

THE *MUNICIPAL GOVERNMENT ACT (MGA)* AND MUNICIPAL BUSINESSES

There is no section in the *MGA*, nor is there any specific doctrine at common-law, that expressly prohibits municipalities from running businesses. Municipalities are created by statute and therefore, may do only what the statute, or the common-law derived from it, permits them to do.

It is clear that Parts 1 & 2 of the *MGA* are intended to confer broad powers to municipalities. Therefore, whether a municipal decision, such as operating a business, is a valid exercise of its authority should be measured within the definition of municipal purposes: providing good government, providing services, facilities or other things that are necessary or desirable for all or part of the municipality, or developing and maintaining safe and viable communities. Generally, municipalities are confined to operating within their own boundaries (*MGA* s. 54).”

Section 73 of the *MGA* states that where a municipal council controls a corporation to make a profit, it must comply with the *Control of Corporations Regulation, Alta Reg 284/2003*, which requires ministerial approval.

Cautions:

- Obtain legal advice before proceeding to ensure any risk to the municipality is minimized.
- If the municipality establishes a corporation to make a profit, **REMEMBER** to obtain permission from the Minister before proceeding.
- If the municipality intends to not establish a corporation to make a profit, ensure that;
 - a) Consideration is given to any potential costs to the municipality and especially any potential liabilities such as damage to agency property or equipment.
 - b) Consideration is given to the liability risk that might exist for any adverse staff actions that could be adverse the municipality.

