



Our File: 51504 JLH

SENT BY EMAIL ONLY

September 15, 2016

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

ATTENTION: REGISTRAR

Dear Sir/Madam:

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

Please find attached for filing, the Town of Drayton Valley's Notice of Appeal and Statutory Declaration in relation to the above noted matter.

Thank you for your attention to this matter.

Yours truly,

HUTCHISON LAW

PER: JANET L. HUTCHISON

JLH/cm
Enclosure

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

Part 3 – Bylaw Information

(all to be completed)

Please indicate which bylaw is under appeal Bylaw 905-16, AG District provisions	
September 15, 2016	September 15, 2016
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", "Tab B" and "Tab C"

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 D"

.....


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

September 15, 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, 15th Floor, Commerce Place, Edmonton, Alberta T5J 4L4 780-427-4864. (Outside of Edmonton call 310-0000 to be connected toll free)

TAB

A



**DRAYTON
VALLEY**

June 10, 2016

Via e-mail: 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 905-16
16A-008**

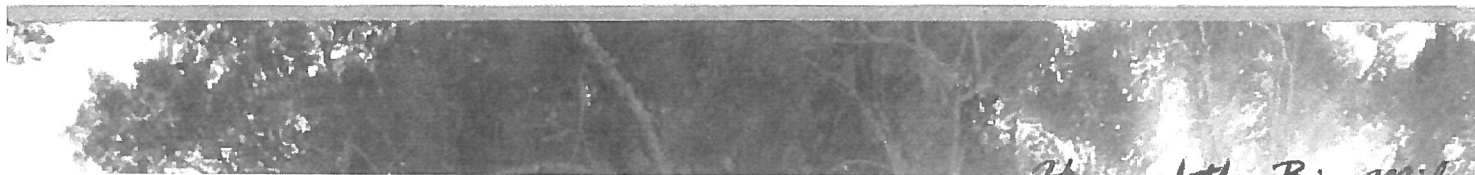
Thank you for your referral of the above-noted Land Use Bylaw. The Town of Drayton Valley does have a few comments regarding the proposed bylaw.

1- Figure 6: Future Land Use Concept of the IDP designates the following districts:

- Suburban Country Residential
- Compact Residential
- Highway/Business Commercial

Not sure if the draft LUB use a different name for these district. The draft LUB may consistent with the districts as designated the figure 6 of the IDP.

- 2- The draft LUB may include regulations regarding development near water body as the large area of Brazeau County is located along the North Saskatchewan River.
- 3- Section 8- Development Regulation (pg. 35) and section 14.1 Airport Protection Overlay (pg. 89) may combine in one section and titles as General Regulations.
- 4- The draft LUB may consistent with the Flood Hazard definition by Alberta Environment:
- **Flood Hazard Area** - The flood hazard area is typically divided into floodway and flood fringe zones and may also include areas of overland flow.
 - **Flood Fringe** - The portion of the flood hazard area outside of the floodway. Water in the flood fringe is generally shallower and flows more slowly than in the floodway. New development in the flood fringe may be permitted in some communities and should be flood-proofed.
 - **Floodway** - The portion of the flood hazard area where flows are deepest, fastest and most destructive. The floodway typically includes the main channel of a stream and a portion of the adjacent overbank area. New development is discouraged in the floodway.



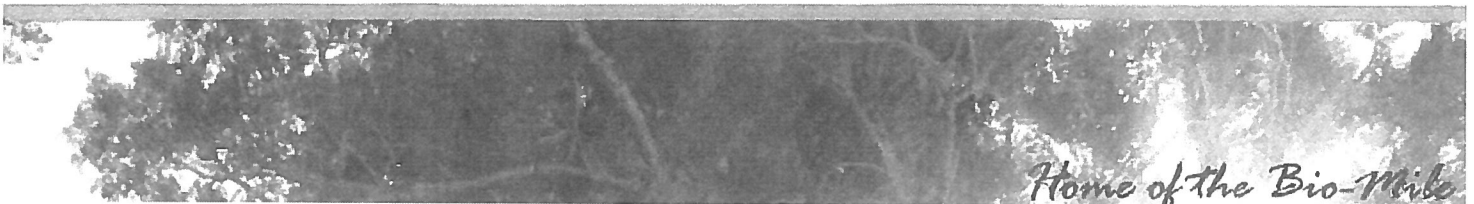


DRAYTON VALLEY

- 5- The Town P&D Department recommends that storage containers should be a discretionary use in ALL districts, and should be prohibited along highway corridors, especially within commercial and industrial districts.
- 6- Under proposed Land Use PI (Public Institutional) under "other regulations" a clause should be added stating that Surveillance suites are strictly prohibited within the airport lands more specifically the hangers.

