



**A Report from the Real Estate Council of Alberta with Respect to  
the Government of Alberta's Review of the Alberta Land Titles  
Registry System In its Results-Based Budgeting Process**

**Date: August 26, 2013**

## **Executive Summary**

Taking into account the principles in Alberta's *Results Based Budgeting Act* as follows:

*"WHEREAS the Government of Alberta has a long history of providing essential programs and services for Albertans directly and through its agencies;*

*WHEREAS Alberta and Albertans have grown and evolved economically, demographically and culturally;*

*WHEREAS the Government of Alberta is committed to ensuring that its programs and services are the right programs and services delivered in the right way to achieve the results that Albertans expect, in the most efficient and effective manner;*

*WHEREAS a comprehensive review of the Government's programs and services will ensure that those programs and services are continuing to achieve the best results and to support Albertans, communities and businesses in reaching their full potential;*

*WHEREAS the recommendations from such a review can form a basis for future budget and policy decisions to achieve the best results for Albertans;*

*WHEREAS engaging Albertans is vital to determine what results they want and to validate the results achieved; and*

*WHEREAS an innovative, collaborative and engaged Alberta Public Service, working with purpose and pride, is committed to achieving results for Albertans and making a difference in their lives;"*

in the public interest the Real Estate Council of Alberta requests that the Alberta Government maintain and protect the integrity of the Alberta Land Titles Registry System by retaining full and direct control of the system and all operations and administration.

Alternatively, the Alberta Government is requested to protect the integrity of the Alberta Land Titles Registry System in the public interest by creating a statutory corporation, modeled after the British Columbia Land Title and Survey Authority, which would operate and administer the system.

Either option would

- ensure the delivery of Land Titles services to Albertans in the best possible way so that Albertan's property interests and property rights are protected by law; and
- innovatively leverage valuable data resources to advance Albertans social and economic future for the benefit of all Albertans.

Neither outsourcing nor privatization is in the public interest.

## **A. Current Environment**

### **1. Driver for Potential Change: Government of Alberta Results Based Budgeting Legislation**

In early 2012, the Alberta government started its Results Based Budgeting review process. All 800 Alberta government programs are under review. The programs have been divided into 3 cycles. A horizontal and a vertical review are taking place. Land Titles is being reviewed as part of the Strategic Outcome, “Preserve the Province’s Finances”: Enterprise Support Services.

Each program is being reviewed to determine which of the following four (4) outcomes should be pursued by government:

- no change (program is working well)
- process improvement to deliver better services to Albertans
- program discontinuance or program combination with another program
- program re-engineering.

A Challenge Panel is considering Service Alberta’s budget based review of Land Titles. The Challenge Panel will consider conclusions and determine if the review was adequately thorough.

### **2. Government Perceived Challenges in Current Land Titles Registry System**

The Alberta government believes the current system presents challenges, including the following:

- Land Titles requires sustainable access to capital
- Land Titles requires new features and capabilities
- Land Titles requires technology upgrading
- Land Titles needs new services and products to respond to the market

### **3. Alberta Government Anticipated Outcomes from Alberta Land Titles Registry System Review**

The Alberta government’s seven (7) Strategic Plan outcomes are:

- Honoring Alberta’s Communities
- Supporting Vulnerable Albertans

- Healthy Albertans
- Preserving the Provinces Finances
- Investing in Learning
- Innovative and Responsible Resource Development
- Building Relationships and Markets

In alignment with these strategic outcomes, government will decide whether land title services may be improved, costs lowered and better quality products delivered. As part of the review, other land titles business models will be examined to determine whether an improved, more efficient and effective opportunity exists for Alberta. Government states that its objective is to ensure the Alberta land titles system provides the best possible value to Albertans.

