

Background Paper– Urban Reserves

June 2008

Saskatchewan Chamber of Commerce

Synopsis

The establishment of First Nation reserves in urban settings is a relatively new development in western Canada. Whereas cities in western Canada have expanded to encompass existing reserves, Saskatchewan is home to the unique occurrence where new First Nations reserves are being created directly within existing municipal boundaries.

The premise on which urban reserves are created is that ownership of land in an urban centre by First Nations will increase the opportunities for economic development for those people. There is little hard research on the overall success of the concept but it is widely held by those close to the issue that the benefits are real.

Briefing

An Urban Reserve is land that has received official Indian Reserve status from the Federal Government and is located within a municipality or a Northern Administration District.

The *Saskatchewan Treaty Land Entitlement Framework Agreement* (TLEFA) was created to resolve the outstanding treaty land entitlements of 28 First Nations in Saskatchewan and to calculate the value of total land compensation owed to each. Funds (approximately \$446 million) were allocated to the First Nations for the unsettled claims, allowing them to make land purchases. The TLEFA permits First Nations to enter into agreements with municipalities to purchase land with the intention of moving toward formal reserve status designation. These parties realized the potential for economic development through the acquisition of urban property.

The desire of many entitlement Bands to acquire urban properties and land with the intention of receiving official Indian Reserve designation was recognized by all parties during the negotiation of the agreement. Article 9 of the TLEFA outlines the agreements that need to be signed, as one of the main requirements for Urban Reserve creation in Saskatchewan.

While urban reserves are an issue of discussion in most Saskatchewan cities, Saskatoon has completed some relevant strategic review of the issue. According to the City of Saskatoon, in addition to fulfilling original treaty commitments,

Treaty Land Entitlement (TLE) agreements have already led to greater economic and social independence and self-sufficiency for Saskatchewan First Nations. The City of Saskatoon's *Strategic Plan* states that it is necessary to form mutually beneficial partnerships with Aboriginal people "in order for the community to achieve the vision of its mission statement, which also establishes an ultimate goal to consistently act as a responsive, adaptive, proactive and accountable municipal organization."

The City of Saskatoon pursues its goals for the Aboriginal population through initiatives to help with specific Aboriginal issues within Saskatoon, such as:

- ? providing support for TLE Bands to initiate economic development projects within the City;
- ? developing future action plans on the basis of consultation with Aboriginal people by developing relationships;
- ? working with the Aboriginal community to facilitate Aboriginal leadership training programs that meet their needs;
- ? developing cross-cultural training programs for Council, civic staff and the public; and
- ? continuing employment equity initiatives.

Since the introduction of the TLEFA, 33 new urban reserves have been created in Saskatchewan, the first one in Saskatoon in 1988. Of these 33 urban reserves, nine have been created in cities, which include Saskatoon, North Battleford, Prince Albert and Yorkton. Regina and Swift Current are in the process of joining or adding to these ranks. Other urban reserves in Saskatchewan are located in Kylemore, Meadow Lake, Spiritwood, Deschambault, Southend, Sturgeon Landing, Denare Beach, Kinoosao, Sturgeon Landing (2), Sandy Bay, Pelican Narrows, and Lebret. There are two urban reserves in both Duck Lake and Leoville and there are currently three urban reserves in Fort Qu'Appelle.

Urban Reserve Bands do not pay municipal taxes (property and school board) to the municipality, but pay an annual fee for municipal services. This payment is intended as a municipal compensation mechanism and is the equivalent to the municipal taxes, which would have been payable to the municipality if the property were not Reserve land. The municipality is not involved in the collection of taxes payable to the school board but the Bands enter into their own agreement with the school boards regarding this issue.

First Nations also have the authority to tax the users occupying Urban Reserve land and the municipalities recognize First Nations as the *exclusive* taxing authority on Indian Reserve land. However, it has been agreed to that the system of taxation used on reserve land will result in a level of taxation that is at least the same amount that the municipality would have collected, if it were the taxing authority of the land. This ensures that there is no tax advantage for having located on reserve land, other than the benefits received by Status Indian employees able to work for on-reserve businesses.

Status Indian persons working at an on reserve business are exempt from paying income taxes and contributing to the Canada Pension Plan. The tax on goods sold to a non-treaty person at an urban reserve business is applied the same as an off-reserve store, as the taxes are only removed when a Status Card is produced. Some products can be offered at a lower price because an aboriginal-owned business does not have to pay taxes on goods delivered to an on-reserve store.

