

Court of Queen's Bench of Alberta

Citation: R. v. Strom, 2008 ABQB 122

Date: 20080225
Docket: 040521544S1
Registry: Edmonton

Between:

Her Majesty the Queen

- and -

Raymond Strom

Appellant

**Reasons for Judgment
of the
Honourable Madam Justice L.D. Acton**

I. Nature of the Matter

[1] Mr. Strom was convicted in Provincial Court on March 30, 2007 of having engaged in the activities of a land agent without holding a subsisting licence to do so. He now appeals that summary conviction.

II. Background

[2] The Provincial Court trial judge heard the matter on January 4th and 5th, 2007, reserved, and released his Reasons for Judgment (2007 ABPC 91) on March 30, 2007. The facts are not in issue.

[3] Both the Crown and defence acknowledge that the standard of review to be applied with respect to interpretation of the *Land Agents Licensing Act*, R.S.A. 2000, c. L-2 (the "Act"), a question of law, is that of correctness: *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235 at para. 8.

[4] In *R. v. Ferguson*, 2006 ABCA 261, 397 A.R. 1, leave to appeal granted [2006] S.C.C.A. No. 422 and *R. v. Brown*, 2006 ABCA 199, 391 A.R. 218 the Alberta Court of Appeal held that whether a *Charter* right has been breached is a question of mixed fact and law. Absent a palpable and overriding error, facts relied on in determining a breach deserve deference: *R. v. Chang*, 2003 ABCA 293, 339 A.R. 278 at para. 7, *R. v. Ngo*, 2003 ABCA 121 at para. 15, 175 C.C.C. (3d) 290. However, the standard of review is correctness when there is an extricable error of law in the trial judge's analysis: *Housen* at para. 8.

III. The Facts

[5] The following are the facts set out by the Provincial Court trial judge in his Reasons for Judgment:

[2] The facts which ground the prosecution are virtually unchallenged. They revolve around two incidents involving negotiations for a surface rights lease and a third for a utility right-of-way. The persons seeking to acquire the said interests were referred to Mr. Strom, in two cases by the landowners themselves and in the other by the husband of the actual landowner. In that third instance, I am satisfied on the evidence I heard that he was acting throughout with his wife's approval.

[3] In the last mentioned case William Trefiak, a licenced land agent himself and an employee of Exxon Mobil Corporation at the time, contacted the defendant as instructed and forwarded to him proposed lease documents for review. He later met with Mr. Strom for some two hours. During that meeting the latter presented him with a 45-clause addendum he wanted attached to the lease. Realizing that he would have to go back to his employer to discuss those new clauses, Trefiak arranged to meet with Strom again at some later time. In the interim he tried to discuss the matter directly with Mr. Chalut, the landowner's husband, but the latter refused to do so without the defendant being present.

[4] A meeting of the three was finally arranged for November 27, 2002. After discussing the lease itself, Mr. Trefiak began on the addendum. When he explained that his employer could only agree to seven of the 45 clauses, Trefiak says Strom got somewhat upset and suggested that the company put into writing the reasons it couldn't accept the other clauses, after which they would discuss the matter again. In the end no formal offer of compensation was ever made and eventually the lease was cancelled.

[5] In addition to that failed negotiation, the defendant represented the Chaluts at a number of other meetings with the company relating to their concerns about surrounding wells in the area and a "reduced spacing application" to be made by the company. At the November 27th meeting, he had told Trefiak that he charged \$95.00 per hour for his services and eventually an invoice for those services was presented to the company: exhibit #1, tab 13. Although it is apparently customary for oil companies to pay the reasonable fees of landowners' representatives in these sorts of negotiations, in this case Exxon Mobil refused to pay that portion of Mr. Strom's fees which related to the failed discussions about the surface rights lease. Mr. Trefiak testified that that was because Mr. Strom was not a licenced land agent.