#### **4. Options under Review with respect to Alberta Land Titles Registry System**

There is an understanding that four (4) scenarios/models are being reviewed and considered by government for a future land titles registry system in Alberta:

- Status quo
- Statutory governance e.g. British Columbia: BC Land Title Authority
- Outsourcing to Teranet e.g. Ontario and Manitoba
- Corporate privatization e.g. Saskatchewan

#### **B. Option Analysis**

##### Evaluation Criteria

For purposes of this report and where information is available, the following are the evaluation criteria for each of the four (4) options:

1. Public Policy
2. Protection of Property Rights and Interests
3. Cost Effectiveness
4. Technological Developments
5. Public Asset: Land Titles Data and Use

## **Option 1: Status Quo**

### **Evaluation**

#### **1. Public Policy: Maintaining Government Operated Alberta Land Titles Registry System Necessary**

- Alberta's property laws, the Torrens system of land registration, have created one of the best systems of land titles in the world. The Alberta, government administered and operated system, is studied by American, Canadian and international jurisdictions as a model for the protection of property rights and interests. This requires safeguarding by government.
- Alberta's system of property law and protection of property rights depend on the secure creation and guarantee of legal property rights and interests through registration of those property interests at land titles. The Alberta government is best placed to ensure property rights are protected.
- Alberta's system of land registration is significantly different than the notice system of other registries, including *Personal Property Security Act* system, corporate registries and motor vehicles, which do not create legal interests. These registries only give notice and do not create legal property rights and interests like Alberta land titles. Alberta's superior system requires safeguarding by government.
- Alberta government operation of the land titles system promotes and supports a healthy financial and economic environment because of the security of land ownership and title and the superior level of service provided by the system. This is of fundamental importance to Albertans and is within the government's direct mandate.
- Legal rights to land and land titles secured by a government operated land titles system are fundamentally the basis of economic activity throughout the province. This is of critical importance to Albertans and is within the government's direct mandate.
- Alberta's land titles is important for all major businesses and industries in Alberta, particularly the oil and gas industry i.e. mineral titles, leasehold interests, surveys, etc. This is of fundamental importance to Albertans and is within the government's direct mandate. Reliance on the system by Alberta business and consumers is so entrenched that it may be taken for granted.
- Land titles affects all Alberta consumers buying and selling homes in the residential real estate sector. Consumers rely on the security and protection of property interests at the Alberta government administered

land titles. The Alberta government is best placed to ensure such property protections for all consumers.

- There is significant knowledge and expertise within the current land titles system which has significant value.

## **2. Protection of Property Rights and Interests by Government**

- The Torrens system of land title registration is codified in Alberta law through the *Land Titles Act*, including the mirror, curtain and assurance principles. There are similarities existing across Western Canada because of historical settlement patterns and the surveying of properties by the Dominion Land Survey starting in the late 1880's. This requires safeguarding.
- In the Torrens model, there are property protections through Indefeasibility of Title. This leads to certainty of land titles/property ownership, interests and property rights for Albertans. There should be no erosion of land titles protections for Albertans.
- Central and eastern Canadian land titles legal/transactional models are significantly different than Alberta's. Adoption of these models and operating systems, such as those in Ontario, would likely require significant changes to Alberta legislation and business practices within the real estate industry. Such changes could weaken the Torrens land titles system in various ways, including the need and additional cost for Alberta consumers to buy title insurance, and increase consumer costs.
- There are concerns with respect to the possibility of outsourcing land titles operations to a for-profit provider. The main concerns include: the erosion of land titles protections for Albertans; loss of expertise and knowledge of Alberta's Land Titles system; disengagement in a consultation process; loss of the benefit of the significant government and all Albertans investment in technology upgrades made to date by the Alta2Redesign project; loss of access by Albertans to a significant revenue stream; and increased overall cost to consumers.

## **3. Cost Effectiveness**

- Alberta land titles currently generates a positive revenue stream for government with a significant excess of revenues over expenses of approximately \$50 - \$55 million in net revenues per year. There is concern that there may a loss of access by Albertans to this significant revenue stream.

