



Agricultural Land Commission
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Burnaby, British Columbia V5G 4K6
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www.alc.gov.bc.ca

February 14th, 2016

ALC File: 54743

Campbell Froh May & Rice LLP
200-5611 Cooney Road
Richmond, BC. V6X 3J6

Dear Mr. May

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #31/2017) as it relates to the above noted application. As agent, it is your responsibility to notify the applicant accordingly. A sketch plan depicting the decision is also attached.

Further correspondence with respect to this application is to be directed to Kelsey-Rae Russell at (Kelseyrae.Russell@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to read 'K Russell', is written over the typed name.

Kelsey-Rae Russell, Land Use Planner

Enclosures: Reasons for Decision (Resolution #31/2017)
Sketch plan
Policy L-11 *Homesite Severance on ALR Lands*
Homesite Severance 5-Year Agreement Form

cc: Corporation of Delta (File: LU007778)

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AGRICULTURAL LAND COMMISSION FILE 54743

REASONS FOR DECISION OF THE CHIEF EXECUTIVE OFFICER

Application submitted pursuant to s. 21(2) of the *Agricultural Land Commission Act*

Applicant:

**Stanley Burr
(the “Applicant”)**

Agent:

**Spencer May - Campbell
Froh May & Rice LLP
(the “Agent”)**

Application before the Chief Executive Officer:

**Kim Grout
(the “CEO”)**

THE APPLICATION

[1] The legal description of the property involved in the application is:

Parcel Identifier: 012-161-233

Lot 2 District Lots 140 and 142 Group 2 New Westminster District Plan 77354

(the "Property")

[2] The Property is 33.1 ha in area.

[3] The Property has the civic address 5413-64th Street, Delta, BC.

[4] Pursuant to s. 21(2) of the *Agricultural Land Commission Act* (the "ALCA"), the Applicants are applying to subdivide 0.4 ha from the 33.1 ha Property under the ALC Homesite Severance Policy (the "Proposal"). The Proposal along with supporting documents is collectively referred to as the "Application".

RELEVANT STATUTORY PROVISIONS

[5] The Application was made pursuant to s. 21(2) of the ALCA:

21 (2) An owner of agricultural land may apply to the commission to subdivide agricultural land.

[6] Pursuant to s. 27 of the *Agricultural Land Commission Act* (the "ALCA") the CEO may approve some applications:

27 (1) The commission, by resolution, may establish criteria under which the following may be approved by the chief executive officer:

- (a) specified types of applications for exclusion, subdivision or non-farm use;
- (b) applications with respect to specified regions of British Columbia.

(2) The commission must put the criteria established under subsection (1) in writing and make them available for inspection during ordinary business hours.

- (3) An application that meets the criteria established under subsection (1) may be approved by the chief executive officer on the terms that the chief executive officer may impose.
- (4) If the chief executive officer considers that the application does not meet the criteria specified under subsection (1) or for any other reason does not wish to approve the application under subsection (3), the application must be referred to the commission for a decision.
- (5) An approval of an application by the chief executive officer under subsection (3) is decision of the commission for the purposes of this Act.
- (6) The chief executive officer may not exercise a power that has been delegated to a local government, a first nation government or an authority by an agreement entered into under section 26.

[7] On June 27, 2011, the Agricultural Land Commission (the “Commission”) delegated decision-making to the CEO by Resolution #016N-2011 (File: 140-60/ALC/CEO/APPL). In accordance with section 27 of the *ALCA* the Commission has specified that the following applications may be decided by the CEO.

Criterion 12

Subdivision applications that are consistent with the provisions and intent of the Commission's *Homesite Severance Policy*.

BACKGROUND

- [8] The Application has provided evidence to support that he has continuously owned and occupied the Property prior to December 21, 1972, confirming the Applicant has owned and occupied the Property since February of 1953.
- [9] There are two existing houses on the Property occupied by the Applicant and his son. The Proposal would subdivide the Applicant's dwelling onto a 0.4 ha lot, and the Applicant's son would purchase the 32.7 ha remainder of the Property. The Applicant has provided a copy of a sales agreement to this effect.



DECISION

[10] After reviewing the Application, I am satisfied that the Proposal is consistent with Criterion #12 of Resolution #016N/2011 and approve the Proposal.

[11] The Proposal is approved subject to the following conditions:

- a. the preparation of a subdivision plan to delineate the area to be subdivided per the drawing submitted with the Application;
- b. the subdivision to be in substantial compliance with the plan submitted with the Application;
- c. submission of two (2) paper copies or one (1) electronic copy of the final survey plan to the Commission;
- d. the subdivision plan being completed within three (3) years from the date of release of this decision;
- e. compliance with the *Homesite Severance Policy*; and
- f. The Applicant must agree in writing not to sell, transfer, or otherwise dispose of the homesite lot for five (5) years from the date of registration of the subdivision plan creating the homesite lot, save and except for estate purposes following the death of the owner. A copy of the *ALC Homesite Severance 5-Year Agreement* form is attached.

[12] When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the subdivision plan.

[13] This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

[14] Decision recorded as Resolution #31/2017.

