



**Agricultural Land Commission**  
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May 9, 2007

Reply to the attention of Simone Rivers  
ALC File: B-19615

Jack and Virginia O'Meara  
c/o PO Box 1117  
Burns Lake, B.C. V0J 1E0

Dear Mr. and Mrs. O'Meara:

**Re: Request to Remove a Restrictive Covenant in the Agricultural Land Reserve**

Further to correspondence the Commission received from Eileen Benedict of the Regional District of Bulkley Nechako Board on January 20, 2007 asking the Commission to again consider removing the restrictive covenant from properties that you own, please find attached the Minutes of Resolution # 187/2007 outlining the Commission's latest decision as it relates to the above noted request to remove the restrictive covenant.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: Regional District of Bulkley-Nechako (#629)

Enclosure: Minutes

SR/eg  
i/19354d4



built several dwellings on their property without property authority, the Commission believed that a covenant prohibiting the building of residential dwellings was an appropriate benefit to agriculture in light of its approval for the creation of four new lots. Furthermore, it wished to ensure that the same situation would not arise again. Although the use of no-build covenants has been used throughout the province as a condition of Commission approval, the Commission discussed if it was the best solution in this case.

Upon looking at the file information the Commission considered that it would be appropriate to remove the no-build covenant from one (1) of the applicant's properties. This would allow one (1) dwelling to be built on one of the properties. Additionally, the Commission would require a new covenant to be registered against the titles to both properties preventing their separate sale. This would encourage and allow the properties to be sold as a unit for future agricultural use and development complete with the option to construct or place a dwelling on the "bound" property as required for potential farm use.

**IT WAS**

**MOVED BY:** Commissioner Norton

**SECONDED BY:** Commissioner Read

THAT the request be refused as proposed.

AND THAT the Commission would allow the discharge of the "no-build" covenant from one of the two properties (of the applicant's choice) subject to the registration of a covenant on both properties binding the titles so that they cannot be sold separately.

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.

**CARRIED**

**Resolution # 187/2007**



**Staff Report**  
**Further Reconsideration Request # B-19615**  
**Applicant: Jack and Virginia O'Meara**

**DATE PREPARED:** April 4, 2007

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

**FROM:** Simone Rivers, Land Use Planner

**PROPOSAL:** To remove the restrictive covenant prohibiting the placement of residential dwellings on the remainder of the property.

**BACKGROUND INFORMATION:**

The Commission viewed this property in the summer of 2006 and decided to leave the restrictive covenant on the properties. The Commission has received an additional request from the Regional District of Bulkley-Nechako board to look at the application again.

**PREVIOUS APPLICATIONS:**

**Application #04171-0**

**Applicant:** O'Meara, John & Grace

**Decision Date:** May 3, 1977

**Proposal:** To subdivide four 1 ha lots from the 13.8 ha parcel to provide homesite's for the applicants' children

**Decision:** Refused as proposed. Although the Commission recognizes that similar sized parcels (to those proposed) exist immediately to the east, the Commission was not prepared to allow further reduction of parcel sizes within the ALR. By increasing the number of hobby farms or rural residential holdings within the ALD, the Commission would be encouraging the inevitable conflicts which occur between residential dwellers and surrounding commercial farming operations.

**Application #07110-0**

**Applicant:** O'Meara, John & Grace

**Decision Date:** August 31, 1978

**Proposal:** To subdivide four 1 ha lots from the 13.8 ha parcel to provide homesite's for the applicants' children

**Decision:** Refused on the grounds that the land has good capability for agriculture and is presently being farmed. The creations of residential lots would increase urban-rural conflicts and may have a detrimental effect on nearby beef operations.

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**Application #08594-0**

**Applicant:** O'Meara, J.A. & G.V.

**Decision Date:** August 28, 1979

**Proposal:** To exclude the 13.8 ha property from the ALR in order to allow the subdivision of four 0.8 ha lots from the subject property to be used as homesites for the applicants' children

**Decision:** Refused on the grounds that the land has good capability for agriculture and that

the creation of city-sized lots in this area would be an intrusion into an agricultural area.

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**Application #17144-0**

**Applicant:** O'Meara, J.A. & G.V.

**Decision Date:** July 20, 1984

**Proposal:** To subdivide four lots of 0.8 to 1.0 ha for the applicant's children

**Decision:** Refused. A Land Use Study was completed which revealed that existing vacant parcels under eight ha are available in abundance beyond the borders of the study area which can accommodate the demand for rural-residential and recreational development in the area.

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**Application #19615-0**

**Applicant:** O'Meara, J.A. & G.V.

**Decision Date:** December 18, 1985

**Proposal:** To exclude 4.9 ha to enable subdivision into four lots of 0.8 to 1.0 ha for the applicant's children

**Decision:** Refused exclusion, however the Commission was willing to allow the subdivision of the four lots on the condition that the O'Meara's register a Restrictive Covenant such that no residential building or residential improvements (including a mobile home) will be situated on that part of District Lot 1016 and District Lot 5352 which lies north of the Francois Lake East Road.

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**Application #19615-1**

**Applicant:** O'Meara, J.A. & G.V.

**Decision Date:** October 22, 1986

**Proposal:** A request by the surveyor for the applicants to adjust the area being surveyed

**Decision:** Allowed. The Commission reiterated that the registration of a restrictive covenant is a condition of the subdivision.

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**Application #19615-2**

**Applicant:** O'Meara, J.A. & G.V.

**Decision Date:** September 11, 1992

**Proposal:** To remove the restrictive covenant on the basis that it dramatically reduces the value of the charged lands as well as the subdivided property and not other subdivision in their area of the province has a similar restriction. At that time the Regional District wrote to the Commission stating their opposition to the removal of the covenant and the minutes state that they had already refused the same request submitted to them by the applicants in 1989.

**Decision:** Refused.

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**STAFF COMMENTS:**

Staff suggest the Commission consider the following alternate option:

- Removal of the covenant to be replaced with a covenant that limits the number of residential dwellings on each parcel to one.
- The Commission may also wish to consider placing a restriction on the size of the residential footprint and the location on the properties where the residences could be.

**ATTACHMENTS:**

- Correspondence dated January 20, 2007 from Regional District of Bulkley-Nechako Board
- Minutes of Commission Resolution 544/2006
- Map showing location of properties and no-build covenant.
- Airphoto

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**END OF REPORT**

*Simone Ribens*

Signature

*April 4, 2007*

Date