

ONTARIO PROPERTY AND ENVIRONMENTAL RIGHTS ALLIANCE

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2010 OPERA ANNUAL REPORT

To: OPERA Members and Supporters

From: Bob Fowler, OPERA Secretary

Date: May 21, 2011

Re: Coalition Annual Activity Report

Launched in August, 1994 by a coalition of business associations, landowner groups and concerned citizens, OPERA is mandated to publish government policies that impact use, mortgage worth and market value of privately owned land and to provide its members and supporters with relevant comment and reports. In this, its 17th consecutive year of operation, our organization continues in that mandate through formal submissions, electronic networking, direct mail, Internet postings & collaboration with other like-minded landowner groups across Canada.

Some 2010 – 2011 Examples:

- filed 15-item critique of Greenbelt Plan Draft Performance Monitoring Framework with Ministry of Municipal Affairs
- provided members & supporters with copies of OPERA public Information Bulletins to municipal councils across Ontario
- circulated mandate & invitation-only meeting protocols of Committee on Status of Species at Risk in Ontario (COSSARO)
- filed 5-item submission relating land ownership to Open for Business Initiative (Ministry of Economic Development)
- prepared & circulated overview analysis of excessive land use regulations by multiple provincial government agencies
- registered 5 serious Provincial Policy Statement structural flaws with the Ministry of Municipal Affairs (attached)
- distributed Information Bulletins to municipal councils supporting review of Ontario's 36 Conservation Authorities
- focussed political attention on lack of landowner representation on the Board of the Oak Ridges Moraine Foundation
- alerted Ontario municipalities to social & economic effects of the Endangered Species Act (ESA) on privately owned land
- circulated analysis of ESA impact on lives & property of private landowners published by the George Morris Institute
- assembled e-mail contact list of Ontario print media editors for selective distribution of OPERA material
- assisted with preparation & delivery of power point presentation describing Ontario landowner organizations & issues
- supported disclosure & protest of NGO efforts to induce legislation that would exempt their activities from legal challenge
- networked with Alberta landowner movement & its legal advisor re: government statutory deceptions in that province
- attended exploratory meetings re: Land Patents as a legal tool to challenge excessive government land use statutes
- up-dated OPERA municipal council contact list (362 separate addresses) based on 2010 Ontario Municipal Directory
- posted interim material to "OPERA On Stage" web page and retained previous documents on the "Archives" sub-page

"to protect, and entrench in law, landowner rights and responsibilities"

In 2010 OPERA submitted to the Ontario government five issues arising from politically motivated shifts in Provincial Policy Statement (PPS) that erode public confidence and trust in Ontario's land planning system, an integral part of the PPS, as follows.:

1. Accountability:

Problem: Land use planning is part of the PPS and therefore a responsibility of the Minister of Municipal Affairs and Housing but several other Ontario Ministries (i.e. Agriculture, Environment, Natural Resources, etc.) each maintain extensive land planning bureaucracies as well. The aggregate cost and collective performance of these duplicated fiefdoms is never published and any of their decisions can be arbitrarily overruled by the MMAH Minister under Section 3 of the Planning Act, a dangerously narrow concentration of veto muscle.

Resolution: Remove land use planning and Ministerial veto from the PPS and provide an annual listing of every provincial agency that employs personnel and consumes public funds in that activity, ensuring the overview includes name and title of management and staff assigned to land use planning in each such agency.

2. Clarification

Problem: Multi-agency land use planning with its attendant blizzard of documentation subtly introduces code words and phrases that speak to greening landscapes but conceal steady attrition of democratic rights and freedoms. "Protection" of "natural heritage" by "stewards" and "stakeholders" doesn't offer definitive translation/explanation of those terms. Nor do they acknowledge the pervasive reality and less benevolent sub-text of provincial statutes that compel affected landowners to cede economic control of their private property to the Ontario government without advance notice, appeal or compensation.

