

**CASE MANAGEMENT INSTRUCTION LETTER**

**DL 004/17**

Our Files: 16/IMD-03 and 16/IMD-04

Via e-mail

February 1, 2017

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**Re: Intermunicipal Dispute – Section 690 *Municipal Government Act*, R.S.A 2000, c. M-26 (MGA)**

**Appeal by: Town of Drayton Valley**

**Bylaws under Appeal:**

**Bylaw 892-15, An Amendment to the Brazeau County Land Use Bylaw to change the designation from Agriculture to Direct Control District on E½ of 3-49-7-W5M**

**Bylaw 905-16, Brazeau County Land Use Bylaw**

I am writing to confirm the outcome of the case management meeting held by teleconference on Monday, January 23, 2017, at the request of Ms. Hutchison and Ms. Stewart-Palmer. Also participating in the teleconference was Mr. Haldane, solicitor for the landowners Avalie Peck and Dennis McGinn, and Cindy Miller Reade, a case manager with the MGB.

Pursuant to Rule 8.1 of the Intermunicipal Dispute Procedure Rules, I hereby direct that:

1. The deadlines for disclosure and publication imposed by previous Decision Letters and Orders be removed and any hearing dates be adjourned.
2. The above referenced matters be combined for the sole purpose of conducting a preliminary hearing on the issues identified below before a merit hearing on either matter is scheduled. To be clear: in the event the outcome of the preliminary hearing is that both matters will proceed to a merit hearing, the parties will have the right to argue whether these matters should proceed to a merit hearing together or separately.

3. The issues that will be argued at the preliminary hearing are as follows:
  - a. Does s. 690(4) of the MGA prevent a municipality from amending or repealing the provision of the statutory plan or amendment or land use bylaw or amendment that is the subject of the appeal from the date the Board receives the notice of appeal and statutory declaration under subsection 1(a) until the date it makes its decision? and
  - b. If s. 690(4) of the MGA did not prevent Brazeau County from repealing the bylaws in dispute, did Brazeau County in fact repeal Bylaws 892-15 and 905-16?
  
4. The preliminary hearing will take place on May 2, 3, and 4, 2017 in Edmonton, Alberta, at a location to be determined by the MGB.
  
5. The schedule for submissions in advance of the preliminary hearing will be as follows:
 

Brazeau County – legal argument and evidence	February 21, 2017
Drayton Valley – response and evidence	March 24, 2017
Landowners and public – response and evidence	March 24, 2017
*See item 6. below	April 6, 2017
Brazeau County – rebuttal and evidence	April 13, 2017
Preliminary hearing	May 2-4, 2017
  
6. April 6, 2017 is the date by which the MGB must be advised:
  - a. By Brazeau County and Drayton Valley if they will be filing additional evidence in response to any evidence filed by the landowners and the public;
  - b. If any of the parties will be requesting to present witnesses rather than statutory declarations at the preliminary hearing; and
  - c. Of the impact that the filing of evidence may have on whether the preliminary hearing will proceed on May 2-4, 2017, or if an adjournment of the preliminary hearing dates will be required.

All submissions are due by 12 noon on the date noted above. Submissions may be made electronically to [mgbmail@gov.ab.ca](mailto:mgbmail@gov.ab.ca), and must be followed up with five hard copies (including one unbound) to the MGB within three business days. All other parties are to be sent one hard copy.

7. If by April 6, 2017, the parties advise that they will be presenting witnesses at the preliminary hearing, the statutory declarations previously filed will serve as will-say statements. However, Brazeau County has the option to file a will-say statement on April 13, 2017 if they do not have time to have statutory declarations executed in time for the April 13, 2017 filing deadline.

The MGB requests that this instruction letter be published on both municipal websites to ensure that the public is aware of the amended timelines in these disputes. The MGB also requests that, if possible, copies of submissions for the preliminary hearing be placed on the municipal websites, or a hard copy be made available at the municipal offices during regularly scheduled office hours. If copies of these documents are requested, the municipalities may provide them at a cost established by the municipality.

I note that pursuant to Rule 8.3 of the Intermunicipal Dispute Procedure Rules, as a Board member who has acted as a case manager in respect of these matters, I cannot participate in any subsequent hearing concerning these matters unless all affected participants consent. I also acknowledge that Ms. Stewart-Palmer has disclosed a previous professional relationship with several Board members which may result in the perception of a conflict should the chair assign them to hearings concerning these matters. MGB administration will ensure that Ms. Stewart-Palmer's disclosure is brought to the chair's attention.

I would like to take this opportunity to thank counsel for their submissions and their willingness to come to an agreement on the items discussed during the case management meeting.

Yours truly,

A handwritten signature in black ink, appearing to read 'Cathryn Duxbury', with a horizontal line extending to the right.

Cathryn Duxbury, Board Member