



AGRICULTURAL LAND COMMISSION FILE 54507

REASONS FOR DECISION OF THE OKANAGAN PANEL

Application submitted pursuant to s. 20(3) of the *Agricultural Land Commission Act*

Applicant:

**Don and Diane Hickey
(the “Applicants”)**

Application before the Okanagan Regional Panel:

**Gerry Zimmermann Panel Chair
Jim Johnson
Greg Norton**



THE APPLICATION

[1] The legal description of the property involved in the application is:

Parcel Identifier: 006-117-406

Lot 4, Section 8, Twp. 26, Osoyoos Division Yale District Plan 22958

(the "Property")

[2] The Property is 0.8 ha in area.

[3] The Property has the civic address of 1838 Heimlich Road, Kelowna

[4] The Property is located within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA").

[5] The Property is located within Zone 1 as defined in s. 4.2 of the ALCA.

[6] Pursuant to s. 20(3) of the ALCA, the Applicants are requesting approval for an existing carriage home as a second residence on the property. The Applicants are seeking to legalize this suite and rezone the property from A1 to A1C.

[7] On January 28th, 2016, the Chair of the Agricultural Land Commission (the "Commission") referred the Application to the Okanagan Regional Panel (the "Panel").

RELEVANT STATUTORY PROVISIONS

[8] The Application was made pursuant to s. 20(3) of the ALCA:

20(3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of agricultural land.

[9] The purposes of the Commission set out in s. 6 are as follows:

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.

EVIDENTIARY RECORD BEFORE THE PANEL

[10] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Agricultural capability map, ALR context map and satellite imagery

All documentation noted above was disclosed to the Applicants in advance of this decision.

[11] The City of Kelowna Council forwarded the Application to the ALC without support.

[12] City of Kelowna staff recommended that the Application not be supported by Council.

[13] The City of Kelowna *Agriculture Advisory Committee* did not support the Application as there is no benefit to agriculture.

FINDINGS

Section 6 of the ALCA: First priority to agriculture

[14] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the BC 'Soil Capability Classification for Agriculture' system. The improved agricultural capability ratings identified on BCLI map sheet 82 E.083 for the mapping units encompassing the Property are Class 3.

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 subclass associated with this parcel of land is A (aridity).

[15] The Panel reviewed the BCLI ratings and the current agricultural use and confirms that the Property is cultivable.

[16] The Panel notes that the Property has limited capability for large scale agriculture uses due to its relatively small size.

[17] However, the Panel expressed concerns about increased residential pressures in the Agricultural Land Reserve within the City of Kelowna that are reflected by the Application. The ALC believes that carriage homes represent an unnecessary residential intrusion onto ALR parcels, increasing the size of the residential footprint on a farm property, eroding agricultural capability, and raising expectations of expanded residential uses on parcels that have been identified and preserved for agricultural uses.

[18] Finally the Panel noted that the City of Kelowna Council, City Staff and Agricultural Advisory Committee do not support the Application as the Proposal is not consistent with community land use policies associated with agriculture and agricultural land.



DECISION

[19] For the reasons given above, the Panel refuses the Proposal for a carriage home as a second residence on the 0.8 ha Property.

[20] Panel Chair **Gerry Zimmermann** concurs with the decision.

Commissioner **Jim Johnson** concurs with the decision.

Commission **Greg Norton** concurs with the decision.

[21] Decision recorded as Resolution #61/2016.

A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.

Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #61/2016. The decision is effective upon release.



Colin J. Fry, Chief Tribunal Officer

February 23, 2016

Date Released