

**Subject: Intervenor Status - Designated Industrial Property  
Assessment Complaints****APPROVALS:****Linda Ollivier**\_\_\_\_\_  
Director\_\_\_\_\_  
Interim Chief Administrative Officer**Recommended Motion:**

Be it resolved that the Council for the Regional Municipality of Wood Buffalo, in finding that the interest of the public in the Municipality or in a major part of the Municipality are sufficiently concerned, hereby authorizes the Municipality to become an intervenor in the nine (9) current Land and Property Rights Tribunal (LPRT) cases from 2020 and 2021, and also in any further similar complaints filed in 2022, all in accordance with section 508 of the *Municipal Government Act*.

**Summary:**

Administration is aware of 11 Designated Industrial Property Assessments Complaints filed by industry with the Land and Property Rights Tribunal (LPRT) for tax years commencing in 2019 through to and including 2021. Further additional complaints are expected to be filed in 2022. While the LPRT's procedural rules permit the Municipality to intervene in these cases, it is recommended that Council invoke its statutory privilege and confirm this intervention by the Municipality. This will prevent any assertion by the tax complainants or their agents that the Municipality is not an "active participant" in the complaint and appeal process.

**Background:**

Preparing and defending *Designated Industrial Property* (DIP) assessments became the responsibility of the Province of Alberta (Assessment Services Branch of Municipal Affairs or "Provincial ASB") beginning on January 1, 2018.

The Provincial ASB is responsible for the assessment of DIP in Alberta. This involves both linear property assessment and the DIP assessment. The Provincial ASB carries out both the DIP and linear property assessment functions on behalf of municipalities. This work includes:

- The preparation of assessments for designated industrial properties, including linear properties

- Sending the assessment notices to companies
- Providing copies to the municipality
- Preparing a provincial assessment roll (available for viewing at the branch office in Edmonton)
- Responding to assessment complaints and appeals

DIP and linear property assessments formerly were handled by the Municipality and, where a complaint was filed, went to the Municipal Government Board. In 2018 the Provincial ASB took on this role. On June 2, 2021, the Land Compensation Board (LCB), Municipal Government Board (MGB), New Home Buyer Protection Board (NHBPB), and Surface Rights Board (SRB) were amalgamated into the Land and Property Rights Tribunal (LPRT).

The LPRT has established its own Procedure Rules for DIP complaints. With respect to municipal “intervenor” participation in complaint matters, section 1.6 of the Procedure Rules state:

1.6 “Intervenor” means:

- (a) A municipality when it is participating as an intervenor pursuant to these Rules or section 508 of the Act; or;
- (b) A person who has an interest that may be affected by a complaint but is not a party and whom the Tribunal permits to participate in its proceedings to the extent of that interest. (emphasis added for this report)

Under the *Municipal Government Act*, a Council must first determine if it considers that the “interest of the public in the municipality or in a major part of the municipality are sufficiently concerned” before a municipality can become an intervenor in a complaint hearing affecting “designated industrial property” or “linear property”.

In 2019, the Municipality became a "statutory intervenor" in the two (2) assessment complaints filed that year by Fort Hills Energy Corporation and Suncor Energy.

Subsequent to 2019, the Municipality became an “informal participant” (under the LPRT Procedure Rules) in the following complaints:

- Five (5) assessment complaints filed in 2020 by Cenovus Energy, Canadian Natural Resources Limited, Fort Hills Energy Corporation, MEG Energy, and Suncor Energy.
- Four (4) assessment complaints filed in 2021 by Cenovus Energy, Canadian Natural Resources Limited, Fort Hills Energy Corporation, and Suncor Energy.

We expect most of the above companies to file further assessment complaints in 2022.

**Budget/Financial Implications:**

Participation as an “intervenor” in the 2019 to 2022 DIP complaints requires additional legal resources. Legal Services has an approved budget for external legal counsel in its current budget. The work on these interventions is within the contemplated approved budget.

The complaints themselves involve billions in assets with the complainants’ objective being a targeted reduction in assets and asset value in the range of between 5% and 50%. A successful reduction in asset value will coincidentally reduce the ultimate taxes due and payable to the Municipality. While the Municipality has considered this risk and has established conservative reserves for the 2019, 2020 and 2021 tax years, the complainants’ tactic of accumulating multiple years of complaints means that the result of the current complaints is both a potential immediate negative impact on past years’ taxes but also likely to have a continuing impact in 2022 and future years.

As the current process in having the Municipality DIP assessments defended by a third party (the Provincial ASB) was only introduced in the 2018 tax year, it is not yet clear how rigorously municipal assessments will be defended by this third party. The participation in the complaint process by the Municipality should help to build confidence in this new process.

**Rationale for Recommendation:**

By securing formal Council authorization to be a complaint “intervenor” pursuant to section 508 of the MGA, we remove a potential argument from the municipal tax assessment complainants (i.e. the oil producers) that the Municipality’s intervenor status may be invalid.

**Strategic Priorities:**

Responsible Government