



Legislative Assembly of Alberta

The 29th Legislature
First Session

Standing Committee
on
Resource Stewardship

Office of the Property Rights Advocate

Thursday, January 28, 2016
9:30 a.m.

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The 29th Legislature
First Session**

Standing Committee on Resource Stewardship

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Loewen, Todd, Grande Prairie-Smoky (W), Deputy Chair
Cooper, Nathan, Olds-Didsbury-Three Hills (W),* Acting Deputy Chair

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Schneider, David A., Little Bow (W)**
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Standing Committee on Resource Stewardship

Participants

Office of the Property Rights Advocate
Karen Johnson, Acting Property Rights Advocate
Angela Balec, Public Engagement Officer

9:30 a.m. Thursday, January 28, 2016

[Ms Goehring in the chair]

The Chair: Good morning, everyone. I'd like to call this meeting of the Standing Committee on Resource Stewardship to order and welcome everyone in attendance.

My name is Nicole Goehring, MLA for Edmonton-Castle Downs, and I am the chair of this committee. I'd ask that members and those joining the committee at the table introduce themselves for the record, and then we'll hear from the members on the phone. If we can start to my right, please.

Mr. Cooper: Nathan Cooper, MLA for Olds-Didsbury-Three Hills. I'm substituting for Todd Loewen.

Mr. MacIntyre: Don MacIntyre, MLA for Innisfail-Sylvan Lake.

Ms Johnson: Karen Johnson, the Acting Property Rights Advocate.

Ms Balec: I'm Angela Balec, the public engagement officer.

Ms Woollard: Denise Woollard, MLA, Edmonton-Mill Creek.

Ms Kazim: Anam Kazim, MLA, Calgary-Glenmore.

Mr. Rosendahl: Eric Rosendahl, MLA, West Yellowhead.

Mr. Dang: Thomas Dang, MLA for Edmonton-South West.

Ms Babcock: Erin Babcock, MLA for Stony Plain.

Mr. Horne: Trevor Horne, MLA for Spruce Grove-St. Albert.

Mr. Kleinsteuber: Jamie Kleinsteuber, MLA for Calgary-Northern Hills.

Mr. Sucha: Graham Sucha, MLA for Calgary-Shaw.

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

Ms Bianchi: I'm Giovana Bianchi, committee clerk.

The Chair: I'd now like the members that are on the phone to introduce themselves.

Mr. Schneider: Dave Schneider, MLA for Little Bow, filling in for Leela Aheer.

Mr. Stier: Pat Stier, MLA, Livingstone-Macleod.

Mr. Clark: Good morning. Greg Clark, MLA, Calgary-Elbow.

The Chair: Thank you.

I'd like to note for the record that Mr. Nathan Cooper is attending as an official substitute for Mr. Todd Loewen as the deputy chair and Mr. David Schneider as an official substitute for Mrs. Leela Aheer.

A few housekeeping items to address before we turn to the business at hand. The microphone consoles are operated by the *Hansard* staff, so there's no need for members to touch them. Audio of committee proceedings is streamed live on the Internet and is being recorded by *Hansard*. Audio access and meeting transcripts are obtained via the Legislative Assembly website. Please do your best to keep your cellphones off the table and on vibrate or silent as they may interfere with the audiostream.

Are there any additions or changes to the agenda as distributed? Mr. Cooper has indicated that they have an item that they would like to add.

Mr. Cooper: Thank you, Chair. I have an item that I'd like to discuss following the Property Rights Advocate's presentation. It is a motion that we would like to propose for the Standing Committee on Resource Stewardship to conduct some further reviews into landowner surface rights in Alberta as well as a number of other discussion points around that possibility. If we could do that under other business, we would appreciate that.

The Chair: Thank you.

Members on the phone, is there anything that you would like to add?

Hearing none, would a member like to move that the agenda for January 28 as amended be approved?

Mr. Stier: I'll make that motion, please. Thank you.

The Chair: All in favour? Any opposed? Carried.

Do members have any amendments to the minutes as distributed?

Seeing none on the floor, members on the phone, does anyone have any amendments that they would like to make to the minutes?

Hearing none, would a member like to move that the minutes of the October 15, 2015, Standing Committee on Resource Stewardship meeting be approved as distributed?

Mr. Cooper: So moved.

The Chair: All in favour? Any opposed? Carried.

The Property Rights Advocate office. As you're aware, on October 29, 2015, the Legislative Assembly referred the 2014 annual report of the Alberta Property Rights Advocate office to the Standing Committee on Resource Stewardship. In accordance with section 5(5) of the Property Rights Advocate Act the committee shall report back to the Assembly "within 60 days of the report being referred to it if [the Assembly] is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting." The Legislative Assembly Office research services will assist us in preparing the report based on the guidance from this committee.

I'd like to officially welcome our guest Ms Karen Johnson, Acting Property Rights Advocate, who is here to discuss the recommendations presented in the 2014 annual report of the Alberta Property Rights Advocate office. We will start by asking Ms Johnson to provide an overview of the four proposed recommendations, which will be followed by questions from the members.

Office of the Property Rights Advocate

Ms Johnson: Thank you. Good morning, Ms Goehring, chair; Mr. Cooper, acting deputy chair; and all members of the Standing Committee on Resource Stewardship. Thank you for the invitation and the opportunity to appear before your committee to discuss the Property Rights Advocate office's 2014 annual report. I recently was appointed the Acting Property Rights Advocate upon the departure of the former advocate on December 10, 2015. I'm here today to discuss the report and answer any questions you may have.

To begin, I would like to provide you with a brief background about property rights in Alberta. Property rights are complex and personal. These rights are equally important everywhere: in urban centres, suburban neighbourhoods, municipalities, rural, agricultural, and country residential acreages. Property rights are

not just reserved for landowners with vast holdings of land; they are in place for all Albertans. Property rights cover arrangements like leases and easements, condo laws, mineral rights, and grazing leases.

Property rights are more than just a certificate of title. There are many aspects to property rights. You may have title to a property, but that doesn't necessarily mean you have all of the property rights. What makes them complicated is that one piece of property could have various people holding different rights to that same piece of property. Therefore, property rights are important to all Albertans, to families and to business owners.

The Property Rights Advocate office recognizes that there's a challenge in finding the right balance between competing property rights. Property rights are not about who is right but about finding a fair balance between the competing interests in property. The challenge of balancing property rights is: how can everyone enjoy their rights while also recognizing the property rights of others? Fairness is different for every situation. Sometimes property rights are taken for granted until someone threatens or diminishes those rights. It could happen when an oil company builds a pipeline through your property, a highway construction requires removal of your house, or a city mandates what you can and cannot do in your own backyard. Property rights are important to all Albertans, and that's why there's a Property Rights Advocate office.

The Property Rights Advocate office plays several roles. We listen to concerns about property rights and provide information to Albertans and stakeholders about property rights, we connect with other government departments and organizations to discuss changes to property rights laws and processes, we incorporate what we've heard from Albertans and stakeholders in our annual report, we provide advice and information about property rights for initiatives under way in government, and we make recommendations in an annual report for consideration by legislators like you.

