

Ancillary Rights Part 1:

Considerations when Documenting, Appraising, and Enforcing Rights Ancillary to Rights-of-Way



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EXPROPRIATION ASSOCIATION, VANCOUVER, B.C.

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Part 1

Easements & Rights-of-Way: The Basics

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Easement: Definition

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An **EASEMENT** is right of use over the property of another, normally for the benefit of adjoining lands. The land having the right of use is known as the **Dominant Tenement** and the land which is subject to the easement is known as the **Servient Tenement**.

Easement: The Basics

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The English case *Re Ellenborough Park*, [1953] 3 ALL ER 667 is widely referenced for its definition of a valid easement:

1. There must be a dominant and servient tenement;
2. An easement must accommodate the dominant tenement;
3. Dominant and servient tenement owners must be different people; and
4. A right over land cannot amount to an easement unless it is capable of forming the subject matter of a grant.

Easement: The Basics

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- The first requirement (that “*there must be both a dominant and servient tenement*”) has been abrogated by section 218 of British Columbia’s Land Title Act.
- An easement without a dominant tenement, authorized by statute, is called a **Statutory Right-of-Way**.

Part 2

Complete Derogation of Ownership: The Bundle of Sticks Analogy

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The Owner's Rights

- The fourth requirement from Re Ellenborough Park (that an easement “*must be capable of forming the subject matter of a grant*”) is most relevant to our topic of Ancillary Rights.
- Easements or rights-of-way that take away all Owner rights are not “*capable of forming the subject matter of a grant*” and is invalid. Such grants are effectively fee simple taking.

The Owner's Rights

- The BC Court of Appeal in Robinson v. Pepito, 2014 BCCA 200 said that an easement agreement would be invalid where it gave the dominant tenement such rights as to “*amount to a complete derogation of any rights to the proprietorship or possession*” of the easement area by the servient tenement owner.
- This would apply equally to a right-of-way.

The Owner's Rights

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BC Court of Appeal in Robinson v. Pepito:

“the courts have been loath to invalidate an instrument and have sought to interpret grants in such a manner as to reserve some proprietary rights in the hands of owners of servient tenements. Where that cannot be done without doing violence to the easement agreement, grants that practically curtail any such interests will be set aside.”

Part 3

Introduction to Ancillary Rights

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Ancillary Rights

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- **Ancillary Rights** “*typically refers to implied rights necessary for the exercise of the express rights given in the grant of easement*” (or grant of right of way). See *Gale on Easements*
- **Ancillary Rights** are typically exercised on the servient tenement outside the defined right-of-way area.

Ancillary Rights

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- In *Fallowfield v. Bourgault*, 2003 CanLii 4266 (ONCA), the Ontario Court of Appeal studied a mutual easement over a four-foot gap between two houses:
“The express grant of an easement is also the grant of such ancillary rights as are reasonably necessary for its exercise or enjoyment”.
- The Ontario Court of Appeal meant that there were unwritten rights that should be implied, so as to allow the dominant tenement full use of its easement (or right-of-way).

Ancillary Rights

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- The Court in Fallowfield v. Bourgault, noted that:

“However, to imply a right ancillary to that which is expressly granted in the easement, the right must be necessary for the use or enjoyment of the easement, not just convenient or even reasonable.”

Ancillary Rights

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- It has become common practice for expropriating authorities to include explicit language in easement and right-of-way documents that are in the nature of ancillary rights. By setting out these rights explicitly, there's arguably less room for debate about what rights should be implied.

Ancillary Rights

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- These explicitly written “ancillary rights” often give the Dominant Tenement a right of access over the entire Servient Tenement, give rights to cut trees or abate nuisances outside the right-of-way area, constrain an owner’s use or development outside the right-of-way area, and may give the Dominant Tenement rights to perform work and even install works outside the right-of-way area.
- Some of these ancillary rights may be vulnerable to challenge.

Ancillary Rights

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- Points of concern with explicitly drafted “ancillary rights” may include:
 1. Purchasers of the Servient Tenement may not have proper notice of the “ancillary rights” if they are not registered with precision in the Land Title Office;
 2. “Ancillary rights” could arguably cause a complete derogation of the owner’s rights of ownership; and
 3. Unrecognized negative impact on the value of the owner’s remainder land (injurious affection).