[6] The second incident occurred in late March, 2003 with respect to land owned by Claus and Claudia Toerper. The Encana Corporation wanted a surface rights lease to enable it to drill a well there and hired Landwest, a brokerage firm, to negotiate that lease. Christopher Sillito, a licenced land agent and an employee of Landwest at the time, was referred to Mr. Strom by the Toerpers. After faxing him the lease documents as instructed, Sillito met with the defendant in the latter's office at Two Hills on March 25th. As in the Chalut negotiation, Strom gave him an addendum he wanted attached to the lease and also said that he wanted three clauses in the lease itself to be changed. During their discussions, he informed Mr. Sillito that his fees were \$95.00 per hour and 70 cents per kilometre travelled and that he looked to Encana to pay them. Before he left the meeting Sillito made a formal offer on behalf of Encana and the two agreed that Sillito would take the addendum back to Encana for its review before they met again. As it turned out, they never did meet again because Encana's in-house co-ordinator took over the file. Despite that, Mr. Sillito, who now works for Encana, was able to tell me that the lease was acquired, although the well-site was never drilled. He also confirmed that he himself did not accept Mr. Strom's fee proposal on behalf of Encana nor did he ever pay him any fees. As no one else from Encana gave evidence, the record is silent as to whether the defendant in fact received compensation from that corporation.

[7] The final incident occurred in October, 2003 when Denis Tessier, an employee of Aquila Networks Canada (Alberta) Ltd. and a licenced land agent, negotiated a utility right-of-way across the land of Abe Thiessen. He contacted Mr. Strom because he was led to believe that the latter was Thiessen's "contact". Tessier first provided the defendant with an easement document covering the proposed right-of-way and then, on October 10th, met with him and the landowner in the former's office in Two Hills to discuss it. Before Mr. Thiessen even arrived Strom indicated to Tessier that he didn't like certain aspects of the easement agreement and had it altered to his satisfaction. He also got the latter to add a "Schedule A" to that document. When the landowner finally did arrive, Tessier says it was Strom who assured Thiessen that he could sign the amended document and that the compensation to be paid was fair. In addition to paying the landowner \$600 by way of compensation for the right-of-way, Mr. Tessier paid an invoice presented by the defendant for his work in negotiating the agreement: exhibit #1; tab 17. Although

Tessier conceded in his testimony that this was not the standard practice, he says he did it because he had a signed agreement and just wanted to get on with the work involved.

[6] The parties entered as an exhibit at trial an Agreed Statement of Facts, in which they agreed that:

1. Mr. Strom has never been licenced as a land agent under the Act.
2. Mr. Strom is the only director of Landcore International Corp.
3. According to Alberta's Registrar of Land Agents, who is responsible for administering the licensing regime under the Act, there are approximately 1,200 licenced land agents in Alberta, almost all of whom are associated with oil and gas companies. The Registrar publically acknowledged in February 2005 that landowners in Alberta generally have less access to representation during surface rights negotiations than oil and gas companies.
4. Several landowners' advocacy groups and organizations in Alberta, including the Alberta Surface Rights Federation, have stated publically that consultants engaged by landowners to assist in surface rights negotiations with oil and gas companies should not be licenced as land agents under the Act due, in part, to concerns about cost and availability if consultants were required to be licenced.

[7] Mr. Strom put forward two defences at trial. First, he maintained he was not acting as a land agent, as that term is defined in s. 1(c) of the Act and, therefore, he did not require a licence. Second, he argued that, if he was acting as a "land agent" as defined in the statute, the definition of "land agent" contravenes s. 7 of the *Canadian Charter of Rights and Freedoms* as being overly broad.

[8] The trial judge rejected the Defendant's submission that, because neither he nor his clients were seeking to acquire an interest in land during any of the negotiations, he could not have been acting as a land agent.

IV. The Section of the Statute in Question

[9] The relevant provisions of the Act are as follows:

1. In this Act
 - (b) "interest in land" means an estate or interest in land that

- (i) is acquired for the purpose of a right of way or other surface use, and
- (ii) is of a kind that may be acquired
 - (a) by a right of entry order under the *Surface Rights Act*,
 - (b) by a right of entry order under Part 4 of the *Métis Settlements Act*,
 - (c) under section 6 of the *Métis Settlements Land Protection Act*,
 - (d) by an expropriation as defined in the *Expropriation Act*, or
 - (e) pursuant to any other Act of Alberta that provides for the expropriation of land;
- (c) "land agent" means
 - (i) a person who
 - (a) on behalf of the person's employer,
 - (b) as an agent on behalf of another person, or
 - (c) on the person's own behalf,negotiates for or acquires an interest in land, or
 - (ii) a person who for a fee, which includes accepting compensation for travel and other incidental expenses, gives or offers advice to an owner or the owner's agent with respect to a negotiation for or acquisition of an interest in land.
- (f) "owner" means a person who has a right to dispose of an interest in land and includes
 - (i) a person registered in the land titles office as the owner of an estate in fee simple in the surface of land,
 - (ii) a person who is shown by the records of the land titles office as having a particular estate or interest in the surface of land,

...

