

Best Practices

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Improving the management of government property assets is still a work in progress, even in countries and cities that are regarded as advanced. Today we have the benefit of some successes and some failures in approaches to the disposition of public lands and through lessons learned there is evidence of steady progress toward creative solutions. Many of these creative solutions involve alternative delivery vehicles, but that is not to discount the effectiveness of the in-house model, or some combination of the two. What have we learned?

- There is no right way, only a best way. The best way is a crafted arrangement in response to particular circumstances, the mandate, and the level of autonomy that a government is willing to convey, the risks it is willing to take, availability of in-house skills and resources, market timing, and the political climate of the day.
- One model is not better than another. Each has its particular strengths and weaknesses. A decision on which route to follow must be based on a sound business case predicated on mandate and context. There is no “silver bullet”. The disposition of public assets is a complex process involving many stakeholders, a myriad of expectations, a high level of public scrutiny, and political risks, each of which must be carefully managed.
- Special purpose vehicles offer some distinct advantages in particular situations. They can offer the prospect of both an improved governance model for decision-making and delivery systems that are more effective and efficient in maximizing the value of assets to be disposed of.
- A number of challenges at the municipal level must be addressed. These must be addressed by elected officials and include a clear understanding and definition value, as well as how it is measured; the assignment of risks and rewards in the value chain; matters of accountability; and conflict of interest issues, both real and perceived.
- The in-house model is the most prevalent municipal model in Canada as it leverages a municipality’s existing resources, policies, procedures and reporting relationships and affords local politicians the level of control over the administration that they often demand. Even when cities launch into alternative models, they are likely to keep the existing in-house model intact.
- Alternative models to the in-house model begin to offer distinct advantages for large land dispositions that are often termed “strategic” dispositions whereby the municipality seeks to create additional value prior to disposition, overlay various public policy objectives, and tackle infrastructure deficiencies.
- The combination of in-house delivery and a special purpose vehicle (hybrid model) works well at the municipal level where land disposition for a given parcel can involve a myriad of stakeholders, is subject to specific and oftentimes unique mandates from Council, and requires close collaboration between various city departments. In these circumstances, there is typically a Council decision that must be implemented through a collaborative effort and implementation becomes the challenge.
- The apparent simplicity of the “omnibus” corporation (“Canada Lands” model) may be appealing, but this model introduces a whole new set of challenges at a municipal level and may increase and not diminish the risks involved at a local level. There are currently no omnibus corporations in place at a municipal level in Canada.

- In situations where the municipality is both the owner and regulatory authority, public officials must be made aware of any potential conflicts through full disclosure; have the opportunity to access legal counsel to address any issues that may arise; and be afforded the right to exercise their prerogatives in their dual role as land owner and regulator with full understanding of the implications of their decisions. This applies even with municipal land development corporations since Provincial legislation requires that a municipal corporation with a Board must still have majority control reside with elected officials.
- Some jurisdictions have established a “firewall” within the administrative structure to achieve a functional separation at the departmental level between those responsible for planning and regulatory functions and those responsible for real estate land functions. In theory, Council is then the final arbiter between the two sides. For specific land development activities, this may be easier to implement with a corporation model than with the in-house model.

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