

THE COMMUNICATOR

Alberta Development Officers Association (ADOA)

**November
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Fall Issue

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Words from the Editor

Letter from the Editor

Another conference in the books, great speakers, amazing food, beautiful venue, well done!

The ADOA has two new members on their executive, that's exciting news, we are looking forward to hearing some fresh ideas for our members. Please look for Treena's and Nathan's introduction later in this newsletter.

We are hosting our 3rd lunch and learn next week, and hopefully it is as successful as the last one. We understand that it isn't feasible for the members to get away to more than one conference each year and sometimes our conference timeline doesn't allow coverage of all that we want to hear so we are hoping that the lunch and learns will help bridge the gap.

As always, if you have any ideas for the newsletter, please reach out to me directly and let's chat!

Church tower of Suurhusen, Hinte, Germany



This is a picture of a church that added a tower years later. However, the tower was constructed on wood foundations on unstable and wet soil and slowly began to lean.

Meet our new executive members!

Treena Lane

I have been a member of the ADOA since 2004

As a mother of 2 young children, I started my career with a certificate in Real Estate Law; I am also a Certified Leasing Officer! But my passion for Planning and Development started when I attended my very 1st ADOA conference as a Development Officer Assistant in 2003/2004. Who would have known that my career would have been in the Planning and Development Sector.



I started studying! With the help of the ADOA, I completed my certification in the Alberta Land Use Certification Program from the University of Alberta. From there I indulged in many other career enhancing courses through the University of Calgary and the University of Waterloo.

Some of the Municipal Initiatives and Projects that I have worked on throughout my career are Municipal Development Plans, Land Use Bylaws, Landscaping Standards, Landslide Remediation Program and many other planning policies such as Downtown Beautification, Fire damaged Property, MPC Recruitment, Development Permit Notification and addressing.

My combined experience in Planning and Development consists of Development Officer Assistant, Development Officer, Senior Property Management Technician and Land Use Economic Development Officer.

I am a member of the ADOA, APPI, EDA, EDAC, Alberta Hub, and the Greater Edmonton Economic Development Team (GEEDT).

I have previous Board Membership experience as a Board Member for the Minister of Children and Family Services and Assisted Living and Social Services.

I have a strong interest in Bylaw enforcement, Civil Rights, Social Action, Environment Awareness, Children's Advocacy, interior decorating and I love reading books and researching.

Nathan Hill

I went to University with the goal of entering the environmental science field back in 2015. As I took more Human Geography courses, I learned that that and political science was the sphere that I was truly interested in. I was fortunate enough to be hired on for a summer student position with Vulcan County in my final summer in university, and that's when I learned about how great a career in local government can be.

In my time with Vulcan County, I got exposure to a broad array of functions in local government, but fell in love with the legislative and development arms in particular. I've since bounced around between Vulcan County, Lethbridge County, and the Town of Olds, making lots of friends in and around my municipalities on my way. I'm fortunate to have a broad circle of colleagues that I can call on to support me in my journey, and I'm grateful that our profession is so saturated with quality individuals.



In my me time, I spend way too much time watching hockey, football, and as of writing this bio I'm a lifelong Blue Jays fan of about a month. When I'm not at work, you can usually find me at the gym, playing videogames online with my buddies, and partying! I pride myself on being approachable and making things lighter than they would otherwise be; life is always best when everyone is loose and having fun.

Another construction fail!

Might be okay if you enjoyed your neighbours?

Great if you need to borrow a cup of sugar.



ADOA LEGAL CORNER with:



BROWNLEE LLP
Barristers & Solicitors

REMEDYING LAND USE CONTRAVENTIONS - ENTRY FOR ENFORCEMENT

Prepared by: Derek J. King, KC (Senior Partner)

Over the last number of articles, we have explored various aspects of municipal enforcement, including how to craft a more effective and enforceable Land Use Bylaw, municipal inspection authority, inspection reports, issuance of Stop Orders and the use of the Court in support of enforcement.

Today, in the last article of this series, we once again return to Section 542; here though, in the context of entry onto lands to enforce the Stop Order. This will be a high-level exploration of practical requirements for entering onto lands in order to take effective enforcement action.

Typically, there are two main ways that direct enforcement action on private lands is triggered;

- a Section 646 Stop Order has been issued and the recipient has failed to remedy the contravention within the time limit provided; or
- a Court Order was issued under Section 554 of the MGA, and the Respondent has failed to meet the deadlines in that Order.

In both cases, the underlying authority to actually enter onto the private lands in order to remedy the contravention arises from Section 542.

Section 542 empowers a Designated Officer of a municipality to enter lands or into structures, not just to conduct inspections, but also to remedy the identified contraventions. Section 542 works in conjunction with Section 646 of the MGA, which confirms that, if a Stop Order has not been complied with, the municipality may enter onto the lands or into a building to take any actions necessary to carry out the Order.

