

# Alberta Development Officers Association



## Municipal Government Act Amendments affecting

### Part 17

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September 28, 2018

# Topics

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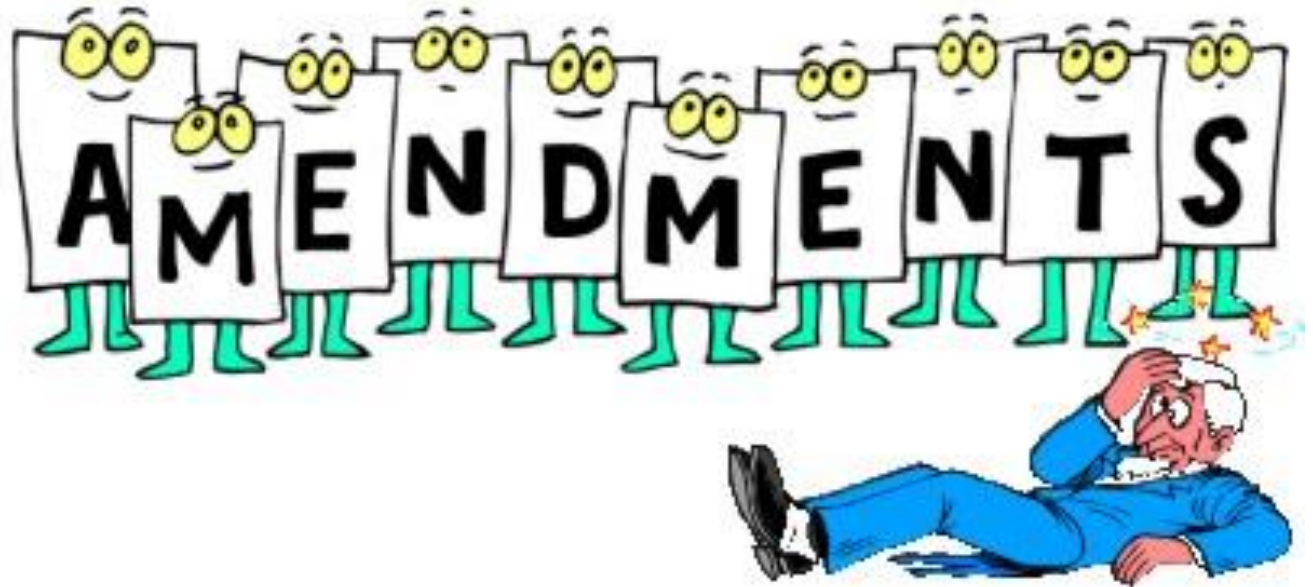
- History of Legislative Amendments
- Overview of Changes to the MGA
- Overview of Changes to Regulations

