



**Agricultural Land Commission**  
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June 19, 2007

Reply to the attention of Brandy Ridout  
ALC File: # G - 37348

Peter Klimuk  
Milagro Advisory Services  
#10 - 2070 Harvey Avenue  
Kelowna, BC V1Y 8P8

Dear Mr. Klimuk:

**Re: Application to Exclude land from the Agricultural Land Reserve**

Please find attached the Minutes of Resolution # 275/2007 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your clients accordingly.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'EKAR', is written over the 'Per:' label.

Erik Karlsen, Chair

cc: City of Kelowna (#A06-022)

Enclosure: Minutes

BR/lv  
37348d1



## MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

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A meeting was held by the Provincial Agricultural Land Commission on June 6, 2007 in Vernon, BC.

<b>PRESENT:</b>	Sue Irvine	Chair, Okanagan Panel
	Monika Marshall	Commissioner
	Sid Sidhu	Commissioner
	Brandy Ridout	Staff
	Martin Collins	Staff

### For Consideration

Application: # G - 37348  
Applicant: R 118 Enterprises Ltd.  
Agent: Milagro Advisory Services  
Proposal: To exclude the 3 ha subject property from the ALR.  
Legal: PID: 002-147-998  
Lot 3, Section 27 & 28, Township 26, Osoyoos Division Yale District,  
Plan 35886  
Location: 2438 Mount Baldy Drive, Kelowna

### Site Inspection

A site inspection was conducted on June 5, 2007. Those in attendance were:

- Sue Irvine                      Chair, Okanagan Panel
- Monika Marshall              Commissioner
- Sid Sidhu                        Commissioner
- Brandy Ridout                 Staff
- Martin Collins                 Staff
- Peter Klimuk                  Agent

Mr. Klimuk read the May 29, 2007 staff report onsite and confirmed that there were no errors.

### Context

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act* (the "Act"). They are:

1. to preserve agricultural land
2. to encourage farming on agricultural land in collaboration with other communities of interest, and
3. to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

## **Discussion**

### **Assessment of Agricultural Capability**

In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system, or the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The agricultural capability of the soil of the majority of the subject property is Class 1 and 3 with a limitation of undesirable soil structure.

Class 1 – Land in this class either has no or only very slight limitations that restrict its use for the production of common agricultural crops.

Class 3 – Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

The agrologist's report, submitted by the applicant, stated that in its present condition, "the active agricultural production of the property has the capability for agriculture rating Class 3D to Class 2D permitting a wide range of agricultural crops."

### **Assessment of Agricultural Suitability**

The Commission considered whether the property was suitable for agriculture. This consideration included details such as property size, surrounding land use and limitations to agriculture.

The Commission recognizes that the subject property is currently not being farmed and may not be farmed in the foreseeable future. However, this is not dependent on suitability but rather on individual land owner choice. In addition, the Commission believes that urban/rural conflicts that arise from issue such as spray drift, can be decreased by proper management techniques and are not grounds for exclusion.

Considering all issues, the Commission did not believe there are factors that render the land unsuitable for agricultural use.

### **Assessment of Impact on Agriculture**

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. It believed that exclusion of the property from the ALR would remove agriculturally capable and suitable land from the land base the Province has deemed to be part of its land base for the long term agricultural requirements of BC.

## **Conclusions**

1. That the land under application has agricultural capability and is appropriately designated as ALR.
2. That the land under application is suitable for agricultural use.
3. That the proposal will have a negative impact on agriculture.
4. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

**IT WAS**

**MOVED BY:** Commissioner Marshall

**SECONDED BY:** Commissioner Irvine

THAT the application to exclude the 3 ha subject property from the ALR be refused on the grounds that it has agricultural capability and suitability.

**CARRIED**

**Resolution # 275/2007**



**Staff Report**  
**Application # G – 37348**  
**Applicant: R 118 Enterprises Ltd.**  
**Agent: Milagro Advisory Services**  
**Location: Kelowna**

**DATE RECEIVED:** April 16, 2007

**DATE PREPARED:** May 29, 2007

**TO:** Chair and Commissioners – Okanagan Panel

**FROM:** Brandy Ridout, Land Use Planner

**PROPOSAL:** To exclude the 3 ha subject property from the ALR.

This application is made pursuant to section 30(1) of the *Agricultural Land Commission Act*.

**BACKGROUND INFORMATION:**

The applicants have no current or contemplated plans for a change in land use. The property was purchased for the sole purpose and use as an owner occupied country residential homesite. About 1.2 ha of apple trees were removed by the applicants to avoid rural/urban conflict (in particular spray) with the residences to the north and to curtail the costs of trying to maintain a small isolated area of tree fruit production.

The applicant has provided an agrologist's report prepared by Herb Luttmerding. The conclusion of that report is that, in its present condition, "the active agricultural production of the property has the capability for agriculture rating Class 3D to Class 2D permitting a wide range of agricultural crops."

**Local Government:**

City of Kelowna

**Legal Description of Property:**

PID: 002-147-998

Lot 3, Section 27 & 28, Township 26, Osoyoos Division Yale District, Plan 35886

**Purchase Date:**

March 2005

**Location of Property:**

2438 Mount Baldy Drive, Kelowna

**BACKGROUND INFORMATION (continued):**

**Size of Property:**

3 ha (The entire property is in the ALR).

**Present use of the Property:**

Single family residence with attached garage

**Surrounding Land Uses:**

**WEST:** residential  
**SOUTH:** vacant commercial zoned lot  
**EAST:** undeveloped road right of way  
**NORTH:** residential and a mushroom operation

**Agricultural Capability:**

Data Source: Agricultural Capability Map # 82E.093  
The majority of the property is identified as having Prime Dominant ratings.

**Official Community Plan and Designation:**

OCP: N/A  
Designation: Rural / Agricultural

**Zoning Bylaw and Designation:**

Zoning: N/A  
Designation - Agriculture 1  
Minimum Lot Size 2 ha

**PREVIOUS APPLICATIONS:**

**Application #33366-0**

**Applicant:** City of Kelowna  
**Decision Date:** June 21, 2000  
**Proposal:** To dedicate and construct the McCurdy Rd. extension through the Marshall Feed Lot properties on a 30 metre wide right of way.  
**Decision:** Allowed.

**RELEVANT APPLICATIONS:**

**Application #37347-0**

**Applicant:** Harvey & Gail Francis  
**Decision Date:** Currently before the Commission.  
**Proposal:** To exclude 3.12 ha from the ALR.  
*This is the property to the north of the subject property.*

**LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:**

**City of Kelowna Council:** Recommend that the application be forwarded without Council support.

**City of Kelowna Agricultural Advisory Committee (AAC):** Not supported on the grounds that its exclusion would erode the agricultural land base.

**LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS (continued):**

**City of Kelowna Planning & Development Services Department:** Recommend the application not be supported by Council. The property has good agricultural capability and the OCP and Agriculture Plan discourage the expansion of residential areas onto agricultural land.

**STAFF COMMENTS:**

- The property has prime agricultural capability.
- Issues such as spray drift can be mitigated using tools such as vegetative buffering.
- Although the subject property is currently not being farmed and may not be farmed in the foreseeable future, the applicants purchased the property knowing its Agricultural Land Reserve status and that it was deemed by the Province to be part of its land base protected to meet the long term agricultural requirements of BC.

**ATTACHMENTS:**

- ALR map (1:10,000)
- Land capability assessment by Herb Luttmerding, P. Ag.
- Minutes of AAC meeting
- Air photo

**END OF REPORT**

Signature

Date



May 29, 07