

MGA Review Discussion Paper

Linear Property Assessment and Taxation

This technical document is part of a series of draft discussion papers created by Municipal Affairs staff and stakeholders to prepare for the Municipal Government Act Review. It does not reflect existing or potential Government of Alberta policy directions. This document is the result of a careful review of what is currently included in the Municipal Government Act (MGA) and regulations, definitions of terms and processes, changes requested by stakeholders over the last 18 years, some highlights from other jurisdictions, and identification of potential topics for discussion during the MGA Review. This information will be used to prepare consultation materials as the MGA Review proceeds.

These discussion papers have been reviewed and approved by the MGA Stakeholder Advisory Committee, comprised of representatives from major stakeholder organizations: Alberta Association of Municipal and Counties, Alberta Association of Urban Municipalities, Alberta Rural Municipal Administrators Association, Alberta Chambers of Commerce, City of Calgary, City of Edmonton, and Local Government Association of Alberta.

The Government of Alberta is asking all Albertans to directly contribute to the MGA Review during online consultation in late 2013 and consultation sessions throughout Alberta in early 2014. This technical document is not intended for gathering stakeholder feedback, but to generate thought and discussion to prepare for the upcoming consultation. Public engagement materials will be available in early 2014. To learn more about how you can join the discussion on how we can build better communities, please visit mqareview.alberta.ca/get-involved.

Preamble

The *Municipal Government Act (MGA)* provides the legislative framework to guide the operations of municipalities in Alberta. The current *MGA* empowers municipalities with the authority and flexibility to provide services in the best interests of the community. The *MGA* Review will proceed along three major themes: *governance and administration*; *assessment and taxation*; and *planning and development*.

This paper is one of 12 discussion papers exploring aspects related to the *assessment and taxation* theme. Property tax valuation systems should be designed to maximize equity among property taxpayers and visibility or openness, while minimizing administrative complexity and confusion¹. Alberta's property assessment and taxation framework must be considered with the following principles in mind:

- Clarity
- Fairness
- Efficiency
- Predictability
- Stability
- Transparency

This paper focuses on market value assessment and administration as outlined in the *MGA* and its attendant regulations. Below is a list of the 12 papers that relate to the *assessment and taxation* theme.

- Market Value Assessment and Administration
- Linear Property Assessment
- Machinery and Equipment Assessment
- Farm Property Assessment
- Railway Property Assessment
- Airport Property Assessment
- Supplementary and Progressive Assessment
- Equalized Assessment
- Taxation
- Exemptions and Other Special Tax Treatment
- Assessment Complaints and Appeals
- Municipal Revenue Sources

¹ International Association of Assessing Officers (IAAO). *Standard on Property Tax Policy*. Kansas City: IAAO, 2010.

Linear Property Assessment



The *MGA* sets out two methods, or standards, for the assessment of property in Alberta: the market value based standard (a methodology based on the market value of a property) and the regulated procedure based standard (a methodology that uses assessment rates and procedures as prescribed under regulation to calculate the assessed value of a property). The rates and procedures are developed on the basis of the property's use and/or production capability.

Linear property is one type of property assessed through the use of the regulated procedure based standard.² Linear property consists of gas and oil wells, pipelines, telecommunications and cable property, and electric power property (generation, transmission and distribution). Linear properties are complex in nature; some of these properties cross municipal boundaries and impact the revenues of several municipalities. As such, the assessment of linear property is carried out by the Province (Municipal Affairs) on behalf of municipalities. This also ensures consistency in the application of linear assessment practices and predictability of process.

The Energy Resource Conservation Board provides 80 percent of the assessment inventory data (primarily on wells and pipelines) that is required for the assessment of linear property in Alberta. The remaining 20 percent is self-reported by linear property owners.

This paper explores matters related to the current valuation procedure for linear properties; definitions associated with linear property; ownership of linear properties; the treatment of abandoned wells and pipelines for assessment purposes; and the treatment of linear properties in rural and farm settings for assessment purposes.

² Other regulated property assessment categories (i.e., machinery and equipment, farmland, and railway property assessment) are addressed in separate *MGA Review* discussion papers.

Discussion Points

Below are some discussion topics and questions identified through a review of requested amendments, cross jurisdictional research and issues raised by stakeholders.

1. Assessing Linear Property

1a) Regulated Procedure Based Model

Background

Linear property is assessed using a regulated procedure based model. This model is developed using rates and procedures that are prescribed by regulation and based on the property's use and/or production capability. It is applied to linear properties through a standardized process.

Industry stakeholders have suggested that this regulated process is not reflective of current and real time "market value" and does not accurately account for a property's depreciation. However, market value is difficult to estimate for linear property since the value of the business, which is not subject to assessment, is not easily separated from the value of the property's physical components which are subject to assessment.

Cross-jurisdictional Research

- All provinces in Canada use regulated assessment rates for linear properties.

Stakeholder and Legislative Amendment Requests

- Some industry stakeholders have requested an assessment process that is similar to a market value approach to assessment.
- Municipal stakeholders have not expressed any opinion in relation to this matter.
- Municipal associations assert that market value principles should be used in the cost approach to value linear properties.

1b) Time of First Assessment

Background

The *MGA* states that linear property cannot be assessed until the construction of the linear property is complete or it is "capable of being used." In other words, linear property is not assessed during its construction phase for those portions of the property that are complete. Conversely, most other types of property are assessed, and subject to taxation, over the course of their construction.

This clause in the *MGA* can create challenges as several large linear properties, such as pipelines and electric power generation, are under construction for multiple years. Several factors, such as successful pressure testing, come into play in determining when the property is complete or "capable of being used."

Cross-jurisdictional Research

- In B.C., property identical to linear (e.g. pipelines) is assessed from the start of construction. The assessor determines the percentage of the property that is complete as of October 31, and applies that percentage to the rate prescribed for the specific property type.