- Land titles is a cost effective and reliable system for Alberta business and consumers that is second to none in the world.
- For searches, land titles provides an automated and digital records system through SPIN 2. The system requires continued updating to bring the technology to more modern standards.
- There has been reinvestment in the land titles system through Alta2 Redesign Project. There is concern that adoption of for-profit or other models would result in the loss of benefits of significant investments in the current system, including technology upgrades made to date by the Alta2Redesign project
- There is concern that adoption of for-profit or other models not only would weaken the property rights protections afforded Albertans but would also increase the cost of land transactions in Alberta. Current data indicates that for-profit models are clearly more costly to consumers.
- Alberta has the lowest fees in Canada and by way of example, a copy of a certificate of title in Alberta costs \$10 while a copy of title in Ontario costs \$28.

#### **4. Technological Advances: Status of Alta2Redesign Project**

- Alta2Redesign project was initiated to update the land titles system infrastructure and to complete the electronic examination of documents through technology and electronic submission for registration of land titles documents. Final examination and registration is to remain with land titles authorities. This project is well underway.
- In the Sage Consulting Report (2005), prepared by an independent consultant, recommendations on land titles upgrade and operations were that administration and operations should remain with the Alberta government or with a Land Titles and Survey Authority, such as in British Columbia. This permits a significant revenue stream to remain with government
- There have been and continue to be significant technology advancements for accessing data and services i.e. SPIN 2 and electronic submission of the Document Registration Request. Improvements have been made to date by the Alta2Redesign Project team in consultation with stakeholders. To maximize the investment by Albertans to date, the Alta2Redesign project needs to be completed.

## **5. Public Asset: Government Innovation and Open Land Titles Data Use**

- Land titles data was collected from the people of Alberta, individuals and businesses, for purposes of their land registration.
- Making government held data available to the public, for free or for reasonable fees, is a concept taking hold worldwide and this includes land titles data. For example, under a policy of open government data, among other types of data, land titles data from Her Majesty's Land Registry in Britain is being made available to the citizens of the United Kingdom and others. Not only has the British government maintained its land registry system within government operations but it has added land titles as one of its "publishers" of data under this "Open Data" policy. The U.K. has concluded that a policy of "open data" will facilitate greater innovation and advance social and economic development for Britain. Consequently, land titles data is available to individuals, businesses, research firms, municipalities, institutions and communities across the United Kingdom. (see: [www.DATA.GOV.UK](http://www.DATA.GOV.UK)).
- The Government of Alberta has committed to a policy of Open Government. It is committed to advancing innovation and the economic interests of the province. The development of an "Open Data" policy and implementation of the program, including land titles data, would ensure the Alberta government and its people, not private enterprise, benefit from the accumulation of valuable Alberta data.

### **Additional Comments:**

#### **"Status Quo" Addresses Perceived Alberta Government Challenges**

- Land titles as currently structured provides the best value with good service
- The Alberta Government retains 100% of all revenue earned through the operation of land titles
- Land titles has low costs and high level quality. Its costs are the lowest in the Canada
- Land titles has automated searches and low fees; it is making a net revenue of \$55 million
- A project plan is in place to improve land titles technology over 4-5 years at minimal cost



- Costs for improvements to land titles can be recovered quickly through
  - modest fee increases not affecting program revenue; and
  - reduction in operational costs (staffing) as a result of improved technology

Stakeholders have been advised the results based budget review has not been initiated to fix any challenges with the current Land Titles Registry System.

## **Option 2: Statutory Governance through a Delegated Authority**

### **Evaluation**

This option operates through a statutory non-profit corporation which is a step removed from government itself. The statutory corporation would be separate from government but publically accountable to a government ministry and responsible for operating and administering the land title systems in the public interest. By way of example, since 2005 in British Columbia, a statutory authority, known as the Land Titles and Survey Authority (LTSA), has been responsible for administering the land titles and land surveys system in that province. It is a not for profit. These services are viewed as essential to the underpinnings of private property markets, civil justice systems, civic government and Crown land management frameworks. Under this model, the province establishes the mandate, responsibilities and performance standards of the system and presumably has an operating agreement with the B.C. government.

