

## THE RIGHTS OF OWNERSHIP OF REAL PROPERTY

A lot of landowners wonder just what rights they are entitled to as a result of their ownership. While no longer sanctioned or acknowledged by any court, legislature or law school, anyone with any amount of legal training has probably heard of "the theory of the infinite carrot."

This rule of thumb, from the ancient past of the law, goes something like this - the rights of a land owner stretch from the surface of the land all the way down to the center of the earth in one direction and up to the infinities of space in the other. If you think of your little patch of earth as a giant carrot you have the basic idea.

A very long time ago this theory bore a certain resemblance to the actual state of land law. However, those days are long since past. Nowadays, after the various levels of government have finished nibbling on it, your carrot only goes down or up for a few feet. It is sort of a new dwarf variety of the old infinite carrot.

If you strike coal or diamonds or gold on your land you can expect the government to come along and inform you of your lack of proprietary interests. You'll soon find that your mineral rights don't stray far from the surface.

Should you happen on an ancient burial site or the petrified remains of a dinosaur on your land, you can probably expect to learn about some obscure legislation or regulations that even the law professors aren't familiar with. Then, even digging a hole may require special permission, if the hole is big enough.

If you head in the other direction and try to build on your land you will soon find that there are more worms in your carrot in the form of the Agricultural Land Reserve or the municipal or regional planning authorities. If you try to erect commercial premises on land deemed to be agricultural (it matters not if all you can grow on the hard scrabble are the toughest members of the weed family) or if you try to put two houses on a single residential lot (even if it is 20 acres and you can't hear each other when you yell) you will have yourself a problem.

If you build too high you run the risk of offending both the local authorities as well as your neighbour (who may make a claim against you for blocking out his sunlight). And if you live in the flight path of an airport, well, you get the idea.

The surface, where you'd think you were on fairly safe ground (pun intended), is also a dangerous place. You're not allowed to use certain chemicals on your vegetables and if you don't control your noxious weeds you may be visited by one of the queen's officials.

As for "shootin at some food when up from the ground comes a bubblin' crude", you're probably committing a criminal offence when you discharge a firearm and the crude wouldn't belong to you anyways unless you are one of those rare people who own both the land and the rights to the oil and gas beneath.

If you try to raise a few chickens or goats in town you may discover that you are offending local by-laws or ordinances, not to mention your neighbours. You may also be running afoul (another pun intended) of the provisions of a statutory building scheme or other such covenant that runs with the land.

Of course, if you happen to be on ALR land in the middle of town it is perfectly all right to raise pigs or llamas or warthogs, no matter how badly it may smell to the surrounding folks. As you can see, it is of little assistance to apply logic to an area of the law that has been pummelled by municipal, provincial and federal legislation.

Even though the ravages of time and the growth of all levels of government have turned that once proud tuber into a shadow of its former self, there are still a lot of advantages to owning your own plot of dirt - your own infinite carrot. The carrot may no longer be infinite but at least it is still all yours.