



Legislative Assembly of Alberta

The 28th Legislature  
Third Session

Standing Committee  
on  
Resource Stewardship

Thursday, December 18, 2014  
9:02 a.m.

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Third Session**

**Standing Committee on Resource Stewardship**

Goudreau, Hector G., Dunvegan-Central Peace-Notley (PC), Chair  
Vacant, Deputy Chair

Allen, Mike, Fort McMurray-Wood Buffalo (PC)  
Anglin, Joe, Rimbey-Rocky Mountain House-Sundre (Ind)  
Bikman, Gary, Cardston-Taber-Warner (PC)  
Blakeman, Laurie, Edmonton-Centre (AL)  
Brown, Dr. Neil, QC, Calgary-Mackay-Nose Hill (PC)  
Calahasen, Pearl, Lesser Slave Lake (PC)  
Cao, Wayne C.N., Calgary-Fort (PC)  
Casey, Ron, Banff-Cochrane (PC)  
Fraser, Rick, Calgary-South East (PC)  
Hale, Jason W., Strathmore-Brooks (PC)  
Johnson, Linda, Calgary-Glenmore (PC)  
Mason, Brian, Edmonton-Highlands-Norwood (ND)  
Xiao, David H., Edmonton-McClung (PC)  
Young, Steve, Edmonton-Riverview (PC)

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Robert H. Reynolds, QC	Law Clerk/Director of Interparliamentary Relations
Shannon Dean	Senior Parliamentary Counsel/ Director of House Services
Philip Massolin	Manager of Research Services
Stephanie LeBlanc	Legal Research Officer
Sarah Amato	Research Officer
Nancy Robert	Research Officer
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Karen Sawchuk	Committee Clerk
Christopher Tyrell	Committee Clerk
Rhonda Sorensen	Manager of Corporate Communications and Broadcast Services
Jeanette Dotimas	Communications Consultant
Tracey Sales	Communications Consultant
Janet Schwegel	Managing Editor of <i>Alberta Hansard</i>

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[Mr. Goudreau in the chair]

**The Chair:** I'd like to call the meeting to order. Welcome to all the members and the staff at today's meeting of the Standing Committee on Resource Stewardship.

I want to start by indicating to the committee that last night I did receive Mr. Hale's resignation as deputy chair of this committee, which is required pursuant to Standing Order 52.01(2). The standing order states that "the Chair of a Legislative Policy Committee shall be a member of the Government caucus, and the Deputy Chair shall be a member of the Official Opposition." The deputy chair spot will remain vacant until such time that the membership changes are put forward by way of a government motion and accepted by the House. That's what the process is on this particular one.

Again, my name is Hector Goudreau, and I'm the MLA for Dunvegan-Central Peace-Notley. As chair I would like to ask all those members that are joining the committee at the table and over the phone to introduce themselves for the record. I'll start on my right.

**Mr. Young:** Good morning. Steve Young, MLA for Edmonton-Riverview.

**Mr. Allen:** Good morning. Mike Allen, MLA for Fort McMurray-Wood Buffalo.

**Mr. Casey:** Ron Casey, Banff-Cochrane.

**Mr. Mason:** Brian Mason, Edmonton-Highlands-Norwood.

**Dr. Amato:** Sarah Amato, research officer.

**Ms Dean:** Shannon Dean, Senior Parliamentary Counsel and director of House services.

**Dr. Massolin:** Good morning. Philip Massolin, manager of research services.

**Dr. Brown:** Neil Brown, Calgary-Mackay-Nose Hill.

**Mr. Tyrell:** Chris Tyrell, committee clerk.

**The Chair:** There are people joining us by phone. Could I have each one of you introduce yourselves, please.

**Ms Calahasen:** Pearl Calahasen.

**Mr. Cao:** Wayne Cao, Calgary-Fort.

**The Chair:** Thank you.

**Ms L. Johnson:** Linda Johnson, Calgary-Glenmore.

**The Chair:** Thanks, Linda.

**Mr. Anglin:** Joe Anglin, Rimbey-Rocky Mountain House-Sundre.

**The Chair:** Thank you.

We've got four on the phone: Ms Calahasen, Mr. Cao, Mr. Anglin, and Ms Johnson. Am I correct?

**Ms L. Johnson:** Correct.

**Mr. Anglin:** I don't know. I can't see anyone else on the phone.

**The Chair:** Thank you.

Again, a few housekeeping items, especially for the committee members here. The microphone consoles are operated by *Hansard* staff. A reminder as well to keep your cellphones or iPads and BlackBerrys off the table as they tend to interfere with the audiofeed. I'd remind everybody again that the proceedings are streamed live on the Internet and are always recorded by *Hansard*.

You've received a copy of the agenda that was posted. I would need a motion to accept the agenda.

**Mr. Allen:** So moved, Chair.

**The Chair:** Mr. Mike Allen. All in favour? Objections? Then it's carried.

The approval of the minutes. The minutes from our last meeting were also posted to the internal committee website. Would someone care to move the minutes as they were circulated?

**Ms L. Johnson:** So moved.

**The Chair:** Thank you. If you could maybe just quickly identify your name as you make motions.

**Ms L. Johnson:** Okay.

**The Chair:** Thank you.

All in favour? Any objections? Opposed? Then carried. Thank you.

Last week we were fortunate to have Mr. Cutforth, the Alberta Property Rights Advocate, here with us to give a presentation on his reports and respond to a number of our questions. The LAO managed to locate the document asked for by Mr. Cao at the last committee meeting concerning property rights in jurisdictions across Canada, and that was also posted to the internal committee website for members.

As well, Mr. Cutforth sent us several documents, which our committee clerk posted to the internal website. Those documents – and I see some of you have them in front of you – are A Guide to Property Rights in Alberta, some of his written responses to some of the outstanding questions from last week, his comments relating to the property rights index document, and a copy of a letter received by Mr. Cutforth from the RCMP concerning property rights questions which arose out of the 2013 flood in High River.

Getting back to the 2012-13 annual reports, I'll reiterate. As you're all aware, section 5(5) of the Property Rights Advocate Act says:

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.

I'd like to ask Dr. Massolin to speak to that reporting process.

**Dr. Massolin:** Yes. Thank you, Mr. Chair. I just would like to point out to the committee that research services is available to prepare the report on behalf of the committee, and the reason why I bring that up is that I sense that the committee is poised to discuss the two annual reports by the Property Rights Advocate.

I'd also add that I think that in addition to making decisions on each individual recommendation, the committee might take an opportunity to comment as well on the content and even the structure of the reports that were prepared and referred to this committee. There's an opportunity there as well to provide the advocate's office a little bit more feedback in addition to just

simply disposing of the recommendations and deciding upon them.

Thank you.

**The Chair:** Thank you, Dr. Massolin.

I'll turn over the floor to committee members to decide what the next steps will be. If you feel that your questions on the recommendations have been fully satisfied, we can start by seeing if members have any general comments on the content and structure of the report as a whole. Following that, we can get into discussions on how to draft the report.

**9:10**

As a committee we can go through the recommendations one at a time, as we had suggested last meeting, and see where we land on each one of the recommendations. The committee should come to a decision on each of the recommendations. We either endorse the recommendation, we reject the recommendation, or we make some additions or suggestions to, you know, add or delete certain parts of the recommendations.

I'll turn over the floor to the committee members for your comments. Mr. Allen.

**Mr. Allen:** Yeah. I'm just looking at the one recommendation in the 2012 report, on beneficiary deeds, and I gave this quite a bit of thought. I think Mr. Cutforth answered our questions fairly well. I agree that probate and the administration of land transfer can be onerous at times, and I think, especially during the time when we're looking at land being transferred in someone's will, that the families are already going through some other stresses. I'd like to suggest that it's probably a good recommendation to look into how we expedite that, but I still have concerns about the capital gains tax and how that may implicate that. I think the recommendation could go forward, in my view, as it is on page 10 of the 2012 report, with the addition of giving consideration that there are no added penalties based on having that expedited.

**The Chair:** Added penalties as in impacts to estate taxes or property taxes or whatever?

**Mr. Allen:** That's correct, yeah. You know, if there's a way that we can make the transfer of deeds and titles less onerous and easier to accommodate for the beneficiary, then I would be in favour of that.

**The Chair:** Dr. Brown.

**Dr. Brown:** Thanks, Chair. My concern with this one, as Mr. Allen has alluded to, is that we don't really know all of the implications of, you know, what this involves in terms of taxes or devolution of the property and, particularly, how it might fit in with our Torrens land registry system here in the province of Alberta. While it may be worthy of investigation, I don't think we know enough to make a recommendation one way or another.

I wonder whether or not it would be possible for the committee to recommend that the Law Reform Institute of Alberta have a look at this and see whether it is, in fact, feasible and compatible with our Torrens land registry system here in Alberta, whether it's practical, and what some of the implications might be in terms of taxation and devolution of property. My recommendation would perhaps be that we ask the Law Reform Institute to give us further information on it and that in the meantime we not recommend that we proceed until we receive the information.

**The Chair:** Would you suggest a time frame, Dr. Brown?

**Dr. Brown:** I haven't really thought about that. I know that the Law Reform Institute has a lot of investigations on their plate, and I'm not sure it would drop everything to look at this right away.