This office was created because of a recommendation made by the Property Rights Task Force, that toured the province in 2012. The Property Rights Advocate office was created to provide an advocate for landowners to improve communications about property rights with landowners. Today our office facilitates an ongoing dialogue with landowners and monitors property rights concerns and issues as they develop. By hearing from Albertans from all walks of life about issues that relate to property rights, this office advocates for Albertans by serving as a voice for property rights concerns.

There are numerous pieces of legislation related to property rights, and no one ministry is responsible for property rights laws in Alberta. For example, we've talked to Environment and Parks about concerns related to the legislation on surface rights, the Surface Rights Act. We've also discussed municipal property rights conflicts with Municipal Affairs and talked to Service Alberta's land titles about other property rights concerns. We've connected as well with other areas in government such as Jobs, Skills, Training and Labour; the policy management office, which is a joint office between Environment and Parks and Energy. In addition, we've had discussions with the Alberta Energy Regulator and the Surface Rights Board. Some of Albertans' property rights are also reflected within the recommendations outlined in the annual report this office produces each year.

9:40

Under section 5 of the Property Rights Advocate Act the advocate is legislated to file an annual report. This report summarizes the office's activities over a calendar year and contains any recommendations relating to property rights that the advocate deems appropriate. The 2014 report is the third annual report

published by this office since it was established in 2012. After three years our office has become informed about many property rights concerns in the province and has learned how this office can best voice those property rights concerns of Albertans.

The annual report represents some of the many issues and concerns we've heard about property rights. As the Acting Property Rights Advocate I'll endeavour to continue to represent the property rights concerns of Albertans. In future annual reports my goal is to inform Albertans and report on the ways our government is responding to the concerns I've heard from Albertans about property rights. I and the office's staff hope that this future report will provide an even more cumulative picture of the property rights issues and concerns.

The recommendations were written to communicate to you, the province's legislators, about issues the advocate deems are important to address in Alberta's laws and processes regarding property rights. The specific recommendations that were made in the report were not meant to be a comprehensive cure for all of the province's property rights laws.

The first recommendation, recommendation 2014.01, says to amend the Property Rights Advocate Act by repealing section 4, the complaint process. Section 4 of the Property Rights Advocate Act outlines a complaint process for when a landowner facing an expropriation or a taking of land may file a complaint with this office. This complaint process requires the advocate to prepare a report within very specific criteria and must involve a taking. To prepare the report, the advocate investigates and determines whether the taking authority acted in a manner consistent with the law. The landowner receives the advocate's report, but it is the landowner who must take his or her case to a court or to a compensation board to resolve the problem. In court or before the compensation board the advocate's report could be taken into account for determining any costs payable to the landowner by the court or compensation board dealing with the case.

To date this office has not received or processed any complaints that fall within the tight parameters specified under section 4 of the act. In fact, we've found that some Albertans are unclear about what outcome this section of the act is intended to provide. In order to remove any doubt and confusion about the complaint process, the advocate recommends that this section be removed from the legislation.

It is the opinion of this office that removing the complaint process from the act would not diminish any of the amenities the office provides. People could still connect with the office to register concerns or frustrations with legislation or processes related to property rights, and the office would continue to follow up with the appropriate government area to pass along concerns, and if necessary the office would continue to suggest recommendations involving property rights to government. The Ministry of Justice and Solicitor General could act on this recommendation by simply amending the legislation and removing section 4 from the act. Before taking any action, it is the opinion of this office that the ministry should consider undertaking an evaluation of the Property Rights Advocate office's operations to identify any additional improvements.

In the second recommendation, recommendation 2014.02, the advocate proposes that the Municipal Government Act be amended in order to include a quasi-judicial dispute resolution process for resolving disagreements between a landowner and a municipality. This recommendation was made because sometimes landowners feel that their municipality has not applied local bylaws fairly or that planning decisions were not made without prejudice. Currently when a landowner disagrees with a municipality's application of its bylaws, that landowner's only avenue of appeal may be to file an

application in court. This recommendation is intended to give a landowner another avenue for resolving a dispute and would save the landowner from the costly process of hiring a lawyer and tying up the courts with this civil law matter. A landowner's dispute with a municipality could more readily and economically be resolved through a hearing held by a quasi-judicial body.

This office is pleased to have had the opportunity to provide information about property rights concerns like this one to Municipal Affairs during the review of the Municipal Government Act. This office will continue to follow the progress of this report as the government considers the various issues raised during the Municipal Government Act review and the input provided by all stakeholders.

This office's third recommendation, recommendation 2014.03, proposes that the law of adverse possession, often called squatters' rights, be abolished in Alberta. Adverse possession is a legal term describing when a person who is not the registered owner of a piece of land but who occupies that land for 10 years or more and benefits from using it could then take legal ownership of that land. Once specific standards are met, a person may claim the land from the registered owner, with no recourse available for the registered owner to recover his or her property. When adverse possession has happened in this province, the registered owner loses rights over that piece of land without any compensation for that loss. This outdated legislation forces landowners to patrol their lands frequently and to oust by whatever means available any intruders who might squat on their land.

It also inhibits landowners from allowing casual use of their land such as allowing a neighbour to temporarily use a piece of their property, because if usage extends beyond 10 years, ownership to that land could be lost. This very situation came before the Alberta courts in 2014, when a Cardston-area rancher found out the 10-acre parcel of ranchland he allowed his neighbour to use was no longer his. The landowner may have thought he was agreeing to allow continued casual use of the property without realizing he could lose title to that land to his neighbour and that he would receive no compensation. Ironically, if the landowner had charged rent to his neighbour under a lease agreement, the landowner would almost certainly have both received payment and kept title to the land.

In Alberta our land titles system is based on the Torrens system, also called indefeasible title. This means that the province guarantees the title can be relied upon and the interest in the property as it is described on that title. Alberta land titles descriptions are based on a survey scheme established prior to the creation of the certificates of title. Indefeasibility of property titles is undermined when adverse possession takings are permitted. This hindrance is recognized by every other Canadian jurisdiction that has a guaranteed-title system except for Nova Scotia. However, that province is phasing out adverse possession as they convert to a guaranteed land title system.

This recommendation could be implemented by the Ministry of Service Alberta in consultation with Justice and Solicitor General. This may require conducting a broader review of legislation such as the Limitations Act and the Land Titles Act to identify legislative amendments necessary to abolish adverse possession. I encourage the government to review the law surrounding adverse possession so that it can be phased out.

The fourth and final recommendation, recommendation 2014.04, is about amending section 36 of the Surface Rights Act to clarify and establish that payments ordered under that section do not conflict with the federal Bankruptcy and Insolvency Act. This recommendation is made in part because of the number of phone calls and e-mails we received on the issue. To this day our office continues to hear from frustrated Albertans about section 36 of the

Surface Rights Act. Some media in Alberta have also published stories on this issue.

Landowners are in effect compelled by law to accept energy development on their property. Section 36 of the Surface Rights Act is written as a way to ensure landowners can apply to the Surface Rights Board to receive the lease payments they are owed when energy operators fail to make those payments. Under section 36 even if an operator fails to make all of the payments owed to the landowner under a lease, the landowner could get paid by the government. To do this, the landowner would have to provide evidence of the default to the Surface Rights Board. Under section 36 the Surface Rights Board has the power to order government to pay the compensation owed to the landowner.

