

Municipal Government Act Review

What We Heard: A Summary of Consultation Input

Municipal Administrators Session
Held in Lethbridge on February 27, 2014

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Developed by KPMG for Alberta Municipal Affairs



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Introduction

Purpose

This document provides a summary of what was heard during a consultation session for the *Municipal Government Act* (MGA) review. The summary below includes the comments and opinions of the participants of the Municipal Administrators Session held in Lethbridge.

These contributions have not been reviewed or edited for accuracy. Comments recorded here reflect the opinions of individuals offered in person and recorded by session facilitators; they do not necessarily represent the opinion of the Government of Alberta.

The input summarized below will be considered by Alberta Municipal Affairs as part of the review of the legislation. Municipal Affairs would like to thank the participants of this session, as well as all Albertans participating in the review of the MGA. Any inquiries related to this summary or to the consultation process should be directed by email to the MGA Review Team at mga.review@gov.ab.ca.

The Municipal Government Act Review

The MGA is designed to help build strong, prosperous and sustainable communities throughout Alberta. Alberta Municipal Affairs is reviewing and refreshing the MGA to address evolving circumstances and priorities in Alberta's many communities, and to ensure the MGA continues to meet its objective. A successful MGA review process will continue to position Alberta as the leading Canadian jurisdiction in terms of municipal legislation, having incorporated sound thinking, input and research into a clear Act that meets the needs of the Province and municipalities. In order to achieve this vision, an inclusive and comprehensive engagement process was developed to ensure stakeholders across the province have opportunities to provide input to the review.

As part of the MGA review, regional consultations were held in eleven locations around the province to give Albertans an opportunity to provide input face-to-face. In each location, different types of sessions were held, including Technical Sessions, a Business and Industry Session, a Municipal Administrators Session, an Elected Officials Session, and a Public Open House.

These engagements were conducted in February 2014 to April 2014 in 11 locations throughout the province. Each location was held over 3 days in the following locations::

- Brooks
- Calgary
- Edmonton
- Edson
- Fort McMurray
- Grande Prairie
- Lethbridge
- Medicine Hat
- Peace River
- Red Deer
- Vermilion

Sessions were promoted via news releases, direct email invitations, social media, and by the Minister of Municipal Affairs at stakeholder conventions. Information on regional session locations, dates and registration were on the MGA Review website.

Input to the MGA Review has also been provided through other channels, including the MGA Review website (mgareview.alberta.ca), the MGA Review Consultation Workbook, and official submissions.

Session Overview

Session	Municipal Administrators Session
Location	Lethbridge Lodge, Lethbridge
Date	February 27, 2014
Number of Participants	18

- This session was open to current municipal staff. Participants were asked to register in advance in order to receive background materials before the session.

Regional Consultation Methodology

How sessions were organized

Regional consultations were structured around one or more of the three themes of the MGA Review:

- Governance and Administration
- Assessment and Taxation
- Planning and Development

Participants were provided with agendas in advance, which identified a list of potential topics for discussion. These topics were taken directly from the MGA Review Consultation Workbook. Several of the topics for discussion appear under more than one of the three themes of the review because they are relevant to more than one theme (e.g. public participation). The agenda is attached as Appendix A.

At this session, participants provided input through facilitated table discussions. The goal of the facilitated conversations was to give the opportunity to all participants to discuss the issues that mattered most to them. Given the large size and scope of the MGA, participants at each table were asked to focus their discussion on those topics that they felt were most important to provide input on, using the list provided in advance. In addition, this session included time for “open discussion” during which participants could provide any additional input that they felt was important to the review. Table facilitators and note takers included staff from Municipal Affairs, KPMG and ADR Education.

Capturing input and reporting

Input from session participants was captured on flipcharts by facilitators during the discussion. It was explained to participants that:

- Comments were being recorded on flipcharts so that they could be captured and considered by Municipal Affairs as part of the review of the MGA.
- Comments would not be attributed to individuals or organizations.
- Other avenues were also available to provide written input to the review.

The summary below documents the input heard from participants and recorded on flipcharts. These comments have been transcribed and organized according to the list of topics for discussion; they have not been screened for accuracy and do not reflect consensus of participants. As a result, comments and opinions listed may be contradictory. Comments that apply to issues outside of the scope of the review (e.g., suggested changes to other legislation) have been removed.

It is important to emphasize that this summary reflects the input heard from participants, and does not necessarily reflect the position of the Government of Alberta.

