

PROTECTION IS NOT ENOUGH:

POLICY PRECEDENTS TO INCREASE THE AGRICULTURAL USE OF BRITISH COLUMBIA'S FARMLAND



White Paper Brief

FOREWARD

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Agricultural land not only feeds us, it is the heart around which stable communities have and will continue to develop and prosper over the long term. In this province, where farmland scarcity is so obvious, a diversity of large and small scale agriculture importantly binds our communities and province together to provide any semblance of control over our food security and food self-reliance. It is imperative that we keep agricultural land and food production front and center in debates regarding natural resources such as pipelines, LNG, hydro-electricity generation and beyond. We forget, and at our great peril, that the most fundamentally important resource is agricultural land and its ability to produce food for us when put to its only proper use.

The original drafters of the Agricultural Land Commission (ALC) and Agricultural Land Reserve (ALR) conceived and implemented legislation and regulation that, at the time, was unique to North America. But it was not unique in other parts of the world where the critical importance of farmland preservation, food production, and food security was recognized. In order to guard against potential errors in the demarcation of the original ALR boundary, the legislation was strongly biased toward accommodating ALR exclusion applications. This bias has long since served its purpose and now threatens the integrity of the ALR and viability of the ALC. Serious consideration should be given to eliminating the ability to exclude land from the ALR and to ensure that agricultural vitality of land within the ALR is maintained.

The work of this White Paper is a fine example of how our academic institutions can help us; in this instance how applied research, new information, and new thinking can inform our discourse and deliberations and help move the ALC legislation forward for the next generation. I would like to commend the Institute for Sustainable Food Systems for its relentless support of agriculture, for its pursuit of food systems that benefit our communities, and for championing a vital ALC and ALR.

The White Paper reports that there is lots of agricultural land laying fallow, not being actively farmed. While this is the case, it is not any sort of indication that this land should be used for purposes other than farming- it should not. On the contrary it is indicative of two things: 1) first and foremost that the ALC has effectively prevented the loss of a precious, non-renewable resource- BC's farmland, and 2) there has been a larger failure to foster wider economic viability and a diversity of opportunities in our food production sector. The ALC has in fact made sure that these lands were not lost to future generations. As the population of our province grows and new crops and opportunities are developed, society will find a way of getting this resource into the hands of a new generation of farmers who will put it to work, sustainably, and to all our benefit.

After 40 years of experience, the ALC is positioned to move to the next stage, one in which the ALR is accepted as simply being a part of who we are. A future in which constant arguments as to whether the ALR is good or bad cease. The timing of the White Paper couldn't be better. This work should fit nicely into the deliberations of the Minister's Task Force reviewing and strengthening the ALC. The Task Force should be able to forward a set of recommendations to the Minister that entrench the ALC as part of who we are. Then the Minister must be bold in her recommendations to move this key legislation forward.

At this juncture, simply tweaking the legislation is not an option.

Richard Bullock,
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Protection Is Not Enough: Policy Precedents to Increase the Agricultural Use of British Columbia Farmland

WHITE PAPER BRIEF

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This policy brief summarizes research from a complete White Paper of the same title. The brief identifies key drivers behind the underutilization of BC's agricultural land and provides policy precedents from Canada and abroad to illustrate how agricultural use of farmland is being directly and indirectly promoted in other jurisdictions. The goal of this research is to raise the profile of the issue of farmland valuation, ownership, access and subsequent use, and to stimulate debate by bringing forward existing policy precedents that may otherwise be overlooked, or not readily imagined, in the dominant socio-economic-political environment.

Full White Paper and Appendix:

<http://www.kpu.ca/isfs/agricultural-land-use-in-the-alr>

THE ISSUE: UNDERUTILIZATION OF B.C.'S FARMLAND

Only 5%¹ of British Columbia's land base is suitable for agriculture. The establishment of regional food systems, and the potential for society to capture the social, ecological, and economic benefits that these systems offer, requires that this finite and valuable resource be both protected and used for agricultural purposes.

In BC, the Agricultural Land Reserve (ALR) was established to protect agricultural land and promote its use for agriculture. This provincial land use zone regulates the use of the province's farmland to maintain its integrity for agriculture into the future. However, approximately 50% of

the ALR is not used for agriculture.² For example, in Metro Vancouver, which contains some of the best agricultural soils in the country,³ only 50% of the region's ALR land is used for farming. In fact, in Metro Vancouver, the number of ALR parcels used for residential purposes exceed those used for agriculture.⁴ This is true in several agricultural regions of the province.⁵

WHY IS B.C.'S FARMLAND UNDERUTILIZED?

