



## The British Columbia Fruit Growers' Association

880 Vaughan Avenue, Kelowna, BC V1Y 7E4  
Ph: (250) 762 – 5226 • Fax (250) 861 – 9089  
e-mail • info@bcfga.com

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# ALR Review

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## Introduction

Agriculture requires land, water and labour - these are essential for our industry. The BCFGGA supports the Agricultural Land Reserve for its role in preserving the availability and encouraging the productivity of agricultural land. The BCFGGA is pleased to provide this brief to the Minister of Agriculture's Advisory Committee on the ALR review.

Several items have overtaken our plans to grow and develop the agriculture sector, regarding agricultural lands. We hope that the ALR Advisory Committee will urgently require addressing *Mega Mansions* - very large houses, built as residences for non-farm families, which most frequently take the whole parcel out of farm production. The urgency is that current property tax rules are encouraging rather than discouraging development of Mega Mansions in the ALR. We are further concerned that the new luxury and speculation taxes on homes may not be effective in the ALR.

Another urgent request for the Review Panel is to set clear direction that the ALR should support the labour needs of agriculture, including:

1. Housing for SAWP workers, and
2. Residential housing for the farm operator.

Currently, these rules are set by municipalities and Regional Districts with limited expertise in agriculture. Municipalities have differing ALR bylaws, creating inequities between farming operations in neighbouring municipalities. We ask that the review panel look at SAWP housing and farm operator housing rules in the ALR with a view to standardizing the approach and making rules that protect the ALR but do not unduly fetter the farm operation.

There are other items of less urgency that the BCFGGA is concerned about and for which the right solutions should be established, such as the efficient administration of the ALR by the ALC and municipalities. The purpose of this brief is to present the ALR Review Panel with input from the BC tree fruit sector.

## **The BC Fruit Growers' Association and the BC Tree Fruit Sector**

Our association represents 480 commercial tree fruit growers in the Okanagan, Similkameen, Shuswap and Creston Valleys. Our mission is:

*A Prosperous, Sustainable, Innovative Tree Fruit Sector in BC*

*that grows products that improve health.*

Based on the most recent Agriculture Census in 2016, the family-owned tree fruit farms in BC generate income of \$ 118.6 million per year, with a packed value of \$218.8 million, and \$776.6 million of economic activity annually. Production is growing in cherries, and apple producers have in recent years reversed a long-term decline in productive acreage.

### **Priority**

An immediate priority of our members is that the threat of erosion due to conversion of ALR property to residential use by non-farming owners be regulated. The acceleration in the development of rural estates, and now Mega Mansions, is at a critical stage. Immediate action is needed. This action should be taken before the Summer, as it is urgent that a speculation tsunami not wipe out the ALR.

In the Lower Mainland of BC, we have seen increased conversion of ALR land to mega mansions, which effectively removes the entire farm property from production. Why is this? Clearly, if an individual pays lower property tax in the ALR compared to the residential zoned areas, then it is rewarding to convert the ALR property to a Mega Mansion. The only criteria required of the Mega Mansion owner to achieve this preferential property tax treatment is a minimal, out-of-date farm revenue requirement. This requirement can be easily attained. A famous case is the "Oak Tree Nursery" Mega Mansion in Victoria - this was successfully challenged in court by the ALC, but most 'fake farms' are successful in keeping their preferential farm property tax status. The recent luxury tax on non-resident properties appears to be attached to residential properties but not farm class properties, providing another incentive for mega mansions. A luxury tax on ALR land should exceed that in urban areas to halt the development of mega mansions on ALR property. To re-iterate, the property tax on a mega mansion in the ALR should be far more than the property tax on a similar mega mansion in an urban area.

**Recommendation 1: Immediately introduce an 'ALR luxury tax' that will be applied to non-residents.**

## **ALR Consultation Themes**

### **A defensible and defended ALR**

**Recommendation 2: Generally, increase the minimum revenue per acre required to achieve the class 9 status.**

Class 9 status provides reduced property tax for actively farmed land in the ALR. Currently, land is not being productively used in farming, but qualifies as Class 9 due to the low-income threshold required for Class 9 status. Increasing the minimum revenue requirement will provide greater incentive to actively farm ALR properties.

If land is vacant, then the tax could be reduced or deferred, and accumulated in an account that would be paid in full if the land is converted to another use (say, industrial or subdivided). On the other hand, the tax could be deferred or even forgiven in stages if the land is brought into production.

**Recommendation 3: Introduce new rules to prevent ‘fake sale’ of product from qualifying as legitimate farm product sales**

The farm product must be sold to a legitimate third party or sold to a legitimate consumer (i.e. no buying and selling horticultural products or livestock to relatives or neighbours to generate a fictitious sale revenue). The agriculture product that is counted towards the revenue threshold should be grown or transformed in a legitimate way.

### **ALR resilience**

There are rarely any additions to the ALR. The ALR continues to erode.

- the province and municipalities sometimes treat ALR properties as ‘available’ or non-agriculture provincial and municipal uses. It seems to farmers impacted by these decisions, that there is no countervailing power to protect their land from these raids.
- the rule allowing schools and churches in the ALR continues to erode and alienate ALR properties. It is well known that placing a church or school in the ALR causes intense pressure to remove surrounding properties from the ALR for development.
- properties are excluded based on a ‘provincial or municipal need’, but when the plan is not carried out, the land remains excluded and is not returned to the ALR.

Some of these decisions to remove land or allow alternate uses have gone too far.

