Changes to Municipal Government Act Introduced via Two Bills


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December 2019 has already been a notable period for municipal law in Alberta, as it saw the passing of not one, but two bills amending the *Municipal Government Act* (the "*MGA*").

On November 18, 2019, the Government of Alberta introduced Bill 25, the *Red Tape Reduction Implementation Act, 2019*. While this Bill amends several Alberta statutes, over 50 pages of the 88-page Bill is dedicated to *MGA* amendments. Third reading of Bill 25 was passed on November 27, 2019, and royal assent was granted on December 5, 2019 – *MGA* amendments come into force on January 1, 2020 (with a few very minor exceptions).

Later on the same day that Bill 25 passed third reading, the Government also introduced Bill 29, the *Municipal Government (Machinery and Equipment Tax Incentives) Amendment Act, 2019*. Bill 29 focuses on giving municipalities the authority to establish further tax exemptions and tax deferrals not originally specified in Bill 7 (the *Municipal Government (Property Tax Incentives) Amendment Act, 2019*) which came into force earlier this year. Bill 29 passed its third reading on December 3, 2019, and received royal assent on the same day as Bill 25 – December 5, 2019. It is now in force.

Bill 25 – *the Red Tape Reduction Implementation Act, 2019*

Bill 25 introduces a wide variety of changes to the *MGA*, most of which come into force on January 1, 2020. While we cannot provide an exhaustive review of Bill 25 and all its effects, we do note the following amendments to be particularly notable for municipalities:

- Meeting Minutes - Sections 197(6) and 208(1) of the *MGA*: These sections stipulate certain requirements for the minutes of a council meeting. Section 208(1) previously required the chief administrative office to record the minutes of each council meeting in English, "without note or comment." Section 197(6) previously required that the minutes must record the names of other persons allowed to attend a closed meeting and the reasons for allowing them to attend. Bill 25 changes both: the requirement to record minutes "without note or comment" is being removed, as is the requirement to include the names or justification for attendance of persons present at a closed meeting.

- Designated Officer Requirements for ARB and SDAB Clerks – Sections 453, 456, 627.1 of the *MGA*: Previously, these sections required that the clerk of an Assessment Review Board or a Subdivision and Development Appeal Board must be a designated officer. Following Bill 25, this will no longer be a requirement. One notable effect of this amendment relates to salary disclosures of municipal representatives. Section 217(3) of the *MGA* requires municipalities to disclose the salaries of *designated officers* – accordingly, the salaries of clerks who are not designated officers need not be disclosed under section 217(3).

- Changes to Assessment/Tax Roll – Section 467 of the *MGA*: This section gives assessment review boards the power to change an assessment roll or a tax roll. Bill 25 further refines the meaning of this power, by explaining that, "for greater certainty", the power includes the ability to increase or decrease an assessed value. This is in line with the Supreme Court of Canada's decision in *Edmonton (City) v. Edmonton East (Capilano) Shopping Centres Ltd.*, 2016 SCC 47, where the Supreme Court upheld the Edmonton Assessment Review Board's determination that it had the authority to increase an assessment as well as decrease it.

- Electronic Notices – Section 608.1 of the *MGA*: This is a new provision added as an accompaniment to the existing section 608 of the *MGA*, the current form of which was enacted as part of the *Modernized Municipal Government Act* in 2016. Section 608 is a general provision making it possible for documents to be sent by electronic means, provided the recipient has consented to receive them electronically and has provided an email address. The new section 608.1 expands on this by granting municipalities the authority to pass bylaws that establish a process for sending certain notices (such as assessment notices and tax notices) electronically. Section 608.1 is consistent with the consent requirement of section 608 in that electronic notice is only valid if the recipient "opts in" under such a bylaw to receive notices electronically.

