

# RENOVATE THE PUBLIC HEARING

## DISCUSSION GUIDE



# ACKNOWLEDGEMENTS

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This publication does not necessarily reflect the opinions of the Simon Fraser University Morris J. Wosk Centre for Dialogue. Any works referring to this material should cite:

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Jennifer Wolowic, Jasmin Senghera, Megan Mattes, and Kelly Grounds authored the discussion guide.

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# WELCOME

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Welcome to a workshop on the future of public hearings, hosted by the SFU Morris J. Wosk Centre for Dialogue's Strengthening Canadian Democracy Initiative and funded by the Canadian Housing and Mortgage Corporation's Housing Supply Challenge.

Public hearings in British Columbia (BC) were established to provide a public voice in the land use decision-making process. One hundred years later, many voices are asking to revisit its purpose and process for local governments.

This Discussion Guide presents an overview of public hearing legislation in BC, its origins, current practice, and some considerations for adjustments and alternatives.

## AS A PARTICIPANT IN THE APRIL 7 & 8, 2022 WORKSHOP, YOUR CONTRIBUTIONS WILL HELP TO:

- Identify current rationale, challenges and opportunities created by public hearing requirements in the BC Local Government Act (LGA);
- Generate ideas about alternative approaches for gathering public input, as well as criteria that could be used to evaluate those alternatives.



The results of this dialogue will be published in a community-friendly report that will be shared with the Province and will directly inform the next steps of the SFU Morris J. Wosk Centre for Dialogue's project to *Renovate the Public Hearing*.



*To learn more about the project and the SFU Morris J. Wosk Centre for Dialogue see "About Renovate the Public Hearing" on page 27.*

# A DIALOGUE-BASED WORKSHOP

Public hearings are one of the tools local governments use to practice core elements of democracy (ie. fact sharing, public participation, transparent decision-making). They are also spaces where many of the current challenges that threaten our democracy – such as polarization and an erosion of trust in institutions – are sometimes visible.

In a world filled with complex challenges, strong democratic practices are needed now more than ever.

This workshop brings together people from a spectrum of perspectives related to local government and the housing crisis.

*“In dialogue, the intention is not to advocate, but to enquire; not to argue but to explore; not to convince but to discover.”*

— Louise Diamond

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Given your personal experiences and pre-existing relationships, some parts of the discussion may be familiar and agreeable, and others less so. Use these tips to guide you:

## Tell Stories

Talk about your experiences and how they shape your thoughts. Try saying things like:

- *“I think this topic is important, let me tell you a story about the other day...”*
- *“I am concerned about this issue because...”*

## Ask a Follow-Up Question

Help everyone feel heard. Try asking a follow-up question before you share your response:

- *“I think you said [insert your summary of what you heard], did I get that right?”*

## Don't Get Flustered; Take a Breath

Often, when we disagree, we start to interrupt, speak louder, or repeat ourselves. If this happens, use a question to ease the tension:

- *“Okay, I want to be sure I understand. What exactly about what I am saying do you find frustrating?”*

## Identify Shared Values

If you find the conversation stalling, think about injecting some shared values:

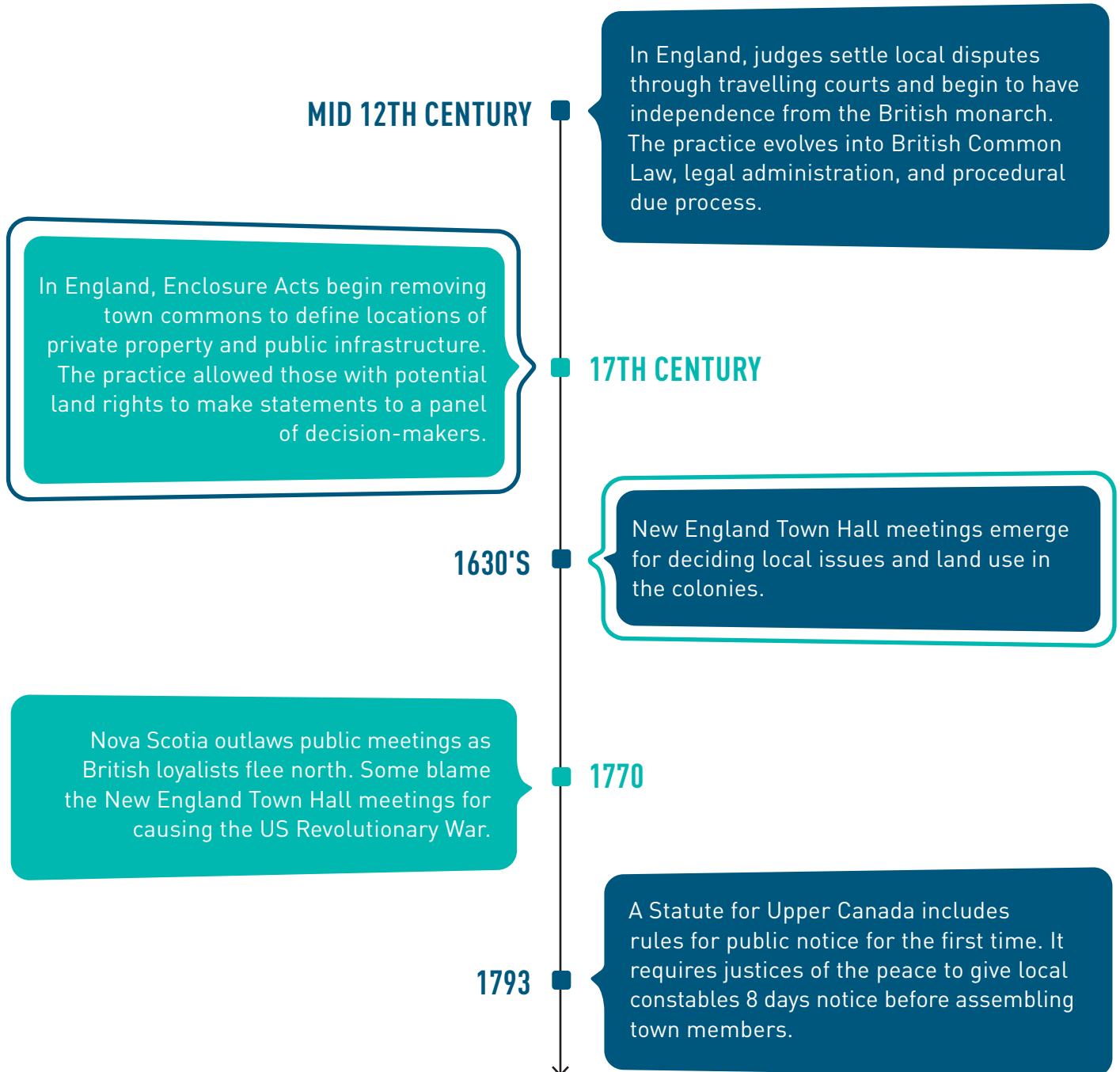
- *“It sounds like we disagree on X but can we confirm we both believe Y is valuable?”*

