

From: [Mark Bombara](#)
To: [Public Administration Committee](#)
Subject: Inquiry into Private Property Rights
Date: Wednesday, 31 July 2019 12:34:03 PM
Attachments: [Mark Bombara.vcf](#)

Dear Committee

I would like to make a fully comprehensive submission on how Private Property Rights in Western Australia have been eroded over the years, however it's impossible for me to do on my own due to the multitude of aspects wrong with our system, due in part to the Torrens system which created the form of ownership known as "fee simple" therefore making a distinction between what we call "freehold" and what the rest of the world would consider as freehold.

It is my view that Freehold title doesn't exist in Western Australia. And I don't think I'm the only one. Various State Government Authorities and Utilities have known that our titles and ownership rights aren't absolute, and through legislation have progressively limited / reduced what fee simple means.

In my particular case, a Notice was served in 1987 under the various legislations at the time that a Transmission Line would be built across my property. At that time the enabling legislation was the Energy Operators (Powers) Act 1979, which then referred to Public Works Act 1902 in regard to compensation matters.

Over time that all changed. The Act used by Western Power was amended a few times and the Land Administration Act 1997 was introduced. In my case, notwithstanding the 1987 Entry, the 1995 construction, on 8 October 2003 Western Power registered a Notice Of Intention To Take (NOITT). This became the Date from which all compensation matters would be considered, and therefore the provisions of the Land Administration Act would apply.

Unfortunately the Land Administration Act specifically disqualifies the conventional / correct approach to measuring the loss to a dispossessed owner by stating that Injurious Affection was not applicable for Easements. As a valuer myself, I can state that I suffered a substantial loss due to my surrounding land being devalued and it's a nonsense to consider my losses could be "made good" by ignoring the firmly accepted valuation practices permitted under Public Works Act that determined loss by comparing the unaffected value of the property against the affected value – ie the "before and after approach".

So the private property owner – me, loses because Western Power took 16 years to register the NOITT and the various bits of legislation removing / blocking any bit of legislation or accepted valuation practice that would ensure a dispossessed owner would be fully compensated.

To sum it all up: I had a transmission line go through my property. If compensation could have been determined earlier, accepted compensation and valuation practices would have ensured I would have been compensated and paid so that I could purchase a replacement asset. This didn't happen and I stand no chance of ever recovering what I've lost. And you know what? I haven't yet received a cent of compensation.

Regards

 **Mark Bombara**

