

I returned to selling real estate 7 or 8 years ago, and choosing to specialize in land and farms in rural areas, I was introduced to some circumstances that were difficult to believe. That a farm of 100 acres could not be separated; that building permits had to be first vetted by the Conservation Authority and often the Niagara Escarpment Commission; that a farmer couldn't even build separate residences for his grown sons to continue to work on the farm, that buildings often were not able to be upgraded or repaired because permits were not forthcoming from the 2 previously named agencies, and the list goes on.

One specific farmer in North Burlington, now a very close friend, alerted me to an article in the Ontario Farmer, which together, we decided to investigate, and from that day to this we continue study and learn. The article referenced Crown Land Grants: aka land grants, land patents and letters patent.

Crown Land Grants are official records , called Documents of Record, of the original grant of Crown land. Many are stored at the Ministry of Natural Resources and Forestry office in Peterborough. They are contracts and were made for consideration. They are made out to the original grantee, his heirs and assigns, for their sole and only use, forever. Although each grant is different, there are common threads, and that original statement of rights is usually similar. I will

read the exact wording from a true certified copy of one clients' grants I have in my possession.

“PROVINCE OF UPPPER CANADA”

George the Third by the grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith.

To all to whom these presents shall come,---GREETING  
Know Ye, that we of our special grace, certain knowledge and mere motion have given and granted, and by these presents DO GIVE and GRANT unto *William Nelson of the Township of Saltfleet in the County of Lincoln in the District of Niagara* His heirs and assigns forever; all that parcel or tract of land situate in the Township of Nelson in the County of York in the Home District in our said Province, containing by admeasurement 200 acres, being the same, more or less being Lot Number six in the second Concession North of Dundas Street in the said Township of Nelson. Together with all the woods and waters thereon lying and being, under the reservations, limitations and conditions hereinafter expressed.....

Following that statement of right, a metes and bounds description of the land parcel is given, followed by the reservations, restrictions and limitations imposed by the Crown. The Crown often reserved unto itself all mines of gold and silver, for obvious reasons, and all white pine trees, at the time used for ship building. The restrictions were generally having to do with clearing 10 acres of land, building a structure in which to live

and not offering the land or any part of it for sale for 3 years. If those limitations and restrictions were met, the original grantee could make his way to the official representing Great Britain, swear to having complied with the provisions of the grant, and having the GREAT SEAL of Great Britain applied to his grant, making it letters patent. It then became the root of title for the land parcel.

In our area, most of the grants were during the reign of King George III, King George III or Queen Victoria and as such are pre-confederation grants. ***This is most important because these grants, turned Letters Patent, were never “in the Province” of Ontario.*** They were “in the Province” of Upper Canada and alienated by the Sovereign of the Crown of Great Britain.

Who got the grants: surveyors, often as payment for their services, loyalists and soldiers returning from war as repayment for their services, and most often, settlers from Great Britain who were promised land in ***FEE SIMPLE*** that would be theirs forever, to use as they saw fit.

Our pre-confederation letters patent could have been reclaimed at a cost within 60 years of issuance by the Sovereign, but they were not. The granting Sovereign knew what they were giving grantees, and chose to give the land and rights forever.

These letters patent have great significance today. Fee Simple is on every land title in Ontario. If there is no word following fee simple, it is understood to be absolute, and that is the highest form of ownership of private property. Fee simple allows taxation, expropriation, escheat and law of the land, but law of the land (policing) is the common law of Great Britain as these granted lands were never “in the province” of Ontario.

Also on every land title in this province is the statement “subject to the reservations in the Crown Grant”. But remember, the Crown Grant is a CONTRACT between the Sovereign of the Crown and the original grantee, his heirs and assigns forever. So reference to the reservations also reference all the terms and conditions of the CONTRACT. ***“sole and only use forever”***

Several years ago, this was all we knew, but having studied the subject with a number of friends and colleagues intensely for the past 4 years, we have literally thousands of pages of information supporting this position.

Our letters patent are not Documents of Fact that must be checked. They are ***Documents of Record***. And as such cannot be overturned even by the Sovereign.

Mayor, councilors and friends, you understand paramountcy. I know this because you seem to think

that the Province has paramountcy and if the Provincial Policy Statement issues direction, it must be followed by the region and the municipality because the Province is paramount.

By this logic, you will agree that the Sovereign of the Crown has paramountcy over the province and in fact the Dominion. Municipal officials swear an allegiance to the Queen, sovereign of the Crown. So how is it that today that the contracts between the Sovereign and the grantee (heirs and assigns) are not being respected.

A recent quote that has gone viral by Professor at U of T, Jordan Petersen, states, "in order to be able to think, you must risk being offensive". I've heard it said recently in the courts by the lawyer prosecuting on behalf of the conservation authority that ignorance of the law is no excuse. My purpose here today is to educate you, have you seek legal guidance, and have your legal council indemnify you if you choose to go ahead and endorse these official plan amendments that are clearly at odds with the rights of the letters patent on the lands of North Burlington.

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