3(1) Unless the person is the holder of a subsisting licence, no person shall

(a) engage in the activities of a land agent,

...

(2) A person who contravenes subsection (1) is guilty of an offence and liable to a fine of not more than \$5000 and in default of payment to imprisonment for a term not exceeding 6 months.

(3) A person who is convicted of a 2nd or subsequent offence pursuant to subsection (2) may, in addition to or instead of any other penalties, be sentenced to imprisonment for a term not exceeding 12 months.

V. Analysis

A. Statutory Interpretation

[10] In my view, the trial judge did not err in his interpretation of s. 1(c)(ii) of the Act. The second part of the definition of "land agent" applies, with certain specified exceptions, to persons who, for a fee, give or offer advice to an owner or their agent about the negotiation for or acquisition of the type of interest in land set out in s. 1(b). Mr. Strom fits within that definition of land agent.

[11] As confirmed by the Supreme Court of Canada, "[t]oday there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament": *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27 at para. 21, quoting E. A. Driedger, *Construction of Statutes* (2nd ed. 1983), at p. 87; *Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42, [2002] 2 S.C.R. 559 at para. 26; *Montréal (City) v. 2952-1366 Québec Inc.*, 2005 SCC 62, [2005] 3 S.C.R. 141 at para. 9.

[12] The Alberta *Interpretation Act*, R.S.A. 2000, c. I-8, s. 10 provides that: "An enactment shall be construed as being remedial, and shall be given the fair, large and liberal construction and interpretation that best ensures the attainment of its objects."

[13] The majority in *Montréal (City)* advised at para. 12 that: "... [i]n interpreting legislation, the guiding principle is the need to determine the lawmakers' intention. To do this, it is not enough to look at the words of the legislation. Its context must also be considered." At para. 17,

the majority instructed that: "[t]he overall context in which a provision was adopted can be determined by reviewing its legislative history and inquiring into its purpose." The immediate context of the provision in question can be determined by analyzing the Act itself.

[14] The first legislation in Alberta dealing with land agents was *The Landmen Licensing Act*, S.A. 1968, c. 53, introduced into the legislature as Bill 105. The explanatory note to Bill 105 read:

This bill provides for the registration and licensing of landmen and investigations into complaints arising from the activities of landmen. The name landman includes a person ordinarily known or referred to as a right-of-way buyer, lease agent, petroleum landman, or by some other similar designation. It is intended to apply to all persons who are engaged, whether full time or part time, in negotiations for, acquisitions of, and the giving or offering of advice respecting negotiations for or acquisitions of interests in the surface of land required for drilling and mining operations, the laying of pipelines, construction of powerlines, the building of highways and roads, and any other purpose for which the interest, in the absence of an agreement with the surface owner, may be acquired by expropriation.

[15] The Bill defined "landman" in s. 2(d) as meaning:

- (i) a person who
 - (a) on behalf of his employer, or
 - (b) as an agent on behalf of another person, or
 - (c) on his own behalf,negotiates for or acquires an interest in land, or
- (ii) a person who gives or offers advice to an owner, or his agent, with respect to a negotiation or acquisition referred to in subclause (i).

[16] When the Bill was passed, the second part of the definition of "landman" was revised to apply only to those giving advice for a fee. In 1980 (S.A. 1980, c. 28, assented to May 22, 1980), the *The Landmen Licensing Act* was repealed and replaced with the *Land Agents Licensing Act*. The definition of "land agent" remained the same as the previous definition of "landman," although reference in the second part of the definition to subclause (i) was eliminated. In 1994 (S.A. 1994, c. 23, s. 24), the second part of the definition of "land agent" was amended by broadening the concept of a fee to include accepting compensation for travel and other incidental expenses.

[17] The Appellant argues that the purpose of the Act is to protect landowners from potentially unscrupulous individuals who seek to acquire interests in land and who can exert undue influence because of their superior knowledge about the legal and technical issues involved in these surface interests.

