



Our File: 51504 JLH

SENT BY EMAIL ONLY

September 16, 2016

Municipal Government Board
15th Floor Commerce Place 10155 – 102 Street
Edmonton AB T5J 4L4

ATTENTION: CASE MANAGER

Dear Sir/Madam:

**Re: Intermunicipal Dispute between Town of Drayton Valley and Brazeau County re:
Bylaw 905-16**

In relation to the above noted matter, after filing we were advised that the date noted for first reading in paragraph 6 was incorrect. As such, we have attached an amended Reasons for Appeal for the MGB's file.

Thank you for your attention to this matter.

Yours truly,

HUTCHISON LAW

PER: JANET L. HUTCHISON

JLH/cm
Enclosure

cc: Client

cc: G. Stewart-Palmer, Shores Jardine LLP

cc: A. Peck, Landowner

Notice of Appeal for Intermunicipal Dispute

Reasons for Appeal

Town of Drayton Valley – Appellant Municipality

Brazeau County – Adjacent Municipality

Background

- 1.) The Town of Drayton Valley (“the Town”) and Brazeau County (“the County”) are currently involved in an Intermunicipal Dispute (MGB Appeal 16/IMD/03) arising from a redistricting of part of the NE 3-49-7 WSM and part of SE 3-49-7 WSM (“the Lands”). The Lands were formerly located in an Agricultural District and were redistricted to Direct Control District to allow an Outdoor storage facility as a permitted use.
- 2.) The Town and the County have been actively pursuing mediation of that issue.
- 3.) While mediations were ongoing, the County announced a proposed Land Use Bylaw (Bylaw 905-16). The provisions of Bylaw 905-16 included provisions to make Outdoor Storage a Permitted Use in all Agricultural Districts (AG) within the County. Based on land use maps in Bylaw 905-16, the Lands would become AG lands, with Outdoor Storage as a permitted use, upon adoption of Bylaw 905-16.
- 4.) In that manner, Bylaw 905-16 raises all of the same issues as are raised in MGB Appeal 16/IMD/03 but by way of a new bylaw.
- 5.) The Town stated its objections to the Outdoor Storage amendments in Bylaw 905-16, in correspondence to the County dated June 10, July 28 and August 16, 2016.
- 6.) Bylaw 905-16 was given first reading by County Council on May 11, 2016 and second reading on June 21st, 2016. On August 16, 2016 the County held a public hearing regarding Bylaw 905-16. The Town registered its concerns again by way of its August 16, 2016 letter and advised the County the mandatory dispute resolution provisions of the Intermunicipal Development Plan (“IDP”) applied such that second and third reading should not proceed until the mandatory dispute resolution process had been completed under the IDP had been completed.
- 7.) Although the Lands are in the IDP referral area, County Council failed to engage any steps in the mandatory dispute resolution process established by Section 5.3 of the IDP, ignored the Town’s concerns and gave Bylaw 905-16 second and third reading on August 16, 2016.

The Town takes the position that the process leading to Bylaw 905-16, and the Bylaw itself, particularly the provisions on Agricultural Districts, detrimentally impact the Town for reasons including:

- 1.) The provisions of Bylaw 905-16 regarding AG districts will affect a site that is an important entrance approach to the Town, aggravating the impact of any poor planning decisions at this location.
- 2.) The provisions of Bylaw 905-16 regarding AG districts 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.
- 3.) The provisions of Bylaw 905-16 regarding AG districts will detrimentally impact the recreational resources in the area, which are essential to the Town's recreation plans, tourism and economic development. Allowing Outdoor Storage as a permitted use under the AG District is incompatible with the adjacent recreational uses, fails to recognize the environmental sensitivity of the area and negatively impact the areas' potential for future recreation uses.
- 4.) The provisions of Bylaw 905-16 regarding AG districts breach 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.
- 5.) 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 provisions of Bylaw 905-16 regarding AG

districts sets a negative planning precedent and undermines sound planning principles and are 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.

- 6.) The provisions of Bylaw 905-16 regarding AG districts breach 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 905-16 will permit outdoor storage in AG districts, 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. The provisions of Bylaw 905-16 regarding AG districts contradict and undermine this goal;
 - iii) The provisions of Bylaw 905-16 regarding AG districts is inconsistent with, and undermines, the Guiding Principles of the IDP, including #2, #3 and #4;
- 7.) The provisions of Bylaw 905-16 regarding AG districts breach the County Municipal Development Plan, including policies 52, 54, 55, 82, and 88.
- 8.) The provisions of Bylaw 905-16 regarding AG districts breach 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. The provisions of Bylaw 905-16 regarding AG districts 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. The provisions of Bylaw 905-16 regarding AG districts ignores these considerations.
- 9.) The provisions of Bylaw 905-16 regarding AG districts, and the process used to adopt it, are contrary to Policy 3, 4, 5 and 6 of the Alberta Land Use Policies.
- 10.) These breaches of the Land Use Policies, IDP, County MDP, and ASP detrimentally affect the Town by:
- i) permitting 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 environmentally sensitive 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.
- 11.) The County did not follow the mandatory dispute resolution processes set out in Section 5.3 of the IDP. The detrimental impacts arising from that failure are particularly significant in this appeal, as the County is putting the Town to the time and expense of pursuing the same issues in two separate MGB s.690 appeals.
- 12.) Such further and other grounds as the Town may advise and the Municipal Government Board may agree to hear.