

I. Executive Summary

Based on the historical root of title in Newfoundland and Labrador and the volume of possessory land claims in existence to the current day, the CBA-NL Legislation and Law Reform Committee recommends action be taken to amend section 36 the *Lands Act*.

The status quo is unsustainable and has resulted in a disconnect between law and practice, which is increasingly becoming an obstacle to the proper functioning of real estate law in Newfoundland and Labrador. This has real implications for economic development and government control over public lands. The current system is actively inhibiting economic realization on property rights, particularly in rural areas, by tying up land title indefinitely.

The problems identified in this report are not theoretical. Examples have been provided of instances where these problems have occurred in practice. People in this province have been dispossessed of their legitimate land holdings by government's intervention and by failures of formal title.

We recommend a running limitation period of 40 years of open, notorious, continuous, and exclusive use and occupation, in order to allow land title to vest for those already in possession. This will allow a confirmation of existing title, which has continued undisturbed for many years, which will improve Crown Lands' goals of land use management and planning control. This limitation period should also take into consideration historically-registered title documents at the Registry of Deeds, payment of municipal taxes, and other indicia of *bona fide* claims.

We also recommend that government undertake a reconciliation process to harmonize existing and legitimate private property claims into the Crown Lands records. This would give certainty to both the Crown and the public of title claims, and the scope of private land ownership in this province. This would also assist in the modernization of our land tenure system in Newfoundland and Labrador toward the Land Title system that predominates throughout the rest of Canada. We recommend an administrative body be established, separate from the Crown Lands Administration, to process lawyer-certified title for entry into the Crown Lands system.

We also recommend working cooperatively with the Law Society of Newfoundland and Labrador to establish a uniform standard for divesting the Crown on possessory claims.

We also recommend amendments to municipal legislation to give greater power to towns and cities to dispose of occupied Crown Lands through tax sale procedures. We believe this will improve revenue generation for municipalities and assist in straightening out land title generally.