



**Agricultural Land Commission**  
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March 5, 2013

ALC File: #52995

David & Gail MacDonald  
62 Maitland Rd  
Hazelton, BC V0J 1Y5

Dear Mr. and Mrs. MacDonald:

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

Please find attached the Minutes of Resolution #40/2013 as it relates to the above noted application.

The Commission draws your attention to Section 33(1) of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration based on specific criteria.

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.

A revised proposal does not constitute new evidence and as such is not a basis for reconsideration. The time limit for submitting a request for reconsideration is one (1) year from the date of this letter.

Further correspondence with respect to this application is to be directed to Liz Sutton.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Brian Underhill, Executive Director

Enclosure: Minutes of Resolution #40/2013

cc: Regional District of Kitimat-Stikine (File: 3370 20 #297)

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## MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on January 22, 2013 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #52995.

### COMMISSION MEMBERS PRESENT:

Gordon Gillette	Vice-Chair (Acting Chair)
Jennifer Dyson	Vice-Chair
Sylvia Pranger	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner
Denise Dowswell	Commissioner
Jim Collins	Commissioner

### COMMISSION STAFF PRESENT:

Liz Sutton	Land Use Planner
Colin Fry	Executive Director

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**PROPOSAL:** To subdivide the 62.0 ha parcel into a 14 ha parcel to be retained by the owners and a 48 ha parcel remainder.

(Submitted pursuant to section 21(2) of the *Agricultural Land Commission Act*)

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### PROPERTY INFORMATION:

**Owner:** David and Gail MacDonald

**Legal:** PID: 001-174-544  
District Lot 2557, Cassiar District

**Location:** Hazelton

**Size:** 62.0 ha

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### LEGISLATIVE CONTEXT FOR COMMISSION CONSIDERATION

Section 6 (Purposes of the commission) of the *Agricultural Land Commission Act* states:

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.
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## COMMISSION CONSIDERATION

After considering the information the Commission concluded as follows:

1. 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) mapping. The improved agricultural capability ratings identified on CLI map sheet 93M/5 for the subject property are 90% Class 5 and 10% Class 4 and 5.

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

The limiting subclasses associated with this parcel of land are M (moisture deficiency), P (stoniness), T (topographic limitations), and W (excess water).

### **Conclusion:**

The subject property has agricultural capability.

2. The Commission has reviewed the submission which details the agricultural activities on the property since the time of purchase which included attaining farm status from BC Assessment. The mandate of the Commission is to preserve agricultural land and to encourage farming and as such is concerned about subdividing an agriculturally capable parcel.

### **Conclusion:**

The proposal for subdivision is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve and encourage agriculture.

3. The Commission noted the application is pursuant to section 946 of the *Local Government Act* (LGA) as a factor in support of the request to subdivide the subject property below the 40 ha minimum lot size as per the Kispiox Valley Zoning Bylaw No. 53. Section 2 of the *Agricultural Land Commission Act* (ALCA) establishes primacy of the ALCA over other legislation. More specifically:

2(1) This Act and the regulations are not subject to any other enactment, whenever enacted, except the *Interpretation Act*, the *Environment and Land Use Act* and the *Environmental Management Act* and as provided in this Act.

The LGA is subordinate to the ALCA and as such section 946 in no way compels the ALC to approve a subdivision involving ALR land. The ALC recognizes section 946 as a tool available to local government to accommodate a subdivision for a relative where the proposed lot is smaller than the minimum lot size specified in a zoning bylaw. If a subdivision for a relative involves land in the ALR, the local government can only use

section 946 if an ALR application for subdivision has first been approved by the ALC. The ALC's consideration of subdivision proposals will be done in accordance with the purposes of the ALCA provided in section 6.

**Conclusion:**

The consideration of Section 946 of the LGA in support of the subdivision proposal is inconsistent with the purposes of the ALC. The Commission also notes that the applicants are not proposing to create a subdivision for a relative

**IT WAS**

**MOVED BY:           Commissioner Miles**

**SECONDED BY:       Commissioner Thibeault**

THAT the proposal to subdivide be refused.

**CARRIED**

**Resolution #40/2013**