

1973 Bill 206

Second Session, 17th Legislature, 21 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 206

The Family Homes Expropriation Act

MR. LUDWIG

First Reading

Second Reading

Third Reading

Bill 206
Mr. Ludwig

BILL 206

1973

THE FAMILY HOMES EXPROPRIATION ACT

(Assented to , 1973)

WHEREAS it is desirable to avoid hardship to persons and families whose homes are expropriated under various statutes in pursuance of various public purposes;

AND WHEREAS it is thought right to afford special protection in cases where expropriation disturbs a settled family life;

AND WHEREAS it is recognized that in many cases compensation limited under various statutes to market value is not true compensation;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. This Act may be cited as *The Family Homes Expropriation Act*.

2. Whenever under any Act enabling expropriation of private property it is decided to expropriate any family home, the provisions of this Act shall have effect and shall prevail over the provisions of any other Act dealing with expropriation.

3. For the purposes of this Act a family home shall be a house which is and has for a reasonable time been the home of a family unit together with land immediately appurtenant thereto not exceeding one and one-half acres and any immediately appurtenant outbuildings. The nature of a family unit is defined or indicated in the Schedule hereto.

4. In the case of any such expropriation, and notwithstanding any rules or provisions for the assessment of values set out in the statute under which the expropriation is made, the principle of assessment shall be that the owner

of the family home shall receive such compensation as will at current costs and prices put him in a position to acquire by purchase or construction, a home reasonably equivalent to that which is being expropriated.

5. The arbitrators or assessors in any such case shall consider the question whether the reasonably equivalent home can be acquired by purchase, or whether it is certainly or probably impracticable in the state of the market so to acquire it in which latter case it may be necessary for them to award sufficient compensation for its construction in lieu of current market value.

6. In every case under this Act and notwithstanding any provisions or absence of provisions in any other statute there shall be an appeal to the Supreme Court, by leave of a judge, both on questions of law and upon the amount of compensation.

7. This Act extends to expropriations on behalf of the Crown in right of Alberta.

8. The intent and purpose of this Act is that where it is decided to expropriate a family home the owner shall receive such compensation as will insure that the family unit is in no worse position as a result of the expropriation; it being recognized that strict market value is not in all cases a true compensation to a family unit which is dispossessed, since it may not provide equivalent accommodation; but the protection given by this Act is not to extend to any person in whose case the property or his interest in it is fairly to be looked upon as a money asset or investment and not a family home; and this Act shall be interpreted by arbitrators or assessors under any Act and by the Court broadly in the spirit of the foregoing.

THE FAMILY HOMES EXPROPRIATION ACT THE SCHEDULE

1. The expression "family unit" in this Act is to be interpreted in a broad and flexible sense in order to promote the true object of this Act, which is to avoid the placing of dispossessed home owners in a worse position than before dispossession.

2. The word "family" is not to be limited to its common meaning, namely a group of parents and children. It is to be recognized that the social and psychological character-

istics of a family may exist in the absence of ties of blood or ties of law nor does it necessarily, though it does usually, involve a plurality of persons.

3. For purposes of illustration, but without restricting the generality of the foregoing, the following may in appropriate cases be regarded as family units:

- (a) parents and/or grandparents and children, living together;
- (b) brothers and/or sisters living together;
- (c) a man or woman living alone, in his or her house, whether he or she is the relict of a former family or not;
- (d) a person living with children not of his or her blood who are adopted in fact but have not been adopted in law.

4. In considering whether a family unit, other than a natural family, exists, the arbitrators or assessors, subject to appeal to the Supreme Court, may recognize any combination of persons living together as a family unit. In the ultimate resort, the decision of the Supreme Court shall be conclusive.

5. In considering where a family unit, other than a natural family, exists, the element of duration or permanence in the association shall be taken into account, and such weight shall be given to this element as may seem proper.