However, if an operator files for protection under the federal government's Bankruptcy and Insolvency Act and the operator has not yet become bankrupt or released from protection, the Surface Rights Board believes it no longer has the jurisdiction to make an order for payment of delinquent lease compensation due to the belief that doing so would create an unsecured creditor.

One example of this situation is outlined in the Surface Rights Board's decision called PetroGlobe versus Lemke. In this case PetroGlobe, an operator, failed to pay the rent to the landowner, the Lemke family. PetroGlobe also filed for protection under the federal Bankruptcy and Insolvency Act. When the Lemke family took their case to the Surface Rights Board to obtain payment, the board decided that the federal Bankruptcy and Insolvency Act precluded them from ordering payment under section 36 of the Surface Rights Act. This real-life example illustrates the necessity to amend section 36 of the Surface Rights Act.

Implementation of this recommendation is perhaps the most urgent of the four recommendations. It is the opinion of this office that the province must find a method to ensure a landowner is not left without his or her due compensation. The uncertainty of how section 36 could be applied by the Surface Rights Board can result in unfairness to landowners, and this is why this law must be changed.

9:50

To begin, Alberta Environment and Parks could make an amendment to the Surface Rights Act or take some other interim measure while a longer term solution is sought. In addition to changing the legislation, another way to resolve the situation would be to create a new fund, similar to the orphan well fund, where landowners' losses could be compensated by industry rather than government.

As part of a longer term solution previous recommendations about surface rights made by the Property Rights Advocate office could be revisited as well. For example, recommendations 2013.02 and 2013.03 called for a review of the Surface Rights Act and for the amount of compensation payable under section 19(2) of the Surface Rights Act to be moved into regulation so that right-of-entry fees could be reviewed for fairness and more readily amended. A review of the Surface Rights Act offers the opportunity for the province to consider the cumulative effects of energy development and to identify more fully all other risks that landowners are forced to bear in order to accommodate energy development. It is the opinion of this office that such a review could result in strengthened landowners' rights, ensuring landowners receive fair compensation and that their rights to due process are enhanced.

I've come to the end of my discussion on the Property Rights Advocate office's 2014 annual report recommendations. I will continue to be available to the committee during this review process. I'm also looking forward to reading your report and

learning about what directions the committee thinks government should take in regard to the recommendations that I've discussed here today. I'm pleased to answer any questions you may have now about these property rights recommendations.

Thank you.

The Chair: Thank you, Ms Johnson.

We'll now open the floor to questions from members. Please let me know by raising your hand if you wish to be added to the speakers list. I'd like to first check in with the members on the phone to see if anyone on the phone would like to be added to the list. Hearing no response, I'll ask members that are present to raise their hands if they have any questions. Members on the phone, I will periodically check in to see if there's anyone that has a question.

Mr. MacIntyre.

Mr. MacIntyre: Thank you. Thank you very much, Ms Johnson, for that excellent overview of things. I have a couple of questions. You had talked about a quasi-judicial body. I, personally, have problems with quasi-judicial bodies because it seems that in practice they end up precluding our citizens' right to recourse through the courts too often. Can you tell us for a moment just what your vision of this quasi-judicial body is and how its functions might look?

Ms Johnson: As the Acting Property Rights Advocate our role is to identify these concerns and to put forward suggested ideas as to how they might be resolved, but the final result and deeper review into what that might look like would normally be carried out, we would hope, by the ministry that's responsible for that particular act, in this case Municipal Affairs.

Mr. MacIntyre: I understand. Have you had citizens, Albertans, contacting you about other quasi-judicial bodies and agencies in this province that they have had problems with on this very issue, that having gone and submitted themselves to this quasi-judicial body, they are now precluded from going to the courts?

Ms Johnson: That is an interesting question. I would have to look back in our records. I don't, off the top of my head, recall receipt of such a call.

Mr. MacIntyre: Okay. Another question that I had. Your agency, the Property Rights Advocate, operates at arm's length from the government and is intended to be nonpartisan and impartial. In the short lifespan of the office how is that going, maintaining the arm's length? Have you found attempts, at least, by government or politicians to interfere in the impartial nature of what you do, and are there any recommendations you might want to make to ensure against that going forward?

Ms Johnson: Well, the first thing I'd like to say is that we are not an agency. Actually, we do have our independence, but we do report to Justice and Solicitor General. In that sense we have access to the other government departments to discuss and raise property rights concerns. I've only been in the position for a month. I would say that we have the autonomy to bring forward whatever issues and concerns we deem necessary and that our annual report is filed directly with the Speaker of the Legislative Assembly. That allows us that direct voice without censure.

Mr. MacIntyre: Great. Thank you very much.

The Chair: Thank you, Mr. MacIntyre.
If I could ask Mr. Kleinsteuber.

Mr. Kleinsteuber: Thank you, and thank you, Ms Johnson, for your presentation today. Thank you both for joining us.

My question is based on page 3 of the report. The report states that in 2014 your office received a total of 232 service requests. It also mentions that in previous years no complaints were processed under section 4. We're just wondering: what types of issues make up the bulk of the requests received by your office?

Ms Johnson: We receive many calls about expropriation and oil and pipeline concerns. We hear about environmental concerns when there are spills or there is reclamation being done or to be done, a lot of questions about surface rights, water and mineral rights. There have been some general inquiries about titles, concerns related to municipal zoning and bylaws, gravel pits, utility companies trespassing on people's land, and, back to the environmental piece, the abandoned oil wells and pipeline issues and concerns with companies that go bankrupt and file for protection under the Bankruptcy and Insolvency Act. And there was one person who called in regard to what they call a gun grab, regarding the role that the RCMP played in the High River flooding event.

Mr. Kleinsteuber: Just as a supplemental, what would you say makes up the largest category of all these requests?

Ms Johnson: The largest category, I would say, is about expropriation and surface rights.

Mr. Kleinsteuber: Okay. Thank you.

The Chair: Thank you.

Mr. Cooper.

Mr. Cooper: Excellent. Thank you, Chair, and thank you for your presentation.

I have a couple of questions regarding section 4 and the recommendation that you have made. To start with, I guess, do you have the sense that there should be something in place as far as the complaint process or your ability to act upon a complaint in place of section 4?

Ms Johnson: Well, as I said earlier, one of the suggestions that our office has made is that it might be worth looking at the operations of our office to determine just those types of questions.

Mr. Cooper: Then following up from that, do you think that the advocate's office currently has the scope to ensure the office can be effective in your ability to intervene in a property rights issue?

Ms Johnson: The way our office was set up, of course some time ago, was done by a previous government. What we're doing at this point in time is taking the calls and listening and carrying those issues forward to other government departments to raise those issues and to try to improve the communications with Albertans about property rights. That is our current role, and we're busy carrying out that role.

Mr. Cooper: But your ability to truly advocate with any consequence or ability to effect change doesn't currently exist.

10:00

Ms Johnson: I feel that by being able to bring forward the annual report with its recommendations directly to you, our legislators, for consideration, it is certainly an opportunity to influence those concerns.

Mr. Cooper: But no ability to compel or requirement for a department to change a decision even if a landowner has been negatively affected outside of the scope of the law.