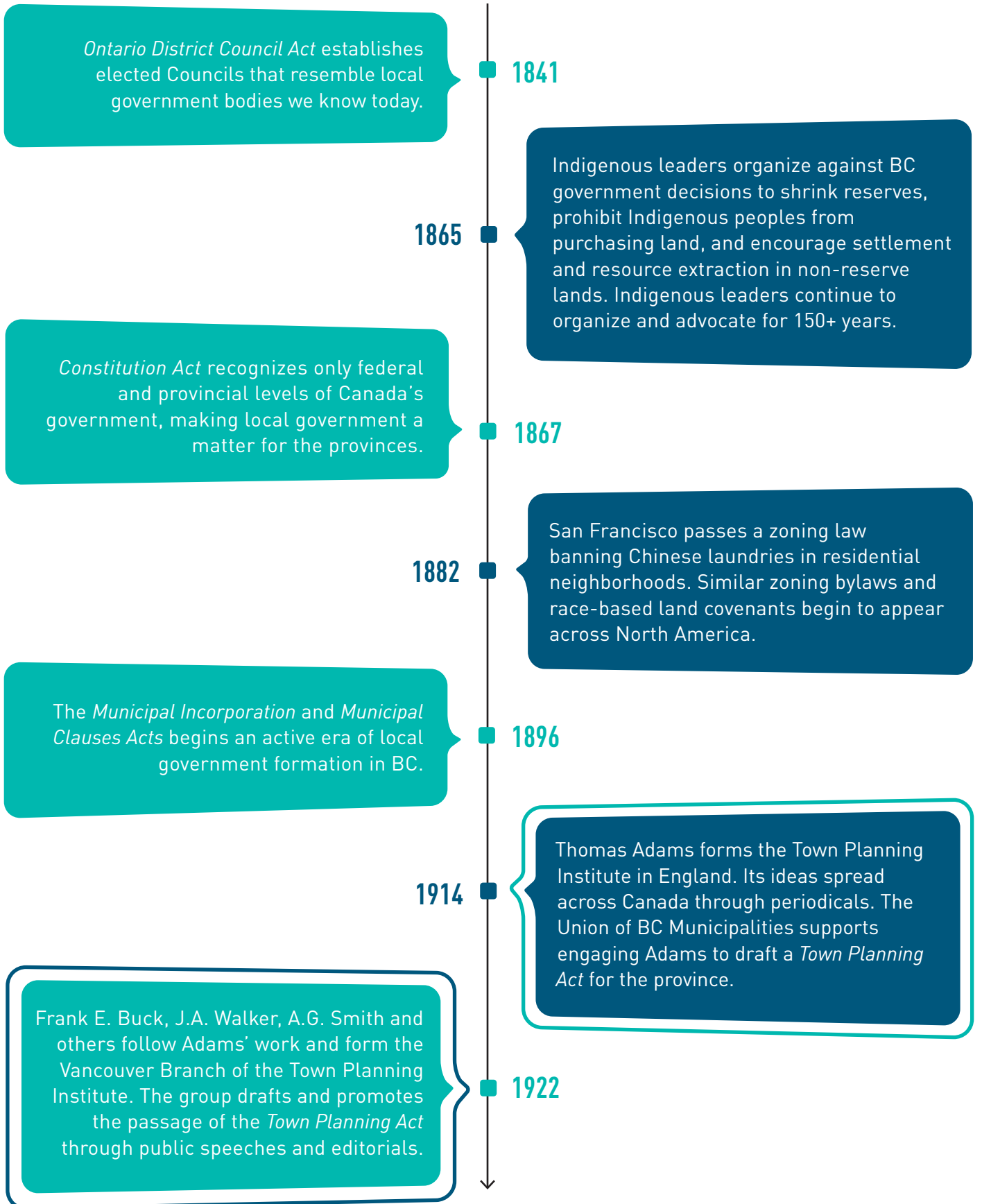


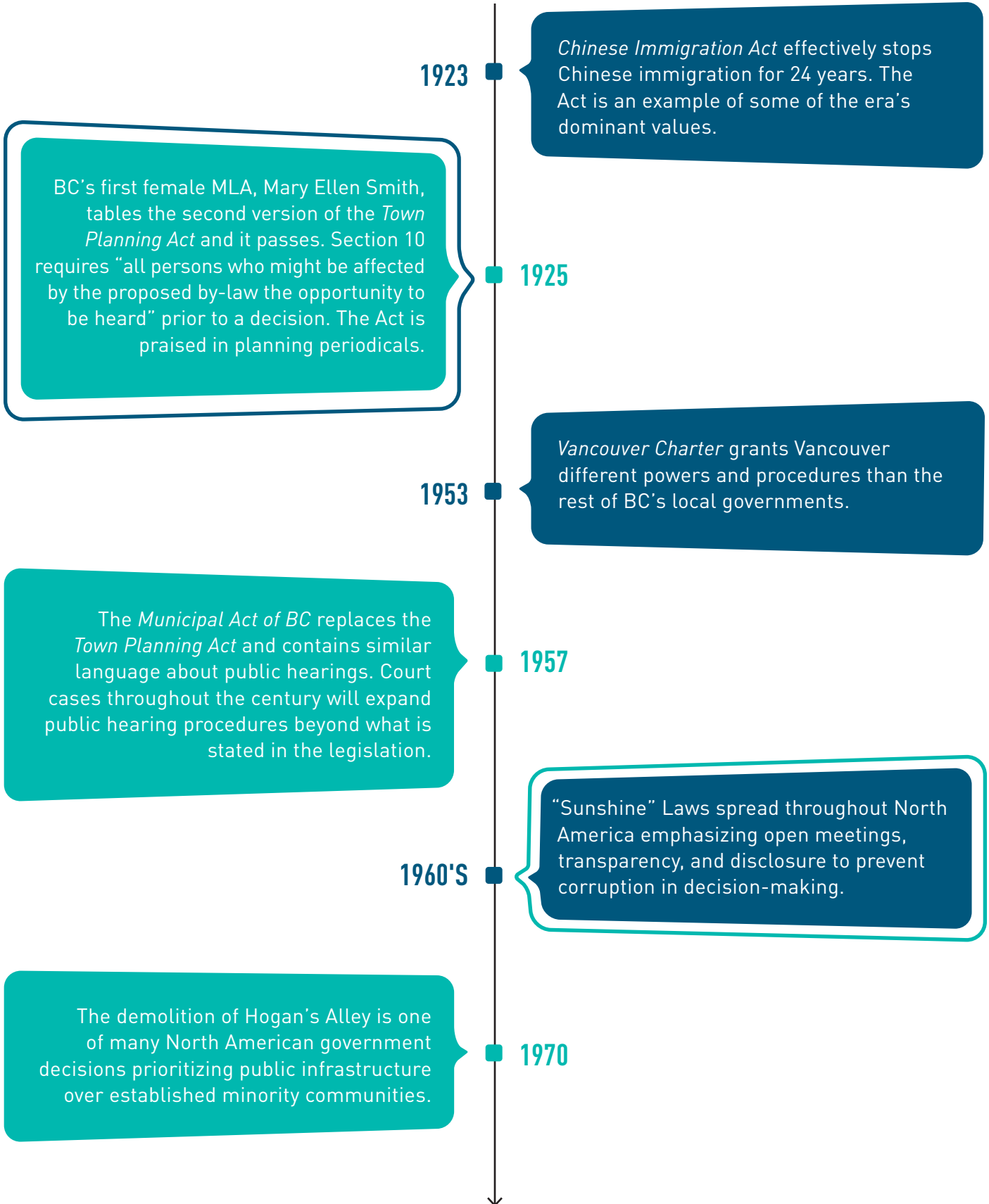
# HISTORY OF BC PUBLIC HEARINGS

Local government public hearings are a result of:

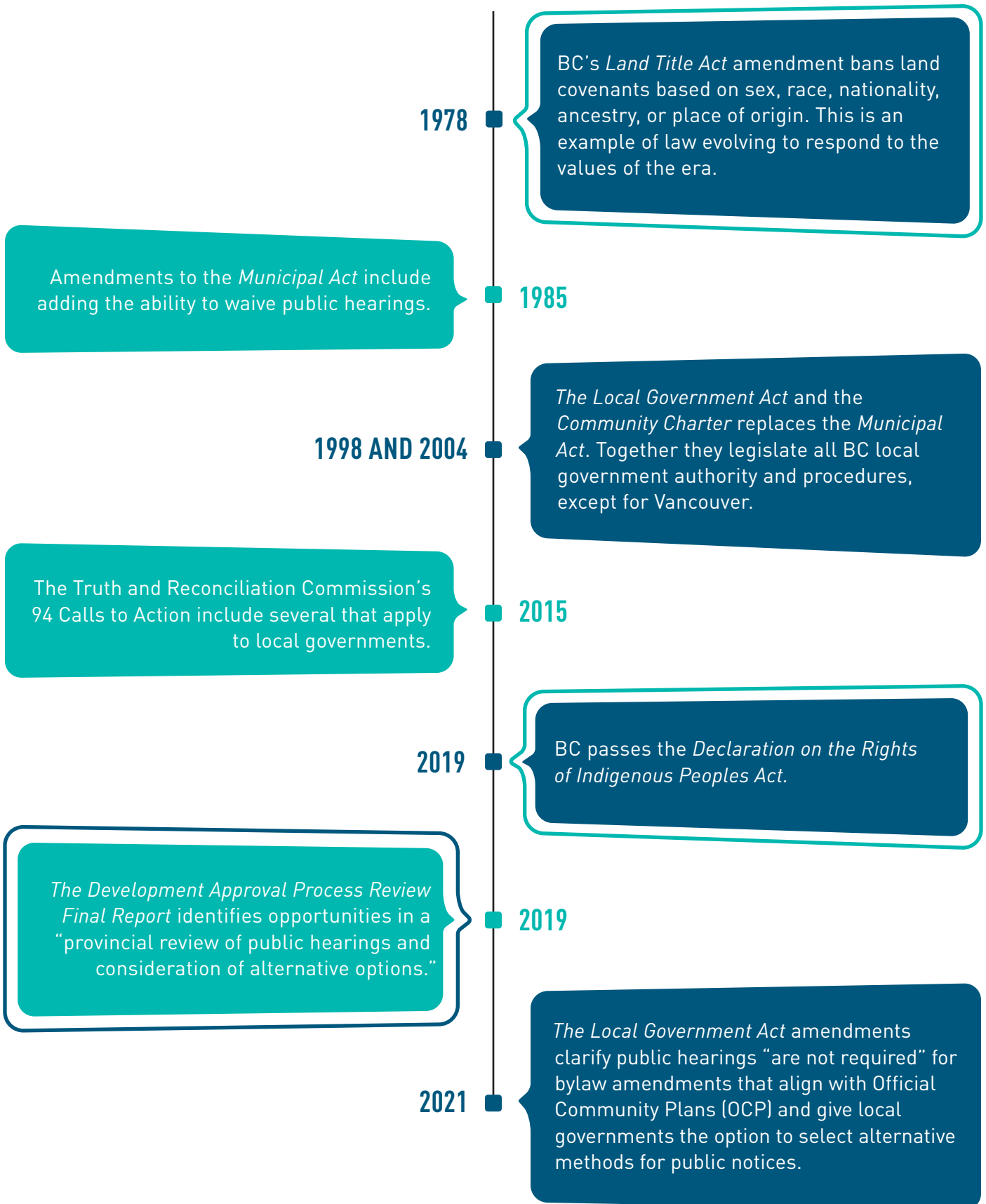
- The evolution of British legal practice
- The shifts in governing values
- The actions of individuals











# A SNAPSHOT OF THE CURRENT LAW ON PUBLIC HEARINGS

The Local Government Act (LGA) and case law define the requirements for public hearings.