**Mr. Allen:** I agree with Dr. Brown, but based on the time that we have for putting a report forward to the Legislative Assembly, maybe we could word the recommendation as to have the ministry investigate further, using resources such as the Law Reform Institute.

**The Chair:** Okay. Do we put some onus back on the advocate to do more work?

**Dr. Brown:** I don't think so.

**Mr. Allen:** I don't think so.

**Dr. Brown:** I think he's made his recommendation, but I do think it's necessary for us to really know the implications before we make a recommendation that we proceed and institute this. This reform is fairly significant.

**Mr. Allen:** So we'd refer to the ministry for further investigation.

**The Chair:** Can you understand us, those on the phone, or are there comments from members on the phone?

**Mr. Anglin:** Yeah. Can you hear me okay?

**The Chair:** Yes, we can. Thank you.

**Mr. Anglin:** I'm in semi-agreement, certainly, with what's been said so far, except I thought it was our responsibility to look at the recommendation and then either accept or reject the recommendation. I know we are faced with time constraints, but as Dr. Brown has just mentioned, there are a lot of unanswered questions here. I certainly have little understanding of the implications if we were to accept this outright. I don't know if it's a good recommendation. I suppose we could refer it to the ministry, but I just want to back up a second and say: isn't it our responsibility to maybe bring people back in and make that determination?

**The Chair:** I would suspect that if we were to refer it to the Alberta Law Reform Institute, that would honour our responsibility. Certainly, we can ask them to do a lot more work and report back to us at a later date.

Dr. Mason. Or Mr. Mason.

**Mr. Mason:** Well, thank you for the title. I was looking for "Premier" . . .

**The Chair:** There you go.

**Mr. Mason:** . . . but "Dr." will do.

**An Hon. Member:** Are you coming over, too?

**Mr. Mason:** No. We have 47 of you coming across.

Mr. Chairman, I'm just curious about the referral to the Law Reform Institute. Do they accept referrals from our committee? I mean, could we refer this? I'm just a little unsure of what the status of that organization is.

**The Chair:** Could I ask Dr. Brown to make some comments?

**Dr. Brown:** I think that certainly we could make a recommendation that that might be a subject of inquiry for them, but I don't think they're going to take direction from this committee.

**Mr. Mason:** So we could request, ask them to do that?

**Dr. Brown:** Yes.

**The Chair:** Well, it seems to me that it would be appropriate. Mr. Cutforth was not fully able to respond to all of our questions last time on this particular subject, at least not sufficiently enough to satisfy the members by today's discussion. We can see that there are still a lot of questions. We might ask the Alberta Law Reform Institute, then, to provide clarification and an explanation of what this is all about.

**Dr. Brown:** I'm prepared to make a motion, Mr. Chair, if you will. I'd make the motion that the committee recommend that we not proceed with this recommendation pending the receipt of full and sufficient information regarding its implications and, further, that the committee would recommend that the Alberta Law Reform Institute be requested to inquire into the implications of this beneficiary deed.

**The Chair:** Yes. Go ahead.

**Mr. Young:** Thank you, Mr. Chair. I just took a brief look at the Alberta Law Reform Institute, and they have a process there that's all laid out. I don't think they're compelled, but I think we can certainly submit for their consideration, and it might be appropriate diligence on our part.

**The Chair:** So we have a motion that the committee refer this, and I won't reread the full motion. I think we understand it. Any other discussions on that particular motion being presented?

**Mr. Young:** I think that the wording should be: we request that the Alberta Law Reform Institute consider these issues for review.

**Dr. Brown:** My motion said that we not proceed until we receive further information and, further, that we request the Alberta Law Reform Institute to investigate.

**Mr. Young:** Okay. Sorry.

**The Chair:** Other discussions?

**Mr. Cao:** I agree with the idea of more investigation, getting more information because the subject sort of implies a lot of things that we haven't looked into. Though we request the Alberta Law Reform Institute, my fear is: what if they don't do it for us? Then it seems that the only other part is for the government, the Assembly, you know, to instruct the ministry to look into it, and that's a second plan, a plan B, a backup or something. I don't know how that's worded in there.

9:20

**The Chair:** For the committee's benefit, then, I'll ask Mr. Tyrell to reread the motion, and then we can vote on it.

**Mr. Tyrell:** Dr. Brown moves that the committee recommend that we not proceed with this recommendation pending the receipt of full and sufficient information regarding its implications and, further, that the committee recommend that the Alberta Law Reform Institute be requested to inquire into said recommendation.

**The Chair:** Thank you.

**Mr. Mason:** Not to nitpick, but should the motion identify the recommendation that it's referring to?

**The Chair:** Sure. We could certainly refer to recommendation 1, the only recommendation from the 2012 report. Thank you.

Other discussions? All in favour? Any objections? Then the motion is carried.

We can keep on and certainly now go through the 2013 recommendations.

Recommendation 1 from the 2013 report. I'll read recommendation 1: "That the Government retain the direct and full ownership and operation of the land registry system under its existing format in the Land Titles Office."

I'm opening the floor for comments.

**Dr. Brown:** I'm prepared to put a motion on the floor with respect to this, and I think Mr. Mason probably is of the same mind if his comments in the last meeting were any indication. I am prepared to move that the committee not recommend the acceptance of this recommendation. As I stated last time . . . [interjection] Sorry?

**Ms Calahasen:** I was just asking: where do you want it to go? But go ahead. I was listening.

**The Chair:** Thank you.

Carry on, Dr. Brown.

**Dr. Brown:** So that would be my motion, Mr. Chair, that the committee not recommend the acceptance of this recommendation, and let me explain my rationale there. I have spent some time practising in the field of surface rights, and I believe that that act is working very well. I think that, from a landowner's point of view, it would be a double-edged sword to enter into this. The reason is because over a period of time the compensation for adverse effect and loss of use, which are the main components of the annual compensation for surface rights in the province of Alberta . . .

**The Chair:** Are you looking at recommendation 1?

**Dr. Brown:** Oh, I'm sorry. Am I jumping ahead?

**Dr. Massolin:** This is on the land registry system.

**Dr. Brown:** My apologies, Mr. Chair. I'll come back to that in a minute.

**The Chair:** Do you have a motion, then, on recommendation 1?

**Dr. Brown:** Sorry. No, I don't have a recommendation on that.

**Mr. Mason:** I do.

**The Chair:** Please.

**Mr. Mason:** I would move that we recommend acceptance of recommendation 2013.01. I was a little confused by Dr. Brown saying that I agreed with him because I didn't. On the next one I do agree with you, but I thought you were talking about this one.

I just accept the argument made that it's important to maintain a very high level of trust and integrity in the land conveyancing system, and I believe that this is not a suitable target for privatization. I probably disagree with a lot of people on a lot of other privatization, too, but I think this one is something that goes to the core of property rights in the province. It's simply too important to be left to some contracted-out entity over which we have some control, but mostly it comes down to a matter of: if something doesn't go right, the role is then to step in and to clean

it up after the fact. I think we need to protect this, so I think that the recommendation is a good one.

**The Chair:** Any other comments? Please, Ms Johnson.

**Ms L. Johnson:** Thank you, Mr. Chair. I'm going to speak against the motion. I think that in our current situation responsible departments have to have the full flexibility to consider all options on delivery of programs. That's my position.

**The Chair:** Thank you, Ms Johnson.

**Mr. Young:** I'm going to speak in favour. I think the confidence of the public in their property and in ownership is essential. This is more than a service. This is property rights and ownership and that confidence. The process is a pillar for all the other services, that I don't think we can hand off to less confident sources. While there may be some business case advantages, I think that confidence of the public in ownership is so essential. We've seen examples across this country that have veered away from that, albeit for altruistic reasons, and I think the consequence of losing that confidence in ownership is something we can't step away from. I'm going to support that motion.

**Mr. Anglin:** I also want to support the motion. The Property Rights Advocate was tasked with the responsibility, I presume because he had some sort of expertise in the field, and I think he does. As Mr. Young just said, this is something that I believe is significant in the sense that government has certain responsibilities to protect various interests. In this case, we're talking about private interests or private property.

When I first heard of the possibility of privatizing the system, I was quite concerned because there are so many unknowns in the risk of privatizing that. It is so essential, in my view, in maintaining the credibility of not just private property but the marketplace and the various functions of our society, that this facility or this institution be maintained under government control to make sure that there is credibility, however imperfect it may be at different times. I'm not aware of any imperfections at the moment, but I'm sure there are. To me, it's an essential service of government, and I'd hate to see that one be privatized. That could be problematic on many levels, in my view. I will support the motion.

**The Chair:** Thank you, Mr. Anglin.  
Are there any comments?

**Mr. Cao:** I wish to just point out something very interesting here, in my view. We are talking about private property rights, and then we recommend the public side of the service in a way where one side is private and the other side is a public institution. I'm sort of pondering this, but when I look at the situation at hand, like other hon. members said about the confidence of the public, I tend to go with the recommendation.

**The Chair:** Thank you, Mr. Cao.

**Dr. Brown:** Well, Mr. Chair, when this trial balloon was floated in the last couple of years, I can tell you that I was extensively lobbied to oppose the privatization or the contracting out of the land registry services by a lot of stakeholder groups, and those included the legal profession, the Mortgage Brokers Association, the Real Estate Council of Alberta, the realtors' associations. It was pretty one-sided, and I must say that overwhelmingly the stakeholders out there didn't seem to think it was a good idea.