[18] While that may well be one purpose, I agree with the Respondent that it is too narrow a view of the legislature's objective in enacting this statute. In my view, the purpose of the Act, as derived from the explanatory note to Bill 105 and a review of the Act itself, is to provide for licensing of land agents, to regulate their activities, to provide for investigations into complaints arising from their activities, and to allow for the suspension or cancellation of their licence if they contravene the Act. As pointed out by the Respondent, the Act provides for standards of conduct of land agents (ss. 17, 24, 25) and their minimum qualifications (ss. 6, 24, 25). While landowners may benefit from this legislation, as may persons or companies seeking to obtain an interest in land, in the broader sense it is the public which is protected from land agents who do not meet the prescribed standards of conduct and who are not appropriately qualified.

[19] When Bill 26, the *Land Agents' Licensing Act*, was introduced in the legislature in 1980, the principle behind the Act was described as being: "... to set out certain terms of reference in regard to the standards, qualifications, and conduct of land agents in Alberta. This supports the view I have taken of the purpose of the Act.

[20] As noted by the Appellant, words in a statute must be ascribed their ordinary meaning, as determined according to the entire context of the statute, including the history of the provision at issue, its place in the overall scheme of the Act, the object of the Act itself, and the intent of Parliament in enacting the Act as a whole and the particular provision at issue. *Sullivan and Driedger on the Construction of Statutes*, 4th ed. (Markham, Ont.: Butterworths, 2002) at p. 21.

[21] The trial judge in this case held that s. 1(c)(i) of the current Act applies "to those who, in varying capacities, are seeking to acquire an interest in land and that subsection (ii) applies to persons who, for a fee, advise people in a position to dispose of an interest in land."

[22] The Appellant argues that the plain language of the Act contains nothing concerning disposal of an interest in land by an owner or an owner's agent and cites the *Real Estate Agents' Licensing Act*, R.S.A. 1970, c. 311, enacted just two years after *The Landmen Licensing Act*, as an example of a statute in which reference was made to both acquisition and disposition.

[23] In my view, however, it is clear from the definition in *The Landmen Licensing Act* that the legislature intended subclause (ii) to apply to a person giving advice to an owner about a negotiation for or acquisition of an interest in land by a "landman" as referred to in subclause (i). That interpretation is reinforced by the definition of "owner," which means "a person who has a right to dispose of an interest in land..."

[24] Section 1(c)(ii) refers to the giving or offering of advice to an owner or the owner's agent "with respect to" a negotiation for or acquisition of an interest in land. As noted by the Respondent, the phrase "with respect to" has been given a broad interpretation by the Supreme Court of Canada. In *R. v. Nowegijick*, [1983] 1 S.C.R. 29 at 39, Dickson J. stated that:

The words "in respect of" are, in my opinion, words of the widest possible scope. They import such meaning as "in relation to," "with reference to" or "in connection with." The phrase "in respect of" is probably the widest of any expression intended to convey some connection between two related subject matters.

[25] I agree with the trial judge that the phrase "with respect to negotiation for" as used in subsection (ii) is broader than the term "negotiates for," as used in subsection (i) and that it connotes any activity connected to the negotiation.

[26] The Appellant suggests that s. 1(c)(ii) addresses those who, on behalf of the entity acquiring or seeking to acquire an interest in land, provide advice to the owner or their agent, but do not participate in the negotiation itself. While s. 1(c)(i) specifies that the person referred to in that subsection must be acting on behalf of their employer, as an agent on behalf of another person, or on their own behalf, subsection 1(c)(ii) does not contain that restriction. Presumably, the person referred to in that subsection can be acting either for the party seeking to acquire the interest in land or the owner. If the legislature was merely seeking to distinguish the activity being undertaken by the land agent rather than the party on whose behalf they are undertaking the activity, it could have included the activity of giving advice to the owner in subsection 1(c)(i).

[27] The Appellant submits that s. 1(c)(ii) could capture any number of experts or professionals who might provide technical advice to the owner about engineering, hydrology, environmental impact, soil analysis, land valuation, and geology. In my view, it would do so only if they are providing advice "with respect to a negotiation for or acquisition of an interest in land."

[28] The Appellant contends that the interpretation adopted by the trial judge, which I have accepted, creates an imbalance of power to the detriment of landowners. The evidence at trial was that most licenced land agents represent energy and utility companies, although there are at least two or three licenced land agents who represent landowners. The Appellant argues that absent the assistance and expertise of paid consultants, landowners must negotiate on their own or seek out individuals who will assist them for no fee or reimbursement of expenses. He maintains that the result is that energy and utility companies have far more access to professional assistance, advice and expertise than landowners.