#### **1. Public Policy**

- The mandate of government and a statutory delegate are aligned under this model; that is, the goal of both is to pursue the public interest
- A statutory delegate would be similar to a government operated system and would deliver assured land titles. This is essential to the good functioning of property market and is an economic foundation for a province. In such a system, government would continue to rely on its assured land titles records to support taxation and its own inventory of lands.
- The statutory authority would be governed by a Board of Directors or Council overseeing the day to day operations and management by administration in the public interest. The Board would be responsible for strategic plans, budgets, accountability and transparency structure.
- In British Columbia, for example, the LSTA board of directors consists of appointees who represent a broad spectrum of society including the BC Government, First Nations Summit, Union of BC Municipalities, Law

Society of BC, BC Real Estate Association, Society of Notaries of BC, Association of Professional Registry Agents, and Association of BC Land Surveyors.

- The statutory authority would operate with the guidance of a Stakeholder Advisory Committee. The committee would be a consultative group of public members providing advice to the management and the Board of Directors. In British Columbia, in addition to those organizations already mentioned, includes representation from the BC Assessment Authority, BC Historical Foundation, Central 1 Credit Union, Canadian Bankers Association and Canadian Bar Association, BC Branch.
- There is a history of effective consultation and collaboration by the Alberta government on land titles matters including SPIN II and the Alta2 Redesign Project. Stakeholders are major users of land titles to protect client/public interests. In this option, stakeholders would continue to have involvement to ensure an efficient and cost effective system in the public interest.
- It would be different from government and would have a dedicated mandate to land titles as opposed to one of a number of programs being part of the overall governing structure in a large ministry. It could provide specific services and feedback and would have a direct relationship with customers and its advisory committee.
- The statutory authority would not be driven by annual budgets and it would be able to make longer term financial plans. In British Columbia, the Land Titles and Survey Authority had no equity from government when it commenced operations but instead took on debt. It bought government's information systems and equipment and had 8 million in debt.
- Based on financial assumptions, the Land Titles and Survey Authority entered into a fee splitting arrangement with government on a 31 % fees to Authority and 69% to government. It is in a good financial situation today.

## **2. Protection of Property Rights and Interests**

- The Torrens system of land title registration is codified in Alberta law through the *Land Titles Act*. There are similarities existing across Western Canada because of historical settlement patterns and the surveying of properties by the Dominion Land Survey starting in the late 1880's. This requires safeguarding and the statutory governance model would provide the protections.

- In the Torrens model, there are property protections through Indefeasibility of Title. This leads to certainty of land titles/property ownership, interests and property rights for Albertans. There should be no erosion of land titles protections for Albertans in a statutory governance model.
- Central and eastern Canadian land titles legal/transactional models are significantly different than Alberta's. Adoption of these models and operating systems, such as those in Ontario, would likely require significant changes to Alberta legislation and business practices within the real estate industry. Such changes could weaken the Torrens land titles system in various ways, including the need and additional cost for Alberta consumers to buy title insurance, and increase consumer costs. While legislative amendments would be required to implement the statutory governance model, such amendments would be of an administrative nature and would not affect the foundation of the operating system.
- There are concerns regarding suggestions of outsourcing land titles operations to a for-profit provider. The main concerns include: the erosion of land titles protections for Albertans; loss of expertise and knowledge of Alberta's Land Titles system; disengagement in consultation processes; loss of the benefit of the significant investment by government, the stakeholders and all Albertans in technology upgrades made to date by the Alta2Redesign project; loss of access by Albertans to a significant revenue stream; and increased overall cost to consumers.

