

1981 BILL 248

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 248

THE RIGHT TO SUNLIGHT ACT

MR. NOTLEY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 248
Mr. Notley

BILL 248

1981

THE RIGHT TO SUNLIGHT ACT

(Assented to _____, 1981)

WHEREAS it is hereby recognized and declared that citizens of Alberta should have protection of existing access to sunlight, in order to preserve the horticultural, psychological, solar energy and other benefits accruing therefrom;

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

Structures not to
impede sunlight

1 No person shall erect or retain any permanent structure, or retain any temporary structure for more than 90 days, on land in such a way that the structure impedes direct sunlight on to property of another person unless

- (a) he has the consent of the other person,
- (b) the structure was legally under construction on January 1, 1982,
- (c) the structure was approved in a development permit granted prior to January 1, 1982,
- (d) the land on which the structure is located and the land on which the sunlight is impeded are zoned for multi-storey residential or multi-storey commercial development, or
- (e) the right to sunlight through the structure on to the other property has been expropriated pursuant to *The Expropriation Act*.

Sunlight an interest
in land

2 The right to unobstructed flow of sunlight on to property existing as at January 1, 1982 is an interest in land and may be dealt with as such pursuant to *The Land Titles Act*.

Shadow by natural growth

3(1) A person may require an owner of land to cut or trim any tree, bough, hedge or other natural growth that

- (a) is on the owner's land,
- (b) casts a shadow on the person's land to a greater extent than on January 1, 1982 subject to section 4, and
- (c) is not the subject of a subsisting consent in writing by him at any time.

(2) An owner who refuses to comply with a written request made pursuant to subsection (1) commits an offence.

Partial shadow

4 This Act does not apply to a shadow or an impedance of sunlight that

- (a) averaged throughout the day, is equivalent to less than a 10% impedance of sunlight, or
- (b) to a shadow that falls upon the land for less than 2 hours of each day

in both cases measured at the spring or fall equinox.

Certain structures exempted

5 This Act does not apply to any structure in respect of which a development permit was granted prior to January 1, 1982.

Offences

6 Every person who infringes any provision of this Act commits an offence punishable on summary conviction.

Amends chapter 89, RSA 1977

7(1) *The Planning Act, 1977, is amended by this Section.*

(2) *The following is added after section 75:*

75.1 No development permit for a structure shall be issued after December 31, 1981, unless the applicant files with the application a statutory declaration that the structure will not infringe this Act and a copy of every consent to an impedance of direct sunlight onto land that has been obtained from the owner of that land pursuant to that Act.

Binds the Crown

8 This Act binds the Crown.

Coming into force

9 This Act comes into force on January 1, 1982.