The Prohibitive Cost of Farmland

The cost of farmland is often prohibitive to those wanting to farm. While the assessed value of ALR land is relatively low to facilitate farmers' access,

agricultural land often sells for many times its assessed value, prohibiting purchase for any viable farming operation.⁶ This problem is particularly acute in the populous peri-urban regions of the province, such as Metro Vancouver (Table 1). This brief explores three related but distinct factors that contribute to the issue of high agricultural land values: pressure from competing land uses, current fiscal policies, and farmland speculation.

Competing Land Use

Land use competition, particularly at the urban fringe, puts pressure on farmland to be used for purposes other than farming, such as residential use (single family home being a permitted use of ALR land), or removed from the ALR for industrial, commercial or other development.

Current Fiscal Policies

The current farm property tax regime provides significant financial benefit to those who use ALR land for non-farming purposes, particularly residential use. Low assessed values, combined with a number of tax benefits intended to reward/incentivize farming, are either applicable to ALR property owners regardless of land use (e.g. school tax exemption), or can be attained with minimal agricultural production (e.g. reduced taxation rate with farm class status).⁷

Speculation on Farmland

Perhaps less common than the aforementioned uses of farmland, the use of ALR land as investment properties increases land prices and renders farmland inaccessible to producers. A lack

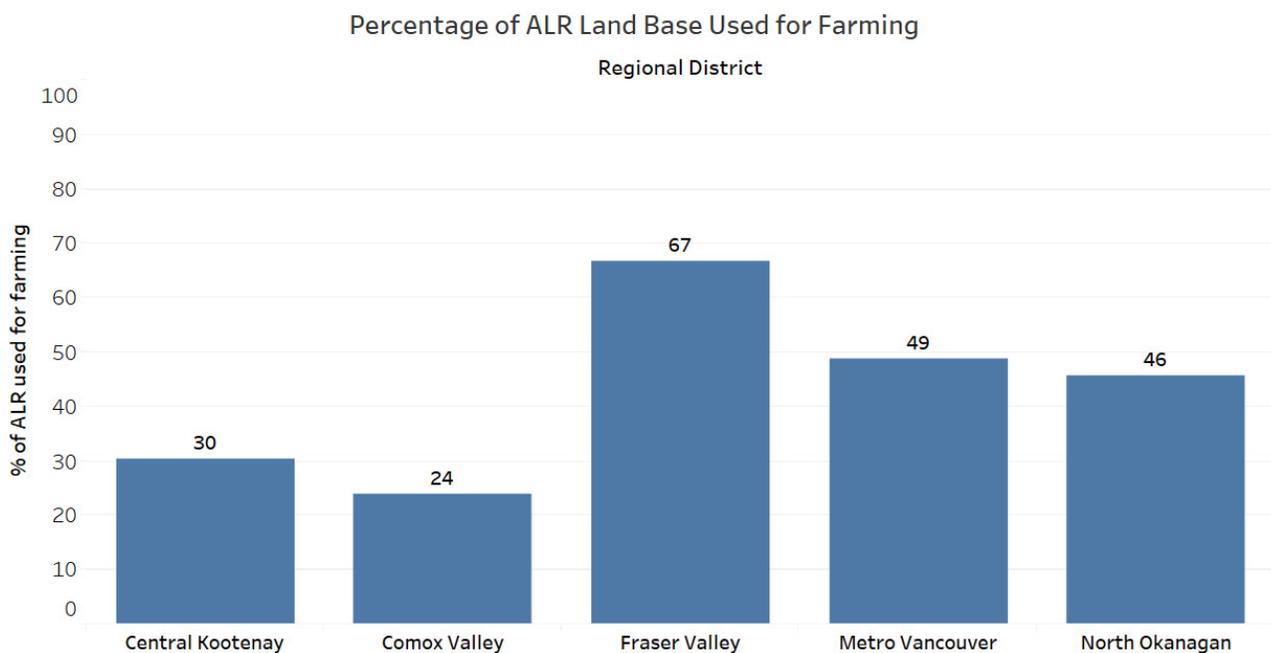


Figure 1. Percentage of ALR land area used for farming. Source: BC Ministry of Agriculture Agricultural Land Use Inventories. Central Kootenay Regional District 2016, Regional District of the North Okanagan 2013-2014, Fraser Valley Region 2011-2013, Metro Vancouver Region 2010-2011, Comox Valley Regional District 2013. See end note 5.

