

2007 Bill 26

Third Session, 26th Legislature, 56 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 26

MUNICIPAL GOVERNMENT AMENDMENT ACT, 2007

THE MINISTER OF MUNICIPAL AFFAIRS AND HOUSING

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 26

2007

MUNICIPAL GOVERNMENT AMENDMENT ACT, 2007

(Assented to _____, 2007)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends RSA 2000 cM-26

1 The *Municipal Government Act* is amended by this Act.

2 Section 322 is amended by renumbering it as section 322(1)
and by adding the following after subsection (1):

(2) Where the Minister considers it advisable to do so, the
Minister may by order establish guidelines respecting any
matter for which the Minister may make a regulation under
subsection (1).

(3) A guideline established under subsection (2) is a regulation
for the purposes of this Act, but is exempted from the
application of the *Regulations Act*.

(4) The Minister must

- (a) publish in The Alberta Gazette a notice of any guideline
established under subsection (2) and information about
where copies of the guideline may be obtained or are
available to the public;
- (b) ensure that any guideline established under subsection
(2) is published in a form and manner that the Minister
considers appropriate.

Explanatory Notes

1 Amends chapter M-26 of the Revised Statutes of Alberta 2000.

2 Section 322 presently reads:

322 The Minister may make regulations

- (a) respecting qualifications to be met by persons authorized to carry out the duties and responsibilities of an assessor under this Act;*
- (b) defining “farming operations”, “farm building” and “machinery and equipment”;*
- (c) respecting the extent to which farm buildings and machinery and equipment may be assessed under section 298;*
- (d) establishing valuation standards for property;*
- (e) respecting procedures for preparing assessments;*
- (e.1) respecting the manner in which an assessor must inform an owner or occupier of any property of the purpose for which information is being collected under sections 294 and 295;*

(5) Subsection (4) applies only to guidelines established under subsection (2) on or after July 1, 2007.

3 The following is added after section 322:

Validation of Minister's Guidelines

322.1(1) In this section,

- (a) "Minister's Guidelines" means
 - (i) the following guidelines referred to in the *Matters Relating to Assessment and Taxation Regulation* (AR 220/2004):
 - (A) Alberta Assessment Quality Minister's Guidelines;
 - (B) Alberta Farm Land Assessment Minister's Guidelines;
 - (C) Alberta Linear Property Assessment Minister's Guidelines;
 - (D) Alberta Machinery and Equipment Assessment Minister's Guidelines;
 - (E) Alberta Railway Assessment Minister's Guidelines,
 - (ii) any previous versions of the guidelines named in subclause (i) that are referred to in the previous regulations, and

- (e.2) respecting assessment rolls and assessment notices including, without limitation, regulations*
 - (i) respecting the information to be shown on an assessment roll and on an assessment notice;*
 - (ii) providing for the method of determining the assessed person for the purposes of section 304(1);*
 - (iii) respecting the sending of assessment notices;*
- (f) respecting the allowance of depreciation on machinery and equipment;*
- (g) prescribing standards to be met by assessors in the preparation of assessments;*
- (h) respecting equalized assessments;*
- (h.1) respecting the audit of any matters relating to assessments;*
 - (i) respecting any other matter considered necessary to carry out the intent of this Act.*

3 Validation of Minister's Guidelines.

- (iii) the 2005 Construction Cost Reporting Guide established by the Minister and any previous versions of the Construction Cost Reporting Guide established by the Minister,

and includes any manuals, guides and handbooks referred to or incorporated into any of the guidelines or guides referred to in subclauses (i) to (iii);

- (b) “previous regulations” means

- (i) the *Matters Relating to Assessment and Taxation Regulation* (AR 289/99), and

- (ii) the *Standards of Assessment Regulation* (AR 365/94).

(2) The Minister’s Guidelines are declared valid as of the dates on which they were established, and no assessment prepared pursuant to the Minister’s Guidelines shall be challenged on the basis of the validity of the Minister’s Guidelines

- (a) in any existing or future proceeding under this or any other Act, or

- (b) in any existing or future action, matter or proceeding before a court.

(3) The Minister’s Guidelines are deemed to be guidelines established under section 322(2).

4 Section 534 is repealed and the following is substituted:

Public works affecting land

534(1) In this section, “injurious affection” means, in respect of land, the permanent reduction in the appraised value of land as a result of the existence, but not the construction, erection or use, of a public work or structure for which the municipality would be liable if the existence of the public work or structure were not under the authority of an enactment.

