of ER be expanded to include environmental conservation for the protection and conservation of environmentally significant areas, such as tree stands, or wildlife habitats, etc.?

Status Quo - The MGA identifies situations where municipalities may require ER land dedication, and states that ER consists of lands that are a swamp, gully, ravine, coulee, or natural drainage course, or unstable or subject to flooding, or the land adjacent to the bed and shore of a body of water and the purpose is to prevent pollution or provide public access to bed and shore. In practice, ER is typically used for land that is not suitable for development.

Option 1 - Expand the purpose of “ER” to include environmental conservation. Define “bed and shore” and “body of water.” Provide municipalities with broader authority to protect nature through the land development process.

Option 2 - Provide a clearer and more specific definition of “body of water” and how “bed and shore” is established through reference to the existing provisions of the Public Lands Act and Survey Act that provide a definition of “body of water” and defines how the “bed and shore” of a “body of water” is identified by land survey respectively. Clarify intent of ER. Cross-reference ALSA’s provisions for environmental conservation and stewardship.

Option 3 - Define and enforce ER as “unsuitable for development” and define “body of water”.

Municipal Preference – Option 1

Industry Preference – Option 3

CHBA – Alberta Comments

- Under the current policy municipalities are able to require land be designated as environmental reserve with little justification or scientific basis. This is also not applied consistently from municipality to municipality which means what is dedicated as environmental reserve in one municipality, may not in another.
- Designating, in many cases, large sections of land as environmental reserve, leads to the inefficient use of land, reduced density and fragmentation of development.
- The reduction of density also becomes an issue with compliance to regional plans and their minimum density requirements for this could prevent land from being developed even though the lands could be the next logical order for development.
- The dedication of lands for environmental reserve should be applied to lands that are unsuitable for development and should be defined as such. Significant environmental features such as streams, rivers and wetlands already fall into this category and are preserved as part of the application of provincial environmental law (i.e. bodies of water). Additional lands unsuitable for development are identified through environmental reports commissioned as part of any development project. Providing municipalities with the

flexibility to require environmental reserve on an ad-hoc basis leads to less sustainable communities.

- Should land be identified for conservation purposes, it should be identified as being required for the greater public good and be purchased rather than dedicated.
- A mechanism should be introduced in the MGA to allow for the dedication of Environmental Reserve land prior to the subdivision process to allow for the orderly development of land and to allow for an appeal process in a timely manner.

How Does This Impact Albertans?

The designation of unnecessary lands as environmental reserve leads to an inefficient use of land, fragmented development, unnecessary extensions to municipal infrastructure and higher housing costs through a reduction in overall density.

Issue 53: Subdivision Appeals

How should Provincial interest be determined? Who should be able to appeal and who should have the authority to hear subdivision appeals where there is a Provincial interest?

Status Quo - Local subdivision authorities indicate within their decision which appeal board has jurisdiction to hear a subdivision appeal. If there is a Provincial interest the subdivision authority indicates that the subdivision appeal lies with the Municipal Government Board (MGB), all other subdivision appeals lie with the Subdivision and Development Appeal Board.

Option 1 - Require that all subdivision appeals be filed with the MGB, which would determine whether or not there is a Provincial interest in the appeal. If the MGB determines there is no Provincial interest, the subdivision appeal would be referred to the local Subdivision and Development Appeal Board (SDAB) to hold a hearing; if there is a Provincial interest, the subdivision appeal would be heard by the MGB.

Option 2 - On appeals related to land dedication and points of law, allow appellants to choose to appeal at the municipal or Provincial level.

Option 3 - Enable the establishment of independent municipal quasi-judicial system. If the Province has an interest it would appeal the subdivision decision to the MGB.

Municipal Preference – Status Quo

Industry Preference – Option 2

CHBA – Alberta Comments

- The appeal system within the province needs to be evaluated and adjusted to provide for independent and transparent appeals. Under the current system the same Councillors who make a decision on a matter often then make a decision on the appeal. Based on them being previously being involved in the process, it is difficult to understand how they can remain impartial.
- The province should establish an independent body to hear appeals. This system has been applied in most other provinces and ensures that matters are considered based on their merit and Provincial law. We recommend the province fully assess potential models in developing an independent and efficient process to hear appeals. This could involve an expansion of powers to the Municipal Government Board or the establishment of a new appeal body.
- Should the province wish to keep the Subdivision and Appeal Board in place, it is necessary that residents and industry be given the opportunity to either appeal at the local level or at the provincial level. This is necessary in ensuring a fair, impartial and transparent process.