Part 4

Land Title Office Procedure

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Land Title Office Process: Form C / Form E

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- Precise registration of a single Right-of-Way Agreement may require multiple “charges” on title.
- Regardless of how many charges are registered and broken out in the Form E (Schedule of Interests), the content and nature of each ancillary right must be assessed.
- The Right-of-Way Agreement may be more onerous for the owner than first reading would suggest.
- Some claimed rights may lead by implication to additional rights by operation of law (e.g. safety zones).

LAND TITLE ACT**FORM C (Section 233) CHARGE****GENERAL INSTRUMENT - PART 1 Province of British Columbia**

Sep- 09:11:08.001

LOCK

PAGE 1

OF

Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the *Land Title Act*, RSBC 1996, c.250, that you certify this document under section 168.41(4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.

Digitally signed by

GES

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Import Profile

, Paralegal, Ministry of Attorney General for

Ministry of Transportation and Infrastructure

PO Box 9289, STN PROV GOVT

phone:

email: @gov.bc.ca

Victoria

BC V8W 9J7

Document Fees: \$0.00

Deduct LTSA Fees? Yes ☐

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

LOT BLOCK DISTRICT LOT PLAN

No PID NMBR

STC? YES ☐

Pick up STC?

Use 30 Parcel

Schedule

Use 3 Parcel Schedule

3. NATURE OF INTEREST

4. TERMS: Part 2 of this instrument consists of (select one only)

CHARGE

Use Schedule

NO. (a) ☐ Additional Information F. No.(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

Use Schedule

HOLDINGS LTD., INC. NO. BC

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

Use Schedule

BC TRANSPORTATION FINANCING AUTHORITY

PO BOX 9850 STN PROV GOVT

VICTORIA

BRITISH COLUMBIA

V8N 9T5

CANADA

Joint Tenants?

7. ADDITIONAL OR MODIFIED TERMS:

Use Schedule

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

Execution Date

Transferor(s) Signature(s)

Y	M	D
20		04

by its authorized signatory(ies):

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

More Signatures

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

PAGE

[Redacted]
Barrister & Solicitor

Ministry of Attorney General
7th Floor, 1675 Douglas Street
Victoria, BC V8W 2G5

Y	M	D
20	07	31
Execution Date		
20	08	31

Transferee's signature: _____
[Redacted] by its authorized
signatory(ies): _____ of _____

10 PAGES

Transferor / Borrower / Party Signature(s)
[Redacted]

[Redacted]
by its authorized signatory(ies): _____

[Redacted]

[Redacted]

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

More Signatures

LAND TITLE ACT
FORM E
SCHEDULE

**NATURE OF
INTEREST**

Statutory Right of Way

CHARGE NO.

ADDITIONAL INFORMATION

Article 2

NATURE OF INTEREST

Priority Agreement

CHARGE
NO.

ADDITIONAL INFORMATION

Article 10 - Granting the charge above
priority over
the Mortgage and Assignment of
Rents

NATURE OF INTEREST

Covenant

CHARGE NO.

ADDITIONAL INFORMATION

Article 3

NATURE OF INTEREST

Priority Agreement

CHARGE
NO.

ADDITIONAL INFORMATION

Article 10 - Granting the charge above
priority over the Mortgage and
Assignment of Rents

NATURE OF INTEREST

**Statutory Right
of Way**

CHARGE NO.

ADDITIONAL INFORMATION

Article 4

NATURE OF INTEREST

Priority Agreement

CHARGE
NO.

ADDITIONAL INFORMATION

Article 10 - Granting the charge above priority
over the Mortgage and Assignment
of Rents

LAND TITLE ACT
FORM E
SCHEDULE

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Covenant		Article 5

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Priority Agreement		Article 10 - Granting the charge above priority over the Mortgage and Assignment of Rents

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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TERMS OF INSTRUMENT – PART 2

WHEREAS:

- A. The Transferor is the registered owner in fee simple of the lands described in item 2 of Part 1 of this Instrument (the “**Lands**”);
- B. The Transferee has by itself or by its agent constructed or will construct, the Transit System, parts of which are or will be situated on or within the SRW Area;
- C. The Transferee wishes to acquire and the Transferor has agreed to grant, on the terms and conditions set out herein, statutory rights of way and covenants pursuant to sections 218 and 219 of the *Land Title Act* over and relating to the Lands for the purpose and objective of planning, acquiring, constructing, operating, maintaining and protecting the Transit Facilities, being part of the Transit System: and
- D. The statutory right of way is necessary for the operation and maintenance of the undertaking of the Transferee.

