

THE EXPROPRIATION ACT OF MANITOBA - EXECUTIVE SUMMARY

When an authority takes land from its owner for public use, the law recognizes that the owner is entitled to some form of compensation. In Manitoba, *The Expropriation Act*¹ sets out the process that must be followed by any expropriating authority and prescribes how the owner should be compensated.² *The Land Acquisition Act*³ establishes the Land Value Appraisal Commission, which is the administrative body that hears applications and determines due compensation in respect of land acquisition, including expropriation.⁴

In addition to providing compensation for lands taken by an authority, *The Expropriation Act* also provides compensation to owners for “injurious affection”, which occurs when damages are sustained by an owner where only part of the land is taken, or even where no lands are taken but the owner nonetheless sustains damages to their land as a result of an expropriation.⁵ The Manitoba Law Reform Commission (“Commission”) has learned that the provisions in *The Expropriation Act* that deal with injurious affection are inconsistent with expropriation legislation in other Canadian jurisdictions and may hinder the ability of an owner to claim due compensation in certain circumstances. In the Commission’s view, the restrictive wording in the Act prevents landowners from making claims and should therefore be removed.

In January 2018, the Commission released a Consultation Report entitled *The Expropriation Act of Manitoba*. The Commission received input from practitioners with expertise in the area of expropriation. Through the consultation process, several other matters relating to *The Expropriation Act* respecting disturbance compensation, consulting costs, and abandonment of expropriation were brought to the Commission’s attention. These additional matters are addressed in this report. The Commission makes ten recommendations to improve *The Expropriation Act*. If implemented, these recommendations would provide better guidance to practitioners, landowners and the Land Value Appraisal Commission when it comes to determining compensation for owners.

This report is limited to reviewing the particular aspects of *The Expropriation Act* which have been identified by legal practitioners as problematic. It forms part of a series of reports entitled *Creating Efficiencies in the Law*, which seek to address discrete, straightforward issues that, in the Commission’s view, can be improved with relatively simple legislative amendments.

¹ RSM 1987, c E190.

² *Ibid*, s 2(1).

³ RSM 1987, c L40.

⁴ *Ibid*, s 14(1).

⁵ *Supra* note 1, ss 30(1) & 31(1).