Ms Johnson: I would have to look to what is contained within the act. The courts would make those ultimate decisions for landowners at this point in time.

The Chair: Thank you.

Mr. Cooper: Okay. I'll come back again.

Mr. Rosendahl: Good morning. Thank you for your report, and it's great to have you here. The concern here is that you had stated that the department covers many ministries and that kind of thing. As a concern in West Yellowhead, of course, we have all those issues that are front and centre, so I guess what I'm trying to get at is: what is the relevancy of your office with regard to when you're looking at other government bodies that exist now, and how can we address the issues that are referred under the Property Rights Advocate? Like, you've got several different ministries it covers and those kinds of things.

Ms Johnson: Well, that's one of the nice things about our offices. Because we connect with all of the different ministries, we are able to navigate through this system. An Albertan that has a specific issue does not necessarily know where they can go, but they can call the Property Rights Advocate office, and we can not only listen to their concerns and document those concerns and bring them in front of you through our annual report, but we also can identify for them where they need to contact other ministries.

Mr. Rosendahl: Thank you.

The Chair: Thank you.

Are there any members on the phone that would like to ask a question at this time?

Hearing none, I would like to invite Mr. MacIntyre.

Mr. MacIntyre: Yeah. I had one more question, please. Have you had any complaints from landowners regarding the bankruptcy of resource development companies who own wells that need environmental remediation and where the landowner is complaining now that this company has gone bankrupt and the liability for that environmental remediation falls to the landowner? Have you had any such complaints?

Ms Johnson: Yes. We have heard those complaints. We're aware of them.

Mr. MacIntyre: Can you maybe educate us a little bit on what has happened with these complaints, and has there been any resolution for the landowners?

Ms Johnson: I've been talking with Environment and Parks about the various issues we hear from landowners. This would be within their bailiwick. As to the concrete activities taking place, I can't speak to that at this time.

Mr. MacIntyre: Are you aware of any process that's currently in place within existing legislation whereby the landowners have any protection against such a thing?

Ms Johnson: That's where we need to look at legislation changing.

Mr. MacIntyre: Okay. Thank you.

Mr. Horne: Thank you for your time coming out. I found both the report and your presentation really interesting. On page 5 – I'm not going to try to paraphrase it because I think it loses a bit of something – of the report it says:

It should be acknowledged that given the newness of an Office like this, and the fact that there is no template to follow, the [Property Rights Advocate Office] is a work in progress. It is somewhat experimental in nature, which in turn suggests an incremental approach to assessing our operational model. Accordingly, it may be imprudent at this time to make any dramatic recommendations regarding our structure, mandate or placement within the government organization.

Do you still agree with that statement?

Ms Johnson: How I would answer that is to say what we're doing and that we have not looked into any changes to the model at this point in time. But we listen to Albertans. We ask questions and clarify what their concerns are. We take those concerns and we raise them with the relevant ministries and departments and make suggestions on changes. We include them in our annual report and bring them before the Speaker of the Legislative Assembly, and then, of course, through this committee they're considered and regarded.

People call us with their concerns, and they know that we're listening. They know that we're working behind the scenes and that this is a longer term goal for creating change. But what we offer for Albertans is a very unique opportunity to bring their voice directly to their government and for them to see that their concerns are being considered at least on an annual basis, when we have these committee meetings, and then to see the results of that consideration. So it's a very open and transparent, tangible way for Albertans to see that their concerns are being listened to and that property rights are not being cast aside or shovelled under the rug.

Mr. Horne: Okay.

The Chair: Thank you.

Mr. Cooper.

Mr. Cooper: Thank you, Madam Chair. Following up from my previous questions as well as Member Horne's question – and I fully recognize that you've had the opportunity to be the acting advocate since mid-December or whenever it was that you actually took the reins. So with some sense of an apology prior to the question – I would have asked Mr. Cutforth the same question – I know that a number, quite a significant number, of people have contacted the office of Olds-Didsbury-Three Hills, the constituency that I represent, that have expressed some significant concern around the effectiveness of the Property Rights Advocate, and while they recognize that there's this ability for them to be heard, you know, they make statements like: well, the advocate's office can't really do anything; they just tell a department of the government.

I am of the belief that the property advocate's office either needs more teeth or that we should just be pointing members of our community to the appropriate department because essentially, at the end of the day, that seems to me what happens at your office, and while I think there is the opportunity for some significant value, I'm not entirely sure that that's what's being met. Do you think that there are things that could strengthen the office's effectiveness?

Ms Johnson: Well, I would look forward to the suggestions of this committee on that specific issue.

Mr. Cooper: Okay. Just following up from that, then – and perhaps that answer is the same. You touched on it briefly from Mr.

MacIntyre's questions. Do you think that the advocate's office being an extension of the Ministry of Justice creates any significant risk, be it budgetary or otherwise, in your ability to really advocate to even that ministry? Perhaps that ministry is part of the problem from time to time. Do you think it's difficult for the Property Rights Advocate to be basically telling your boss that you're doing a bad job?

Ms Johnson: Well, as I said before, the current structure of the Property Rights Advocate office was something put in place by a previous government. We've just inherited what we've inherited. There are pros and cons, I think, to any structure. So, again, I would look to this committee to provide any recommendations that they think are appropriate.

Mr. Cooper: Thank you.

The Chair: Ms Babcock.

Ms Babcock: Thank you, Madam Chair, and thank you for being here this morning. Actually, it's kind of following the last couple of questions here. I wanted to know: what are some of the tools that you direct people to within our government to encourage resource companies to have a plan for land reclamation?

10:10

Ms Johnson: To encourage companies to have a plan?

Ms Babcock: Yeah.

Ms Johnson: We haven't heard from a lot of oil companies, and I don't recall directing anyone in that specific area.

Ms Babcock: Okay. Are there any tools that you know of being used for issues of financial insolvency?

Ms Johnson: I'm not sure what you're asking.

Ms Babcock: Are there any tools that you know of within the government to encourage these resource companies when they're having issues with insolvency?

Ms Johnson: That would not really be within the realm of the Property Rights Advocate office. Certainly, if someone asks, we would research and find out where they might go, but that's more business operations.

Ms Babcock: Okay. Thank you.

The Chair: Are there any members on the phone at this time that would like to ask a question?

Hearing none, Mr. Sucha.

Mr. Sucha: Thank you, Madam Chair. Some of the recommendations allude to changing how we handle certain conflicts between landowners and whether it's municipalities or resource companies. Now, I know that Alberta is not the only one who deals with conflicts here, so with the knowledge that you have from your office, do you know of any provinces or jurisdictions that handle these conflicts differently between landowners and resource companies?

Ms Johnson: Well, again, the role of our office is to bring these issues to the relevant areas and make suggestions for change. When it comes to interjurisdictional studies or deeper research into those issues, that's left to the business area or the ministry who is

responsible for the particular act or program that we're talking about.

Mr. Sucha: Thank you.

The Chair: Mr. Reynolds.

