



**DRAYTON  
VALLEY**

March 31, 2016

Brazeau County  
Box 77, 7401 Twp Rd 494  
Drayton Valley, AB T7A 1R1

**ATTENTION: MARCO SCHOENINGER, C.A.O.**

**Re: Intermunicipal Dispute between Town of Drayton Valley and Brazeau County re:  
Bylaw 892-15**

---

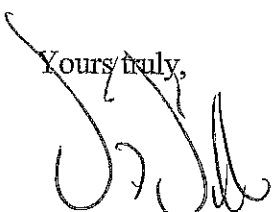
Please find attached a copy of the Notice of Appeal and Statutory Declaration filed with the MGB today in relation to the County's Bylaw 892-15.

As the County will gather from the Reasons for Appeal in addition to the other impacts of Bylaw 892-15, the Town is concerned is that County Council did not table the Bylaw once it realized the Town and the County were not in agreement. The Town believes the County should have engaged in the mandatory Dispute Resolution provisions established by section 5.3 of the January 17, 2012 Intermunicipal Development Plan before third reading of the Bylaw.

The Town remains committed to the collaborative and cooperative approach the two municipalities committed to in the IDP and the November 10, 2010 Annexation Settlement Agreement and Memorandum of Understanding Implementation Plan. The Town would invite the County to consider engaging in a mediation process in relation to this matter prior to any MGB hearing. If the County is willing to participate in such a mediation, please contact me as soon as possible.

We look forward to hearing from you in relation to this matter.

Yours truly,

  
Dwight Dikken

As per section 690(1) of the *Municipal Government Act (Act)*, a municipality that

1. is of the opinion that a statutory plan (or amendment) or a land use bylaw (or amendment) adopted by an adjacent municipality has or may have a detrimental effect on it,
2. has given written notice of its concerns to the adjacent municipality prior to second reading of the bylaw, and
3. is attempting or has attempted to use mediation to resolve the matter

may appeal the matter to the Municipal Government Board. A statutory declaration indicating the status of mediation must accompany this Notice of Appeal. The Notice of Appeal and Statutory Declaration must be filed with the MGB within 30 days after the passing of the bylaw to adopt or amend the statutory plan or land use bylaw.

## Part 1 – General Information – Please Print

### APPELLANT MUNICIPALITY

Name of Municipality		Telephone Number	
Town of Drayton Valley		780-514-2200	
Designated Contact	Position (e.g. C.A.O.)		
Dwight Dibben	C.A.O.		
Address (Street, PO Box, RR )	(Town/City/Village)	(Province)	(Postal Code)
5120 52 Street	Drayton Valley	Alberta	T7A 1A1
E-mail Address	Fax Number		
ddibben@draytonvalley.ca	780-542-5753		

### AGENT INFORMATION AND CERTIFICATION (if Appellant is Represented by a Lawyer/Agent)

Name of Firm			
Hutchison Law			
Designated Contact	(Last) (First)	Telephone Number	(daytime)
Hutchison, Janet		780-417-7871	
Address (Street, PO Box, RR )	(Suite, Apartment)	(Town/City/Village)	(Province) (Postal Code)
#190 Broadway Business Square, 130 Broadway Boulevard		Sherwood Park	Alberta T8H 2A3
E-mail Address	Fax Number		
jhutchison@jlhlaw.ca	780-417-7872		

### ADJACENT MUNICIPALITY

Name of Municipality		Telephone Number	
Brazeau County		780-542-7777	
Designated Contact (e.g. C.A.O.)			
Marco Schoeninger, C.A.O.			
Address (Street, PO Box, RR )	(Town/City/Village)	(Province)	(Postal Code)
Box 77, 7401 Twp Rd 494	Drayton Valley	Alberta	T7A 1R1
E-mail Address	Fax Number		
mschoeninger@brazeau.ab.ca	780-542-7770		

## Part 2 – Owner(s) of Land that is the Subject of the Appeal

(If more than one owner, please attach list of the names and addresses of each landowner of any land that will be directly affected by this appeal)

