

# Environmental Law Centre Presentation to The Standing Policy Committee on Agriculture, Environment and Rural Affairs on Municipal Taxation Treatment of Rural Lands Not Used in Agricultural Operations

## ***Introduction***

The Environmental Law Centre ("ELC" or "Centre") is a registered charity incorporated under the *Societies Act* in 1982. For all of its nearly 20 years Centre staff have been providing Albertans with an objective source of information on environmental law and policy. As well, for nearly two decades Centre staff have striven to realize the ELC's vision that laws and legal processes work to protect the environment. It is with this vision in mind that we come before the Standing Policy Committee. We are here because Alberta's municipal taxation laws under the *Municipal Government Act* currently work to harm Alberta's precious natural environment, not to protect it; they are not neutral with respect to it. The current rules penalize landowners who choose not to farm rural parcels of land by making them pay higher property taxes. This leads inevitably to needless destruction of natural features including habitat loss. We hope that through our presentations you will see that there is little, if any, value in maintaining the current municipal tax rules and only benefit in amending them.

## ***The history behind the present tax laws***

Prior to January 1, 1995, under the Alberta *Municipal Taxation Act* and regulations, rural lands that were left unfarmed to serve conservation purposes, or lands that simply were not used at all, were to be assessed for their agricultural use, or productive value.<sup>1</sup> By contrast, non-farmland parcels were to be assessed at "fair actual value" and taxed in a non-farm category such as residential or industrial. On January 1, 1995 the property taxation provisions of the *Municipal Government Act*<sup>2</sup> repealed and replaced the *Municipal Taxation Act*. The *Standards of Assessment Regulation*<sup>3</sup> under the later Act directs the assessor to assess property that is "used for farming operations" at agricultural use value, and all other land at market value.<sup>4</sup> Unlike the repealed legislation, there is no exception for conservation lands or lands not put to any use. Accordingly, if rural land is not actively used for farming, our law requires a market value assessment and taxation in a non-farm category.

---

<sup>1</sup> *Municipal Taxation Act*, R.S.A. 1980, c. M-31, R & S 1994, c. M-26.1, eff. Jan. 1, 1995 and the *Assessments Standards Regulation*, Alta. Reg. 394/75.

<sup>2</sup> *Municipal Government Act*, S.A. 1994, c. M-26.1.

<sup>3</sup> *Ibid.*, s.292(2). *Standards of Assessment Regulation*, Alta. Reg. 365/94.

<sup>4</sup> *Standards of Assessment Regulation*, Alta. Reg. 365/94, s.2(1).

### ***Effect of the legislation***

This change from the earlier legislation can make a considerable difference to taxpayers who own rural lands that are not actively farmed. To illustrate, a Government discussion paper notes that a certain parcel of treed land in Wetaskiwin at market value would be taxed at \$2000, but at agricultural use value, the same parcel would be taxed at only \$50.<sup>5</sup> Numerous similar examples arise owing to recent municipal assessments based on market value instead of agricultural use value.<sup>6</sup> Upset landowners have contacted the Environmental Law Centre regarding these notices. They cannot understand why they are being penalized for choosing not to develop their land when they just want to support ecological values. Some have said that they cannot afford the higher taxes and that they will have to farm them or otherwise develop their lands.

### ***Legislative changes will only benefit, not hurt***

We advocate changes in the *Municipal Government Act* so that rural conservation lands are taxed no higher than the same level as the lowest taxed land use alternative (agriculture.). Here are ten reasons why we believe that such legislative changes will not hurt, but only benefit Albertans and their governments:

1. ***LAW CHANGE WOULD MERELY BE RESTORING AN EARLIER LEGISLATIVE REGIME, AND NOT MAKING A SIGNIFICANT CHANGE:*** As mentioned earlier, a change would merely restore the pre-1995 municipal taxation rules. It could be effected merely by deeming rural conservation lands to be considered used in agricultural operations for the purposes of the legislation.
2. ***LAW CHANGE DOES NOT MEAN LOSS OF MUNICIPAL REVENUE:*** Until this year most lands serving conservation purposes have been assessed as land used for farming and taxed as farm land. Accordingly, there currently is no tax revenue loss to municipalities by virtue of the 1995 change in law.
3. ***LAW CHANGE WOULD REMEDY CURRENT CONFLICT WITH MUNICIPAL POLICIES:*** Many Alberta municipalities have identified important habitat and environmentally sensitive areas in their boundaries and have plans, bylaws or policies that encourage and promote conservation of these areas. Current municipal taxation laws require municipalities to in effect penalize landowners who carry out municipal conservation policies! A change in the *Municipal Government Act* to require assessment and taxation of conservation lands no higher than the lowest taxed alternative (land being actively farmed) would

---

<sup>5</sup> MLA Farm Assessment Review Committee, *Discussion Paper on Farm Property Assessment* (1998) at 9.

