Restrictions That Can Eliminate Market Value
How Did We Get Here?

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Land Use Controls and How They Have Changed

Traditionally the property concept is thought of as a bundle of rights of which one of the most important is that of user. At common law this right was virtually unlimited and subject only to the restraints imposed by the law of public and private nuisance.

Today, the principal restrictions on land use arise from the planning and zoning provisions of public authorities. By the imposition, removal or alteration of land use controls a public authority may dramatically increase, or decrease, the value of land by changing the permitted uses which may be made of it.

Public Restrictions on Ownership

In Canada, private ownership of real property rights is subject to certain restrictions, known as the four powers of government:

- Taxation
- Expropriation
- Police Power
- Escheat

Fee Simple Interest

Use Restrictions

Crown’s Retained Right to Police

Police power is the right of government through which property is regulated to protect public safety, health, morals, and general welfare. Examples of police power include zoning ordinances, use restrictions, building codes, air and land traffic regulations, public health codes and environmental regulations.

Fee Simple Interest

Who Imposes Use Restrictions?

The Four Levels of Government:

1. Federal
2. Provincial
3. Municipal
4. Community Associations
Butternut Trees and Bobolinks

Butternut Trees
- Status: Species at Risk
- Affects Development Potential
Use Restrictions

Butternut Trees and Bobolinks

Bobolink
- Status: Threatened
- Affects Development Potential
Non-Market Properties

Floating Value and Double Accounting

Parks as a simple example
Assessment of Non-Market Properties

Some property is so restricted that its market value either is severely reduced, or gone altogether.

What to do if a property has no market value?
Examples of Alternatives

Ontario Airports - Tax Exempt But Make Payments in Lieu of Taxes

Assessment Act:

Property assessable and taxable, exemptions
Sec. 3. (1) All real property in Ontario is liable to assessment and taxation, subject to the following exemptions from taxation:
• Airports

Assessment Act, R.S.O. 1990, c. A. 31, section 3
Examples of Alternatives

Airports / Tax Exempt - continued

(24) Land that is owned or leased by an authority that operates an airport, subject to the following:
• Airport Tax Rates Based on Passenger Count

<table>
<thead>
<tr>
<th>Designated Airport Authority</th>
<th>Passenger Rate</th>
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<tbody>
<tr>
<td>Greater London International Airport Authority</td>
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<td>Greater Toronto Airports Authority</td>
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<td>Thunder Bay International Airports Authority</td>
<td>0.55403</td>
</tr>
</tbody>
</table>

Assessment Act, R.S.O. 1990, c. A. 31, section 3
Examples of Alternatives

Air Traffic Control Towers

• Air traffic control facilities in Alberta and Newfoundland

• Agreements reached in these jurisdictions for tax payments based on annual number of itinerant flights
Questions?
Thank You