[29] I acknowledge that landowners' access to land agents may be an issue in the short term as a result of this interpretation of the legislation. However, I note that the Appellant did not present any evidence that he had attempted to obtain his licence as a land agent but had met roadblocks preventing him from doing so. If the government has assumed responsibility for licensing land

agents and regulating their conduct, it has a responsibility to ensure that persons who wish to act for landowners have as realistic an opportunity to obtain their licence as those who wish to act for parties seeking to acquire land interests.

[30] In my view, an imbalance in power does not result if those who seek to advise owners for a fee about negotiations and land acquisition are required to have the same qualifications and to maintain the same standard of conduct as those acting for the parties wishing to acquire an interest in land. Indeed, this measure levels the playing field to the extent possible in the circumstances.

B. Section 7 of the Charter

[31] The Appellant takes the position that ss. 1(c) and 3(1)(a) of the Act are overly broad and, as such, offend s. 7 of the *Canadian Charter of Rights and Freedoms*, which provides that:

Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

[32] The Respondent concedes and I find that by virtue of the penalty provisions in the Act, the Appellant's liberty is at risk.

[33] Therefore, the only issue to be decided is whether the restriction on his liberty is in accordance with the principles of fundamental justice.

[34] The principles of fundamental justice are violated if the State, in pursuing a legitimate objective, uses means which are broader than necessary to accomplish its objective: *R. v. Heywood*, [1994] 3 S.C.R. 761 at para. 49. However, a measure of deference must be paid to the means selected by the legislature: *Heywood* at para. 51. Overbreadth will be found only if "the adverse effect of a legislative measure on the individuals subject to its strictures is grossly disproportionate to the state interest the legislation seeks to protect [emphasis in the original]": *R. v. Clay*, [2003] 3 S.C.R. 735 at para. 38.

[35] I have already indicated what I consider to be the objective of the Act: to set out minimum qualifications for and to regulate the conduct of persons negotiating for or acquiring interests in land or advising owners or their agents with respect to negotiations for or acquisitions of interests in land.

[36] I agree with the Appellant and the Respondent that the Court may consider hypotheticals in determining whether legislation is overly broad: *Heywood* at para. 62. As noted by the Appellant, the Supreme Court of Canada in *Canada (Attorney General) v. JTI-Macdonald Corp.*, 2007 SCC 30 at para. 79, stated that: "[t]o ask only whether a trial judge will be able to apply the impugned law when a case comes before him or her provides an inadequate response to the concern that the law may in the future be applied in an overbroad way."

[37] The Appellant contends that the trial judge failed to consider the litany of individuals who would come within the ambit of the legislation, as interpreted here, including:

- (a) executors of estates;
- (b) persons acting under a power of attorney;
- (c) employees of land-owning corporations;
- (d) experts hired by landowners to provide advice about the impact on the land caused by surface rights-of-way and utility lines;
- (e) government employees and experts in the course of their employment who provide advice to landowners about issues relevant to the surface interest; and
- (f) family members or neighbours who participate in negotiations on behalf of landowners and are compensated in some form for their efforts.

[38] The trial judge indicated that the only hypothetical posed by the Appellant which concerned him was the situation where a person offering advice for no personal gain would be caught by s. 1(c)(ii), as the term "fee" for purposes of that subsection includes persons "accepting compensation for travel and other incidental expenses."

[39] The Respondent answers the hypotheticals posed by the Appellant by pointing out that:

- (a) Pursuant to s. 116 of the *Land Titles Act*, R.S.A. 2000, c. L-4, the executor or administrator in effect becomes the owner of the interest in land for purposes of s. 1(f) of the *Land Agents' Licensing Act*.
- (b) A person acting under a power of attorney is an agent of the owner. For purposes of the Act, something different is meant by land agent and owner's agent as the definition of "land agent" includes a person who gives advice to an "owner's agent."
- (c) Employees of land owning corporations would likely be regarded as owners' agents. Their compensation generally would not be in recognition of their advice on negotiations. However, if a significant portion of their duties involved providing advice about the negotiations, they might be considered "land agents."
- (d) Soils, water, geophysical or other experts hired by a landowner generally would not be providing advice about the negotiations or acquisition *per se*, but rather about their area of expertise. However, if they provide advice to the landowner

about how negotiations should be conducted, they might fall within the definition of "land agent."

