

Protecting property rights involves every homeowner

Each year the Ontario Real Estate Association sponsors a week to celebrate the right to privately-owned property.

This year, communities across Ontario are being invited to celebrate in "Ontario Home Week", Sept. 24-30. While celebrating the joys of home ownership, the week will also stress the value of private property.

Property rights are part of this country's heritage. People came to Canada seeking the right to own and use property — something that was not allowed or that they did not have the opportunity to do in their homelands.

The Canadian tradition of private ownership and development of property has contributed to this nation's growth and prosperity. Property rights have not only allowed us to enjoy security and stability, but they have provided a lifestyle unparalleled in the world. If we lose those rights, we could be in grave danger.

Today, property rights are loosely defined as a "bundle of rights" guaranteed by law. They include the right to own, build upon, develop, sell, lease, enjoy or leave property to one's heirs.

Fertilizing your lawn...

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fertilizer, the lawn must remain dry for at least two days before you can water.

Gardeners often complain that their lawns grow unevenly. Many times, the uneven growth is caused by inefficient spreading of the chemical fertilizer. The best way to tackling this job is to use a spreader. With a good spreader, it is possible to avoid putting too much fertilizer in some places and not enough in others.

While home gardeners and experts argue about the relative merits of various kinds of fertilizers, all agree on the benefit of mowing up to the first frost. After mowing late in the fall, rake off the clippings. Remember, grass is a perennial herb; this year's blades though they may remain green in colour under the snow, die off and are replaced next spring by fresh shoots.

Beautiful lawns require frequent maintenance. Here are a few hints that will help keep your lawn healthy:

□ Mow frequently with a sharp mower,

The erosion of these property rights is an issue of increasing concern for many Canadians. Over the years, governments have imposed some limitations on private property rights that have little to do with the public good. Many people have suffered personal and financial hardship because of statutory restrictions of their rights as property owners.

Although some laws are necessary for the preservation of the public goods, the balance between public good and private rights must be strictly maintained.

Under our system of property law, there is no absolute ownership of land by individuals. All land is ultimately owned by the Crown. Our system is based on a tenurial system, where individuals own an interest or estate in the land, but not the land itself. This means the Crown through expropriation can confiscate from private owners at will when deemed to be for the public good. Owners can be forced to sell their land to the Crown or have it taken from them.

To maintain the balance between private

rights and the public good, private property owners must insist governments prove that expropriation is vital and necessary for the public good. Furthermore, when land is expropriated, there must be a means to achieve fair compensation for loss of property.

In Canada, the Constitution does not specifically protect private property rights. A clause offering such protection was deleted in the constitutional debate for political reasons.

In addition to municipal laws and zoning restrictions, there are numerous laws which affect the right to use and enjoy private property. Some examples of restrictions are:

□ Historic preservation laws which prevent the owner from altering the property without special permission from local government.

□ Restrictions placed with regard to noise, environmental planning, and aesthetic matters such as colour of paint, type of shrubbery, and height of fence.

□ The right of possession — this right is curtailed by Landlord and Tenant Acts, Environmental Protection Acts, Fire and Health Inspection Acts, rent review legislation and federal and provincial expropriation acts. Most jurisdictions provide from some method of fixing compensation, but, there is no guarantee of this.

□ In various provincial Registry Acts such as Land Titles Act, Family Law Reform Acts, Estates Act, restrictions are placed on the landowner's right to sell, give away, or dispose of land.

There is a lot a homeowner can do to protect property rights and to ensure unnecessary restrictions do not prevent the enjoyment of property ownership.

Find out what rights you do have and what rights are threatened. Know what all levels of government are planning. Ask questions and demand answers. Above all, insist that if a restriction is being placed upon your property rights, that it be proved necessary and in the interest of the public good.

The Ontario Real Estate Association continues to work on behalf of all current and prospective homeowners for private property rights. OREA is committed to the entrenchment of private property in the Constitution.

For more details about private property rights and "Ontario Home Week" contact your local real estate board. Your local board will let you know how you can get involved.

□ This article is provided by the Ontario Real Estate Association (OREA) for the benefit of consumers in the real estate market.



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