

# AMANS Fall Conference 2017

## The New Legal Realities for Municipalities

Dealing with defunct societies

Enforcing bylaw convictions

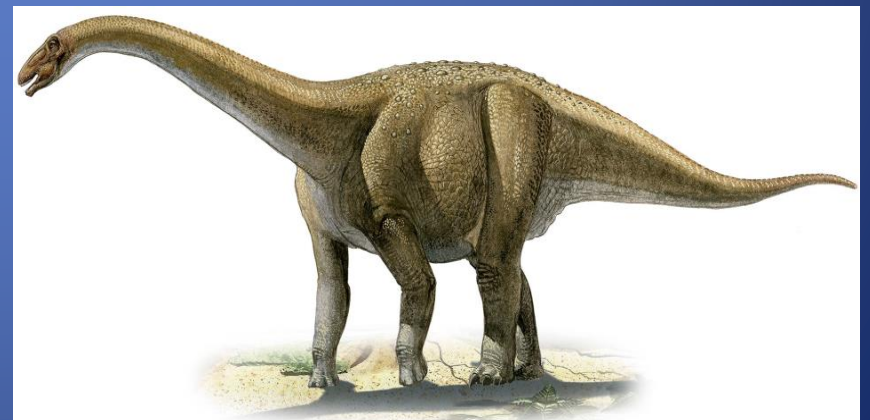
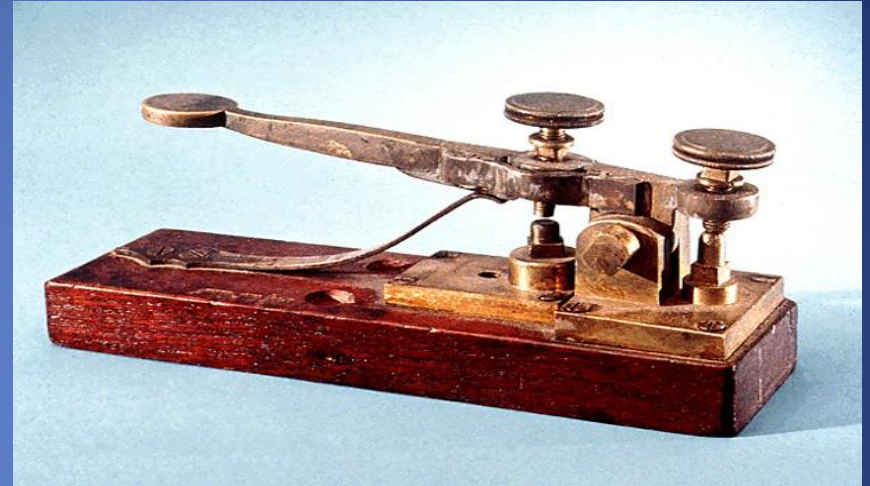
Marc Dunning, Wickwire Holm

# Dealing with Defunct Societies

- What are they?
- Why do we care?
- Transferring assets

# Dealing with Defunct Societies

- What are they?
  - inactive
  - created with “best of intentions”
  - those involved lose interest/move away
  - others not interested in taking over
  - may be “revoked” or “struck off” Registry



# Dealing with Defunct Societies

- Why do we care?
  - municipal funding
  - own physical assets
  - benefit local community
  - transfer assets if societies inactive





# Dealing with Defunct Societies

- Transferring assets
  - Depends on status with Registry
- 1) If “Active” or “Revoked”
  - transfer like any other company
  - society needs to meet/approve transfer
  - ensure compliance with bylaws
  - important to identify all assets
  - proper documentation

# Dealing with Defunct Societies

## 2) If “Struck off” Registry

- takes approx. 10 years
- *Corporations Miscellaneous Provisions Act*
- assets escheat to Province
- Act authorizes Province to transfer assets



# Dealing with Defunct Societies

- Typical DoJ requirements to approve transfer:
  - certificate of status
  - affidavit
  - abstract of title, legal description, tax certificate
  - survey plan and appraisal
- Once DoJ approves need cabinet approval