A decision of the CEO is a decision of the Commission pursuant to s. 27(5) of the ALCA.



CERTIFICATION OF DECISION

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

Kim Grout, Chief Executive Officer

February 14th, 2017
Date Released



**Application ID# 54743 (Burr)
Conditionally Approved
Subdivision
ALC Resolution # 31/2017**

 <p>Agricultural Land Commission Act</p>	<p style="text-align: right;">Policy L-11 January 2016</p> <p style="text-align: center;">HOMESITE SEVERANCE ON ALR LANDS</p>
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This policy is intended to assist in the interpretation of the [Agricultural Land Commission Act, 2002](#), including amendments as of September 2014, (the “ALCA”) and BC Regulation 171/2002 ([Agricultural Land Reserve Use, Subdivision and Procedure Regulation](#)), including amendments as of August 2016, (the “Regulation”). In case of ambiguity or inconsistency, the ALCA and Regulation will govern.

The purpose of this policy is to provide a consistent approach to situations where property under application has been the principal residence of the applicant as owner-occupant since December 21, 1972 and the applicant wishes to dispose of the parcel but retain a homesite on the land.

A subdivision application under Section 21 (2) of the ALCA is required.

Persons making use of this homesite severance policy (the “Homesite Severance Policy”) must understand the following:

- a. there is no automatic right to a homesite severance;
- b. the Agricultural Land Commission (the “Commission”) shall be the final arbiter as to whether a particular homesite severance meets good land use criteria; (see #4 below)
- c. a prime concern of the Commission will always be to ensure that the “remainder” will constitute a suitable agricultural parcel. (see #5 below).

Without limiting the generality of the foregoing, the following guidelines apply to homesite severance applications.

1. A once only severance may be permitted where the applicant submits documentary evidence that he or she has continuously owned and occupied the property as his or her principal place of residence since December 21, 1972.
2. Where an applicant for a homesite severance has had a previous subdivision application approved by the Commission resulting in the creation of a separate parcel, the Commission may deny any further subdivision under the Homesite Severance Policy.
3. An application for a homesite severance will be considered only where the applicant submits documentary evidence showing a legitimate intention to sell the remainder of the property upon the approval of the homesite severance application. (An interim agreement for sale, a prospective buyer’s written statement of intent to purchase, a real estate listing, or some other written evidence of a pending real estate transaction may be acceptable as documentation)

In considering the application, the Commission may make an approval subject to sale of the remainder within a specified period of time.

An order of the Commission authorizing the deposit of the subdivision plan will be issued to the Registrar of Land Titles only when a transfer of estate in fee simple or an agreement for sale is being registered concurrently.

4. There will be cases where the Commission considers that good land use criteria rule out any subdivision of the land because subdivision would compromise the agricultural integrity of the area, and the Commission will therefore exercise its discretion to refuse the homesite severance.

The following two options apply to a homesite severance:

- a. the existing homesite may be created as a separate parcel where it is of a minimum size compatible with the character of the property (plus a reasonable area, where required, for legal access purposes); or
 - b. where the location of the existing homesite is such that the creation of a parcel encompassing the homesite would, in the Commission's opinion, create potential difficulty for the agricultural operation or management of the remainder, the Commission may, if it deems appropriate, approve the creation of a homesite severance parcel elsewhere on the subject property.
5. The remainder of the subject property after severance of the homesite must be of a size and configuration that will, in the Commission's opinion, constitute a suitable agricultural parcel. Where, in the Commission's opinion, the remainder is of an unacceptable size or configuration from an agricultural perspective, there may be three options:
 - a. the Commission may deny the homesite severance;
 - b. the Commission may require that the remainder be consolidated with an adjacent parcel; or
 - c. the Commission may require the registration of a covenant against the title of the remainder and such a covenant may prohibit the construction of dwellings.
 6. A condition of every homesite severance approved by the Commission shall be an order stipulating that the homesite is not to be sold for five years except in the case of the death of the owner. Prior to the issuance of a Certificate of Order authorizing deposit of the subdivision plan, the owner shall file with the Commission a written undertaking or other legal documentation satisfactory to the Commission setting out this commitment.
 7. Where a homesite severance application has been approved by the Commission, local governments and approving officers are encouraged to handle the application in the same manner as an application under Section 514 of the [Local Government Act](#) insofar as compliance with local bylaws is concerned.

Unless defined in this policy, terms used herein will have the meanings given to them in the ALCA or the Regulation.

RELATED POLICY:

ALC Policy L-17 Activities Designated Permitted Non-Farm Use in the ALR: Lease for a Retired Farmer – Zone 2

I/we being the registered owner(s) of the property which is the subject of this application and for whom the homesite lot was approved, hereby agree not to sell, transfer, or otherwise dispose of the homesite lot for five (5) years from the date of registration of the subdivision plan creating the homesite lot, save and except for estate purposes following the death of the owner, or any one of the owners, if there are more than one.

Owner's Name (Please Print)

Signature

Owner's Name (Please Print)

Signature

Witnessed By (Please Print Name)

Occupation of Witness

Signature of Witness

Date