Name (Last) <b>McGinn</b>	(First) <b>Dennis</b>	Telephone Number (daytime)
Address (Street, PO Box, RR ) <b>Box 6062</b>	(Suite, Apartment) <b>Drayton Valley</b>	(Province) (Postal Code) <b>Alberta T7A 1R6</b>
E-mail Address		Fax Number
Name (Last) <b>Peck</b>	(First) <b>Avalie</b>	Telephone Number (daytime)
Address (Street, PO Box, RR ) <b>Box 6062</b>	(Suite, Apartment) <b>Drayton Valley</b>	(Province) (Postal Code) <b>Alberta T7A 1R6</b>
E-mail Address		Fax Number

## Part 3 – Bylaw Information

(all to be completed)

Please indicate which bylaw is under appeal <b>Bylaw 892-15</b>	
<b>March 1, 2016</b>	<b>March 1, 2016</b>
Date bylaw received second reading	Date bylaw passed

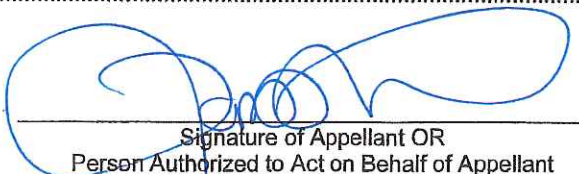
Please attach a copy of the notice sent to the municipality prior to the second reading.

These are attached "Tab A" and "Tab B"

## Part 4 – Reasons for Appeal

Indicate the specific provisions appealed and the reasons you think they are detrimental (attach more pages as necessary).

**Please see attached "Tab C"**

.....  
  
\_\_\_\_\_  
Signature of Appellant OR  
Person Authorized to Act on Behalf of Appellant

March 31, 2016  
\_\_\_\_\_  
Date

This information is being collected for the purposes of setting up appeal hearings in accordance with Section 33(c) of the *Freedom of Information and Protection of Privacy Act*. The contact information you provide may also be used to conduct follow-up surveys designed to measure satisfaction with the appeal process. Questions about the collection of this information can be directed to Alberta Municipal Affairs, Municipal Government Board, 15<sup>th</sup> Floor, Commerce Place, Edmonton, Alberta T5J 4L4 780-427-4864. (Outside of Edmonton call 310-0000 to be connected toll free)

# TAB A

## Jenn Martin

---

**From:** Jenn Martin  
**Sent:** February-17-16 4:22 PM  
**To:** 'Martino Verhaeghe'  
**Subject:** 15A-019  
**Attachments:** 20160217162101755.pdf

Hi Martino,

Please see the Town's response regarding the above file.

Should you have any questions, please do not hesitate to contact me.

Thank you,

Jennifer Martin  
Planning & Development Officer  
Box 6837, 5120-52 Street  
Drayton Valley, AB T7A 1A1  
Tel: (780) 514-2211  
Fax: (780) 542-5753

### PRIVILEGE AND CONFIDENTIALITY NOTICE

This email and any attachments are being transmitted in confidence for the use of the individual(s) or entity to which it is addressed and may contain information that is confidential, privileged, and proprietary or exempt from disclosure. Any use not in accordance with its purpose, and distribution or any copying by persons other than the intended recipient(s) is prohibited. If you received this message in error, or believe you may have received this message in error, please notify the sender immediately and delete the material.





**DRAYTON  
VALLEY**

February 17, 2016

Via e-mail: [planning@brazeau.ab.ca](mailto:planning@brazeau.ab.ca)

Brazeau County  
P.O. Box 77  
Drayton Valley, Alberta  
T7A 1R1

ATTENTION: Martino Verhaeghe  
Director of Planning & Development

Dear Sir:

**Re: Brazeau County Referral Proposed Land Use Bylaw Amendment- 15A-019  
Agricultural (AG) to Direct Control (DC)  
within NE 3-49-7-W5M & SE 3-49-7-W5M**

Thank you for your referral of the above-noted Land Use Bylaw Amendment. Given the location, visibility and proximity of the land to the Provincial park and recreation area, these lands project the image of Brazeau County and Drayton Valley to any travelers or visitors passing through the area. The development of these lands as anything other than recreation or community enhancement is a detriment to the overall community.