In 2022, the BC Law institute (BCLI) will publish a *Study Paper on Public Hearings* as part of their involvement in the *Renovate the Public Hearing* project. The following is from the BCLI and summarizes a section of their paper.

## What notice of the public hearing must be given?

Local governments are required to notify the public in advance of public hearings. The LGA requires that the content of the notice contain specific information about the hearing and the bylaw that is the subject of the hearing. As a default, the notice must be published in at least 2 consecutive issues of a newspaper, the last publication to appear not less than 3 days and at most 10 days before the hearing. Local governments are now allowed to create a bylaw for alternative methods of notice.

## When must the public hearing be held?

Public hearing must be held after the first reading of one of the three types of bylaws and before the third reading.

## What must be disclosed in advance of the public hearing?

The courts obligate local governments to provide the advance disclosure of relevant documents for the hearing. To be fair to public-hearing participants, the baseline requirement appears to entail:

1. Disclosing the documents that the local government will rely on in reaching its decisions about the proposed bylaw that has triggered the public hearing.
2. Making that disclosure sufficiently in advance of the hearing to allow members of the public to read the documents, reflect on their contents, and formulate their responses to them.

The courts' approach has led to a standard that can be somewhat ambiguous about what and when documents should be disclosed, because the answers to these questions can vary from case to case.



### What triggers the requirement to hold a public hearing?

Local governments hold a public hearing in connection with certain types of land use bylaws. The most common of these bylaws are:

- An official community plan bylaw
- A zoning bylaw

The public-hearing requirement applies both when a new land use bylaw is adopted and when an existing land use bylaw is amended.

### What can be discussed at a public hearing?

The LGA outlines that public hearing presentations must be based on matters contained in the proposed bylaw. Notions of relevance in land use matters have been argued by some to be very subjective. According to Bill Buholzer, “it is preferable, from the local government’s point of view, for the chair to establish a time limit on submissions and thereby give members of the public an incentive to use their speaking time wisely, rather than attempting to rule questionable submissions out of order or irrelevant.”

### What happens after the public hearing?

The LGA also enables the municipal council or regional-district board, “without further notice or hearing,” to “adopt or defeat the bylaw, or alter and then adopt the bylaw.”

After a public hearing, local governments are required to provide a written report summarizing the nature of the representations at the hearing. While case law gives local governments some scope to prepare further reports and advice on issues raised in the public hearing, relying on these new documents to make decisions on a proposed bylaw risks flouting the rule requiring public disclosure of relevant documents.

### Who can appear at the public hearing?

Everyone who believes that their interest in property is affected by a proposed bylaw is afforded reasonable opportunity to be heard at the public hearing or to present written submissions regarding the bylaw. As this provision is framed in terms of a person’s belief, courts are reluctant to recognize significant restrictions on those who seek to be heard.



## ONLINE PUBLIC HEARINGS

The Covid-19 pandemic presented new challenges for the procedures used by local governments to make sure those who might be affected by their decisions are treated fairly. BC Ministerial Order No M192 provided relief by allowing local governments to hold public hearings using electronic means such as an online video meeting or by telephone.

Anecdotal evidence suggests the shift to electronic meetings has been positive, resulting in a greater diversity of speakers in attendance and the ability to more easily mute speakers who are out of order. In some cases, lower attendance barriers have also meant longer speakers lists and lengthier public hearings.

### What is the nature of the duty of impartiality owed by councillors and board members at the public hearing?

Court cases have made it clear that municipal councillors and regional-district board members must be receptive and impartial to the arguments presented at a public hearing. Courts have recognized that it would be inappropriate to impose the same high duty of impartiality that applies to judges on councillors and board members. While these officials play an adjudicative role in the public hearing, their roles also have political and legislative functions. As land use makes up a major part of local politics, it is unrealistic to expect a councillor or board member to come to a public hearing with no political stance on land use issues.

### When is a local government not required to hold a public hearing on a land use bylaw?

A local government isn't required to hold a public hearing if the proposed zoning bylaw meets two conditions:

- “(a) an official community plan is in effect for the area that is the subject of the zoning bylaw, and
- (b) the bylaw is consistent with the official community plan.”

The local government must still give notice to the public outlining such things as the purpose of the bylaw, the lands affected by it, and the date on which first reading of the bylaw at a council meeting will be held.



## VARIATIONS OF PUBLIC HEARINGS

There is variation in how local governments across BC govern their public hearings. For example, they give different amounts of time to speakers. Some have also created preambles to set community guidelines. Some only allow the public to speak and keep staff and Council in a listening mode, while others encourage Council to ask questions related to comments and interact with speakers. And some may direct questions they hear to the project stakeholders during the meeting.

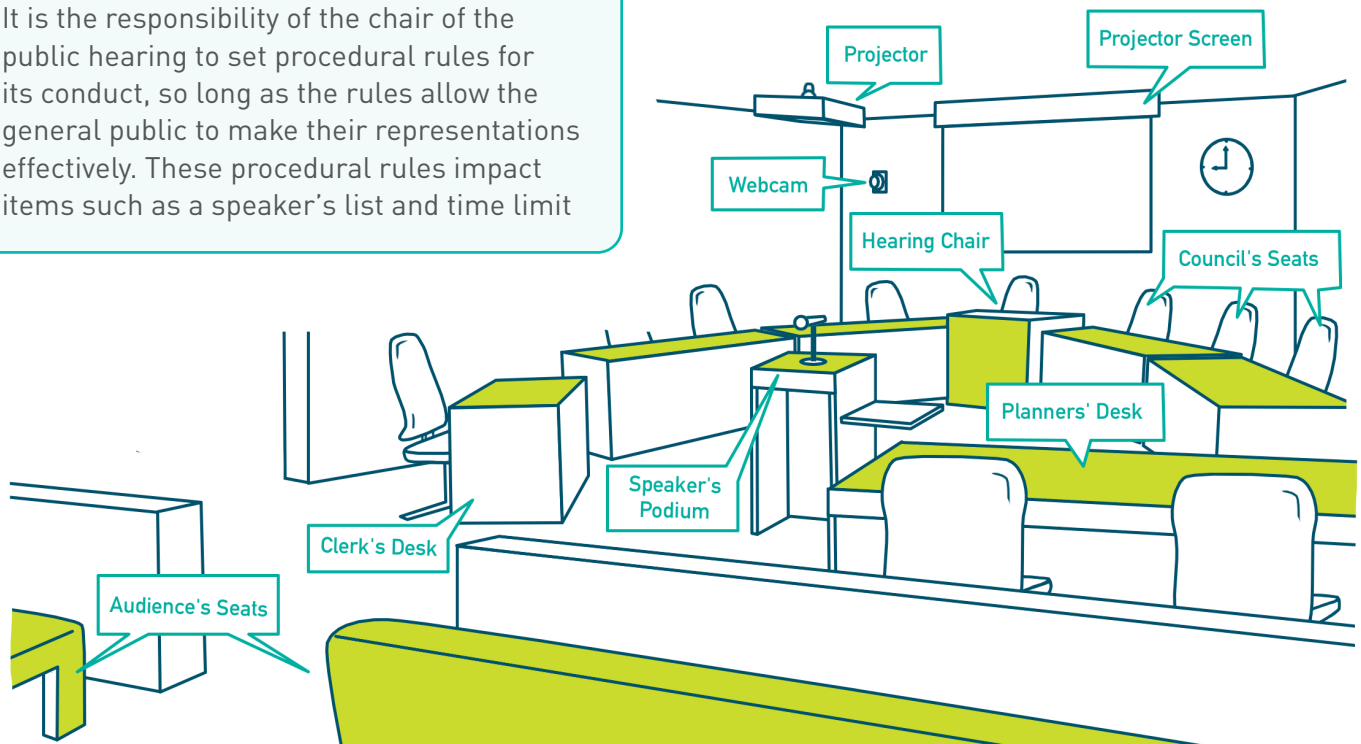
Many local governments also go above and beyond the minimum engagement defined by public hearings in the LGA.