9:30

**The Chair:** Thank you for those comments.  
Mr. Mason.

**Mr. Mason:** Yes, if other people are finished with their comments.

**The Chair:** I've got nobody else on the list.

**Mr. Mason:** I'd just like to say . . .

**Ms Calahasen:** I would like to say something.

**Mr. Mason:** I'll let Pearl go.

**The Chair:** Go ahead, Pearl, and then we'll let Mr. Mason conclude as he is the one that made the motion.

**Ms Calahasen:** I agree with the motion, that it should stay within the confines of the government. Like Dr. Brown, I think that his rationale in terms of what needs to be done or should be done or could be done is really important in making sure that we stay with the integrity, like Joe Anglin said. So I'm supportive of the motion.

**The Chair:** Thank you.  
Now Mr. Mason.

**Mr. Mason:** Thanks very much. I recognize what Mr. Cao says. I mean, there's a bit of a built-in contradiction here, but a person who spoke to me about this who's a strong proponent of protecting property rights put it this way. He says that the protection of private property is simply too important to leave to private interests. It's a job for the government.

**The Chair:** Other comments?

If not, I believe that the motion is that  
the government retain the direct and full ownership and operation of the land registry system under its existing format.  
That was a motion to support recommendation 1. I'm going to call the question. All in favour? Opposed? One opposed. It's carried, then.

The second recommendation. I'll read it again: "That the Government direct the prompt commencement of a full public review of the Surface Rights Act and the Expropriation Act."  
Dr. Brown.

**Dr. Brown:** Yeah. My apologies, Mr. Chair. In my numbering that was recommendation 2, and I thought that the first one that we dealt with, although it was a different year, was recommendation 1.

Just to reiterate, my proposal is that the committee not recommend the commencement of a full public review of those two acts, the Surface Rights Act and the Expropriation Act. My rationale, as I was starting to say, is the fact that, you know, public inquiries and public reviews are long, involved, resource-absorbing endeavours. They take time, they take money, and they take the dedication of a lot of resources in the government.

I think that the Surface Rights Act is working very well right now. From the landowners' point of view it would be a double-edged sword. The reason is because the practice in the industry and the practice with the Surface Rights Board over a period of years have actually resulted in loss-of-use and adverse-effect payments which far exceed what can be calculated on a rational and arithmetic basis. The reason is because it's come to pass that they use comparables, and it's sort of ratcheted up the prices in various areas. For example, there's an area down in the county of

Newell where on one side of the highway the payments are very high, and on the other they're a lot lower. It's rather an arbitrary thing, but that's what the oil companies have worked out with the landowners. If a landowner happens to be on a piece of alkali, barren flat that has very low productivity, he might get a heck of a lot more money on one side of the highway than he would on the other side of the highway.

So this is really a double-edged sword, and if we went into the Surface Rights Act and tried to rationalize the payments for adverse effect and loss of use, you might end up with some very unhappy landowners out there. So I'm not prepared to recommend that we go into that. I have never heard in my office any complaints about the Expropriation Act or the fact that it's not working well or it's not giving enough compensation to landowners when their land is required for public use. So my recommendation is that we definitely not proceed with a full public review of those acts.

**The Chair:** Do you want to make that a motion?

**Dr. Brown:** I'll make a motion. I'll put it in a more succinct way, Mr. Chair. I will move that the committee not recommend that we proceed with recommendation 2, which is the commencement of a full public review of the Surface Rights Act and the Expropriation Act.

**The Chair:** So the committee is not to accept recommendation 2.

**Dr. Brown:** Correct.

**The Chair:** Thank you.

**Mr. Mason:** Well, I actually do agree with Dr. Brown now that we have our numbering in sync. I guess I want to say that the Property Rights Advocate has identified concerns that have been brought to him, but I wonder if that office ought not do a little more in-depth research and analysis before making a recommendation so broad as a complete public review. There are some specific things here, and I would be interested in hearing from the Property Rights Advocate if he's studied these things and provided the analysis necessary on, for example, the lack of accountability of resource companies for failing to follow the rules and so on. I mean, I would be prepared to consider specific recommendations on these points, but to just open it up to a broad review is, like Dr. Brown says, just far too open ended.

**The Chair:** Could it be a challenge, then, to the advocate to come in with a lot more detail in next year's annual report and reasons why certain things should . . . ?

**Mr. Mason:** I mean, I think that he's the person that is being employed to do this kind of work. I think that just to pass on concerns that have come to his attention may not be enough, in my view.

**The Chair:** I find that some of the comments are pretty anecdotal in the report. I would suggest that more details be provided as well. As the MLA for Dunvegan-Central Peace-Notley I get stories from both sides of the issue, where individual property owners feel they're not compensated properly in relation to compensation that neighbours get and vice versa, where others are seeing side deals. Aside from the regular compensation package they might get a couple of loads of gravel delivered so they can be enticed into signing a contract, those kind of things. Those are

stories that are out there and need to maybe be reviewed in the future.

Mr. Young

**Mr. Young:** Thank you. I agree with the previous speakers that the recommendation of a process rather than even at a high level identifying the issues of concern – I'd rather hear what the issues are, and then we can look at consideration of a process on whether to go forward with those or not. Without even having a high-level understanding or addressing what the concerns are in relation in to these two acts, I think it's unfounded.

**The Chair:** Other comments?

**Mr. Anglin:** Yeah. I'm going to disagree with a lot that's been said, but I'm going to support the motion. I want you to know why. I don't believe the Surface Rights Act is working very well at the moment. I think that there are a lot of inherent problems because of it being outdated, but I absolutely agree that just saying, "Let's go to a full public review," without any substantive information to back up why we would do that would almost be irresponsible. We need a lot more information on the various points. I don't know if it's possible to recommend that the ministry review this versus doing the public review, but I'm going to support Dr. Brown's motion because I think that we need a lot more information to come to the conclusion, which I hope we'll come to eventually, that, I think, both of these acts do need to be reviewed. They need to be brought into the new millennium.

There's a lot of complications, and I get a lot of stories of landowners who come up against this act and just feel that the process has let them down. Again, I realize that there are stories on both sides here, but the recommendations, to me, without a lot of support behind them, make it very difficult to say, you know: let's just move forward. We do absolutely need a whole lot more information, and that's my position. So I will support the motion with reservations, but I am not a big supporter, particularly, of the Surface Rights Board at the current status as being effective.

9:40

**The Chair:** Thank you, Mr. Anglin.

Mr. Allen.

**Mr. Allen:** Thank you, Chair. I would concur with the previous speakers as well. I mean, we were also provided this week with a policy series – what was it? – the First Canadian Property Rights Index . . .

**The Chair:** That's right.

**Mr. Allen:** . . . which I did have a chance to briefly go over, and it's interesting to see that Alberta consistently seems to score number one in the country for expropriation. I do have a bit of experience with expropriation.

It's also important to note that the Municipal Government Act currently is under review, and I would think that expropriation would be part of that review, based on people's experience. People have many rights already if they get advance notice and the opportunity to object and then a decision by the courts. I am familiar with the Expropriation Act, anyhow, not so much with the Surface Rights Act. The Expropriation Act, I think, could be tweaked a little bit, but that is a process that's currently under way.

**The Chair:** Thank you.

There is a motion before us that we not support recommendation 2, and it is my understanding that the comment was

made that it should be passed on to individual ministries to get more detailed information as to why certain parts should be opened.

Those were your comments, Mr. Anglin?

**Mr. Anglin:** Well, no. I didn't amend the motion at all. My comments were that it is a possibility to recommend that the ministry itself review it, although I did hear Mr. Allen say something about how the Expropriation Act would be part of the Municipal Government Act review, and I don't believe that's true, but I might be wrong. I'll stand corrected if it is. I believe the reason Lee Cutforth brought forward this recommendation is that the Expropriation Act is not under review at the moment, but I'll stand corrected if I'm wrong on that one.

**The Chair:** We'll deal with the first motion, and I'll get Mr. Tyrell to reread it so we have it clear in our own minds.

**Mr. Tyrell:** Moved that the committee not recommend proceeding with recommendation 2013.02, which is a full public review of the Surface Rights Act and the Expropriation Act.

**The Chair:** That's pretty straightforward. I'll call the question. All in favour? Any objections? Then that is carried.

**Dr. Massolin:** Mr. Chair?

**The Chair:** Dr. Massolin.

**Dr. Massolin:** Thank you. Just before I move on, just for the purposes of the report, I heard a lot of talk about the need for additional information and analysis on this point. If the committee is in agreement, I can, you know, use that as the context for the committee's resolution that this recommendation not be proceeded with. Is that what I'm hearing?

**The Chair:** That's what I'm hearing as well. Other comments from committee members?

**Mr. Anglin:** That's my opinion.

**Mr. Young:** I don't think that by us not moving forward with the recommendation, we're saying that a review is unfounded or there aren't problems. We just don't know what those are, and we'd like some more context around that.

**The Chair:** Thank you, Mr. Young. We'll move on to recommendation 3, and that is the entry fee. When activities occur, the entry fee should "be set by regulation, and further, that the initial rate for calculation of entry fees be set at no less than \$1,200.00 per acre." The advocate was pretty prescriptive on that particular one.

I'll open the floor to discussions.

**Mr. Anglin:** You're absolutely right. He just came up with an arbitrary figure. There is a figure in regulation, and I don't have it off the top of my head. I think he might have mentioned it when he gave his report to us.

