

**ALBERTA PROPERTY RIGHTS ADVOCATE**  
**2014 ANNUAL REPORT - JUNE 22, 2015**

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## **PAST RECOMMENDATIONS**

**Two recommendations were not accepted by the committee: (Page 6)**

**Recommendation 2013.02** – that the Government direct the prompt commencement of a full public review of the *Surface Rights Act* and the *Expropriation Act*.

**Recommendation 2013.05** – that the Legislature amend the *Emergency Management Act* to clarify and affirm the consistent respect for and deference to private property rights, even in the face of an emergency situation. Specifically, it is recommended that section 19 of the *Act* be amended to confirm that a natural disaster does not create licence to disregard the property rights of individual Albertans, nor does it absolve the authorities from a responsibility to follow the due process of law (**including the need to obtain Ministerial authorization**) if any encroachments do become necessary as an emergency response.

I am gratified that four of the six recommendations have at least a “path forward” to implementation and to contributing to the enjoyment of property rights in Alberta. As for the two recommendations that were not accepted by the Committee, I respectfully stand by those recommendations as modest, practical measures, and will continue to advocate for their implementation.

As for **Recommendation 2013.05**, contrary to what some Standing Committee Members seemed to believe, the proposal is not a radical departure from the existing law. Neither would it impose any new restrictions on first responders to an emergency situation. Rather, the Recommendation is meant simply to better articulate the spirit and intent of the existing law, and to make sure that the existing law is clearly understood and respected by those charged with carrying out the provisions of the *Emergency Management Act*.

The *Civilian Review and Complaints Commission for the RCMP*, which looked into the RCMP’s Response to the 2013 Flood in High River, released its Interim Report subsequent to my appearance before the Standing Committee. That Report recognised a number of shortcomings in the RCMP actions in High River, including what the Commission called “... a lack of leadership in terms of supervisory guidance and clear policy direction...” (page 106). The Report also acknowledged that “... the sanctity of one’s home from state interference is a deeply rooted legal principle.” (page 109).

The Commission’s unambiguous recognition of an important legal principle, and the acknowledgement of a failure of clear policy direction, led to their further observation that the anger felt by many High River residents was “understandable”. This is consistent with my own observations in my 2013 Annual Report, and would seem to confirm the need for a firmer understanding of the responsibilities and due process requirements under the *Emergency Management Act*. Such observations by the Complaints Commission certainly seem to remove

Recommendation 2013.05 from the judgment of one MLA on the Standing Committee, who dismissed it as a “ridiculous recommendation”.

In time, I hope that Recommendations 2013.02 and 2013.05 will be given a sober second look by the Legislative Assembly, and recognised as temperate responses to issues that remain all too real and all too raw for a number of Albertans.