(2) Within one year after the construction or erection of a public work or structure is completed, as signified by the construction completion certificate, the municipality must

4 Section 534 presently reads:

534(1) A person having an interest in land that is adjacent to land on which a municipality has constructed or erected a public work or structure is entitled to compensation from the municipality for loss of or the permanent lessening of use of that person's land caused by the public work or structure.

(2) As soon as possible after the construction or erection of the public work or structure is completed, the municipality must publish a notice in a newspaper circulated in the municipality that

(a) identifies the public work or structure,

deliver or mail to every owner of land that abuts land on which the public work or structure is situated, and place in a newspaper circulating in the municipality, a notice that

- (a) identifies the public work or structure,
- (b) gives the date of completion, and
- (c) states that claims for compensation under this section must be received within 60 days after the notice is published in the newspaper.

(3) Subject to subsection (4), an owner of land that abuts land on which a public work or structure is situated is entitled to compensation from the municipality for injurious affection to the owner's land.

(4) An owner of land described in subsection (3) is entitled to compensation under this section only if the owner files with the municipality a claim within 60 days after notice of the completion of the public work or structure is published in the newspaper.

(5) A claim must state the amount claimed and the particulars of the claim to prove the claim.

(6) The value of any advantage to a claimant's land derived from the existence of the public work or structure must be set off against the amount otherwise payable as compensation for injurious affection.

(7) No compensation is payable for injurious affection caused by

- (a) the existence of boulevards or dividers on a road for the purpose of channelling traffic, or
- (b) the restriction of traffic to one direction only on any road.

(8) No action or claim for injurious affection may be made except under this section.

(9) If the claimant and the municipality are not able to agree on the amount of compensation for injurious affection, the

- (b) gives the date of completion, and*
- (c) states that claims for compensation under this section must be received within 60 days after the notice is published.*
- (3) A person is entitled to compensation under this section only if the person files with the municipality a claim within 60 days after notice of the completion of the public work or structure has been published in the newspaper.*
- (4) The claim must state the amount claimed and the particulars of the claim.*
- (5) The amount payable as compensation under this section may not exceed the amount of the difference between*
 - (a) the appraised value of the claimant's land prior to the construction or erection of the public work or structure, and*
 - (b) the appraised value of the claimant's land after the construction or erection of the public work or structure,**together with an amount of not more than 10% of the amount of the difference.*
- (6) If the municipality and the claimant are not able to agree on the amount of compensation, the amount of the compensation must be determined by the Land Compensation Board.*
- (7) No compensation is payable for the loss of or the permanent lessening of use of land caused by*
 - (a) the construction of boulevards or placement of dividers down the centre of a road for the purpose of channelling traffic, or*
 - (b) the restriction of traffic to one direction only on any road.*
- (8) No action or claim based on the loss of or a permanent lessening of use of land because of the construction or erection of a public work or structure by a municipality may be made except under this section.*

claimant and the municipality may agree to have the amount determined by binding arbitration under the *Arbitration Act*.

(10) If the claimant and the municipality do not agree to have the amount of compensation for injurious affection determined by binding arbitration, the amount of compensation for injurious affection must be determined by the Land Compensation Board.

(11) Subject to the regulations made under subsection (15), the Land Compensation Board may follow the practices and procedures used under the *Expropriation Act*.

(12) Except in exceptional circumstances, the Land Compensation Board may not award legal costs on a solicitor-client basis in respect of a proceeding under this section.

(13) An appeal lies to the Court of Appeal from any determination or order of the Land Compensation Board under this section.

(14) Section 37 of the *Expropriation Act* applies to an appeal under subsection (13).

(15) The Minister may make regulations

- (a) respecting the practice and procedure of a proceeding before the Land Compensation Board under this section;
- (b) subject to subsection (12), respecting costs that may be awarded by the Land Compensation Board in respect of a proceeding under this section.

(16) This section applies only in respect of public works and structures for which a construction completion certificate is issued after this section comes into force.

5 In the following provisions, “and Transportation” is added after “Infrastructure” wherever it occurs:

section 19;
section 20;

5 Correcting references to the Minister of Infrastructure and Transportation.

section 22(3);
section 24;
section 27(3);
section 524(2).

6 The *Highways Development and Protection Act* is amended by repealing section 69(6).

7 The *Minister's Guidelines Regulation (AR 246/2006)* is repealed.

8 Section 2 is deemed to have come into force on January 1, 1995.

6 Consequential to section 5.

7 Repeal of regulation.

8 Coming into force.

