



Legislative Assembly of Alberta

The 30th Legislature
Second Session

Select Special
Committee on
Real Property Rights

Friday, February 11, 2022
9 a.m.

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Select Special Committee on Real Property Rights

Sigurdson, R.J., Highwood (UC), Chair
Rutherford, Brad, Leduc-Beaumont (UC), Deputy Chair

Frey (formerly Glasgo), Michaela L., Brooks-Medicine Hat (UC)
Ganley, Kathleen T., Calgary-Mountain View (NDP)
Hanson, David B., Bonnyville-Cold Lake-St. Paul (UC)
Milliken, Nicholas, Calgary-Currie (UC)
Nielsen, Christian E., Edmonton-Decore (NDP)
Rowswell, Garth, Vermilion-Lloydminster-Wainwright (UC)
Schmidt, Marlin, Edmonton-Gold Bar (NDP)
Stephan, Jason, Red Deer-South (UC)*
Sweet, Heather, Edmonton-Manning (NDP)
van Dijken, Glenn, Athabasca-Barrhead-Westlock (UC)
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* substitution for Glenn van Dijken

Also in Attendance

Smith, Mark W., Drayton Valley-Devon (UC)

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Melanie Niemi-Bohun	Research Officer
Warren Huffman	Committee Clerk
Jody Rempel	Committee Clerk
Aaron Roth	Committee Clerk
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Select Special Committee on Real Property Rights

Participant

Ministry of Justice and Solicitor General
Kelly Hillier, Barrister and Solicitor

9 a.m.

Friday, February 11, 2022

[Mr. Sigurdson in the chair]

The Chair: Hello, everyone. I'd like to call this meeting of the Select Special Committee on Real Property Rights to order and welcome everyone in attendance.

My name is R.J. Sigurdson, MLA for Highwood and chair of this committee. I'd ask that members and those joining the committee at the table introduce themselves for the record, and then I will call on those joining in by videoconference. We'll begin in the room to my right.

Mr. Milliken: Good morning, everyone. Nicholas Milliken, MLA, Calgary-Currie.

Mr. Nielsen: Good morning, everyone. Chris Nielsen, MLA for Edmonton-Decore.

Ms Govindarajan: Vani Govindarajan, lawyer, office of Parliamentary Counsel.

Dr. Niemi-Bohun: Melanie Niemi-Bohun, research officer.

Ms Robert: Good morning. Nancy Robert, clerk of *Journals* and committees.

Mr. Huffman: Warren Huffman, committee clerk.

The Chair: Thank you.

We'll now go to those joining us virtually. I will start with MLA Rutherford.

Mr. Rutherford: Thank you. MLA Brad Rutherford, Leduc-Beaumont.

Mr. Hanson: MLA Dave Hanson, Bonnyville-Cold Lake-St. Paul.

Mr. Rowswell: MLA Garth Rowswell, Vermilion-Lloydminster-Wainwright.

Ms Sweet: Good morning. Heather Sweet, MLA for Edmonton-Manning.

Mr. Yao: Tany Yao, MLA for Fort McMurray-Wood Buffalo.

The Chair: As well on the line we have, participating and just viewing this meeting, MLA Smith. MLA Smith, please introduce yourself.

Mr. Smith: Good morning. Mark Smith, MLA, Drayton Valley-Devon.

The Chair: Oh. Sorry. And MLA Marlin Schmidt as well.

Mr. Schmidt: Yeah. Marlin Schmidt, MLA for Edmonton-Gold Bar. And just a reminder to the chair that it looks like Kathleen Ganley has also joined us.

The Chair: Excellent. I've just recognized that as well, chiming in in today's meeting. Please introduce yourself, MLA Ganley. I apologize. Please go ahead.

Ms Ganley: No worries, Mr. Chair. Kathleen Ganley, Calgary-Mountain View. Good morning, everyone.

The Chair: Good morning.

We also have representatives from the Ministry of Justice and Solicitor General joining us today. We have Ms Kelly Hillier,

barrister and solicitor. As well, we have Ms Lisa Tchir, assistant deputy minister, legal services division. Thank you both for joining us today.

For the record I will note the following substitutions. We have Mr. Stephan for Mr. van Dijken.