Yours truly,

Mohammed Shahid Mughal
Planning & Development Manager



Home of the Bio-Mile

TAB

B



**DRAYTON
VALLEY**

July 28, 2016

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

via email: planning@brazeau.ab.ca

Attention: Martino Verhaeghe
Director of Planning & Development

Dear Sir:

Re: Proposed Land Use Bylaw Amendment- Bylaw 905-16
Replace Existing LUB 782-12 with Proposed Land Use Bylaw 905-16
Your file: 16A-008

Pursuant to your letter dated June 27, 2016, it is noted that Brazeau County passed first and second readings of the proposed LUB 905-16 at the June 21, 2016 Council Meeting. The Town of Drayton Valley submitted a letter on June 10, 2016 regarding the proposed amendments and also provided recommendations regarding the same.

Some of these recommendations did not appear on the table that was provided along with your June 27 letter that were to be incorporated into the proposed LUB.

The Town of Drayton Valley is recommending that following be incorporated into the proposed LUB 905-16:

1. Storage containers are to be considered a discretionary use in ALL land use districts, more specifically within the AG district, and should be prohibited along any highway corridors, especially within commercial and industrial districts.
2. Within Airport Overlay 14.1.6 (c), the amendment during second reading was that "residential use will be discretionary on Airport lands or within hangars associated with airport lands." The Town of Drayton Valley does not support this amendment and recommends that residential uses be strictly prohibited within hangars associated with airport lands. As the Town is the lease holder of the Airport, residential uses within the airport will not be supported and authorization will not be granted on any future applications.

I trust you will find the foregoing to be in order, however if you have any questions please contact me.

Yours truly,

Mohammed Shahid Mughal
Planning & Development Manager

5120 - 52nd St, Box 6837, Drayton Valley, AB T7A 1A1 Canada Tel. 780-514-2200 Fax. 780-542-5753 www.draytonvalley.ca

Home of the Bio-Mile

TAB

C

August 16, 2016

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



COPY

Attention: Martino Verhaeghe,
Director of Planning & Development

Dear Martino:

Re: Public Hearing on Proposed Land Use Bylaw 905-16

In relation to the County's proposed Land Use Bylaw (LUB) 905-16, on review of the agenda package for the public hearing, the Town is of the understanding that Administration is recommending second and third reading of proposed LUB 905-16 without revisions to address the concerns previously expressed by the Town.

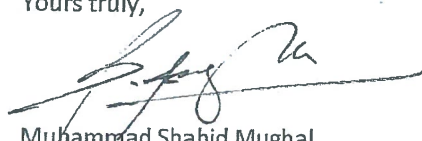
The Town's concerns were set out in letters dated June 10th, 2016 and July 28, 2016. These concerns were also discussed in our meeting on August 8, 2016. Copies of these letters are included for reference.

In addition to the other concerns raised in our letters, the Town is opposed to classifying the use of Outdoor Storage as a permitted use under the proposed LUB. The broad definition and scope of the Outdoor Storage use requires it be discretionary to ensure that adequate conditions can be placed on any approvals for this use. In particular, the Town opposes Outdoor Storage as a permitted use in the Agriculture (AG) District based on all of the issues and concerns the Town has previously raised in relation to Bylaw 892-15.

Given the recommendation of County Administration for County Council to give second and third reading to the proposed LUB, without revisions to address the Town's concerns, the Town is of the view that the mandatory dispute resolution provisions of the Intermunicipal Development Plan (IDP) apply. Specifically, Council should not proceed with second or third reading until all steps in the mandatory dispute resolution provisions in the IDP are satisfied.

Thank you for your attention to this matter.

Yours truly,



Muhammad Shahid Mughal
Manager, Planning & Development

TAB

D

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 31, 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.



RETURN TO: Municipal
Government Board
15th Floor Commerce Place 10155 – 102 Street
Edmonton AB T5J 4L4
Telephone: 780-427-4864 Fax: 780-427-0986
Email: 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 905-16, 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), ☒

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]
(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 8th day

of September, 2016

Jennifer Lee Ashley Martin
(Commissioner for Oaths)

[Signature]
(Print Name)

October 28, 2016
(Expiry Date of Commission)

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Attachment A

1. The reasons mediation was not undertaken was that the County did not table Bylaw 905-16 although it was aware the two municipalities were not in agreement. Bylaw 905-16 was given second and third reading immediately after the August 16, 2016 public hearing.
2. The Town found out the County was refusing to address the Town's concerns and refusing to use the IDP Dispute Resolution Processes at the time the County gave Bylaw 905-16 second and third reading.
3. The County failed or refused to attempt mediation, as required by the IDP Dispute Resolution Processes. The Town remains open to mediation.