# Dealing with Defunct Societies

## 3) Other options:

- apply to Court
- land: Quit Claim Deed; expropriation





# Take Aways

- Consider leasing land
- Keep tabs on societies (funding)
- Intervene early if becoming inactive

# Enforcing Bylaw Convictions

- You have a conviction – now what?
  - How obtained?
    - SOT vs. long form information
  - S. 505 MGA
    - each day is separate offence
    - judge can order compliance + fine
  - Appeal period
    - within 25 'clear' days of verdict



# Enforcing bylaw convictions

- What if don't pay or comply?
- How to enforce?
  - generally
  - special authority under MGA

# Enforcing bylaw convictions

- Generally:
  - *Summary Proceedings Act*, s. 13-16A
  - Fine/order is enforceable as a judgment
  - Get Certificate of Judgment and Execution Order
    - issued by Court
    - seizure/garnishment
    - role of Sheriff
    - registration - PPSA and Land Registry
  - Warrant of Distress – rare

# Enforcing bylaw convictions

- MGA has specific enforcement mechanisms
- Depends on type of bylaw violation



# Enforcing bylaw convictions

## 1) Minimum Standards Bylaws (s. 181)

- standards for sanitation, plumbing, lighting, wiring, ventilation, heating etc.
- Supreme Court can order offence to stop, demolish building, award costs of demolition

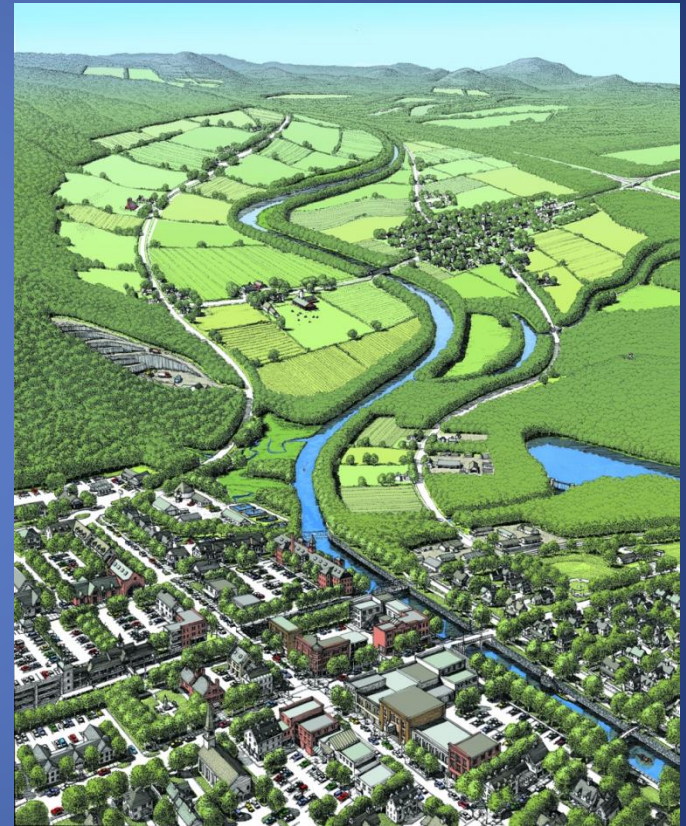


# Enforcing bylaw convictions

## 2) Land use bylaws (s. 184)

– Supreme Court can issue injunction where:

- building built or used in contravention of bylaw
- land used in contravention of bylaw
- breach of bylaw “anticipated”
- person carrying on business without paying license fee



# Enforcing bylaw convictions

## 3) Dangerous and Unsightly Premises (s. 347)

- Supreme Court can issue declaration, order work be done
- can order property be vacated until work completed





# Enforcing bylaw convictions

## 4) Section 266 (3) MGA

- applies to Part VIII (Planning and Development) and IX (Subdivision)
- e.g. land use bylaws
- Supreme Court has broad remedial powers

# Take Aways

- Get it right from the start (SOTs)
- Charge strategically
- Ask judge for compliance order + fine
- Enforcement action where necessary
- Be aware of breadth of enforcement authority
- Don't delay





*"That's all Folks!"*

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