I see that Mr. Stephan has just logged on. MLA Stephan, would you like to introduce yourself?

Mr. Stephan: MLA Jason Stephan, Red Deer-South.

The Chair: Thank you.

Now moving on, a few housekeeping items to address before we turn to the business at hand. I would note for the members that masks should be worn in the committee room except when you are speaking, and members are also encouraged to leave an appropriate amount of physical distance around the table. The committee room galleries are currently closed to the public, so guests attending committee meetings are required to do so virtually.

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We'll now move on to item 2, approval of the agenda. Are there any changes or additions to the draft agenda?

If not, would somebody like to make a motion to approve the agenda? I see MLA Milliken. Moved by MLA Milliken that the agenda for the February 11, 2022, meeting of the Select Special Committee on Real Property Rights be adopted as distributed. In the room all in favour, please say aye. In the room those opposed, say nay. On videoconference all those in favour, please say aye. On videoconference all those opposed, please say nay. Hearing none – thank you – that motion is carried.

Next, moving on to item 3, approval of the minutes. We have the draft minutes of our December 21, 2021, meeting. Are there any errors or omissions to note?

If not, would a member like to make a motion to approve the minutes? I see MLA Nielsen. Moved by MLA Nielsen that the minutes of the December 21, 2021, meeting of the Select Special Committee on Real Property Rights be approved as distributed. In the room all in favour, please say aye. In the room opposed, say nay. On videoconference all those in favour, please say aye. On videoconference all those opposed, please say nay. Hearing none. Thank you. That motion is also carried.

Moving on to item 4, American sign language interpretation. When the committee initially planned for public meetings, we discussed the feasibility of having American sign language interpretation for those meetings. After the LAO provided the committee with details on the ASL process, I believe there was general consensus that given the rural locations of most of the public meetings and the fact that there would only be an audio broadcast of those meetings, it might be most practical to have ASL interpretation during the Edmonton virtual meeting only. Now that we are in a position to hold our planned public meetings again, I just want to ensure that the committee members are comfortable with that direction.

I will ask at this time: does anybody have any questions in regard to American sign language and holding that for our Edmonton virtual meeting only? Ms Ganley, please go ahead.

Ms Ganley: Thank you, Mr. Chair. I just wanted to ask to be sure I understand what you're saying. I'm just wondering if someone reaches out and requests accommodation in that way whether there will be consideration given to providing it.

The Chair: At this point in time the general consensus, being the fact that ASL is of course something new that we are offering – I know that we had a more in-depth discussion. We wanted to utilize the Edmonton meeting as a catch-all and advertise it as being ASL friendly for that purpose, to allow anybody requiring that to be able to access that one meeting. For the rest of the public meetings, because of the rural audio and just the complications, we were just planning on the in-person Edmonton meeting only. Hopefully, that answers your question, MLA Ganley.

Mr. Nielsen: I think she dropped.

The Chair: I think we might have lost MLA Ganley.

I guess I'll move on to the other committee members. Are there any other questions or concerns regarding the format for ASL for the Edmonton virtual meeting only? We're looking for a general consensus here just to go ahead to getting that planning in place for that meeting. MLA Milliken, please go ahead.

Mr. Milliken: I just have one quick question, and I guess that would probably be to Ms Robert, perhaps. What's the turnaround time from having a public meeting, say, in St. Paul and then there being a *Hansard* transcript available online as well?

The Chair: Please go ahead, Ms Robert.

Ms Robert: Thank you, Mr. Chair. I suspect, and I hate to speak for *Hansard*, maybe 24 hours-ish depending on what else is going on in terms of other committee meetings. That's sort of what I suspect, but I stand to be corrected. *Hansard*, of course, is not here. I think that sounds reasonable.

The Chair: MLA Milliken, a follow-up?

Mr. Milliken: No. I think that seems to be in line with what we've seen previously, probably.

The Chair: Excellent.

Please go ahead, Ms Robert.

Ms Robert: I've just heard from *Hansard*, and they're saying that they are permitted two days usually, two business days, to get it produced.

The Chair: Excellent.

I did see MLA Sweet raise her hand. Did you still have a question, MLA Sweet?