of transparency concerning legal and beneficial ownership make these practices difficult to quantify and address with policy. However, an investigation into 122 agricultural properties that were bought and sold in the peri-urban regions surrounding Vancouver found that speculators and investors, not farmers, were implicated in 73 of the transactions.⁸ The expectation that land can be removed from the ALR may also promote speculation, despite the difficulty of successfully applying for an exclusion (Sussmann, et al., 2016). The likelihood of a successful exclusion may be small, but the potential payoff (return on investment) is huge,⁹ with minimal risk as land values tend to increase regardless. These conditions make agricultural land a safe and potentially extremely lucrative investment (Condon et al., 2010).

DESIRED POLICY OUTCOMES TO ADDRESS THE ISSUE

In order to promote the agriculturally productive use of farmland, this research prioritized policies that provided the following four outcomes:

- A) Increase farmers’ ability to access or acquire farmland.
- B) Reduce non-farm use of farmland.
- C) Raise farm incomes and/or improve the economic viability of farming.
- D) Increase availability and transparency of farmland ownership data.

POLICIES TO INCREASE USE OF FARMLAND FOR FARMING

The following suite of six policies are presented for further investigation and discussion. In combination, they have potential to achieve the full range of desired outcomes that could result in an increase in the use of farmland for agriculture and food production. Additionally, the policies presented below can more readily operate within existing regulatory and agency frameworks in BC, which can facilitate their applicability to the BC context.¹⁰ They have been selected after completing an international search for policies that promote the agricultural use of farmland. Examples of policy precedents in Canada and abroad are given to illustrate their application in other jurisdictions.

Property sale price as % of assessed value	No. properties sold
<100%	40
100%	4
100%-125%	99
125%-150%	138
150%-200%	139
>200%	259
TOTAL	679

Table 1. Sale price (conveyance price) relative to assessed value of 679 ALR properties sold in 2016 in the City of Richmond, Surrey, Maple Ridge, Pitt Meadows, the Township of Langley and the Corporation of Delta. Source: Requested BC Assessment Conveyance Price (sale price) (2016) and Assessment Value (2016). Full report forthcoming from the Institute for Sustainable Food Systems (2018).

1. Restrict farmland ownership: Ownership restrictions limit the amount of farmland that can be owned by non-Canadians, non-residents and/or non-Canadian owned entities. Restrictions can also be based on the intent/capability of landowners to farm including farming-related experience, agricultural training, or minimum income from farming. Further research is required to determine the most appropriate conditions for ownership restrictions if they were to be applied in British Columbia.

Precedents exist in **Saskatchewan, Manitoba, Quebec, Alberta, Prince Edward Island, Germany, Japan, Denmark, and Latvia.**¹¹ E.g., In **Saskatchewan**, farmland ownership by non-Canadians and non-100-per-cent Canadian owned entities is limited to 10 acres.¹²

Outcome: Increase farmers' ability to access or acquire farmland.

2. Reform farm property tax relief: BC Assessment facilitates reduced property taxation for farmland to support and encourage the public benefits provided by farming. Some advantages, such as a 50% school tax exemption, are available to all ALR property owners. Other benefits, such as reduced taxation rates, are available for properties classified as a farm for assessment purposes. To qualify, landowners must achieve a minimum annual income from farming activities. Presently, BC has one of the lowest income thresholds for achieving farm class tax status in Canada, and abroad.¹³ In particular, the current \$2,500 annual gross farm income threshold for farms between 2 and 10 acres to qualify for farm class status (set in 1993) has been characterized as too easily achieved, and results in a much lower property tax burden¹⁴ for landowners who engage in minimal farming activity. Previous reviews¹⁵ of qualifying

farm income thresholds propose two tax policy changes to ensure that the benefits to landowners are balanced with the public benefits they generate: 1) increase the farm income threshold, particularly for farms between 2 and 10 acres; and 2) establish a multi-tier system that awards greater benefits to farms that achieve higher farm income levels. Additional recommendations for broad farm property tax reform are addressed in a Metro Vancouver (2016) report.¹⁶

Precedents exist in **Ontario, Quebec, Wisconsin.**¹⁷ E.g., **Ontario** requires a farm revenue of \$7,000. Additionally, the farm residence and 1 acre of surrounding land are not qualified for exemptions.

