



In partnership with:



**Addition to Reserve & Treaty Land Entitlement:**

# **Exploring Current Structure & Approaches for Policy Reform**

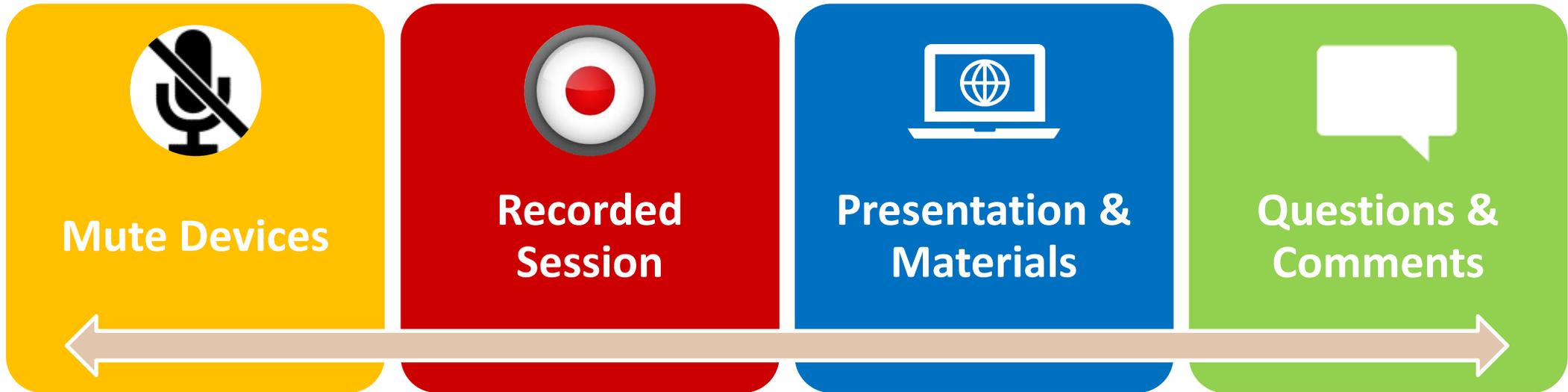
TMPD Virtual Workshop

September 9, 2021

9:00 AM PDT / 12:00 PM EDT

# WELCOME





# AGENDA & OBJECTIVES

9:00 AM

## Welcoming & Overview

9:10 AM

## Legal & Administrative Framework to Support Investment on ATR-TLE lands

9:25 AM

## Armchair Discussion Panel - Exploring ATR-TLE Policy Reform

- Treaty One Development Corporation – Gord Bluesky, Lands Director
- Brokenhead Ojibway Nation – Bev Smith, Lands Manager
- Treaty Land Entitlement Committee of Manitoba Inc. – Chris Henderson, Executive Director
- Swan Lake First Nation – Bob Greene, Special Projects
- TULO Centre of Indigenous Economics – Andre LeDressay, Director of Fiscal Realities

## ➤ CHALLENGES AND LESSONS LEARNED

10:30 AM

## ➤ SOLUTIONS FOR A WAY FORWARD

11:10 AM

## ➤ EFFECTIVE CHANGE

11:50 AM

## Summary & Next Steps

12:00 PM

## Close of Workshop

# COLLABORATION ON CAPACITY DEVELOPMENT



# Legal & Administrative Framework to Support Investment on ATR-TLE lands



**Adam Wright**  
Planner, Land Code Governance



**Dr. André LeDressay**  
Director of Fiscal Realities



## ATR PROVISIONS UNDER FRAMEWORK AGREEMENT (FA)

### FA Substantive Provisions:

- Land Exchange (FA 14.1.3)
- Land Description under Land Code & Individual Agreement (FA 14.2.3)
- Replacement lands under federal expropriation (FA 34.2)

### Although ATR process is governed under federal process, FA provides:

- only Ministerial Order required (no longer decision of federal Cabinet as Governor in Council)
- by request, automatically become FN lands under Land Code & Individual Agreement
- advance replacement of third-party interests

## Additions to Reserve (ATR)

- enables Canada to fulfill legal obligations established by specific claim and treaty settlement agreements
- contributes directly to advancing reconciliation and improving the treaty relationship
- can improve community access to land and resources
- can increase community and economic development opportunities for First Nations

## Treaty Entitled Lands (TLE)

- Where all lands were not received as entitled to under treaties signed by the Crown and First Nations
- TLE settlement agreements are negotiated between First Nations and the Government of Canada
- TLE settlement agreement specifies an amount of land that a First Nation may either purchase on a willing buyer-willing seller basis, or select from unoccupied Crown land, or both in some cases, within an agreed to acquisition or selection area