Stakeholder and Legislative Amendment Requests

- Municipalities have requested that the Province address this issue. From the municipal perspective, full tax revenue is not received from these properties. Municipalities have suggested that supplementary assessment be used for linear property³.
- Industry stakeholders are satisfied with the current practice. From industry's perspective, these properties should not be taxed before they are complete, as industry does not receive full revenue from these properties until they are complete.

2. Definitions

2a) Definition Overlaps

Background

In some respects, the current definition of linear property overlaps with the definitions of machinery and equipment, and buildings and structures, within the legislation that governs the assessment of property in Alberta. This can present some challenges, particularly considering that there are many distinctions in legislation and procedure when it comes to the assessment of "linear property", "machinery and equipment", "buildings and structures", "buildings", "structure", and "land".

This sometimes causes confusion in appropriately describing and assessing some types of properties. For example, a petroleum tank farm is likely to contain both linear property and machinery and equipment property – with distinct procedures/rates applying to each type of property. This separation of the overall property site into various smaller types of property for assessment purposes can be difficult for the property owner to understand, particularly if the site produces a single product. It may also result in challenges for the local assessor if he or she is not certain as to whether a particular component of a facility falls within the definition of linear property (which the ministry assesses), or machinery and equipment property (which the municipality assesses). It's also possible that the same type of tank farm might be assessed somewhat differently by another assessor in another municipality. Similar challenges can arise with electric power generation facilities, which contain both linear property and property known as buildings and structures.

³ Supplementary assessments on linear properties are discussed in more detail in the Supplementary and Progressive Assessment Discussion Paper.

Cross-jurisdictional Research

- In British Columbia, there are nine classes of property that clearly differentiate between property types. B.C. also has a major industry class that provides for the assessment of major industrial facilities as one property type.
- Ontario has 13 classes of property including industrial, large industrial, and pipelines. These classes categorize the properties into one property type (e.g., refineries and manufacturing facilities).

Stakeholder and Legislative Amendment Requests

- Municipal and industry stakeholders have requested that definitions be modified to provide for the assessment of linear and machinery and equipment properties within the same industrial facility as a single property.

2b) Definition Updates

Background

Current definitions for linear property were created in the 1980s and reviewed in the early 1990s with the drafting of the MGA. As time passes, industries develop and component labels and technology change. In order for the linear property assessor to properly value and apply the legislation, linear property definitions should be clear, relevant and up-to-date. Although industrial technologies are constantly evolving, linear property definitions have remained relatively static under the MGA.

Stakeholder and Legislative Amendment Requests

- Municipal associations and individual municipalities have requested that the Province update definitions to reflect current and emerging technologies used in linear properties (e.g. oil and gas wells do not currently have a definition in the MGA).

2c) Expanding Linear Property

Background

- Currently, linear property includes active oil and gas wells, pipelines, telecommunications systems and cable television property, and electric power properties (generation, transmission and distribution). Properties such as abandoned wells and pipelines (currently not assessed), railways and off-grid power co-generation facilities⁴ are similar to the existing types of linear property.

Stakeholder and Legislative Amendment Requests

- Some municipal stakeholders have suggested that other property types should be added to the linear category.
- Industry stakeholders have stated that this change would increase their taxable assessment base and are not in favour of expanding the properties included in the linear category.

⁴ Off-grid power co-generation facilities are properties within an industrial facility that produces electricity for the sole consumption by the facility.

3. Communication of Ownership

Background

Currently, there is no mechanism requiring a linear property owner to alert the provincial linear property assessor, or the municipality, of a change in ownership of the property. There is nothing similar to the “land title registry” with a unique life-time identification number for linear properties. This creates issues when there is an ownership transfer, especially during the months after linear assessment notices are sent out and before tax notices are distributed. The previous property owner receives the tax notice, and the municipality may experience a delay in receiving the property taxes in a timely manner (or sometimes not at all).

Stakeholder and Legislative Amendment Requests

- Municipal stakeholders have requested that a provision be added to the legislation that requires linear property owners to notify the Province and municipalities of a change in ownership of linear property.

4. Linear Property Exemptions

Background

Under the *MGA*, linear property is exempt from assessment when used in certain operations. These exemptions were introduced and intended to support the agricultural sector in Alberta. These exemptions include:

- linear property used for farming operations;
- linear property owned by gas cooperatives servicing communities with less than 500 residents; and
- linear property owned by Rural Electrification Associations (REAs), to the extent that the linear property is used for farming operations.

Stakeholder and Legislative Amendment Requests

- Municipal and stakeholders have requested the Province review the existing linear property assessment and tax exemptions for farming operations, rural gas cooperative and REAs. They believe the current policy behind the exemptions is out of date and require a periodic review.
- Industry and farming stakeholders maintain that these exemptions are necessary to sustain efficient utility service in rural, and often remote, areas of the province.

Discussion Questions



1. Is the current linear property assessment and taxation process fair and equitable for municipalities and property owners? Why or why not?
 - a. Is a regulated procedure based model a reasonable method to assess linear property? Why or why not?
 - b. What aspects of the regulated procedure based model could be improved? Why?
 - c. Are the current depreciation methodologies for linear properties still relevant? Why or why not?
2. Are there instances where existing linear property definitions in the *MGA* are unclear (e.g. machinery and equipment property overlap, electric power generation, new technologies)? If so, which definitions?
 - a. Should different property types within the same facility be assessed as a single property? Why or why not?
3. What provisions in the *MGA* are necessary to ensure linear property ownership and assessment information is up-to-date?
4. To what extent are linear property exemptions for farming operations, gas co-operatives and rural electrification associations appropriate?
 - a. What changes, if any, should be made to linear property exemptions?