

## BACKGROUND

### BILL 36 - LIMITED RIGHTS TO PARTICIPATE AND APPEAL

Effective regional planning involves a good mix of “top-down” direction from government and “bottom-up” input from the public. Unfortunately, Bill 36, the *Alberta Land Stewardship Act* (ALSA), is solely a “top-down” process with all power residing in Cabinet.

It’s left to Cabinet to decide whether or not to appoint Regional Advisory Councils (RACs) to assist with developing each regional land use plan. RACs are supposed to consist of members representing the range of perspectives in the region or the “bottom up” perspective on regional plans. Under Bill 36, it is possible for Cabinet to make or amend a regional plan without even appointing a RAC and Cabinet may disregard RAC advice without providing written reasons why the advice was not followed. There is also no commitment in Bill 36 to ensuring each RAC includes an equal representation from economic, environmental and social perspectives.

More troubling is that Bill 36 has limited avenues for Albertans to challenge decisions that may be inconsistent with the regional land use plan. The Bill proposes to use new and existing appeal mechanisms to do this. In many cases, this means that appeals will be restricted due to the narrow “directly affected” test for standing that is used by the Energy Resources Conservation Board and other decision-makers. Further, Bill 36 has effectively shut the door on Albertans’ ability to challenge decisions by “judicial review.” Under the Bill, all judicial review applications will be channeled through a government representative who will determine whether or not the matter may be brought to the courts.

These concerns can be fixed if the following amendments are made to Bill 36:

- RACs must be appointed for each land use region and each RAC must include equal representation from economic, environmental and social perspectives;
- the government must provide written reasons for decisions not to follow advice from the RAC;
- the rules for standing must be expanded to ensure access to appeal mechanisms; and
- the right to judicially review the planning process must be given back to Albertans.

These are crucial checks and balances needed to ensure that planning is not solely a top-down process that is unresponsive to local needs and perspectives. While government leadership on planning is important, it does not override the need for meaningful public input on planning decisions.

**About the ELC:** The ELC’s vision is a clean, healthy and diverse environment protected through informed citizen participation and sound law and policy, effectively applied. Its mission is to ensure that laws, policies and legal processes protect the environment.

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