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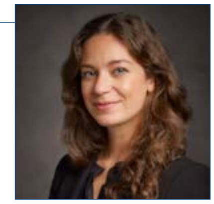

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Urban Reserves and Their Economic Potential for Municipalities

The *Indian Act* is the default legislation that governs reserves. It establishes a strict and paternalistic regime, particularly when it comes to land-use planning, which makes it difficult for First Nations to exercise their right to self-government.

However, solutions have gradually been developed to make changes to reserve systems. Among other things, they make it possible for First Nations to exempt themselves from certain provisions of the Act.[1] These regimes were strengthened in 2018 by Bill C-86, which made it easier for First Nations to control revenue derived from reserves and create or expand existing reserves.

The reserve system remains highly imperfect, as it was part of a series of assimilation attempts that involved restricting communities' movement so that they would better assimilate to settler customs. However, the creation of urban reserves remains a step toward reconciliation that has the potential to stimulate local economic development.

But what are urban reserves? The best-known examples are the well-established Squamish, Tsawwassen, and Musqueam reserves in the Greater Vancouver area. They are located in or near urban areas, and have long been considered nuisances that deprive governments and nearby towns of benefits and land to exploit.[2] There are now over 120 in Canada.

However, urban reserves are one of the better economic tools a First Nation can use to provide revenue for its community, especially if that community does not have natural resources or is not physically close to major markets. They can create opportunities and jobs that would otherwise be scarce.

Urban reserves fall under federal jurisdiction but can opt out of the *Indian Act* land regime. This means that they have much more autonomy and flexibility when it comes to land use planning and development, contracts, and taxation. That said, while the reserves are not subject to municipal by-laws, this does not exempt them from the plethora of municipal agreements and particularities that can come with projects that involve non-Indigenous partners.[3] As such, it remains essential to form close relationships with municipalities and develop new legal and financial structures.

This autonomy can come with significant advantages when it comes to, for example, construction projects to alleviate an acute housing shortage in Indigenous communities. Projects developed on reserves are also eligible for significant federal funding.

The income that can be generated on an urban reserve is also amplified, as there are tax exemptions on earnings by First Nations members working on a reserve.

What's more, for Indigenous businesses, an urban reserve can mean tax benefits, local relationships, and the ability to work within their own cultural community. For non-Indigenous businesses, it can mean a sense of corporate social responsibility, access to new markets and a larger labour pool, and the ability to enjoy some of the regulatory advantages given to First Nations.

Business activities with Indigenous groups are growing at a rapid pace. Creating urban reserves to support this type of economic development is an opportunity to strengthen relations between First Nations and local municipalities.

Ultimately, urban reserves can be beneficial for everyone, especially when it comes to social and economic development that supports First Nations' right to governance over their lands.

1 See, for example, the Framework Agreement on First Nation Land Management (FA), which allows signatory First Nations to opt out of the 44 land-related sections of the *Indian Act* and adopt their own community land codes.
2 *Mathias v The Queen*, 2001 FCT 480.
3 Pedram Gholipour, *Unlocking the Economic Potential of Urban Reserves*, (2023) 28 Appeal 35 pp. 44–49.