

AMCTO ZONE 7 FALL CONFERENCE

Free Men on the Land

A Practical Guide for Municipalities



Outline

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5. What is the basis for Municipal Planning Authority?
6. Significance of municipal zoning powers
7. Challenges to municipal by-laws by Crown Patent Holders
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Free Men on the Land – Who Are they

- Many names for this and similar groups:
 - Detaxers
 - Freemen
 - Free Men on the Land
 - Sovereign Men/Sovereign Citizens
 - Ontario Landowners Association (Or regional/municipal Landowners Association(s))
 - Moorish Law Practitioners
 - Church of the Ecumenical Redemption International
 - And more...

Free Men on the Land – Who Are they



OPCA (Organized Pseudolegal Commercial Argument) Litigants

- From *Meades v. Meades* 2012 ABQB 571, 2012 CarswellAlta 1607, [2012] A.J. No. 980, [2013] 3 W.W.R. 419
- OPCA [Organized Pseudolegal Commercial Argument] litigants do not express any stereotypic beliefs other than a general rejection of court and state authority; nor do they fall into any common social or professional association.
- Arguments and claims of this nature emerge in all kinds of legal proceedings and all levels of Courts and tribunals.
- We have seen these strategies used in Municipal harassment type cases.

Free Men on the Land – Who Are they

- These people use techniques and arguments that are promulgated and even commercially sold by 'gurus' (as hereafter defined) to disrupt court operations and to attempt to frustrate the legal rights of governments, corporations, and individuals.
- Over a decade of reported cases have proven that the individual concepts advanced by OPCA litigants are invalid. What remains is to categorize these schemes and concepts, identify global defects to simplify future response to variations of identified and invalid OPCA themes, and develop court procedures and sanctions for persons who adopt and advance these vexatious litigation strategies.

OPCA (Organized Pseudolegal Commercial Argument) Litigants

- This group is unified by:
 - 1. a characteristic set of strategies (somewhat different by group) that they employ,
 - 2. specific but irrelevant formalities and language which they appear to believe are (or portray as) significant, and
 - 3. the commercial sources from which their ideas and materials originate.

OPCA (Organized Pseudolegal Commercial Argument) Litigants

- This category of litigant shares one other critical characteristic: they will only honour state, regulatory, contract, family, fiduciary, equitable, and criminal obligations if they feel like it. And typically, they don't.
- Insert MUNICIPAL above!!

OPCA (Organized Pseudolegal Commercial Argument) Litigants

- OPCA litigants appearing in our Court may be anything from educated professionals to retired senior citizens. They may be wealthy or poor. The famous are not immune; for example the American action movie actor Wesley Snipes adopted OPCA techniques in an attempt to defeat his income tax obligations: *United State v. Wesley Trent Snipes et al.*, No. 5:06-cr-00022-WTH-GRJ-1 (U.S.D.C. M.D. Fl., February 1, 2008). Snipes presently is serving a three year prison sentence for income tax evasion.

Meades v. Meades

- In Canada, this category of litigation traces into the late 1990's, representing the spread of concepts that emerged much earlier in the United States. Our Court's experience has been that persons involved in the OPCA community often hold highly conspiratorial perspectives, but there is no consistency in who is the alleged hidden hand. Another uniform OPCA characteristic appears to be a belief that ordinary persons have been unfairly cheated, or deceived as to their rights. This belief that the common man has been abused and cheated by a hidden hand seems to form the basis for OPCA community members perceived right to break 'the system' and retaliate against 'their oppressors'.

Meades v. Meades

- OPCA strategies as brought before this Court have proven disruptive, inflict unnecessary expenses on other parties, and are ultimately harmful to the persons who appear in court and attempt to invoke these vexatious strategies. Because of the nonsense they argue, OPCA litigants are invariably unsuccessful and their positions dismissed, typically without written reasons. Nevertheless, their litigation abuse continues. The growing volume of this kind of vexatious litigation is a reason why these Reasons suggest a strong response to curb this misconduct.

