



**Agricultural Land Commission**  
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June 30, 2014

ALC File: #53564

Phillip Bowers  
Bowers & Associates  
2856 Caswell Street  
Chemainus, B.C. V0R 1K3

Dear Mr. Bowers:

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

Please find attached the Minutes of Resolution #146/2014 as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) 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 Liz Sutton.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Chief Tribunal Officer

Enclosure: Minutes of Resolution #146/2014

cc: Cowichan Valley Regional District (File #2-D-13ALR)

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## MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on March 26, 2014 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #53564.

### COMMISSION MEMBERS PRESENT:

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

### COMMISSION STAFF PRESENT:

Jennifer Carson	Planner
Liz Sutton	Planner
Brian Underhill	Deputy Chief Executive Officer
Colin Fry	Chief Tribunal Officer

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

To subdivide the 6.1 ha parcel into a 0.4 ha lot and a 5.7 ha remainder. The proposed small lot is intended for a family member as part on an estate settlement. The applicants indicated it is their intent to subdivide pursuant to s. 946 of the *Local Government Act*.

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### PROPERTY INFORMATION:

**Owners:** Esther, Herbert & Bertram Roberts

**Legal:** PID: 009-550-712  
Parcel C (DD 42400I) of Section 3, Range 4, Cowichan District, Except Part in Plan 23000.

**Location:** Cowichan Bay

**Size:** 6.1 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 BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The improved agricultural capability ratings identified on BCLI map sheet 92B/072 for the subject property are Class 2 and Class 3.

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 W (excess water) and D (undesirable soil structure).

### **Conclusion:**

The subject property has good agricultural capability and in its present size, can support a wide range of crops.

2. The Commission noted the applicant referred to s. 946 of the *Local Government Act* (LGA) as a factor in support of the request to subdivide the subject property. However, s. 2 of the *Agricultural Land Commission Act* (ALCA) establishes primacy of the ALCA over other legislation.

Section 946 of the LGA in no way compels 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 use s. 946 if an ALR application for subdivision has first been approved by the ALC.

### **Conclusion:**

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

3. In a letter dated November 27, 2013 from Orchard & Company submitted on behalf of the applicants to the Cowichan Valley Regional District, it is stated that "*The subdivision will promote the cohesion of the working farm by separating working lands from the non-farm residence*". The letter further states that "*The subdivision will compliment the long-term viability of the farm by protecting Mr. Roberts' residence and spouse from exposure to*

*liability related to the partnership and reducing the potential for conflict between partners regarding farm decisions and risk management”.*

**Conclusion:**

The Commission believes that the existing house is the home site for the farm parcel. Subdivision of the residence from the farm will create a small residential parcel and necessitate the use of additional farmland for a new dwelling on the larger remainder parcel in future.

**IT WAS**

**MOVED BY:           Commissioner Dyson**

**SECONDED BY:      Commissioner Thibeault**

THAT the proposal to subdivide the subject property be refused.

**CARRIED**

**Resolution #146/2014**