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The Challenge to Better ATRs-TLEs

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The Economic Institutions Theory

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The FA-FMA Legal and Administrative Requirements

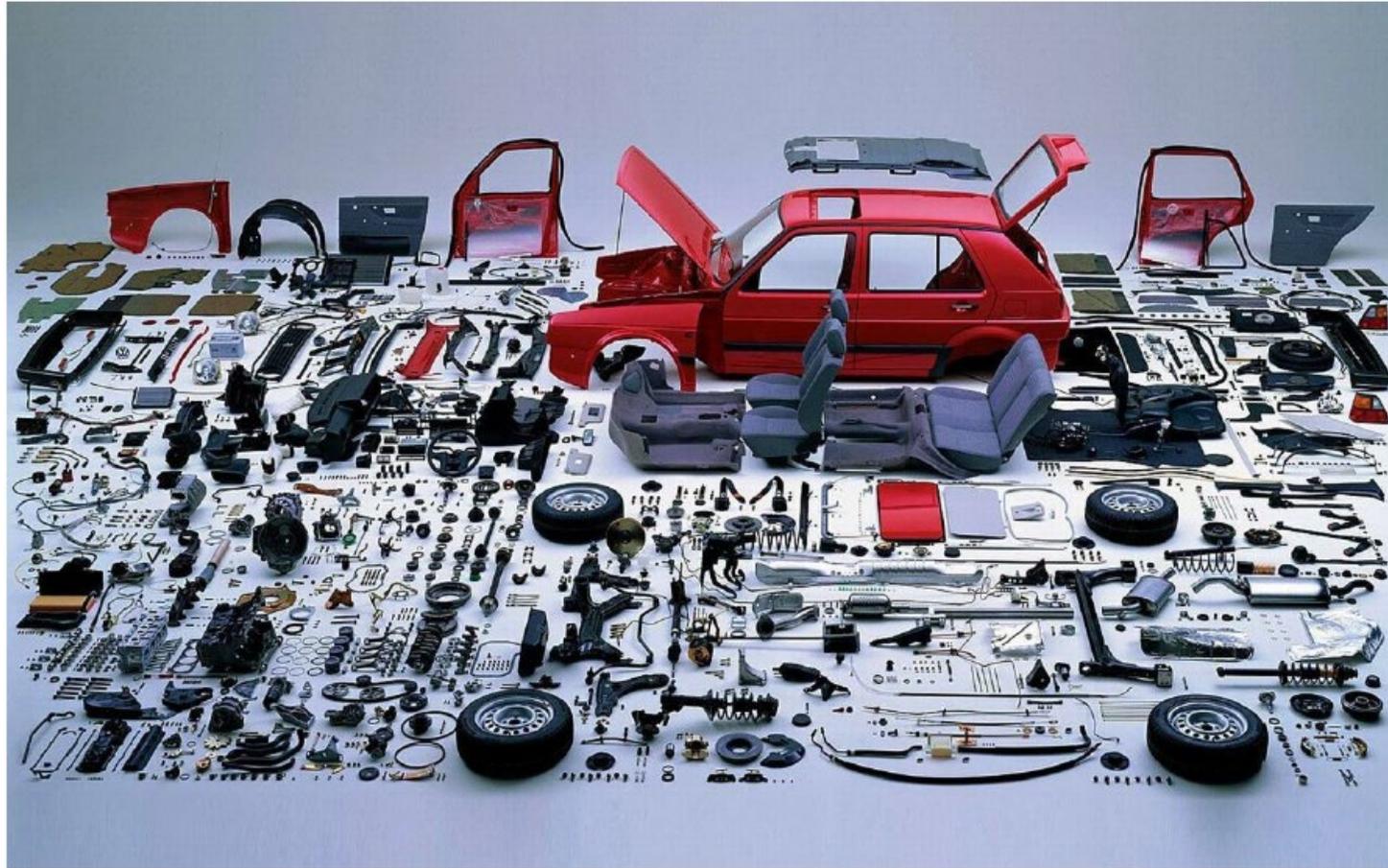
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Some Opportunities to generate more benefits from ATRs-TLEs

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# THE CHALLENGE TO BETTER ATRs-TLEs



# THE ECONOMIC INSTITUTIONS THEORY

## COMPARATIVE ADVANTAGES

Proximity to  
Markets/Location

Tourism  
Features/Attractions

Labour (supply or  
Specialization)

