

# **Why Property Rights Still Matter**

Prepared for: Legal Education Society of Alberta

*Rural Property Issues for Alberta Lawyers*

Presented by:

**Lee Cutforth QC**

**Chair, Lethbridge Police Commission**

**Lethbridge, Alberta**

For presentation in:

Red Deer, Alberta – June 2, 2017

## **WHY PROPERTY RIGHTS STILL MATTER**

### **INTRODUCTION**

There is no doubt that the intensity of public debate around property rights in Alberta has diminished, or at least has slipped off the mass media radar, since 2011 and 2012. Those years saw high levels of landowner advocacy, and perhaps more importantly, a high degree of media interest. The consequent political pressures led to the Property Rights Task Force and, ultimately, the creation of the Property Rights Advocate Office.

The fading of concern for property rights at a broader, systemic level does not mean that landowner problems have been significantly addressed. Rather, it may be more a reflection of political disinterest, media indifference and the reality that landowners, like anyone else, do not easily think of the “long game” when there is not an immediate threat, like multiple government-promoted powerline projects plowing through the province.

But, whatever the reasons behind a quieter profile for property rights issues, systemic weaknesses remain, and landowners continue to be vulnerable – and individually affected - on a number of fronts. Part of the challenge for landowners to effectively protect their rights will be to look beyond their individual holdings, and consider property rights in the context of foundational, societal values.

### **PRINCIPLES DO NOT CHANGE**

One of the challenges in advocating for property rights is articulating a common understanding of the term itself – what is it we seek to protect under the elusive Grail of property rights.

While a great volume of academic and popular writing addresses that question, at their essence, they define property rights in terms of three basic elements:

- right of possession
- right of use
- right of disposition

The extent to which an owner can operate in these three elements represents the degree of freedom that owner enjoys in relation to his or her property; the degree to which that freedom is restricted or co-opted represents a corrosion of those property rights.