

EMERGING TRENDS IN MUNICIPAL LAW 2019

What's the Plan?

Planning and Development Strategies to Streamline and Kick Start Development



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1. Introduction

2. Strategies for the Sale of Municipal Land

3. Creating a Vision & Standardization

4. Redevelopment

5. Industrial Land Sales

6. "Short Snappers"

Overview


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Keys to Successful Development

- ✓ Create a Vision
- ✓ Standardization
- ✓ Think Outside the Box
- ✓ Be Proactive

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Typical Real Estate Sale

Typical realtor forms of agreements have perils if land is not already developed



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Including a term in a Sale Agreement that the development must be completed following closing is ineffective

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Promises to develop land after closing...



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Doctrine of Merger

The diagram illustrates the Doctrine of Merger. It consists of three red circles arranged horizontally. The first circle on the left contains the text "PROMISE TO DEVELOP". To its right is a white plus sign. The second circle contains the text "CLOSING/TITLE TRANSFER". To its right is a white equals sign. The third circle on the right contains the text "NO REMEDIES".

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Sale & Construction Agreement

Use a form of Agreement where responsibilities are "front-loaded"

A photograph showing a pair of hands holding a pen and signing a document. The document is white with some text and lines, and the hands are positioned over it.

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Define the Development

Set Deadlines to Commence / Complete Construction

Development Agreement, Security, Permits, Financing in Place

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Risk Management

Option to purchase the lands back if deadlines not met



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Register Option to Purchase on Title




Obtain Transfer Back on Closing

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ORIGINAL PRICE

REPURCHASE PRICE

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For large parcels of land, recommend a staged development

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**Success Story #1- City of Red Deer:
Thinking Outside the Box**




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Timberlands
13 acre parcel sold in 2 phases

- Phase 1- grocery store & mixed-use retail/residential (complete)
- Phase 2- commercial retail & professional offices

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During Construction



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After



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New Businesses



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Creating a Vision

Growth Expectation → Infrastructure & Servicing Needs → Standards & Expectations




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Planning Vision

-  Statutory plans with municipal vision
-  Plans for development
-  MDP, ASP, NASP, LUB

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Infrastructure Plans

-  Master Utility Studies
-  What is needed for renewal & for new development
-  Determine infrastructure funding or cost recovery options
 - Who will construct? Who will finance?

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Standardization




Create design & construction standards suitable for Municipality's needs


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Clear expectations and requirements



Efficiencies in the plans process for constructing municipal improvements



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Approval & Publication of Design & Construction Standards

Section 638.2 of the Municipal Government Act




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Development Agreements

Important cost recovery tool

Can require an applicant to construct and pay for:

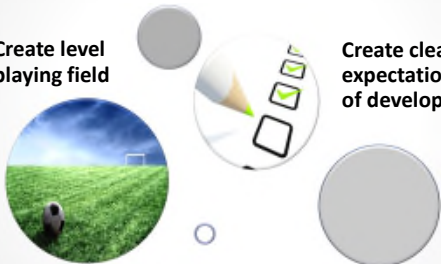
- Roads, walkways & public utilities
- Off-street parking & loading facilities
- Oversized or extended infrastructure


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Standardized Development Agreements



Create level playing field

Create clear expectations of developers



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Create administrative efficiencies



Expedites negotiation & execution with customization

Consistency in inspection & acceptance process

Improves enforcement

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SECURITY IS THE KEY

- Standard level - full cost recovery
- Minimize cost & manage risk
- Avoid stagnation of development

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Standardize the form of security

- Irrevocable letter of credit
- Chartered bank, ATB, or credit union
- Draw on-demand
- Automatically renewable or redeemable

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Off-Site Levies


- Cost recovery tool
- Recoverable infrastructure/facilities:
 - Water, sewer, storm sewer drainage, roads, connections to provincial highways
 - Recreation facilities, fire halls, police stations, libraries

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Spread costs based on benefit

Reduces upfront cost of developers

May encourage development

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Who will construct off-site levy infrastructure?

Municipality Builds

OSL reserves or borrowing

Front-Ended by Developer

Levy credits

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Success Story #2 – Leduc County: Off-Site Levy & Developer Front-Ending

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OSL for roads, water, & sanitary
• Servicing vision for industrial area

OSL policies provide for front-ending
• Developer front-ends portion of infrastructure

County provides levy credits & reimbursement through Agreement

Nisku Spine Road
• Important infrastructure
• Built ahead of capital schedule

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Before - 2011

After - 2017

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Encourages Development in Industrial Area

December 2018:

Amazon announced plans to build new 1,000,000 square-foot customer fulfillment facility at Nisku Business Park

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Success Story # 3

Town of Cochrane

Domtar Site The Quarry

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Before: 2010



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Domtar wood treatment facility:
coal tar/creosote mixture