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*Timeline*

# HISTORY OF LEGISLATIVE AMENDMENTS



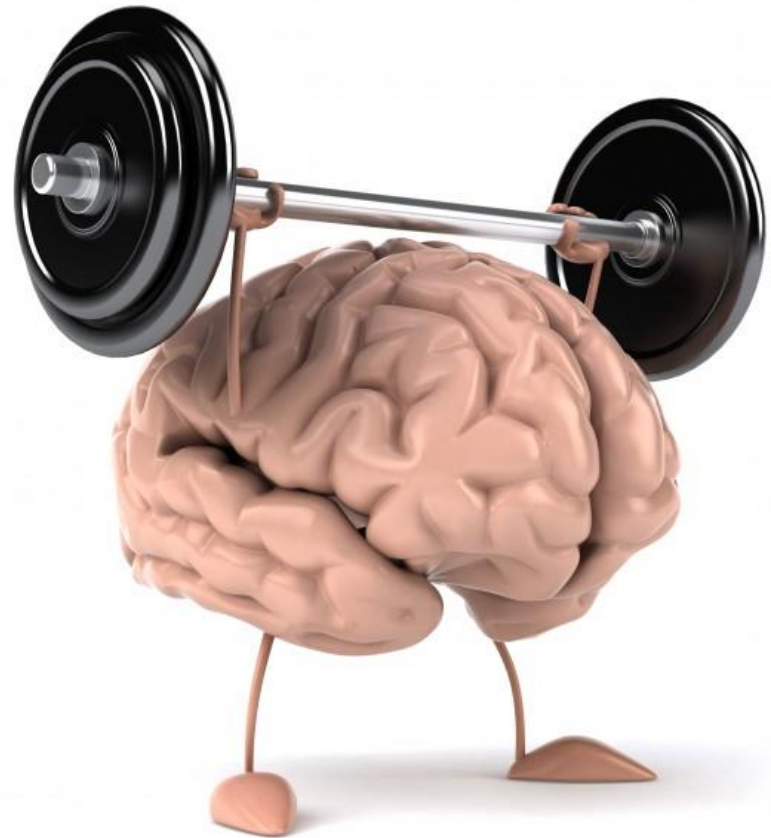
# MUNICIPAL GOVERNMENT AMENDMENT ACT



It's time to modernize!



# MODERNIZED MUNICIPAL GOVERNMENT ACT



# AN ACT TO STRENGTHEN MUNICIPAL GOVERNMENT



# OVERVIEW OF CHANGES TO THE MGA



# City Charters

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- Governs all matters relating to administration and governance of a city (s. 141.5)
- Can modify or exclude provisions of the MGA or any other provincial Act or regulation from application within the city
- City Council can, by bylaw, modify or replace provisions of the MGA or any other provincial Act or regulation where the city charter specifically provides authority to do so



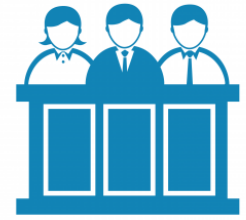
# S. 618.2

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No bylaw is binding in respect of a matter governed by this Part unless that bylaw is passed in accordance with this Part.

- Unclear application
- Is this giving guidance to Courts?
- Does it add to the powers given to SDABs?

# SDAB Clerks and Board Members



- SDAB Clerks to be designated officers (s. 627.1)
- SDAB Clerks and SDAB members must complete training before participating in hearing (s. 627.2 – 627.3)
- Maximum 1 councillor per panel
- Regulations contain transitional period

# SDAB Panels

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- Express authorization of “panels”  
(s. 628(2))
- Immunity for good faith decisions  
(s. 628.1)

# Intermunicipal Development Plans

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- IDPS mandatory for contiguous municipalities (s. 631)
- Increased number of mandatory considerations including transportation systems, intermunicipal infrastructure and intermunicipal programs (s. 632(2))
- 2 years to adopt IDP (s. 632(3))

# Municipal Development Plans

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- MDPs mandatory (s. 632(1))
- 3 years to adopt MDP (s. 632(2.1))



# Consistency of Plans

**CONSISTENCY**  
**IS** 

- IDP and MDP must be consistent (s. 632(4))
- ASP must be consistent with IDP and MDP (s. 633(3))
- ARP must be consistent with IDP and MDP (s. 634(2))
- IDP prevails over other statutory plans in event of conflict/inconsistency and MDP over other statutory plans (s. 638)

# Notification Requirements

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- At ASP stage, Transportation Minister to be notified where plan area is within 1.6 km of provincial highway
- For MDP and ASP, notify adjacent Indian band or Metis settlement

s. 636

# Policies

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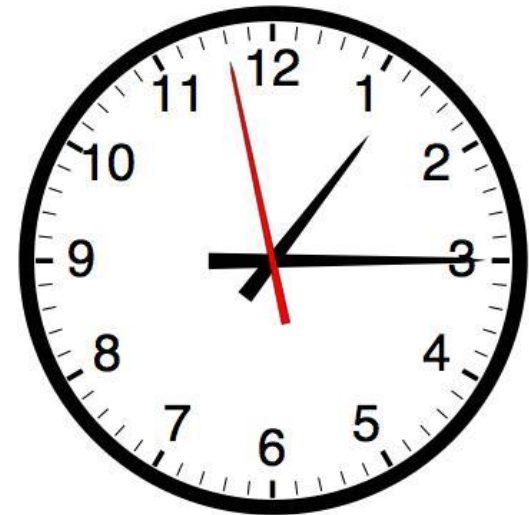
- Municipalities must establish and publish list of policies (s. 638.2)
- Development Authority, Subdivision Authority, SDABs and MGB cannot have regard to a policy unless policy is in list and published (s. 638.2(3))
- Applies as of January 1, 2019 (s. 638.2(4))



