

Surplus School Buildings and Land **Final Report**

January 2008

Background

The Minister of Education was asked to facilitate the use of surplus school land for other community purposes and address other issues related to school land and buildings. The Minister established a Committee consisting of representatives from the Cities of Edmonton and Calgary, the four school districts in the two cities as well as government departments of Education, Infrastructure and Transportation and Municipal Affairs and Housing to provide background information on the topics. A number of challenges were identified by the Committee:

- Having school boards identify land they no longer require for educational purposes and declare the sites surplus to their needs so that they could be used for other purposes.
- Addressing the issue of compensation to school boards for school land they own or have interest in, following the transfer of the land to the municipality.
- Broadening the allowable use of municipal and school reserve land.
- Providing a mechanism that allows public education needs to have priority in using surplus school buildings.
- Determining whether the term “school authority purposes” in the *Municipal Government Act* should be defined.
- Reducing school boards dependency on capital reserve when building a new school.

Principles that were used to guide the resolutions to these issues are:

(a) Effective use of public assets

- Surplus school land no longer required for its original purpose should be considered for alternative uses that would benefit the community.
- School buildings are a community asset that should be considered for redeployment when the buildings are no longer needed for their original purpose.
- Remove barriers to effective and efficient use of public assets.

(b) Support capital funding needs.

- Funds received by boards for land and buildings should be used to address the high priority capital and land needs of school boards.

(c) Public education as a priority.

- School buildings declared surplus by a school board should be first considered for public educational purposes.

(d) Collaborative planning to address community needs.

- Municipal and school authorities should collaborate in planning for the provision of services to the residents.
- The Joint Use Agreement may be an instrument in clarifying the respective responsibilities and setting the stage for respectful relations that are based on transparency in information and appreciation of the position of the other parties.
- Working together on such issues as site selection for future schools, site servicing and access requirements could provide for a more timely access to new schools and make public investment more effective.

Some of the challenges could be met by amending the *Municipal Government Act* and the *Disposition of Property Regulation* while others may require a Joint Use Agreement that is developed among the parties in the best interest of the community they serve.

Recommendations and Directions

1. Broaden Allowable Use of Reserve Land.

It is recommended that the Municipal Government Act be amended to create a Community Services Reserve designation that would be limited to the building envelope of surplus school reserve land, where the school building, the adjacent landscaping and parking lot would have otherwise been built. The designation would specify uses that provide direct services to residents or are in the best interest of the community.

Revising the *Municipal Government Act* to allow community services, including affordable housing, on reserve land has significant implications beyond Education and needs to be considered in a broader context. This may have implications to the development industry as well as the services currently permitted to use municipal and school reserve land.

2. Maintain Provincial Access to Surplus School Lands and Buildings.

It is recommended that surplus school buildings and reserve land be allocated based on the following priorities: (a) to the province for public education purposes, (b) to the municipality for direct community services and support functions that are in the best interest of the community, and (c) to the province for other public purposes. Notwithstanding (a) above, where the public education purpose is to provide a location for a charter school, only a surplus building may be allocated by the Minister.

The provincial government identified a need to maintain a first right to purchase surplus school buildings for public education purposes. The Province would be expected to pay the rates charged to the municipality. It will also have the opportunity to purchase surplus school lands for non-education purposes, but only after a municipality fails to exercise its rights to utilize the land for community purposes.

With the construction of schools in the newly developed communities, surplus school buildings may become available to accommodate Francophone and charter schools. These public schools serve a larger area than a local community and a location in established communities may meet their student accommodation needs.

3. Define “School Authority Purposes”.

It is recommended that the definition of “school authority purposes”, one of the allowed uses on school and municipal reserve land under section 671(2)(c) of the Municipal Government Act, be amended and defined as “educational purposes of a school authority as established by the Minister of Education” [section 616(bb)].

The *Municipal Government Act* restricts the use of municipal and school reserve land to: a public park, a public recreation area, school authority purposes, and to separate areas of land that are used for different purposes. The term “school authority” is defined in the *Municipal Government Act* [section 616(bb)] as “...the board of trustees of a school district, school division or regional division”. The term “school authority purposes” is not defined in the *Act* and the proposed definition will provide flexibility beyond the traditional school offerings (e.g. child care centres, parent link centres).

4. Agreement to Declare School Sites Surplus to the School Jurisdiction's Needs.

It is the preference of the Government of Alberta that the municipal and school authorities reach an agreement (e.g. Joint Use Agreement) that would include a framework, criteria and process that would result in the declaration of school reserve land, no longer required for its original purpose, surplus to the school board's needs so that the property could be considered for alternative community use.

In Calgary the joint land reserve account is credited when the land is declared surplus and is used for alternative purposes, other than open space. The joint account is used to acquire land in future communities when the reserve dedication is insufficient to provide for the required land. In Edmonton, the administration of the respective parties, including the Francophone education authority, have recently reached a tentative agreement that would result in the declaration of school sites surplus to the boards needs. The proposed agreement requires the ratification by the elected bodies.

5. Develop a Strategy to Deal with Servicing of School Sites.

It is recommended that Alberta Education collaborate with Alberta Infrastructure and Transportation and Municipal Affairs and Housing to develop a strategy to deal with servicing of school sites and address issues raised by the boards and the municipalities, and that stakeholders be consulted as necessary.

The municipalities and school authorities identified major challenges in the process of delivering an adequate site for new school construction. The issues raised included: (a) the need for legislative power to secure adequate school sites, (b) inconsistencies in site development requirements between Edmonton and Calgary, and (c) the need to clarify provincial expectations and support. It was felt that there is a potential to significantly reduce site development costs through joint work between the organizations represented on the committee. This, in turn, may result in a significant reduction in the need to use school boards' capital reserves during the new school construction process.

6. Compensation for Land

It is recommended that school boards be compensated at market value for non-reserve land and that the reserve land be declared surplus for arrangements agreed upon by the parties.

Compensation to the boards for the sale of surplus non-reserve land to the municipality would be based on a market value. The boards acquired or received the land as a gift or donation and Education should benefit from the proceeds, in a form of support to address high priority capital needs. The municipality would have the option of not exercising the first right to purchase. Expropriation of the land based on the *Expropriation Act* would result in the need to award the land owner market value of the property.

Reserve land, received by the boards free of charge, without the requirements to invest in its development or maintenance, should be declared surplus in accordance with arrangements agreed upon between the parties. There is no expectation that the boards be financially compensated for such land if it is to be used for park and recreation purposes or address other community service needs.

Necessary Statutory and Regulatory Amendments

In order to implement the above strategy, the following proposed changes to the *Municipal Government Act* and regulations will be required:

- Amend the *Municipal Government Act* to create a Community Services Reserve Designation out of the building envelope of surplus school reserve land.
- Amend the *Municipal Government Act* by defining “school authority purposes”.
- Amend the *Disposition of Property Regulation* to require school authorities to provide the Province with a first option to (a) purchase surplus school buildings for public education purposes and (b) utilize surplus school reserve land for school authority purposes. The latter may not be required if the Francophone boards are party to a Joint Use Agreement and receive reserve land to meet their needs. The giving of advance notice of the intent to declare a site surplus would enable the Province to communicate other possible provincial needs. This *Regulation* will also be reviewed with the view to (a) direct funds from disposition of land and buildings including sale, rental and leasing of property to future capital projects, and (b) to provide school authorities flexibility in leasing school buildings within the allowable use (e.g. review the requirement to have a 12 months termination clause).