

LOCAL AUTHORITIES BOARD

ORDER NO. 4804

FILE: C - 20 - A2

FRIDAY—THE TENTH DAY OF JULY, 1970

Before:

The Local Authorities Board for
the Province of Alberta.

In the matter of The Municipal
Government Act:

And in the matter of an applica-
tion by the majority of registered
owners of territory lying im-
mediately adjacent to the City of
Edmonton for annexation of the
territory to the said City.

Pursuant to an application made by the majority of the registered owners of the territory hereunder described, requesting annexation of the said area to the City of Edmonton, the Board conducted a public hearing of the matter in the City of Edmonton on March 4th and 5th, 1970.

Firstly: The south-east quarter of section 1 in township 52, range 25, west of the fourth meridian, in the Province of Alberta.

Secondly: The south halves of sections 5 and 6R, in township 52, range 24, west of the fourth meridian, in the Province of Alberta, as shown on a plan of survey of part of the Papaschase Indian Reserve together with the original Government Road Allowances adjoining the west boundaries of the said south halves of the said sections 5 and 6R.

Thirdly: The south half of the fractional section 6, in township 52, range 24, west of the fourth meridian, in the Province of Alberta, as shown on a plan of survey of the said township approved at Ottawa on the 7th day of November, 1908, together with the original Government Road Allowance adjoining the west boundary of the said south half of the fractional section 6.

Fourthly: All that portion of the north halves of sections 5 and 6R, in township 52, range 24, west of the fourth meridian, in the Province of Alberta, as shown on a plan of survey of part of the Papaschase Indian Reserve required for power line right-of-way and as shown colored pink on plan 1225 K.S., together with the original Government Road Allowances adjoining the west boundaries of the said portions of the said south halves of sections 5 and 6R.

Fifthly: All that portion of the north half of the fractional section 6, in township 52, range 24, west of the fourth meridian, in the Province of Alberta, as shown on a plan of survey of the said township approved at Ottawa on the 7th day of November, 1908 required for power line right-of-way and as shown colored pink on plan 1225 K.S.

Sixthly: The most southerly two hundred (200) feet in uniform width throughout of the north-east quarter of section 1, township 52, range 25, west of the fourth meridian, in the Province of Alberta, Dominion of Canada.

The applicants were represented by Counsel W. H. Huriburt, Q.C. of Huriburt, Reynolds, Stevenson and Agrios, Edmonton.

The City of Edmonton was represented by City Solicitor Alan F. Macdonald, Q.C.

The County of Strathcona No. 20 was represented by Counsel Alan M. Brownlee, Q.C. of Brownlee, Fryett and Walter, Edmonton.

Calgary Power Limited was represented by Counsel C. D. O'Brien of Saucier, Jones, Peacock, Black, Gain, Stratton and Laycraft, Calgary.

The applicant called two witnesses — Roy F. Fletcher, Manager, Land Sales, Acquisitions and Development for Alldritt Development Company Limited, Edmonton and Norman S. Trough, P. Eng., Land Development Consultant, Calgary.

It was represented by the applicant that the aforescribed lands should be annexed to the City of Edmonton for the following general reasons:

1. The city needs additional lands in the area proposed for annexation:
 - (a) to provide prospective homeowners with sites in this highly desirable south residential area where without the annexation and development of the subject lands a shortage of residential lots will occur in the area in less than five (5) years.

- (b) to provide additional residential building lots for the purpose of increasing competition and land supply within the city limits and thus tending to reduce residential lot prices. The area could produce needed serviced lots in the area in less than five (5) years.
- (c) to establish economic neighborhood development unit/s comprising the subject lands and certain lands lying to the immediate north of same, which northerly areas are presently within the city and remain economically undevelopable without parallel development of the subject lands.
- (d) the areas are serviceable from extensions of existing trunk sanitary sewers, and a proposed trunk storm sewer line along the Calgary Power right-of-way will serve the subject areas as well as areas to the north-east and south.
- (e) the subject lands are within the limits of the city's General Plan area and the proposed residential use conforms to the use envisioned by that Plan. Planning of the area is already underway and the developers or a Committee thereof have engaged the services of engineering consultants to work with the city's planners in this regard.
- (f) the lands are also within the limits of the areas proposed for annexation to the city in the Hanson Report, and lie within an area for which an outline plan is being prepared by the City Planning Department.
- (g) a majority of the owners who own a majority of the land in the subject area wish annexation of their lands to the city along with protection against excessively high assessment and taxation until the lands are subdivided and protection against city by-laws which would prematurely interfere with continuation of present agricultural uses of the lands.
- (h) the applicant should not have to wait longer for granting of the application because of extended negotiations which may be underway between the city and the surrounding municipalities respecting the subject and other lands.