Mr. Reynolds: Well, thank you very much. I'm Rob Reynolds, and I'm the Law Clerk at the Assembly. I just had a few questions for clarification concerning your report, assuming there are no other members who want to ask questions at this time. I was wondering: with respect to your comment about the Surface Rights Board decision concerning bankruptcy, just for the record I believe the further decision that you were referring to has been made by the Surface Rights Board, if I'm not mistaken, in PetroGlobe and Lemke and Lemke. And for those paying attention at home, it's 2015 ABSRB 740. So we can all read that in *Hansard*. But as I interpret the decision, it reaffirmed the jurisdiction of the federal power over bankruptcy, over the provincial purported exemption. I was wondering if you're trying to suggest a way out of that because I think federal paramountcy over bankruptcy is fairly well established, and the province couldn't legislate in that area.

Ms Johnson: Well, that's a very interesting question, and it's why we need additional suggestions. I'm not a legislative planner. I don't draft laws, and I don't know what is or is not possible in the drafting, but the point of that particular recommendation is that something needs to be done. So if the solution is not changing section 36, what other opportunities are there? Creating a new fund? Whatever the responsible ministry, in this case Environment and Parks, would deem appropriate.

Mr. Reynolds: Yeah. I just didn't want to leave the impression that, you know, bankruptcy is in any way a provincial jurisdiction.

Ms Johnson: Exactly.

Mr. Reynolds: It belongs to the federal Parliament.

Secondly, I was wondering: with respect to the Surface Rights Board – and, of course, your report raises a number of issues about it – and the Land Compensation Board it's my understanding, and perhaps you could correct me, that the Ombudsman would have the ability to look at any procedural deficiencies. If there were complaints, would the Ombudsman's office not have that jurisdiction, in your view?

Ms Johnson: I'm not familiar with what the Ombudsman's jurisdiction is.

Mr. Reynolds: It's just that you had a number of complaints about the SRB, and I would think that the Ombudsman would have the ability to review that as part of his general mandate if there was a complaint.

Ms Johnson: That may well be. I don't know.

Mr. Reynolds: You haven't looked at that?

Ms Johnson: No, I have not.

Mr. Reynolds: I see.

Another thing is with respect to adverse possession, which, I must say, brings back unfortunate memories of real property for me in law school. [interjections] Yes. I only had to take it once, I should reassure the committee. But with respect to that, I mean, you refer to adverse possession and its elimination. I was just wondering how

many complaints your office received concerning adverse possession.

Ms Johnson: I don't have those numbers in front of me, but I can certainly get them for you. I know that the numbers are low in terms of the number of cases that has been in Alberta, but that said, this recommendation comes from the devastating effects that it has on the landowner. That's why it's brought forward.

Mr. Reynolds: I see. Have you looked at all the amendments that were made to the Limitations Act in 2007 or 2008 and the report Adverse Possession and Lasting Improvements by the Alberta Law Reform Institute in 2003?

Ms Johnson: I'm aware of those, yes.

Mr. Reynolds: I see. And you don't believe that the issue is satisfactorily addressed in legislation as it is?

Ms Johnson: Adverse possession continues to exist.

Mr. Reynolds: Yes.

Great. Thank you, Madam Chair. Those are my questions.

The Chair: Thank you.

Ms Woollard: Thank you very much for your presentation. My question has to do with – and I'm not even sure if this is something that you can address directly – the Alberta Energy Regulator, the AER. There have been some concerns about the position of the AER in dealing with some disputes, so my question has to do with: will the Alberta Energy Regulator support landowners who are working together collaboratively when dealing with industry representatives seeking entry to properties? This is something along the lines of Grassroots Alberta.

Ms Johnson: Again, that's a very interesting question, but it's outside of my jurisdiction. You would have to speak to the Alberta Energy Regulator about that.

Ms Woollard: So you're not aware of any concerns ongoing in that regard?

Ms Johnson: I haven't had discussions with AER on that specific issue, no.

Ms Woollard: Thank you.

The Chair: Mr. Cooper.

Mr. Cooper: It's okay. I'll take a pass here.

The Chair: Okay.

Mr. Horne: Sorry. Where was I? Yeah. Regarding the recommendation to repeal the complaints mechanism in section 4, are there any other government bodies equipped to manage these complaints?

Ms Johnson: Complaints about how expropriation is carried out or takings are carried out?

Mr. Horne: Any complaints under section 4.

Ms Johnson: I believe that in that case you would have to go to court.

The Chair: Thank you.

Mr. Kleinsteuber: Hi there. On page 8 of the report, then, recommendation 2014.02, the one about the Municipal Government Act being amended: from your perspective do you feel that expropriation of land by municipalities is becoming more frequent, particularly in disputed cases of expropriation?

Ms Johnson: Well, currently when a landowner disagrees with the way that a municipality applies its bylaws, the landowner has to generally go to court to have that resolved. As to numbers, I don't have that information in front of me.

Mr. Kleinsteuber: Okay. Thanks.

The Chair: Mr. Rosendahl.

Mr. Rosendahl: Yeah. My question is in regard to recommendation 2014.01, an amendment "to repeal the complaint mechanism established under section 4 of the act." My question is: is there a rush to repeal this mechanism? What is the rush?

Ms Johnson: I don't believe there is necessarily a rush. It's just that some landowners are confused as to what the result is intended to be of that section. Rather than have that confusion carry on, remove it.

Mr. Rosendahl: Okay.

10:20

Ms Woollard: Okay. Looking at recommendation 2014.02 – and I think we maybe dealt with this a little earlier – what do other jurisdictions have in terms of administrative or quasi-judicial dispute resolution processes which enable landowners to settle disputes without going through legal channels? We know that's slow and expensive.

Ms Johnson: I haven't done a crossjurisdictional review, so I don't have that information.

Ms Woollard: So you wouldn't know if other jurisdictions have more effective means of resolving those conflicts. Well, thank you.

The Chair: Mr. Cooper.

Mr. Cooper: Thank you, Chair. With respect to an outstanding recommendation, 2013.02, and the review of the Surface Rights Act and Expropriation Act that wasn't conducted, I know that a number of people in Olds-Didsbury-Three Hills have connected with my office with some significant concerns around section 36 of the Surface Rights Act and, in particular, around the Lemke decision and some excitement that the lack of payment has been creating. We are seeing more and more oil and gas companies and industry unable to fulfill their commitments. Are there other significant areas in the Surface Rights Act that have been identified to your office that could be or should be reviewed? I know that Mr. Cutforth at the time suggested a review of the whole act, but are there specific areas that you're aware of inside the act other than section 36 that would really highlight a need for the review, or do you think it would be prudent to just review section 36 of the act to expediate that process?

Ms Johnson: In a previous report there was also a recommendation to remove, I think, section 19(2)(b), the right-of-entry fees, and to have those fees moved into a regulation so that they can be reviewed and updated more regularly – that's another area of the act that could be looked at – because the amount of compensation is set in the act. It has not changed over a number of years, and it no longer

reflects a fair compensation to the landowner for right of entry. So that's another area.

In addition, as I said in my notes, having a review of the Surface Rights Act would allow a greater understanding of all of the risks that landowners face, the cumulative effects of a lot of oil and gas operations on their properties in addition to risks that have not necessarily been identified to date and/or compensated. It opens an opportunity.

Mr. Cooper: Thank you.

The Chair: Are there any members on the phone at this time that would like to ask a question?

Mr. Stier: Madam Chair.

The Chair: Thank you. Go ahead.