Mineral  
Rights/Natural  
Resources

Commercial  
Activity/Cluster

Emerging Technology



## PUBLIC INSTITUTIONS

Supportive  
Legal  
Framework

Governance,  
Leadership &  
Administration

Business  
Grade  
Infrastructure

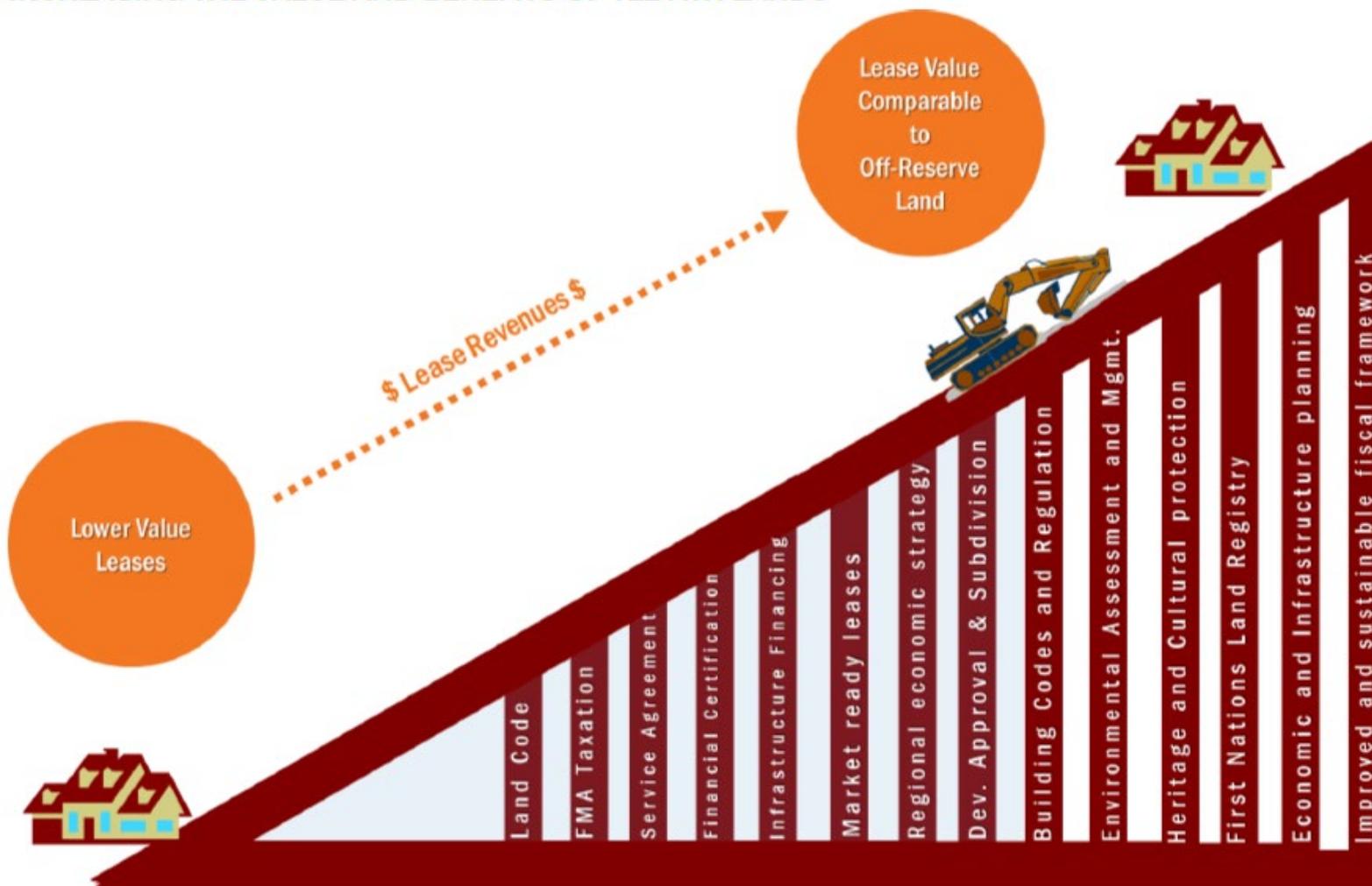
Efficient Fiscal  
Relationship



**Competitive Advantage for Investment and Innovation**

# THE FA-FMA LEGAL AND ADMINISTRATIVE REQUIREMENTS

## INCREASING THE VALUE AND BENEFITS OF TLE-ATR LANDS





# LAND DEVELOPMENT UNDER LAND CODE

Examples of Land Development Activities:

## PHYSICAL STRUCTURES

Design, construction, alterations, renovation, demolition



- Homes, Suites, Offices, Schools, Grocery Stores, Facilities, Warehouses, Storage
- Fences, decks, sheds, shops and garages
- Swimming pools and docks
- Lighting & Signage

## PUBLIC WORKS & INFRASTRUCTURE

Installing, locating, operations & maintenance, closure, decommission and post-closure monitoring



