

Select Special Committee on Real Property Rights

Interim Report

Thirtieth Legislature
Second Session
October 2021



COMMITTEES
OF THE LEGISLATIVE ASSEMBLY

Select Special Committee on Real Property Rights

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SELECT SPECIAL COMMITTEE ON REAL PROPERTY RIGHTS

October 2021

**To the Honourable Nathan Cooper
Speaker of the Legislative Assembly
of the Province of Alberta**

I have the honour of submitting, on behalf of the Select Special Committee on Real Property Rights, its
October 2021 Interim Report.

Sincerely,

[original signed]

RJ Sigurdson, MLA
Chair, Select Special Committee
on Real Property Rights

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**MEMBERS OF THE SELECT SPECIAL COMMITTEE ON REAL PROPERTY RIGHTS
30th Legislature, Second Session**

R.J. Sigurdson, MLA
Chair
Highwood (UC)

Brad Rutherford, MLA
Deputy Chair
Leduc-Beaumont (UC)

Michaela L. Frey, MLA
Brooks-Medicine Hat (UC)

Hon. Ronald Orr, MLA‡
Lacombe-Ponoka (UC)

Kathleen T. Ganley, MLA
Calgary-Mountain View (NDP)

Garth Rowswell, MLA§
Vermilion-Lloydminster-Wainwright (UC)

Laila Goodridge, MLA*
Fort McMurray-Lac La Biche (UC)

Marlin Schmidt, MLA
Edmonton-Gold Bar (NDP)

David B. Hanson, MLA
Bonnyville-Cold Lake-St. Paul (UC)

Heather Sweet, MLA
Edmonton-Manning (NDP)

Nicholas Milliken, MLA†
Calgary-Currie (UC)

Glenn van Dijken, MLA**
Athabasca-Barrhead-Westlock (UC)

Christian E. Nielsen, MLA
Edmonton-Decore (NDP)

Tany Yao, MLA††
Fort McMurray-Wood Buffalo (UC)

* Committee Member until August 15, 2021

† Acting Deputy Chair on June 24, 2021

‡ Committee Member until October 25, 2021

§ Acting Deputy Chair on August 9, 2021

** Committee Member from October 25, 2021

†† Committee Member from October 25, 2021

Substitutions Pursuant to Standing Order 56(2.1-2.4):

Glenn van Dijken, MLA*
Athabasca-Barrhead-Westlock (UC)

Tracy L. Allard, MLA†
Grande Prairie (UC)

Mickey K. Amery, MLA‡
Calgary-Cross (UC)

Deron Bilous, MLA§
Edmonton-Beverly-Clareview (NDP)

Lorne Dach, MLA**
Edmonton-McClung (NDP)

Jasvir Deol, MLA††
Edmonton-Meadows (NDP)

Nathan T. Neudorf, MLA##
Lethbridge-East (UC)

Angela D. Pitt, MLA§§
Airdrie-East (UC)

Roger W. Reid, MLA***
Livingstone-Macleod (UC)

Marie F. Renaud, MLA†††
St. Albert (NDP)

Irfan Sabir, MLA###
Calgary-McCall (NDP)

Glenn van Dijken, MLA§§§
Athabasca-Barrhead-Westlock (UC)

Tany Yao, MLA****
Fort McMurray-Wood Buffalo (UC)

Member also in Attendance:

Todd Loewen, MLA††††
Central Peace-Notley (Ind)

* Substitute for Brad Rutherford on June 24, 2021

† Substitute for Ron Orr on August 9, 2021

‡ Substitute for Laila Goodridge on August 9, 2021

§ Substitute for Kathleen Ganley on August 9, 2021

** Substitute for Kathleen Ganley on October 20, 2021

†† Substitute for Marlin Schmidt on October 20, 2021

Substitute for R.J. Sigurdson on August 9, 2021

§§ Substitute for Nicholas Milliken on August 9, 2021

*** Substitute for Laila Goodridge on July 8, 2021

††† Substitute for Heather Sweet on August 9, 2021

Substitute for Marlin Schmidt on August 9, 2021

§§§ Substitute for Hon. Ronald Orr on October 20, 2021

**** Substitute for David Hanson on September 10, 2021

†††† October 20, 2021

1.0 COMMITTEE MANDATE

On March 22, 2021, the Legislative Assembly passed Government Motion 69, which established the Select Special Committee on Real Property Rights (the “Committee”) and established its mandate.