How the Summary of Responses is Organized

Input from session participants is organized according to the three themes for the review:

- *Governance and Administration*
- *Assessment and Taxation*
- *Planning and Development*

Within these themes, comments are organized according to the applicable topics for discussion, using the list provided to participants in advance. In some sessions, not all themes may have been discussed.

Summary of Input

General Comments about the MGA

The following input was received and documented related to the MGA in general.

Comments from participants included that:

- Overall, the MGA has driven successful economic development in Alberta.
- The layout and organization of the MGA needs to be reviewed, as it is confusing.
- Some areas of the MGA are in conflict with one another. This conflict should be resolved.
- Municipalities should not have to rely on Municipal Affairs to give interpretations of the MGA.
- Amendments to the MGA need to consider previous court decisions to ensure the legislation is relevant and applicable.

Governance and Administration

The following input was received and documented related to governance and administration.

Municipal Powers, Structures, Annexations and Other Changes

Municipal powers

Comments from participants included that:

- Municipalities should be recognized as a viable level of government.
- The natural person powers outlined in the current MGA need to be maintained.
- Municipal powers need to be accompanied by appropriate funding from the Province. If providing more funding is not possible, municipalities need increased powers to raise revenue.
- The MGA needs to clearly define municipal and provincial jurisdiction. Currently, the MGA gives municipalities powers to do local planning, but the *Alberta Land Stewardship Act* can supersede this power.
- The MGA needs to include more mechanisms for bylaw enforcement, since enforcement can be quite costly for municipalities.

Fundamental changes and municipal restructuring

Comments from participants included that:

- The Province needs to provide resources for municipalities undergoing major transformations, like annexation or dissolution.
- The Province should be more supportive of consensual amalgamation. Currently, the amalgamation process involves too many requirements and roadblocks in situations when municipalities reach consensus.
- The MGA should not require contiguous boundaries for amalgamation to occur.
- Some small municipalities struggle with viability. A criteria or threshold needs to be defined in the MGA to assess and monitor the viability of small communities.
- The MGA should remove the requirement for reviews of viability before restructuring can occur.
- The process to assess viability should be more streamlined, as the current process is too complicated. Similarly, the process to determine whether dissolution should occur needs to be streamlined.

Municipal Governance and Administration

Municipal governance

Comments from participants included that:

- Councillor training should be mandatory and standardized across the province. Training should be delivered before and after municipal elections.
- The MGA has no enforcement capability to deal with “rogue” councillors. This means that there is no way to achieve councillor accountability between elections.
- The MGA should more clearly define governance and the role of council.

Municipal administration

Comments from participants included that:

- Small municipalities find it difficult to adequately fund and administer services for their citizens.
 - There should be a grant program for small municipalities to help provide administration services for their citizens.
- The MGA needs to clearly define the role of the chief administrative officer.
- The MGA should require a minimum level of competency for chief administrative officers.
- New councils should be required to maintain their current chief administrative officers for a designated amount of time after being elected to account for the “learning curve” for new councils.
 - Currently, there is a “throwaway” attitude toward chief administrative officers in Alberta, where they are seen to be replaceable.
 - More steps are needed in the dismissal process of chief administrative officers to slow it down.
- Personal liability of the chief administrative officer makes them vulnerable to political whims.
 - The MGA should legislate minimum protections for chief administrative officers in employment agreements.

Municipal Finances

Financial administration

Comments from participants included that:

- Administratively, the financial system seems to be working well under the MGA.
- Provisions regarding investment income should remain the same in the MGA.
- There should be mandatory reporting required under the MGA of the costs required to construct tangible capital assets so that the value is known.
- The MGA needs to outline more ways to help collect linear property taxes. For example, there should be a central registry for linear property across the province.
 - There should be a tax recovery process for linear property.

Regional funding approaches

Comments from participants included that:

- The MGA needs to allow municipalities to make voluntary regional funding agreements.

Municipal revenue sources

Comments from participants included that:

- The MGA should ensure municipalities have consistent, reliable, long-term funding.
 - The removal of funding from the Municipal Sustainability Initiative has caused hardship for many municipalities.
- It was disappointing when the Province removed bridge-funding grants for municipalities.
- The MGA needs to outline a way for municipalities to qualify for and apply a tourism tax.
 - A tourism tax should be considered as a way for summer villages or tourist-heavy communities to help recover costs and to account for wear and tear on infrastructure.

Municipal Accountability, Liability, and Risk Management

Compliance and accountability

Comments from participants included that:

- The MGA's enabling provisions around compliance and accountability are working well.
- The MGA should require an independent review of municipal performance issues across the province.