In reference to the County's Municipal Development Plan and the policies contained therein, particularly policies 81, 82, and 84 through 87, the development proposed for these lands is in contravention. Specifically, we believe that the principle of policy 88: "Brazeau County may restrict the development of uses or facilities adjacent to provincial parks and recreation areas that, in the opinion of the Development Authority, are considered to be non-complimentary or pose a safety risk for park goers or users of the proposed development" most accurately applies.

As opposed to allowing these lands to develop as a commercial or industrial land use, Brazeau County should purchase the lands for establishing a municipal reserve; the immense opportunities for the creation of a contiguous park and recreational opportunity should not be lost. We encourage that the landowners be permitted to extract the gravel resources and that the lands then immediately revert to reserve. The development of any other use would be detrimental to the community and a loss of an opportunity which is available to Brazeau County.

The Town of Drayton Valley believes that the proposed development is not the best use of the subject lands and supports Brazeau County in acquiring and more effectively developing the lands.

Yours truly,

Jennifer Martin  
Planning & Development Officer

**TAB B**

## Nancy Chambers

---

**From:** Benjamin Misener  
**Sent:** February-19-16 4:10 PM  
**To:** Nancy Chambers  
**Subject:** FW: Proposed Land Use Bylaw Amendment - Bylaw 892-15 - Storage Facility

Hi Nancy,

Please add to file.

Cheers,

**Benjamin Misener**  
*Planning & Development Coordinator*

**Brazeau County**  
Box 77 – 7401 Twp Rd 494  
Drayton Valley, Alberta  
T7A 1R1  
Tel: 780-542-2667  
Fax: 780-542-7770  
[www.brazeau.ab.ca](http://www.brazeau.ab.ca)

.....  
Please consider the environment before printing this email.

### **PRIVILEGE AND CONFIDENTIALITY NOTICE**

*This email and any attachments are being transmitted in confidence for the use of the individual(s) or entity to which it is addressed and may contain information that is confidential, privileged, and proprietary or exempt from disclosure. Any use not in accordance with its purpose, and distribution or any copying by persons other than the intended recipient(s) is prohibited. If you received this message in error, please notify the sender and delete the material.*

**From:** Ron Fraser [<mailto:rfraser@draytonvalley.ca>]  
**Sent:** Friday, February 19, 2016 10:55 AM  
**To:** Martino Verhaeghe  
**Cc:** Benjamin Misener  
**Subject:** Proposed Land Use Bylaw Amendment - Bylaw 892-15 - Storage Facility

Martino: We have already provided our referral comments back to the County with respect to this proposed bylaw amendment which would redesignate land from Agricultural to Direct Control, to facilitate a new storage facility on the lands at NE 3-49-7-W5 and SE 3-49-7-W5, which is adjacent to the North Saskatchewan River, in the flood plain area, close to the south boundary of the Town of Drayton Valley. We've previously expressed our objection to this sort of development, due to proximity to recreational usage areas, a Provincial park, potential safety impacts, impacts to tourism, and overall impression of the community. Additionally, I would like to add that this storage facility area, being in a floodplain, could detrimentally affect water quality in the river, should there be a spill, or a flood, and hazardous materials found their way into the river. Of note, this area is immediately upstream of the fresh water intake for our water treatment plant, and spills of hazardous or contaminated materials could have a public safety impact on the Town's drinking water. I would strongly reiterate our objection to a change in land use to permit this facility. At the very least, should a storage facility be permitted, it should be in sealed, weather proof containers, containing no



hazardous materials or contaminants. It is not acceptable to permit storage of equipment or stockpiling of materials outside of storage containers, exposed to the elements. Hope this clarifies and enhances our position.

