

CIVIL FORFEITURE IN ONTARIO

June 25, 2009

Ontario's civil forfeiture law — the Civil Remedies Act — allows the Attorney General to ask the civil court for an order to freeze, take possession of, and forfeit to the Crown, property that is determined to be a proceed or an instrument of unlawful activity.

A proceed is property, such as money, acquired as a result of unlawful activity. An instrument is property that is likely to be used to engage in unlawful activity in the future, such as a house used as a marijuana grow operation. Property includes all types of assets, such as real estate, cars and cash.

In Ontario, civil forfeiture legislation focuses solely on the connection between property and unlawful activity and is not dependant on any criminal charges or convictions. The standard of proof required for civil forfeiture is the same as it is in all civil actions — a balance of probabilities.

HOW CIVIL FORFEITURE LAW WORKS

The process for civil forfeiture begins when a designated institution, such as the police or a government ministry, submits a case to the reviewing authority, an independent Crown counsel in the Ministry of the Attorney General. That counsel decides whether the statutory criteria in the Civil Remedies Act have been met. Once that is confirmed, the case information is forwarded to the ministry's Civil Remedies for Illicit Activities Office (CRIA), which is responsible for enforcing the Act.

CRIA lawyers bring proceedings to court on behalf of the Attorney General. The court can grant an interim order to freeze property so it cannot be used, mortgaged or sold, pending the outcome of the forfeiture proceeding. If CRIA lawyers can prove that the property in question is a proceed or an instrument of unlawful activity, the court can issue orders forfeiting the property to the Crown.

Forfeited property that is not cash is liquidated and the funds, including any cash forfeited is deposited into a special purpose account. Victims of the unlawful activity that led to forfeiture can then submit a claim for compensation from those the funds. Remaining funds may be disbursed for grants to support programs and initiatives that help victims of unlawful activity or prevent victimization.

CIVIL FORFEITURE SUCCESSES

Ontario's CRIA office is recognized nationally and internationally for its precedent-setting work. Since November 2003, a total of \$10.8 million in property has been forfeited to the Crown. The province also has approximately \$40 million in property that is frozen pending the completion of civil forfeiture proceedings.

Under the Civil Remedies Act, the Attorney General has:

- Forfeited two biker clubhouses in Oshawa & Thunder Bay
- Frozen biker clubhouses in London, Windsor, Sault Ste. Marie, St. Catharines, Toronto & Niagara
- Forfeited four vehicles
- Crushed two street racing vehicles
- Frozen crack houses in Hamilton, Chatham & Ottawa
- Shut down a notorious Hamilton crack house and transferred ownership to the City of Hamilton
- Taken 23 guns, a stun gun, a cross-bow & an uzi sub-machine gun off the streets
- Forfeited 30 properties used for marijuana grow operations & frozen 17 more
- Forfeited over \$2.4 million in illicit cash
- Distributed approximately \$1.2 million in compensation to victims of unlawful activity
- Awarded \$3.4 million in grants to law enforcement agencies.

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