



August 21, 2014

Gerald Geen  
4170 Anderson Road  
Kelowna, B.C.  
V1X 7V8

Dear Sir:

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

Please find attached the Minutes of Resolution #291/2014 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 Ron Wallace.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Chief Tribunal Officer

Enclosure: Minutes of Resolution #291/2014

cc: City of Kelowna file: A-13-02

53643d1

**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

ALC File: #53643



## MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on August 6, 2014 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #53643.

### COMMISSION MEMBERS PRESENT:

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

### COMMISSION STAFF PRESENT:

Martin Collins	Planner
Colin J. Fry	Chief Tribunal Officer

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

To subdivide a 0.28 lot from the 4 ha property containing a home constructed in 1997 by the landowner's daughter. The applicants do not qualify for consideration under the ALC's *Homesite Severance Policy (HSP)*, having purchased the property in September 1975 (after the December 21, 1972 HSP qualification date)

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### PROPERTY INFORMATION:

**Owners:** Isabel Pires and Gilbert Pires and Christina Pires

**Agent:** Gerald Geen

**Legal:** PID:012-301-485  
Lot 19, Section 12, Twp. 23, ODYD, Plan 475

**Location:** Black Road, north Kelowna

**Size:** 4 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. The Commission considered the agricultural capability and suitability of the subject property.

**Conclusion:**

The BC Land Inventory (BCLI) ratings for the 4 ha subject property are: 2X, indicating that the land has very good capability for a wide range of crops. The limiting adverse factors to soil bound agriculture are minor, unspecified and cumulative.

The land has a long history of agricultural use and is currently in tree fruit production, though in need of a replant (according to the applicants).

2. The Commission considered the impacts of subdivision on the agricultural use of the property.

**Conclusion:**

The landowner's agent indicates that two homes on the property make it difficult to sell for agricultural purposes. Severing the newer home would allow the property to be purchased for agricultural purposes and replanted.

The Commission (the ALC) is very concerned about this proposal because of what it represents to the agricultural land base in Kelowna. There are numerous farm parcels in Kelowna that, for various reasons, have had two homes constructed on them (ostensibly for farm labour). The problem is that the ALC has no assurances that if subdivided, these homes would not be replaced by subsequent owners (as the City of Kelowna has authority for additional residences) and more land alienated from agricultural production. There were discussions in the file about placing a covenant prohibiting the constructing of additional dwellings on the remainder. However it is the ALC's experience that such covenants are not easy to enforce, and can be ineffective.

Also, if these homes are subdivided, eventually new residents without any agricultural background would live adjacent to working farms. It is the Commission's experience that conflicts inevitably arise between farmers and residents about typical farm activities, such as early morning farm machinery noises and spray drift. The result of conflict is usually the cessation, or disinvestment in agriculture.

In addition the applicants do not qualify for consideration under the ALC's Homesite Severance Policy on the grounds they purchased the property after the establishment of the Agricultural Land Reserve in 1972/73. Extending the Homesite Severance Policy so that there is a later (or no) qualification date would result in farmland losses, and in the long term the eventual conversion of much of the farmland in ALR in Kelowna to residential

uses. Homesite Severance subdivision cannot be sustained indefinitely on parcels that average 4 ha in size.

**IT WAS**

**MOVED BY: Commissioner Johnson**

**SECONDED BY: Commissioner Gillette**

THAT the proposal to subdivide a 0.28 ha lot from the 4 ha property be refused.

**CARRIED**

**Resolution #291/2014**