

**Please forward this message** to the proper Committee recording area as I would wish to submit this to the Committee reviewing the Copyright Act:

**Please make it absolutely clear in amending the Copyright Act** that the lodging or registering of a copyrightable document or work with a government body, such as a plan or text material, does not automatically transfer the copyright to Her Majesty, any government body or other body **without the specific written permission of the author.**

"Plan" is defined under the Copyright Act as a copyright item per:

*artistic work includes paintings, drawings, maps, charts, plans, photographs, engravings, sculptures, works of artistic craftsmanship, architectural works, and compilations of artistic works; (oeuvre artistique)*

Just because a copy of a plan prepared by a party such as a surveyor, that is then physically recorded within the government recording system for regulatory and descriptive purposes, Section 12 of the Copyright Act does not then grant copyright to the Crown or other government body as the plan was merely whiteprint machine copied and not

**"prepared or published by or under the direction or control of Her Majesty or any government department,"**

as defined in Section 12 of the Copyright Act :

***Where copyright belongs to Her Majesty***

*12 Without prejudice to any rights or privileges of the Crown, where any work is, or has been, prepared or published by or under the direction or control of Her Majesty or any government department, the copyright in the work shall, subject to any agreement with the author, belong to Her Majesty and in that case shall continue for the remainder of the calendar year of the first publication of the work and for a period of fifty years following the end of that calendar year.*

This matter had been adjudicated by the Ontario Information and Privacy Commissioner in a tribunal hearing P-1114 as attached and excerpted:

*From IPC Order P-1114 February 1, 1996*

*Individuals, businesses and other entities may be required by statute, regulation, by-law or custom to provide information about themselves to various government bodies in order to access services or meet civic obligations. However, it does not necessarily follow that government bodies acquire legal ownership of this information, in the sense of having copyright, trade mark or other proprietary interest in it. Rather, the government merely acts as a repository of information supplied by these external sources for regulatory purposes.*

P-1114 does not appear to have been reviewed, recognised or referred to in *Keatley Surveying Ltd. v. Teranet Inc., 2017 ONCA 748* within the Ontario Court system in recent years.

As such there has been a serious misinterpretation of what has been intended to keep the copyright of an 'artistic work' with the creator and not spun off to another party without sanctioning a clear version of the fundamental intent of the Copyright Act's principle of "ownership" is the creators' **unless specifically conveyed to another party in writing.**

I have tried to keep my missive a brief as possible.

If there is any other information that the Committee wishes on the matter, please do contact me as below.

Please confirm receipt of this message.

Thank you,

**Derek G. Graham OLS (Cadastral) OLIP**  
Professional Surveyor  
Land Use Planner  
Drainage Engineer

**Derek G. Graham Limited**

**PLEASE NOTE SEND HARD COPY MAIL TO OUR SECURE POST BOX AT: Post Office Box 295 Elora, Ontario, Canada NOB 1S0**  
7669 Colborne Street East  
RR #1 Fergus, Ontario  
Canada  
N1M 2W3

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**Business Tel: (519) 846-5533 09:00 - 17:00 Weekdays**

**Fax: (519) 846-9305 09:00 - 17:00 Weekdays**

**Home Tel: (519) 846-9305 17:00 - 22:00 Weeknights**

**(519) 846-9305 08:00 - 22:00 Weekends**

**URL: [www.grahamsurveys.on.ca](http://www.grahamsurveys.on.ca)**

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