NOW THEREFORE in consideration of the premises, covenants and agreement herein contained, the sum of \$10.00 now paid or to be paid by the Transferee to the Transferor and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by the Transferor), the parties hereto covenant, acknowledge and agree as follows:

1. Defined Terms

- 1. The following terms will have the meanings hereinafter specified, and the definitions given herein will be applicable to the singular and plural form of the terms defined:
 - (a) “**Buffer Area**” means
 - (i) three (3) metres from the lower limits of the Transit Facilities and the Utilities and the lateral limits of the Transit Facilities and the Utilities, and
 - (ii) six (6) metres from the upper limits of the Transit Facilities and the Utilities;
 - (b) “**Remainder Area**” means that portion of the Lands outside the SRW Area, if any;
 - (c) “**SRW Area**” means the Lands or, upon the discharge of the statutory right of way granted under Article 2 and the covenant granted under Article 3 from all parts of the Lands except those parts shown on the Volumetric SRW Plan in accordance with Section 7.1, the area shown on the Volumetric SRW Plan;
 - (d) “**Transit Facilities**” includes the Tunnel and all structural, aesthetic, functional and non-functional components of and relating to the Tunnel including all footings, pillars, columns, foundations, beams, tunnel and tunnel support structures, walls, floors, lining, roof, rails, tracks, track beds, utilities, electrical and mechanical machinery and systems, signs, controls, conduits, pipes, ducts, wires, cables, anchors, walkways, roads, facilities and apparatus for drainage, water, sewer,

storm sewer, machinery and equipment, and any other works or improvements undertaken for or in connection with the Transit System;

- (e) **“Transit System”** means the public passenger rapid transit transportation system commonly referred to as the “Millennium Line” or the “Broadway Subway”, of which the SRW Area and the Transit Facilities form a part;
- (f) **“Tunnel”** means that part of the Transit System comprising the underground tunnel within which the public passenger rapid transit vehicles will operate;
- (g) **“Utilities”** means utilities and utility systems, whether or not related to the Transit System, including without limitation, lines, pipes, wires, cables, conduits, fibre optics, fittings, casings, meters, appliances, attachments, devices and other works related to the capture, conveyance, conduction, transmission or distribution of electricity, water, storm water, sewage and waste water, data, and digital and analog signals;
- (h) **“Ventures”** means facilities and improvements for commercial and non-commercial ventures and opportunities whether or not related to the Transit System including without limitation, signage, advertising, displays, retail sales, filming, and community events; and
- (i) **“Volumetric SRW Plan”** means a volumetric statutory right of way plan in a form registrable under the *Land Title Act* delineating the SRW Area prepared pursuant to Section 7.1.

2. Statutory Right of Way - SRW Area (pursuant to s. 218 *Land Title Act*)

2.1 The Transferor hereby grants to the Transferee, its successors, and assigns and their respective agents, employees, workers, contractors, subcontractors, licensees, permittees and all persons authorized by any of them, in perpetuity, the exclusive, full, free and uninterrupted right, liberty, privilege and easement by way of statutory right of way on, over, under, within and through the SRW Area at all times by night or by day:

- (a) to plan, design, construct, install, inspect, test, commission, complete, maintain, protect, repair, remove, reconstruct, replace, renew, add to, upgrade, enlarge, alter, improve, keep, operate and use
 - (i) the Transit Facilities,
 - (ii) the Ventures, and
 - (iii) the Utilities;and for any of the foregoing purposes, to enter upon, pass, repass, return, go, labour and be on, along and within the SRW Area, with or without machinery and equipment (motorized or otherwise), supplies and materials;
- (b) for the benefit and use of all passengers and users of the Transit System and members of the general public (except as may be specifically limited by the