A. Pre-requisites to Entering the Lands

In order to lawfully exercise this important authority, there are a number of requirements that must be met.

- First, there must be a notice of entry issued under Section 542, with that notice being issued by a Designated Officer or their delegate.
- Second, the notice period must be reasonable. That is, the owner and occupants of the lands must be given reasonable advance warning of the intention of the municipality to enter onto the lands and to enforce the Land Use Bylaw.

- Third, the entry must be conducted by the Designated Officer or their delegate. Finally, the Designated Officer or their delegate must carry and present, if requested, identification that shows that they are a person authorized to make the entry and to undertake the enforcement action.

The Designated Officer can certainly be accompanied by other persons during the enforcement process, including other municipal staff and even contractors retained by the municipality to help implement the enforcement requirements. For example, most municipalities will hire contractors to deal with demolition work, rather than utilizing their own municipal staff.

It is unfortunate that many Designated Officers fail to appreciate the need to comply with the identification requirements. If a Designated Officer is unable to provide the necessary identification, they do not have the authority to enter onto the lands or to undertake the work. Thankfully, the identification requirements are not particularly onerous. In some cases, a Designated Officer may be in possession of a badge or identification card that identifies their name, position and authority pursuant to Section 542. In other cases, the officer merely carries personal identification and a letter confirming their name and appointment as a Designated Officer for the purpose of inspections and enforcement.

While the MGA does not expressly require it, all notices of entry should be issued in writing. It is important that they state, not only the date of the planned entry, but also the proposed start time. As well, it is worth considering the scope of the work that will be required before the municipality proceeds to issue the notice. If the remedy will be time-consuming and likely to carry over into subsequent days, this should be expressly stated in the written notice.

Of course, the notice is only a notice, if the persons to whom it is addressed, actually receive it. The best method of service, just as with Stop Orders, is hand delivery or registered mail. If either process will prove challenging or impossible, consult with your legal counsel for other options that may be available.

The MGA states that the notice must be reasonable, which gives rise to the question, "what is reasonable notice?" This will almost always depend upon the specific circumstances of the matter. Typically, we would suggest that at least 48 hours' notice should be provided in most cases, however, consideration should be given to providing as much as a week or 14 days if the circumstances warrant.

B. Impacts of Issuing Notice of Entry

There is a very practical benefit to this. In many cases, the issuance of the notice of entry serves as a final wake-up call to the recipient, making it clear that the municipality not only has the authority to enter the lands but that it has the intent to do so. If that notice of entry also includes a reminder that any costs and expenses incurred are a debt owed by the recipient and that they can be added to the tax roll for the lands, this may be the impetus needed to encourage the recipient to remedy the contravention themselves. But this can only happen if there is sufficient time between receipt of the notice of entry and the date the entry is intended to proceed.

Of course, issuing a proper notice does not necessarily guarantee that entry and enforcement will be a cakewalk. Not only could the municipality be faced with hostility or an outright refusal to allow access, but landowners also have many other subtle ways of interfering with the enforcement, including locked gates, refusing to answer door knocks, "inadvertently" blocking access to the lands with inconsiderately placed equipment, just to name a few. Where entry is refused or interfered with, the municipality should immediately stop its enforcement process and contact its legal counsel in order to seek an Order under Section 543 of the MGA.

Thankfully, such Orders can be brought on very short notice and are relatively easy to obtain. A section 543 Court Order will confirm the authority of the municipality to enter and prohibits any interference or obstruction of the enforcement action on penalty of contempt of court.

C. Additional Considerations When Undertaking Entry and Enforcement

Beyond the specific requirements of Section 542, there are other practical considerations that should be borne in mind before entering onto the lands. One of the most important preliminary steps is to properly assess the scope of the work that may be required, and to determine whether there may be secondary issues that will arise as a consequence of the enforcement action taken.

i. Handling property/contents subject to enforcement

One of the most common secondary considerations is the presence of personal property that the municipality may need to remove and store. Consider, for example, enforcement action taken against a single-wide mobile home which has been illegally placed on the lands. The obvious remedy is removal of the mobile home. This, however, will necessitate the temporary storage, not only of the mobile home, but any contents contained within that mobile home, and potentially even other items that may be exposed to the elements as a consequence of the removal of the home. Has the municipality considered how and where it will store these items? One of the most important first steps, therefore, is to have made prior arrangements for a safe and secure storage site where those items can be stored until reclaimed or sold by the municipality at a later date.

ii. Avoiding damage claims following enforcement

It is not uncommon where a municipality has entered onto the lands, for the landowner to claim that their property was damaged as a consequence. The easiest way to protect the municipality from such claims is to plan in advance to record the condition of the lands and the items located on it, before, during and after the enforcement action.

