

Local Governments & First Nations

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Overview

- Forms of tenure
- Implications of tenure categories
- Duty to consult?
- Entitlement claims and liability
- Servicing agreements and issues



Forms of Tenure

- Reserve lands
- Treaty lands
- Fee simple lands
- Aboriginal title lands



Implications of Tenure

- Reserve lands – limited ability to transfer rights or grant security
- Treaty lands – may transfer fee simple, right of escheat with the First Nation, may grant security
- Fee simple lands – full set of transfer and security granting rights
- Aboriginal title lands – the unknown

Consultation with First Nations

- Crown obligations
- Status of local governments
 - Agency?
 - Delegated legislative authority
 - Provincial approvals



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Statutory Consultation

- Official community plans
 - Discretionary
 - Must be exercised by council/board unless properly delegated
 - Evidence required

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Provincial approvals

- Regional district or other bylaws
 - Scope of consultation requirement
- Crown grants, leases, licenses, permits, approvals



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New direction?

- Delegated provincial authority
- Case law
- Difficulties with current legislation
 - No remedial options
 - Limited discretion
 - Property entitlement determination



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Protocols and agreements

- Cooperative approaches
- Limiting unnecessary referrals
- Relationship building
- Reciprocity
- Coordination of land use objectives

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New Relationship

- Implications for local governments
- Participation and roles
- Cooperative decision making
- Government-to-government

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Potential claims

- Public lands
- Timing of Crown grant
- Expropriation
 - Pacific Spirit Park
- Regulatory authority



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Service Agreements

- Valuation basis
 - Percentage of property tax
 - Differential land values
 - Nature of tenure
 - Nature of development

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Land vs. Residents

- Capital burden
 - Infrastructure
 - Facilities
- Determining basis of service
- Voting rights

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Pricing Issues



- Fees for services
 - Differential fees
- DCC equivalents
- Tracking increases/decreases
- Percentage of property value tax

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On-site Infrastructure

- Construction, maintenance obligations
- Standards
- Access for use
- Inspection
- compliance

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Collection

- Limited tools
- Security
- Interest and penalties
- Discontinuing services
 - Notice
 - implications

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Cooperative Services

- Benefits exchange
- Reciprocity options
- Management contracts
- Community building
- Moving forward



Alta