



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

October 8th, 2010

Reply to the attention of Martin Collins
ALC File G-39039

Peter Kenward
Clark Wilson LLP
800-885 W. Georgia St.
Vancouver, B.C.
V6C 3H1

Dear Sir:

Re: Request for Reconsideration

This is further to your letter of August 11, 2010 in which you asked the Provincial Agricultural Land Commission to reconsider Resolution #1569/2010.

The Commission has reconsidered the matter and has attached the Minutes of Resolution # 26664/2010 outlining its latest decision. As agent, it is your responsibility to notify your client(s) accordingly.

The Commission will contact you at the earliest opportunity when it schedules its next meeting in the Okanagan so that you have an opportunity to prepare information to present to the Commissioners.

If you have any further questions about the decision please contact this office.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Brian Underhill, Executive Director

cc: City of Kelowna

Enclosure: Minutes

MC/d2



A meeting was held by the Provincial Agricultural Land Commission on September 13th, 2010 at Kelowna, B.C.

PRESENT:	Richard Bullock	Chair
	Roger Mayer	Chair, Okanagan Panel
	Jim Johnson	Commissioner
	Bert Miles	Commissioner
	Martin Collins	Staff
	Brian Underhill	Staff

For Consideration

A letter from Peter Kenward dated August 11, 2010 was received requesting that the Commission;

- vacate and set aside its June 10, 2010 decision;
- direct that a new panel be constituted to consider the application as submitted;
- direct that a meeting be held at which submissions can be made, with the applicant being given notice of the meeting and having opportunity to make submissions.

Application:	G- 39039
Applicant:	Al Stober Construction
Agent:	Mark Stober
Original proposal:	To exclude 9 ha from the ALR for residential development
Original decision:	To refuse exclusion
Current proposal:	To rescind, or set aside, Resolution #1569/2010 and provide opportunity for a new panel to review the application.
Legal:	PID 002-422-685
Location:	Summit Drive, Kelowna

Context

The proposal was considered under Section 33 of the Agricultural Land Commission Act (the "Act") which states:

- S33(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, or
 - (c) a recommendation by a facilitator under section 13 relating to a dispute warrants a reconsideration of the original decision.

The Commission believed that the applicant had provided evidence that was not available at the time of the original decision and so reconsidered the application.

Commissioner Eligible to Vote

Commissioners Bullock, Johnson and Miles were not present at the site inspection and previous meetings between the applicant and the Commission. It was confirmed that a summary of the previous file material and site inspection was provided thus establishing the Commissioners' eligibility to vote on the application.

Discussion

The Commission concurred with P. Kenward's rationale outlined in Section B of the August 11, 2010 letter in support of setting aside the decision, particularly with respect to the ability of the Commission to consider an application involving land within another Commission region.

IT WAS

MOVED BY: Commissioner R. Mayer
SECONDED BY: Commissioner B. Miles

THAT for the purposes of Section 33(2) of the *Agricultural Land Commission Act*, there are no persons it considers affected by the reconsideration.

AND THAT the Resolution #1569/2010 refusing the exclusion of 9 ha from the ALR be rescinded.

AND THAT the application be brought before a panel to consider the proposal.

AND THAT the applicant has opportunity to make submissions and meet with the Commission at a subsequent meeting before a decision is made on the application.

CARRIED

Resolution #2664/2010