**The Chair:** The initial fee, I believe, is \$500 per acre.

**Mr. Anglin:** I think you're right.

**The Chair:** And that's been set for quite a number of years.

**Mr. Anglin:** Well over 20 years I believe.

I would like to make a motion that rather than pass this recommendation on, we modify it, which is that we ask the Surface Rights Board to raise it. I don't know what it should be raised to, but I know the \$500 level is probably way too low given the price of real estate, what's happened over the last 20, 30 years. So my motion would be that we accept the recommendation but strike out the amount and ask the Surface Rights Board to come up with an acceptable amount to adjust the current regulation. I don't know how you want to word that. Does that make sense?

**The Chair:** Sure. You know, basically, you're saying that the rates should be reviewed and set at a different level than \$500.

**Mr. Anglin:** At an appropriate level.

**The Chair:** Okay.

**Dr. Brown:** Mr. Chair, with respect, I hear where Mr. Anglin is coming from, and I may agree with his sentiment, but I don't think the Surface Rights Board has the power to set those. Those are set by regulation. Regulations are determined by order in council, and that's the Lieutenant Governor in Council, the cabinet. So if you're going to make a recommendation, I would suggest that's where it needs to be sent to.

**Mr. Anglin:** Okay. If I could just respond to that, I thought the recommendation initially comes from the Surface Rights Board back to the ministry, which then goes to the process of order in council. But I thought that like the AUC, like the other boards, they have the ability to report back to the ministry for those recommended changes to regulation. That's why I used that.

**Dr. Brown:** Sure, but then why don't you put your motion in a different way rather than saying the Surface Rights Board change it.

**Mr. Anglin:** Okay. I agree with that. However you want to word it, I just think it does need to be revised. That's all.

**The Chair:** Yeah. For the committee's sake, then, this falls under section 19(2) of the Surface Rights Act.

**Mr. Anglin:** That's correct.

**The Chair:** That's the section that establishes the amount of entry fee, and for the time being it's the lesser of either \$5,000 or \$500 per acre.

Mr. Allen.

**Mr. Allen:** Thank you, Mr. Chair. I think that really more to the point of what the Property Rights Advocate was going for here is that currently under 19(2) of the Surface Rights Act the amount set for the entry fee is set in legislation as opposed to regulation. So it was to remove it from 19(2) of the legislation and to establish it in regulation so that it is adjustable as we go. More to the point, the last paragraph of the preamble says, "The remedy is not simply to increase the amount of the entry fee, but also to establish a mechanism for setting the amount of those fees that is . . . sensitive and responsive to market trends."

I think different areas of the province have – certainly, in my constituency of Fort McMurray-Wood Buffalo land prices are considerably higher than I think anywhere else in the province. So is it appropriate to have a same set fee for every acre of land in the province? Really, it's about coming up with a mechanism and having it established in regulation as opposed to legislation.



I would concur with Mr. Anglin that we just remove the \$1,200 amount, that appears to be just an arbitrary number, and have them establish something in regulation that allows for that number to be adjustable based on market conditions.

9:50

**The Chair:** Mr. Mason.

**Mr. Mason:** Yeah. I don't have any problem with that approach. I think we can agree with the recommendation that this would be set by regulation rather than enshrined in legislation. If it was considered advisable, we could ask the Surface Rights Board for a recommendation as to an appropriate fee schedule rather than trying to – I think it's not legal for us to ask them to set it. They don't have the power. But they could be asked for a recommendation, and it probably would be a good place to get the recommendation.

**The Chair:** I would suspect that now they feel their hands are tied by this legislation.

**Mr. Mason:** Yeah.

**The Chair:** For the members' information, there are two general contracts that are usually entered into when activities will occur with land. One is the actual entry fee, and then the other one is where they do take into consideration the variances in land values. So they do adjust the contracts according to land values right across the province.

**Mr. Allen:** Well, Chair, I guess the best example I can think of is the education property taxes and how those are set, and mill rates are set on a dollar value of land. You could do that. When I was investigating education property tax, we looked at different jurisdictions such as Manitoba and British Columbia, where they have different zones as well that assisted in adjusting those rates based on market conditions.

I mean, I'd be prepared to put together a motion that strikes the last half of the sentence of recommendation 2013.03 to read that the Legislature amend section 19(2) of the Surface Rights Act to allow the amount of entry fees to be set by regulation and, further, establish a mechanism for setting the amount of those fees that is sensitive and responsive to market trends.

**The Chair:** Okay. Mr. Anglin, you have a motion on the floor, and then there's been a suggested change to that particular motion. We'll review your motion, Mr. Anglin, and I'll ask Mr. Tyrell to read that to see if it reflects what the committee is saying.

**Mr. Tyrell:** Mr. Anglin moved that we modify recommendation 2013.03. That's that the committee accept the recommendation but strike out the recommended amount and ask the Surface Rights Board to review and set an appropriate level of compensation.

**Mr. Anglin:** Okay. We know the Surface Rights Board comment is incorrect, so that's got to be changed. Was that Dr. Brown who just recommended that last change?

**The Chair:** That was Mr. Allen.

**Mr. Anglin:** I can't remember exactly how he worded it, but I think we're all on the right track. Would you like me to pull my motion, and then we'd just redraft a new motion?

**The Chair:** If you agree to Mr. Allen's comments, I will let you pull your motion, and we can move on with Mr. Allen's motion.

**Mr. Anglin:** Yeah. Let's do that. I'll withdraw my motion.

**Mr. Allen:** Thank you, Mr. Anglin. I would suggest that the only difference between them is that I still believe regulations would be set by the ministry as opposed to the Surface Rights Board.

**Mr. Anglin:** Oh. I agree one hundred per cent. Not a problem there.

**The Chair:** We've got a new motion on the floor. I'll get Mr. Allen, if you want, to reread your motion so our clerk can get it properly.

**Mr. Allen:** Okay. That

the Legislature amend section 19(2) of the Surface Rights Act to allow the amount of entry fees to be set by regulation and, further, establish a mechanism for setting the amount of those fees that is sensitive and responsive to market trends.

**The Chair:** You've all heard the motion. Any more discussion?

All in favour? Any objections? Then that motion is carried. Thank you.

We'll move on to recommendation 4, "that the Legislature amend the Municipal Government Act to delete section 14(2)(d), and remove from the municipal powers of expropriation the purpose of selling land as building sites." Pretty specific to building sites here.

**Mr. Mason:** Well, I did get an opportunity to question the Property Rights Advocate a little bit at the last meeting about this, and as someone who has served in municipal government, I think this motion, just the way it's drafted, may have unintended consequences. There may be instances where a municipality needs to do that that are different from the case of abuse that he cited, which was, I think, just one municipality. So I would propose that we recommend that this not be acted on now and refer it to AUMA and AAMD and C for their comments before any decision is taken.

**The Chair:** Would you make that into a motion?

**Mr. Mason:** I just did.

**The Chair:** All right. The other thing, for the committee's knowledge, is that we are going through the MGA and are reviewing that whole act, so that certainly might be part of that discussion.

**Mr. Allen:** Mr. Chair, we must be getting close to Christmas, because that's two motions that I've agreed with Mr. Mason on. In this particular case I think there are times when it's appropriate, and it depends on the individual situations across the province. We can't put a cookie-cutter solution in for the entire province based on what has happened in one particular area. I would concur that it's appropriate to have it referred back to the ministry to review during their Municipal Government Act review with the appropriate stakeholders, for sure.

**The Chair:** Thank you.

Any other comments on the recommendation?

**Mr. Anglin:** Could you just reread what Mr. Mason proposed?

**The Chair:** I'll ask Mr. Tyrell to reread, then, the motion.

**Mr. Mason:** Do you want me to state it again?

**Mr. Tyrell:** Yes, please.

**Mr. Mason:** I'll move that we recommend that the Legislature not act on recommendation 2013.04 at this time and the recommendation be forwarded to AUMA and AAMD and C for their comments.

**Mr. Anglin:** Would it make a simpler motion if we went more in line with what Mr. Allen just said, which is that we know the MGA is under review, that we refer this to that review with particular attention to this recommendation, and let the review take a look at it? I believe they are dealing with the AUMA and the AAMD and C. I think we're all doing the exact same thing. It's just how we word it.

**The Chair:** Yeah.

**Mr. Mason:** That's a slightly different route, but I think it accomplishes the same thing and gets it off our plate, so I'm happy.

**Mr. Anglin:** Okay.

**The Chair:** So there is a motion, then, to this whole recommendation.

Are there additional discussions on the motion? Mr. Young.

**Mr. Young:** So if I'm understanding this, we're recommending that it be part of the MGA review process. That's what Joe recommended.

**The Chair:** That's right.

**Mr. Young:** Okay.

**Dr. Brown:** We're not talking about that, though.

**Mr. Young:** Oh. Okay.

**Mr. Tyrell:** We're still on Mr. Mason's recommendation.

**Mr. Young:** We're still on Mr. Mason's? Okay.

**The Chair:** Are we in a position to reread the motion, then, just for clarity?

**Mr. Tyrell:** I have that

the committee recommend the Legislature not act on recommendation 2013.04 at this time and the recommendation be forwarded to the AUMA and AAMD and C for their comments.

