



# Improving Alberta's Dower Act

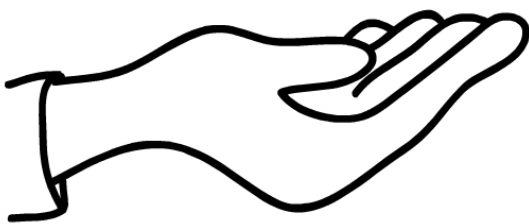
THE ALBERTA LAW REFORM INSTITUTE



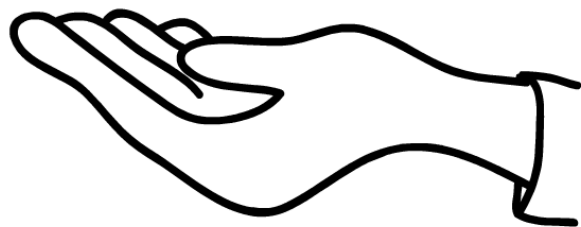
The Alberta Law Reform Institute (ALRI) is reviewing the Dower Act. The *Dower Act* is a law that affects homeowners and their spouses or partners.

Many couples co-own their home, but not all do. Sometimes, one person in a couple is the sole owner of their home.

In other words, the title registered at the Land Titles Office shows only one person as the owner.



**DOWER SPOUSE**



**OWNER SPOUSE**

**There are many different reasons why one person might be the sole owner of the couple's home. For example:**



### **EXAMPLE 1**

Ali and Chris wanted to buy a home together. When they applied for a mortgage, they learned that Ali's credit was not good enough. Only Chris qualified for a mortgage.

The mortgage company agreed to give a mortgage to Chris, on condition that Chris would be the sole owner of the home.



## EXAMPLE 2

Dara and Kim bought their home together. Dara owns a small business.

The couple was worried what might happen if Dara's business could not pay its debts. If Dara was an owner of the home, there would be a risk that it could be sold to pay debts.

They did not want to lose their home, so they decided Kim should be the sole owner.



### **EXAMPLE 3**

Mandy and Robin met later in life. Robin owned a home. Both had grown children from previous relationships.

They each wanted to leave their property to their own children.

Mandy moved into Robin's home but Robin remained the sole owner.

## There are two key features of the Dower Act:



1. The sole owner of a couple's home cannot sell, transfer, or mortgage the home unless their spouse consents.

The spouse who does not own the home must sign a legal document that proves they consent to the sale, transfer, or mortgage.



2. If the sole owner dies first, the surviving spouse automatically receives a life estate in the home.

That means the surviving spouse can live in the home or use it for as long as they live. The surviving spouse receives a life estate no matter what

the sole owner's will says. Once the surviving spouse dies, the home passes to the sole owner's other heir or heirs.

ALRI has considered whether the Dower Act still serves a useful purpose.

Our preliminary view is that both key features are still useful but there is room for improvement.

**ALRI proposes some changes to the Dower Act, including:**



### **PROPOSAL 1**

Currently, the Dower Act applies only to legally married spouses. It does not apply to couples who live in a marriage-like relationship but are not legally married. ALRI proposes that the law should also apply to certain common-law partners.

Specifically, it should apply to adult interdependent partners, which is a term used in other Alberta laws. Two people become adult interdependent partners by living in a marriage-like relationship for three years (or less if they have a child together), or by making a written agreement to be adult interdependent partners.