Liability and risk management

Comments from participants included that:

- Municipalities should be able to compel rail line companies to clean up rail messes on municipal property.

Provincial powers

Comments from participants included that:

- The provincial-municipal relationship should be more collaborative and engaged, instead of the current "parent-child" relationship.
- Municipal resource development powers should be re-instated.
 - Municipalities should be consulted on major provincial decisions, like urban well drilling.
 - Municipal councils need more power between the stop-order stage and the court stage for resource development projects.

- There are jurisdictional overlaps for licensing medical marijuana grow-operations that need to be resolved.

Municipal Services and Delivery

Service provisions

Comments from participants included that:

- The Province shouldn't download services for municipalities to deliver without compensating municipalities for the cost of delivering those services.
- The MGA needs to recognize that large municipalities have unique infrastructure needs.

Public Participation and Municipal Relations

Public participation

Comments from participants included that:

- The circumstances under which councils can hold *in camera* sessions should be broadened to include more options.
- The provincial model where discussions and decisions can be made away from the public for the greater good should be adopted at the municipal level.

Assessment and Taxation

The following input was received and documented related to assessment and taxation.

Taxation and Municipal Finances

Taxation

Comments from participants included that:

- The MGA should give municipalities the power to determine how taxes are distributed across all assessment classes.
 - Municipalities should be able to appoint sub-classes in their taxation structure.
- There should be a split mill rate for non-residential properties. For example, wind energy should be taxed at a different rate than oil and gas. Similarly, intensive farms should be treated differently than family farms.
- The landholder should be taxed for mobile homes and not the homeowner, since it is difficult to collect tax from mobile homeowners.
- The provisions and administrative processes related to tax on the sale of property need to be cleaned up in the MGA, including title transfers, timing of payment for tax arrears and tax sales.
 - Tax sales should go back to the selling property.
 - The MGA should not require the reserve bid for tax sales to be published.

Exemptions from Assessment and Taxation

Exemptions and other special tax treatment

Comments from participants included that:

- There should be a cap on the allowable amount of exempted land and exempted property tax.
- The *Community Organization Property Tax Exemption Regulation* is difficult to interpret. The Province needs to clarify the intent of this regulation.
 - Municipalities lose revenue when non-profit organizations buy large lots of land that are then exempted from taxation.
 - The wording for exemption eligibility leaves too much room for interpretation, which makes it difficult for municipalities to administer these exemptions.
- Inconsistent exemptions for seniors' housing need to be cleaned up in the MGA. For example, before 2003, these housing projects were exempted, but now they are not.
- Partnerships with Alberta Health Services make assessing and taxing seniors' housing a minefield for municipalities.

- Wind power properties shouldn't be exempt from education property taxes.

Market Value, Equalized and Supplementary Assessment

Market value assessment and administration

Comments from participants included that:

- All properties should be assessed at market value to understand the financial impacts of exemptions.
- Regulated property should be assessed based on the cost of construction, with normal appreciatory depreciation that reflects market value principles.
- Assessing mobile homes should be based on lot ownership.
- The MGA should include mandatory registration for mobile homes, so caveats can be tracked and enforced.
- The MGA should make mobile home policies similar to landlord and renter tax responsibilities.

Equalized assessment

Comments from participants included that:

- The Province should collect education property taxes. It is not fair for municipalities to have to backstop education property taxes when the collection rate is less than 100 per cent.
- The public, who don't understand the difference between municipal property tax, education property tax and seniors housing tax, sees municipalities as "the bad guys."
 - The Province should be responsible for collecting provincial taxes.
 - Municipalities should not be responsible for collecting any tax not directly related to municipal operations.

Industrial and Agricultural Property Assessment

Linear property assessment

Comments from participants included that:

- Municipalities should assess linear property the same way across the province.
- The linear property assessment manual needs to be updated to reflect modern technology.
- Land owners of wind power sites should be responsible for property tax.

Machinery and equipment property assessment

Comments from participants included that:

- The amount of the tax being charged for the well drilling equipment tax is currently too low and has not scaled with new technology.
- Machinery and equipment tax is an important source of revenue for rural municipalities.

Farm property assessment

Comments from participants included that:

- Rural assessment policies are currently based on the cost of a bungalow in Edmonton in the 1970s. These assessment policies need to be updated.
- The farm residence exemption has outlived its usefulness. This exemption has become very costly for municipalities to administer.
- It would be daunting for municipalities to administer market value assessments on land that is cultivated and irrigated versus land that is not.
 - Property owners would go broke if different tax rates were set for irrigated and non-irrigated land.
- There needs to be a more fair and equitable way for intensive farming operations to contribute to the tax base.

