



**Agricultural Land Commission**  
133-4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
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www.alc.gov.bc.ca

December 12, 2013

ALC File: #53250

Larry John Burke  
1790 Davies Road  
Sorrento, BC  
V0E 2W1

**Re: Application to Subdivide Land in the Agricultural Land Reserve (ALR)**

Please find attached the Minutes of Resolution #329/2013 as it relates to the above noted application.

The Commission draws your attention to Section 33(1) of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration based on specific criteria.

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.

A revised proposal does not constitute new evidence and as such is not a basis for reconsideration. The time limit for submitting a request for reconsideration is one (1) year from the date of this letter.

Further correspondence with respect to this application is to be directed to Ron Wallace.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'B. Underhill', is written over a horizontal line.

Brian Underhill, Executive Director

Enclosure: Minutes of Resolution #329/2013

cc: Columbia Shuswap Regional District (LC2437)

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## MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on October 2, 2013 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #53250.

### COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Sylvia Pranger	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner

### COMMISSION STAFF PRESENT:

Ron Wallace	Land Use Planner
Brian Underhill	Executive Director

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**PROPOSAL** (Submitted pursuant to section 21(2) of the *Agricultural Land Commission Act*)  
To subdivide the 1.96 ha property into two parcels, one of 0.25 ha and a remainder of 1.71 ha.

The application was submitted to the Columbia-Shuswap Regional District under Section 946 of the Local Government Act (for applicant's daughter).

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### PROPERTY INFORMATION:

**Owner:** Larry Burke  
**Legal:** PID: 004-408-225  
Lot A Section 2 Township 22 Range 11 west of the 6<sup>th</sup> Meridian Kamloops Division  
Yale District Plan 29118  
**Location:** 1790 and 1794 Davies Road, Sorrento, BC  
**Size:** 1.96 ha

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### LEGISLATIVE CONTEXT FOR COMMISSION CONSIDERATION

Section 6 (Purposes of the commission) of the *Agricultural Land Commission Act* states:

- 6 The following are the purposes of the commission:
- (a) to preserve agricultural land;
  - (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
  - (c) 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.
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## COMMISSION CONSIDERATION

The Commission reviewed one previous application involving the subject property:

Application #25214 (Burke, 1991) To use an existing shop for a mechanical repair business. By Resolution #589/91 the application was allowed subject to conditions. At the time the Commission noted the property is located on the ALR boundary and was originally partially out of the ALR. The Commission, in 1976, granted permission to subdivide along the ALR boundary by application #114-76-03280 which created the subject property.

After considering the information the Commission concluded as follows:

1. The proposal to subdivide the property into one 0.25 ha lot and a remainder of 1.71 ha under section 21(2) of the *Agricultural Land Commission Act*.

### Conclusion:

The Commission assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission recognizes that the subject property is relatively small and is not currently used for agricultural purposes. However, it is believed the proposed subdivision would further limit the agricultural potential of the property with the creation of a rural residential lot (0.25 ha parcel).

2. The Commission noted the applicant referred to section 946 of the Local Government Act (LGA) as a factor in support of the request to subdivide the subject property. Section 2 of the *Agricultural Land Commission Act* (ALCA) establishes primacy of the ALCA over other legislation. More specifically:

- 2(1) This Act and the regulations are not subject to any other enactment, whenever enacted, except the *Interpretation Act*, the *Environment and Land Use Act* and the *Environmental Management Act* and as provided in this Act.

The LGA is subordinate to the ALCA and as such section 946 in no way compels the ALC to approve a subdivision involving ALR land. The ALC recognizes section 946 as a tool available to local government to accommodate a subdivision for a relative where the proposed lot is smaller than the minimum lot size specified in a zoning bylaw. If a subdivision for a relative involves land in the ALR, the local government can only use section 946 if an ALR application for subdivision has first been approved by the ALC. The ALC's consideration of subdivision proposals will be done in accordance with the purposes of the ALCA provided in section 6.

### Conclusion:

The consideration of Section 946 of the LGA in support of the subdivision proposal is inconsistent with the purpose of the ALC.

## IT WAS

MOVED BY: Commissioner Dyson  
SECONDED BY: Commissioner Miles

THAT the proposal to subdivide the 1.96 ha property into two parcels, one of 0.25 ha and a remainder of 1.71 ha be refused.

**CARRIED**  
**Resolution #329/2013**