

Land bill enrages Alberta owners

Bill 19 would enable province to freeze farmers' property without compensation

BY DARCY HENTON, THE EDMONTON JOURNAL MARCH 8, 2009

A new bill that will make it easier for the province to assemble land for major public projects has lawyers and landowners seething.

News of Bill 19, the Land Assembly Project Area Act, is spreading like wildfire across the province where landowners are already skittish of interlopers as a result of experiences with the oil and gas industry.

"If I said it looks like communism, would you know what I meant?" asks Dalton Trenholm, 71, who scrutinized the bill Saturday after downloading it on his computer. "There is nothing in here that will stop the government from putting in whatever it wishes - and that's what concerns me."

Trenholm, past president of the North Central Surface Rights Association, said landowners are scrambling to try to understand the bill and its ramifications as debate on it begins in the Alberta legislature this week.

Lawyers say the landowners have good cause to be concerned.

"Hugo Chavez has arrived at the Alberta legislature," said lawyer Keith Wilson, referring to the controversial Venezuelan president with a penchant for nationalizing private corporations.

Wilson said the bill punishes people already making a sacrifice because their land is in the way of required public development.

"If they don't fix it, people will be outraged," he predicted. "There will be legal challenges and charter challenges."

Lawyers say the bill allows the government to slap a development restriction on anyone's land for an indefinite period without compensation.

"It just scares the bejesus out of me," says lawyer Jennifer Klimek. "The fact that some government can sterilize my land while they decide what to do with it is just wrong."

Liberal critic Hugh MacDonald says the bill appears to give the government the green light to snap up any land it wants for anything from a pipeline to an irrigation canal or transmission line.

"Essentially this is enabling legislation to enable the minister and cabinet to do what they want, when

they want, regarding land acquisition," he said.

Wilson said landowners who want to expand their farms or businesses could be prevented, without compensation, from doing that for years -- maybe decades or "even 999 years."

"You will put your life on hold," he said. "You will be living through uncertainty. Who will buy your house or your land if it is under a control order? If, at the end, the government decides not to go ahead with the project, you get no compensation. If it does go ahead, all you get is market value."

Wilson says it's not so much what is in the bill that's problematic -- it's what is missing. He says there should be a limit on how long the province can restrict development on the land and a clause that allows the government to renew for another time period, but at each renewal, the landowner should receive additional compensation.

Lawyers say the bill is so one-sided it looks like it was drafted without any consultation with landowners.

Terry Bokenfohr, whose family has farmed northwest of St. Albert for more than a century, says the bill appears to be "heavy-handed."

"It would seem to me that the government already has the ability to expropriate land if there is a public need and that this is an effort to stifle all opposition or any ability of the landowner to preserve his property rights or operate his business."

Bokenfohr, 56, is facing the prospect of a six-lane highway crossing his farm. He said if the bill was drafted to steamroll landowners, it is "a grave abrogation of personal rights and freedoms."

Alberta Green Party leader Joe Anglin, who spearheaded landowner opposition during the first hearings into the Edmonton-Calgary 500 KV transmission line, called the bill "one of the most draconian attempts to streamline the expropriation process of private property known to a democratic society."

Bill 19 makes it legal for any cabinet minister to take away anyone's home, land or property "for pretty much any reason they so desire," he said.

"If the minister thinks you are going to contravene his or her orders, they can order you to stop what they think you are going to do, and if you don't stop what they think you might do, they can put you in jail."

The bill carries heavy penalties for people who break regulations. Violators face fines of up to \$100,000 or up to two years in prison or both while corporations can be fined up to \$1 million.

But Infrastructure Minister Jack Hayden said the bill is intended to make the process of acquiring land

more open and is not intended as "any sort of heavy move on anybody's land."

"This has nothing to do with those type of concerns," he said. "This legislation is a far more open process that gives us the ability to negotiate with people a long way down the line. It's a more open, transparent situation."

Infrastructure spokesman Stuart Elson said the bill requires that plans for major public projects are developed and publicly released well in advance. It also requires consultation with landowners before their land can be acquired.

"We can't go ahead with the project until the landowners have been consulted," he said.

Elson said some improvements may be made on land once a control order is in place, depending on the permanence, size and location of the planned improvement.

He added that the province did consult on the bill with groups like the Alberta Urban Municipalities Association and Alberta Association of Municipal Districts and Counties and the Cities of Edmonton and Calgary.

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