Negotiations concerning annexation of the subject lands and others, were commenced by the applicant with the city in March, 1969.

- (i) the city has already agreed to annexation of the "BACM area" lying to the north of the present city limits, an area for which detailed plans for development have not been prepared.

Such an agreement constitutes approval of piecemeal annexation, paralleling the subject application.

- (j) the developer-applicants have agreed to install utilities in the area when trunk extensions are available.

No undue costs in servicing the area are expected by either the city or the developers.

- (k) considerable time is required to plan and place serviced lots on the market making it desirable to annex the subject lands effective on January 1st, 1971 at the latest, to ensure a continuing supply of medium-priced houses in the desirable south area.

The city's representations opposed the granting of the application at this time, on the following general grounds:

- (a) the city has several development areas within its limits now which will require considerable capital funds for extension of services thereto.

The interests of the existing urban community is entitled to take precedence over the interests of outsiders, who for their own reasons want to be inside the city.

The city problem (in extending services, including trunk lines) is a dollar one, not a matter of wishing to hold back development.

- (b) the city requires time to work out its expansion problems with neighboring municipalities.
- (c) larger scale annexation is desirable and should not be prejudiced by intermediate piecemeal annexations.
- (d) the city supports the recommendations of the Edmonton Regional Planning Commission which opposes the granting of the application on the grounds it is premature, is included in a larger outline plan area which is the subject of annexation discussions between city and municipalities, is piecemeal and would necessitate temporary map changes, etc., all with no particular advantage to the applicants.
- (e) there is sufficient undeveloped land in the city to sustain growth in the subject area until annexation negotiations are resolved.
- (f) annexation of the subject lands could place undue pressure (on the city) for their development to the detriment of overall planning in the general area.
- (g) the city finally stated that if lands were to be annexed:
 - (1) there should be no conditions contained in the Order which would provide "tax advantages" to properties annexed, and
 - (2) Edmonton Power only should be allowed to serve new (electric power) customers in the area.

Dr. B. J. G. Greenhill, an owner of some seven and sixteen hundredths (7.16) acres of land in the south-east quarter of section 1, township 52, range 25, west of the fourth meridian represented that his lands should not be annexed to the city until other and adjoining lands lying west of Whitemud Creek were also brought into the city.

The County of Strathcona No. 20 represented by Counsel A. M. Brownlee, Q.C. advised that the county did not oppose the annexation application being granted.

Calgary Power Limited represented by C. D. O'Brien, Counsel, submitted generally that:

(1) Calgary Power, by permissive Orders of the Board of Public Utility Commissioners numbered 10569 and 11050, has the right and wishes to serve (old and new) customers in the area proposed for annexation.

(2) Calgary Power has facilities in the area which would be duplicated if the city is to serve the same area and Calgary Power is ready, willing and able to serve customers in the area.

(3) The Board should provide in its annexation Order, if annexation is granted, a condition which would allow Calgary Power Limited to effectually exercise the rights of service which the Board under Order No. 1234, declared previously it had in like areas.

(4) Calgary Power should at least be allowed by Order to compete for customers in the subject area, if it is annexed to the city.

The city has foreclosed the Company from serving (new customers) in areas annexed previously by Local Authorities Board Orders (numbered 1234 and 3981).

(5) The Board has the authority under section 20 of The Municipal Government Act, to grant the conditions and terms sought by Calgary Power, and the provisions of section 21 of that Act do not preclude such action by the Board.

After considering all the evidence presented to it, the Board favours the annexation of the subject lands to the City for the following substantial reasons:

(1) The applicant established to the Board's satisfaction that there will be a demand and need for additional medium-priced residential lots in this south side area well within a period of twenty (20) years, a period deemed by the Board to be a desirable planning period.