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During



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After: Current Development



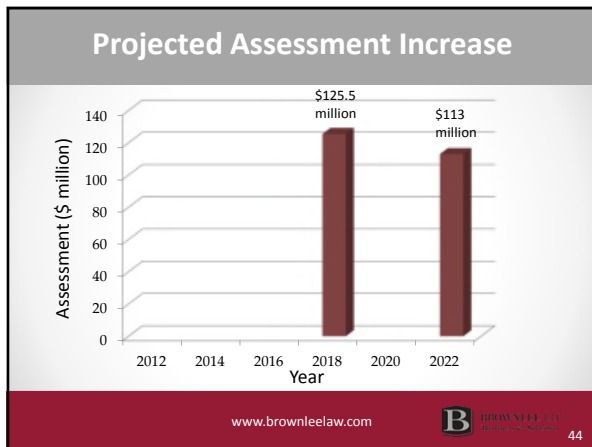
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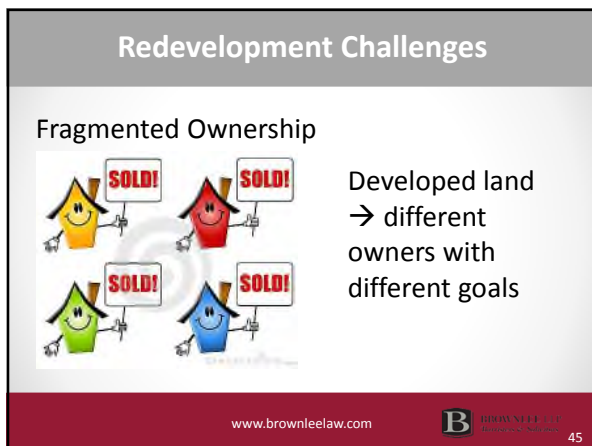
New Development Since 2012



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Anxiety & fear of change

NIMBY

Fear of the Unknown

Vocal landowners can be influential

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Risk of Losing Investment

Developer has to purchase land

Potential outcome unknown

FEAR

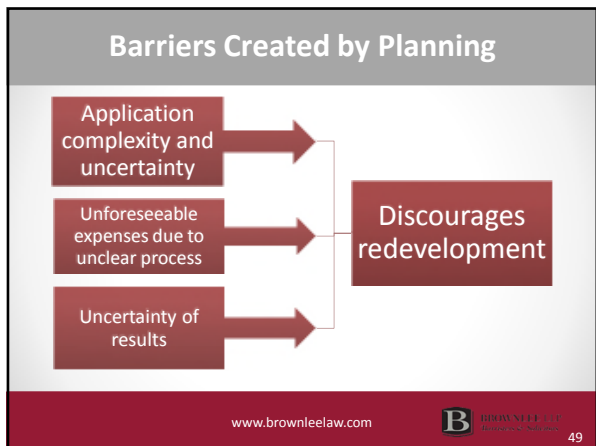
Risk losing investment or profit margins too small to make project worth pursuing

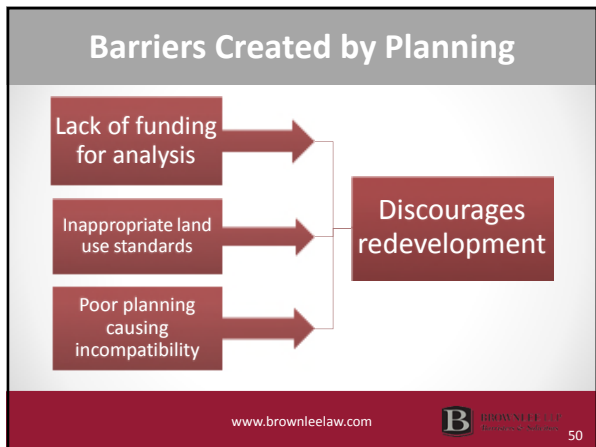
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Changing Economic Forces



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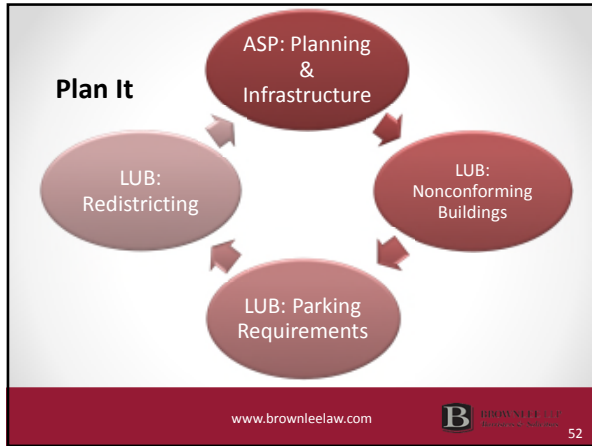
Solutions to Support Redevelopment