Outcome: Reduce non-farm use of farmland.

3. Implement tax on the conversion of agricultural land to non-agricultural use: Require the payment of a tax for the conversion of agricultural to non-agricultural uses. In order to be effective, the fee levied would need to be sufficient to remove financial incentive for the conversion of agricultural land. Additionally, this tax policy should not be used as *carte blanche* for the removal of agricultural land from the ALR.

Precedents exist in **Slovakia, Czech Republic.** E.g. the **Czech Republic** requires a compensation fee for the conversion of farmland to building land, with more fertile soils requiring higher conversion fees. However, compensation fees were criticized as too low to be effective barriers to farmland development.¹⁸

Outcome: Reduce non-farm use of farmland.

4. Require the disclosure of beneficial, in addition to legal, ownership of farmland and make data available: Legal owners are those entities whose names appear on the land title

filed with the BC government, while beneficial owners are the individuals who control and profit from property ownership and use. While legal ownership information is collected in BC (although reporting/transparency is limited), existing Canadian laws and regulations do not require entities purchasing land to disclose beneficial ownership.¹⁹ Therefore, determining who is financially benefiting from agriculture land ownership, use and/or development is extremely difficult, if not impossible. Requiring the collection and reporting of both legal and beneficial land ownership can give policymakers a sound basis to assess current land ownership trends, assist in the development and enforcement of policies related to farmland use as well as anticipate policy outcomes. In 2014, Canada, along with the G20 nations, committed to implementing stronger tracking and reporting policies for beneficial ownership, following recommendations made by the Financial Action Task Force (FATF).²⁰ A Transparency International²¹ progress report assessed Canada as having a “very weak” beneficial ownership²² tracking and reporting framework, and yet to comply with its commitments.

Precedents exist in the **United Kingdom**. The UK scored the highest in TI’s report, with a ‘very strong’ beneficial ownership tracking/reporting framework. The central company registry allows authorities in the UK to access full beneficial ownership information, with select information made publicly available. Precedents for provincial oversight of this data exist in **France** and **Prince Edward Island**. E.g., in Canada, Prince Edward Island’s Regulatory and Appeals Commission tracks land holdings, sales, and ownership. The province then has the ability to use the data collected to monitor trends in ownership by non-residents and/or non-farmers, and adjust its policies to meet land protection goals.²³

Outcome: Increase availability and transparency of farmland ownership data.

5. Improve lease regulations to promote longer-term leases and better ensure the rights and security of tenant farmers. There is minimal regulation of farmland lease agreements in BC, and Canada at large.²⁴ Policies such as minimum lease terms, preferential purchase rights for tenants and control of rental prices could improve the rights and security of tenant farmers.

Precedents exist in **Belgium, Italy, and France**. E.g., **France** requires a minimum duration of 9 years for agricultural leases. In Italy, tenant farmers have the pre-emptive right to purchase leased farmland.²⁵

Outcome: Increase farmers’ ability to access or acquire farmland.

6. Designate agricultural enterprise zones near farmland: Strategic zoning for supportive agricultural activities can improve producers’ access to essential services such as processing, storage and distribution. Encouraging the co-location of agricultural services can facilitate the formation of local infrastructure to increase the viability of farming.²⁶

Precedents exist in **Hawaii** and the **City of Pitt Meadows**. E.g., the City of Pitt Meadows has established an Agricultural and Farm Industrial Zone with the intent of enhancing the economic viability of agriculture and the diversification of the agricultural industry in the region.²⁷ Hawaii’s Enterprise Zone Program offers a number of tax and procedural benefits including tax exemptions, income tax credits, fee waivers and priority permitting to eligible businesses.²⁸

Outcome: Raise farm incomes and/or improve the economic viability of farming.

CONCLUSION

Effectively addressing the multidimensional issues challenging agricultural land use requires collaboration across private and public sectors, as well as governmental jurisdictions. Many of the policy precedents presented in this report challenge long-standing, entrenched assumptions about property rights, land ownership, the sanctity of the “free market” ideal, the weighing of private interests with the maintenance of public goods, as well as the role of government in conserving them. Research is required to better understand how policies can best be implemented, monitored, enforced and remain relevant and effective in the long term. Policy makers must be willing to challenge vested interests and invite policy debate in order to build support for effective, long-term and systemic change. The question we must ultimately ask is, at what juncture will the logic of strengthening food system adaptability, resilience, and food self-reliance become obvious enough to demand decisive support and action? Will we have time to act if we wait? It is imperative these questions be addressed if we are to move toward a food system future appropriate for the 21st century. In light of both the challenges and great potentials that exist, for British Columbians the time to do so is clearly upon us.