**Mr. Mason:** Does the committee want to change it, or do we want to keep it as it is?

**The Chair:** I'm okay with that.

**Mr. Mason:** Well, then we can vote and just test it. Yeah.

**The Chair:** Okay. The motion has been put forward again. Any objections or other comments?

All in favour, then? Opposed? Thank you. Then it is carried.

We'll move on, then, to recommendation 2013.05. There was a considerable amount of discussion at the last meeting on this particular one, and it's a long recommendation, but it is encouraging.

That the Legislature amend the Emergency Management Act to clarify and affirm the consistent respect for and deference to private property rights, even in the face of an emergency situation. Specifically, it is recommended that section 19 of the Act be amended to confirm that a natural disaster does not create a licence to disregard the property rights of individual

Albertans, nor does it absolve the authorities from a responsibility to follow the due process of law (including the need to obtain Ministerial authorization) if any encroachments do become necessary as an emergency response.

I'll open the floor to discussions or comments. Mr. Young.

10:00

**Mr. Young:** Well, thank you, Mr. Chair. I don't support this. I've read and spoken to a lot of folks and my former colleagues in the police and emergency management and stuff, and to create this tone of – they're dealing with a disaster. They're dealing with lives. These are the priorities and stuff, and I understand the consequences after a disaster happens and those considerations. I'm not saying that some of the processes couldn't have been better documented or those types of things. The review is well under way, but I think that lives and the urgent response need to be put in the forefront. What it's recommending here is basically a big warning around that. I don't think it creates a licence. Responders are dealing with urgent and changing situations, and I think we did that very effectively, not perfectly, but I think that this puts not a burden but an unreasonable tone on emergency responders who are putting their own lives at risk.

**The Chair:** Thank you, Mr. Young.

**Mr. Mason:** You know, I don't know if there are some facts about this that I don't have. Based on the reports that I have seen and based on this report, it sounds like the RCMP were breaking into people's houses and taking away their guns. I don't know how that relates to the protection of people and property in a flood. They must have apprehended some danger from the guns, but I don't understand how it would be justified based on what happened. Maybe Mr. Young can help me if I'm missing some information.

**Mr. Young:** Thank you. Whether it's the RCMP or emergency responders or volunteer firemen or whoever that are dealing with situations – and I've tried to explain this to many people – if someone were to seize or apprehend or take, or whatever term you want to use, a firearm, there is a chain of documentation that is extensive. If they did that inappropriately, there is a process to review that. To every person that I talked to I said: if you have a problem with anything that happened, make a complaint. There is a well-established process to deal with that because you just don't seize weapons and hide them away. There's documentation. It all gets recorded, where you found it and all those kinds of things. There are processes to review those. We've gone through those right now, and we have a letter from Mr. McGowan. I'm not sure what his rank is.

**The Chair:** Deputy commissioner.

**Mr. Young:** Deputy Commissioner McGowan. Yeah.

I think that those are going to be reviewed, and if there were certain officers or first responders or volunteer firemen that were offside or stepping outside the legal framework, they're going to be held accountable, and those are going to be acknowledged and treated appropriately. But to put this blanket statement around any future emergency response, I think, is unfounded. There were problems. Let's put those out there and deal with them specifically because there's a clear framework in terms of the authorities that people are operating under.

**Mr. Anglin:** This is Joe Anglin.

**The Chair:** Mr. Anglin, before your comments, I just want to bring to the attention of committee members the August 16 letter that Mr. Cutforth received from Mr. McGowan, and that helps to identify a lot of the issues and some comments. Just put it on the record, we did receive that particular letter from the RCMP, and it provides a little bit more light on that.

Mr. Mason, then Mr. Anglin.

**Ms L. Johnson:** And then Linda Johnson.

**Ms Calahasen:** And then Pearl Calahasen.

**The Chair:** Thank you.

**Mr. Mason:** Thank you, Mr. Chairman. In response to that I'm not entirely satisfied that it answers my concerns. Just because you document something properly, it doesn't mean it was proper in the first place. It was not, in my view, random acts of people who were maybe out of line; it was a co-ordinated, planned thing. I'm really curious about what was behind the decision-making to break into locked homes and take legally registered and stored firearms. I just don't understand that.

**The Chair:** On this point, Mr. Young.

**Mr. Young:** Thank you. Mr. Mason, I am not going to comment on the conspiracy or the kind of idea that there was a co-ordinated plan, but the grounds for seizing . . .

**Mr. Mason:** It's a hundred guns, Steve.

**Mr. Young:** I know.

. . . would be unsafe storage, for safekeeping. These are typical kinds of things. So you come in to search a building, as Mr. McGowan articulated, and you're looking for everything from cats to people to whatever it is. You see a firearm laying because it's your trophy firearm and you didn't want to leave it in the basement where it would get flooded; you leave it on the upstairs floor. There's an obligation to deal with that. It wasn't a co-ordinated effort. That's one scenario. I am not sure how – I can't speak to anything else. There's also safekeeping in terms of from looters and those types of things. These are some of the conversations that I've had with my colleagues.

But each one of those would have been documented and would have been opened for review if they were not justified in their approach. To suggest that there was some co-ordinated "Let's go seize firearms from people in High River" is just, in my opinion, absolutely unfounded and certainly so far down on a priority list when people's houses and lives – there are risks from so many different things. There's no intention. Cops are not out there to: hey, I want to seize firearms. It's paperwork. We do it because it's supposed to be done, not because it's inappropriate use of their role in a disaster.

**The Chair:** Thank you, Mr. Young.

I've got five on the list: Mr. Anglin, followed by Ms Johnson, then Ms Calahasen, then Mr. Casey, and then Dr. Brown.

**Mr. Anglin:** Okay. Can you read the recommendation before I begin? I kind of lost track of the exact wording.

**The Chair:** Well, the motion is that we do not accept recommendation . . .

**Mr. Anglin:** No. Not the motion, the recommendation.

**The Chair:** Okay. It's fairly lengthy, but I will reread it.

That the Legislature amend the Emergency Management Act to clarify and affirm the consistent respect for and deference to private property rights, even in the face of an emergency situation. Specifically, it is recommended that section 19 of the Act be amended to confirm that a natural disaster does not create licence to disregard the property rights of individual Albertans, nor does it absolve the authorities from a responsibility to follow the due process of law (including the need to obtain Ministerial authorization) if any encroachments do become necessary as an emergency response.

**Mr. Anglin:** Okay. Thank you. Here is my opinion on this. I don't generally disagree with Steve Young, but in this case here I'm not sure we need to amend the Emergency Management Act. There are certain discretionary powers that are, in my view, absolute in times of emergency, and our Emergency Management Act is no different than any other jurisdiction in that regard, that there is a process and that people have to behave a certain way.

Where I disagree with Mr. Young – and I don't think it's a conspiracy – is that there's enough substantive evidence to warrant, in my view, an investigation of a number of abuses to the point that it would substantiate an investigation, as Mr. Mason has alluded to. I won't call it a conspiracy but certainly some higher decision-making that took place in an organized fashion. The damage that occurred to private property, not to locked homes but to unlocked homes and to people who were very co-operative with emergency personnel: there was a breakdown somehow, and it's never yet been fully brought to light.

**10:10**

So when I listen to this recommendation, I'm not necessarily sure there needs to even be an amendment to the act. The act does what it does. I think there was a breakdown in accountability, and the recommendation is talking about clarity. Where I'm going with this is that I think I'm going to support the recommendation, so I'm going to oppose the motion because I believe there needs to be clarity. Whether there is an amendment or not to the act itself, it needs to be reviewed, in my view, to make sure that emergency personnel have the flexibility to do their job.

I will tell you that the first responders for the most part acted admirably. I am not attacking any one of them. But there was a lot of personal property damage in that particular instance, and there were what I call overreaching actions, that were interesting to say the least. Whether they were just arbitrary in the sense of being one-offs or it was organized in the sense of, "This is what we're looking for": that question has never been answered, really, to the public's satisfaction when I've been down to High River listening to people who complained. So there was a problem there that has yet to be addressed.

I'm going to oppose the motion and recommend that we look at this. Whether or not it needs to be amended: I don't think the recommendation says that that's a must, but it's recommending that. I think the ministry needs to look at that and make sure there is clarity, that our Emergency Management Act achieves its goal, and that private property is respected.

**The Chair:** Thank you, Mr. Anglin.

Just for the committee's sake, we do not have a formal motion on the floor at this stage.

**Mr. Anglin:** Oh, I'm sorry. I thought we did.

**The Chair:** No. We'll keep on with our discussions, and then hopefully a motion will come about from that.

Ms Johnson, followed by Ms Calahasen.

**Ms L. Johnson:** Thank you very much, Mr. Chair, and thank you, committee members, for an interesting discussion this morning. I'm going to actually make some specific references to the August 16 letter of Deputy Commissioner McGowan just so that it's in the *Hansard* record. I think we have two matters going here. We have the recommendation of the Property Rights Advocate, and we have what took place in the High River situation. We have to remember what our committee mandate is, to look at the advocate's recommendation. I think we can get distracted as to what happened in High River. I'll put on the record, from the letter, that the RCMP moved into an "active rescue of known persons in distress," and then, as the search progressed, they continued to work with locksmiths to get in. "In other cases, windows and doors were blown out . . . During these building searches, several people (28) were indeed found stranded in their homes and were subsequently rescued."