Mr. Stier: Thank you. Thank you, madam, for your presentation today. I certainly recognize the situation that you find yourself in there today, having only been in your position for a small amount of time, but your experience, from what I can hear, is exceptional.

I just wanted to get back to recommendation 2014.02, with regard to the Municipal Government Act. I noted that you were talking – and you've already mentioned it in your presentation – with regard to the creation, possibly, of a new quasi-judicial type of appeal system. I noted, too, that you have been experiencing, perhaps, some concerns from landowners, constituents, et cetera, with respect to how on occasion municipalities may not be necessarily following procedures or they may not necessarily be enforcing their bylaws or following their municipal development plans. Two, there have been of late a lot of occasions where municipalities are now creating some concerns with residents with respect to the mandating of a mandatory growth board system, which in some areas may cause priority growth areas to be established and essentially devalue the properties because of potential land freezes and the expectation of annexations coming forward two or three decades down the road.

I was just wondering. Did you, firstly, have any extra comments with respect to what type of system, beyond expanding the Municipal Government Board, might be one of the theories that you folks had developed in that department over the past couple of years? Secondly, have you had a lot of those kinds of complaints, and have there been any recommendations with regard to government takings of that nature, which are commonly called land freezes?

I'll just stand by to listen. Thank you.

Ms Johnson: Well, again, the recommendations that come from this office are made with the intent of identifying areas that need to change, but we don't do the research, we don't draft the legislation, and we don't delve that deeply into what the solutions might be. We would certainly work alongside the government departments who have that responsibility when they decide to go in that direction and provide feedback and input as to what we're hearing from landowners. That's basically where our office stands. To speak to whether or not there should be other mechanisms is speculation outside of my area.

Mr. Stier: A follow-up, Madam Chair?

The Chair: Absolutely.

Mr. Stier: Yes. Thank you. Thank you for your response, though I note on page 9 of the copy of the annual report that I have that in this section there would appear to be a recommendation to expand the jurisdiction and/or various kinds of activities of the Municipal

Government Board in this regard. Were there some specific things that were talked about or discussed, to give a little bit more background to those comments, please?

Ms Johnson: Again, I didn't write the 2014 report – I don't know if I made that clear at the beginning – so I can only stick within the parameters of what's written in here. I myself have not looked beyond those words.

Mr. Stier: Okay. Well, thank you for your answers.

It would appear, therefore, unfortunately, that with this type of report, with limited access to the writer, we can only take – some of this is fairly skeletal information, if I could use that term. Madam Chair, I would hope that we could get a further in-depth review of some of these matters in the near future.

Thank you.

The Chair: Thank you.

Ms Kazim.

Ms Kazim: Thank you. Thank you, Ms Johnson, for your time today and your insight into the Property Rights Advocate's office matters. I have a question about the Surface Rights Board. I'm curious to know: how closely does the office work with the Surface Rights Board on surface rights issues?

Ms Johnson: What we do is that we have discussions with the Surface Rights Board and raise issues so that they're aware of issues that exist, that we hear from property owners and from property rights holders. We've also had referrals from the Surface Rights Board where they've had questions that are outside the Surface Rights Board's jurisdiction and where people want to voice their concerns. That's when we fulfill our role of listening to those concerns and bringing them forward to the appropriate business areas or government bodies.

Ms Kazim: Okay. I have a follow-up question. Thank you. What about the Alberta Energy Regulator? Is there any connection of this office with the AER at all, or does the AER work totally separately?

Ms Johnson: We have had discussions with the Alberta Energy Regulator. Again, they also sometimes refer people to us when they receive calls that are outside of their jurisdiction.

Ms Kazim: Okay. Thank you very much. Thank you.

Ms Woollard: I know that we've heard things about the law of adverse possession. I was really intrigued reading about that; I had no idea it was still on the books. The law has long been regarded as being potentially harmful to landowners, to the integrity of the land registry system and the role that this integrity plays in protecting property rights. So given all that, what rationale is given for not abolishing this law? Basically, you know, I wonder why it's still on the books. Do you have any . . .

10:30

Ms Johnson: I couldn't speculate on that.

Ms Woollard: No, eh? From the discussion I know the recommendation is to get rid of it, so that is something that I guess we just have to work on.

Thank you.

Ms Johnson: I look forward to your comment.

Ms Babcock: As per the previous question here with adverse possession, if the law of adverse possession were to be abolished in

Alberta, are there any new issues or questions of fairness that you see that might arise in the absence of the adverse possession law?

Ms Johnson: I haven't heard any.

Ms Babcock: Okay. To follow up with that, is this a widespread issue that you've seen, or is this just – I mean I know it's because it's very harmful to the landowner when it does happen. Do you have a number of complaints per year?

Ms Johnson: I don't have those numbers in front of me, but I could get them.

Ms Babcock: Okay. Thank you.

The Chair: Member Horne.

Mr. Horne: Yeah. Thank you. In a similar vein – and I think you kind of touched on it earlier, but I was hoping to get a bit more information on it – how does Alberta compare to the other provinces and jurisdictions on the issue of adverse possession?

Ms Johnson: Well, as I stated earlier in my speaking points, all of the other jurisdictions that have a guaranteed title system have removed adverse possession – there is no provision for adverse possession – except Nova Scotia. They're in the process of changing to a guaranteed title system, and they are in the process of phasing out adverse possession.

The Chair: Thank you.

Are there any members on the phone at this time that would like to ask a question?

Hearing none, Mr. Dang.

Mr. Dang: Thank you, Madam Chair, and thank you for the report today. I know you touched on this briefly during your notes earlier, and it might have been asked a little bit before. But referring to recommendation 4, could you please elaborate a bit more on your understanding of how the federal legislation around surface rights and the Bankruptcy and Insolvency Act relates to what we have here in Alberta?

Ms Johnson: Well, the relationship that I'm aware of is that the Surface Rights Board interprets section 36 of the act to be in conflict when an operator has applied for protection under the Bankruptcy and Insolvency Act, and because of the federal act having paramountcy over the provincial legislation, they feel that they cannot then go through their normal process of demanding the company to pay the back rents that are owed, ultimately to cease their operations, and then to have the government pay the rent in lieu of the operator. So there's a conflict at least perceived by the Surface Rights Board that prevents them from making sure that the landowner receives their lease payments.

Mr. Dang: Thank you.

The Chair: Ms Babcock.

Ms Babcock: Thank you, Ms Chair. You mentioned in your report in regard to recommendation 4 that the reasoning for PetroGlobe versus Lemke wasn't completely new. Can you tell me what other decisions by the SRB added to the decision in PetroGlobe versus Lemke?

Ms Johnson: I don't have that information in front of me.

Ms Babcock: Can we get that information?

Ms Johnson: I could get that information.

Ms Babcock: Thank you.

The Chair: Mr. Rosendahl.

Mr. Rosendahl: Yeah. In carrying on this discussion about PetroGlobe versus Lemke and continuing on with that, what is the timeline? Like, in your recommendation you're asking for a review. So what is the timeline that you're looking at for this?

Ms Johnson: We're looking at section 36?

Mr. Rosendahl: The review.