### What is the procedure at the public hearing?

Hearings are usually held as meetings of the municipal council or regional district board or meetings of the committee of the whole of these bodies, though this is not a requirement of the LGA or the common law.

It is the responsibility of the chair of the public hearing to set procedural rules for its conduct, so long as the rules allow the general public to make their representations effectively. These procedural rules impact items such as a speaker's list and time limit

on submissions. The chair cannot adopt a rule which case law finds procedurally unfair or inconsistent with the legislation, but there is plenty of room for personal judgement on issues that don't engage either case-law precedents or legislative provisions.

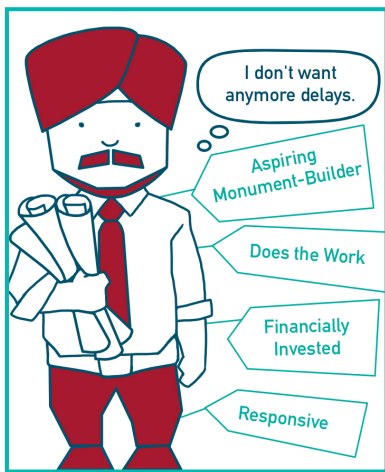


# PARTICIPANTS IN A PUBLIC HEARING

Public hearings involve several different kinds of participants. Varying opinions about public hearings exist among each type of participant, but everyone cares deeply about communities and neighbourhoods.

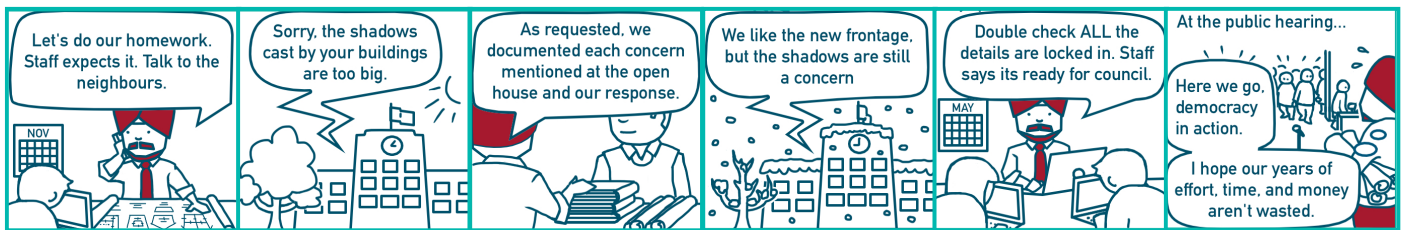
Most public hearings are important but benign. Some are contentious.

Below is a series of user stories to describe some shared emotional experiences of participants in contentious public hearings. Each element is taken directly from published research or scoping interviews and are illustrated to build empathy.



## DEVELOPERS

Developers can be for-profit businesses, non-profit organizations, or individual home owners seeking changes like a Heritage Revitalization Agreement. The developer must follow the local government’s pre-approval process and provide all required information. Applications require significant amounts of work for the developer and the process may include additional public engagement, negotiations with staff, or revising their designs. Public hearings can be high stakes for developers since they have invested significant time and money during the application process and can’t fully predict how public comments will influence the decision.



## WHO IS MISSING?

These personas provide a sample of experiences in public hearings to prompt workshop thinking. As you read, think about whose perspective you think we are missing.

Who would you add? \_\_\_\_\_

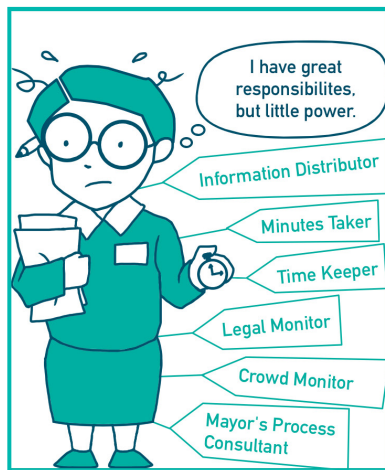
## LOCAL GOVERNMENT DEVELOPMENT AND PLANNING STAFF



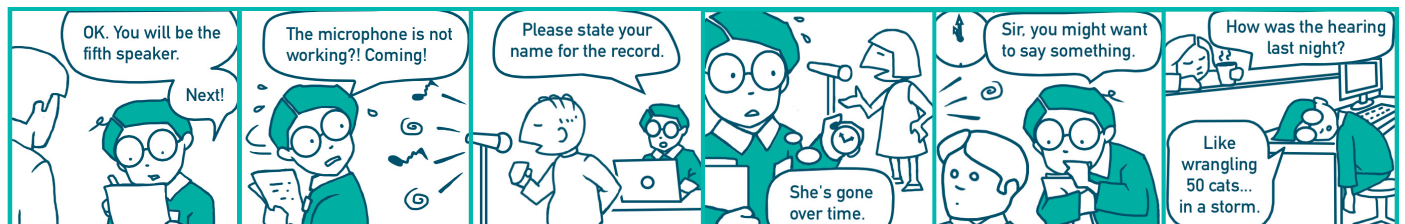
Before public hearings, local government staff review the application, clarify required changes, and work with applicants to agree on relevant conditions for rezoning. They may organize and attend open houses, review community comments and work with Development or Planning Advisory Committees. Staff decide if and when an application is ready for Council consideration. When it is ready for consideration, they prepare a report with their recommendation to Council and present the project. At the public hearing, most of their time is spent listening quietly to comments. Depending on the chair's rules, they may have to answer questions with little notice.



## LOCAL GOVERNMENT CORPORATE OFFICERS



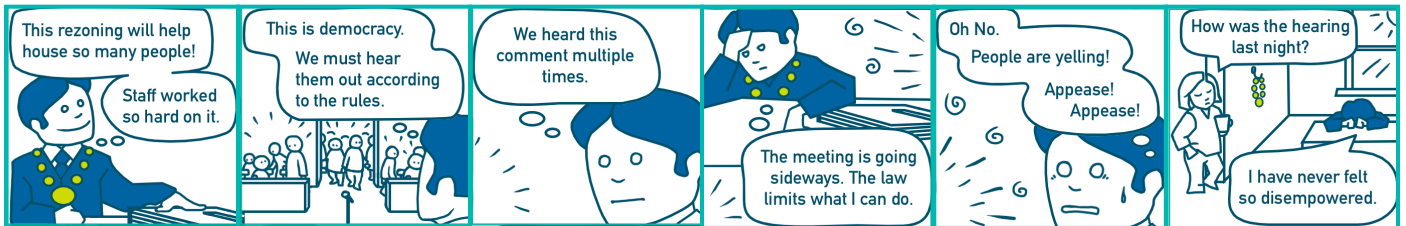
Corporate Officers are responsible for all meeting logistics, including public notices, public packages, speakers lists, and ensuring elected officials see all written submissions. In addition to taking minutes during the meeting, they also aid the chair by supporting crowd management and compliance with administrative law. They are responsible for ensuring the correct legal process, but the chair has control of the process. After the meeting, they have more work to do including compiling the public record to comply with the law.





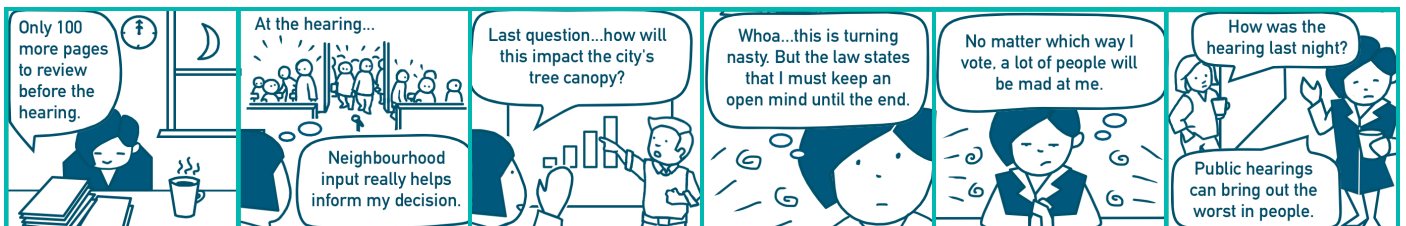
## CHAIR OF THE PUBLIC HEARING

Although the Local Government Act (LGA) allows Councils to delegate hearings, Mayors, Electoral Area and Regional District Directors usually chair public hearings. The LGA allows chairs to establish procedural rules for the conduct of the hearing, and they play a central facilitation role throughout the meeting. They call each speaker and are responsible for maintaining order throughout the proceeding. As elected officials, they also vote on the proposal after the meeting and have a broader relationship with their constituents.