I appreciate the concern and the desire that personal property be absolutely respected. At the same time, on June 20 and June 21 we had an amazing situation throughout all of southern Alberta, where people's lives were at risk, and unfortunately we did lose some people through that situation. We have to allow – and I think the existing act, section 19(1) of the emergency measures act, supports our first responders to do the job. My dad and my two brothers are first responders. When they're in this situation, they're trained to go in and rescue people. I think we have to put our – I don't want to ignore the concerns that Mr. Anglin expressed. At the same time, the role of this committee is to evaluate the recommendation. I'm not in support of the recommendation, and I think we have to be clear that we support our first responders but we also expect that they respect the law.

That's my piece, Mr. Chair.

**The Chair:** Thank you, Ms Johnson.  
Ms Calahasen.

**Ms Calahasen:** Thank you very much, Chair. Do you hear me?

**The Chair:** Go ahead. Yes, we hear you.

**Ms Calahasen:** Okay. I really have a difficult time with this one because with the fires in Slave Lake there were many, many people who were very, very upset about the systematic break-ins into their homes and into their houses. It created so much angst with the people that there were times when I was wondering whether or not we were going to have order. I just have some real strong feelings about this specific recommendation because personal property concerns, I know, are a huge issue when you're talking about people's own homes and their own property.

Yet I understand that when an emergency occurs, there has to be an ability for those responders as well as the RCMP to step in to do a number of things. I know that they did great work in Slave Lake. However, there are still some issues outstanding in that fire, and the people are still not satisfied with why certain houses were broken into, why certain property was taken, and there are still a lot of concerns that many of the people in that area are still coming to me about. They didn't get any answers.

I support parts of that recommendation because I do believe that the EMA needs to do what it has to do, emergency response units. I believe, though, that we have to find a way to communicate with people in times of distress because that communication did not happen. Should there be a communication system that is attached to whatever it is that we're going to put forward, I believe that we can maybe address the concerns of the people who are such strong supporters of their own property. I just am at the mercy, I guess,

of people who can maybe put an amendment to the recommendation because I do believe that we have to be able to make sure that people feel comfortable even in times of distress, that their property is going to be okay, and that they don't have to be worried about people coming in and doing whatever they want to do.

**The Chair:** Thank you, Ms Calahasen.

**Mr. Casey:** Well, I disagree with the recommendation overall. I mean, we're dealing with situations here where seconds make a difference. Having to step back and consider whether you might be stepping on someone's rights here or there in those situations is just a foolish consideration. You're dealing in minutes or seconds here, and you're dealing with people's lives. There are times when you have to make those judgment calls. Hindsight is always a wonderful thing – we should have, we could have, or we might have – but the truth is that those emergency responders are on the ground. In the flood situation you were dealing with an absolutely critical situation. You didn't know how many people were in those houses. You didn't know how much higher those rivers were going to get. Those people need the authority and the ability to move. They don't need to be trying to catch a minister on the telephone to get permission to go into somebody's house.

I don't know anything about the situation in High River, but I can tell you that if my house was flooding and someone kicked my front door in – I'm an avid shooter, and I have lots of guns – not one of mine would have been accessible. There is no way to get to those guns if they are stored according to the law. If they are in the open and if they are visible, you have broken the law already. The police were simply seizing something that was against the law to store that way anyway. Whether it's in your house, in your garage, or in your basement – I don't care – that's not the law.

**10:20**

I don't know what went on in High River, but I do know they saved 28 people in those door-to-door searches. I don't know what went on in Slave Lake. But you know what? What would our response be today if those people hadn't kicked those doors in, hadn't taken those 28 people out, and we ended up with a bunch of people that lost their lives because of an indecision or a hesitation on the part of our emergency responders? Give me a break. This is a ridiculous recommendation, to even consider hamstringing our emergency responders in the time of an emergency. You need to be able to move, and you can't be second-guessing yourself. You just do what's right.

**The Chair:** Thank you, Mr. Casey.

**Dr. Brown:** I agree with just about everything that Mr. Casey has said, but I just want to say that this is not a debate over whether or not, you know, some of us are uncomfortable with what happened down in the town of High River during the flood, and it's not a debate over whether those actions were appropriate or not appropriate or whatever. That's all the subject of a formal investigative process, which is coming to fruition very soon. So I would say that it's premature for us to make any assumptions about what might come out of that, and it's premature for us to make a recommendation to the Legislature that the Emergency Management Act needs to be amended.

**The Chair:** Thank you.  
Mr. Young

**Mr. Young:** Thank you. Let me first say that there's a significant distinction – I think Dr. Brown just made that – with the incidents of High River. I have no idea what happened there. I just think that that review needs to happen. Every officer or responder in any situation, including that one, is responsible for their actions. They need to operate within the law. It scares me to think that this recommendation is going down this road of some kind of special review to exercise your responding obligations, where we're going to end up with something like a Feeney warrant to enter a house to save somebody who may be in distress.

We can have these kinds of reviews and investigations after the fact and enter the whys of those, "Why was my house broken into in a search?" or what have you, and those reviews will happen, but at least when we have a why, you'll be alive there to tell it. I think that we've got to have the confidence and faith in our men and women responders that they are doing the right thing. There are always going to be gaps where you can do better, and it's a learning process in any emergency response. No matter how well you plan, it's a fluid and dynamic situation.

To Dr. Brown's point, I think this is premature and, I think, unfounded even after it's done. We're going to learn something from the reviews that happened in High River and Slave Lake and wherever the next disaster is, heaven forbid, but I want the folks to be operating with the intention of saving lives, limbs, and property and not worrying about unfounded process.

I'm willing to make a recommendation.

**Mr. Anglin:** Just add me to the list, please.

**The Chair:** Mr. Anglin, I will add you. Mr. Young was not quite finished. He was to make a motion.

**Mr. Anglin:** All right. Sorry.

**Mr. Young:** I move that we do not move forward with this recommendation. Period.

**The Chair:** There is a motion on the floor.

Mr. Mason, you had additional comments?

**Mr. Mason:** Thanks very much, Mr. Chairman. Well, I'm not convinced that the recommendation that has been made by the Property Rights Advocate is necessary. I don't feel I have enough facts to make a decision. I do find the instance troubling, though. I just don't have enough information before me to suggest that an amendment to legislation is the answer to this question, and I find that the recommendation itself for the amendment is far too vague, that there's no precise wording, and so on. So I'll support Mr. Young's motion.

But I just want to correct the record for Mr. Casey because he has portrayed the situation as: this is in the process of rescuing people and property that are in imminent danger. There are a couple of points made by the Property Rights Advocate's report that I think also need to be put on the record. The second bullet is:

- forced entries were made into some homes that were outside of the flooded areas.

Another one says:

- forced entries of High River homes continued well after the imminent danger had passed. It appears that up to June 24, 2013, when the emergency was deemed to be over, approximately 674 homes had been forcibly entered. Yet, after that date, over 1,200 homes were forcibly entered, and presumably searched.

I just want to put that on the record because the picture that Mr. Casey has painted is not complete. I think there is cause for

concern. I simply am not convinced that the recommendation is the way to deal with it.

**The Chair:** Thank you, Mr. Mason.

Mr. Anglin.

**Mr. Anglin:** Yeah. What I want to finish with is that I'm going to support the motion. This has nothing to do with acting in the emergency capacity of a first responder. Nothing at all. It doesn't hamstring anyone, as was indicated earlier. Basically, the Emergency Management Act allows for discretionary powers, and a recommendation that is being made like this is about the process pretty much after.

I want it on the record that what took place down in High River that prompted this recommendation was that doors were kicked in that were unlocked. Houses had multiple doors kicked in, and the question was: why did you have to kick in multiple doors when the first door got you into the home? Legally stored weapons were taken along with entire gun cabinets where people's hunting weapons were legally stored.

Questions have never been answered. That's what's missing in this process, not the emergency actions but the follow-up afterwards, as Mr. Young has alluded to. The Slave Lake area people still have not had their questions answered, so what's lacking here is the process afterwards. Did these people behave properly in protecting individual property? That's an obligation that everybody shares.

We have an act that allows for discretionary powers. I've read the act. It's a good act. We have to act in emergency situations, where seconds do matter. A review to protect property rights doesn't affect that one bit, and no emergency responder will be required to look over their shoulder.

The actions in question in High River took place days later, and some people said: "Why did you kick my door in? You could have come up and got the keys." I mean, these are valid questions people brought forward, and the amount of property damage that was systematic – they weren't first responders at this time. This is days later, and people don't have a process to look and say, as Brian Mason just pointed out: "Why was this done to my house when it wasn't even in the flood zone or the flood was now subsiding? The area was well protected. I could have helped you, given you my keys or allowed you into the house." It didn't matter. There were a lot of actions after the danger had passed that have never been reviewed.

I understand the letter that has been submitted to the committee, but basically in the act I see a hole here to protect rights without affecting first responders at all. The legitimacy of discretionary powers is not under attack here. I want to make that absolutely clear. But what we do is always have a balance in society that we do not allow abuse of powers. In this case, what happened in High River has never been answered for, why some of these abuses took place on such a scale.

So I'm going to support this motion.

**The Chair:** Thank you, Mr. Anglin.

**Mr. Casey:** Well, I just want to clarify that, again, the Property Rights Advocate in their report seems to have already come to the conclusion that there was something inappropriate here, and that has not been proven. We have armchair experts all over the province who have come to that conclusion, but there's still an investigation under way, and when we get the results of that investigation, then we'll know whether there was something inappropriate. But to do it on innuendo, as the Property Rights Advocate has done, is, to me, inappropriate.

