



**Agricultural Land Commission**  
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Burnaby, British Columbia V5G 4K6  
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February 27, 2017

ALC File: 55223

Bernice Hammett-Pryhitko  
598 Stone Ridge Lane  
Kamloops, BC V2H 0A7

Dear Ms. Hammett-Pryhitko:

**Re: Reconsideration of original application to Subdivide Land in the Agricultural Land Reserve (ALR)**

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #39/2017) as it relates to the above noted application. As agent, it is your responsibility to notify the applicants accordingly.

**Reconsideration of a Decision as Directed by the ALC Chair**

Please note that pursuant to [s. 33.1 of the \*Agricultural Land Commission Act\*](#), the Chair may direct the executive committee to reconsider any panel decision if, within 60 days from the date of this decision, he considers that the decision may not fulfill the purposes of the commission as set out in s. 6, or does not adequately take into consideration s. 4.3.

You will be notified in writing if the Executive Committee is directed to reconsider your decision. The Commission advises you to take this 60 day period into consideration prior to proceeding with any actions upon this decision.

**Reconsideration of a Decision by an Affected Person**

We draw your attention to [s. 33\(1\) of the \*Agricultural Land Commission Act\*](#) which provides a person affected the opportunity to submit a request for reconsideration.

- 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.

For further clarity, s. 33.1 and s. 33(1) are separate and independent sections of the *Agricultural Land Commission Act*.

Further correspondence with respect to this application is to be directed to Celeste Barlow at (Celeste.Barlow@gov.bc.ca).

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Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink that reads "Celeste". The signature is written in a cursive, flowing style.

Celeste Barlow, Land Use Planner

Enclosure: Reasons for Decision (Resolution #39/2017)

cc: Thompson-Nicola Regional District (File: ALR 111)

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## **AGRICULTURAL LAND COMMISSION FILE 55223**

### **RECONSIDERATION OF PANEL DECISION REASONS FOR DECISION OF THE INTERIOR PANEL**

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

**Request for Reconsideration submitted pursuant to s. 33(1) of the *Agricultural Land Commission Act***

**Applicants:**

**Bernice Hammett-Pryhitko  
Dennis Ian Pryhitko  
Bradley Dean Hammett  
(the “Applicants”)**

**Agent:**

**Bernice Hammett-Pryhitko  
(the “Agent”)**

**Application before the Interior Regional Panel:**

**Richard Mumford, Panel Chair  
Lucille Dempsey  
Roger Patenaude**

## **THE APPLICATION**

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

Parcel Identifier: 013-002-660

That Part of District Lot 441 Lying East of the Merritt Highway, Shown on Plan H332,  
Kamloops Division, Yale District  
(the "Property")

[2] The Property is 80.9 ha in area.

[3] The Property has the civic address 3282 Princeton Kamloops Highway, Knutsford, BC.

[4] The Property is located within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA").

[5] The Property is located within Zone 2 as defined in s. 4.2 of the *ALCA*.

[6] Pursuant to s. 21(2) of the *ALCA*, the Applicants are applying to subdivide the Property in half (two 40.5 ha parcels) to allow the parents to farm on one parcel, and their son the other. The creation of the two parcels would allow the Applicants to borrow enough to build the two homes and infrastructure for the Applicants to live on and farm the land (the "Proposal"). The Proposal along with supporting documentation is collectively (the "Application").

[7] By Resolution #293/2016, dated August 3, 2016, the Interior Panel refused the Proposal (the "Original Decision"). In reaching its decision, the Interior Panel concluded:

- The Property has good agricultural capability and suitability.
- The Proposal for subdivision is inconsistent with the objective of the *ALCA* to preserve and encourage agriculture.
- The Thompson Nicola Regional District (TNRD) Board and its Agricultural Advisory Commission both recommended the Application be refused.

- The Panel gave consideration to economic, social and cultural values and regional and community planning objectives planning as required by s. 4.3. In this case, the Panel found that these considerations were not contributory to the decision given the Panel's finding following its review of the agricultural considerations.

[8] On October 7, 2016, the Agricultural Land Commission (the "Commission") received the Applicants' *Request for Reconsideration* of Resolution #293/2016. The request for reconsideration asserts that the decision was based on false evidence in that the TNRD Board did not recommend refusal of the Proposal, and in fact, made no recommendation. Ms. Hammett-Pryhitko, one of the Applicants, also explained that the proposed subdivision was recommended by TNRD staff. However, if the Commission would be amenable to a different configuration for the subdivision the Applicants would be open to subdividing the flat farmable portion of the Property from the steep slope. Ms. Hammett-Pryhitko also submitted photos of the Property for consideration and requested a site visit.

