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January 31, 2000

Theresa McClenaghan
Canadian Environmental Law Association
517 College St., Suite 401
Toronto, ON M6G 4A2

Michael McQuaid, Q.C.
Weir & Foulds
Exchange Tower
130 King Street West, Suite 1600
Toronto, ON M5X 1J5

Dear Theresa and Michael:

Re: Environmental Protection and "Takings" of Private Property Panel Discussion

Thank you very much for agreeing to take part in this event. It should be an excellent opportunity to explore some of the current debates about the relationship between environmental land use controls and landowners' private property interests. I have put together a small packet of readings for the students, which I am enclosing with this letter.

The event will take place on Thursday, February 3, 2000, at 8:30-10:20 a.m., in the Moot Court Room at Osgoode Hall Law School, York University. I will be chairing the panel and will introduce the topic and the speakers. Each of you will have around 20 minutes to make your remarks, after which I will ask you to react to the other's presentation, if you are so inclined. I and the other property law professors may then have some brief comments, and we will then open the floor to questions.

The reading materials focus on two issues: endangered species protection and the Vera Dickinson/Derek Russell case in Toronto. On endangered species, I have included some newspaper clippings on Pelee Island's blue racer snake controversy, an excerpt from an article arguing that the US Endangered Species Act effects massive "regulatory takings" of private property, and an excerpt from Environment Canada's latest Update on the federal Species at Risk Act dealing with landowner compensation. On the Vera Dickinson/Derek Russell case, I have included excerpts from the original hearing decision, the OMB appeal and the Divisional Court decision, all relating to the

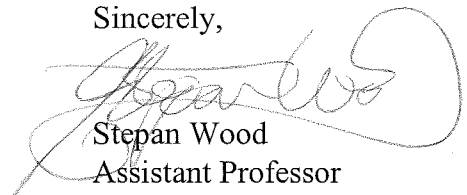
argument that Toronto's Ravine Control Boundary by-law effectively sterilized the appellant landowners' private property rights. I was also going to include excerpts from the Nova Scotia Court of Appeal's August 1999 decision in *Mariner Real Estate Ltd. v. Nova Scotia (A.G.)* (Quicklaw [1999] N.S.J. No. 283, Aug. 18, 1999), which held that the designation of land as a "beach" under the NS Beaches Act did not constitute expropriation even though it substantially removed all economic value of the land. The case includes a good discussion of the concept of "regulatory takings" and the Canadian "de facto expropriation" jurisprudence. I did not include it due to space constraints, but I commend it to both of you as interesting reading.

Although the reading materials relate to specific controversies, I am hoping that the presentations will strike a balance between the specific and the general. This is especially important since both of you are not necessarily in a position to discuss the particulars of each of the two controversies. As a result, I would be delighted for each of you to speak from your personal knowledge and experience (whether it relates to these two controversies or not), but I hope you try to relate your remarks to the general stakes of the debate. In this regard you may find it useful to review the introduction and discussion questions I included at the beginning of the reading packet.

I have also enclosed a map of York campus.

I look forward to meeting both of you on Thursday, and to a lively discussion. In the meantime, would each of you please send me a short biographical sketch either by fax or email (see above)?

Sincerely,

A handwritten signature in dark ink, appearing to read 'Stepan Wood', is written over a large, faint circular scribble or stamp.

Stepan Wood
Assistant Professor