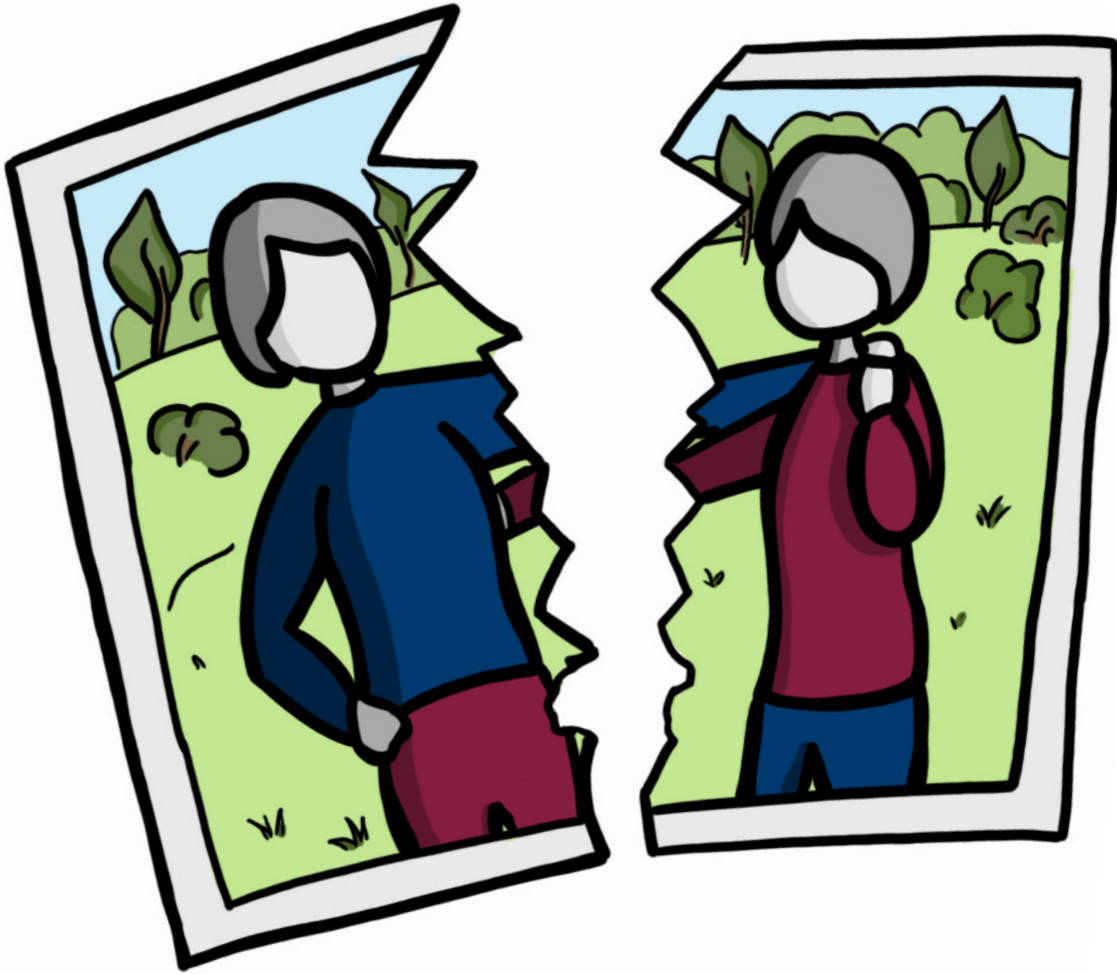
## **PROPOSAL 2**

The Dower Act should apply to mobile homes as well as homes on land or condominium units.

Currently, the Dower Act applies if the sole owner owns the lot, acreage, or quarter section where the home is located or if the home is a condominium unit.

It does not apply to a mobile home on a rented site. ALRI proposes that mobile homes should be included.





### **PROPOSAL 3**

The Dower Act should only apply to a home while the couple lives there together and for a limited time afterwards.

Currently, the Dower Act applies to any home where either spouse has lived. This rule can cause problems dealing with former homes or dealing with a home that a spouse buys after the couple separates but before a divorce is final.

There are other changes to streamline requirements, bring the law up-to-date, and make the law clearer.

# Now we want to hear from you! ALRI is seeking your opinions on its proposals.

ALRI will consider all comments before making final recommendations.

You can complete a short online survey at:

<https://www.surveymonkey.com/r/P38CDTP>,

or send comments to ALRI at [lawreform@ualberta.ca](mailto:lawreform@ualberta.ca).