Thanks,

**Ron Fraser, P. Eng.**

Director of Engineering and Development

Town of Drayton Valley

Box 6837, 5120-52 Street

Drayton Valley, AB T7A 1A1

Ph: (780) 514-2224

Cell: (780) 514-0784

Fax: (780) 542-5753

Email: [rfraser@draytonvalley.ca](mailto:rfraser@draytonvalley.ca)

**PRIVILEGE AND CONFIDENTIALITY NOTICE**

This email and any attachments are being transmitted in confidence for the use of the individual(s) or entity to which it is addressed and may contain information that is confidential, privileged, and proprietary or exempt from disclosure. Any use not in accordance with its purpose, and distribution or any copying by persons other than the intended recipient(s) is prohibited. **If you received this message in error, or believe you may have received this message in error, please notify the sender immediately and delete the material.**

**TAB C**

# **Notice of Appeal for Intermunicipal Dispute**

## **Reasons for Appeal**

**Town of Drayton Valley – Appellant Municipality**

**Brazeau County – Adjacent Municipality**

---

### **Background**

- 1.) Bylaw 892-15 redistricts the site, within Brazeau County (“the County”), from an Agricultural District to a Direct Control District. The purpose of the Direct Control District is to provide for an outdoor storage facility. Outdoor storage facility and accessory uses are the only uses to be allowed in the Direct Control District.
- 2.) The site of the proposed redistricting is within the Brazeau County and Town of Drayton Valley Intermunicipal Development Plan (“IDP”) boundaries (“the Site”). The Site is located along Highway 39, leading to the Town of Drayton Valley’s (“the Town”) south entrance. The site is located approximately 3 km from the Town’s boundary.
- 3.) In 2015, the Site was the subject of a Development Permit application for an outdoor storage facility, the same use being contemplated by the redistricting. Outdoor storage is a discretionary use in the existing zoning.
- 4.) The Town opposed the Development Permit for an outdoor storage facility on the Site.
- 5.) The Development Permit for an outdoor storage facility was refused by the County’s Municipal Planning Committee on August 30, 2015. The Appeal to the County’s Subdivision Appeal Board was refused on September 28, 2015. On January 5, 2016, the Alberta Court of Appeal refused leave to appeal in the matter. These decisions confirmed the proposed development was inappropriate for the Site and contrary to applicable legislative provisions.
- 6.) Dennis McGinn and Avalie Peck (“the Landowners”) applied to the County to redistrict the Site to Direct Control on December 8, 2015.
- 7.) The redistricting bylaw, Bylaw 892-15, was given first reading by County Council on January 19, 2016.

- 8.) The Town wrote to the County to express its concerns about, and opposition to, Bylaw 892-15 on February 17, 2016 and on February 19, 2016.
- 9.) The County's Planning and Development Department recommended against approval of Bylaw 892-15, for reasons including the lack of a sound policy basis for approval and the development being inconsistent with the IDP.
- 10.) The County did not respond to the Town's concerns prior to County Council's consideration and approval of Bylaw 892-15. The County failed to engage any steps in the mandatory dispute resolution process established by Section 5.3 of the IDP.
- 11.) On March 1, 2016, County Council gave second and third readings to Bylaw 892-15. County Council's decision on the redistricting did not address the concerns of the Town or the concerns of the County's Planning and Development Department.