In the letter from the RCMP they point out:

It is also important to note . . . that at that time the entire town site was not secure with over 300 residents remaining and disregarding evacuation orders and continued excursions beyond the roadblocks. Beyond that, there were daily instances of people noted to be attempting to breach the security perimeters around the evacuation [order].

Whether the flooding was over, whether it was not over, that evacuation order stayed in place for days and days and days after the waters went down.

Again, this isn't about High River. This recommendation is not about High River, and this recommendation is nothing more than a knee-jerk reaction to one person's opinion here.

10:30

**Mr. Anglin:** I disagree.

**Mr. Casey:** Well, you may well disagree, but until the results of that investigation are made public to all of us, everything around this is simply an opinion.

**Mr. Anglin:** I would like to respond.

**Ms Calahasen:** Chair, I'd like to say something.

**The Chair:** Who's actually speaking up there?

**Mr. Anglin:** Let Pearl go.

**Ms Calahasen:** Well, you know, I know that the recommendation that is being brought forward covers a lot of ground. However, my issue has been – and I don't know whether the recommendation covers it – that we need to ensure that the people know what's going on. There's got to be the communication that goes to the people so that they don't feel the angst that I saw and experienced with the people in Slave Lake. I mean, I remember going to a meeting where the people stood up, and it felt like they were ready to lynch us because they had no information. I'm saying: we've got to make sure the information is going to the people, the communication as to what's going on and what's happening in terms of why doors are being unlocked or being kicked down or those kinds of things. We've got to have that in order for us to be able to make sure that people know and understand what's happening with their property.

**The Chair:** Thank you, Ms Calahasen.

**Mr. Anglin:** What I want to say is that this is not a knee-jerk reaction by the Property Rights Advocate. What has happened now is that this is the second event that I'm aware of, Slave Lake being the first one, High River to a greater extent. What we don't want to see is a pattern. But there's a greater need here, and that is for public confidence because it becomes more dangerous when the public loses confidence in law enforcement when these events take place. Emotions are high in the first place. What there needs to be is that respect for private property and a reliance upon due process of law.

Now, Mr. Young alluded to this earlier. There is a process in place. He talked about the paperwork. I'm familiar with that. I mean, officers don't want to be doing any more than they have to in the sense of paperwork. But is the process there working? I'll put that question out. That's why I think the Property Rights Advocate's recommendation is valid. To me, as long-winded as the recommendation is, what we're looking at here is the aftermath. Did the process do what it was intended to do, which is that it gives discretionary powers and the ability of the first

responders to act in the emergency? I think it does. What I think is lacking is the process afterwards to make sure that private property was respected, that there wasn't any abuse.

We do prosecute first responders who steal. I mean, we don't like it when that happens. It usually makes the headlines. It's rare, but it has happened in the past, and we'll deal with it if it ever happens in the future. In this case, there was no theft that I'm aware of, but there was an awful lot of damage that came down from Slave Lake and showed itself again in High River. That is a pattern that I think is not warranting a knee-jerk reaction. The Property Rights Advocate interviewed many people, and I was down at some of those public meetings in High River. There's substantive evidence warranting a massive inquiry, in my view, of what transpired. Hopefully, the investigation, which right now the public is not that inclined to believe – that's prejudging it, but that's what the public is doing, and that's not good. I just think: look at the act, and make sure that there is a process in place, which is the protection of private property.

**The Chair:** Thank you, Mr. Anglin.

Any other comments?

If not, there is a motion by Mr. Young on the floor to not accept recommendation 5.

**Ms Calahasen:** Mr. Chair, I don't know. Can we amend that motion by Mr. Young by saying that we need to have better communication with the people, with the general public, about the process?

**The Chair:** Well, I think, Ms Calahasen, you know, we've got to be careful not to really tie the hands of the emergency responders. I think that's all part of our discussion. At the same time, we all recognize that there needs to be additional understanding and training of individual powers out there in terms of emergency situations.

**Ms Calahasen:** I'm actually not talking about the powers. I'm talking about the communication about what is occurring in an emergency so that people don't feel that angst that they did about their property. I just think that that was lacking. I think that if we have something that would make people feel comfortable about what's going on, just education maybe – I don't know. There's got to be better communication. It just wasn't there.

**The Chair:** Thank you, Ms Calahasen.

**Mr. Young:** Pearl, I don't disagree with you. I think that it may be out of the scope of this committee and this report. I think we'd all have some really good questions if we had the Solicitor General here and talked about the responses and how we did on many things in relation to every disaster. That's a normal course of business. I think that in terms of what we have before the committee right now, which is some recommendations based on property rights – we're not talking about emergency response; we're talking about property rights as it relates. I'm just cautious about that scope creep. I don't disagree with you in any way about: you can never do enough communication. It heads off a lot of problems. I'd just put that out there.

**Ms Calahasen:** Thank you. That explains a bit, yeah.

**The Chair:** Thank you, Pearl.

**Mr. Mason:** Well, I agree with Mr. Young. I think we should get the Solicitor General down here and ask the questions to him.

**Mr. Young:** To be fair, I was not suggesting that as part of the role of the committee. But you are more than welcome to invite him for a coffee or to another forum where that's appropriate.

**Mr. Mason:** Well, let's get him under oath. Come on.

**The Chair:** Certainly, we've got a motion on the floor. I'll get back to this particular motion. Are there other specific discussions on the motion?

If not, I'll call the question. All in favour of the motion as presented by Mr. Young? Anybody opposed?

**Mr. Anglin:** I'm opposed, and if you could put me on the record as opposed, I'd appreciate that.

**The Chair:** We can do that, Mr. Anglin. Thank you.

The motion is carried.

Following up on Ms Calahasen's comments, we might want to just put in a sidebar that the committee felt it was important that communications during emergency situations be enhanced and leave it at that.

**Ms Calahasen:** I like that. Thank you, Chair.

**Mr. Young:** Can I just add to that? I think it needs to be reviewed and assessed for every emergency, the effectiveness of it. It's sort of like a motherhood statement. Communications change through the nature of a multiday, multimonth incident, so I think they need to be reviewed and evaluated and enhanced. Of course, you can always do better. I think we need to do more than just throw out a motherhood statement.

**Ms Calahasen:** Thank you.

**The Chair:** Thank you, Mr. Young.

This sort of ends the discussions on the individual recommendations from the Property Rights Advocate. Certainly, he's made recommendations in his 2012 report. There was one recommendation there that was made and five on the 2013 report. I appreciate the input from everybody.

**10:40**

I would like to now open the floor to some general discussions on the two reports. I sense that there are some disappointments amongst the members at times, and for the record I think it's important to maybe make some overall comments on the report. If the committee members wish to say that, then I'm prepared to entertain some of those comments. If not, that's fine as well.

**Mr. Anglin:** I have a comment. You can put me on the list.

**The Chair:** Mr. Anglin, go ahead.

**Mr. Anglin:** In, particularly, the second report, which I think is the 2013 report – I don't have it in front of me; that's why I had to have you reread one of the recommendations – the Property Rights Advocate did bring up the Land Stewardship Act itself, and I know all the members here in committee have heard this brought forward a few times in debate. It is my view that it has been one of those sore spots with a lot of property owners. Out of the many acts that bothered property rights advocates, of which there are numerous groups, two acts remain. One is the Land Stewardship Act, and the other is the carbon capture and storage act.

It's my opinion that we should make a recommendation that each ministry responsible review that act, each one of those two acts, to make sure that due process respecting property rights is followed. I think there are provisions in the Land Stewardship Act

that do need to be revised – I won't mention them by number right now – and I believe there is one, unilateral expropriations, in the carbon capture and storage act that needs to be revisited by the ministry and possibly amended to have some sort of respect and process in place for property owners. I think it would go a long way in rural Alberta if each ministry took a look at that and made the appropriate changes to, you know, the general satisfaction of the public.

If you'd like, I'd actually make a motion that the ministries responsible review the Alberta Land Stewardship Act and the Alberta carbon capture and storage act with respect to due process and property rights.

**The Chair:** Mr. Anglin, if I may, I think this is somewhat outside the scope of this particular committee. The recommendation that we got from the House really indicated to us that we should review, specifically, the annual reports and the recommendations. I was looking for comments on the overall style of the report and your satisfaction or dissatisfaction with the actual report itself.

**Mr. Anglin:** Well, he did bring up in his report the Land Stewardship Act specifically, if you take a look at his second report, as an example of dealing with process. I don't believe he brought up the carbon capture and storage act, but that would be what landowners refer to as Bill 24 from a couple of years back. I would just say that I think it is within his recommendations as the Property Rights Advocate. It just wasn't articulated as such. I'll leave it to your discretion whether it's going to be within the scope or not, but if you decide it's within the scope, I would like to put forward that motion, and I'll live and die on that one.

**The Chair:** Well, thank you.

We'll hear from the other members first, and then we could come back to this particular one.

Mr. Young.