Transferee), to enter upon, pass, repass, return, go and be on and along the SRW Area for the purposes of using and accessing:

- (i) the Transit Facilities and the Transit System and travelling on the Transit System and for all other purposes that are necessary or incidental to using the Transit Facilities and travelling on the Transit System, and
- (ii) as applicable, the Ventures, and for access to public walkways, roads and other lands adjacent to the SRW Area (excluding the Remainder Area);
- (c) to remove any or all buildings, structures, foundations, equipment, obstructions, trees, vegetation or other growth located on or within the SRW Area which might, in the opinion of the Transferee, interfere with, impede, hinder, obstruct or endanger the exercise of the rights granted to it under this Instrument; and
- (d) generally to do all acts and work necessary or incidental to the foregoing or necessary for the safety and security of the Transit Facilities or the Transit System.

3. Transferor's Covenant – SRW Area (pursuant to s. 219 *Land Title Act*)

3.1 The Transferor covenants and agrees that it will not do or permit or suffer to be done on, under, over, upon or within the SRW Area, any act or thing that in the sole opinion of the Transferee, could interfere with, impede, hinder, disturb, obstruct or damage the Transit Facilities, the Utilities or the Ventures, or any portion thereof, or the safe exercise of the rights granted to the Transferee under this Instrument.

4. Statutory Right of Way – Lands/Remainder Area (pursuant to s. 218 *Land Title Act*)

4.1 The Transferor hereby grants to the Transferee, its successors, and assigns and their respective agents, employees, workers, contractors, subcontractors and all persons authorized by any of them, in perpetuity, the full, free and uninterrupted right, liberty, privilege and easement by way of statutory right of way on, over, under, within and through the Lands at any time to inspect the Lands or any activities or works carried thereon to ensure compliance with Section 5.1.

5. Transferor's Covenants – Lands/Remainder Area (pursuant to s. 219 *Land Title Act*)

5.1 The Transferee acknowledges that the Transferor intends to redevelop the Remainder Area, and nothing in this Instrument shall be interpreted as limiting the Transferor's redevelopment rights. Notwithstanding the foregoing, the Transferor covenants and agrees that it will not permit or suffer to be done, whether through a redevelopment of the Remainder Area or otherwise, on, under, over, upon or within the Remainder Area, any act or thing that in the opinion of the Transferee, acting reasonably, may interfere with, impede, hinder, disturb, obstruct or damage the Transit Facilities, the Ventures, or the Utilities, or any portion thereof, or the safe exercise of the rights granted under this Instrument, and without limiting the foregoing, the Transferor will not, nor will it allow any person to:

- (a) exert any load upon or against or carry out any activities or works on or within the Lands that may damage, impair or compromise the structural integrity or safety of

the Transit Facilities, the Utilities or the Ventures or the safety of the passengers using the Transit Facilities; or

- (b) undermine, damage, reduce or remove any vertical or lateral support to the Transit Facilities.
- 2. Subject to Section 5.1, the Transferor will, subject to applicable planning instruments, bylaw and regulations, be entitled to erect, construct, install and replace buildings, structures and improvements on the Remainder Area provided that in each case the Transferor has obtained the Transferee's prior written consent in advance of commencing any such works, which consent will not be unreasonably withheld. It is acknowledged and agreed between the parties that the Transferee will respond with written confirmation of consent, refusal or a request for additional engagement or information within 90 days of receiving the Transferor's written request for consent as described herein.
- 3. The Transferor acknowledges that it may be required to comply with the Transferee's standard processes and protocols in place from time to time for approval of developments that are integrated with or adjacent to transit infrastructure (in order to preserve the integrity of the Transit Facilities, Ventures, or the Utilities, the rights granted in Section 2.1 and transit operations) and that the review process may require, among other things, that:
 - (a) all plans and specifications relating to the Transferor's works be submitted in advance and approved in writing by the Transferee; and
 - (b) the payment of certain standard fees to the Transferee in connection with the review process.
- 5.4 **Subject to Section 5.1, the Transferor may conduct all necessary routine repair and maintenance to the existing buildings, structures, and improvements located on the Remainder Area as may be required without the Transferee's permission, provided that in no event shall it undertake any activities in the Buffer Area without having first obtained the consent of the Transferee.**

6. Ownership of Works

- 1. The Transit Facilities, the Ventures and the Utilities always have been, are, and will at all times remain personalty and the property of the Transferee, notwithstanding the degree by which the same may be annexed or affixed to the freehold of the Lands. The Transferee will be entitled at any time and from time to time to remove the Transit Facilities, the Ventures and the Utilities, in whole or in part, and the Transit Facilities, the Ventures and the Utilities will be freely alienable by the Transferee as its own property.
- 2. All property rights, title and interest in the Transit Facilities, the Ventures and the Utilities was, is and continues to be vested in the Transferee.