# Time periods for approvals

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- Cities and municipalities with  $\geq 15,000$  people may change time to approve development permit application or subdivision applications (s. 640.1)

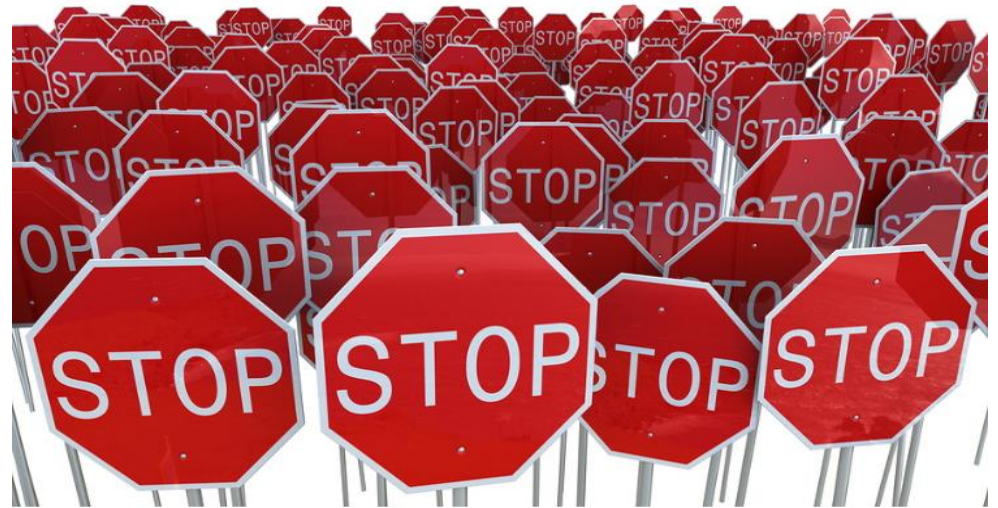


# Stop Orders

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## **S. 645(2.1)**

- Stop Orders must specify date order made and be sent to recipient on same day decision made



# Offsite Levies – s. 648

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- Modification of previous requirements
- Includes new provisions dealing with new infrastructure types (community facilities)
- New provisions dealing with Off-site Levy Bylaw appeals to MGB

# Offsite Levies

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## Expanded off-site levy powers

- Levies can be imposed for
  - Community recreation facilities
  - Fire hall facilities
  - Police station facilities
  - Libraries (s. 648(2.1))
- Cannot be imposed if levy previously imposed for same purpose (s. 648(2.2))



# Offsite Levies

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- Clarification – 4 levies
- Levies collectable over time (s. 648(4))
- Consequential amendments to ss. 649 and 650

# Offsite Levies

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- No offsite levies on school land(s. 648(1.1))
- Off-site levies possible for infrastructure to connect municipal roads to provincial highways (s. 648(2)(c.2))
- Validates prior fees as off-site levies (s. 648(9))
- Intermunicipal off-site levies (s. 648.01)

# Offsite Levies

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- Appeal from new levy to MGB on
  - Purpose not benefitting to required extent
  - Regulation principles and criteria not complied with
  - Levy not for intended purposes under (2.1)
  - Levy calculation incorrect
  - Levy previously imposed and collected (s. 648.1(1))

# Offsite Levies

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- MGB can
  - dismiss appeal,
  - order municipality to repeal or amend bylaw
  - Repeal or amend bylaw
  - Correct calculation or levy or direct municipality to correct calculation (s. 648.1(2))



# Subdivision Applications

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## **S. 653.1**

- SA has 20 days to determine if application complete
- Can extend time by agreement
- Deemed complete if no decision
- SA must issue acknowledgement of completeness or incompleteness
- Failure to provide information = deemed refusal



# Subdivisions

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- Clarification amendments to s. 654
- S. 638 applies in respect of conflict or inconsistency (s. 654(1.2))

# Conservation Reserve (CR) Environmental Reserve (ER)

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**Ss. 666.1, 664, 664.1, 664.2, 665, 666,  
674.1**