### **RELEVANT STATUTORY PROVISIONS**

[9] The reconsideration request was submitted pursuant to s. 33(1) of the *ALCA* which states:

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.

[10] The Panel considered the Application pursuant to its mandate in s. 4.3 of the *ALCA*:

4.3 When exercising a power under this Act in relation to land located in Zone 2, the

commission must consider all of the following, in descending order of priority:

- (a) the purposes of the commission set out in section 6;
- (b) economic, cultural and social values;
- (c) regional and community planning objectives;
- (d) other prescribed considerations.

[11] The purposes of the Commission set out in s. 6 are as follows:

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.

### **DELEGATION TO EXECUTIVE COMMITTEE**

[12] On October 29, 2014, the Agricultural Land Commission met and by Resolution #029N/2014 decided to delegate certain reconsideration requests to the Executive Committee. The following is an excerpt from the resolution:

- A. The Agricultural Land Commission (the Commission) may, pursuant to s. 10(3) of the *Agricultural Land Commission Act*, S.B.C. 2002, c. 36, as amended (*ALCA*), delegate any of the Commission's functions to the Executive Committee.
- B. The Executive Committee is a standing committee of the Commission established under s. 10(1) of the *ALCA*, consisting of the Commission Chair and Vice Chairs.
- C. The Commission considers that it is necessary, cost effective and desirable to delegate to the Executive Committee the Commission's power to decide under s. 33 whether to reconsider an application decision made by a regional panel (following which, if the

decision is to reconsider, the Commission Chair must under s. 11.1(3) of the *ALCA* refer the matter to the regional panel who made the decision).

D. The Commission considers that it is necessary, cost effective and desirable to delegate to the Executive Committee the Commission's power to:

(a) decide under s. 33 whether to reconsider a decision made prior to September 5, 2014 (transitional application); and

(b) if the decision is to reconsider, decide under s. 33 to confirm, reverse or vary a decision with respect to a transitional application, on the grounds that such reconsiderations are not subject to referral to a regional panel under s. 11.1(3) of the *ALCA*.

[13] A meeting of the Executive Committee (the "Executive Committee") of the Commission was held on October 26, 2016 as it relates to the *Request for Reconsideration of Resolution #293/2016*. All members of the Executive Committee were in attendance except Lucille Dempsey who was absent.

[14] As per paragraph 11(C) above, the Executive Committee considered the *Request for Reconsideration* pursuant to s. 33(1) of the *ALCA* and determined that the decision was potentially based on information that was in error or false, and the information provided in the *Request for Reconsideration* would have been germane to the review of the Application by the Interior Panel.

[15] The Executive Committee concluded that the *Request for Reconsideration* meets the requirements for reconsideration pursuant to s. 33(1) of the *ALCA* and the request is therefore granted.

[16] Pursuant to s. 33(2) of the *ALCA*, the Executive Committee did not consider that there were any persons affected by the reconsideration.

[17] In accordance with s. 11.1(3) of the *ALCA*, the Chair of the Commission referred the *Request for Reconsideration* of the Original Decision to the Interior Panel.

### **EVIDENTIARY RECORD BEFORE THE PANEL**

[18] The Panel considered the following evidence:

1. All the documents contained in the Application file from June 27, 2016, being the date the Application was received by the Commission, to the date of Resolution #293/2016;
2. The Commission's decision recorded as Resolution #293/2016 and dated August 3, 2016; and
3. The Applicants' request for reconsideration dated October 7, 2016.

All documentation noted herein has been disclosed to the applicant in advance of this decision.

### **FINDINGS**

[19] While the Panel noted that the recommendation of the TNRD Board's was cited inaccurately in Resolution #293/2016, the Panel did not base its decision to refuse the Application on that recommendation alone.

[20] The Panel reconfirms that the Property is capable and suitable for agriculture, and that subdivision would reduce the agricultural options available on the Property. The Panel believes that the parcel has greater agricultural potential as a large cohesive farm parcel.

### **DECISION**

[21] For the reasons given above, the Panel refuses the Proposal to subdivide the Property in half (two 40.5 ha parcels).





[22] These are the unanimous reasons of the Interior Panel of the Agricultural Land Commission.

[23] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.

[24] This decision is recorded as Resolution #39/2017 and is released on February 27, 2017.

**CERTIFICATION OF DECISION**

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

Richard Mumford, Panel Chair, on behalf of the Interior Panel

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