- (e) An employee of a municipality is not caught by the definition by virtue of s. 2(b) of the Act. Other government employees are like employees of land owning corporations and generally would not be compensated for their advice about the government's disposition of its interest in certain lands. If they are, they would likely be regarded as "land agents."
- (f) The Respondent suggests that it is unlikely family members or neighbours providing advice to or participating in negotiations for a landowner would be charging a fee. They would likely be considered the owner's agent. If they are charging a fee, they would fall within the definition of "land agent."

[40] In terms of the issue of overbreadth, the question is whether the reach of the Act is grossly disproportionate to its objectives. As suggested by the Respondent, the Court is guided in the interpretive process at the proportionality stage of the overbreadth analysis by a number of principles:

- (1) Interpretations of the law that may minimize the alleged overbreadth must be explored: *R. v. Sharpe*, 2001 SCC 2, [2001] 1 S.C.R. 45 at para. 32.
- (2) There is a presumption that the legislature intended to enact legislation that is in conformity with the *Charter*: *Sharpe* at para. 33.
- (3) The Court should reject absurd hypotheticals as the legislature is presumed not to have intended to attach penal consequences to trivial or minimal violations of a provision: *Ontario v. Canadian Pacific Ltd.*, [1995] 2 S.C.R. 1031 at paras. 70 and 90.
- (4) Regulatory offences are subject to a lower standard of *Charter* scrutiny than Criminal Code offences: *Ontario v. Canadian Pacific Ltd.* at para. 62.

[41] The learned trial judge narrowed the scope of the Act by relying on the concepts of "periphery vagueness" and "core of conduct," which have been applied in the context of a challenge for vagueness: *Ontario v. Canadian Pacific Ltd.*, [1995] 2 S.C.R. 1031. The Applicant contends that the trial judge was in error in relying on these concepts as vagueness is a separate concept than overbreadth. I agree that overbreadth is not concerned with whether the statutory provision clearly delineates a risk zone for quasi-criminal sanction and whether the defendant's conduct fell squarely within the core of the prohibited conduct. Rather, it is concerned with whether the means used to achieve the objective of the legislature are broader than necessary.

[42] In my view, it is consistent with the objective of the Act that anyone who is compensated for providing advice to a landowner respecting a negotiation or acquisition should meet the minimum qualifications and standard of conduct set out in the Act.

[43] I agree with the Respondent that the definition of "land agent" is not overly broad as it contains sufficient limiting features. Persons advising landowners are only covered by the definition of "land agent" if they charge a fee or are compensated for travel and other incidental expenses. It may be that this provision will be interpreted to exclude those persons who are reimbursed only for their actual out-of-pocket expenses as opposed to those who are compensated above and beyond their actual expenses in lieu of or as a type of fee. Courts will bear in mind that criminal law is not intended to capture trivial acts: *R. v. Greenwood* (1991), 67 C.C.C. (3d) 435 (Ont. C.A.). In any event, those who provide such advice on a purely voluntary basis are excluded.

[44] I also agree with the Respondent's suggestion that the second part of the definition of "land agent" may be interpreted as covering only those who provide advice which is directly rather than peripherally "with respect to a negotiation for or acquisition of an interest in land."

[45] As urged by the Respondent, the second part of the definition of "land agent" may be further narrowed by differentiating those who fall within that term from an "owner's agent."

[46] Section 2 of the Act lists persons who are excluded from application of the Act, including lawyers, employees of municipal corporations or Métis settlement councils, and employees of associations under the *Rural Utilities Act*. Section 2 also provides that other persons or classes of persons may be exempted from application of the Act by regulation, although no such regulation has been passed.

[47] In my view, the means used by the legislature in this case to ensure the competency and standard of conduct of persons who are giving advice to landowners and their agents about a negotiation or acquisition of an interest in land, for which the person is being compensated, cannot be characterized as grossly disproportionate to the objective.

[48] Accordingly, the appeal is denied.

Heard on the 14th day of December, 2007.

Dated at the City of Edmonton, Alberta this 22nd day of February, 2007.

L.D. Acton
J.C.Q.B.A.

Appearances:

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