Ms Sweet: Yes. Thank you, Chair. I guess I just want to get a little bit more clarity. So we're saying that we would only do ASL for the Edmonton meetings? Is there a rationale as to why we wouldn't want to make sure that accessibility is across every meeting that we're having? What is the rationale for that?

The Chair: I will maybe defer this over to Ms Robert again to speak about this a little bit, but there were some logistical issues just on how it would be performed, because it's never been done

before, and limited Internet and other areas. I will pass it on to Ms Robert for additional comments. Please go ahead.

9:10

Ms Robert: Thank you, Mr. Chair. Okay. I think the situation is this. Technically, yes, ASL could be performed for these rural meetings. The interpreter could be in the broadcast booth in the Federal Building listening to the audio. But, you know, there are concerns with rural Internet and that type of issue, but technically it could be done. The other option would be to have interpreters in the room, but of course since there's no video broadcast of the meetings, that means they would be doing ASL for the 10 or 15 people who are in the room as opposed to the audio broadcast.

So technically it's possible, but I think that where the committee was sort of leaning was that perhaps given all of these potential issues and the fact that there's no video broadcast of the meetings, perhaps advertising the Edmonton public meeting as the one that will have ASL would permit anybody in the province tuning in to that meeting to benefit from ASL.

Thank you, Mr. Chair.

The Chair: MLA Sweet, do you have a follow-up, or does that answer your question?

Ms Sweet: Thank you, Mr. Chair. I mean, I appreciate the barriers to making sure that there's accessibility. I guess my struggle is that if we're going to say that we believe that this is a service that should be provided – and I believe that it should be – I think making as much accessibility to the citizens of Alberta on this issue should be done. I appreciate that we're also not going to be live streaming the outside-of-Edmonton meetings, which I also struggle with a bit because of that accessibility.

I'll just leave it at that and just put it on the record that I think if we're going to talk about accessibility and making sure that it's available to all Albertans, that we try to put as many supports in place, but it's the will of the committee, so I'll just leave it at that.

The Chair: Thank you, MLA Sweet.

I see that MLA Ganley, I do believe, has rejoined us. She did drop off there and must have been experiencing some Internet issues. I'm just wondering, MLA Ganley, did you want to jump back in? You kind of got cut off there right in the middle. Please go ahead.

Ms Ganley: Yeah. Sorry, Mr. Chair. It kind of froze, and I missed most of what you said. All I wanted to check was that if – like, I think the way you're proceeding doesn't seem unreasonable to me. I just wanted to check that if someone specifically reached out and requested accommodation for whatever reason, that we would make the attempt to accommodate them.

The Chair: Duly noted, MLA Ganley.

Are there any other questions or concerns regarding ASL at this time? I will just open it up to the floor briefly.

I think that at this time, just so that we're clear and we've got clear direction on this, what we will do is – there was no formal motion put to the floor to this committee regarding the ASL, but at this time I think that, just to make sure that we're clear and that we are moving forward with the general will of the committee, it might be recommended that we look for permission to put a formal motion to the committee. Of course, we would need permission by the committee, through a vote, to be able to put that forward.

I'm just going to briefly pause for one second, just to make sure we get this right before we move ahead.

Sorry. Go ahead, MLA Milliken.

Mr. Milliken: Sorry. I'll just take the opportunity to then jump in to say that I would like to, if possible, move a motion from the floor, and I believe that we have to – it will be surrounding this idea of ASL, but I don't want to give it all away.

The Chair: At this point in time I think I'll open it up to the committee. Of course, this is a vote to allow a motion to be put forward regarding ASL. I see a hand raised. Just go ahead, MLA Ganley.

Ms Ganley: I'm sorry. What is the motion we are deciding whether we're going to allow to the floor?

The Chair: First, before we proceed, MLA Ganley, we have to vote to allow a motion to be proposed regarding ASL before we can move ahead with that motion. It has to be the will of the committee to allow a motion to be moved first before we can put the motion up.

Ms Ganley: But we decide that we're going to allow the motion before we know what the motion is?

Mr. Milliken: Allow to hear the motion. Two steps.

The Chair: We're just voting to allow to hear the motion. Based on the process that we have and motions having to be submitted, we have to vote first as a committee to allow a motion to be moved before we even move into that discussion portion.