Ms Johnson: My opinion is that this is probably the most urgent of all the recommendations, so regardless of whether or not there's a broader review carried out of the Surface Rights Act or some other long-term solution is sought, something should be done as quickly as possible to make things right for the landowners. The landowners don't have the opportunity to say no to energy development on their property, so we need to treat them fairly, and they should be receiving compensation that they're entitled to, and we should act as swiftly as possible on that.

Mr. Rosendahl: Okay. Thank you for that answer.

I guess the other part of it is: are you working with the Surface Rights Board, then, on information sharing regarding this matter, or do you work with them on this?

Ms Johnson: We work with the Surface Rights Board to raise issues, but we're not talking to them about the Lemke case, for example, no.

Mr. Rosendahl: Okay. Thank you.

Ms Kazim: My question is in regard to recommendation 2 when it comes to "quasi-judicial," and it's relevant to that particular recommendation. I was wondering if there has been any request from expropriation authorities for the services of the Property Rights Advocate office?

Ms Johnson: I'm sorry. This is in regard to removing section 4 from the Property Rights Advocate Act?

Ms Kazim: Well, this is more like a general question in terms of when there are issues in regard to expropriation. The authorities that are involved in that particular matter: how often do they request services from the Property Rights . . .

Ms Johnson: We haven't been directly contacted for advice from expropriating authorities on the expropriation process. Generally the expropriating authority that's carrying out the process would be aware of their process and what's required under the act.

Ms Kazim: Okay. Thank you.

The Chair: Are there any other members that have additional questions for Ms Johnson? I don't see any in the room. Is there anyone on the phone that has additional questions? Not hearing any response.

I'd like to thank you on behalf of the committee for coming here today and providing context to the recommendations in the report. I would like to remind you that the information you indicated today that you didn't have but could possibly provide to us be forwarded through me or the committee clerk. I'd like to let you know that you can feel free to leave now at this point. We've taken enough of your

time today, and we as a committee still have other items on the agenda.

Ms Johnson: Thank you very much.

The Chair: We will now proceed on to the next agenda item, which is item 4(b), next steps and timeline. As previously mentioned, the deadline for the committee to report back to the Assembly is 15 days after the commencement of the next sitting, but we probably don't want to aim for that last possible day. So with members' concurrence we could work with the goal of tabling the committee's report at the end of the first week of session, on March 9 or 10. Are members amenable to this timeline? Agreed? Anyone opposed? Very well. We can work from the date backwards once we agree on what should be the committee's next steps.

Considering that members may choose to have some time to ponder the clarifications just provided by the Acting Property Rights Advocate, we have scheduled another meeting in a couple of weeks, on February 11, as you are aware. On that date we could consider motions to determine if the committee supports each of the recommendations contained in the report. This will provide direction to the Legislative Assembly Office research services in order to prepare a report on behalf of the committee, which will then be tabled in the Assembly. After the meeting on February 11 the committee may or may not find it necessary to have another meeting in order to review the draft report prepared by the LAO research services and decide if there is agreement to table it.

Alternatively, this review of the report could be done by e-mail, in which case we would need a motion at the next meeting to allow the chair to approve the report, taking into account comments received by e-mail.

Now, I'd like to open the floor for any members who may have comments regarding this process that's been outlined.

10:40

Mr. Stier: Madam Chair.

The Chair: Yes. Go ahead.

Mr. Stier: Yes. Thank you. During this discussion we've had today – and I'm not sure of the committee's procedures, so please allow me a little bit of leeway here in this question. It may not be quite pertinent to your order today. But it would seem to me that there was a lack of clarity and full response from the speaker that we had in today due to the situation at hand, where this person was only installed at that posting in a very, very short amount of time prior to today's hearing. I'm looking to inquire as to how we might get more information and more details with respect to a lot of the questions that we had that couldn't be answered.

I'll go on mute now to hear the response. Thank you.

The Chair: Thank you, Mr. Stier. At this time I'm not aware of any way to get more information other than the information that she's already committed to provide to the committee, so hopefully we'll have that information prior to the February 11 meeting, that we can review. As soon as I receive it, I will commit to forwarding it on to all members of the committee. Hopefully, that will alleviate some of the questions that are outstanding. Aside from that, I'm not aware of any other process that we could implement to get further clarification.

Mr. Stier: Thank you, Chair.

The Chair: You're welcome.
Any comments?

Mr. MacIntyre: I just have something to ask the committee, a question for the committee regarding this issue. If I could bring the committee's attention to page 5 of the report. I appreciate that the advocate office's act says: a central place for concerned citizens to come with property rights problems in general. I think it's a great idea to have a central location where Albertans can come rather than Albertans trying to navigate the government on their own, which can become tedious and sometimes impossible for many people. I really like the idea in general of this advocate's office for property owners. But in the fourth paragraph on page 5 you will note a comment that was made, and I'll just read it into the record.

It should be acknowledged that given the newness of an Office like this, and the fact that there is no template to follow, the PRAO is a work in progress. It is somewhat experimental in nature, which in turn suggests an incremental approach to assessing our operational model. Accordingly, it may be imprudent at this time to make any dramatic recommendations regarding our structure, mandate or placement within the government organization.

Now, bearing in mind when this report was actually written, time has passed by, but if we could just for a moment consider what the author was trying to get across to us, it's the experimental nature of the office, which suggests an incremental approach to assessing our operational model. I would like to know if there is an appetite on this committee to explore a redefinition of what advocacy looks like and explore the possibility of increasing the powers of the advocate to act on behalf of property owners in more than just an informational, you know, situation.

As it is now, it really is just an information centre that not only informs the people coming to it but also informs the government departments that need to know the complaint that has been launched with them. But advocacy incorporates way more than just acting as a central distribution centre for information, and I would like to know if there's an appetite on this committee to just explore the possibility of increasing the powers of the advocate's office to genuinely advocate on the part of Albertans. If I may, I'll throw that out there and throw it open.

The Chair: Thank you, Mr. MacIntyre, for your comments and questions. I would just like to note that at this time, because the third party is not represented at this table, perhaps such a discussion should wait until February 11 so that we have a robust conversation at that time with all members present. That would be my recommendation.

Mr. MacIntyre: Could we have that included on the agenda for that meeting, then, and then everyone has time to think about that?

The Chair: Absolutely. We could add that as an agenda item.

Mr. MacIntyre: Okay.

The Chair: Are there any other questions or comments?

Mr. Cooper: Just following on from what Mr. MacIntyre has proposed – and I think that it's a great idea to have that as part of the agenda – I think it's unfortunate that the third party was unable to attend today and that, as a result, all of the decision-making sounds like it will take place at the meeting on February 11.

With that in mind, you know, if there was one thing that I heard on a couple of occasions from the acting advocate, it was that she was looking for input from the committee or direction from the committee on a number of occasions. She referenced that or defaulted to that, so I think it would be prudent for us to potentially maybe, not only in this area but in other areas as it relates to the advocate's office, be able to provide some feedback. Now, that

feedback may come in the form of needing more information from the office and working closely with the office to do some of that and then, I guess, in turn, working with the ministry or however.

The interesting nuances that exist around the office – it's not an independent member of the Assembly, but it is this interesting relationship that currently exists. But I say all that to say that it's clear that the office is looking for direction from members of this committee and, by extension, members of the Assembly, and I think that we would be well positioned to provide some of that feedback.