### **3. Cost Effectiveness**

- This option presents opportunities for the government to retain substantial income through a fee splitting between the delegated authority and government
- Government would not be required to provide sustainable access to capital
- Government would not be required to provide funds for technology upgrading for new features and capabilities
- Government would not need to provide funds for new services and products to respond to the market
- Costs would be covered by the statutory authority

#### **4. Technological Developments**

- Government would not be required to provide funds for technology upgrading for new features and capabilities. The statutory delegate would be self-funded.
- In the Sage Consulting Report (2005), prepared by an independent consultant, recommendations on land titles upgrade and operations were that administration and operations should remain with the Alberta government or with a Land Titles and Survey Authority, such as in British Columbia.
- There have been and continue to be significant technology advancements for accessing data and services i.e. SPIN 2 and electronic submission of the Document Registration Request. Improvements have been made to date by the Alta2Redesign Project team in consultation with stakeholders. To maximize the investment by Albertans to date, the Alta2Redesign project needs to be completed. A statutory delegate could continue this process.

#### **5. Public Asset: Government Innovation and Open Land Titles Data Use**

- Land titles data was collected from the people of Alberta, individuals and businesses, for purposes of their land registration.
- Making government held data available to the public, for free or for reasonable fees, is a concept taking hold worldwide and this includes land titles data. For example, under a policy of open government data, among other types of data, land titles data from Her Majesty's Land Registry in Britain is being made available to the citizens of the United Kingdom and others. Not only has the British government maintained its land registry system within government operations but it has added land titles as one of its "publishers" of data under this "Open Data" policy. The U.K. has concluded that a policy of "open data" will facilitate greater innovation and advance social and economic development for Britain. Consequently, land titles data is available to individuals, businesses, research firms, municipalities, institutions and communities across the United Kingdom. (see: [www.DATA.GOV.UK](http://www.DATA.GOV.UK)).
- The Government of Alberta has committed to a policy of Open Government. It is committed to advancing innovation and the economic interests of the province. The development of an "Open Data" policy and implementation of the program, including land titles data, would ensure the Alberta government and its people, not private enterprise, benefit from the accumulation of valuable Alberta data.

- A statutory delegate would present opportunities for data leverage in the public interest.

### **Option 3: Outsourcing**

#### **Evaluation**

Outsourcing means contracting with a person or company for the administration and operations of the land titles system. Teranet Inc. is an example. Teranet Inc. has a 50 year monopoly on administering the Land Titles system in Ontario. In Manitoba, it will have a similar 30 year monopoly to administer the Land Titles System there.

It is understood that the Alberta government is considering outsourcing the Alberta Land Titles Registry System to Teranet Inc. Teranet is a private, for-profit, company. Teranet was originally established as a public-private partnership (P3) in 1991 with the Government of Ontario to convert and automate Ontario's land registration system. That project converted a 200-year old paper-based system to an electronic database with records for more than 5 million parcels of land. In 2003, the Government of Ontario sold its 50% stake in Teranet to a consortium of private sector investors. Teranet Income Fund completed an IPO in 2006 but was subsequently acquired in 2008 by Borealis, the infrastructure investment arm of the Ontario Municipal Employee Retirement System (OMERS), one of Canada's largest pension funds.

#### **1. Public Policy**

- The mandate of government and a private company are not aligned under this model. The goal of government is to operate programs and services in the public interest. The sole goal of the private company is profit, a specific return on investment, or an increase in share value for its shareholders.
- In this model, the benefits of any efficiencies captured through utilization of new technologies or re-investments in the system (or any profits or return on investment) will ultimately go to Ontario and, specifically, OMERS.
- The public sector is a collection of its organizations and institutions, employees and capital assets whose value is greater than the sum of its parts. Loss of a public land titles registry asset diminishes the value and sends a message that the province is for sale. Is this good for Albertans? We think not.
- If there is outsourcing of the administration of the land titles system, the Alberta government will make a shift in public policy as it relates to the

delivery of essential services to Albertans and there will be a shift in government philosophy. Land titles registration is an essential service because if a consumer wants or needs to transfer land, search a title or register a mortgage, etc. the consumer has to use the land titles system. Is it good public policy to outsource an essential service? We think not.

