



Bob Aaron bob@aaron.ca

May 29, 2010

## Monopoly of land registration system inappropriate

Is the Ontario government about to auction off exclusive access to our land registration system to the highest bidder? Is it in the public interest to have a private monopoly control our land registration system?

These are two of the questions which arise from the passage of the Electronic Land Registration Services Act, 2010 (ELRSA) which received Royal Assent on May 18. It is certain to have a profound impact on every Ontario resident who is a party to a deed, mortgage or other document registered in the province's electronic land registration system.

The legislation was buried in the March 25, 2010, budget bill and enacted without any announcement, publicity or meaningful stakeholder consultation. Since it originated with the Ministry of Finance rather than the Ministry of Government Services (which oversees the land registration system), it is reasonable to assume that the purpose of the law is to raise money for the government.

A ministry spokesman explained to me that the ELRSA legislation gives the province new tools to manage contracts effectively and efficiently for the delivery of electronic land registration services. It allows the province to enter into new business arrangements to continue to enhance and modernize the electronic service offerings available to the public.

The new law creates the position of Electronic Land Registration Services Commissioner to oversee and regulate the financial and operating relationship among the government, Teranet and third party service providers.

The commissioner's records are exempt from public scrutiny under the Freedom of Information and Protection of Privacy Act.

The new law gives the government a free hand to allow third parties to charge fees in addition to the prescribed government fees.

A bit of background is necessary at this point. Teranet Inc. built and manages Ontario's electronic land title searching and registration system. Virtually every document registered on title to land in Ontario uses this system.

Instead of a simple web-based system with a user name and password (as in other provinces), the Teranet system can only be accessed by using expensive proprietary software. In exchange for computerizing our land records, Teranet was given a monopoly over the land registration system until 2017, and a perpetual non-exclusive right afterward.

In 2014 the government must decide whether it will renew Teranet's exclusive licence, operate the land registration system itself or through a third party, or establish a competitive marketplace for system access.

Why should this concern Ontario consumers?

The information in the land registration system belongs to the Ontario public. The policy issue here is who should be the gatekeeper to the information stored on Teranet computers. Almost 20 years after Teranet began to automate the land registry, the government comes along and introduces legislation which allows it to perpetuate the company's monopoly without explanation, transparency or public scrutiny.

Access to land registry information could well become a profit centre for Teranet and other private service providers. Teranet's service charges are pricey enough as it is. In Ontario, Teranet surcharges for title searching start at \$10 plus the hefty one-time licence fee of \$595. A far superior web-based program in British Columbia costs \$1.50 per search (plus the government fee) with no enrolment fee. In Ontario, Teranet imposes a \$10 service charge to register documents, in addition to the government fee of \$60. In British Columbia, the surcharge is only \$1.50.

A fundamental cornerstone of our economy is the concept of registration of private ownership of land. Access to the system in my opinion should not be in the hands of one company, but the introduction of the new Electronic Land Registration Services Act allows the government to perpetuate the Teranet monopoly without public oversight.

As a daily user of Ontario's land registration system, I am concerned that the new law could eliminate competition for access to the system, and ultimately result in increased costs to the public.

Ontario's consumers may justifiably be concerned about the potential for reduction of competition in the marketplace and the effect of the continuation of Teranet's monopoly over land registration services after 2017.