Consideration should be given the designating a staff member as responsible for recording, through photographic evidence, the condition of the lands, structures and any personal items on the property, both before the municipality engages in the work and once that work is completed. As well, if items are removed for storage, it is prudent to record the condition of those items at the point they are taken into the municipality's possession.

iii. Housing impacts on individuals subject to enforcement

A further practical consideration to contemplate is where the enforcement process will leave a person unhoused. If the enforcement action is likely to render an occupant without accommodation, the municipality will want to prepare in advance for this occurrence. This may mean pulling together information respecting available resources, including shelters or other accommodation that can be provided to the impacted occupant.

Regardless of a municipality's authority to take enforcement action, it can be politically problematic if the municipality is seen as rendering a person unhoused especially during the winter or seasonal holidays. If the enforcement action will render a person unhoused during the winter months or during the holiday season, the municipality may want to consider postponing the action until better weather, or until after the holidays. It is worthwhile and appropriate to consider, in advance, what arrangements can be made to minimize the impact of the enforcement action on the inevitably displaced occupant.

iv. Safety concerns

Another critical consideration is safety. Before entering onto lands a safety assessment should be conducted in order to identify potential risks, not only in relation to the individuals that may be present, but also specific physical conditions, such as machinery and equipment, excavations or other potential hazards. The municipality will need to determine whether it will require assistance from qualified consultants or even the owner or occupant of the lands at the time the enforcement action is being taken.

Where the safety risk is associated with an individual or individuals who may be present on the lands, the municipality will want to coordinate in advance with police services in order to determine if the safety risk can be mitigated by way of patrols or even police escort onto the lands.

v. Demolition

In some cases, the remedy will result in demolition of a structure. Where demolition is a possibility, advanced consideration should be given to how the demolition can be safely conducted. For example, will there be potential challenges associated with demolition that will need to be accommodated, such as the presence of dangerous substances like asbestos or black mold. There may be need to consider a pre-enforcement inspection of the structures, accompanied by qualified consultants, in order to assess for potential hazards that will need to be managed.

As well, demolition results in waste. Advanced consideration will need to be given not only to the volume of waste that may be generated, but where that waste will be disposed of. The municipality will want to make arrangements in advance for the safe and legal hauling and disposal of that waste.

vi. Recovering costs

The final consideration is the tracking of costs. As the reader is likely aware, municipalities have a right to recover all reasonable costs incurred in undertaking an enforcement action. If unpaid,

those costs can be added to the tax roll for the lands. However, in order to demonstrate that the costs were incurred and that they are reasonable, evidence will be required.

A prudent municipality will have in place processes for ensuring that all costs incurred in relation to the enforcement action are properly tracked, along with supporting invoices and receipts. These will include not only contractor costs, but also potentially the cost of municipal staff if the enforcement work is beyond their typical daily duties. Recoverable costs also include any legal or contractor costs incurred.

D. Conclusion

Entering onto lands to take enforcement actions only occurs after many prior steps have been taken, including, but not limited to, warnings, orders, and notices of entry. Municipalities should ensure that the steps taken when providing notice of entry and actually entering the lands to enforce the terms of an order meet legal requirements. Municipalities should also consider the knock-on impacts of entry and enforcement to mitigate any subsequent concerns that may arise. If municipalities fail to meet legal requirements or consider practical impacts, they may reach the end of an enforcement process and have new issues to deal with.

Legal guidance should be sought before proceeding with any entry and enforcement action. This puts the municipality and its personnel in the best position, ensuring that they are acting within their rights, are fully aware of the potential risks, and that protective measures can be put in place before any risk is incurred.

2025-2026 Board of Directors

Board Member	Role	Municipality	Email	Phone
Jordan Reugg	President	Smoky Lake County	jruegg@smokylakecounty.ab.ca	780-650-5207
Kristy Sidock	Vice President	Town of Three Hills	ksidock@threehills.ca	403-443-5822
ShannaLee Simpson	Communications Chair	County of Newell	simpsons@newellmail.ca	403-794-2312
Steve Chipchase	Membership Chair	Sturgeon County	schip-chase@sturgeoncounty.ca	780-939-0628
Jenny Bruns	Secretary	Town of Barrhead	jbruns@barrhead.ca	780-282-0390
Treena Lane	Treasurer	Town of Redwater	tlane@redwater.ca	780-942-3519
Nathan Hill	Education Chair	Town of Olds	nhill@olds.ca	403-507-4863

Diane Burtnick	Executive Assistant	admin@adoa.ca	780-913-4214
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Contact us

Send us an email or give us a call for more information about our membership and our non-profit group.

Phone: 780-913-4214

Email: admin@adoa.net

Alberta Development Officers Association

#48, 134 Village Way

Strathmore, AB T1P 1A2

Visit us on the web at www.adoa.net