<sup>6</sup> For example, last fall Strathcona County mailed out notices to potentially affected landowners advising them of the amount their property taxes would rise unless they carry out agricultural operations on their lands. This County is in a particularly awkward position since it encourages landowners to maintain lands for habitat yet the provincial law requires it to charge more taxes if landowners do so!

remedy the awkward position that municipalities are in and would help them carry out their conservation policies.

4. ***LAW CHANGE WOULD AVOID UNNECESSARY DISSENSION OF FARMERS AND OTHER RURAL LANDOWNERS:*** Farmers and other rural landowners do not like to be told what to do with their land by their government unless there is a truly legitimate public purpose. The current tax rules as much as say “farm every one of your taxable parcels, or else your municipality will raise your taxes”. There is no legitimate public purpose behind such a rule. Indeed there is no Alberta policy that every inch of Alberta rural lands should be actively farmed. No doubt, any such policy would be rightly denounced by an array of stakeholders, including farmers.
5. ***LAW CHANGE WOULD AVOID UNNECESSARY LITIGATION:*** The current taxation rules do not just apply to rural landowners who do not farm their land because they want to maintain conservation and other ecological values. The rules equally apply to farmers who, for whatever reason, chose not to farm a taxable parcel of land for a taxation year. For example, if a farmer leaves a quarter section (a taxable parcel) in fallow for an entire taxation year, or simply does not farm a quarter of bush, such parcels are not used for agricultural purposes. Our laws require that they be assessed at market value and taxed in a non-farm category. We would not be surprised if the Government would be taken to court if notwithstanding the law an assessor treated such parcels as farmland for tax purposes because a farmer in a farm community owned them.
6. ***LAW CHANGE WOULD AVOID INCONSISTENT APPLICATION AND ASSESSMENT APPEALS:*** Most likely the current rules will be applied more stringently in some municipalities than in others. What might qualify as a farm operation in one municipality will not qualify in another. Besides the obvious inequities resulting, we have little doubt that there will be numerous appeals of assessments on the basis that rural lands were not actively farmed, and accordingly could not be assessed at production values.
7. ***LAW CHANGE WOULD AVOID BAD MARKS FOR REGRESSIVE CONSERVATION POLICIES AND BE GROUNDS FOR BETTER MARKS:*** Like it or not, Alberta, along with the rest of Canada, is judged on what it is doing to protect natural biodiversity values. The current laws pose disincentives to protect such values and should lower an evaluation for the Province. However, a change in law, at least from our perspective, should be grounds for better marks.
8. ***LAWS CHANGE WOULD SHOW CONSISTENCY AND NOT DISCREPANCY WITH PROVINCIAL POLICIES:*** Alberta has many policies that are aimed at showing commitment to protecting priceless natural values. These include Special Places 2000, new commitments to protect endangered species and numerous initiatives of the Department of Environment, especially Fisheries and Wildlife Management Division, and Department of Agriculture, Food and Rural Development, especially Public Lands. A change in law would aid consistency

between such conservation programs and Provincial treatment of private landowners who conserve.

9. ***LAW CHANGE WOULD MAKE ALBERTA'S TREATMENT OF CONSERVATION LANDS CONSISTENT WITH MANY OTHER JURISDICTIONS:*** Most of the U.S. states offer some kind of property tax relief for those who maintain or restore habitat lands. Such relief typically involves specific tax incentives to protect natural values. Ontario legislation also has developed positive incentives. We are not asking for positive incentives. We only ask that the Alberta law not penalize landowners for maintaining natural values. This would make Alberta laws consistent with the other prairie provinces.
10. ***LAW CHANGE WOULD PREVENT UNNECESSARY DEVELOPMENT OF MARGINAL FARMLAND AND AID PROTECTION OF ECOLOGICAL VALUES ON PRIVATE LAND:*** The reason why many rural Alberta parcels are in a natural state and are not farmed is because they are marginal lands. Although marginal for farming purposes these lands often serve critical ecological values. A change in law would recognize these values and avoid senseless development of marginal farmland.

On behalf of the Environmental Law Centre I thank the Committee for giving us opportunity to make this presentation. Should any of you require any further information on any of the points made, or should you wish to discuss these important issues further, please contact me.

Arlene Kwasniak  
Executive Director  
Environmental Law Centre