Government Motion 69 states:

1. A Select Special Committee on Real Property Rights be established and consist of the following members: Mr. Sigurdson, Chair; Mr. Rutherford, Deputy Chair; Ms Ganley; Ms Glasgo; Ms Goodridge; Mr. Hanson; Mr. Milliken; Mr. Nielsen; Mr. Orr; Mr. Rowswell; Mr. Schmidt; and Ms Sweet.
2. The Committee’s mandate is limited to consideration of the following matters:
 - (a) whether the legal remedies available to a real property owner who is deprived of the use of their real property are adequate;
 - (b) whether the real property rights should be expanded, or in the case of an individual, constitutionally protected;
 - (c) whether the law of adverse possession should be abolished;
 - (d) whether the expropriation processes provided under the *Expropriation Act* are adequate;
 - (e) any other matter that the Committee decides is necessary to ensure the completeness of its review;
3. The Committee may, if it considers it relevant to its mandate, review any part of the following Acts, including any regulation made under that Act:
 - (a) *Alberta Bill of Rights*;
 - (b) *Alberta Land Stewardship Act*;
 - (c) *Expropriation Act*;
 - (d) *Land Titles Act*;
 - (e) *Law of Property Act*;
 - (f) *Limitations Act*;
 - (g) *Responsible Energy Development Act*;
 - (h) any other Act, a review of which the Committee determines is necessary to ensure completeness of its review;
4. During the course of its review, the Committee
 - (a) continues despite a prorogation of a Session of the 30th Legislature, and
 - (b) may, without leave of the Assembly, meet during a period when the Assembly is prorogued;
5. The Committee may, subject to the Chair’s approval, pay any reasonable costs necessary for the effective conduct of its responsibilities, specifically the costs of advertising, staff assistance, equipment and supplies, rent, travel and other similar costs;
6. The Committee may, during the course of its review, utilize the services of any of the following:
 - (a) Legislative Assembly Office employees, or
 - (b) subject to the approval of the head of a department or an office of the Legislature the public service employees of that department or office;
7. No later than December 15, 2021, the Committee must submit a report to the Assembly that sets out its recommendations, if any;
8. If the Assembly is not sitting on the day that the Committee completes its report, the Chair of the Committee must, as soon as practicable
 - (a) deposit the report with the Clerk in accordance with Standing Order 38.1, and
 - (b) provide a copy of the report to each Member of the Legislative Assembly.

On October 28, 2020, Bill 206, *Property Rights Statutes Amendment Act, 2020*, was introduced, received first reading, and referred to the Standing Committee on Private Bills and Private Members' Public Bills.

Pursuant to Standing Order 74.2 the Standing Committee on Private Bills and Private Members' Public Bills recommended that Bill 206, *Property Rights Statutes Amendment Act, 2020*, proceed. On November 18, 2020, Bill 206 was reported to the Assembly.

On April 12, 2021, Bill 206, *Property Rights Statutes Amendment Act, 2020*, was referred to the Select Special Committee on Real Property Rights in accordance with Standing Order 78.1. Standing Order 78.1 states:

At any time after a Bill has been read a second time and before it proceeds to Committee of the Whole,

- a) with respect to a Government Bill, a member of the Executive Council
 - b) with respect to a public Bill other than a Government Bill, any Member
- may move a motion, without notice, to refer the Bill to a standing or special committee, which shall be decided without debate or amendment.

Additionally, Standing Order 78.2, amended on May 26, 2021, now permits the Committee to conduct public hearings on Bill 206. Standing Order 78.2 states:

- (1) When a Bill is referred to a standing or special committee after second reading, the committee may conduct public hearings on the content of the Bill.
- (2) No public hearings may be conducted under suborder (1) if the Bill has already been the subject of public hearings held by a committee after first reading.

The Committee began its work on May 17, 2021.

2.0 INTRODUCTION

This interim report of the Select Special Committee on Real Property Rights requests that the terms of reference for the Committee as set out in Government Motion 69 be amended to grant an extension of the time by which the Committee must complete its review.

