

Abolition of Adverse Possession or “Squatters Rights” in Alberta

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On December 15, 2022, the *Property Rights Statutes Amendment Act* (the Act) came into effect and abolished adverse possession claims, otherwise known as “squatter’s rights,” against private landowners. Prior to this Act, only public land, municipal land, and irrigation districts were protected from adverse possession claims.

Adverse Possession

Adverse possession allowed a person or a “squatter” who had occupied the registered owner’s land for at least 10 years to potentially claim ownership of that land. The person was able to apply to a court to claim legal ownership over the lands, and if successful, it led to the transfer of the legal title to that person.

Reasons for the Act

For over a decade, advocates and past governments have been encouraging the abolition of adverse possession in order to protect Albertan’s property rights. The Property Rights Advocate Office recommended abolishing adverse possession in its 2016 annual report. The Alberta Law Reform Institute reviewed adverse possession law and in April 2020, provided the government with seven recommendations to end squatter’s rights. The Alberta Law Reform, in their April 2020 report, listed nine cases of adverse possession court cases in the eight years leading up to 2020. However, the number of adverse possession cases may be more if there were additional disputes or cases that were not made public. The MLA Select Special Committee on Real Property Rights held extensive public consultations and received multiple requests to abolish adverse possession such that the committee included a recommendation to abolish adverse possession in its June 2022 report.

Adverse possession was problematic since it created stress for landowners about the possibility of losing their land and needing to monitor and protect it to prevent another from taking possession of it. Adverse possession arose in several situations, whether it was a mistakenly placed fence or a squatter occupying vacant land. However, with the introduction of the Act, the registered owner can now commence an action to regain possession of their land at any time and the squatter is barred from a claiming adverse possession.

Cassels

Amendments to other Legislation

The Act brings forth changes to the following legislation in Alberta:

- *Land Titles Act* – Allows individuals who have been previously granted ownership for adverse possession to retain ownership of the land.
- *Law of Property Act* – Abolishes adverse possession by removing any rights in the land that could have been previously acquired by adverse possession. Additionally, the amendments grant the courts powers to make decisions regarding lasting improvements on lands under the belief that the land was theirs or for buildings that encroach on adjacent properties.
- *Limitations Act* – Removes the 10-year limitation period for a registered owner to reclaim possession over the property. As a result, if someone is possessing land for which they are not the registered owner, the property owner can get a court order to regain possession at any time.

Conclusion

The Alberta government has finally given private landowners the same protections once reserved only for the government. With the introduction of the *Act*, landowners can seek to protect themselves and rely on additional remedies provided by the Courts where improvements or buildings are at issue. The introduction of this *Act* also brings the province of Alberta in line with other jurisdictions including British Columbia, Saskatchewan, Manitoba, Ontario, New Brunswick, and the Yukon.

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