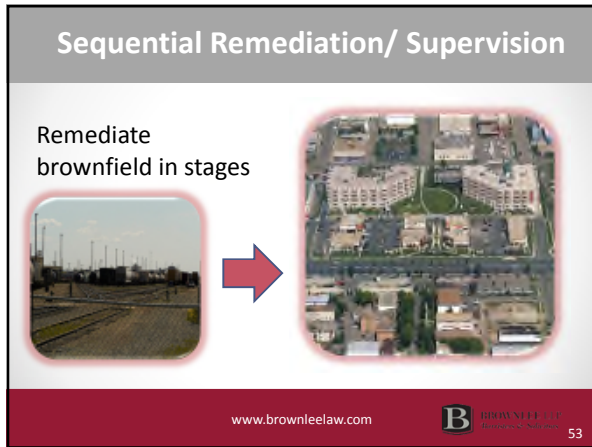
Take Stock

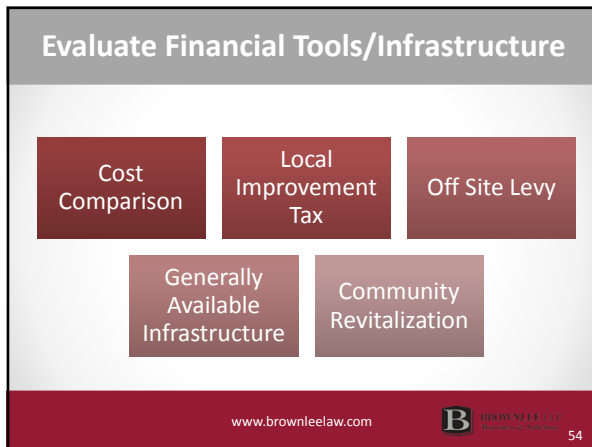
Ripe for redevelopment?



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Programs/ Funding

A Venn diagram with three overlapping circles. The left circle is a large black dollar sign (\$). The top circle is red and labeled "FCM". The right circle is light grey and labeled "Green Municipal Fund". The intersection of the dollar sign and FCM circles is shaded. The intersection of the FCM and Green Municipal Fund circles is shaded. The intersection of all three is shaded.

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Success Story # 4

Town of Whitecourt

A graphic showing a stylized industrial building with a chimney, a blue road or river, and a brown bridge. The text "Industrial Land Sales" is to the right.

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**Field of Dreams:
If you build it, they will come...**


A landscape illustration of a green field with rolling hills, a blue sky with white clouds, and a small pond in the distance.


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Hilltop Industrial Development:

- Started in 2000
- Phases 1-9
- Total acreage: 330
- Phases 7-9 sold en bloc to private developer




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LEGEND

- PROJECT A
- PHASE 1
- PHASE 2
- PHASE 3
- PHASE 4
- PHASE 5
- PHASE 6A
- PHASE 6B
- PHASE 7
- PHASE 8
- PHASE 9

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Venom Energy **Mountain West Services**

Clean Harbors **Pembina**

MasTec Canada **Pennwest Exploration**

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- Private & crown lands (2 years minimum to transfer)
- Sale of fully serviced lots
- Suit to subdivide
- Small phases
- Cuts and fill across phase, not individual lots

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- Report to Council
- Administration delegated authority
- Blue book (all carrying costs)
- Separation between Town staff (project & regulatory)
- Ambassador program



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- Restrict activity to industrial
- Timing is everything
- Show a vision
- Sell a lot, sign deal, do development permit next week

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Benefits:

- Profit for lot sales - \$5 million
- Property tax \$2 million/year
- Work for local contractors
- Growth of community
- Enhances quality planning



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SHORT SNAPPERS

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#1: Increase Permitted Uses



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#2: Get Your Development House in Order

- Standard Development Agreement
- Utility Right-of-Way Agreement
- Road Dedication/ Widening Agreement
- Purchase & Sale Agreement

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#3: Development Agreement

Same agreement as neighbouring municipalities



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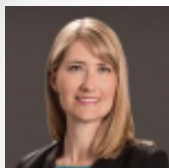
#4: Streamline Planning Process



Enhance administrative approvals

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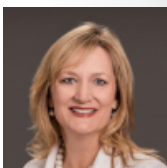
Questions?



JILL L.A. SHEWARD
Partner, Edmonton Office
jsheward@brownleelaw.com
Direct: 780-497-4835



LORNE I. RANDA
Partner, Edmonton Office
lranda@brownleelaw.com
Direct: 780-497-4832
Twitter: @foipguru



JENEANE S. GRUNDBERG
Partner, Edmonton Office
jgrundberg@brownleelaw.com
Direct: 780-497-4812

www.brownleelaw.com
