

REGULATION TRUMPS PRESCRIPTION

From: R. Fowler
Sent: Monday, June 24, 2013 11:52 AM

To: joanne.osborne@ontario.ca
Subject: ER. 011-9021

MS. OSBORNE:

A recent MNR e-mail advises cancellation of a Habitat Regulations public meeting owing to lack of "stakeholder" interest.

An "umbrella" response to five EBR postings, including subject ER file, relates to species at risk bulletins dated May 31 last. The views expressed in that response are not intended to convey lack of interest but, rather, a continuing and dispirited frustration with the MNR charade called "public consultation".

May we suggest, with respect, that MNR's satellite ESA 2007 empire might find the following media excerpt provocative and, in view of dwindling trust and growing resentment that legislation arouses among the unwashed masses, vaguely disquieting.

From the June 14, 2013 Issue of Maclean's Magazine

Excerpt from comments of Niall Ferguson, one of the world's prominent historians, author, Harvard professor and Oxford Research Associate, on the decline of Western society.

"I argue we have fallen into the trap of believing that very, very complex laws addressing every conceivable contingency are good. But, in fact, common law systems in England and North America were once highly conducive to economic innovation because they adapted, they were evolutionary rather than prescriptive.

We have slipped into what I call codification mania, a very dangerous road to go down, leading to the rule of law being replaced by the rule of lawyers because the rules are no longer transparent or simple, nor is the access to justice relatively easy. I think it's one of the unintended consequences of the regulatory pathology. If you create these enormous edifices of regulation, as well as choking growth, you make it so all people have to do to stay out of jail is to be compliant.

They don't have to necessarily do the right thing; they just have to say "we complied with the regulations". And then, if there's any further issue, there's a civil suit and you pay your \$100 million fine and carry on".

Prescriptive? Codification mania? Rules no longer transparent or simple? Access to justice not easy? Regulatory pathology? Enormous edifices of regulation? All people have to do to stay out of jail is to be compliant?

It would be hard to imagine more appropriate language to describe government lust to control private lives and property in the overworked name of environmental security, an ominous psychosis clearly revealed in Ontario's Species at Risk Act as well as in numerous other provincial land use statutes.

R.A. (Bob) Fowler, Secretary
Ontario Property and Environmental Rights Alliance