The Institute for Sustainable Food Systems (ISFS) is an applied research and extension unit at KPU that investigates and supports sustainable agriculture and regional food systems as key elements of sustainable communities. We focus predominantly on British Columbia but also extend our programming to other regions. Our applied research focuses on the potential of regional food systems in terms of agriculture and food, economics, community health, policy, and environmental integrity. Our extension programming provides information and support for farmers, communities, business, policy makers, and others. Community collaboration is central to our approach.

<http://www.kpu.ca/isfs>

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END NOTES

1. Agricultural Land Commission (2017). *Annual Report 2016-2017*. Retrieved from <https://www.alc.gov.bc.ca/alc/content/library/commission-reports>
2. BC Ministry of Agriculture (2016). *Agriculture in Brief*, Census of Agriculture, British Columbia Provincial Profile. Retrieved from <https://www2.gov.bc.ca/gov/content/industry/agriculture-seafood/statistics/census-of-agriculture>
3. Metro Vancouver. (2014). *Farming in Metro Vancouver*. Retrieved from <http://www.metrovancouver.org/services/regional-planning/agriculture/resources/Pages/default.aspx>
4. BC Ministry of Agriculture. (2014). *Metro Vancouver Regional Report Summer 2010 & 2011* Agricultural land use inventory reports. Retrieved from: <https://www2.gov.bc.ca/gov/content/industry/agriculture-seafood/agricultural-land-and-environment/strengthening-farming/planning-for-agriculture/agricultural-land-use-inventories/south-coast> referenced in Metro Vancouver (2016). *Encouraging Farmland Production through Farm Property Tax Reform in Metro Vancouver* p.3. Retrieved from <http://www.metrovancouver.org/services/regional-planning/agriculture/resources/Pages/default.aspx>
5. BC Ministry of Agriculture.(n.d.). Agricultural Land Use Inventory reports. Retrieved from <https://www2.gov.bc.ca/gov/content/industry/agriculture-seafood/agricultural-land-and-environment/strengthening-farming/planning-for-agriculture/agricultural-land-use-inventories>
6. Sussmann, C., Dorward, C., Polasub, W., Mullinix, K., & Mansfield, B. (2016). *Home on the range: Cost pressures and the price of farmland in Metro Vancouver*. Retrieved from http://www.kpu.ca/sites/default/files/ISFS/Sussmann%20et%20al%202016_Home%20on%20the%20Range.pdf
7. Metro Vancouver (2016). *Encouraging Farmland Production through Farm Property Tax Reform in Metro Vancouver* p.3. Retrieved from <http://www.metrovancouver.org/services/regional-planning/agriculture/resources/Pages/default.aspx>
8. Tomlinson, K. (revised 2017, November 12, original publication 2016, November 18,). *On B.C.'s farmland, mega-mansions and speculators reap the rewards of lucrative tax breaks*. The Globe and Mail. Retrieved from <https://www.theglobeandmail.com/news/investigations/farmland-and-real-estate-in-british-columbia/article32923810/>
9. “When lands shift from agricultural to urban use the land values increase substantially. The ‘lift’ in value can be huge, from a \$40,000 per acre value as agricultural land to over \$1 million per acre as urban land (depending on location and specific development capacity).” Source: Condon, P. M., Mullinix, K., Fallick, A., & Harcourt, M. (2010). p. 110. *Agriculture on the edge: strategies to abate urban encroachment onto agricultural lands by promoting viable human-scale agriculture as an integral element of urbanization*. International Journal of Agricultural Sustainability, 8(1–2), 104–115. <http://doi.org/10.3763/ijas.2009.0465>
10. These policies primarily target federal and provincial governments. Local governments also have an important role in areas such as advocacy, liaising, enforcement, and ensuring that their bylaws, policies and regulations are in alignment with provincial recommendations. E.g. BC Ministry of Agriculture. (2015). *Guide for bylaw development in farming areas*. Retrieved from: <https://www2.gov.bc.ca/gov/content/industry/agriculture-seafood/agricultural-land-and-environment/strengthening-farming/local-government-bylaw-standards-and-farm-bylaws>
11. Organisation for Economic Cooperation and Development. (1996). *Policies affecting farmland mobility*. Retrieved from [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=OCDE/GD\(96\)125&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=OCDE/GD(96)125&docLanguage=En)
12. Government of Saskatchewan. (2015). *Saskatchewan Farmland Ownership*. Retrieved from <https://www.saskatchewan.ca/~media/files/government/have%20your%20say/farmland/farmlandownership.pdf?la=en>
13. Upland Consulting. (2015). *Farm Tax Class Income Threshold Investigation*. Retrieved from <http://www>.