7. Volumetric SRW Plan

- 7.1 Within twelve (12) months of completion of the construction of the Transit Facilities, the Ventures and the Utilities within the SRW Area, the Transferee will cause to be prepared by a duly qualified British Columbia Land Surveyor a Volumetric SRW Plan showing the actual location of the Transit Facilities, the Ventures and the Utilities together with the

TITLE SEARCH PRINT

2020-09-28, 13:05:35

File Reference:

Requestor:

CURRENT INFORMATION ONLY - NO CANCELLED INFORMATION SHOWN

Land Title District

Land Title Office

VANCOUVER

VANCOUVER

Title Number

From Title Number

CA6535934

CA4911473

Application Received

2017-12-28

Application Entered

2018-01-15

Registered Owner in Fee Simple

Registered Owner/Mailing Address:

**Taxation Authority**

Vancouver, City of

Description of Land

Parcel Identifier:

Legal Description:

LOT [REDACTED] BLOCK [REDACTED] DISTRICT LOT [REDACTED] PLAN [REDACTED]

Legal NotationsNOTICE OF INTEREST, BUILDERS LIEN ACT (S.3(2)), SEE
FILED 2017-12-28

Title Number: CA6535934

TITLE SEARCH PRINT

Charges, Liens and Interests

Nature:

MORTGAGE

Registration Number:

Registration Date and Time:

2017-12-21 12:30

Registered Owner:

COMPUTERSHARE TRUST COMPANY OF CANADA
INCORPORATION NO. A0052313

Nature:

ASSIGNMENT OF RENTS

Registration Number:

Registration Date and Time:

2017-12-21 12:30

Registered Owner:

COMPUTERSHARE TRUST COMPANY OF CANADA
INCORPORATION NO. A0052313

TITLE SEARCH PRINT

2020-09-28, 13:05:35

File Reference:

Requestor:

Nature: STATUTORY RIGHT OF WAY
Registration Number:
Registration Date and Time: **2020-09-17 09:11**
Registered Owner: BC TRANSPORTATION FINANCING AUTHORITY

Nature: PRIORITY AGREEMENT
Registration Number:
Registration Date and Time: **2020-09-17 09:11**
Remarks: GRANTING CA8

Nature: COVENANT
Registration Number:
Registration Date and Time: **2020-09-17 09:11**
Registered Owner: BC TRANSPORTATION FINANCING AUTHORITY

Nature: PRIORITY AGREEMENT
Registration Number:
Registration Date and Time: **2020-09-17 09:11**
Remarks: GRANTING CA8

Nature: STATUTORY RIGHT OF WAY
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Title Number: CA6535934

TITLE SEARCH PRINT

Nature: COVENANT
Registration Number:
Registration Date and Time: **2020-09-17 09:11**
Registered Owner: BC TRANSPORTATION FINANCING AUTHORITY

Nature: PRIORITY AGREEMENT
Registration Number:
Registration Date and Time: **2020-09-17 09:11**
Remarks: GRANTING CA84

Duplicate Infeasible Title

NONE OUTSTANDING

Part 5

Appraising Ancillary Rights

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Appraisal - Market Value

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Definition of Market Value

32. The market value of an estate or interest in land is the amount that would have been paid for it if it had been sold at the date of expropriation in the open market by a willing seller to a willing buyer.

[*Expropriation Act*, s. 32]

Principle of Substitution

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When considering market value, you must consider:

- What alternative choices are available;
- That the “market buyer” does not have any predisposition to one site or another; and
- Properties with fewer owner rights (more burdens benefiting Dominant Tenements) cause more uncertainty for buyers.

