



Agricultural Land Commission
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March 1, 2017

ALC File: #54354

Oleg Verbenkov
101-7485 130 Street
Surrey, BC V3W 1H8

Dear Mr. Verbenkov:

Re: Reconsideration of original application to Exclude Land from the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Executive Committee (Resolution #47/2017) as it relates to the above noted application. As agent, it is your responsibility to notify the applicant accordingly.

Reconsideration of a Decision by an Affected Person

We draw your attention to [s. 33\(1\) of the Agricultural Land Commission Act](#) which provides a person affected the opportunity to submit a request for reconsideration.

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.

Further correspondence with respect to this application is to be directed to Kamelli Mark at (Kamelli.Mark@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink that reads 'KMARK'.

Kamelli Mark, Land Use Planner

Enclosure: Reasons for Decision (Resolution #47/2017)

cc: City of Surrey (File: 7915-0078-00)

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AGRICULTURAL LAND COMMISSION FILE 54354

RECONSIDERATION OF ORIGINAL APPLICATION REASONS FOR DECISION OF THE EXECUTIVE COMMITTEE

Application was submitted pursuant to s. 30(1) of the *Agricultural Land Commission Act*

Applicant: R.N.L. Investments Ltd
(the “Applicant”)

Agent: Oleg Verbenkov
(the “Agent”)

Application before the Executive Committee: Frank Leonard, Chair
William Zylmans, South Coast Panel
Lucille Dempsey, Interior Panel
Jennifer Dyson, Island Panel
Sharon Mielnichuk, Kootenay Panel
Dave Merz, North Panel
Gerald Zimmermann, Okanagan Panel

Attachments:

Exhibit A – Reasons for decision of the South Coast Panel, Resolution #280/2016

Exhibit B – September 14, 2016 Chair Referral of Resolution #280/2016 to the Executive Committee



THE APPLICATION

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

Parcel Identifier: 000-616-087

Block 1 Except: Firstly: Part Outlined Red on Plan 6363, Secondly: Part Subdivided by Plan 13934, Thirdly: East 33 Feet, Fourthly: Parcel A (Plan 38428), Fifthly: Parcel B (Plan 42263), Sixthly: Part on Highway Plan 49472, Seventhly: Part Subdivided by Plan BCP24086 District Lot 168 Group 2 New Westminster District Plan 3839

(the "Property")

[2] The Property has the civic address 5228 King George Boulevard, Surrey, BC.

[3] The Property is 9.3 ha in area.

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

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

[6] Pursuant to s. 30(1) of the ALCA, the Applicants applied to exclude the 9.3 ha Property from the ALR (the "Proposal"). The Property is currently used as a driving range and par 3 golf course. The Proposal along with supporting documentation is collectively the "Application".

[7] By Resolution #280/2016, dated September 9, 2016, the majority of the South Coast Panel approved the Proposal (the "Original Decision").

[8] On September 14, 2016, the Reasons for Decision recorded as Resolution #280/2016 was referred by the Chair to the Executive Committee of the Commission under s. 33.1 of the ALCA.



RELEVANT STATUTORY PROVISIONS

[9] Resolution #280/2016 was directed to the Executive Committee pursuant to s. 33.1 of the ALCA which states:

33.1 (1) The chair of the commission may, in writing, direct the executive committee to reconsider a decision made by a panel established under section 11 (1) respecting an application or other matter allocated to the panel by the chair of the commission, including a panel's reconsideration of a decision under section 33 (1), if

(a) the chair considers that the decision

(i) may not fulfill the purposes of the commission as set out in section 6, or

(ii) does not adequately take into consideration the considerations set out in section 4.3, if applicable, and

(b) the chair makes the direction to the executive committee within 60 days of the decision being made.

(2) If the chair of the commission directs the executive committee to reconsider a decision under subsection (1), the chair must give notice of the reconsideration to any person that the chair considers is affected by the reconsideration.

(3) If the chair of the commission directs the executive committee to reconsider a decision under subsection (1), the executive committee must confirm, reverse or vary the decision.

(4) For the purposes of subsection (3), the executive committee has all the powers, duties and functions of the commission.

(5) A decision by the executive committee under subsection (3) is for all purposes a decision of the commission.