- Water supply
- Sewer & Wastewater
- Treatment Plants
- Transfer Stations, Landfills
- Stormwater infrastructure
- Irrigation canals
- Pipelines

## LANDFORMING

Changing, clearing, converting or restoring land forms



- Clearing vegetation
- Tree removal
- Grading & Filling
- Landscaping
- Gravel quarries
- Mining & Resource Extraction
- Habitat Restoration
- Agriculture

## TRANSPORTATION INFRASTRUCTURE

Public, private, Emergency Access, people, places, goods



- Roads, Offramps & Interchanges
- Intersections
- Bridges
- Parking Lots & Parking Stalls
- Sidewalks & Trails
- Airports
- Public Transit

## UTILITIES & SERVICES

Connecting, locating, delivering, repairing & maintaining, service agreements



- Utility Poles
- Electricity transmission & supply
- Renewable Energy
- Internet
- Telephone
- Natural Gas

## LAND INTERESTS



- Allotments or Land Entitlements
- Traditional Land Holdings
- Leases
- Sub-leases & sub-subleases
- Permits & Licences
- Mortgages
- Easements
- Rights-of-way



# SOME OPPORTUNITIES TO GENERATE MORE BENEFITS



## A PRELIMINARY FA-FMA WORKPLAN FOR ATRs-TLEs

Work Plan Element	Purpose	Institutional Supports
Land Code	Create FA framework	LAB, RC
Fiscal Powers	Create fiscal framework	FNTC, Tulo Centre
Service Agreement	Create tax and investment certainty	FNTC, Tulo Centre, RC
Infrastructure Financing	Access to long-term borrowing and infrastructure lifecycle fiscal tools	FMB, FNFA, FNTC and Tulo Centre
Land Use Planning and Zoning Laws	Support land law development and coordination	LAB, RC, Tulo Centre
Regional Economic Planning and Coordination	Support coordinated and integrated land, economic and capital planning	LAB, RC, Tulo Centre
Administrative Templates	Reduces ATR/TLE timeframes	RC, Tulo Centre





## THE ELEMENTS OF THE LEGAL FRAMEWORK TO SUPPORT INVESTMENT ON ATR-TLE LANDS

### Laws that Support Property and Interests

- Property Rules
- Registry Systems
- Civil Laws
- Leases
- Property Rights
- Regulations

### Laws that Regulate Property and Interests

- Land Use & Zoning
- Development & Subdivision Approval
- Local Revenues
- Financial Administration

### Laws that Support Services

- Local Services
- Building Codes
- Building Regulation
- Environmental Assessment & Management
- Heritage Protection
- Builder's Lien
- Financing





The Challenge to Better ATRs-TLEs

The Economic Institutions Theory

The FA-FMA Legal and Administrative Requirements

Some Opportunities to generate more benefits from ATRs-TLEs



# Armchair Discussion Panel



**Andrew Beynon**

Director, Land Code Governance



# ARMCHAIR DISCUSSION PANEL



**Treaty One  
Development  
Corporation**



**Gord Bluesky  
Lands Director**

**Brokenhead  
Ojibway Nation**



**Bev Smith  
Lands Manager**

**Treaty Land  
Entitlement  
Committee of  
Manitoba Inc.**



**Chris Henderson  
Executive Director**

**Swan Lake  
First Nation**



**Bob Greene  
Special Projects**

**TULO Centre of  
Indigenous  
Economics**



**Andre LeDressay  
Director of Fiscal  
Realities**



# Summary & Next Steps



# ATR-TLE PROCESS CHALLENGES

## Canada's Focus

- process and criticized for delays in the ATR process
- approval depending on political considerations as well as complex legal and technical issues
- resolving technical issues with departmental officials

## Ongoing Delays

- Complex existing interests
- Existing environmental damage
- Relationships with neighbouring governments
- Future development objectives

## First Nations

- Focus to be on First Nation objectives and support in deadlines
- Support in engagement at political and technical level
- Support by Canada and other governments



Support priority issues under new government



Provide input to the AFN reform discussion



Support the reform agenda short-medium term goals



Ongoing advocacy in ATR-TLE policy change

- Current
- Past Events
- LAB AGM

# WORKSHOPS & WEBINARS

Oct 2021						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

**OCT 7** Wills & Estates – Exploring Future Needs

Nov 2021						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

**NOV 4** RC Engagement Workshop:  
Operational Funding Formula for Land Code Governance

Dec 2021						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

**DEC 9** Decolonizing Land Governance under the FA



In partnership with:



TULO CENTRE OF  
INDIGENOUS  
ECONOMICS

# THANK YOU

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