**Mr. Young:** Well, thank you. First of all, I certainly appreciate the nature of the document. It's not a glossy, fancy document. One thing I really value is that we're also provided with the policy series on the property rights index. If you actually take those two reports, even though they're separate reports, they provide you some kind of measure, and that's the value of this report on the property rights index. I would suggest that there should be some more measures, not only outcome measures and output measures and activity measures. If the Property Rights Advocate feels that that index is the appropriate one, it would seem logical in terms of what we're trying to achieve here. But short of the recommendations there's really not a measure of what we're doing and how well we're doing. Are we doing better today than we were five years ago or 10 years ago? I know that it's a new office, but we need to start now in terms of tracking the effectiveness of that office as well as clarity around what we're exactly trying to achieve from that office. What is the desired state, if we were in utopia, of the Property Rights Advocate, and then what are the measures and what are we trying to do to get there? I'd like some more measures around that.

**The Chair:** I appreciate those comments.

Mr. Allen.

**Mr. Allen:** Well, thank you, Mr. Chair. Just as a general comment, first of all, I'd like to acknowledge and thank Mr. Cutforth for all of his work in advocating for the property rights of Albertans. I mean, I think that this was a legislative office that was set up based on a demand and a need at the time.

I think that one of the recurring themes I've heard through the review of the recommendations for this report and certainly one of my challenges in deliberating on those recommendations is that I've found there not to be enough background information, preamble, what have you to support the recommendations substantially, for myself. So when I look at other legislative offices such as the office of the Ethics Commissioner or the Privacy Commissioner or the Chief Electoral Officer, their annual reports actually list, you know, how many complaints they investigated and the nature of those complaints, and they give a little bit more detail.

I think that's the only thing in this process that was lacking for me, that it maybe assumed that the reader has a lot more experience and knowledge of what came to bring those recommendations forth. It's certainly not a criticism of the Property Rights Advocate. I think that he's a very competent individual and really knows his topic and subject matter, but for me it was difficult to really have strong deliberation on these recommendations without more information.

**The Chair:** Thank you.  
Other comments?

**Mr. Young:** I've got one, very quickly. In my previous career I had many people demanding and telling me how they have rights, so whenever I hear "rights," my natural response is: do you also realize your responsibilities? I think that is the other part of it, that as property owners we have rights; we also have responsibilities. There's a sense in me that says that we need to have that sort of as part of the equation when we're talking about property rights because there are responsibilities as a landowner in terms of being stewards of that land and those types of things. So that's the only thing, just a small comment.

**The Chair:** Well, thank you, Mr. Young.  
Mr. Mason.

**Mr. Mason:** Well, thank you, Mr. Chairman. I am going to put something else a little bit different on the table. This is a question I've asked the Property Rights Advocate myself, having visited him in his office in Lethbridge on two separate occasions, and that is whether or not there's a continuing need for this office. In my sense of things, from the visits but also reading the report, I really have a question as to whether or not there is enough work to justify the office. It is certainly my view that the office was set up primarily for political reasons, to deal with a sense that the government did not respect property rights. I'm not sure if that since has abated. Those people representing rural constituencies would have a much better sense of that than I would.

But there are a number of things that are just indicated in the report, which I'll bring to people's attention.

The number of calls for information . . . to the Office has been modest.

That's a quote of the report.

Requests for speaking engagements have been moderate.

The Property Rights Advocate has

sent regular communications to all of the . . . parties represented in the Legislature, to confirm . . . availability

but has had informal discussions with a number of MLAs, three to four. But I think the most telling thing is the section on page 7 that says:

Although many service requests were received by the Office, there were no formal complaints filed under section 4 of the Property Rights Advocate Act.

None, you know, at least in 2013, possibly in the term of the existence of the office. I would like to make a motion – and maybe government members or you, Mr. Chair, can help with this – as to what a proper process would be that would be satisfactory to the government to review the need for this, the continuing need for this office.

**10:50**

**The Chair:** Mr. Mason, I think your comments are appropriate, but they go, again, beyond the scope of what we were mandated to do, and that's to review the reports. I appreciate the comments. They will go in *Hansard*. Those particular comments, certainly, we need to refer back to the appropriate ministers to review the role.

**Mr. Mason:** It was going to be a motion to refer that to – but, I mean, I think it flows, Mr. Chairman, directly from our review of the report.

**The Chair:** I would accept the motion, then, that the comments and the overall recommendations be referred to appropriate ministers to ascertain the value of the Property Rights Advocate's office.

**Mr. Mason:** What's the correct ministry that we should . . .

**Mr. Young:** Justice and Sol Gen.

**Mr. Mason:** Then I would move that the committee recommend to the Solicitor General that the department conduct a review of the Property Rights Advocate's office with a view to whether or not there's a continuing need for the office.

**Mr. Young:** It behooves me to make a comment here. Going back to my previous comments, I'm not in position to agree or disagree with Mr. Mason because we don't really have any measures in place from this office in terms of "moderate." What does that mean? It doesn't mean anything to me, so I think that there need to be proper measures to make that assessment in terms of any decisions associated with that office in terms of expanding it, decreasing it, or eliminating it. There needs to be an assessment, whether it's now or as an ongoing one. They both would be required in order to make that assessment. The minister needs to make that.

**The Chair:** I won't entertain a lot of discussion on this particular one. You know, I remind committee members that this is really going way beyond the scope of what we're mandated here to do. There is a motion on the floor by Mr. Mason that the future role of the Property Rights Advocate be referred to Sol Gen.

**Dr. Brown:** Just a point of order, Mr. Chair. I think that the mandate of this committee, as you alluded to, which was given to us by the Legislature, was to review the recommendations in the report. I think we've done that. I think Mr. Mason's comments are on the record for the benefit of those that receive them, but I don't think that it's within the purview of the committee, the scope of our mandate, you know, to deal with a recommendation like that.

**Mr. Mason:** Well, if you agree with that, Mr. Chairman, just rule it out of order, and I'm fine with that.

**The Chair:** Okay. We will do that. We'll strike it off the record, then. Thank you.

Other comments? Other business?

A couple of things, then, before we adjourn.



**Dr. Massolin:** I was just going to maybe remind you, Mr. Chair, about the final approval of the report process.

**The Chair:** Oh, okay. I guess there are a couple of options, and one is to authorize myself as chair, if you wanted to, by way of motion, to approve the committee's final report on the recommendations. What would happen is that the staff would put the report together. We would circulate it to committee members and give you a particular time frame to respond to those, and then if all are in agreement, I would make sure that the report is filed appropriately.

I need a motion.

**Dr. Brown:** I'm prepared to make a motion, Mr. Chair, that you as chair of the committee be authorized to finalize the wording of the motions as we have passed them today and that prior to sending them in, you circulate those for comments of committee members.

**The Chair:** Okay.

**Dr. Massolin:** Maybe, just to be clearer, not to finalize the motions but to finalize the report of the committee.

**The Chair:** That's right.

So, that

the authorization be given to the chair to approve the committee's final report after it being circulated to committee members.

I again re-emphasize that it's on the recommendations of the 2012 and 2013 annual reports of the Property Rights Advocate. That motion by Dr. Brown is on the floor. All in favour? Opposed? It's carried. Thank you.

**Mr. Anglin:** Just a point of clarification or a point of order. I don't know which it's going to be. When you forward the copy, could we forward a copy to the Wildrose caucus? Right at this moment we don't even know who the member is on the committee, and they should at least be kept in the loop.

**The Chair:** Mr. Hale could not stand as co-chair?

**Mr. Anglin:** He's not a member of their caucus anymore.

**The Chair:** I agree. Sorry, Mr. Anglin.

**Mr. Allen:** I think that Dr. Massolin would be able to clarify this more, but from past experience all the appointed members of this committee remain members until such time that the Assembly appoints new members or the committee structure changes.

**Mr. Anglin:** I agree with that, but right now the Wildrose caucus is not represented. That's the point I was making. You're right; he keeps his seat. But right now we don't even know if there's any communication going from the former members to keep the Wildrose caucus informed.

**Mr. Allen:** Even as an independent, sir, regardless of your party status or which banner you are under, all the members of the committee are on the list to have information forwarded by the committee clerk and would receive that information regardless of the committee's structure.

**Mr. Mason:** I think Mr. Anglin's point is that there are no longer any members of this committee that belong to the Wildrose caucus. Are we keeping them in the loop informationwise since they currently have no representation on this committee?

**The Chair:** I think we all appreciate that. Certainly, till people are reappointed or till the membership is reorganized, we won't know that. But we need to remember as well that it belongs to the committee, and it's the committee's work, and it's the committee's report. I think that needs to go in that way. Inasmuch as I'm very sympathetic to the fact that they've got no membership, we can't really do anything about it till session is back in.

I would entertain some discussion on the next meeting date.

**Mr. Young:** I move that the chair come up with some possible dates to be floated to fellow committee members.

**Ms Calahasen:** February.

**The Chair:** Okay. Thank you.

There is a motion that maybe the committee clerk should send out an e-mail in the new year – is that how I understood you? – to verify the date of the next meeting.

**Mr. Young:** Yes.

**Mr. Mason:** This will be based on the requirement to have a committee meeting because there's work for us to do. It won't just be a meeting because it's February.

**The Chair:** That's right. I would suspect that we probably will not be meeting till session resumes or it's required.

A motion to adjourn, then. Mr. Mason moves to adjourn. All in favour? Objections? That's carried.

As you leave, I want to thank you for your participation and wish each and every one of you the very best at Christmas and a tremendous new year. Thank you.

[The committee adjourned at 11 a.m.]





