



**Agricultural Land Commission**  
133-4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
Tel: 604 660-7000  
Fax: 604 660-7033  
www.alc.gov.bc.ca

March 29, 2011

Reply to the attention of Martin Collins  
ALC File: 52053

Vic Isaak  
5325 Booth Road  
Kelowna, BC  
V1X 7V7

Dear Mr. Isaak:

**Re: Application Subdivide land in the Agricultural Land Reserve**

Please find attached the Minutes of Resolution # 109/2011 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Brian Underhill, Executive Director

Enclosure: Minutes

cc: Regional District of Central Okanagan, File: A-10-02

LS/52053/d1



## MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

---

**A meeting was held by the Provincial Agricultural Land Commission on March 17<sup>th</sup>, 2011 in Vernon, B.C.**

<b>PRESENT:</b>	Richard Bullock	Chair
	Roger Mayer	Vice Chair, Okanagan Panel
	Jim Johnson	Commissioner
	Bert Miles	Commissioner
	Liz Sutton	Staff
	Martin Collins	Staff

### For Consideration

Application: 52053  
Applicant: Vic & Diane Isaak  
Proposal: To subdivide the 7.3 ha parcel into two lots of 2.9 ha and 4.4 ha to provide a residential lot for a family member.  
Legal: Lot A Section 18 Township 24 Osoyoos Division Yale District Plan KAP71841  
Location: 5325 Booth Road

### Site Inspection

A site inspection was conducted on March 16, 2011. Those in attendance were:

- Richard Bullock Chair
- Roger Mayer Vice Chair, Okanagan Panel
- Jim Johnson Commissioner
- Bert Miles Commissioner
- Liz Sutton Staff
- Martin Collins Staff
- Michelle Marciski Applicant's daughter

Michelle Marciski confirmed that the staff report dated January 2011 was received and no errors were identified.

The Commission viewed the property, noting that two homes occupy the property and that the westerly portion affected by the hydro right of way abutted orchard uses, and has potential for agricultural development. The proposed subdivision would provide each home with its own parcel.

### 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 the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The agricultural capability of the soil of the subject property is improvable to

40% 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.

60% Class 3 – Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

The limiting subclasses are soil moisture deficiency and stoniness. The Commission noted two non arable areas; a large rock outcrop on the north-east portion of the property, and a creek canyon in the southeast portion of the property. The Commission believes that about half of the property has capability for agricultural development. The proposed subdivision would sever the potentially arable area into two roughly equal sized portions.

### **Assessment of Agricultural Suitability**

The Commission assessed whether external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission does not believe there are external factors that render the land unsuitable for agricultural use. The area is rural, and adjoining lands to the west are improved for agriculture.

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

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission believes the subdivision proposal has potential to negatively impact existing or potential agricultural use of surrounding lands. Smaller parcels and increasing residential uses tend to reduce agricultural potential and inhibit agricultural uses.

### **Assessment of Other Factors**

The Commission noted the lack of support for the application by the Regional District of Central Okanagan Board, the Regional District Agricultural Advisory Committee, the Regional District Planning Staff, and the Ministry of Agriculture. The Commission also noted that the application is inconsistent with the intent of the Official Community Plan.

The Commission recalled that there was potentially many ALR parcels in the Kelowna area containing two homes. It is unwilling to subdivide to provide each with its own parcel because smaller lots are not generally supportive of agricultural development.

### **Conclusions**

1. That the land under application has agricultural capability and is appropriately designated as ALR.
2. That portions of the property under application are suitable for agricultural use.
3. That the proposal has potential to negatively impact 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 Jim Johnson

**SECONDED BY:** Commissioner Bert Miles

THAT the application be refused.

AND THAT the applicant be advised of the provisions of Section 33 of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration.

- S.33 (1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that*
- (a) evidence not available at the time of the original decision has become available,*
  - (b) all or part of the original decision was based on evidence that was in error or was false.*
- (2) The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration.*

AND THAT the applicant be advised that a revised proposal does not constitute new information and will not be considered as a basis for reconsideration, that the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter, and that if the applicant sells or transfers the property within one (1) year of the decision the new owner is not eligible to submit a request for reconsideration.

This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government. This includes zoning, subdivision, or other land use bylaws, and decisions of any authorities that have jurisdiction under an enactment.

### **CARRIED**

**Resolution # 109/2011**