

2012 Bill 6

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Fifth Session, 27th Legislature, 61 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 6

## PROPERTY RIGHTS ADVOCATE ACT

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THE MINISTER OF ENVIRONMENT AND WATER

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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## BILL 6

2012

### PROPERTY RIGHTS ADVOCATE ACT

(Assented to , 2012)

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#### **Preamble**

WHEREAS the Government of Alberta believes that land owners should be consulted about proposed legislation that affects their property rights;

WHEREAS public information about property rights and concerns should be readily available and appropriate consultation should be conducted in advance of projects undertaken for the public good to ensure that the owners of private land are aware of their rights and the processes available to them; and

WHEREAS the Government of Alberta believes that land owners should be appropriately compensated where their lands are affected by expropriation or compensable taking; and have recourse to tribunals, such as the Land Compensation Board and the Courts;

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

#### **Definitions**

- 1 In this Act,

- (a) “authorizing enactment” means the enactment authorizing an expropriation by an expropriating authority;
- (b) “Board” means
  - (i) subject to subclause (iii), in respect of land other than settlement patented land, the Land Compensation Board established under section 25 of the *Expropriation Act*,
  - (ii) in respect of settlement patented land, the Metis Settlements Appeal Tribunal Land Access Panel established under section 186(1) of the *Metis Settlements Act*, or
  - (iii) in respect of a matter to which section 27(2) of the *Expropriation Act* applies, the Surface Rights Board;
- (c) “compensable taking” means, in respect of land, the diminution or abrogation pursuant to an enactment of a property right, title or interest giving rise to compensation in law or equity;
- (d) “Court” means the Court of Queen’s Bench;
- (e) “Crown land” means land of the Crown in right of Alberta;
- (f) “expropriating authority” means the Crown or any person empowered to acquire land by expropriation;
- (g) “expropriation” has the same meaning as in the *Expropriation Act*;
- (h) “land” means
  - (i) in the case of an expropriation, land as defined in the authorizing enactment, and if not so defined, any estate or interest in land, and
  - (ii) in the case of a compensatory taking, land as defined in the enactment under which the compensatory taking has occurred, and if not so defined, any estate or interest in land, including Crown land;
- (i) “land owner” means

- (i) an individual registered in the land titles office as the owner of an estate in fee simple in land,
- (ii) an individual who is shown by the records of the land titles office as having a particular estate or an interest in or on land,
- (iii) in the case of Crown land, an individual shown on the records of the department of the Minister who has the administration of the land as having an estate or interest in the land, or
- (iv) an individual who is in possession or occupation of the land;
- (j) “Minister” means the Minister of Justice and Attorney General.

#### **Application of Expropriation Act**

**2(1)** The *Expropriation Act* applies to an expropriation authorized by the law of Alberta and prevails over any contrary provisions that may be found in the law, except the statutes or parts of statutes enumerated in the Schedule to the *Expropriation Act*.

**(2)** Where a person has a right to compensation as a result of an expropriation or compensable taking, that person must have recourse to an independent tribunal or the courts, or both, for the purpose of determining full and fair compensation.

#### **Establishment of Property Rights Advocate Office**

**3(1)** The Property Rights Advocate Office is established as part of the Minister’s Department consisting of the Property Rights Advocate and any other employees appointed pursuant to the *Public Service Act*.

**(2)** The Property Rights Advocate shall be appointed by the Lieutenant Governor in Council.

**(3)** The Lieutenant Governor in Council may authorize and provide for the payment of the remuneration and expenses of the Property Rights Advocate.

**(4)** The functions of the Property Rights Advocate Office are as follows:

- (a) to disseminate independent and impartial information about property rights to the public, including
  - (i) information to land owners about the right to compensation where land is expropriated or where land owners claim to have suffered a compensable taking, and about the procedure for any claim to compensation, and
  - (ii) information about proposed legislation and its likely effect on property rights;
- (b) to assist persons in determining the appropriate resolution mechanism, including the courts, through which they can have their property rights concerns addressed, including by directing them to appropriate resources that may be able to assist them;
- (c) to assist expropriating authorities or persons or entities that may be involved in a compensable taking in matters relating to expropriation, compensable taking and other matters related to property rights;
- (d) to review complaints under section 4;
- (e) to perform any other functions that are set out in the regulations.

**(5)** For the purpose of carrying out his or her duties, the Property Rights Advocate may exercise any of the powers set out in the regulations.

#### **Complaints**

**4(1)** Subject to the regulations, a person may make a complaint to the Property Rights Advocate Office relating to

- (a) an expropriation of that person's land, or
- (b) a compensable taking of that person's land.

**(2)** After reviewing a complaint, the Property Rights Advocate shall prepare a report setting out findings and any recommendations, and shall provide a copy of the report to the complainant, the Board and any other person as the Advocate considers appropriate.

**(3)** The Property Rights Advocate shall review a complaint made under subsection (1) unless, in the opinion of the Advocate,

- (a) the complaint relates to a matter that is within the jurisdiction of another person or body, or
- (b) the complaint is frivolous or vexatious or is without merit.

**(4)** Where a complaint relates to a matter that is within the jurisdiction of another person or body, the Property Rights Advocate shall refer the complaint to that person or body.

**(5)** If in a report under subsection (2) the Property Rights Advocate determines

- (a) that an expropriating authority has acted in a manner that is inconsistent with the enactment that authorized the expropriation, or
- (b) that a person or entity responsible for a compensable taking has acted in a manner that is inconsistent with the enactment under which the compensable taking occurred,

the Board or the Court, as the case may be, shall take the report into account in determining any costs payable by the expropriating authority, person or entity.

#### **Annual report**

**5(1)** As soon as possible after the end of each year, the Property Rights Advocate shall prepare a report summarizing the activities of the Property Rights Advocate Office in that year and setting out any recommendations relating to property rights that the Property Rights Advocate considers appropriate.

**(2)** On completing the report, the Property Rights Advocate shall submit the report to the Speaker of the Legislative Assembly.

**(3)** On receiving a report under subsection (2), the Speaker of the Legislative Assembly shall lay the report before the Legislative Assembly if it is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting.

**(4)** Within 10 sitting days after the report is tabled under subsection (3), the Government must bring forward a motion to

have the report referred to a committee of the Legislative Assembly.

**(5)** The committee to which a report is tabled must report back to the Legislative Assembly within 60 days of the report being referred to it if it is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting.

#### **Regulations**

**6** The Lieutenant Governor in Council may make regulations

- (a) respecting other functions that the Property Rights Advocate Office may perform;
- (b) respecting the powers of the Property Rights Advocate for the purpose of section 3(5);
- (c) respecting complaints to the Property Rights Advocate Office, including the circumstances and procedure for making a complaint;
- (d) generally for the carrying out of this Act according to its intent or to meet cases that may arise and for which no provision is made in this Act.

#### **Coming into force**

**7** This Act comes into force on Proclamation.

# RECORD OF DEBATE

Stage	Date	Member	From	To

		Questions and Comments	From	To

Stage	Date	Member	From	To

		Questions and Comments	From	To

Stage	Date	Member	From	To

		Questions and Comments	From	To

Stage	Date	Member	From	To

		Questions and Comments	From	To