

## Treaty Related ALC Act Amendments; New Bylaw Adjudication Process Launched

**B**ill 27, the Agricultural Land Commission (ALC) Amendment Act was introduced in the Legislature on April 26, 2004. The intent is to provide First Nations that have ratified Agreements in Principle (AIPs) with the federal and provincial governments (currently four), with similar rights and obligations as local governments under this Act. First Nations will be the owners of and have jurisdiction over their "Treaty Settlement Lands" once the final treaty comes into effect. The existing AIPs provide that First Nations Treaty Settlement Lands are subject to Agricultural Land Reserve (ALR) designations.

While the proposal is that all sections in the ALC Act will apply to First Nations governments post-treaty, only the provisions concerning application to exclude land from the ALR may be used by the First Nation between AIP and Final (treaty) Agreement.

The amendments to the Act allow a First Nation with an approved AIP to apply to the ALC (prior to finalizing a treaty) to exclude *proposed* Treaty Settlement Land from the ALR, as an owner and as a government with jurisdiction. This means that the application would not need to be submitted to the local government (if they were like any other owner they would need to, but since they are also the anticipated government with jurisdiction, they do not). It also means no public hearing would be required, (unless required by special order under section 40).

If the ALC allows the exclusion of proposed Treaty Settlement Land within the ALR, it would not take effect until the Final (treaty) Agreement is in force and until it has been authorized by a law of the First Nation government. The First Nation will have no other jurisdiction or rights with respect to the proposed Treaty Settlement Lands other than to apply to the Land Commission. Post-treaty, a First Nation would be able to apply for ALR exclusions as a government or as an owner (since it is both); the former process requires that they hold a public hearing, the latter process does not (again unless required by the ALC under section 40).

Section 879 of the *Local Government Act* requires all local governments that develop, repeal or amend an Official Community Plan to consult with parties it considers will be affected (in addition to the public hearing requirement), and these parties specifically include First Nations. Based on existing UBCM policy, UBCM will likely be looking for the ALC regulations associated with this Act to require the same things of First Nations governments as are required of local governments, in relation to public process and consultation with adjacent local governments.

The UBCM Executive will be considering Bill 27 amendments at their upcoming meeting on May 7 and the UBCM office will keep members informed of further UBCM action on this issue.

## Bylaw Dispute System

The Attorney General on April 26, 2004 announced the launch of a new bylaw enforcement system on the north shore. The new adjudication process will allow the three municipalities on the north shore (City of North Vancouver, District of North Vancouver, and District of West Vancouver) to deal with bylaw disputes at the local level. Initially the adjudication will be limited to parking violations and is seen as a six month pilot project to ensure that the new legislative and regulatory framework will work effectively before it is made available to other communities.

The Ministry of Attorney General has selected a roster organization with mediation experience to manage the adjudication process on the north shore. The selection was based on detailed provincial criteria designed to ensure a fair and impartial hearing process and the costs of using this adjudication process was set by the province in accordance with Treasury Board guidelines - \$350 for a full and \$175 for a half day. The province has passed a regulation under the Local Government Bylaw Notice Enforcement Act authorizing the three north shore communities to establish the new bylaw adjudication process.

The three north shore communities have developed an agreement outlining how the costs of the new process will be shared. Under the agreement the City of North Vancouver has agreed to administer the process and the hearings will be held at North Vancouver City Hall in the Council Chambers.

Each of the municipalities have amended their bylaws to authorize the implementation of the new bylaw adjudication process and Council has passed a resolution outlining who the authorized screening officers will be and what authority they will have. A number of administrative measures have been implemented - new tickets have been designed to accommodate the new process; changes have been made to the computer system for the electronic ticketing system used in these communities to implement the new process; bylaw and

administrative staff have been trained to deal with the public; and information about the new system has been communicated to the public.

Under the new system a member of the public who has received a parking ticket will have a number of choices. The person can choose to pay the ticket within a fixed time frame set by the municipality and receive a discount for early payment. If the person chooses to dispute their parking ticket they can do so by contacting the municipality where a screening officer will discuss the ticket and the circumstances related to it with them. If the person is unhappy with the decision of the screening officer the individual can fill out a written request to appeal the ticket to an adjudicator. The person will have the choice of appearing in front of an adjudicator to present the appeal; providing a written appeal to the adjudicator or presenting the appeal to the adjudicator over the telephone.

The municipality administering the adjudication process will batch the requests for appeal and establish a hearing date. The adjudicator will then make a decision based on the information provided by the bylaw officer and the person as to whether or not a bylaw infraction did or did not occur. If a contravention has occurred, the full penalty will be applied and the person will pay a \$25 adjudication fee to offset the cost of the process. If no bylaw violation has occurred, no fine or adjudication fee will be applied.

A Best Practices Guide is being developed that will include a model bylaw, community implementation agreement, draft communication plan, and an outline of the general training required by staff to implement the new adjudication process. An implementation process is being developed with the Ministry of Attorney General so that other communities will be able to apply to participate in the new adjudication process. The intent is that all of this information will be available to local government on the internet.