- Dedication of CR for environmentally significant land not meeting ER criteria
- No sale/disposition of CR
- CR Market value compensation with disputes to Land Compensation Board
- Clarification of ER language
- Agreements regarding ER

# Conservation Reserve (CR)

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- S. 674.1 replaced and s. 674.2 added clarifying municipal obligations for conservation reserve and removal of CR designation

# Future SR Reserves

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- SA may require more land than under ss. 666(2) or 668 for MR, SR or MR/SR
- If so, municipality must pay compensation within 30 days to owner for amount exceeding maximum MR, SR or MR/SR

# Subdivision Appeals

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## **Ss. 678, 679, 680**

- Deemed date of receipt of mailed SA decision is now 7 days (formerly 5 days)
- No notice to municipality, school board, government departments or neighbours for deemed SA refusal (s. 679(3.1))

# Subdivision Appeals

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- If deemed refusal, SDAB to determine if application meets s. 653.1(2)  
(s. 680(2.1))



# Developments

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- Extension agreements must be in writing (s. 681(1)(b))
- Former s. 641(4) moved to s. 685(4) (limited appeal rights for direct control permits)
- Clarification amendments to s. 687(3)(a.2) to address potential inconsistencies between statutory plans



# Development

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## **S. 683.1**

- DA has 20 days to determine if application complete
- Can extend time by agreement
- Deemed complete if no decision
- DA must issue acknowledgement of completeness or incompleteness
- Failure to provide information = deemed refusal

# Development Appeals

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## **Ss. 684. 685,**

- Clarification of language regarding deemed refusals
- Deemed refusal added to s. 685(3)

# Development Appeals

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- Appeal time 21 days from decision date is given or deemed refusal for applicant (s. 686(1))
- But affected persons –within 21 days after date of notice



# Development Appeals

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- SDAB must comply with cannabis regulations (s. 687(a.4))
- For deemed refusal must determine if documents met s. 683.1(2)
  - Is that the only determination at the hearing?

# Intermunicipal Disputes

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- Preconditions for appeal clarified adding necessity to attempt mediation after 2<sup>nd</sup> reading (s. 690(1))
- Clarifications under s. 690(3) –(5) regarding timing for updates on mediation [Note: Responding Municipality obligation only]

# Growth Management Boards

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## **S. 708.011, 708.02**

- Voluntary GMB, except Edmonton and Calgary
  
- CRB continued as Edmonton Metropolitan Region Board

# Growth Management Boards

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- Provisions for meetings of GMBs (s. 708.041)
- GMBs to provide annual report to Minister within 120 days of fiscal year end ( s. 708(09))

# Intermunicipal collaboration framework

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# Intermunicipal Collaboration Framework

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## Part 17.2

### ➤ Purpose

- Integrated and strategic planning, delivery and funding of intermunicipal services
- Efficient stewardship of scarce resources in providing local services
- Contribute funding to services that benefit residents

# Intermunicipal Collaboration Framework

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- Required for municipalities with common boundaries
- Both internal and external
- Must be completed within 2 years section comes into force

# Intermunicipal Collaboration Framework

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- Must identify current source of services and best future provider
- Must outline delivery, funding, discontinuance, timeframe for implementation, dispute resolution
- Must identify all services, including transportation, water, sewer, solid waste, emergency, recreation

# Intermunicipal Collaboration Framework

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- Must append IDP to it
- Must review every 5 years
- Must file with Minister within 90 days of creation
- Arbitrator appointed if no agreement
- Arbitrator creates ICF
- Obligations of good faith negotiation
- Minister may sanction municipalities

# Intermunicipal Collaboration Framework

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- Sanctions include
  - Suspension or removal of bylaw making power
  - Withholding money payable to municipality
  - Repealing, etc. municipal policies
  - Suspending authority of SA, DA
- Part 17.2 paramount over Parts 1, 2, 3, 5, 6, 7, 8 and 17 if conflict or inconsistency

# Amendments to MGA

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- S. 708.321 added to permit municipalities to invite Indian band or Metis settlement to participate in ICF