- If Teranet Inc. is the for-profit service provider, it will inherit a captive audience for the essential service for the length of the arrangement which in Ontario is 50 years (2067) and Manitoba 30 years. Populations are growing in Alberta, Ontario and Manitoba. Land transactions are increasing. A for profit land titles business is guaranteed to grow. Should this growth be maintained for Albertans in the public interest? We think it should be retained for the benefit of all Albertans in the public interest and to ensure efficient and cost effective services for Albertans.
- There is acceptance by Albertans that government, in its work for Albertans, endeavors to protect the personal information it collects, uses and discloses. In a for-profit solution is there a risk greater than with government that there be a loss of personal information or other privacy protection? We think government is in the best position to provide protection.

## **2. Protection of Property Rights and Interests**

- There is a serious risk that a for-profit company may significantly impair legal property rights in Alberta
- There is a serious concern that a for-profit company, which has based its electronic systems on an instrument and notice based land titles system may, due to operational or system considerations, erode the Torrens land titles system in Alberta
- In outsourcing to Teranet, the emphasis for Teranet is on profit not property rights, consumer protection or customer service.
- There may be a concern that an international enterprise may ultimately own and control Alberta's land registry system.
- If there is international ownership e.g. United States, the personal information of Albertans may be subject to the electronic security or other electronic search programs of other countries.

## **3. Cost Effectiveness**

- Access to the land titles system in Ontario through Teranet Inc. has resulted in increased user and consumer costs. There is likely little doubt

that fees to Albertans will increase in an outsourcing model since they have in Ontario where fees for a title search are triple the current Alberta fee.

- To access the Teranet Inc. registry system, a user must first install Teraview, Teranet Inc. proprietary software, at a cost of \$595.
- Outsourcing would not result in complete government cost elimination for the operation and administration of the Alberta land titles system. It would likely only be a partial response. In Ontario, after Teranet Inc. was introduced, land titles registry administration and operations continued in many respects for government and government continued to process complex transactions.
- Because Teranet has access to all Ontario land registration data, Teranet offers other non-essential, proprietary services called value-added services (VAS) which pricing is not be controlled by the province.
- In the outsource arrangement with government, Teranet Inc. makes an upfront payment and pays annual royalties to government (though suspended until 2023).
- Employees of the existing registry offices are usually transferred to Teranet Inc, reducing the size of government and there may be attrition or layoffs over time.

*\*Although the accuracy of the information below is not fully confirmed (due to timelines for report completion), the following may be fee comparisons for consumer use of land titles registry systems for searches across Canada:*

**Costs to Obtain Title**

<b>Province</b>	<b>Government tariff</b>	<b>On-Line service charge</b>
<b>Ontario</b>	\$8 (for first page) \$1 plus HST each additional page	<b>\$20 (total \$28 plus HST) *confirmed</b>
<b>British Columbia</b>	\$7.45 At a registry office, the cost is higher.	<b>\$1.68 (HST included) *confirmed</b>
<b>Alberta</b>	\$10.00	<b>*confirmed</b>
<b>Saskatchewan</b>	\$10	\$0 (government run)
<b>Manitoba</b>	81 ½ cents per transaction 15 cents per transaction (Monthly subscription fee is \$15)	

**Quebec** \$1 per abstract on-line \$0 (government run)  
\$4 at registry office

**New Brunswick** \$1 \$0 (government run)

**Nova Scotia** \$Based on hours used (government run)

**Prince Edward Island** \$1 \$0 (government run)

**Newfoundland** \$0 (government run)

**Costs to Obtain Instruments**

**Province Government tariff On-Line service charge**

**Ontario** \$0 \$3.39 \*confirmed

**British Columbia** \$12.35 \$1.68 \*confirmed

**Alberta** \$10 \*confirmed

**Saskatchewan** \$3 \$0 (government run)

**Manitoba** \$15 \$0 (government run)

**Quebec** \$1 \$0 (government run)

**New Brunswick** \$2 \$0 (government run)

**Nova Scotia** Hourly

**Prince Edward Island** \$1 \$0 (government run)

**Newfoundland** \$0 (government run)

**4. Technology**

- Teranet Inc. indicates it invests in systems development to endeavor to ensure services such as title, property searches and registrations will be available to consumers. It is unknown what this means.
- Costs for technology development will likely be passed on to consumers.
- Consumers will likely not be consulted with respect to change and resulting costs