Meades v. Meades

- Beyond that, these are little more than scams that abuse legal processes. As this Court now recognizes that these schemes are intended for that purpose, a strict approach is appropriate when the Court responds to persons who purposefully say they stand outside the rules and law, or who intend to abuse, disrupt, and ultimately break the legal processes that govern conduct in Canada. The persons who advance these schemes, and particularly those who market and sell these concepts as commercial products, are parasites that must be stopped.

Meades v. Meades

- OPCA [Organized Pseudolegal Commercial Argument] litigants often use the term "common law". OPCA litigants often draw an arbitrary line between "statutes" and "common law", and say they are subject to "common law", but not legislation. Of course, the opposite is in fact true, the "common law" is law developed incrementally by courts, and which is subordinate to legislation: statutes and regulations passed by the national and provincial governments. The Constitution Act provides the rules and principles that restrict the scope and nature of legislation, both by jurisdiction and on the basis of rights .

Meades v. Meades

- double/split person schemes

A strange but common OPCA concept is that an individual can somehow exist in two separate but related states.

This confusing concept is expressed in many different ways.

The 'physical person' is one aspect of the duality, the other is a non-corporeal aspect that has many names, such as a "strawman", a "corporation", a "corporate entity", a "corporate fiction", a "dead corporation", a "dead person", an "estate", a "legal person", a "legal fiction", an "artificial entity", a "procedural phantom", "abandoned paper work", a "slave name" or "slave person", or a "juristic person".

...

Meades v. Meades

- 'Double/split person' schemes have no legal effect. These schemes have no basis in law. There is only one legal identity that attaches to a person. If a person wishes to add a legal 'layer' to themselves, then a corporation is the proper approach. The interrelationship between corporation and owner, and the legal effect of that 'layer' is clearly established in common law and statute.

The 'double/split' person' strategies all have a common underlying kernel; that the OPCA litigant is not the person before the court, or is not subject to the court's jurisdiction. That allegedly falls on the other, non-corporeal (but otherwise similar) person. In other words, a litigant who advances a variation of this scheme says to the court 'you have no jurisdiction over me — the person you want is someone else.' That allegedly denies this Court's authority, but of course fails in effect.

Tactics

Donald J. Netolitzky, "Organized Pseudolegal Commercial Arguments [OPCA] in Canada; an Attack on the Legal System" (2016) 10 J. Parliamentary & Pol.L 137

- 1. Putting a copyright symbol beside your name allows you to sue government actors if they use your name, or if government activities "... harmed you in any way."
- 2. Attaching four small white flags to the corners of a motor vehicle makes a traffic stop or ticket a breach of international law.
- 3. "Understand" means "stand under government or court authority", so if a person replies they "do not understand" to a statement from a judge or a police officer then they are immune from sanction.
- 4. It is unlawful for a government actor to use a Freeman's name other than in the dash-colon format.
- 5. A police officer who asks for an individual's name commits extortion under the Criminal Code.

Tactics

Donald J. Netolitzky, "Organized Pseudolegal Commercial Arguments [OPCA] in Canada; an Attack on the Legal System" (2016) 10 J. Parliamentary & Pol.L 137

- 6. Government debts may be “set off” by presenting a bill for the government's use of the Freeman's “Strawman”.
- 7. Disobeying a statute is not a breach of the peace.
- 8. An arrest conducted without a Freeman-on-the-Land's consent is an assault.
- 9. A ticket issued for a violation of legislation is a bill of exchange. One can avoid that obligation by demanding the original copy of a ticket. [61](#)
- 10. A criminal accused can fire a Crown Prosecutor, at which point: ... you will create a situation where there is only you and the judge and if both of you are equal before the law, then all he has are offers. You can then tell him “I thank you for your offer, but I am compelled by my faith to not accept.” HE will try very hard to get you to agree with him. Don't do it! Just keep thanking him for his offers and let him know you simply cannot accept his offers.

Dangerous?