# Waiting..



## NOT YET PROCLAIMED

# Inclusionary Housing

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## **s. 650(1)(f) and 655(1)(b)(vii)**

- On subdivision and development, developer may be required to provide for inclusionary housing in accordance with regulations





# Joint Use and Planning Agreements

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- Within 3 years, municipality and school board to enter joint use and planning agreement (s. 670.1)
- Agreement to include
  - Planning, development and use of school site on MR, SR and MR/SR
  - Transfers under s. 672 and 673
  - Disposal and servicing of school sites
  - Use of facilities
  - Collaboration, dispute resolution, review time

# Future SR Reserves

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- Municipality may pass bylaw for future land assembly area for school reserve
- Bylaw must estimate costs to buy land
- If land within area applies for subdivision, SA may oblige payment of funds (not exceeding 5% of value)
- Funds to be used only for school purpose



# REGULATIONS

# City Charter Regulations

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- City of Calgary Charter, 2018 Regulation, AR 40/2018
- City of Edmonton Charter, 2018 Regulation, AR 39/2018
- Modifies powers of 2 cities in areas of assessment, climate change, planning (statutory plans, land use bylaws, affordable housing agreements), permits administrative penalties

# Regulations

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- Subdivision and Development Appeal Board Regulation, AR 195/2017
- Sets out training requirements for SDABs and clerks
- Board members and clerks must successfully complete training and refresher (each 3 years)

# Regulations

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- Subdivision and Development Regulation, AR 43/2002
- Updating and clarification, eg. food establishment, body of water, separation distances for waste sites

# Regulations

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- Community Aggregate Payment Levy Regulation, AR 263/2005
- Maximum levy = \$0.40/tonne of sand and gravel
- Uniform levy rate required

# Regulations

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## Growth Management Boards

- Calgary Metropolitan Region Board Regulation, AR 190/2017
- Edmonton Metropolitan Region Board Regulation, AR 189/2017





# Regulations

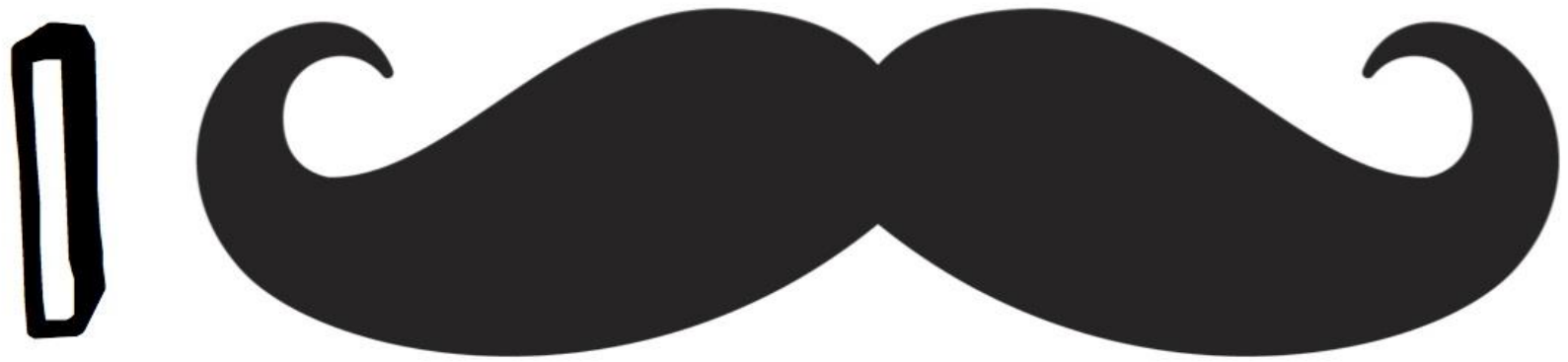
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- Off-site Levies Regulation, AR 187/2017
  - General Principles
  - Transportation Infrastructure General Principles
  - Levy Bylaw Principles
  - Principles to determine levy costs, including for s. 648(2.1) facilities
  - Consultation requirements
  - Levy Bylaw appeals

# ICF Regulation

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- Addresses “good faith”
- Establishes arbitration process for framework
- Model dispute resolution provisions
- Judicial review provisions



**YOU A QUESTION**



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