Resolution: Publish a composite government glossary of words and phrases frequently employed in provincial land use planning and include the dictionary translation for each. Random examples of language that obscures intent and consequences are listed above. We suggest "natural heritage" can mean anything senior bureaucrats want it to mean, "strict liability" is sly legalese for guilty until proven innocent and "due diligence" translates as implied expectation that alleged offenders will pre-plan their legal vindication and fully cover stratospheric witness and research costs thereby accruing.

3. Communication:

Problem: The Queen's Park assumption that Internet dialogue provides sufficient public consultation and language of maximum elasticity such as "stakeholder" and "the common good" ensures adequate public awareness is completely erroneous. In fact, unsuspecting and uniformed Ontario taxpayers wrestle every day with land use statutes that evade the rule of law, violate natural justice and deny right of appeal or compensation.

Resolution: Issue detailed media announcements of each legislative enactment that affects private property (mandatory Ontario Hydro public notices are a case in point), including a complete menu of penalties awarded for alleged neglect, violation or non-compliance, and enclose that information in annual municipal tax assessment notices supported by interim circulation in various print media and commercial publications.

4. Equality:

Problem: Not only is land use legislation in Ontario extensively influenced by organized cartels of powerful Non-Government Organizations (NGOs) but, within the hugely profitable environmental industry, some of those groups “win” government consultant contracts. At the same time their executives enjoy revolving-door appointments to provincial boards, commissions and think-tanks that further dilute the shrinking economics of private land ownership in the name of ecological preservation.

Resolution: Appoint to each provincial land use board, committee and tribunal a bona fide, non-Aboriginal private landowner for every delegate representing an NGO directly or indirectly receiving public funds and annually publish the corporate identity and Board of Directors of those organizations together with a listing of land use issues to which each provided advice and counsel over the preceding 12 months.

5. Perception:

Problem: Land use planning “adjustments” under the umbrella of a PPS Review are ideologically driven by the political party (and its stable of bureaucrats and consultants) forming the government of the day. Further, a PPS review every 5 years imposes heavy costs and administrative grid lock on all municipal Official Plans in Ontario. Meanwhile, no PPS review or its land use planning segment has ever included a provision for compensation to private landowners who sustain equity and/or production losses arising from statutory “partial takings” of their property. Finally, no edition of the PPS has ever been independently evaluated for performance and effectiveness or subjected to an impartial cost-benefit analysis.

Resolution: Terminate preparation and circulation of a PPS, a highly politicized expression of ever-changing provincial strategies, and either properly co-ordinate land use planning through multiple agencies or, preferably, assign exclusive authority and responsibility for that indispensable function to a single Ministry. In either case, pending ratification of statutory land ownership rights by the Ontario legislature, the Planning Act as well as all statutes and protocols to which it relates will each benefit from an opening Preamble assuring Ontario citizens that the document being presented is not designed or intended to circumvent the Expropriation Act nor reduce mortgage worth or market value of affected lands without individual notice, advance consultation and, where indicated, capital compensation for production and/or equity loss thereby imposed.

Overview

Every sector of the Ontario economy is negatively affected by well-intentioned but clearly unbalanced land use planning. Moreover, this essential government initiative has been prostituted over the past 40 years by special interests whose obsessive opinions are retailed as proven science and whose program funding, official or otherwise, is too often nourished by political complicity. The resulting labyrinth of repetitious make-work studies and assessments followed by layers of multi-agency regulations provides employment and indexed pensions for legions of public servants while ensuring a bright and prosperous future for their favourite NGOs.

But it also frustrates small business start-ups, impoverishes rural communities, creates social and economic tension, undermines municipal government, demeans private enterprise, shrinks foreign investment, increases unemployment and multiplies Ontario debt and interest charges. Amid current and growing evidence of corruption and enormous waste in some provincial agencies, the millions of taxpayer dollars showered on ballooning bureaucracies and special interest consultants living on the avails of land use planning demand not only a public accounting but also stricter parameters of transparency and an end to regulatory over kill.

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