**Recommendation 4: Introduce more stringent requirements for non-farm use of ALR property by utilities and governments and eliminate schools and churches as an allowable use in the ALR.**

**Recommendation 5: Introduce regular post-exclusion reviews, so that land released from the ALR, but not subsequently developed, is returned to the ALR.**

A reversal or at least slowing of ALR erosion would strengthen the ALR and improve its resilience.

### **Stable governance**

The current system of regional panels appears to work well most of the time and allows for greater awareness of local agriculture by panelists. Panels could be more consistent and flexible by having a program to rotate guest panelists from neighbouring regions. Allowing guest panelists would also help regional panels continue to operate when one of the regular panel members cannot attend.

**Recommendation 6: Allow participation of ‘alternate’ panelists from neighbouring ALR panels.**

### **Efficacy of zones 1 and 2**

The BCFGGA prefers a single zone approach, for uniformity, or alternately including the Kootenay region in Zone 1. The rationale for Zone 2 is the extensive land availability in Northern BC, and this simply is not the case in the Kootenay region.

**Recommendation 7: Return to a single zone approach, or failing that, include the Kootenay region in Zone 1.**

### **Interpretation and implementation of the Act and regulation**

**Recommendation 8: Address the difference in ALR regulations between municipal governments.**

Growers are confused about why different rules apply in different municipalities. The core ALR requirements, such as secondary uses, should be uniform and administered by the ALC. We have observed that the municipalities are not comfortable regulating ALR properties - the municipalities do not have the specialist expertise and human resources to manage the ALR. The only exception to ALC responsibility for ALR bylaws and enforcement are those municipal bylaws that are required to regulate municipal services, such as waste collection, traffic and fire prevention.

**Recommendation 9: Introduce farm worker housing bylaws that make sense for agriculture and make the bylaw uniform across local government.**

The bylaws that limit the number of farm worker residential spaces ('beds') on a property, through a 'hard cap', are contrary to keeping the land in agricultural production. The BCFGAs supports a formula-based limit on beds on the number of beds per acre.

### **Food security and B.C.'s agricultural contribution**

The ALR preserves land for future agricultural use and encourages its present use in farming. As such, it is an important contributor to food security. The BCFGAs strongly support the ALR.

### **Residential uses in the ALR**

**Recommendation 10: Regulate the residential use of the ALR by ensuring that the owner of the residence is a bona fide farmer.**

The current farm revenue requirement for Class 9 property tax status is too low. A lower revenue requirement per acre could be put in place for non-range and non-grainlands (by Canada Land Inventory Class). The panel could examine innovative approaches to ensure that the property tax rate for farmland is offered only to bona fide farmers.

### **Farm processing and sales in the ALR**

**Recommendation 11: Introduce farm processing and sales requirements or bylaws that are uniform across the ALR.**

The ALC or provincial ministry of agriculture should consult with agriculture and establish a workable set of rules that is put in place for all ALR property.

### **Unauthorized uses**

Regulation of unauthorized uses are currently initiated by complaint. One option is to implement a random audit to enforce unauthorised uses. Other options could be explored. The integrity of the ALR is eroding as unmonitored, unauthorized uses proliferate.

**Recommendation 12: Act to significantly reduce unmonitored, unauthorized use of ALR land.**

### **Non-Farm uses and resource extraction in the ALR**

Currently, allowable nonfarm uses in the ALR are regulated by Municipalities.

**Recommendation 13: Introduce provincial ALR regulation of allowable non-farm uses of ALR land to eliminate variability between municipalities and Regional Districts.**

Our association has not had extensive experience with resource extraction. We note that, of the gravel pits in the ALR (Winfield and East Kelowna) that we are aware of, the land is permanently removed from agricultural production.

**Recommendation 14: Introduce a rule that resource extraction is permitted only if there is reclamation of the land to ALR status and top soil retained.**

## Summary

The BCFGA strongly supports the ALR for its ability to preserve agricultural land. However, erosion of ALR continues through exclusions and non-farm use in ALR. The BCFGA recommends that

**Recommendation 1: Immediately introduce an ‘ALR luxury tax’ that will be applied to non-residents.**

**Recommendation 2: Generally, increase the minimum revenue per acre required to achieve the class 9 status.**

**Recommendation 3: Introduce new rules to prevent ‘fake sale’ of product from qualifying as legitimate farm product sales.**

**Recommendation 4: Introduce more stringent requirements for non-farm use of ALR property by utilities and governments and eliminate schools and churches as an allowable use in the ALR.**

**Recommendation 5: Introduce regular post-exclusion reviews, so that land released from the ALR, but not subsequently developed, is returned to the ALR.**

**Recommendation 6: Allow participation of ‘alternate’ panelists from neighbouring ALR panels.**

**Recommendation 7: Return to a single zone approach, or failing that, include the Kootenay region in Zone 1.**

**Recommendation 8: Address the difference in ALR regulations between municipal governments.**

**Recommendation 9: Introduce farm worker housing bylaws that make sense for agriculture and make the bylaw uniform across local government.**

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**Recommendation 12: Act to significantly reduce unmonitored, unauthorized use of ALR land.**

**Recommendation 13: Introduce provincial ALR regulation of allowable non-farm uses of ALR land to eliminate variability between municipalities and Regional Districts.**

**Recommendation 14: Introduce a rule that resource extraction is permitted only if there is reclamation of the land to ALR status and top soil retained.**

The adoption of these recommendations could strengthen the ALR and not only preserve land for agricultural use but encourage agricultural use of vacant land in the ALR. The BCFGA supports the effort of the ALR Review Committee to make improvements in the preservation and productivity of agricultural land.