



**Agricultural Land Commission**  
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November 26, 2007

Reply to the attention of Ron Wallace  
ALC File: MM-37374

John Kolawski  
Box 83 - 38056 Lougheed Highway  
Dewdney, BC V0M1H0

Dear Mr. kolawski:

**Re: Application to subdivide in the Agricultural Land Reserve**

Please find attached the Minutes of Resolution # 381/2007 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Erik Karlsen', is written over the 'Per:' label.

 Erik Karlsen, Chair

cc: Fraser Valley Regional District (3015-20-2006-04)

Enclosure: Minutes, Homeste Severance on ALR Lands Policy #11



## MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

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A meeting was held by the Provincial Agricultural Land Commission on November 7, 2007 in Dewdney, B.C.

<b>PRESENT:</b>	Sylvia Pranger	Chair, South Coast Panel
	Michael Bose	Commissioner
	John Tomlinson	Commissioner
	Ron Wallace	Staff
	Tony Pellett	Staff
	Jennifer Carson	Staff

### For Consideration

Application: # MM- 37374  
Applicant: John Kolawski  
Agent:  
Proposal: To subdivide the 18.3 ha subject property pursuant to the Homesite Severance Policy to create a 1.5 ha parcel.  
Legal: PID: 011-228-768  
Lot 1, Parcel 2 ( Explanatory Plan 8594), New Westminster District, Except Parcel C (Reference Plan 9730), Section 27, Township 20, Plan 6667  
Location: 38506 Lougheed #7 Highway, Dewdney

### Site Inspection

A site inspection was conducted on November 7, 2007. Those in attendance were:

- Sylvia Pranger Chair, South Coast Panel
- Michael Bose Commissioner
- John Tomlinson Commissioner
- Ron Wallace Staff
- Tony Pellett Staff
- Jennifer Carson Staff
- John Kolawski Applicant

Commissioners and staff met with the applicant to discuss the proposed subdivision. It was noted the proposed homesite parcel will consist of all the buildings and structures. The Commission also noted that the subject property has good agricultural capability and is suitable for agricultural use.

### 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 Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system, or 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

- Class 2 – Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.
- Class 3 – Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

#### **Subclasses**

A	soil moisture deficiency
T	topography
W	excess water

### **Assessment of Agricultural Suitability**

The Commission assessed whether the 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.

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

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. It was felt that the creation of a residential lot would reduce the agricultural potential of the property and potentially lead to subdivision applications from adjacent property owners.

The Commission cannot consider the application as a subdivision under the Homesite Severance Policy as it has not received proof that Mr. Kolawski himself has owned the property since 1972. Please refer to the attached policy for clarification. The Commission records indicate that Mr. Kolawski purchased the property in 1982, and therefore he does not qualify for consideration under the policy.

## **Conclusions**

1. That the land under application has agricultural capability and is appropriately designated as ALR.
2. That the land under application is suitable for agricultural use.
3. That the proposal will impact agriculture.

4. The Commission has not received evidence that the applicant has owned the property since 1972 and therefore does not qualify for consideration under the *Homesite Severance Policy*.
5. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

**IT WAS**

**MOVED BY:** Commissioner Bose  
**SECONDED BY:** Commissioner Pranger

THAT the application be refused.

**CARRIED**


**Resolution # 381/2007**

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 <p><b>Agricultural Land Commission Act</b></p>	<p style="text-align: right;"><b>Policy #11 March 2003</b></p> <p style="text-align: center;"><b>HOMESITE SEVERANCE ON ALR LANDS</b></p>
<p><i>This policy provides advice to assist in the interpretation of the Agricultural Land Commission Act, 2002 and Regulation. In case of ambiguity or inconsistency, the Act and Regulation will govern.</i></p>	

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.

An application under Section 21 (2) of the *Agricultural Land Commission Act* is required.

Persons making use of this policy should understand clearly that:

- a. no one has an automatic right to a "homesite severance";
- b. 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 21 December 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 consider the previous approval as having fulfilled the objectives of the Homesite Severance Policy and may deny any further consideration 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 pending real estate transaction would be acceptable as documentation.]

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

A Certificate of Order 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 must therefore exercise its discretion to refuse the "homesite severance".

Where the Commission decides to allow a "homesite severance", there are two options:

- 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, as it deems appropriate, approve the creation of a 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 are 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 resold for five years except in the case of estate settlements. 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 standard notarized contractual commitment to this effect.
  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 946 of the *Local Government Act* insofar as compliance with local bylaws is concerned.