Assessment Administration

Assessment administration

Comments from participants included that:

- There should be an assessment commissioner for the Province.
- The Province should alert municipalities when additions or deletions to assessment policy are made.
 - In some instances, the Province has information that would be useful for municipal assessment, but chooses not to share it.
- There should be mandatory reporting required under the MGA for costs of infrastructure, site improvements, shutdown cost and fencing.

Public Participation and Assessment Appeals

Assessment complaints and appeals

Comments from participants included that:

- The timeline should be changed to 30 days for local assessment review board and composite assessment review board appeals. This would hold property owners accountable for their appeal application.
- It is frustrating when municipalities go to Municipal Affairs and receive dissenting opinions on their appeals.
- Having one level of bodies for appeals worked very well, as in the case of appeals under Bill 23 (*2009 Municipal Government Amendment Act*) when the new assessment review boards were created.

Municipal Government Board

Comments from participants included that:

- The Municipal Government Board should be setting province-wide precedents.
- At certain thresholds, composite assessment review board decisions should go to the Municipal Government Board.

Planning and Development

The following input was received and documented related to planning and development.

Fees and Levies

Fees and levies

Comments from participants included that:

- The MGA's wording relating to offsite levies is too vague.
- The community aggregate levy should be reviewed.

Subdivision and Development Authorities and Processes

Planning authorities

Comments from participants included that:

- The language in Section 618-2(b) (Non-application of Part 17) of the MGA about land vested in the town sounds as though municipal districts do not have jurisdiction to permit the use of crown lands. This section is an area that should be clarified.
 - If municipalities do not have jurisdiction to issue a development permit, conditions should be established for provincial approval of development that compensate municipalities for impacts on municipal infrastructure.
 - The definition of a "designated area" of Crown land needs to be clarified.
- Section 640 (Land Use Bylaw) of the MGA conflicts with other sections in the MGA.
- The MGA should work to advance professional planners and compel planners to be registered.
 - There should be a registered and recognized professional association for planners.
 - Registered planners should be given the power to review statutory and non-statutory plans in the MGA, similar to assessors.
 - Statutory plans should be signed off by a registered planner, as is the case in Saskatchewan. The MGA should require plans to be stamped and registered by a professional planner.
 - Non-registered planners should not be given the responsibility to advise councils on municipal plans. The contributions of non-registered planners should be subject to the approval of registered planners.
- Requirements for planning components, such as overland drainage and traffic, should be consistent with development applications.
- Municipalities should be better protected when builders and owners don't follow the rules set out through planning and code permits.

- Municipal planning commissions should be able to evolve to become a quasi-judicial appeal board under Section 197 (Public Presence at Meetings) of the MGA.
- The roles and processes associated with subdivision and development appeal boards and municipal planning commissions need to be clarified in the MGA.

Administrative decision-making processes

Comments from participants included that:

- The MGA needs to be very clear about what a complete development application includes.
- Development applications should only be completed when payment is received. This would allow municipalities to choose whether or not to take payment based on the contents of the application.
- It is difficult for municipalities to plan when the Province surprises them with resource development.
- It is not appropriate for municipalities to have authority over urban drilling, but there should be some compensation if the Province allows oil and gas drilling in a municipality. At the very least, municipality input regarding resource development should be valued.
- Municipalities lose investments when the Province allows resource development to take place at the same time that residential development is underway.
- The Natural Resources Conservation Board has weak enforcement powers. They should be given more powers to enforce rules about conservation, or the MGA should give municipalities power to enforce these rules.

Regional Approaches

Municipal relationships and dispute resolution

Comments from participants included that:

- Municipalities should demonstrate a stronger will to work together.
- Collaboration tools that involve dispute resolution and relationship development should be voluntary.
 - The Province can facilitate collaboration sessions, but every municipality should be able to choose to participate.
- The Province should establish a regional collaboration framework.
- The MGA should outline when the courts are an appropriate venue for disputes, and when alternative dispute resolution processes should be utilized.