The Chair: Thank you, Mr. Cooper, for your comments. At this time I would just like to suggest that we're focusing on the four recommendations from this annual report based on the timelines that we've been given, but your comments are absolutely on the record.

Any other comments or questions? Anyone on the phone have any comments or questions? Okay. Sorry. Ms Babcock.

Ms Babcock: Ms Chair, given all that we've heard this morning and given that, as we've already said, the third party is not represented here today, I move that we adjourn until the next scheduled meeting date, on February 11, when we will also make the decisions as a committee with regard to the recommendations in the annual report.

The Chair: Thank you. At this point we still have other agenda items that we need to go through.

Ms Babcock: Oh, okay. Sorry.

The Chair: That's okay.

Any other questions or comments?

Seeing none, hearing none, I understand that we're in agreement to keep our upcoming meeting for February 11, and I'll ask the committee clerk to poll members for a potential third meeting just in case we need it before our calendars fill up. We can always cancel that third meeting if we do not require it.

Now to the business at hand. Would members like to comment on the 2014 annual report of the Property Rights Advocate office or the views presented today by the Acting Property Rights Advocate so we can start discussions? Mr. Cooper.

Mr. Cooper: In light of the fact that the third party is not present today and we're deferring the vast majority – well, the actual decision-making – on the actual four recommendations to the meeting on the 11th, you know, I think I would just voice a small amount of displeasure with the deferral. While I accept that the third party had some prior commitments to keep, all of these meetings cost both, particularly, resources and certainly time. It's my belief that we likely could have made all of the decisions today. In light of the fact that they're going to be made on the 11th of February and it sounds like we would like their feedback on the issues, perhaps we're better off just to wait until February 11 to have any real, robust conversation on the recommendations if we're waiting for them to provide feedback anyway.

10:50

The Chair: Thank you, Mr. Cooper, for your comments.

Any additional comments? Anyone on the phone have additional comments?

As there are no additional comments, we'll move on to the next item on the agenda . . . [An electronic device sounded] It appears that Mr. Clark has left the conference.

We have other business, and we have on the agenda from Mr. Cooper a motion that he would like to discuss.

Mr. Cooper: In keeping with the spirit of my previous comment, I'll just briefly outline some of the thoughts that I have on a proposed motion, and then, presumably, we can also wait until February 11 to have a full and robust conversation. [An electronic device sounded] It's probably Greg calling back. Now, having said that, I'm happy to have a full and robust conversation today, but if we're waiting for the third party, that is understandable.

I guess that over a period of time it's been the desire of the Official Opposition to try and see standing committees become more of an integral part of the legislative process. Many of you will have become quite familiar with some members of the opposition taking the opportunity to try and refer legislation to standing committees and an overall desire, similar to many other legislative Assemblies and parliaments, to allow committees to provide input and review of important matters of the day. So I have a motion that I would like to move around some property rights related issues. Given that the Property Rights Advocate reports to Resource Stewardship, I felt it would be reasonable and prudent for us to do a further review.

I would like to move that

in the interest of ensuring landowners' rights to fair compensation and due process are respected, the Standing Committee on Resource Stewardship conduct a review of landowner surface rights in Alberta. The scope of the review shall include but not be limited to the landowner notification processes; landowner rights to a hearing; landowner rights to recourse to the courts when they do not accept government's decision about usage restrictions or compensation; assurances that the government devaluing of property, particularly through adjustments to statutory consents, are compensable with recourse to the courts; and whether a landowner should be considered the owner of the pore space beneath their land.

I think we have seen significant conversation in the Assembly around property rights, including the Government House Leader as late as October 30 speaking specifically about the government's desire to review these types of issues, more traditionally referred to under bills 24 and 36. We have seen the government of the day, during an election campaign that has just passed, a campaign in southern Alberta, looking to try and rectify some of the challenges that exist in legislation from previous governments.

You know, it seems that we've been elected for about 280 days now, and there has been little process. I fully accept that the government has been very busy with other projects, whether it's royalty reviews or minimum wage decisions or planning the next number of years in terms of budgets, et cetera, so that is the reason that I move the motion today, to try and be helpful to the government in taking something off the plate of the ministry and allowing a committee of the Assembly to provide some review around these issues. I know that they're issues that affect a large number of Albertans, and there's some significant concern all across Alberta, be it urban or rural, so I think that this is a good opportunity for us, which I believe is well within the scope of the committee to do, and then would allow an avenue for the committee to be just as effective in providing feedback to the Assembly and, in turn, to the government of the day.

The Chair: Thank you, Mr. Cooper. Are there copies to be provided?

Mr. Cooper: Oh, yes. I do have some. I understand that perhaps Parliamentary Counsel had some concern with the wording at the start of the motion. I'm not sure if we want to discuss that today, but I have some copies here that are available for people to read as well.

The Chair: I'll seek clarification from Parliamentary Counsel.

Mr. Reynolds: Well, I'd like to see the motion, I guess.

Mr. Cooper: You can pass it. It's the same as I provided earlier, I think.

Mr. Reynolds: I think I read it over someone's shoulder. Thank you. There's nothing to do with the substance of the motion. It was just comments with regard to the preamble in the sense that usually motions don't have a preamble. However, it was pointed out to me that for some reason substantive motions in this committee have had preambles before. What I can say is that it's not usual that there are preambles. Without disclosing too much, this is less of a preamble than there was before. Certainly, the substance of the motion is in order, in my view. That's a long way of saying that I don't have any concerns about the format of the motion.

The Chair: Thank you. Then we'll accept it.
Ms Babcock.

Ms Babcock: Thank you, Madam Chair. I would like to adjourn debate on the motion until February 11, when we can have a fulsome discussion and all parties can be present.

The Chair: All those in favour of adjourning debate to the 11th, please say aye. All those opposed? Thank you. We will adjourn debate on this motion until February 11.

Are there any other orders of business that the committee would like to raise at this point? Seeing none on the floor, anyone on the phone?

Hearing none, I would like to remind members that the next meeting will be on February 11 at 1:30 p.m.

Last call for additional items for members to discuss.

Mr. Cooper: I assume that we are very close to entertaining a motion to adjourn the meeting for today. I would just like to again reiterate that the business of the committee is to be heard by those in attendance at the meeting. You know, while I appreciate that the third party had some pre-existing commitments and they are all attending together, I think it's important as we go forward that we make an effort to not make exceptions, and that includes the Official Opposition caucus or any caucus. Meetings should not be delayed based upon one particular caucus or another being unable to attend. At the end of the day, the business of the Assembly and, by extension, the business of the committees – our private business and caucus business do not presuppose, if you will, or are not more important than the business of the Assembly and of the committee. I think that we certainly could have addressed all of the business before the committee today if that wasn't the case. So I think that on a go-forward basis we should be considering the members that are able to attend, not just the members that are unable to attend.

11:00

The Chair: Thank you, Mr. Cooper, for your comments.
Any additional comments?

Seeing none and hearing none, I would ask for a member to move adjournment.

Mr. Sucha: I'll move the adjournment.

The Chair: Thank you.

All in favour? Any opposed? Carried. The meeting is adjourned.

[The committee adjourned at 11:01 a.m.]