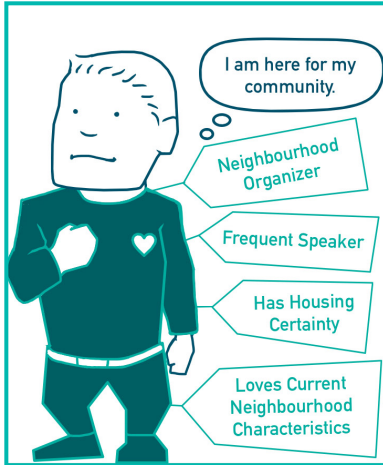


## ELECTED OFFICIALS

Elected officials are members of local communities who often have jobs outside their elected office. Before a public hearing, they read lengthy staff reports on the proposal and may meet with residents. The elected official's role at the public hearing is to listen with an open mind to the speakers. They often ask staff questions, seeking clarity in response to staff reports or public comments. Following the hearing, they vote on the bylaw amendment or direct staff to provide further information. They may be held accountable for their decisions in the next election.

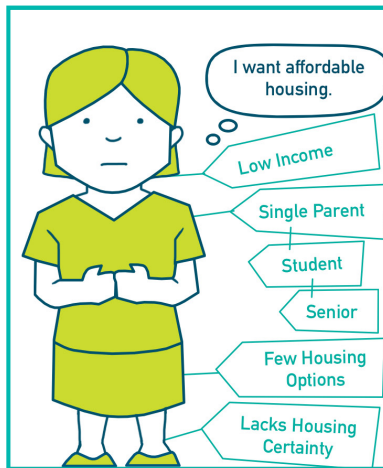
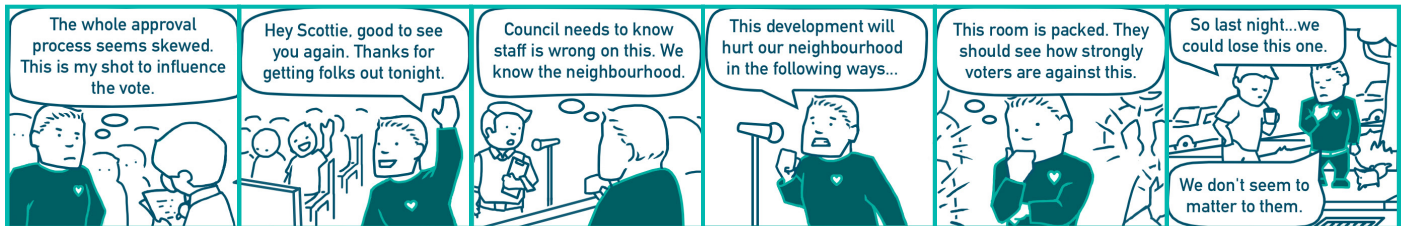






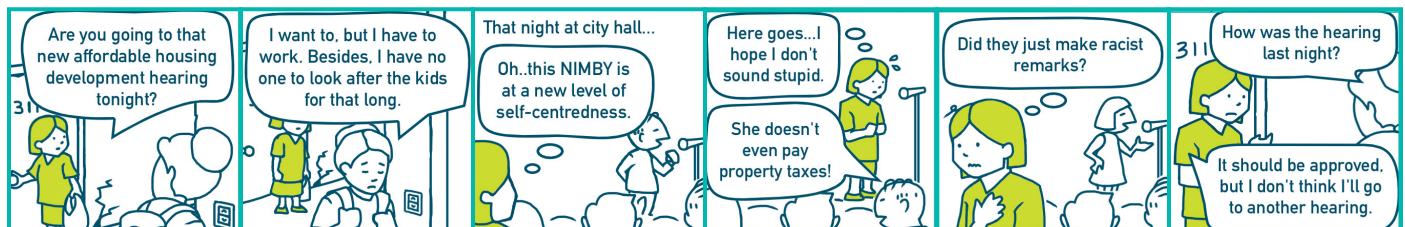
## NEIGHBOURHOOD DEFENDERS

At the hearing, speakers say their name and if they are for or against the proposal for the public record. Some welcome their chance to speak while others find it intimidating. Some organize petitions or rally other speakers for the public hearing to help shape the decision. Comments often revolve around the current or future of their community or the effects a proposal may make on the livability of their neighbourhood. They may also use the hearing to cheer on or shame elected officials to influence the vote. Repeated attendance at public hearings can also strengthen a network of residents with similar perspectives.



## HOUSING AFFORDABILITY-CHAMPION

There is a growing movement to organize and encourage those who might move into new developments to speak at public hearings. “Yes in my backyard” (YIMBY) groups, student groups, tenant union members, or other community organizations may organize and encourage potential speakers. Yet, it remains difficult for those with less financial resources or who do not already live in the community to make presentations at public hearings. Experiences in public hearings can also turn them away from future participation.



# EVALUATING PUBLIC HEARINGS

A realistic evaluation of the current law is largely a matter of determining the extent to which legal and democratic practices are currently achieved compared to alternative options that could be adopted within BC's land use planning and regulations.

The workshop will invite you to build on this list from your own experience and knowledge.

The following is from the BCLI. It summarizes a section of their *Study Paper on Public Hearings*.

## LEGAL PRACTICE OF PUBLIC HEARINGS

Case law and commentary from law professors and lawyers has told us that laws on public hearings are meant to serve a range of legal purposes.

### To provide a forum at which all aspects of the bylaw might be reviewed

In *Karamanian v Richmond (Township)*, the court made an influential statement, explaining that the purpose of enacting the law on public hearings "was to provide a forum at which all aspects of the by-law might be reviewed." The court further explained that the legislation would allow members of the public to make representations to their local government on the bylaw.

### To create a tool for information gathering about local conditions in the area affected by the bylaw

The public hearing can be seen either as an effective way to transmit facts and opinions from the local community to the local government or as a tool for uncovering information, which would otherwise be overlooked if the decision-making process were only informed by expert technical analysis.

### To create public confidence in and enhance the quality of local government decision-making on land use regulation

In a 1999 case about rezoning in Pitt Meadows, the court made the point that a public hearing "gives the decision-maker the benefit of public examination and discussion of the issues surrounding the adoption or rejection of the proposed bylaw." In short, by creating a space to hear opinions and document those opinions, better decisions are made and public confidence in decisions is enhanced.

### To give notice to affected people about the bylaw

Tying the notice provisions in the legislation to a public hearing communicates the importance of the bylaw better than simply giving notice that the local government is contemplating a land use bylaw. A notice gives people an avenue to act, and hearings provide an opportunity for the general public to be heard before a decision is made.

### To perform an educative function for residents about the operations of local government

Public hearings may also have an educational purpose for the general public. As James B. Milner puts it, "[p]erhaps the most important function of citizen participation in planning [is] . . . the education of the citizen to a greater understanding of his city's growth and change and his possible contribution."

## DEMOCRATIC PRACTICE OF PUBLIC HEARINGS

Public hearings are opportunities for elected officials, public servants and residents to demonstrate values and skills that support democracy.

The Council of Europe published a framework of 20 democratic competences identifying the “psychological resources (such as attitudes, skills and knowledge) that need to be mobilized and deployed to meet the demands and challenges of democratic and intercultural situations.”

