



**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](http://www.alc.gov.bc.ca)

February 14, 2014

ALC File: #53353

Delta Law Office  
4873 Delta Street  
Delta, BC V4K 2T9

**Attention: Murray Lott**

Dear Mr. Lott:

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

Please find attached the Minutes of Resolution #23/2014 as it relates to the above noted application. As agent, it is your responsibility to notify your clients accordingly.

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 Eamonn Watson ([Eamonn.Watson@gov.bc.ca](mailto:Eamonn.Watson@gov.bc.ca)).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in dark ink, appearing to be 'Brian Underhill', written over a horizontal line.

Brian Underhill, Executive Director

Enclosure: Minutes of Resolution #23/2014

cc: Corporation of Delta, Attention: John Hopkins (File: LU006265)  
4500 Clarence Taylor Crescent, Delta, BC V4K 3E2

53353d1



## MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on January 23, 2014 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #53353.

### COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Sylvia Pranger	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner
Jim Collins	Commissioner

### COMMISSION STAFF PRESENT:

Lindsay McCoubrey	Planner
Eamonn Watson	Planner
Jennifer Carson	Planner
Colin Fry	Executive Director

---

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

To subdivide a 0.4 ha parcel from the 37.2 ha subject property pursuant to the Agricultural Land Commission's *Homesite Severance Policy*.

---

### PROPERTY INFORMATION:

**Owners:** Kevin Shaw Husband and Joanne Debra Husband  
(As to an undivided 99/100 interest as joint tenants)

William Robert Husband  
(As to an undivided 1/100 interest)

**Legal:** PID: 012-977-250  
District Lot 189, Group 2, Except: Parcel "C" (Statutory Right of Way Plan 20004),  
New Westminster District

**Location:** 4220 Tamboline Road, Delta

**Size:** 37.2 ha

---

### 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.
- 

## COMMISSION CONSIDERATION

After considering the information the Commission concluded as follows:

1. The Commission reviewed all of the information provided as part of the application explaining the family's history on the subject property since 1954. However, it was noted that applicants, William Robert Husband and Robert Shaw Husband, were not on title until May 29, 1979. The applicants are requesting that the Commission consider the subdivision request under the *Homesite Severance Policy*.

The purpose of *Agricultural Land Commission Policy #11 (2003) - Homesite Severance on ALR Lands* 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."

Policy #11 states that the Commission may approve the following:

*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.*

### **Conclusion:**

The Commission does not believe the applicants meet the criteria outlined in *Policy #11 (2003) - Homesite Severance on ALR Lands* and thereby does not qualify for consideration under this policy.

2. The Commission noted the application made reference to s. 946 of the *Local Government Act* (LGA) as a factor in support of the request to subdivide the subject property. 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 ALCA has primacy over the LGA and as such s. 946 does not compel the Commission to approve a subdivision involving ALR land. The Commission recognizes s. 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 give consideration to s. 946 if an ALR application for subdivision has first been approved by the

Commission. The Commission's consideration of subdivision proposals are done in accordance with the purposes of the ALCA provided in s. 6.

**Conclusion:**

The consideration of s. 946 of the LGA in support of the subdivision proposal is inconsistent with the purposes of the ALCA.

3. In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The improved agricultural capability ratings identified on BCLI map sheet 92G.005 for the subject property are Class 1, 2 and 3.

Class 1 - land is capable of producing the very widest range of crops. Soil and climate conditions are optimum, resulting in easy management.

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

The limiting subclasses associated with this parcel of land are A (soil moisture deficiency), W (excess water), and N (salinity).

**Conclusion:**

The subject property has very good agricultural capability and the Commission does not believe that the proposed subdivision would improve the agricultural utility of the subject property.

**IT WAS**

**MOVED BY:           Commissioner Gillette**

**SECONDED BY:       Commissioner Dyson**

THAT the proposal to subdivide a 0.4 ha parcel from the 37.2 ha property be refused.

**CARRIED**

**Resolution #23/2014**