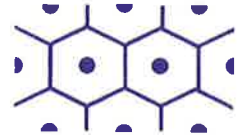


# newsletter



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## Update

If you live in Saint John or St. John's, New Waterford or Necum Teuch, Charlottetown or Chatham, stop reading at this point! You'll never believe what we have to say! Here in lotusland, where unemployment is a mere 11% and they actually advertise a non-government job or two, something is afoot: the first stirrings of post depression. Little louder than the rustling of a newspaper on a metro bus, hardly more visible than a Monday morning smile, it's there if you search hard enough; a quiet optimism that things are getting better. It just requires a little more optimism, a pinch more faith, to reach critical mass. The tremendous pent up demand will then explode. The residential market has been very active for the last 2 months. In fact, we undertook as many residential appraisals during that period as during the first 6 months of last year. However, we think that the majority of purchasers are still holding back until they are confident that the economy has turned the corner.

Downtown Halifax is another example of latent potential. Office rents rose by 40% or so during the 12 months of false pregnancy that ended abruptly in June 1982. They have softened since then. Only 4,000 m<sup>2</sup> of office space was rented last year, about a quarter of 'normal' demand, as firms played the waiting game. One developer currently reports 4,600 m<sup>2</sup> of space committed, pending approval from head offices in Toronto and Calgary. The following development proposals have started or are waiting in the wings: 17 office buildings (in excess of 235,000 m<sup>2</sup> - 2.5 million ft.<sup>2</sup>), 2 hotels (765 rooms), 1 convention hall (37,161 m<sup>2</sup>), 2 parking garages, retail space, and 80 waterfront condominiums. Even if only a quarter of the above actually gets off the ground, it will equal the boom of the early 70's; a boom that changed the face of the City for all time.

## Expropriation

**Beware of Strangers  
Bearing Gifts**

**if the Government wants to  
buy your property, call us FIRST**

**TURNER DRAKE  
+ PARTNERS LTD.**  
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Our advice in a previous Newsletter (Volume 2, No. 3) brought a mildly angry response from various government departments, Crown corporations, et al. We were vastly encouraged at this evidence of Newsletter readership and determined to nurture this tender seedling.

## Expropriation (cont'd)

### What Does It Mean?

Quite simply, that the state, or a body authorized by them, can acquire your property against your wishes. In some parts of the world you have no right of appeal against the expropriation and no right to be informed of it, until it has happened. You can quite literally own your property one day, and not the next: and the acquiring authority has almost 3 months (90 days) to tell you about it. Nova Scotia is such a place. Of course it doesn't often happen that way: the acquiring authority usually attempts to negotiate first.....

### Help....Somebody.....

they want my castle; what should I do? Sell it to them! If it's the Nova Scotia government or its surrogates you don't have any choice! But first consider the following:-

The Province, municipality, Crown corporation, etc. will probably attempt to negotiate the purchase prior to expropriation. They are not motivated solely by a desire to spare your feelings. The Expropriation Act may be draconian in its powers, but it does have many redeeming features. It, and its Federal counterpart, stipulate that the expropriated party is entitled to proper professional legal and real estate advice. Unfortunately the cost of that advice is not borne by the acquiring authority unless the property is expropriated. Nor will the property owner get the other protection afforded by the Act until his property is expropriated.

We have yet to come across a single instance of the acquiring authority advising the property owner, in writing, at the negotiating stage, that such professional advice is advisable and will be paid for by the acquiring authority if the matter proceeds to expropriation. We think that this is unfortunate since it is those property owners who most need advice, who are likely to shrink from obtaining it because of the cost involved. We have had personal experience where property owners would have suffered a substantial loss if they had not been resourceful, and knowledgeable enough, to seek professional advice themselves.

Unless the property owner wishes to sell the property anyway, it can never be to his/her advantage to commence negotiations until after the expropriation. We suggest that there are compelling reasons for delaying negotiations until then.....

### Injurious Affection

If the acquiring authority wishes to put a road, power line, sewer, etc. across part of a property, the owner will suffer loss, not only because part of his property has been acquired, but also because the part remaining may be worth less as a result of the acquiring authority's use of the land acquired. The depreciation in value of the property remaining after the acquisition is called "injurious affection". A road widening which extends over part of the front yard of a dwelling is a fairly typical example. The dwelling may suffer loss in value because of increased traffic noise, visual intrusion, fumes, vibration, etc. The transportation authority obviously has to acquire the land they require for their road and they usually attempt to do so by negotiation. If the matter proceeds to expropriation, they are additionally obliged to pay for injurious affection. Unfortunately, a property owner who is not professionally represented may be unaware of this fact. We know of a number of cases where the acquiring authority has attempted to negotiate on the basis of the land value alone, ignoring injurious affection. Whilst it might be charitable to suggest that this is the

result of ignorance, or their opinion that injurious affection has not been suffered, rather than a cynical attempt to buy the property at its lowest price, the fact remains that the average property owner is ill equipped to deal with the intricacies of the various heads of claim for compensation.

We should also point out that, under the Nova Scotia Expropriation Act, a property owner losing part of his property, is still entitled to compensation even though the property remaining after the expropriation may be worth more than the entire property prior to the acquisition. In other words if the property remaining after the acquisition increases in value as a result of e.g. the new road, to the point where it is worth more than the original property, the property owner is still entitled to be compensated for the land he/she lost.

#### Other Losses

If the property is expropriated, the property owner may also be able to claim the following:

- (1) Costs, expenses and losses arising out of disturbance. If the property owner is forced to move he/she can claim removal costs, the costs of purchasing new drapes, etc.
- (2) Under the "family home for a family home" provision, an owner occupier selling his/her property is able to claim the higher of either the market value of the existing property, or the cost of acquiring equivalent premises. Yours may be the humblest hovel on the hill; however, the Expropriation Act will set the lowest limit of compensation at the cost of purchasing the most equivalent premises even if that means buying one with indoor plumbing.
- (3) The value to the owner of any special economic advantage which results from his/her actual occupation of the land. This is really a catch-all provision; but one example would be a home specially fitted for a handicapped occupant.

#### Conclusion

Unless the property owner wishes to sell her/his property anyway, it can never be to his/her advantage to sell prior to expropriation and will usually be to his/her disadvantage. On rare occasions we have known the acquiring authority to agree to proceed as though the property had already been expropriated, with all the benefits and protection that accrues therefrom. Any property owner would, we suggest, be foolish to negotiate on any other basis.