## 5. Public Asset: Land Titles Data and Use

- Teranet offers non-essential, proprietary services called value-added services (VAS) whose pricing will not be controlled by the provinces. These services include a “GeoWarehouse”. It provides:
  - land-related data to the real estate industry, surveyors and government agencies;
  - a risk-management suite that provides information to lenders; and
  - a program called “The Conveyancer” that helps lawyers handle their real estate transactions.
- These value added services would not function without access to publically-built resources such as Ontario’s land registry system. In the case of Alberta’s Land Titles system, it is already in electronic format. Users of the Land Titles system and Alberta tax payers built this valuable data base.
- Provision of the public data to a private corporation will mean it reaps the benefits by controlling access to the asset. It will be able to expand its product base into non-controlled, proprietary products, for its own fees. Should this not be an asset preserved for Albertans? Should this not be an asset used for the economic and social development of Albertans? We would say “yes” to both of these questions because it represents a government policy supporting innovation and one that truly promotes the public interest.

### **Option 4: Privatization through Crown Corporation**

#### **Evaluation**

Information Services Corp. (ISC) is a public company which operates the Land Titles Registry, the Personal Property Registry and the Corporate Registry in Saskatchewan. The Saskatchewan government’s Crown Investments Corp., the owner of ISC, is selling between 60% to 70% of the shares in ISC on the open market. Under this offering, Crown Investments Corp. will own 100% of the “Golden Shares” which will enable Crown Investments Corp. to outvote all other shares in certain circumstances. No shareholder can have a stake of more than 15%.

ISC has an exclusive agreement to provide registry and information services to the Government of Saskatchewan. Under this agreement, ISC is responsible for the management and operation of the land titles, personal property, and corporate registries (as well as the land surveys directory, geographic information, and access to certain government services for business). The

Government of Saskatchewan will manage the contractual relationship with ISC through the Office of Public Registry Administration at the Ministry of Justice. This Office will continue to contain the government-appointed registry officials responsible for oversight of each of the registries and the land surveys directory.

The issuer is hoping to raise about \$120-million from its initial public offering via the sale of limited voting shares. Over the past year, ISC has generated about \$80-million in revenue and net income of about \$20-million. A quarterly dividend may be paid.

## **1. Public Policy**

- Should operations of Alberta's Land Titles Registry, which is basically a monopoly, be by publically traded commodity with a for-profit mandate as opposed to a public interest mandate?
- Loss of a public land titles registry asset diminishes the value of government and sends a message that a province is for sale. Is this the future direction of Alberta?
- If there is privatization of the administration of the land titles system, the Alberta government will make a shift in public policy and government philosophy. Land titles registration is an essential service because if a consumer wants or needs to transfer land, search a title or register a mortgage, etc., the consumer has to use the land titles system. Is it good public policy to privatize an essential service to a publically traded company? We think not.
- The public company will inherit a captive audience for the essential service for the length of the arrangement. Populations are growing in Alberta, Ontario and Manitoba. Land transactions are increasing. A for profit land titles business is guaranteed to grow. Should this growth be maintained for Albertans in the public interest? We think it should be to, among other things, ensure efficient and cost effective services for all Albertans, and not just those who buy shares.
- There is acceptance by Albertans that government in its work for Albertans endeavors to protect the personal information it collects, uses and discloses. In a for profit solution there a risk there be a loss of personal information or other privacy protections. We think the government's public interest mandate is in the best position to provide personal information protection to Albertans.

