

March 28, 2006

CIVIL ASSET FORFEITURE

The Remedies for Organized Crime and Other Unlawful Activities Act (Civil Remedies Act) gives the Attorney General the power to go to court to seek to take back proceeds of unlawful activity.

The law permits a court, at the request of the Attorney General, to freeze, seize, and forfeit to the Crown, assets that are determined to be the proceeds or instruments of unlawful activity. Under the legislation, the court can grant an interim order to freeze assets pending the outcome of the forfeiture proceeding.

Forfeited assets are liquidated and deposited into a special purpose account. The act enables direct victims of the crime, the Crown, municipal corporations and prescribed public bodies to submit a claim for compensation or cost recovery against the forfeited assets.

In addition to forfeiture provisions, the act allows the court to grant an order for damages or any order necessary to prevent or reduce the risk of injury to the public, where the court finds a conspiracy to engage in unlawful activity that has or likely will cause injury to the public.

Civil asset forfeiture focuses solely on the connection between property and unlawful activity, and is not based on any criminal conviction. By contrast, criminal asset forfeiture permits forfeiture of assets obtained by or used in the commission of an offence following the conviction of an individual.

The Civil Remedies for Illicit Activities Office (CRIA) of the Ministry of the Attorney General is responsible for enforcing the Civil Remedies Act. CRIA is recognized nationally and internationally for its precedent-setting work. CRIA has successfully argued all of its forfeiture cases to date.

193 King Street East, Hamilton

This three-storey building is a mix of 11 residential units and a main floor commercial space in downtown Hamilton. Over the past decade, police say the property has been the source of crime and drug dealing. Police responded to calls to the building almost every day for the past 10 years. When the main floor commercial space was the Sandbar Tavern, there were between eight and 12 police calls a day. The building has been the location of two crack cocaine-related murders, numerous stabbings and drug offences, including crack cocaine possession, use and trafficking.

According to police, neighbouring businesses and residents have been negatively affected by events and activities that have taken place in and around the property, including robberies and break-ins.

On March 7, 2006, the court granted the Crown temporary control of the building. Security has been in place since that date to prevent unlawful activities or harm to the public. The impact of the Crown's seizure of the building has been immediate. Police say signs of unlawful activity in the downtown core have been significantly reduced, and drug dealing at the building has been stopped.

The court order was renewed and extended on March 14, 2006, and the Attorney General brought forfeiture proceedings against the property.

On March 28 the court forfeited the building to the Crown, along with a bank account containing approximately \$10,000 associated with the property.

The Crown will consider all options for the future of the building, and will engage the City of Hamilton and the local business improvement association to seek their ideas and preferences. The building remains under close security and an asset manager is conducting an assessment.

- 30 -

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