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"EXTORTION BY STATUTE"

An overview of Ontario legislation that circumvents the provincial Expropriation Act as well as Canada's Charter of Rights and Freedoms and, in the process, transfers economic control of private property to the state without appeal or compensation.

by

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Upon enactment of the Niagara Escarpment Planning and Development Act 40 years ago, John White, the then-current Treasurer of the Ontario government, remarked that purchasing private land of provincial significance was no longer necessary because simply regulating its use by government edict was so much easier and cheaper. Those few words established the political mind set, philosophical foundation and regulatory excesses reflected in Ontario land use planning over the past 4 decades.

Under successive Ontario administrations, provincial Ministries and their sprawling sub-agencies, related bureaucracies and favorite lobbyists have embraced the concept that privately owned land is, in fact, a public resource. And in subjecting a prime personal asset of Ontario citizens to "partial taking" by regulation without compensation, Queen's Park finds motive and opportunity in two inter-connected factors. First, the hugely profitable environmental industry is willing witness, if not dedicated promoter, of social and economic injustices that inevitably arise from statutory tinkering with private property. Secondly, privately owned land devalued by predatory legislation is mostly rural land whose owners are outnumbered, outgunned and outvoted by an urban majority largely unaware and generally uncaring of land use discrimination "down on the farm".

The provincial Planning Act is part of Ontario's Provincial Policy Statement (PPS), an elasticized strategy document ideologically attuned to whatever political party is managing the government of the day. Under the Act every municipal Official Plan (OP) must abide by whatever planning dictums are introduced in the politically biased PPS. For municipal authorities and their landowner constituents here lies the root of a huge and costly problem. Content and objectives of the PPS and its related Planning Act routinely shift with every wayward political wind. And the colossal, but never disclosed, expense of constantly adjusting local OPs to accommodate fresh layers of provincial land use rules are downloaded to municipalities from where its later directed, as usual, to over-regulated, over-taxed local ratepayers.

Together these realities provide fertile ground for invasive legislation that is, from the perspective of private landowners, patently unfair, unbalanced, unethical and possibly illegal. Some examples:

1. The Green Energy Act initially specified that only the omnipotent provincial government could decide where and when wind farms would be installed. Thus, by refusing useful input from targeted municipalities at the outset and thereafter ignoring legitimate protests on behalf of their predominantly rural voters, a groundswell of public protest later compelled Queen's Park unelected bureaucrats to first validate site location, if any, of wind turbines through public debate with both elected municipal councils and directly affected landowners.

2. The Greenbelt Act violates, by regulation, common law and Charter property rights. Although drafted with participation of some, mostly urban, Ontario municipalities, it represents a massive re-distribution of wealth through manipulation of mortgage worth and market value of almost 2 million acres of Ontario land, a lot of it rural and most of it privately owned. Before precluded ratification of this Act, advance petitions of support were widely circulated by a so-called Greenbelt Coalition said to include 80 private sector lobby groups recruited and led by the Canadian subsidiary of Environmental Defense, a giant, U.S. based environmental Non Government Organization (NGO).

Comment: Environmental Defense has since enjoyed political recognition, if not covert public funding, in Ontario and, indeed, across Canada. Seen as a major advocate of private land devaluation via government regulation, its current Executive Director is reported to lead the anti-pipeline movement in British Columbia. Its former Executive Director is now the CEO (compensation unknown) of Friends of the Greenbelt, an unelected tribunal entrusted to scatter millions of dollars in provincial funds among Greenbelt promotional initiatives pre-approved by its partisan Board alone.

Between 2006 and 2011 Friends of the Greenbelt divided $2,443,000.00 of taxpayer money among seven NGOs who were active members of the Greenbelt Coalition (all with charitable tax exempt status). Of that total, the leading Greenbelt "friend", Environmental Defense, is believed to have pocketed $1,650,000.00.

3. The Endangered Species Act was, under Ivey Foundation sponsorship, entirely composed by a cartel of professional lobbyists - Environmental Defense, EcoJustice (Sierra Club), David Suzuki Foundation, Ontario Nature and the Wilderness Society**.** Under this Act named species of plants, animals, fish, birds and bugs, together with each of their permanent and/or temporary habitats, are declared endangered by an unelected panel, the Committee on Status of Species at Risk in Ontario. But responsibility for actual on-the-ground species and/or habitat protection is assigned to owners of the land on which either or both are allegedly found. Thus are rural folk press-ganged into becoming unpaid custodians of named wildlife claimed to be living on or migrating over their land. Meanwhile, Section 40 of the Act prescribes mega-buck fines and lengthy jail sentences for anyone who fails to comply with the conditions of enforced species so recorded in municipal tax records. When selling this subtly encumbered property, its owner is legally obligated to disclose that designation, which in all but name is a government lien, thereby reducing its mortgage worth and market value.

   Between 2007 and 2012 Endangered Species administration consumed $80 million taxpayer dollars, identified 441 (and counting) allegedly fragile species and designated 18 ¼ million acres of privately owned land across Ontario as their protected habitat. These and other statistics were recently provided on request from the ESA office. They point to a ballooning corporate dimension with stratospheric public service costs to match.

Comment: Some 18 months after the self-proclaimed Save Our Species (S.O.S.) cartel wrote the Endangered Species Act in its entirety, the Ontario government introduced the legislation as an MNR invention. But a coincidental Internet posting confirmed that the environmental activists noted above first drafted the Act in 2005-2006. Its also reported corporate members of S.O.S. were named on the Greenbelt Coalition roster, on Friends of the Greenbelt Board of Directors, on the beneficiary list of Greenbelt funding and on a 2011 government petition to discredit private sector legal proceedings against environmental initiatives. From this it can be reasonably deduced unelected lobbyists create provincial land use policy and, to support their view of the world, later become, for example, official Greenbelt trust agents responsible for dispersing, over 5 years, a $25 million government gift in 2007and another 20 million in 2012.

SUMMARY:

Every sector of Ontario's economy is affected by the Provincial Policy Statement and by the Provincial Planning Act with its vast codification that often ignores, whether by accident or design, common law principles of private land ownership. Unfortunately, this ever-changing mosaic of Queen's Park strategies has been influenced over the past 40 years by special interests whose obsessive opinions are retailed as proven science and whose mandate and funding are too often nourished by political complicity. The resulting labyrinth of repetitious make-work assessments and studies followed by layers of multi-agency regulatory red tape provides employment and indexed pensions for legions of public servants while ensuring a bright and prosperous future for their favorite NGOs.

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