Ms Ganley: No. I understand that. It's just been my experience in these committees that normally they read the motion, and then we vote to allow the motion, and then we vote on the motion.

The Chair: You know what? In that case, and just to accommodate, MLA Ganley, we'll just pause briefly and we'll just get some rough wording put around that to be able to post up for everybody to be able to look at, which I think is coming up right now. It should be on the screen. I'll allow just a brief second for everybody to review that, and then I'll go back to MLA Milliken.

Does this roughly represent the wording that you would propose for your motion, MLA Milliken?

Mr. Milliken: Yeah. It sounds like – it's my experience in these committees that when a motion is coming from the floor, the exact motion doesn't get necessarily put forward; it's a decision to hear that there would be potentially a motion from the floor, and then there'd be discussion surrounding that motion. That said – at least that's my interpretation of the standing orders – if given the opportunity to showcase it right away, that'd be great.

I guess what we have on the screen does, I think, represent in large part what I think I was going to move forward on a motion. Just for the record, then, I would move that the Select Special Committee on Real Property Rights provide for ASL interpretation of the Edmonton virtual public meeting on February 16, 2022. I note that, of course, this is just a vote to potentially hear it, and then I may have to read it into the record again for the purposes of the next vote.

The Chair: At this point in time we will pause before we can move into a discussion period on this motion. We do need a majority vote of the committee to be able to proceed. At this time I will say: all those in the room in favour of allowing a motion to be moved regarding ASL, please say aye. All those in the room opposed, please say nay. Virtually, all those in favour, please say aye. Virtually, all those opposed, please say nay. At this time, hearing none, that is approved.

I will move back to MLA Milliken to be able to give brief comments toward the motion, maybe read it out for the record, and which we can vote on formally and move forward. Please go ahead, MLA Milliken.

Mr. Milliken: Sure. Yeah. I would move that the Select Special Committee on Real Property Rights provide for ASL interpretation of the Edmonton virtual public meeting on February 16, 2022.

I think it's been stated in this that the Edmonton meeting would be used as I think the term was a catch-all, so I think it provides the opportunity to ensure that we make it as accommodating as possible given the circumstances.

Thanks.

The Chair: Excellent. Thank you, MLA Milliken.

Is there any further discussion on this motion?

Seeing and hearing none, we will now move to vote on this motion. All those in the room in favour of the motion as moved by MLA Milliken, please say aye. In the room, all those opposed, please say nay. Virtually, all those in favour, please say aye. Virtually, all those opposed, please say nay. Hearing none, that motion is carried.

We are now moving on to item 5, private citizen written submissions. We will go on to 5(a), late submissions. Hon. members, the committee passed a motion on May 31, 2021, soliciting written submissions from the members of the public. The submission period was open for a period of four months, from June 15 to October 15. During that time the committee received a total of 28 submissions from the public. There was one late submission received on October 19, four days after the deadline. I'm just going to open this up and ask a general question. Does the committee wish to accept this late submission? I will just open it up to some discussion.

I see MLA Nielsen has raised his hand. Please go ahead.

9:20

Mr. Nielsen: Thanks, Mr. Chair. You know, I think it's one thing if a submission was showing up months late; we're talking about days here. I don't see that there's a problem with accepting one, single submission that was four days late, so let's just accept it.

The Chair: Excellent. Thanks, MLA Nielsen.

Now I see MLA Milliken. Go ahead.

Mr. Milliken: I'll just say: ditto.

The Chair: That was the quickest ever response to that.

I'll briefly pause and see if anybody on videoconference has any comments regarding late submissions.

Seeing and hearing none, it appears that there is general agreement unanimously across the committee in this matter. If, of course, that is the will of this committee, which it appears to be, we will accept that late submission.

We'll now move on to item 5(b), decision on making written submissions public. The committee should also now consider whether these written submissions from private citizens will be made publicly available. This is a common practice with this type of review. At our July 8, 2021, meeting the committee passed a motion to make the invited stakeholder submissions public. Those are available on the committee's external website. When the committee solicited written submissions from the public, the advertising clearly stated that submissions may be made public. The submission form also required the submitter to check a box to acknowledge their understanding that the submission may be made

public prior to completing their submission, so submitters were aware of this possibility when they did submit.