metrovancover.org/services/regional-planning/agriculture/resources/Pages/default.aspx

14. A Metro Vancouver report assessed that the “...average difference in the annual taxes paid on a 10 acre (4 ha) lot with \$150,000 in building improvements for properties with, and without farm class, using tax rates for seven municipalities was \$7,088.” Metro Vancouver (2016). *Encouraging Farmland Production through Farm Property Tax Reform in Metro Vancouver* p.7. Retrieved from <http://www.metrovancover.org/services/regional-planning/agriculture/resources/Pages/default.aspx>
15. See 7 and 14.
16. See 7.
17. Ontario: Ontario Ministry of Agriculture, Food and Rural Affairs. (n.d.). Farm property class tax rate program. Retrieved from <http://www.omafr.gov.on.ca/english/policy/ftaxfacts.htm> Quebec: Government of Quebec (n.d.) Conditions d’admissibilité [Eligibility criteria]. Retrieved from <http://www.mapaq.gouv.qc.ca/fr/Productions/taxes/conditionsd'admissibilite/Pages/conditionsd'admissibilite.aspx> Wisconsin: Wisc. Stat. Farmland Preservation Agreements. Wisc. Stat. § 91.60-91.70) (2015-2016). Retrieved January 2018 from [https://docs.legis.wisconsin.gov/document/statutes/91.60\(2\)](https://docs.legis.wisconsin.gov/document/statutes/91.60(2))
18. EEIG Agrosynergie. (2013). *Evaluation of the structural effects of direct support*. Chapter 4 Review of national legal and institutional frameworks. Retrieved from https://ec.europa.eu/agriculture/evaluation/market-and-income-reports/structural-effects-direct-support-2013_en
19. Ross, A. (2016). *No reason to hide: Unmasking the anonymous owners of Canadian companies and trusts*. Transparency International Canada. Retrieved from <http://www.transparencycanada.ca/wp-content/uploads/2017/05/TIC-BeneficialOwnershipReport-Interactive.pdf>
20. FATF is an international, inter-governmental policy-making body focused on addressing threats to the international financial system. Financial Action Task Force. (2012, updated 2016). INTERNATIONAL STANDARDS ON COMBATING MONEY LAUNDERING AND THE FINANCING OF TERRORISM & PROLIFERATION The FATF Recommendations. Retrieved from http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf
21. Transparency International is an international non-governmental organization with a mandate to fight corruption globally. See 20 for reference.
22. Martini, M., & Murphy, M. (2015). *Just for show: Reviewing G20 promises on beneficial ownership*. Transparency International Report. Retrieved from: https://www.transparency.org/whatwedo/publication/just_for_show_g20_promises
23. Commission on the Lands Protection Act (2013). *The Gift of Jurisdiction: Our Island Province. Report on the Prince Edward Lands Protection Act*. Retrieved from https://www.princeedwardisland.ca/sites/default/files/publications/gift_of_jurisdiction_-_our_island_province.pdf
24. See p. 13 of endnote 11.
25. See endnote 18.
26. Curran, D., & Stobbe, T. (2010). *Local government policy options to protect agricultural land and improve the viability of farming in Metro Vancouver*. Retrieved from <http://www.metrovancover.org/services/regional-planning/agriculture/resources/Pages/default.aspx>
27. City of Pitt Meadows. (2017). *Zoning bylaw No. 2505*. Retrieved from <http://www.pittmeadows.bc.ca/EN/main/residents/738/2379.html>
28. State of Hawaii. (2016). *Hawaii enterprise zones program*. Retrieved from <http://invest.hawaii.gov/business/ez/ez-annual-reports/>