[10] The purposes of the Agricultural Land Commission (the “Commission”) set out in s. 6 ALCA 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 EXECUTIVE COMMITTEE

[11] The Executive Committee considered the following evidence:

- 1. The Application
- 2. Local government documents
- 3. Agricultural capability map, ALR context map, and satellite imagery
- 4. Report titled *Assessment of Agricultural Land at 5228 King George Boulevard, Surrey, BC* prepared by J.T. (Jace) Standish, M.Sc. P. Ag., and dated March 12, 2014.
- 5. The Original Decision, Resolution #280/2016

All documentation noted herein has been disclosed to the Agent in advance of this decision.

FINDINGS OF THE MAJORITY

[12] This section sets out the findings of Frank Leonard, Lucille Dempsey, Jennifer Dyson, Sharon Mielnichuk, Dave Merz, and Gerald Zimmermann, (the “majority of the Executive Committee”).



- [13] In the Original Decision, the majority of the Panel stated that “*the isolation of the property from other ALR lands by railway and road (and greenway) has a significant negative impact on the potential to use the property for agriculture*”. While the Property is adjacent to the railway and road to the south and west, the majority of the Executive Committee notes that beyond the railway and road the Property is adjacent to ALR land. The majority of the Executive Committee does not consider the road and railway to be isolating factors, nor factors which preclude the Property from being used for agriculture.
- [14] The Executive Committee reviewed the BCLI ratings and a report submitted with the Application titled *Assessment of Agricultural Land at 5228 King George Boulevard, Surrey, BC* prepared by J.T. (Jace) Standish, M.Sc. P. Ag. (“the Report”). With regards to the BCLI ratings, the Executive Committee notes that the improved agricultural capability ratings identified on BCLI map sheet 92G/2c for the mapping units encompassing the Property are Class 03W. Class 3 land is capable of producing a range of crops under good management practices, although soil and/or climate limitations are somewhat restrictive. The limiting subclass associated with this parcel of land is W (excessive moisture). The soils are also Organic (O) and require different management practices than more typical mineral soils. The Report referenced several other professional reports with regards to the soil capability of both the Property the surrounding area in general, which, in summary, support the improved BCLI ratings identified above. As such, the majority of the Executive Committee finds that the Property has good agricultural capability.
- [15] While the Report asserts that there are drainage limitations on the Property which would support exclusion, the majority of the Executive Committee finds that agricultural land is rarely without limitations or management requirements, and that any existing drainage issues would remain the same regardless of whether the land is or isn’t within the ALR. Although the Report suggests that use of the Property for agriculture is “*economically unfeasible or only marginally feasible*”, the majority of the Executive Committee notes that what is considered economically feasible for a given party is not determinative of what may be economically feasible for another party either at present or in future.



[16] The Executive Committee must consider the preservation of agricultural land in the present, as well as over the long term. Although the current land owner may not wish to pursue agriculture and the soil capability may present some limitations to soil-bound agriculture in its current state, the majority of the Executive Committee finds that the Property is appropriately designated within the ALR and that the existing site limitations are not determinative that the Property cannot be used for agriculture either at present, or in future.

DECISION OF THE MAJORITY

[17] For the reasons given above, the majority of the Executive Committee (comprised of Frank Leonard, Lucille Dempsey, Jennifer Dyson, Sharon Mielnichuk, Dave Merz, and Gerald Zimmermann), reverses the decision of the majority of the South Coast Panel recorded as Resolution #280/2016 and refuses the Proposal.

[18] A decision of the Executive Committee is a decision of the Commission pursuant to s. 10(3) of the *Agricultural Land Commission Act*.

DISSENTING REASONS

[19] This section sets out the dissenting reasons of William Zylmans.

[20] Mr. Zylmans disagrees with the decision made by the majority of the Executive Committee and reaffirms the Reasons for Decision of the South Coast Panel recorded as Resolution #280/2016.

RESOLUTION AND RELEASE

[21] This decision is recorded as Resolution #47/2017 and is released on March 1, 2017.



CERTIFICATION OF DECISION

Frank Leonard, Chair (majority)

Lucille Dempsey, Interior Panel (majority)

Jennifer Dyson, Island Panel (majority)

Sharon Mielnichuk, Kootney Panel (majority)

Dave Merz, North Panel (majority)

Gerald Zimmerman, Okanagan Panel (majority)

William Zylmans, South Coast Panel (in dissent)

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