With that said, is there any discussion with regard to the matter of making the written submissions public? MLA Nielsen, go ahead.

Mr. Nielsen: Yeah. Thanks, Chair. Yeah, we should, you know, make them public. I think it helps to feed a broader discussion, it gives folks a bit of a look at other sort of personal situations, how that might relate to their own and things like that, and I think it just allows for a better discussion overall. So I would certainly encourage folks to, yeah, allow those submissions to be made public.

The Chair: Excellent. Thank you, MLA Nielsen.

Now I see MLA Milliken. Please go ahead.

Mr. Milliken: I think I'll take the opportunity again to just say: ditto.

Do we need to do a formal motion with regard to this? If we have maybe some draft wording, or I could try to do it on the fly.

The Chair: We'll just pause briefly. I do believe there is a draft motion regarding this, that is coming up on the screen. MLA Milliken, is it your intent to move this motion?

Mr. Milliken: It would be my intent to move this motion. I can read it in really quickly, the way we did it last time.

The Chair: Please go ahead.

Mr. Milliken: That

the Select Special Committee on Real Property Rights make the written submissions received from private citizens available to the public, with the exception of portions which contain personal contact information other than the name and location of the submitter or personal information about an identifiable third party.

The Chair: Excellent. Thank you, MLA Milliken.

Is there any further discussion regarding the motion moved by MLA Milliken?

Seeing and hearing none, I will now propose to the committee to vote on this motion moved by MLA Milliken. All those in favour in the room, please say aye. In the room opposed, please say nay. On videoconference, all those in favour, please say aye. On videoconference, all those opposed, please say nay. Hearing none, that motion is carried.

We are now moving on to item 6 on the agenda, research services crossjurisdictional comparison. At our September 10 meeting the committee directed research services to prepare a crossjurisdictional comparison on expropriation legislation across Canada. That report has been posted on the committee's internal site for members to review.

I would now like to invite Dr. Niemi-Bohun to provide an overview of the document. Please go ahead.

Dr. Niemi-Bohun: Thank you, Mr. Chair. Good morning, everyone. Thank you for the opportunity to present research services' crossjurisdictional review of expropriation legislation. I will keep this kind of introduction to the document at a very high level. In the interest of making useful comparisons for the committee, research services has taken a particular approach to the committee's research assignment. This document surveys Alberta's Expropriation Act and compares its provisions, where possible, to those in British Columbia and Ontario, and we've provided some annotation throughout.

Ontario's legislation is of interest because it was recently amended, in 2020. British Columbia's is of interest because their legislation includes regulations that contain a tariff and scale of cost for legal fees and real estate appraisals, which the committee can find in appendix A, starting on page 32.

The document has four main sections: definitions, procedures for expropriation, compensation, and procedures for compensation. In the first section of the document, which starts on page 6, the document explains how each jurisdiction defines the following terms: expropriation, expropriating authority, approving authority, landowner, tenant, and tribunal. Here it is worth noting that in British Columbia there is no longer an equivalent to Alberta's Land and Property Rights Tribunal. Rather, in British Columbia the B.C. Supreme Court deals with expropriation and compensation matters.

Turning to the second section of the document, titled Procedures for Expropriation, you will see in section 3.0, starting on page 10, that each jurisdiction sets out processes for expropriation that must be followed. We have noted here that these processes are broadly similar in each jurisdiction. Our document explains in detail the processes that must be followed in Alberta in order to provide the committee with context for the discussion that follows with regard to Ontario and British Columbia.

Section 4.0, which begins on page 16, addresses compensation. Here the document defines the concept of market value in each jurisdiction. It then turns to the provisions that are set out in legislation for various circumstances such as land that has a building used for a specific purpose, land that includes a residence, partial expropriation, damages attributable to disturbance, and business losses, among some others. Now, here, where possible, and throughout the document, similarities and differences among the three jurisdictions are noted throughout the section.

Section 5.0, which can be found beginning on page 26, covers the procedures for compensation. This section discusses proposed payment and appraisals, interest payments, appeals, and reversion of expropriated interest. For ease of reading for the committee, we have included both footnotes and statements in bold to draw your attention to some of the differences and similarities between the jurisdictions with respect to expropriation legislation.