- Intermunicipal Development Plans – Section 631 of the *MGA*: This section amends requirements for Intermunicipal Development Plans ("IDPs"), which deal with intermunicipal land use and development. Before 2016, section 631 made IDPs purely optional, but this changed after the *Modernized Municipal Government Act* was passed – this *Act* required municipalities with common boundaries, that are not members of a growth region, to enter into IDPs with one another unless exempted by the Minister. Once Bill 25 takes effect on January 1, 2020, IDPs will no longer be strictly mandatory for these municipalities – they are exempted from the requirement to enter into an IDP as long as they agree with one another that they do not require one. However, this agreement not to enter into an IDP may be revoked via written notice by any one of the municipalities at any time.

    - Another modification by Bill 25: if an IDP is required but the municipalities cannot agree on one, mandatory arbitration no longer applies. Instead, if agreement cannot be reached by April 1, 2020, the municipalities must immediately notify the Minister, who will refer the matter to the Municipal Government Board ("MGB") for recommendations. After receiving the MGB's recommendations, the Minister may order the municipalities to establish an IDP, and if they do not comply, the Minister may itself, by order, establish an IDP for the municipalities.

- Intermunicipal Collaboration Frameworks – Part 17.2 of the *MGA*: This Part of the *MGA* was added as part of the *Modernized Municipal Government Act* in 2016, and created the concept of an Intermunicipal Collaboration Framework ("ICF") for municipalities with common borders. ICFs are designed to address the sharing of services on an intermunicipal basis. Originally, municipalities with common boundaries were required to create an ICF (unless specifically exempted by the Minister), even if they were already members of the same growth management board. Following Bill 25, the general requirement for bordering municipalities to create an ICF is still in place, but bordering municipalities that are members of the same growth management board are exempted from this requirement. Such municipalities can still enter into an ICF for matters not covered by a growth plan or servicing plan if they wish, but it is not mandatory for them to do so. Bill 25 also removes the detailed requirements in section 708.29 respecting what an ICF must include, and inserts some details and requirements respecting the dispute resolution processes that may arise from an ICF (which were previously left for future regulations).

Generally, these changes appear to be intended to streamline municipal processes. If, in light of Bill 25, municipalities choose to rework their existing policies and bylaws, or wish to change their approaches to IDPs and ICFs, they will need to review these amendments carefully, and in light of other portions of the *MGA*, to ensure that any changes they make are in compliance with the legislative requirements.

Bill 29 – the *Municipal Government (Machinery and Equipment Tax Incentives) Amendment Act, 2019*

Bill 29 cannot be discussed without reference to Bill 7, the *Municipal Government (Property Tax Incentives) Amendment Act*, *2019* which came into force on June 28, 2019. Bill 7 added a new provision, section 364.2, to the *MGA*, which allows municipalities to pass a bylaw respecting tax exemptions and tax deferrals for non-residential properties, for the purpose of encouraging the development or revitalization of these properties for the general benefit of the municipality.

Section 364.2 of the *MGA* originally focused solely on allowing exemptions and deferrals for "non-residential property" (e.g. commercial or industrial buildings, linear property). This is where Bill 29 introduces a change. Bill 29 amends section 364.2 to remove language limiting the scope to non-residential property, and to add language enabling the inclusion of the machinery and equipment class of property.

The result of Bill 29 is that section 364.2 now allows municipalities to create these tax exemptions and tax deferrals for machinery and equipment, as well as non-residential property. This is particularly significant from a value standpoint, given that for many assessments, machinery and equipment property comprises the vast majority of the assessed value.

Brownlee LLP recently published an article discussing section 364.2 in more detail. While this article was published prior to the introduction of Bill 29, the insights about section 364.2 highlighted in this article are just as applicable, regardless of which type of property is discussed. We recommend referring to this article for a more in-depth discussion of the considerations a municipality should take into account if it wishes to consider enacting a bylaw pursuant to section 364.2.

Questions?

Should you have any questions with respect to this bulletin, or if you would like more detailed information on these amendments made to the *MGA*, please contact the following members of the Brownlee LLP Municipal Team:


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