Donald J. Netolitzky, "Organized Pseudolegal Commercial Arguments [OPCA] in Canada; an Attack on the Legal System" (2016) 10 J. Parliamentary & Pol.L 137

- There is some disagreement in literature about whether membership in an OPCA group is a sign of potential violence. There is, as well, significant differences in the various groups. However, one common theme is that government actors, agents and employees are "immoral and malevolent".
- OPCA litigants, especially vis-à-vis government agents such as police and Municipal inspectors, use "paper terrorism" to illegally harass and intimidate. This includes vexatious legal claims, liens, PPSA registrations etc. In Canada these tactics have been held to be contempt of court and even criminal intimidation.
- OPCA Gurus teach that these are appropriate tactics.

Dangerous?

Donald J. Netolitzky, "Organized Pseudolegal Commercial Arguments [OPCA] in Canada; an Attack on the Legal System" (2016) 10 J. Parliamentary & Pol.L 137

- Depending on the “order” the OPCA follower belongs to, some are taught that they have a right to use lethal force against “illegal” police officers of government actors:
- Robert Menard states that as a “Freeman-on-the-Land in this common law jurisdiction” he has a duty to defend against this invasion and any peace officer traitors who assist the invaders, can use notaries public to conduct trials and issue criminal judgments against traitors, “... even if they hold the highest office ...”, and:
... that in order to be a peace maker and deal with rogue armed police officers who fail to act with respect to the Criminal Code of Canada I will need use of and access to firearms of equal or greater power than those people who act criminally have access to ...

Dangerous?

Donald J. Netolitzky, "Organized Pseudolegal Commercial Arguments [OPCA] in Canada; an Attack on the Legal System" (2016) 10 J. Parliamentary & Pol.L 137

- ... I claim the right to fulfill my duty to shoot any foreign troops in Canada who are armed and attempting to police or govern me or other Canadians without consent and to view them as an invading force which must be lawfully attacked. ...
Then in response to criticism of this document from another Internet forum participant, Menard replies:
... Now imagine thousands of us.
We are smarter, better prepared and unlike a child of the province such as yourself, many have secured the right to carry concealed weapons.

Dangerous?

Donald J. Netolitzky, "Organized Pseudolegal Commercial Arguments [OPCA] in Canada; an Attack on the Legal System" (2016) 10 J. Parliamentary & Pol.L 137

- In the US, but less frequently in Canada so far, OPCA groups have started vigilante Courts and Police services. This has lead to criminal investigations and charges in the US.
- In the US, para-military "militia" groups have been used as the enforcers of "common law" courts.
- Sovereign Citizen gurus operate in Canada. In 2014 a dual citizen Sovereign Citizen, Glenn Winningham Fearn, was arrested while entering into Canada with illegal weapons. He continued to teach while awaiting trial, and once convicted absconded into the U.S. at the first opportunity. Fearn now publicly calls for the execution of named Canadian judges.
- There have been infrequent incidents of violence with OPCA affiliates in Canada including shootings of police officers executing warrants.

What will YOU see?

Property Rights Groups' Position Re Crown Patents

- Theory: Crown Patents supersede all government legislation affecting private property
- Argument stems from the claim that Crown Patents conferred ownership and a certain amount of rights to the original owner and anyone else who would own the property in the future

What is a Crown Patent?

- “A Crown Patent is an instrument by which land is conveyed by the Crown to a private individual or members of the public” (*Demarais v Fort Erie (Town)*)
- The Crown never relinquished actual “ownership” of land through granting Crown Patents
- Crown Patents grant the use and possession to the subject lands; the Crown still technically “owns” all land

What is the basis for Municipal Planning Authority?

- *Constitution Act, 1867*, s 97 paragraphs 8 and 9 assigned provincial governments jurisdiction over “Municipal Institutions in the Province” and “Property and Civil Rights in the Province”
- These paragraphs provide authority for the Province, through legislation, to grant to municipalities the power to regulate land uses and establish development standards by passing local by-laws

Significance of Municipal Zoning Powers

- *Toronto (City) v Williams*:
 - *Per Chief Justice Boyd* – “[w]e cannot mistake the policy of the Legislature; the plaintiffs, as a public body, are called on to enforce it in proper residential neighbourhoods. While it may bear hardly on the individual owner, who is hampered in the free enjoyment of his property, still it is one of the effects of advancing civic life and amenity that, for the sake of preponderating advantages to the whole locality, one proprietor may have to suffer deprivation.”
 - *Per Justice Middleton* – “I fully appreciate that any prohibition of the owner's common law right to use his land as he sees fit, so long as no nuisance is committed, may in individual cases be regarded as a hardship, but this case must be determined upon the construction of the statute and the by-law, which is in the words of the statute.”