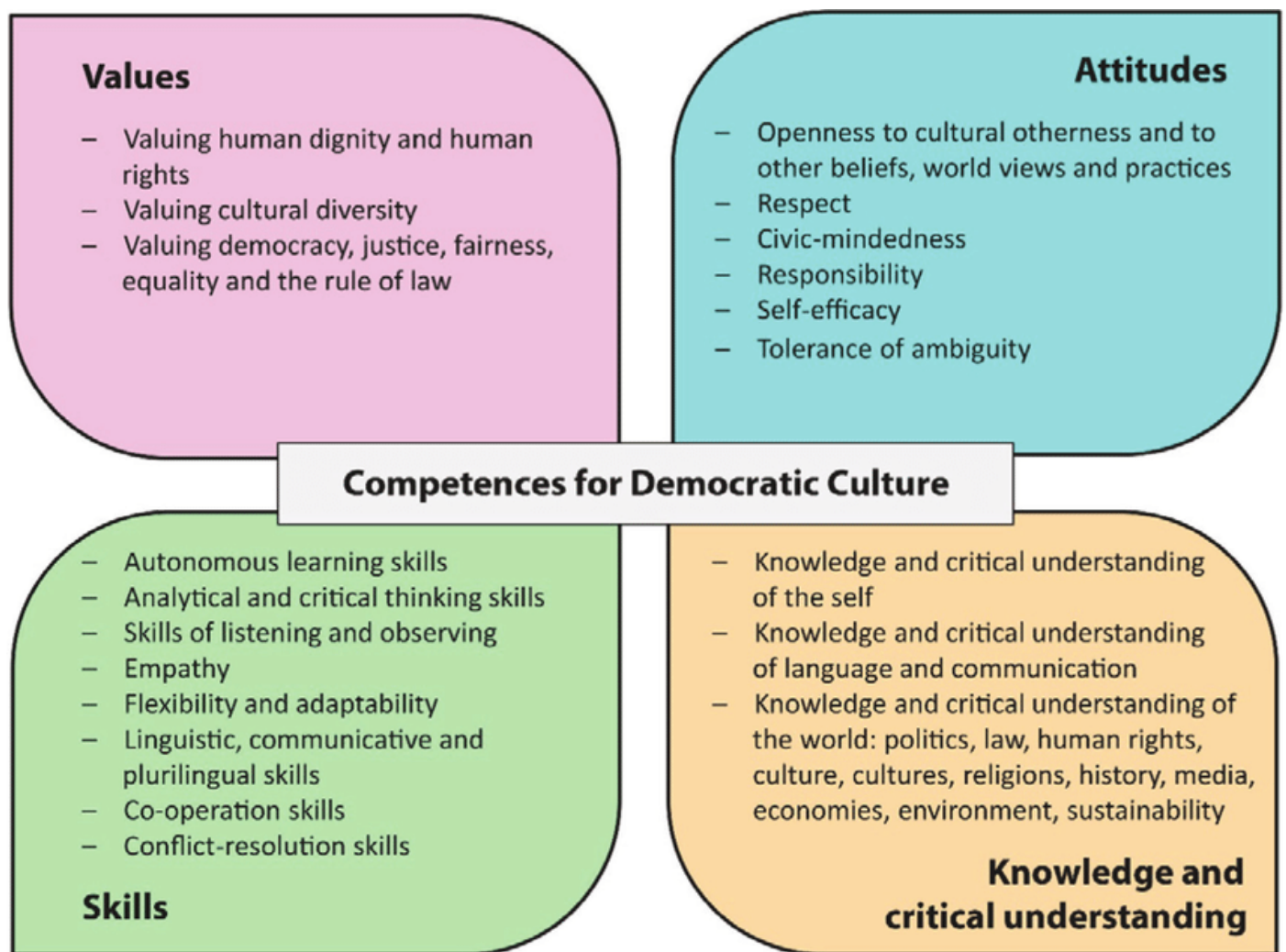


Figure reproduced from Barrett, M. (2016a) *Competences for Democratic Culture: Living together as equals in culturally diverse democratic societies*. Strasbourg: Council of Europe Publishing. Online. <https://rm.coe.int/16806ccc07> (accessed March 9, 2022). © Council of Europe. Reproduced with Permission.

# BC EXAMPLES OF PUBLIC ENGAGEMENT APPROACHES

Many of the local governments in BC go above and beyond the legislated public hearing requirements.

In 2020, Barrie Nicholls completed a “comparative jurisdictional review of guidance and practices for public participation in development approval process for all local governments in BC with populations greater than 50,000.” The following table is an excerpt from the thesis.

## What does your local government do to support public input?

	Prince George	Chilliwack	Burnaby	Coquitlam	Delta	Maple Ridge	North Vancouver	Port Coquitlam	Richmond	Vancouver	Nanaimo	Victoria	Saanich	Kelowna	Abbotsford	New Westminster	Surrey	Langley	Kamloops	
<b>CITIZEN ENGAGEMENT FRAMEWORK</b> <i>guiding principles, policies or strategies</i>	•	•	•	•	•	•	•	•	•	•	•	✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>PUBLIC ENGAGEMENT FRAMEWORK</b> <i>regular use of workshops, surveys, open houses, and/or social media</i>	•	•	•	•	•	•	•	•	•	✓	•	✓	✓	✓	✓	✓	•	✓	✓	✓
<b>CITIZEN ENGAGEMENT WEBSITE</b> <i>online pages with information on projects and engagement opportunities</i>	✓	•	✓	•	✓	•	✓	•	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>DEVELOPMENT COMMITTEE</b> <i>formally appointed panel who provides advice to Council</i>	•	✓	✓	•	✓	•	✓	✓	✓	✓	✓	✓	✓	•	✓	✓	✓	•	✓	✓

\*Note there may be changes since 2020

Figure reproduced from Nicholls, B. (2020). *Public input processes for development approvals: a comparative policy review of leading practices in BC’s local governments*. Masters Thesis: University of Victoria. Reproduced with Permission.

## EXAMPLES OF ALTERNATIVE APPROACHES

Jurisdictions around the world have different approaches for land-use decision-making and related public engagement.

### Committee Model

Many local governments worldwide have some form of a development advisory committee to inform land-use decision-making. While the terms of reference are unique to each local government and committee, their general purpose is to advise decision-makers regarding local issues and individual applications. Committees often include combinations of elected officials, public servants, and public members with professional and lived experience who apply and are appointed by local government. For example, as per the previous table, several local governments in BC use committees in their pre-development approval process.

### No Public Hearings

Not all local governments require neighbour notifications or an opportunity for public comments when making individual land-use decisions. *Planning Control in Western Europe* (1989) compared planning control systems in five countries (UK, Germany, France, Denmark, Netherlands). While the report is several decades old, it notes the five countries share similar processes for application intake and evaluation (i.e. consultations, negotiations with applicants, commission review etc.). And none require notification of applications to neighbours before decision-making, nor are open forums like the public hearing widely used.

The report identified that these countries view individual development approvals as an administrative function performed in the context of an overall plan. However, some countries require public participation in creating overall plans, while others rely on extensive public service consultation.

### The Deliberative Wave

A growing number of governments worldwide are embracing engagement models that incorporate expert-informed resident deliberation into consultation— a method known as deliberative democracy. For example, Scotland is funding participatory budgeting programs as part of its *Community Empowerment Act*, allowing residents to say how local money is spent. Vancouver's Citizen Assembly on the Grandview-Woodland Community Plan (2015) is another example that puts residents at the centre of the planning process.

**Citizens' Assembly:** The government invites randomly selected citizens to convene in an "assembly" to learn and discuss a tricky policy topic. Their goal is to weigh different options and recommend a set of policies to the government. This can also be known as a citizens jury or panel.

### Principle-Based Legislation

Some governments are embracing legislation that identifies principles that must be met rather than specific rules. For example, the province of Victoria in Australia recently shifted their *Local Government Act* (2020) for legislating community engagement. The Act now tasks local governments to create their own community engagement policy that identifies “deliberative engagement practices” that will be applied to develop their key strategic documents. These practices must give effect to five community engagement principles.

Recent changes to the requirements of public notice in *BC’s Community Charter* could be considered another example. Section 94 now provides local governments with an option to adopt a public notice bylaw to specify the means that will be used to publish public notice in their community. Before adopting the bylaw, local governments must consider three principles defined through regulation. For communities that are happy with the status quo the default remains publishing in a newspaper once each week for two consecutive weeks.

### Analysis-forward model

Led by local government staff, analysis-forward models use specific analytical processes to identify how different groups of people may experience policy, programs or initiatives. For example, in the City of Surrey, a needs analysis conducted by city staff and external consultants identified gaps in existing parks, recreation, and cultural facilities, programs, and services. The Canadian governments’ Gender-based Analysis Plus (GBA+) implementation is another example. Within analysis-forward models, staff may use public engagement consultations to gather data for their analysis.



*Part 3, Section 56 of Victoria Australia’s Local Government Act:*

### COMMUNITY ENGAGEMENT PRINCIPLES

- a community engagement process must have a clearly defined objective and scope;
- participants in community engagement must have access to objective, relevant and timely information to inform their participation;
- participants in community engagement must be representative of the persons and groups affected by the matter that is the subject of the community engagement;
- participants in community engagement are entitled to reasonable support to enable meaningful and informed engagement;
- participants in community engagement are informed of the ways in which the community engagement process will influence Council decision making.

### Visioning exercises

Many jurisdictions engage residents in visioning exercises as part of their overall land use plan development. These exercises invite residents to envision the ideal future of their community by providing a creative and collaborative forum. Many of BC’s local governments use visioning exercises such as design charrettes, micro-utopias, and future workshops to draft Official Community Plans (OCP). For example, the City of Prince George’s OCP (updated 2022) explains, “engagement began by asking people about their vision of the future and how to get there using a survey and ‘kitchen table’ workbooks.”

### Arts-forward model

Arts-forward models can be led by communities, researchers, organizations, and in some cases, local government staff. Their goal is to center lived experiences using creative mediums such as video, writing, or photography. For example, Theatre of the Oppressed organises groups worldwide and uses particular kinds of theatre games to help translate “the law into practice.” Closer to home, the City of New Westminster in collaboration with Douglas College, recently posted an RFP for a photovoice project with tenants of affordable housing developments. These approaches often focus on generating compassion and empathy for others. Outcomes can influence public discourse and priorities in decision-making.

**GBA+:** This is an analytical tool and process that assesses how diverse groups of women, men, and people with varying gender identities may be impacted by policies, programs, services, and other initiatives.

**Design Charrettes:** These are workshops that bring together members of the community alongside local government staff and artists to prompt community members to envision their ideas for the future of the community so that artists can visualize them through a series of sketches.

**Micro-utopias:** A visioning technique that seeks to help participants envision and enact an impossible or aspirational concept for their community. These have manifested as micro-libraries, free stores, and digital platforms for collaborative decision-making.



# ELEMENTS OF GOOD PUBLIC ENGAGEMENT

Public hearings are a common form of engagement in BC. What does it mean for public engagement activities to be conducted well?