**The Town takes the position that the process leading to Bylaw 892-15, and the Bylaw itself, detrimentally impact the Town for reasons including:**

- 12.) The use of the Site affects an important entrance approach to the Town, aggravating the impact of any poor planning decisions at this location.
- 13.) Bylaw 892-15 will permit an industrial development on the banks of the North Saskatchewan River, immediately upstream of the intake for the water supply for the Town, part of the County and for the greater region. Impacts on water quality will put undue strain on the Town's water supply infrastructure or affect actual water quality.
- 14.) Bylaw 892-15 will detrimentally impact the recreational resources in the area, which are essential to the Town's recreation plans, tourism and economic development. The uses permitted under Bylaw 892-15 are incompatible with the adjacent recreational uses and negatively impact the areas' potential for future recreation uses.
- 15.) The redistricting under Bylaw 892-15 breaches the IDP, adopted on January 17, 2012. It also breaches the November 10, 2010 Annexation Settlement Agreement and Memorandum of Understanding Implementation Plan ("MOU") signed by the Town and the County. These breaches detrimentally impact on the Town for reasons, including:
  - i) The Town has relied on the IDP and MOU in its own planning documents and decisions;
  - ii) The Town invested significant resources in the IDP and MOU. Departure from these documents result in unnecessary demands on Town resources both in relation to staff time and legal fees;

- iii) The stated goals of the IDP, requiring a “co-operative approach to the orderly development of the Plan area” are undermined. The IDP was to benefit residents of both municipalities. The County’s breaches will detrimentally affect effective intermunicipal planning, effective planning within the Town and increase the Town’s costs to deal with both.
- 16.) The MOU required the Town and the County to work cooperatively to develop complimentary land use planning strategies. The IDP was one result of that commitment. The IDP was based on sound planning principles, consistent with the purposes of Part 17 of the MGA. The spot zoning created by Bylaw 892-15 undermines sound planning principles and is not consistent with:
- i) Orderly, economical and beneficial development, use of land and patterns of human settlement;
  - ii) Maintaining and improving the quality of the physical environment in the IDP area.

Planning decisions affecting the areas adjacent to Town boundaries that are made without a sound planning and policy basis, and contrary to applicable statutory plans, detrimentally affect the Town’s own planning and development matters. This is a particular concern on an approach to the Town’s entrance.

- 17.) Bylaw 892-15 breaches the provisions of the IDP for reasons including:
- i) The IDP Future Land Use Map (“the Map”) clearly identifies the area of the Site for Agricultural use. Section 4.3.1 requires growth and land use to be consistent with the Map. Bylaw 892-15 provides a single industrial use of outdoor storage, contrary to the Map;
  - ii) The IDP goals included ensuring compatible land uses for the agricultural lands within the interface area between the Town and the County. Bylaw 892-15 contradicts and undermines this goal;
  - iii) Bylaw 892-15 is inconsistent with, and undermines, the Guiding Principles of the IDP, including #2, #3 and #4;
  - iv) The 2015 Development Permit application for the Site was referred to the Town pursuant to the IDP process. That process resulted in refusal of the Development Permit. Using Bylaw 892-15 to circumvent a process mandated by the IDP undermines the purpose of the IDP.

- 18.) Bylaw 892-15 breaches the County Municipal Development Plan, including policies 52, 54, 55, 82, and 88.
- 19.) Bylaw 892-15 breaches the County's River Flats Area Structure Plan ("the ASP"). These breaches detrimentally affect the Town for reasons including:
- i) The ASP was adopted as a result of the IDP, in consultation with the Town and based on planning that was mutually acceptable to both municipalities. The ASP reflects the Town's planning needs and priorities as much as it does the County's. Bylaw 892-15 is inconsistent with those needs and priorities;
  - ii) The ASP designated the appropriate future uses of the site as Agricultural and Recreational. Expansion of industrial use for the lands is specifically identified as inappropriate for the area. Losing the Site to industrial uses will detrimentally impact effective development and planning of recreational resources relied on by the Town in the area;
  - iii) The ASP recognizes the area is environmentally sensitive and potentially in the 1:100 year floodplain. The ASP planned appropriately for these considerations. Bylaw 892-15 ignores these considerations.
- 20.) Bylaw 892-15, and the process used to adopt it, is contrary to Policy 3, 4, 5 and 6 of the Alberta Land Use Policies.
- 21.) These breaches of the Land Use Policies, IDP, County MDP, and ASP detrimentally affect the Town by:
- i) permitting spot zoning, contrary to sound planning principles and statutory plans, in areas affecting the Town's south entrance, its boundaries and its overall planning and development in the area;
  - ii) permitting planning and development on the Town's borders that undermines the Town's planning goals, priorities and planning instruments;
  - iii) creating uncertainty in intermunicipal planning that will detrimentally impact the Town's ability to effectively carry out its own planning processes for the area;
  - iv) negatively impacting community recreation areas, which will in turn detrimentally affect the Town's recreation plans and its tourism and economic development;
  - v) negatively impacting the areas adjacent to the North Saskatchewan River and the water therein. This will affect the Town's, the County's and the region's water supply, water treatment infrastructure and an important tourism and economic development asset for the area.



