

Ministry of Finance
BRIEFING DOCUMENT

To: Honourable Carole James
Minister of Finance
and Deputy Premier

Date Requested: February 22, 2018
Date Required: February 25, 2018

Initiated by: Christina Dawkins

Date Prepared: February 25, 2018

**Ministry
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Cliff #: 379251

TITLE: Threshold for reporting beneficial ownership through companies under the
proposed *Land Ownership Transparency Act*

PURPOSE:

(X) DECISION REQUIRED

Executive Director approval: _____

ADM approval: _____

DM approval: _____

DATE PREPARED: February 25, 2019

TITLE: Threshold for reporting beneficial ownership through companies

ISSUE: Decision required for threshold for reporting beneficial ownership through companies under the proposed *Land Ownership Transparency Act*.

BACKGROUND:

Under the proposed *Land Ownership Transparency Act* (LOTA) corporations that are required to report beneficial ownership will need to identify individuals with an interest in the corporation if their interest in the corporation is beyond a threshold. The threshold is set as a per cent of the number of shares of the corporation or of shares of the corporation with rights to vote at general meetings.

A logical threshold for LOTA is 25 per cent as this is the ownership threshold that BC is already collecting through property transfer tax forms and is intending to set under the *Business Corporations Act*. This is also the threshold used by the federal government in its recent amendments to the *Canada Business Corporations Act* (Canada). Several other provinces are in the process of amending their corporate legislation to collect beneficial ownership information and are modeling their changes on the recent federal amendments. A 25 per cent threshold is also used in the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations, as well as international beneficial ownership registries such as the UK register of People with Significant Control.

However, the members of the Expert Panel on Anti-Money Laundering in BC Real Estate have written to the Minister suggesting that the threshold for disclosure should be no greater than 10 per cent. The Panel based this suggestion on the Tax Justice Network, a non-governmental organization, which proposed best practices based on a review of real estate beneficial ownership disclosure in 112 countries.

The Land Title and Survey Authority, which will maintain the land ownership transparency database, has no issues with a 10 per cent threshold.

DISCUSSION:

Although members of the Expert Panel have noted that a 25 per cent threshold only requires five people to create a company to avoid disclosing beneficial ownership information, the legislation does address this scenario. Under LOTA, any ownership of 25 percent or more would require disclosure. In addition, the legislation states, where two or more individuals have a combined interest (e.g. 10 per cent of the shares and 15 per cent of the shares) and are acting jointly, these individuals must be disclosed.

The advantage of using the same threshold for corporate registry requirements is that companies will have this information available when disclosing beneficial ownership of land under LOTA. Having a lower disclosure threshold for LOTA will require corporations to gather more information in some cases.

However, a lower threshold will provide for greater transparency in land ownership.

OPTIONS:

Option 1. Set the threshold at 25 per cent.

- would be consistent with corporate registry requirements.
- aligns with the threshold already being used in other BC legislation.
- does not provide as much transparency as the 10 per cent option.

Option 2. Set the threshold at 10 per cent.

- would provide for greater transparency in land ownership.
- corporations that apply for an interest in land could complain about the additional work required.
- does not align with the approach already taken in other BC legislation or with the federal-provincial-territorial approach to changes to corporate legislation.

EVALUATION:

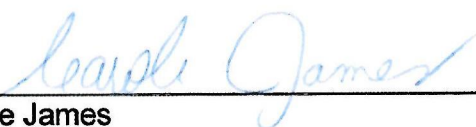
On balance, the increased transparency with a 10 per cent threshold with respect to ownership of land in BC outweighs the lack of consistency with corporate registry requirements.

The 10 per cent threshold represents a more stringent requirement than a 25 per cent threshold and, should the lack of consistency among statutes create an issue, raising the threshold to 25 per cent in the future could be considered a relieving measure.

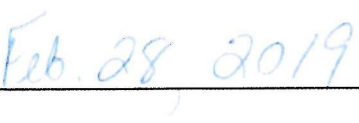
Furthermore, a 10 per cent threshold for LOTA would signal British Columbia's strong commitment to transparency and any successful experience with the 10 per cent threshold may set a precedent for providing this more stringent threshold in other British Columbia and/or other Canadian statutes in future.

RECOMMENDATION: Option 2. Set the threshold at 10 per cent.

APPROVED / NOT APPROVED



Carole James
Minister and Deputy Premier



Date