Appendix A: Session Agenda

MGA Review: Municipal Administrators Session

Agenda Item	Timing
1. Welcome and introductions	1:00-1:10
2. Potential topics for discussion: Governance and Administration <u>Subject 1: Municipal Powers, Structures, Annexations and Other Changes</u> <ul style="list-style-type: none"> • Municipal powers • Municipal structures • Fundamental changes and municipal restructuring <u>Subject 2: Municipal Governance and Administration</u> <ul style="list-style-type: none"> • Municipal governance • Municipal administration <u>Subject 3: Municipal Finances</u> <ul style="list-style-type: none"> • Financial administration • Regional funding approaches • Municipal revenue sources • Fees and levies <u>Subject 4: Municipal Accountability, Liability, and Risk Management</u> <ul style="list-style-type: none"> • Compliance and accountability • Liability and risk management • Provincial powers <u>Subject 5: Municipal Services and Delivery</u> <ul style="list-style-type: none"> • Service provisions • Regional services commissions • Municipally controlled corporations <u>Subject 6: Public Participation and Municipal Relations</u> <ul style="list-style-type: none"> • Municipal relationships and dispute resolution • Public participation • Municipal Government Board Assessment and Taxation <u>Subject 1: Taxation and Municipal Finances</u> <ul style="list-style-type: none"> • Taxation • Municipal revenue sources • Fees and levies <u>Subject 2: Exemptions from Assessment and Taxation</u> <ul style="list-style-type: none"> • Exemptions and other special tax treatment 	1:10-1:20

Agenda Item	Timing
<p>Assessment and Taxation Continued</p> <p><u>Subject 3: Market Value Equalized and Supplementary Assessment</u></p> <ul style="list-style-type: none"> • Market value assessment and administration • Equalized assessment • Progressive and supplementary assessment <p><u>Subject 4: Industrial and Agricultural Property Assessment</u></p> <ul style="list-style-type: none"> • Linear property assessment • Machinery and equipment property assessment • Transportation properties • Farm property assessment <p><u>Subject 5: Assessment Administration</u></p> <ul style="list-style-type: none"> • Assessment administration <p><u>Subject 6: Public Participation and Assessment Appeals</u></p> <ul style="list-style-type: none"> • Public participation • Assessment complaints and appeals • Municipal Government Board <p>Planning and Development</p> <p><u>Subject 1: Fees and Levies</u></p> <ul style="list-style-type: none"> • Fees and levies <p><u>Subject 2: Land Management and Planning Tools</u></p> <ul style="list-style-type: none"> • Statutory plans and land use bylaws <p><u>Subject 3: Subdivision and Development Authorities and Processes</u></p> <ul style="list-style-type: none"> • Planning authorities • Administrative decision-making processes <p><u>Subject 4: Land Dedication and Use of Reserves</u></p> <ul style="list-style-type: none"> • Land dedication (reserves) <p><u>Subject 5: Regional Approaches</u></p> <ul style="list-style-type: none"> • Municipal relationships and dispute resolution • Managing growth and development • Regional funding approaches <p><u>Subject 6: Public Participation and Planning Appeals</u></p> <ul style="list-style-type: none"> • Municipal Government Board • Public participation • Planning and inter-municipal appeals 	
<p>3. Change tables (if needed)</p>	<p>1:20-1:25</p>

Agenda Item	Timing										
<p>4. Table facilitation</p> <ul style="list-style-type: none"> ▪ Two topics will be prioritized for discussion for each block <table border="1" data-bbox="310 470 1157 821"> <tr> <td data-bbox="310 470 618 537">Block 1: 1:25-2:05</td> <td data-bbox="618 470 1157 537">Governance and Administration Topics</td> </tr> <tr> <td colspan="2" data-bbox="310 537 1157 611">Break (5 mins)</td> </tr> <tr> <td data-bbox="310 611 618 678">Block 2: 2:10-2:50</td> <td data-bbox="618 611 1157 678">Assessment and Taxation Topics</td> </tr> <tr> <td colspan="2" data-bbox="310 678 1157 751">Break (5 mins)</td> </tr> <tr> <td data-bbox="310 751 618 821">Block 3: 2:55-3:35</td> <td data-bbox="618 751 1157 821">Planning and Development Topics</td> </tr> </table> <ul style="list-style-type: none"> ▪ Discussion will focus on what is working well, desired changes, and potential impacts of changes to the legislation 	Block 1: 1:25-2:05	Governance and Administration Topics	Break (5 mins)		Block 2: 2:10-2:50	Assessment and Taxation Topics	Break (5 mins)		Block 3: 2:55-3:35	Planning and Development Topics	1:25-3:35
Block 1: 1:25-2:05	Governance and Administration Topics										
Break (5 mins)											
Block 2: 2:10-2:50	Assessment and Taxation Topics										
Break (5 mins)											
Block 3: 2:55-3:35	Planning and Development Topics										
<p>5. Open discussion</p> <ul style="list-style-type: none"> ▪ Are there any other relevant topics participants want to address? 	3:35-3:55										
<p>6. Wrap-up</p>	3:55-4:00										