



September 25, 2018

Ministry of Justice
Legislative Services Branch
Attn: Review of Trespass Related Legislation
800 – 1874 Scarth Street
Regina, SK S4P 4B3

Re: Review of Trespass Relation Legislation

On behalf of the Saskatchewan Association of Rural Municipalities (SARM), I am writing in response to the Government of Saskatchewan’s review of trespass related legislation. We were pleased when Minister Morgan stated the provincial government was considering changes to trespass legislation at our Annual Convention in March. It appears there has been a healthy public discourse on the matter over the last two months.

As you may know, SARM has at least nine active resolutions related to trespassing. These resolutions have all been put forward by rural municipalities (RM) and carried by the membership at conventions within the last five years. The underlying theme to all of these resolutions is that SARM members support changes to legislation that requires individuals to receive express permission from a landowner before they may access private land. In other words, all private property should be deemed as “no trespassing” until an individual has obtained express permission from the landowner. SARM would support lessees having the ability to grant permission to access land in cases where the lessee has been granted the authority to give permission from the landowner. This could be specified in individual leases between a landowner and lessee.

As for how individuals may seek permission to access land, SARM would support a mechanism whereby individuals may seek permission by attending any on-site inhabited residence by the most direct route from a main access point. This would help prevent trespassers from stating they were crossing a property in search of the homestead to seek permission to be on the land. SARM strongly believes there should be no distinction between cultivated land, fenced property, or open pasture.

We agree with the discussion paper's suggestion that there may be confusion due to the multiple pieces of legislation that cover trespassing. As such, we would like to see harmony between all trespass related legislation.

Currently, *The Wildlife Act, 1998* prohibits hunting on posted land. Unfortunately, posting land does not successfully deter trespassers. Landowners report serious issues with individuals taking down posted signs, explicitly disregarding the landowner's wishes and legal right. SARM believes the onus should not be on landowners to post their land to prevent people from hunting on it. This is costly, particularly when some individuals have no qualms about removing these signs. It is difficult for landowners to determine when the signs may have been removed, which plays a critical role in determining whether an individual truly did not know the land was previously posted or if they are indeed a trespasser.

Trespassing prevents a threat not only to feelings of personal safety, but also to the livelihood of farmers. Livestock can be lost to hunting accidents or gates left open, and noxious weeds, invasive species, and soil-borne diseases like clubroot present a serious biosecurity threat to Saskatchewan's agricultural economy. Landowners need to know who is on their land and what is taking place so they can take the necessary precautions to protect their crop and livestock.

To further prevent the spread of noxious weeds and diseases, SARM recommends that legislation be updated to require all-terrain vehicles (ATV) entering Saskatchewan or moving across the province to be cleaned. This is a similar strategy to the "Clean, Drain, Dry" strategy the Ministry of Environment is promoting to prevent the introduction or spread of aquatic invasive species. ATVs represent a serious biosecurity threat, as they can easily spread soil-borne diseases like clubroot.

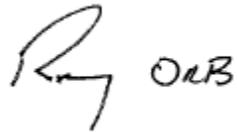
Finally, SARM is concerned that allowing people to access land without permission may result in accidents. For instance, if an individual does not speak to the landowner they may not know about potential hazards on the land, such as sloughs. This could result in serious accidents that could have easily been avoided by a conversation with the landowner. In addition, landowners are concerned about potential liability if an individual is accessing the land without permission and has some sort of accident. We would like clarification from the Ministry of Justice as to whether the owner/occupier owes a general duty of care to a person hunting on the land when consent has not been received.

The current fines for trespassing are not adequate. SARM members have identified this issue and requested via resolution that the fines be increased. As such, we support fines similar to those in Ontario, which are \$10,000. Fines need to be significantly steep as to actually act as a deterrent.

While SARM fully supports changes to legislation, we also believe enforcement needs to be stronger. The current enforcement strategy is untenable, as trespassers are rarely subject to enforcement action. The provincial government must work with the RCMP to determine how it can better enforce trespassing laws. SARM members have also previously asked that the province and the RCMP work together to increase awareness around property rights and trespassing.

I wish to again thank the Ministry of Justice for undertaking a review of trespass related resolutions, and for inviting all residents of Saskatchewan to provide feedback. We believe our recommendations are in the best interest of the province as a whole and will successfully balance private property rights and public access to the beautiful lands our province has to offer.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray Orb". The signature is stylized and cursive.

Ray Orb
President

Enclosure