

Housing Supply Legislation

Servicing and Infrastructure: Challenges, Implications and Legal Issues

Loss of Zoning Discretion

- Bill 44
 - Section 481.3 LGA: “restricted zones”
 - 2 “housing units” for almost all single family zones
 - 4 units in urban containment boundaries and 5,000+ population
 - 6 units if close to transit
 - Exemption (4 and 6 units): “land that is not connected to a water or sewer system provided as a service by a municipality or regional district”
- Bill 47
 - Section 481.01 LGA: must not exercise zoning powers to prohibit prescribed minimum height and density in “transit-oriented areas”

Infrastructure and Servicing Implications

Does loss of zoning discretion = loss of authority to ensure adequate servicing for new housing units?

Authority re: development servicing

- “subdivision servicing bylaws”
 - Require and set standards for water, sewer, drainage, highways
 - Subdivision and building permit
 - On-site and on adjacent highways if “directly attributable”
 - Excess and extended, with right to recover
 - Bill 16 changes
- Development cost charges
 - Capital costs of new infrastructure and parks to serve, directly or indirectly, development in respect of which charge is collected
 - Bill 46 changes
- Service regulation, and fees and charges
 - *Community Charter* authority for municipalities; some differences for RDs
 - Regulate in relation to services; impose fees
- BC Building Code
 - Potable water; public sewer where available

Infrastructure and Servicing Implications

- Building permits can be refused for non-compliance with all relevant bylaws and regulations, not just zoning:
 - *“Mandamus” is only available when the decision-maker's discretion is “spent”*
 - *Applicant must satisfy all “conditions precedent”*
- If zoning is available, but works and services are a “condition precedent” and are insufficient / unavailable, is the local government obliged to rectify the deficiency?