## **2. Protection of Property Rights and Interests**

- There is a serious risk that a for-profit company may significantly impair legal property rights in Alberta.
- There is a serious concern that a for-profit company may, due to operational or system considerations, erode the Torrens land titles system in Alberta
- The emphasis for a for-profit company is not property rights, consumer protection or customer service.
- There may be a concern that an international enterprise may ultimately own and control Alberta's land registry system.
- If there is international ownership e.g. United States, the personal information of Albertans may be subject to the electronic security or other electronic search programs of other countries.
- There is significant concern that there will be an erosion of property rights and interests protected currently protected in the current land titles system in Alberta

## **3. Cost Effectiveness**

- Access to the land titles systems in a for-profit solution will likely result in increased user and consumer costs.
- New proprietary technologies may be required by consumers to access the registry system
- Privatization may not result in complete government cost elimination for the operation and administration of the Alberta land titles system. It would likely only be a partial response.
- Privatization will likely offer other non-essential, proprietary services called value-added services (VAS) which pricing will likely not be controlled by the province.
- Employees of the existing registry offices are likely to be laid off since profit motives will be the emphasis
- There is a concern that profits will not be re-invested for the betterment of the systems but will be reaped by the shareholders

#### 4. Technological Developments

- Questions remain as to whether a for profit solution will invest in systems development to endeavor to ensure services such as title, property searches and registrations will be available to consumers at low cost
- There is a concern that costs for technology development will likely be passed on to consumers.

#### 5. Data Use

- Non-essential, proprietary services called value-added services (VAS) whose pricing will not be controlled by the provinces will likely be offered. These may provide:
  - land-related data to the real estate industry, surveyors and government agencies;
  - specific assistance and information to lenders and lawyers.
- These value added services would not function without access to publically-built resources such as in Ontario's land registry system. Tax payers built this valuable data base.
- Provision of the public data to a private or public corporation will mean it reaps the benefits by controlling access to the asset. It will be able to expand its product base into non-controlled, proprietary products for its own profit. This asset should be preserved for Albertans.
- A significant part of the business plan for ISC which is supposed to enhance share value is to sell or license its systems to other jurisdictions. ISC has tried this for years but has been unsuccessful. Without this how will share value increase?

#### **C. Recommended Course of Action for the Alberta Government**

In accordance with the *Results-Based Budgeting Process Act* principles:

*“WHEREAS the Government of Alberta has a long history of providing essential programs and services for Albertans directly and through its agencies;*

*WHEREAS Alberta and Albertans have grown and evolved economically, demographically and culturally;*

*WHEREAS the Government of Alberta is committed to ensuring that its*

*programs and services are the right programs and services delivered in the right way to achieve the results that Albertans expect, in the most efficient and effective manner;*

*WHEREAS a comprehensive review of the Government's programs and services will ensure that those programs and services are continuing to achieve the best results and to support Albertans, communities and businesses in reaching their full potential;*

*WHEREAS the recommendations from such a review can form a basis for future budget and policy decisions to achieve the best results for Albertans;*

*WHEREAS engaging Albertans is vital to determine what results they want and to validate the results achieved; and*

*WHEREAS an innovative, collaborative and engaged Alberta Public Service, working with purpose and pride, is committed to achieving results for Albertans and making a difference in their lives;”*

the Alberta Government is requested to engage in a meaningful, appropriate public consultative process during which consumers and stakeholders are provided detailed information with respect to options under consideration by the Alberta Government for a future Alberta Land Titles Registry System.

At this time, the Real Estate Council of Alberta requests the Alberta Government not change current Land Title Registry operations and systems. The Land Titles Registry System, with the technological improvements currently underway, is leading edge and is “... *the right program and service delivered in the right way to achieve the results that Albertans expect be maintained*”.

Alternatively, although limited information is available to the Real Estate Council of Alberta with respect to options it believes the Alberta Government is considering for a future Land Titles Registry system, taking into account the available information, in the public interest, a statutory governance model, such as British Columbia's Land Title and Survey Authority, may be a reasonable option. However, without disclosure of adequate, government-held information detailing all benefits and disadvantages of all options, including cost factors, an appropriate analysis is challenging.