Bundle of Rights

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- If owner rights are constrained or eliminated, or if the Dominant Tenement can determine the use of land, buyers will be wary of that property.
- Clauses that allow owner use subject to Dominant Tenement approval “not to be unreasonably withheld” are entirely unpredictable.
- Development of land is already uncertain, and buyers will be cautious where a Dominant Tenement may appear to have veto rights.

Valuation - Be Objective

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- Question whether “ancillary rights” will cause a potential diminution of the owner rights or complicate ongoing use.
- Be careful and remember the principle of substitution.
- Appraisal reasoning should be clear and make “common sense”.
- Consider the physical characteristics of the site and the impact of the ancillary rights.

Geometry and Land Uses

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- The geometry of a parcel of land may impact available uses.
- Consider zoning and other land use planning instruments that may restrict current and future potential uses.
- Consider topography and other environmental features, and the impact these may have on land use.

Emera Brunswick Pipeline Company Ltd. v. Sierra Supplies Ltd.,
2018 FC 17 [Federal Court of Canada]

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The case is an example of our courts accepting an owner's claim for injurious affection to the remainder of their property - caused by Ancillary Rights found in a right-of-way agreement:

- Pipeline taking bisected the owner's land;
- Use of "remainder lands" limited by ancillary rights; and
- The authority's appraiser did not address this issue in his report.

Emera v. Sierra (cont.)

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- No prior case had addressed the impact of a “safety zone” on future land use outside the right-of-way area.
- Litigation was necessary, as the authority’s appraiser opined unequivocally that the owner had not suffered any injurious affection.
- If there was any recognition of injurious affection, the negotiation could have focused on quantum, but instead the authority simply denied any impact.

Taking & Remainder Parcels

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Taking & Remainder Parcels Including Safety Zone



Emera v. Sierra (cont.)

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- Key question in the hearing related to permission for use of power equipment - owner would require permission.
- Expropriation authority indicated that permission would not be withheld.
- On cross-examination, it was found that this would be a National Energy Board decision. The expropriating authority could not guarantee future approval.
- Risk of fines and even jail time for violators.
- Ask whether a buyer would want this land when other parcels were available?

Emera v. Sierra (cont.)

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- The Federal Court concluded that Sierra had lost some rights of use in the remainder parcel.
- The magnitude of that impact was not challenged, as the authority's appraiser had not quantified injurious affection – he had simply denied any such injury.
- The authority's failure to consider and quantify the injurious affection resulted in very expensive and time consuming litigation.

Appraisal Considerations - Summary

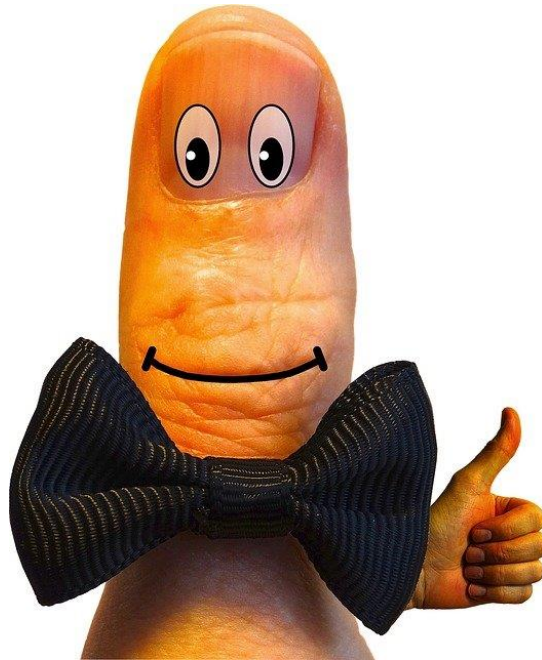
42

- Appraisers should recognize that expropriation authority is a significant power to wield.
- Potential injurious affection resulting from the expropriation of ancillary rights are difficult to quantify, but the issue deserves focused analysis.
- A court should compensate injurious affection when the injury is a logical consequence of the taking.
- This analysis can be difficult for appraisers retained to do “bulk appraisals” for a project, but the work must be done.

Part 6

Any Questions?

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THANK YOU!

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