Challenges to municipal by-laws by Crown Patent Holders

- *R v Mackie*
 - Appeal from Mr. Mackie's conviction for operating an archery range without a permit contrary to the *Niagara Escarpment Planning and Development Act*
 - Mr. Mackie argued that the rights he possessed under his Crown Patent precluded the regulation of land use by the Province and that so long as he was compliant with the terms of the Crown Patent he could do with the lands as he saw fit

Challenges to municipal by-laws by Crown Patent Holders

- Justice Vyse disagreed with Mr. Mackie’s argument;

“[t]he appellant’s assessment of the Crown Patent’s significance does constitute an error in law given the Province’s *clear jurisdiction to legislate land use as delegated through the British North America Act*. In addition, however I note the wording of the Crown Patent itself in one of the beginning recitals, where it states:

And whereas by an Act of the parliament of Great Britain, passed in the thirty-first year of his Majesty’s reign, entitled “An act to repeal certain parts of an act passed in the fourteenth year of his Majesty’s reign, entitled “An act for making more effectual provision for the government of the province of Quebec in North-America, and to make further provision for the government of the said Province,”...

It is clear by this recital that the Letters Patent do not design to limit or reduce the Provincial government’s powers but to make more effectual provision for its recognized jurisdiction pursuant to the law.”

- Court of Appeal also rejected Mr. Mackie’s argument stating the “authority of the province to control activities on private land is derived from s. 92(13) and 92(16) [of the *Constitution Act, 1867*]”

Challenges to municipal by-laws by Crown Patent Holders

- Other decisions:
 - *Grimsby (Town) By-law No. 14-45 Re*
 - Landowners appealed the Town's comprehensive zoning by-law on the grounds that their Crown Patent superseded the *Planning Act* and, as such the Town had no jurisdiction or authority to zone their lands
 - OMB held the interpretation of the landowners' Crown Patent was not a planning argument showing a deficient in the by-law that the OMB could remedy by allowing the appeal in whole or in part
 - *R v Hughes*
 - Defendant raised Crown Patent as a defence to illegal firearm possession charges
 - Crown Patent provided only that if any tract of land granted through the Crown Patent should be required for "canals, roads, the erection of forts, hospitals, arsenals for any other purpose connected with the defence or security of our said province..." then the land might revert to the Crown
 - Defendant could not explain how this clause referring to arsenals allowed him to have a firearm and, accordingly the Court rejected the defence

Most Recent Decision: *Demarais v Fort Erie (Town)*, 2016 ONSC 1750

- Facts:
 - Applicant owned property on which she did not live (tenants lived there, including plaintiff)
 - By-laws of municipality required yards to be maintained in neat and clean condition
 - Municipal enforcement officer ordered removal of derelict vehicles/garbage and debris
 - Tenant said "antique and old" vehicles predated the property standards by-law ("PSB")
 - Applicants applied for permanent injunction preventing town from removing chattels
- Result:
 - Application was dismissed
 - *Building Code Act* permits by-laws to prescribe standards for maintenance of property
 - F was properly served in accordance with legislation
 - Legal non-conforming rights and continuous use rights arise through zoning under *Planning Act*
 - Municipality's PSB was properly enacted
 - Property was conveyed to Applicant's from original Crown patent
 - Nothing in conveyance suggested that Crown patent had paramountcy over municipality's ability to regulate private property.

What To Do?

- Be aware of OPCA affiliates in your community
- Don't try to handle their issues alone
- Seek advice
- Speak to Police
- Don't send Inspectors without police being aware and perhaps in attendance
- The OPCA tactics are inevitably false and not accepted by Courts. Do not worry that your by-laws, policies or procedures are deficient if faced by these tactics. However, be prepared for unusual litigation or quasi-legal steps and deal with them quickly and firmly.

Q&A

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