How Does This Impact Albertans?

An impartial appeal body will ensure that Albertans are provided with a fair and transparent process and will require Municipalities to be accountable to the application of provincial and local law.

Issue 59: Affordable Housing

Should municipalities be provided with any additional tools to support affordable housing requirements?

Status Quo - Legislation provides municipalities with limited powers to require developers to contribute to the supply of affordable housing, either through the provision of units or cash-in-lieu of units as condition of direct control rezoning applications.

Option 1 - Provide municipalities 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, subdivisions and development approval process; and the ability to mitigate the loss of existing affordable housing stock as a result of redevelopment and condominium conversion of rental units.

Municipal Preference –Option 1

Industry Preference – Status Quo

CHBA – Alberta Comments

- There is considerable confusion between affordable housing and social / subsidized housing:

Affordable Housing

- Affordable housing is a direct product of the housing market conditions within a specific municipality or region.
- If there is an adequate supply of homes and land for new development, housing will generally remain affordable.
- Where there is a limited supply of available homes and land for new development, housing prices will usually rise, often making it unaffordable for those with lower incomes.

Subsidized Housing

- Subsidized / social housing is when either the government or private sector provides assistance in either through grants or programs. Subsidized or social housing should be made available to those segments of society who are truly economically disadvantaged.
- Industry is doing their part by keeping prices down and providing a variety of housing options for most income levels. A significant percentage of new housing starts across the province are aimed at the lower part of the market. Developers market homes to a multitude of demographic segments, including first time home buyers, young families and seniors and are therefore motivated to keep housing affordable to a broad cross section of purchasers.

- Requiring subsidized housing through measures such as inclusionary zoning inflates housing costs for everyone else, making housing less affordable for even more people. This is simply a reallocation of costs, not affordable or subsidized housing.
- The solution for affordable housing is keeping the market price low. Market housing is in many ways affordable housing. This occurs when the Provincial regulatory regime works efficiently to foster a housing market with an ample supply of building lots and homes creates market conditions conducive to creative housing products to serve a variety of home buyers. Social / subsidized housing should be paid for by society as a whole.
- In theory, inclusionary zoning helps introduce affordable units into new communities at no additional cost to taxpayers. The often unrecognized effect of inclusionary zoning is that the required reduction on 'affordable' units is spread across all the other homes in the development thereby making the overall housing stock less affordable. While the one unit created through inclusionary zoning benefits one family, the increase in costs for the other homes in the development limits the overall affordability for seniors, first time home buyers and other lower income individuals.
- While inclusionary zoning has not been widely used in Canada, it has been implemented in many cities and states across America. In a 2008 study the impacts of inclusionary zoning on affordable housing in California were assessed and it was determined that:
 - Increased development and home construction costs created through these programs are paid by new home buyers within the same development thereby increasing the overall housing cost.
 - Housing prices in cities with inclusionary zoning rose 2-3% higher than cities without these policies.
- Housing prices are not static or specific to a neighbourhood. The broader market will eventually adjust based on the increased price of housing in new communities and make existing housing in a community or city-wide more expensive.
- The challenge with inclusionary zoning is that transfers the broader societal obligation of social / subsidized housing onto a small group of home owners. As a society we recognize it is not equitable or efficient to expect an automobile manufacturer to provide discounts on buses to make transit more affordable; society through the government provides subsidies to make it more affordable for those who need it. Programs should subsidize the person who needs it, not the house. While inclusionary zoning does not present the desired solution, there are alternatives worth additional assessment:
 - Direct forms of housing subsidies to those who need either through assistance in making down payments or month mortgage fees.
 - More market housing through increased supply and diversity. Municipalities that can provide a sufficient supply of land for new communities, improve / densify their housing stock in existing communities and provide housing of various types and densities will arguably have the greatest success in reducing the cost of a home.

- Provide additional support to the numerous developer and home builder initiatives focussed on affordable housing (Habitat for Humanity, Attainable Homes and Resolve Calgary).

How Does This Impact Albertans?

The implementation of inclusionary housing will increase housing costs in any community that implements it. This will not be specific to new communities but eventually be felt community-wide. While inclusionary zoning will provide affordable housing for a few, it will make housing less affordable for the majority. This will lead to fewer Albertans with lower incomes being able to afford a home.