Several organizations have ideas, including the International Association for Public Participation, the National Coalition for Dialogue and Deliberation, and the SFU Morris J. Wosk Centre for Dialogue. Here are some of the elements of good public engagement to think about.

## Planning and transparency

Organizers should think through the engagement plan from beginning to end to ensure the process meets participants' needs and the objectives of the project. This plan should be accessible to the public.

## Inclusion of all demographics

For an outcome to represent the needs of many people in the community- and for it to have democratic legitimacy- it's important that the engagement process includes many people, voices, and ideas. It recognizes that there is significant diversity of opinion within communities like there is across communities.

## Informed public

Both participants and the public deserve to be informed about the issues that will be discussed in the engagement process. Information and education can empower everyone to be better stewards of their community and more capable contributors to decision-making.



## Listening

An engagement process needs to carve out ample time for listening: this means facilitators listening to participants, and participants listening to each other. Listening is key to generating new ideas and creating an environment of mutual understanding.

## Impact

It's respectful to participants to communicate how their input will be incorporated into decision-making! Let participants and the public know from the outset how their contribution will feed into the final product.

## Tailor a plan to the context

Engagement plans don't have to be one-size-fits-all! Approaches can be tailored to fit the topic, objectives, location, and available resources.

## Advance equity

Power inequalities, colonialism, and systems of discrimination and oppression present in modern society and can hinder the participation of affected groups. Ensure that any project and its engagement process is mindful of these power structures and works to advance equity rather than perpetuating inequalities.



## ELEMENTS OF GOOD PLANNING

Public hearings are one of the last steps in a lengthy planning process. And good land use and urban planning require decisions that balance several interests. What does it mean to do this work well?

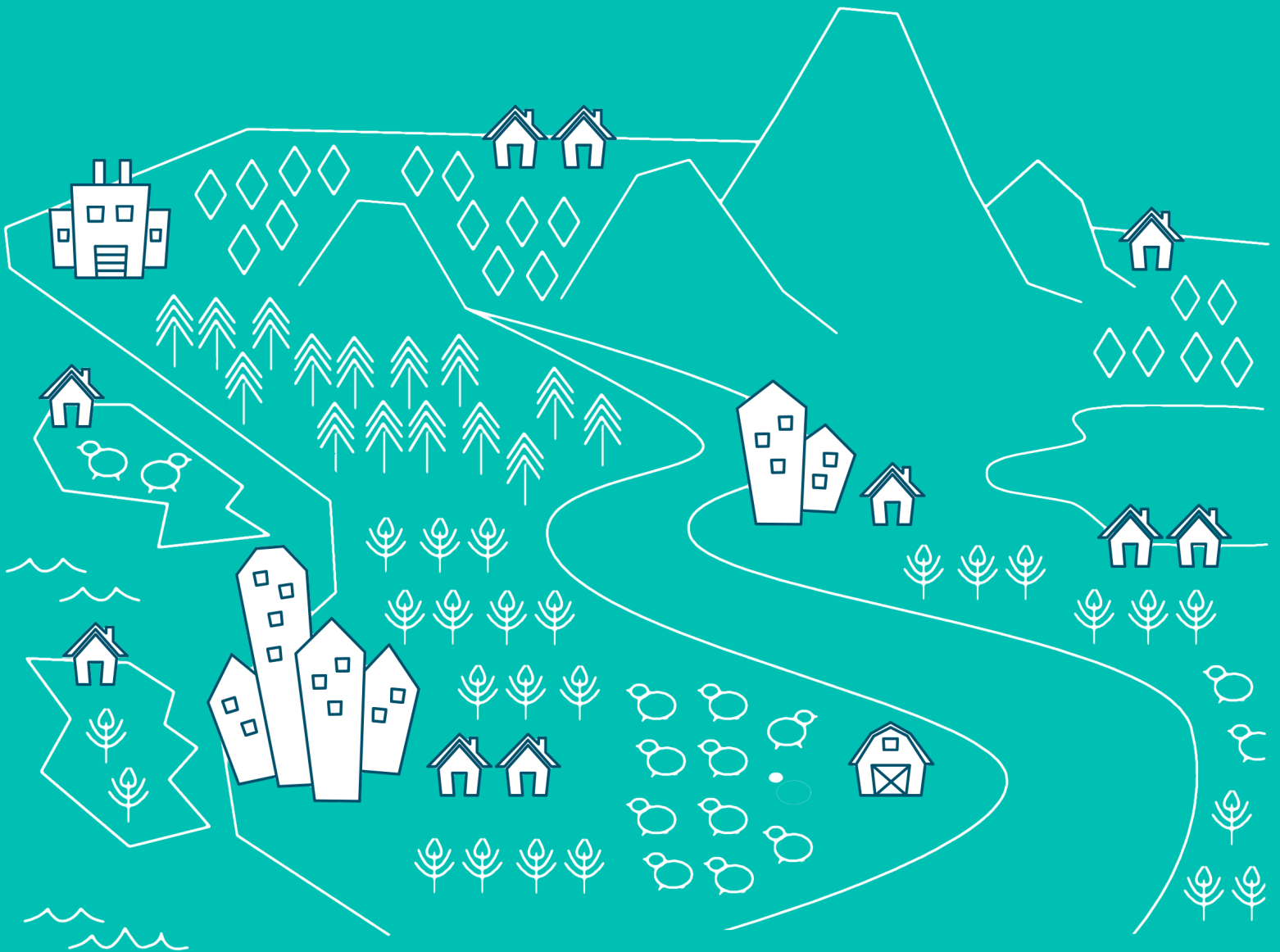
The following is an Excerpt from: *Planning Institute of British Columbia. (2012). PIBC code of ethics and professional conduct. Planning Institute of British Columbia - Bylaws. <https://www.cip-icu.ca/Files/Provincial-Codes-of-Conduct/PIBC-Code-of-Ethics.aspx>*

Professional organizations offer some guidance. For example, the Planning Institute of British Columbia has a *Code of Ethics and Professional Conduct* that directs planners to:

- **Practice sustainable planning that considers the use of society's resources and the needs of future generations**
- **Value both the natural and human environments and understand their interrelationships**
- **Acknowledge that planning decisions can have effects that cross jurisdictional boundaries**
- **Balance the interests of communities with the interests of individuals**
- **Strive to continuously improve their knowledge of applicable planning theory and practice**
- **Foster meaningful public participation by all segments of society**



# FURTHER READING



# ABOUT RENOVATE THE PUBLIC HEARING

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## PROJECT FUNDERS

*Renovate the Public Hearing* is a project developed by the Morris J. Wosk Centre for Dialogue's Strengthening Canadian Democracy Initiative.

*Renovate the Public Hearing* was shortlisted in the CMHC Housing Supply Challenge's second-round competition focused on improving pre-development approval processes. As a result, the Centre received funding to refine the project design and will re-apply to CMHC for full funding in June 2022.

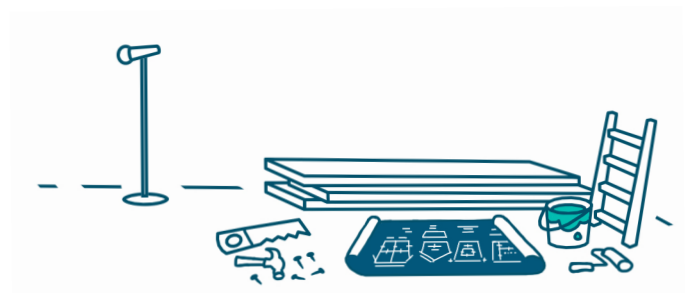
## GOAL

Improve municipal procedures and increase trust in democracy by identifying evidence-based recommendations for revising BC's *Local Government Act* public hearing requirements to create:

- Stronger public engagement practices,
- Supports for reconciliation,
- More effective local government pre-development approval processes.

## OBJECTIVES

1. Analyze existing legal frameworks, including relevant case law, and explore options for legal reform
2. Increase understanding of how public hearings evolved and their effects
3. Improve democratic decision-making by building stronger trauma-informed and culturally respectful relationships
4. Pilot and evaluate alternative options for public input that meet the needs of local governments and communities
5. Recommend evidence-based reforms to support more meaningful public input in land use decision-making



## ACTIVITIES



### Exploration and Research

Completed 60 informal scoping interviews and reviewed more than 150 academic research articles and archive documents related to public hearings in BC and public engagement practices worldwide. Will conduct formal research to identify barriers and costs related to public hearings in BC.

### Convene

Hold workshops to better understand current benefits and barriers in local government public hearings and consider alternative options from a range of perspectives.

### Legal Review and Reform Committee

Published legal study paper by BCLI. Leads a legal reform committee, jurisdictional scan, and reform analysis process from a legal perspective.

### Pilots

Co-create and pilot scalable public engagement processes for alternative options for public hearings in four diverse local governments in B.C.

### Evaluation

Evaluate pilots to identify best practices for building capacity, relationships and respectful engagement requirements for land use decision-making.