For a complete record of the Committee's deliberations please consult the transcripts of the Committee's meetings, which are posted online at assembly.ab.ca.

3.0 COMMITTEE ACTIVITIES

The Select Special Committee on Real Property Rights met on May 17, May 31, June 24, July 8, August 9, September 10, and October 20, 2021. During its meetings on May 17 and May 31, 2021, the Committee determined the scope of its review.

At its meeting on June 24, 2021, the Committee received technical briefings from officials from the Ministry of Energy, the Ministry of Agriculture and Forestry, the Office of the Farmers' Advocate and Property Rights Advocate, Alberta Land Use Secretariat and Integrated Resource Management Secretariat, Ministry of Transportation, Ministry of Municipal Affairs, Ministry of Transportation, Ministry of Service Alberta, Ministry of Justice and Solicitor General, and Ministry of Indigenous Relations.

The Committee invited written submissions from stakeholders and received oral presentations from invited stakeholders at its meeting on September 10, 2021. The Committee solicited written submissions from the public with a deadline of October 15, 2021.

The Committee also commenced discussions about holding in-person public meetings across the province. In July the Committee reached out to First Nations communities in Treaties 6, 7, and 8, as well as Métis Settlements, to inquire about their interest in meeting with the Committee. The Fort McKay Métis Nation expressed an interest in participating in a meeting, and as such, at its meeting on October 20, 2021, the Committee decided to schedule a meeting with them with the date and format (in-person or virtual) to be determined. The COVID-19 pandemic has made it difficult for the Committee to plan in-person meetings at this time.

On October 20, 2021, the Committee decided to request of the Legislative Assembly that the terms of reference for the Committee as set out in Government Motion 69 be amended to grant an extension of the time by which the Committee must complete its review.

4.0 COMMITTEE RECOMMENDATION

Due to the ongoing COVID-19 pandemic, at its meeting on October 20, 2021, the Committee decided to request that the Legislative Assembly extend the Committee's mandate under Government Motion 69 to ensure that in-person public consultations can be safely held across the province. The Committee notes that in-person public engagement is an important element of its mandate and wishes to proceed once the public health situation in the province improves.

The Committee therefore

requests that the terms of reference for the Committee as set out in Government Motion 69 be amended to grant an extension of the time by which the Committee must complete its review.

5.0 WRITTEN SUBMISSIONS FROM INVITED STAKEHOLDERS

Abbreviation	Individual	Organization	File Number
Morton	Ted Morton	--	RPR-2021-002
Trafford	Bill Trafford	Livingstone Landowners Group	RPR-2021-003
Cutforth	Lee Cutforth, QC	--	RPR-2021-004
RMA	Paul McLauchlin	Rural Municipalities of Alberta	RPR-2021-005
ALRI	Sandra Petersson	Alberta Law Reform Institute	RPR-2021-006
PCC	Laura Laing John Smith	Plateau Cattle Company	RPR-2021-007
ASR	Daryl Bennett and Ron Huvenaars	Action Surface Rights Association	RPR-2021-008
Gilchrest	Graham Gilchrist	--	RPR-2021-009
CAPP	Tim McMillan	Canadian Association of Petroleum Producers	RPR-2021-011
Dorin	Mark Dorin	--	RPR-2021-013

6.0 ORAL PRESENTATIONS FROM INVITED STAKEHOLDERS

Abbreviation	Individual	Organization	File Number
Morton	Ted Morton	--	RPR-2021-002
RMA	Paul McLaughlin	Rural Municipalities of Alberta	RPR-2021-005
ALRI	Stella Varis Sandra Petersson	Alberta Law Reform Institute	RPR-2021-006
ASRA	Daryl Bennett Ron Huvenaars	Action Surface Rights Association	RPR-2021-008
Gilchrest	Graham Gilchrist	--	RPR-2021-009
CAPP	Tim McMillan	Canadian Association of Petroleum Producers	RPR-2021-011
Dorin	Mark Dorin	Stakeholder	RPR-2021-013
OFA	Peter J. Dobbie, QC	Office of the Farmers' Advocate	--*

* The Office of the Farmers' Advocate did not provide a written submission as a stakeholder.