- 22.) The County did not follow the mandatory dispute resolution processes set out in Section 5.3 of the IDP.
- 23.) Such further and other grounds as the Town may advise and the Municipal Government Board may agree to hear.



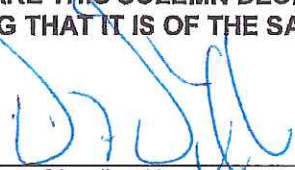
RETURN TO: Municipal  
Government Board  
15<sup>th</sup> Floor Commerce Place 10155 -- 102 Street  
Edmonton AB T5J 4L4  
Telephone: 780-427-4864 Fax: 780-427-0986  
Email: [mgbmail@gov.ab.ca](mailto:mgbmail@gov.ab.ca)  
Web URL: <http://www.mgb.alberta.ca>

**Statutory  
Declaration  
(Intermunicipal Dispute  
Appeal)**

I Dwight Dikken of Drayton Valley DO SOLEMNLY DECLARE THAT:  
(Name)

1. The Town of Drayton Valley wishes to file an Appeal with the  
(Appellant Municipality)  
Municipal Government Board concerning Brazeau County's Bylaw 892-15, and that  
(Bylaw provision under appeal)
2. I am the Chief Administrative Officer of the The Town of Drayton Valley, and that  
(Position) (Appellant Municipality)
3. (Please choose one of the following)  
(a) Mediation with (adjacent municipality) was not undertaken ☒  
(b) Mediation was undertaken but was not successful ☐  
(c) Mediation is ongoing and the appeal is being filed to preserve the right of appeal ☐
4. And further, the reasons why mediation was either not undertaken or not successful  
are as follows in Attachment "A" (please tick N/A if option (c) was selected), ☐ N/A

**AND I MAKE THIS SOLEMN DECLARATION CONSCIENTIOUSLY BELIEVING IT TO BE TRUE AND  
KNOWING THAT IT IS OF THE SAME FORCE AND EFFECT AS IF MADE UNDER OATH.**

  
(Signature of Appellant OR  
Person Authorized to Act on Behalf of Appellant)

Dwight Dikken

(Print Name)

DECLARED BEFORE ME AT the Town of Drayton Valley

In the Province of Alberta, this 30<sup>th</sup> day  
of March, 2016

  
(Commissioner for Oaths)

Jennifer Lee Ashley Martin  
(Print Name)

October 28, 2016  
(Expiry Date of Commission)

This information is being collected for the purposes of setting up appeal hearings in accordance with Section 33(c) of the *Freedom of Information and Protection of Privacy Act*. The contact information you provide may also be used to conduct follow-up surveys designed to measure satisfaction with the appeal process. Questions about the collection of this information can be directed to Alberta Municipal Affairs, Municipal Government Board, 15<sup>th</sup> Floor, Commerce Place, Edmonton, Alberta T5J 4L4 780-427-4864. (Outside of Edmonton call 310-0000 to be connected toll free)

### **Attachment A**

1. The reasons mediation was not undertaken was that the County did not table Bylaw 892-15 to advise the Town that the two municipalities were not in agreement. Bylaw 892-15 went to third reading and that was the Town's first notice that the County would not be addressing the Town's concerns or using the IDP Dispute Resolution Processes.
2. The Town remains open to mediation and has advised the County of that fact.