We hope you will find the document helpful. Thank you very much.

The Chair: Well, thank you so much for putting this important information together. This is a very in-depth document that I think will provide some great guidance to the committee. Thank you for all your hard work on putting that together and being here today to give us an overview on this.

I will now open it up to the floor for questions from committee members. I'll also note that we do as well have representatives from Justice and Solicitor General here as a part of the committee's previous motion to have continued technical support throughout our review. I will just pause now and see if there are any questions or concerns that any committee member would like to bring forward. So I'll just pause right now. I see MLA Nielsen first.

9:30

Mr. Nielsen: Thanks, Mr. Chair. Thanks for the overview of that. One of the things I saw – maybe it's a little bit of a recurring theme – is that it seems that things are getting aimed towards the court system in the other jurisdictions. I don't know if you know the answer to this. Are there court costs that would be associated to individuals that, I guess, end up having to go through that process? Like you had mentioned, in B.C. now the Supreme Court is dealing with expropriation.

I guess my concern is that, you know, when Albertans are looking to see what this process should look like, if their option is going to be to go through the court system and that's going to start to cost them potentially a lot of money, I think that's cause for concern, so I'm wondering if you know any information.

Dr. Niemi-Bohun: In terms of the costs, appendix A does have the tariff of costs that British Columbia uses, but I would also maybe ask the technical experts at Justice. They might want to chime in because they would have the more in-depth legal training.

The Chair: And I think at this time it is appropriate that we will just see if Ms Kelly Hillier or Ms Lisa Tchir want to comment. I see Kelly Hillier. Please go ahead.

Ms Hillier: Good morning. The expropriation legislation in Alberta currently leaves the cost for expropriation on the expropriating authority. I'm not familiar with how cost breakdowns happen in B.C. aside from the fact that, as was just stated, they do have a tariff of costs and fees, which really puts a cap on how much things can cost and how far things can go. Alberta doesn't have a cap such as that. So, presumably, I have no reason not to think that it's not also the expropriating authorities in B.C. that are also paying for any costs associated with expropriation.

The Chair: Thank you, Ms Hillier.
MLA Nielsen, do you have a follow-up?

Mr. Nielsen: No, I don't.

The Chair: No follow-up.
I see a hand raised. MLA Ganley, please go ahead.

Ms Ganley: Thank you, Mr. Chair. I just wanted to ask: why the particular focus on B.C. and Ontario? I'm just curious. I'm reaching back in the past now, but I think the land titles system in Ontario is sort of, say, less similar to the one we have here than, like, Saskatchewan or Manitoba or similar jurisdictions. So I'm just curious why the focus was on those particular two jurisdictions.

Dr. Niemi-Bohun: With our approach to this document given the complexity of expropriation legislation across Canada, we decided to choose two jurisdictions that had some – with Ontario particularly, because it was recently amended, we felt that those changes could provide some insight for the committee to consider. And then with British Columbia, because it had that tariff of costs, again we felt that that could be helpful for the committee to consider in terms of differences. If the committee is interested in further jurisdictions, we, of course, are happy to provide additional research for the committee.

The Chair: MLA Ganley, do you have a follow-up?

Ms Ganley: No. That's fine.

The Chair: Are there any further questions at this time?

Seeing and hearing none. As there are no more questions, I would first like to thank Dr. Niemi-Bohun for your presentation and the crossjurisdictional comparison. I'd also like to thank Ms Tchir and Ms Hillier for attending this morning and answering some questions for the committee.

At this time we will now move on to agenda item 7, other business. Are there any other items that members would like to discuss today?

Seeing and hearing none, moving on to item 8, date of the next meeting. The next meeting will be our virtual public meeting next Wednesday, February 16, 2022.

Agenda item 9, adjournment. If there is nothing else for the committee's consideration, I'll call for a motion to adjourn. Moved by MLA Milliken that the meeting be adjourned. All those in the room in favour, please say aye. In the room opposed, please say nay. On videoconference all those in favour, please say aye. On videoconference all those opposed, please say nay. Hearing none. Thank you. That motion is carried.

Thank you, everyone. Please remember to clean up any drinks and other items as you leave. This meeting is adjourned.

Thank you.

[The committee adjourned at 9:36 a.m.]