### Validation and Recommendation

Learning exchanges with pilot partners and deliberative dialogues with participants from all phases to workshop policy recommendations.

## ABOUT THE PROJECT PARTNERS

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### ABOUT THE SFU MORRIS J. WOSK CENTRE FOR DIALOGUE

Since 2000, the Centre has designed and facilitated more than 500 in-person and virtual events from local to international in scale, reaching hundreds of thousands of people. They offer a comprehensive range of in-person and virtual services to support governments, community organizations, and non-profits in meaningful and participatory engagement and solutions-oriented outcomes.

### ABOUT THE STRENGTHENING CANADIAN DEMOCRACY INITIATIVE

The Strengthening Canadian Democracy Initiative's mission is to create a more resilient democratic culture across all communities in Canada. The Initiative explores the intersection of policy, procedure, and human experience and looks for ways to strengthen democratic practice. Public hearings are one of these intersections.

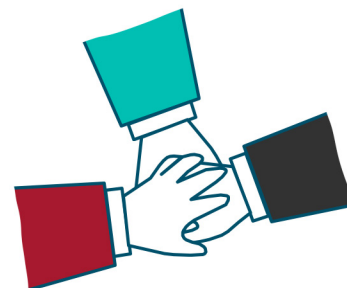
The Initiative also works to spark dialogue on democratic competences and share strategies to make them stronger. It has also completed numerous program evaluations and created *Where to Start? A Workbook for Evaluating Democratic Engagement Impacts*.

### ABOUT THE BC LAW INSTITUTE

The BCLI was created in January 1997 by incorporation under the *Provincial Society Act*. The broad purposes of the Institute, described in Article 2 of its Constitution, are to:

- promote the clarification and simplification of the law and its adaptation to modern social needs,
- promote improvement of the administration of justice and respect for the rule of law,
- promote and carry out scholarly legal research.

BCLI carries out scholarly research, writing and analysis for law reform, collaborating with government and other entities, and providing materials and support for outreach and public information.



# LAND USE TERMINOLOGY

## Local government, municipality, regional district

Under the *Local Government Act*, local government is defined as “(a) the council of a municipality, and (b) the board of a regional district.”

## Municipality

Municipality is a collective term for cities, towns, villages, and districts. In BC, municipalities are classified according to their population and geographic area. There are currently 162 municipalities in BC.

## Council

A municipality’s local government is called a council. Municipal councils are democratically elected to represent the community and are entrusted with making decisions on their behalf. Typically, municipal councils consist of a mayor and between five to eleven councillors, depending on the population of the municipality. All council members serve four-year terms.

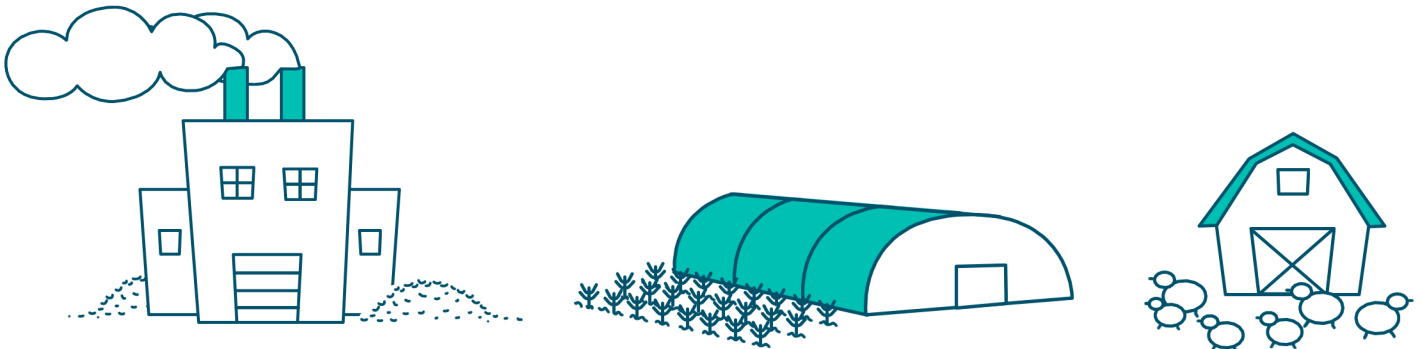
## Regional district

A regional district is a federation of local governments, constituencies, and in some cases, Treaty First Nations. BC has 27 regional districts that span almost the entire province, ranging in size from 2,000 to 119,337 km<sup>2</sup> and have a population of under 4,000 to over two million.

## Bylaw

Laws that are adopted by local governments are called bylaws. Local governments use bylaws to govern a municipality or regional district. While not specific to land use planning, much of what local governments do in land use planning involves the adoption of a bylaw.

The general procedures for adopting bylaws are set out in the *Community Charter*. In short, bylaws are adopted by majority vote of the municipal council or regional district board, on three readings of the bylaw at council or board meetings



### Official community plan

The purpose of an official community plan is to provide a statement of goals and policies to guide planning and land use management within the area covered by the plan. It is best to think of official community plans as high-level statements of visions or principles that guide a local government in carrying out long-term planning.

The *Local Government Act* establishes requirements for the content of an official community plan and provides that such plans meet the *Act's* special requirements for consultations. Local governments should specifically consider consultations with neighboring municipalities, regional districts, First Nations, and provincial and federal governments and determine whether consultations should be early and ongoing.

These consultations are in addition to the required public hearing prior to the third reading. A court case (*Gardner v. Williams Lake (City)*) on this provision noted that the consultation is an elastic concept and may include informal communications, meetings, open houses, delegations, and communications.

### Zoning

The *Local Government Act* gives local governments the power to adopt zoning bylaws. This zoning power authorizes the division of areas to which zoning bylaws apply into zones, and within each zone regulates how land, buildings, and other structures may be used. A zoning bylaw may also regulate where a building can be located within a zone, its maximum height and size, and its maximum density.

Zoning bylaws must be consistent with an applicable official community plan. They implement the plan by filling in the details of the plan's broad vision.

*Excerpt summarizing BC Law Institute's forthcoming Study Paper on Public Hearings. Reproduced with Permission.*



# PRE-DEVELOPMENT APPROVAL PROCESSES

Public hearings currently exist within a larger development approval process led by local governments. The general steps are similar but the details may vary for each local government in BC.

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## STEP 1

### Provincial Requirements

The development applicant must ensure that the proposal aligns with provincial requirements such as the various building codes like the BC Building Code and the BC Energy Step Code.

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## STEP 2

### Local Government Framework and Zoning Bylaw

Alongside provincial requirements, the application must also ensure alignment with their jurisdictions Official Community Plan (OCP), Regional Growth Strategy, community needs and current local land use zoning bylaws, policies, and guidelines.

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## STEP 3

### Pre-Application Meetings

To help with their proposal design, some applicants may choose to meet with local government staff prior to submitting their applications. Some may also choose to meet with community members in advance of their application to garner public input and support.

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## STEP 4

### Development Applications

Applications require a considerable amount of supporting information, ranging from plans, site drawings, legal documents, and more. Local government staff review the proposals for completeness and alignment with the local government framework and zoning bylaws. Local government staff provide feedback and often meet with the applicant to discuss the design and negotiate community amenities. This is often a back and forth process between applicant and local government staff that may result in design changes.

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**STEP 5**

**Public Consultation**

Depending on the project, some local governments encourage or require public consultation or require the application to be reviewed by a local government appointed committee. The local government may also have rules about how the applicant must document and respond to the results of these consultations. This may lead to further meetings with staff and result in design changes. This consultation is NOT required by the *Local Government Act* (LGA) legislation but may be part of the local government’s policies or bylaws.

**STEP 6**

**Readings**

When staff has reached consensus with the applicant and believes the application is ready for Council review, they will report to Council on the development application and in the case of a zoning bylaw amendment, draft up a bylaw for Council’s consideration. At this point, Council may give the first and second reading. Local government bylaws require three readings prior to being adopted. Each reading requires a majority vote of Council.

**When the zoning bylaw amendment aligns with the OCP**

Each local government may have a different process or their own criteria for deciding if the zoning bylaw amendment is in alignment with their OCP.

If the application is in alignment with the OCP a public hearing is not required prior to third reading.

**When the zoning bylaw amendment does not align with the OCP**

Many local governments choose to combine the first and second reading. And the public hearing is held just before third reading. This is the only provincially required public consultation.

Some local governments will also choose to hold public hearings that are in alignment with the OCP if they believe the application is controversial.

**STEP 7**

**Plans & Permitting**

Many local governments require both a development permit and a building permit. Once the bylaw or bylaw amendment is adopted at the public hearing stage, development and building permits must be attained which require their own set of applications and processes.

**STEP 8**

**Approval**

Once approved and community amenity contribution agreements are signed, permits will be issued which also identifies when construction may begin.

## RESOURCES ABOUT PUBLIC HEARINGS

We have referenced several studies and resources in this discussion guide. Here is a list If you would like to review them further:

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