

LAND USE COUNCIL

“advocating social, economic and environmental balance in government legislation affecting land”

July 27, 2009

RE-VISITING ONTARIO’S GREENBELT ACT

Introduction:

The following commentary is submitted by the Land Use Council, a non-partisan “umbrella” coalition founded earlier this year under a collective mandate that includes publishing the results of government land use policies as well as documenting their history and precedents.

Preamble:

Ratified by Queen’s Park in June, 2005, the Greenbelt Act transfers economic control of some 1.8 million acres of land, much of it privately owned, to the provincial government. During a year of deliberations by a Greenbelt Task Force preceding that massive re-distribution of wealth a few open meetings and even fewer invitation-only workshops were convened which were later claimed to qualify as “extensive public consultation”. At most of them, private landowners and, later, several Ontario municipalities, expressed confusion and resentment with respect to Task Force bias and the Act’s sweeping reach and grasp combined with its covert manipulations and obvious imperfections.

These protests, seldom acknowledged and never properly addressed, were overwhelmed at the outset by an 80-member Greenbelt Alliance determined to impose Greenbelt sovereignty over multi-thousand acres of private property. The shared vision of that powerful cartel were thereafter entrusted to the Task Force, an unelected tribunal chaired by a prominent local politician often associated with merchandising provincial land use edicts but less often sympathetic to their negative consequences.

Issues:

Many worthwhile objectives, positive outcomes and long term benefits are extolled in the soaring rhetoric of the Greenbelt Act. Indeed, who would argue against limiting urban sprawl, protecting the environment and preserving farm land? The process by which Ontario bureaucrats and their favorite lobbyists think to achieve these noble goals is, however, not only questionable but fundamentally unfair.

Following ratification, the Act was described as “science based” and “economically neutral”, assertions that were never confirmed, then or since, by any impartial work, peer-group approval or established facts. True, last year both Environmental Defense and the David Suzuki Foundation, leading Greenbelt Alliance members and subsequent beneficiaries of Greenbelt government funding in the amount of \$600,000 and \$120,000, respectively, either claimed or completed research said to demonstrate inherent economic wisdom of the Greenbelt Act. The former claim has never been authenticated by a named author or by date and place of publication while the latter Paper magically translates alleged benefits of biodiversity into increased monetary value of affected lands.

Meanwhile, a thoroughly professional and heavily foot-noted 2008 review of actual Greenbelt land values by Professor Vynn, Ridgetown campus, University of Guelph, states that 63.5% of farm assets consist of land and that the per acre commercial value of some green belted properties has decreased as much as 60% since 2006.

Concerns:

By any measure, whether in the short or long term, the Greenbelt Act affects every sector of Ontario's economy. Of these, agriculture is clearly the target most permanently impacted since the legislation is basically aimed at government control of land, the major production and equity asset of Ontario farmers. Nonetheless, all "green belted" landowners share the same toxic mix of statutory poison pills. First, the Act specifically denies any right of appeal. Second, it also denies the right of capital compensation for proven losses arising from its implementation and enforcement. Thirdly, it includes the entire Escarpment from Niagara Falls to Tobermory as well as so-called Protected Countryside; presumably any government-designated real estate outside defined Greenbelt boundaries and/or future east-west transportation corridors.

In addition to these structural decrees, Queen's Park is now blending enforcement of the Greenbelt Act and Niagara Escarpment Act with the Species at Risk Act and the Source Water Protection Act, neither of which provide right of appeal or capital compensation either.. Further, its believed these merged constraints will shortly appear in the Planning Act and the Provincial Policy Statement where use of private land, including recently strengthened "natural heritage" regulations, is dictated to municipal taxpayers through local Official Plans that must be endorsed in advance by Queen's Park Thus green belted farmers face the prospect of multiple encumbrances, called "designations" in government Newspeak, arbitrarily imposed on their freehold to protect for public benefit at no charge the environment, species habitat, drinking water and areas of natural and scientific interest with no official expropriation process, no right of appeal and no capital compensation.

To manipulate use, title, mortgage worth and market value of private property by regulation in this manner is a contractual violation of original land patents, a flagrant betrayal of democratic governance, an inexcusable affront to natural justice and, in the circumstances at hand, an indefensible exercise in Big Brother subterfuge.

Meanwhile, a 2007 seminar on the Places to Grow Act was told by provincial officials that an additional 4 million people are expected to emigrate to greenbelt country and surrounding areas within the next 10 years. Against today's labyrinth of protectionist regulation, perhaps resulting devaluation of farm land will, in effect, justify massive development for tomorrow's population explosion. But only after lives and property of private citizens who now own "protected" lands have been irreparably degraded.

Recommendations:

The provincial government has cleverly written the Green belt Act to differentiate between the taking of uses and the taking of possession, thus allowing it to claim that compensation is not appropriate. This legislative sleight of hand ignores the moral imperative of fairness. Devaluing private property may be legal but it's not right, ethical or justified. Accordingly, the Land Use Council urges the Ontario government to:

1. Immediately establish an impartial Commission with a minimum 25% representation of affected property owners to monitor Greenbelt land values using 2003 as the base period.
2. Develop a Compensation Program to purchase and re-sell, possibly as no-tax transactions to compensate for present injury, lands of retirement-age individuals unable to dispose of their holdings at a reasonable price because of Greenbelt legislation.
3. Immediately amend the Act to provide right of appeal, capital compensation for production or equity losses and intervener funding for landowner appellants.
4. Suspend further implementation of the Act for 2 years to allow proper circulation of relevant regulations thus encouraging Greenbelt owner feed-back to widely advertised public meetings.
5. Include in the Act a provision for a regularly up-dated list of named bureaucrats, lobbyists and special interest consultants appointed to any board or tribunal that later administers the Act.

Postscript:

Existing Greenbelt legislation will not protect agricultural land because it does not protect farmers. Nor will it provide urbanites with a free “green” park because promised ecological and tourism benefits largely relate to privately owned land. Given government disdain for its land patent contractual obligations as well as the whole principle of private land ownership, its unlikely unauthorized visitors to green belted land will be welcomed by its legal occupants. Indeed, hiking trails, wild life corridors, fishing privileges, etc. can only be legitimately developed if the Ontario government purchases selected properties at pre-Greenbelt market prices or negotiates paid easements with willing owners or requires all visiting users to pay a fee to co-operating landowners.

The Land Use Council respectfully submits this commentary in hopes the Ontario government will initiate careful review of all matters noted herein. To that end, we believe widely advertised and impartially reported public meetings, not contrived seminars designed to create the illusion of consensus where none exists, are absolutely necessary and long overdue.

R.A. (Bob) Fowler, LUC Communications
Phone: 519-323-2308 / Fax: 519-323-0289

The Land Use Council is a public service consortium sponsored by the combined memberships of:
Food Chain / Halton Region Federation of Agriculture / Ontario Landowners Association
Ontario Property and Environmental Rights Alliance / Peel District Federation of Agriculture

E-Mail: landusecouncil@gmail.com

Web Page: www.landusecouncil@gmail.com
