



Government Relations Issues Update

Property Rights

TREB Key Message

Property rights should have the same legislative status as other rights. Legislatures continue to enact laws that deprive people of their property rights arbitrarily, unfairly and without compensation. REALTORS® believe that all legislation should be scrutinized, and property rights strengthened wherever deficiencies are identified.

Background

REALTORS® have been campaigning for more than 20 years to strengthen property rights on behalf of Canadian property owners. REALTORS® campaigned to entrench property rights in the Charter of Rights and Freedoms, but since its proclamation in 1982 there has been no constitutional guarantee of property rights in Canada.

Violations of property rights come in various forms, including the outright expropriation of private property for public use and regulatory taking, or limiting the use of private property without fair compensation. Partial regulatory takings are often the most troublesome and costly for ordinary homeowners, small property owners and farmers.

Locally, property rights are currently a priority issue with regard to the Golden Horseshoe Greenbelt, an area that the provincial government recently enacted strict land restrictions on to prevent development of agricultural and environmental lands. The Greenbelt Plan does not provide for any compensation for the loss of use of property.

TREB articulated concerns about infringements of property rights by the Greenbelt to the provincial government during consultation on Bill 135, the legislation that enacted the

Greenbelt Plan. Specifically, **TREB** noted that landowners' rights were eroded by the lack of an adequate appeal process for decisions made under Section 18 of Bill 135, which gives the Minister of Municipal Affairs and Housing the right to defer a matter before the Ontario Municipal Board concerning greenbelt lands. **TREB** noted three concerns with this authority:

1. The legislation does not provide any criteria or circumstances under which this authority could be used;
2. The Minister is not required to appoint a hearing officer, and even if a hearing officer is appointed, he/she would not be required to hear representations.
3. There is a critical lack of transparency in this process since there is no requirement to make the hearing officer's written recommendations, with reasons, public, and since the Minister and Lieutenant Governor in Council are not required to base their decisions on any predetermined criteria.

TREB has recently called for the protection of property rights in the provincial government's Growth Plan for the Greater Golden Horseshoe, which dictates where and how new development can occur. Specifically, **TREB** called for the Growth Plan to include incentive-based approaches, such as expanding the Land Transfer Tax rebate for re-sale housing, rather than only regulatory approaches.

At the provincial level, the Ontario Real Estate Association has recently lobbied for changes to the Ontario Mining Act to protect the mineral rights of property owners. As a result of these efforts, a number of changes, consistent with OREA's positions, were made to the Mining Act through Bill 173, introduced on April 30, 2009.