

# NEWSLETTER

## The Freehold Owners Association (“FHOA”)

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## A NEW FHOA INITIATIVE

This issue of your newsletter focusses on a new initiative FHOA is undertaking to assist freeholders in enhancing and preserving the value of the mineral rights which form part of their heritage.

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### Freehold Lease Initiative

What’s the going rate?

This is perhaps the most common question asked by the hundreds of individual freeholders who call or e-mail FHOA each month. We all want to be treated fairly and it is perfectly natural to question how the offer you have received compares to other current leasing offers.

The question is particularly relevant during this period of depressed natural gas prices because some land agents are offering freeholders fixed royalty rates as low as those prevalent during the 1950’s. Other land agents are asking freeholders to grant royalty holidays similar to those recently provided on Crown lands by the Saskatchewan and Alberta Governments. Still others are offering leases which provide for substantially higher deductions from royalties than has been the norm in recent years.

Since inception, FHOA has assisted thousands of freehold owners in negotiating the terms in their lease agreements. However, we have never had the financial resources necessary to assemble a database and properly answer the ‘what’s the going rate’ question. With the assistance of the Office of the Farmers’ Advocate, FHOA now expects to have access to the necessary funding under the ‘Growing Forward’ program.

With your help, FHOA intends to gather information on the terms and conditions in existing and future freehold leases and publish this information on its web site. As per the attached ‘Consent Form’ the information includes the effective date of your lease, the primary term, the royalty rate, the cap on deductions (if any), the bonus consideration in total, and the bonus consideration per acre.

Many of you have already signed a consent form allowing your name and address to be included in a technical database provided to the energy industry by geoLogic Systems Ltd. The new consent form also provides for this. Allowing your name and address to be included in geoLogic’s database simply lowers the cost to the energy industry of doing business with freehold owners (ie. energy companies don’t have to pay \$5.00 to the Government for a title search in order to contact you).

Your name and address will **not** be included with lease information to be published on FHOA’s website. Contact

information is needed for geoLogic’s purposes and to provide an audit trail - to ensure that the information we are being paid to assemble and publish is accurate, Growing Forward requires the right to be able to spot check the data with the freehold owner providing it.

Growing Forward has funded a similar program for surface owners since 2007. Maps showing compensation rates for surface leases are available on the Farmers’ Advocate site. ([www.farmersadvocate.gov.ab.ca](http://www.farmersadvocate.gov.ab.ca)) and more detailed information is available for a fee through William D. Marriott and Associates Ltd., the company which administers the program.

Bonus considerations for freehold leases have historically been substantially lower than bonuses paid for technically equivalent Crown leases. One of the reasons for this is that information on Crown leases has always been publicly available. An energy company seeking a Crown lease knows the price paid for offsetting Crown leases and tends to bid higher than the offsetting prices. Making freehold lease information publicly available can be expected to have a similar impact on future freehold lease terms. Clearly, you wouldn’t lease your mineral rights for \$50/acre with a 15% royalty rate if you knew other leases in your area were being negotiated at \$100/acre and 17%.

But improving future freehold lease terms is not the principal aim of FHOA’s Freehold Lease Initiative.

Most freehold mineral rights are already leased. The queries FHOA receives from freeholders who have leased their mineral rights are many and varied but they almost invariably involve the interpretation of particular clauses in the freeholder's lease agreement in the context of his or her technical situation. FHOA's access to technical information allows us to partially answer the questions raised, but we seldom have access to the actual freehold lease agreement needed to provide comprehensive answers.

As part of the FHOA Lease Initiative we are asking members to send in a copy of their lease agreement together with their Consent Form. FHOA will scan all leases received and create a digital database consisting of these agreements tied to our existing membership database.

Most freehold owners do not fully understand their lease agreements and many do not know what questions to ask when it comes to determining whether their lessee is fully honouring their lease obligations. The FHOA Lease Initiative will allow FHOA to answer both questions posed by participating members in a more meaningful manner and questions that members should be posing.

To protect the privacy of members submitting leases, FHOA will scan the leases into an on-site secure server and then either destroy the paper copy or return it to the member on request.

The success of this initiative is dependent on you. We urge you to send in a copy of your lease and help us to help you.

### Community Spirit Program

In 2008, \$19 million was distributed to 1,496 eligible non-profit and charitable organizations in Alberta under the Community Spirit Program. The goal of this program, which is funded through the Alberta Lottery Fund, is to "help increase

private charitable donations by individual Albertans to Alberta's non-profit and charitable organizations."

The first \$10,000 in total cash donations from individual Albertans to eligible non-profits in 2008 was matched on a dollar for dollar basis under the program; the next \$15,000 at a rate of 50%; and further donations at a rate of 22.67%. The maximum annual grant available under the Community Spirit Program is \$25,000. Regrettably, FHOA was completely unaware of this program in 2008.

Twenty million has been allocated to the Community Spirit Program for 2009.

FHOA has received \$12,600 in donations from 51 Alberta members this year. Many of these donations have been very generous and we thank those of you who have donated. But we have more than 2000 Alberta members. If every Alberta member who has not made a donation to FHOA this year donated \$20 to the Association, FHOA would be in a position to receive the maximum \$25,000 grant under the Community Spirit Program.

Currently, two legal issues which impact the property rights of thousands of freehold mineral owners are wending their way through the Alberta judicial system. The ownership of coal bed methane (CBM) is a multi-billion dollar issue which, as matters stand, will be decided by the courts without any representation by the parties that the Energy Resources Conservation Board ruled were entitled to CBM - the individual owners of natural gas beneath split title land. Likewise, as matters stand, the issue of how much production is needed for a well to be 'capable of producing leased substances' and continuing a freehold lease indefinitely may be decided without representation by the freeholders who are impacted by the decision.

A \$25,000 grant under the Community Spirit Program would go a long way to restoring the Freehold Owners Association's financial viability and

allowing us to represent the interests of individual freeholders in judicial and regulatory hearings which impact freehold owner property rights. We encourage those of you who live in Alberta to make a donation (we would also gratefully accept donations from members living outside Alberta).

### Saving Dollars with E-Mails

As noted in our October 1, 2009 newsletter, going forward it is our intention to publish shorter newsletters more frequently. One adverse impact of this is to increase our mailing costs. A number of members have suggested that we could save money by e-mailing newsletters. If you have e-mail and would be willing to accept future newsletters by that method please send us an e-mail ([fhoa@shaw.ca](mailto:fhoa@shaw.ca)) so indicating. Even if you have an e-mail and wish to continue to receive newsletters by post, please provide us with your e-mail address so we can keep you informed of such things as seminars.

### Upcoming Seminar:

FHOA's next seminar for freehold mineral rights owners will be held in the **Symons Valley United Church, 38 Kincora Rise NW., Calgary, Alberta from 7:00 to 10:00 pm on Monday, November 23, 2009**. The focus of this seminar will again be on the critical issue of estate planning for freeholders. In addition to the materials provided at our recent Camrose seminar, actual examples will be discussed. The presentations will be followed by a question and answer session. Registration for the seminar starts at 6:00 pm and you do not need to be a member to attend.

On behalf of the board of directors,  
Else Pedersen, President

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