



Property rights are bound to be debated again

Calgary Herald
Sat Mar 7 2015
Page: A23
Section: Opinion
Byline: Mark Milke

Amid the current focus on provincial red ink, one issue has slipped off the public radar screen in Alberta: Property rights.

The lack of attention is understandable, given the nearness of the provincial budget and the province's poor finances. But until recently, property rights, and more broadly, land-use issues (which involve regulation of both private and leased land), were a continual, high-profile source of conflict in Alberta.

For example, in 2009 and 2010, the province introduced a series of four bills - 19, 24, 36 and 50 - and the assertion from one property rights organization and its lawyer, Keith Wilson, was that the bills would concentrate power in the provincial cabinet, limit rights to compensation, seek to remove the role of the courts and diminish adherence to the rule of law in Alberta.

Recall also how, in 2012, the province introduced Bill 2: The Responsible Development Act, drawing fire from Russell Brown (the University of Alberta law professor, later appointed to the Court of Queen's Bench). Brown found that Bill 2 denied landowners the right to be notified about proposed energy development on their land.

One reason for less focus on property rights might simply be recent actions by the province. In its November throne speech, the provincial government mentioned property rights as a priority. It then introduced (and subsequently passed and gave royal assent to) Bill 1, The Respecting Property Rights Act. That repealed the earlier, controversial Land Assembly Project Area Act, enacted by the legislature in 2009, modified in 2011, but never proclaimed.

Still, once budget matters fade from the news, population growth, oil and gas exploration, agricultural demands, recreational use, and an increasing ecological sensitivity will likely again swirl around land-use issues - private property included. A useful debate will then arise about who is best positioned to provide informed analysis about Alberta's land base, be it farmland near a river, or rangeland near a wildlife habitat.

Thinking ahead then, the debate matters because some property-based conflicts over the past decade involved disputes between conservationists, ranchers and farmers and the government (whether on private land or land leased from government).

In some of those tussles, it was occasionally assumed that an environmentally sensitive approach is opposite that of a commercial approach - that ecological protection is necessarily at odds with ranching and farming. There is always potential for conflict, but as British professor Ken Atkinson wrote in a 2009 journal article on preserving grassland in southern Saskatchewan, "The prairies provide an example of how tensions between conservationists and other land-users can be healed and need not be permanent."

Atkinson pointed out that while some conservationists accuse ranchers of overgrazing and using exotic grasses to reseed pastures (accurate in some cases), in response, "Ranchers regard themselves as custodians of the land and 'conservers' (and point out that) their open range give native flora and fauna some chance of survival."

And he points to evidence where "cattle grazing has (had) a beneficial role in managing prairie grassland."

Atkinson is cheerily optimistic in the potential for greater co-operation here, noting that, "Fortunately, understanding between ranchers and conservationists has improved enormously."

Atkinson thus hints at what some people might forget: Those closest to the land often have the best chance of managing it properly.

Heightened understanding about how local knowledge can assist conservation efforts may help calm those unhelpful us-versus-them disputes. And we shouldn't be surprised. People tend to care for their own property (or even their leased property) in a more careful manner than land in which they have no stake.

Therefore, any discussion about land use in Alberta should keep this principle in mind: Those closest to the land are likely to have the most immediate, most accurate knowledge about such property. When these issues come back to the public policy table, any evidence-based discussions should always start there.

~

Mark Milke is a senior fellow with the Fraser Institute and author of a 2011 book on property rights.