There are limits on the volume of cigarettes sold to one person to attempt to limit the illegal resale of tobacco purchased under a Treaty right. Currently in Saskatchewan a person who provides a Status Card can only purchase three cartons of cigarettes a week or the rough equivalent of tobacco.

The issue raised from non reserve businesses that rely on gas and tobacco sales for a percentage of their sales is that the tax advantage is unfair to an off-reserve business operating in the same market area. For the Provincial Government, taxes revenues are increasingly diverted as the First Nations population increases and taxes on tobacco continue to rise; refunds have nearly doubled in the past five years (see chart below).

There are no examples on retail sales of any large volumes of retail products beyond tobacco and gas but there is also no restriction of the sale of other items.

Most businesses on urban reserves are not retail and include insurance, management consulting, financial services and more. In some cases the businesses located on an urban reserve are not aboriginal-owned.

First Nations Tobacco Tax Refunds: 2003-2008

2003-04	\$31.0M
2004-05	\$37.6M
2005-06	\$44.5M
2006-07	\$46.2M
2007-08	\$52.3M

Amounts above are refunded by fiscal year (April to March). The tobacco tax rate increased on April 1, 2004 from \$0.16 per cigarette/gram to \$0.175 per cigarette/gram and on October 28, 2006 to \$0.183 per cigarette/gram.

Price for One Carton of du Maurier king size (as of June 3, 2008)*

Without Status Number: \$100.32
 With Status Number: \$ 67.20

** Price at random Regina retailer*

Summary

With 33 urban reserves currently established in the province, urban reserves serve as a governance and economic model, which is now part of the business landscape of Saskatchewan. The evidence suggests that the number and distribution of such urban reserves will be growing in the future.

Urban reserves appear to have had a positive economic impact on First Nations. Urban reserves also appear to have created various positive community and social impacts. The potential impacts on the community in which these urban reserves were established also appear to be positive for most communities, but in some cases off reserve retail businesses can face competition they feel is unfair.

Many questions still remain to be answered. For example:

- Are First Nation-owned businesses on urban reserves more successful than First Nation-owned businesses in non-reserve urban areas?
- If urban reserves were not established, would the same level of First Nation or Aboriginal employment opportunities that currently exist on urban reserves; be present in non-reserve urban areas?
- Do urban reserves create any implications for the local real estate or business market?
- Do urban reserves reduce the level of dependence on federal government funding?

The Federation of Saskatchewan Indian Nations, in a recent newsletter, stated that creating urban reserves increases First Nation employment and reduces the number of people on social assistance by 15%. This is partly borne out with the oldest and best-established example in Saskatoon. The urban reserve created by the Muskeg Lake Cree Nation has generated millions in revenue and employs about 300 Aboriginal people, which is about three-quarters of total employment on the urban reserve.

As well, the major question of how urban reserves are for assisting First Nations in achieving economic independence still remains to be answered. Although there are arguments to support the notion that the establishment of urban reserves help to achieve this goal, further research is still required to determine a conclusive response to all of these questions. A recent Sigma Analytics survey of Regina residents found that only 33.7% were strongly in favor of the creation of urban reserves in the city. The survey also found that there is still much uncertainty and lack of knowledge about urban reserves in the general population.

While municipalities have little to no jurisdiction when it comes to urban reserves, a greater effort to inform the public about these initiatives would help build knowledge. As well, provinces and municipalities will have to deal with jurisdictional issues that may impede the application of certain laws or bylaws with respect to matters such as public smoking.

In summary the growth of urban reserves are a fact and deemed by those in the first Nations economic development field to be a valuable part of the growth of aboriginal business in the province. In a province where so many aboriginal people are underemployed and the number of aboriginal business while growing, is still low - a concept like urban reserves may well offer positive solutions.

Considering the challenges faced by aboriginal people and communities, it seems more than a little ironic to argue for a level playing field but indeed it needs to be stated. The rights of the Treaties must be observed to ensure that the people they were written to serve are indeed served. Therefore application of the tax benefit to Treaty peoples as customers must be closely monitored.

Knowledge, good business practices and cooperation is the key to aboriginal business success, on reserve or off.

Resources and Related websites

Western Economic Diversification Canada

http://www.wd.gc.ca/rpts/research/urban_reserves/default_e.asp

City of Saskatoon

http://www.city.saskatoon.sk.ca/org/city_planning/resources/publications/Urban%20Reserves.pdf

Frontier Centre for Public Policy

<http://www.fcpp.org/pdf/pdfreserves.pdf>

Saskatchewan Federation of Indian Nations

http://www.fsin.com/saskindian/editions/SKIndian_MarchEdition_2007_Web.pdf

Regina Leader Post, April 21, 2008. A1-A2.