(2) Both the applicant and the city are actively planning for residential development of the subject and adjoining areas.

Actual development of the area within a five (5) year or less period will be dependent primarily on the timing of construction of the proposed storm sewer to run from Whitemud Creek eastward through the subject lands to serve, among other areas, the nine (9) section area which the Province recently acquired for future city use. The city has in fact acquired rights-of-way for this storm sewer.

A second factor which will determine the speed of development of the subject area is the rate at which the city plans to make normal extensions to its existing and adequate sanitary sewer trunks and its water system.

(3) The subject lands are within the areas proposed for future residential development under the city's General Plan and the proposed use of the lands is for that purpose.

(4) The lands are well within the limits of an expansion area which City Council subscribed to when it "adopted" the Hanson Report in May, 1968.

(5) An increase in the supply of lands suitable for residential development, with a good choice of community must tend to modify the end price of residential lots in the city.

(6) The city's and Edmonton Regional Planning Commission's principal reasons for opposing the granting of the annexation application are not compelling reasons for the Board to refuse the petition.

Included in the principal reasons for their opposition were the submission that the application was "premature", "piecemeal" and likely to generate "pressure" for costly utility extensions.

The Board has already dealt with the "premature" aspect insofar as actual development is concerned.

We do not intend to comment on the matter of "prematureness" in relation to negotiations which have or are being held between the City and surrounding municipalities, including the County of Strathcona. The Board is not a party to those discussions.

The matter of opposition because of the "piecemeal" nature of an annexation application is not of any real consequence in light of the seven (7) applications for annexation of lands to the city which have been heard or are to be heard as a result of formal applications before the Board, in the past seven (7) years. It appears that similar annexation applications may continue to be made under the present circumstances.

In respect to the matter of the generation of new and additional "pressures" on the city for utility extensions, which translates into "pressures" for capital funds, the Board feels that such demands are normal requests and are answered when the City Council adopts its annual capital program and budget.

On considering the submission of Dr. Brian J. G. Greenhill, opposing the annexation of his seven and sixteen-hundredths (7.16) acre parcel of land to the city at this time, the Board, while sympathetic to his representations, believes that on balance, the greatest good will result from the annexation to the city in 1971 of the whole of the quarter section in which his property is situate. Such an action will "square the administrative boundary" between the urban and rural municipalities with resultant benefits to both authorities. It would be inconvenient administratively if the Board was to leave only ninety-five percent (95%) of the subject quarter under direct city planning control, or create boundary lines in this area which are difficult to depict on municipal maps.

The Board has carefully considered the representations of Calgary Power Limited in respect to the annexation territory, Board of Public Utility Commissioners permissive Orders No. 10569 and 11050 and the provisions of sections 20 and 21 of The Municipal Government Act.

The Board does not intend that the within annexation Order shall in any way affect any rights which Calgary Power or other "suppliers" may presently have in the area.

The Board is not prepared, however,

- (a) to order that Calgary Power Limited, or any other "supplier" shall have the right to use City of Edmonton controlled and managed streets and lanes (for the purpose of installing power or other facilities to serve (new) customers in the annexation area); or
- (b) to order that the applicants for annexation shall only obtain power from Edmonton Power, in accordance with the city's policy as evidenced in the City Commissioner's letter to Alldritt Construction Co. Ltd. dated October 14, 1969 respecting Thorncliff subdivision — West Jasper Place (See Exhibit No. 3) if, another "supplier" has rights to serve in the same area. (Reference section 21, The Municipal Government Act).

Finally, the Board has considered the representations of the annexation applicants for inclusion in the Order of certain taxation conditions that were contained in annexation Board Orders No. 1234 or 3981.

In these previous Orders where such conditions were included, the municipality has been the applicant, not the individual landowners.

In the present instance, where the owners/purchasers of the major portion of the area in the annexation territory have themselves petitioned for the annexation, albeit with requests for "tax protection", on the basis of the evidence placed before it, the Board does not favour inclusion of "protective-type" assessment and taxation conditions. The Board did not include such provisions in its annexation Orders numbered 4192 and 4193 annexing some Eighty (80) acres to the City, effective on January 1, 1970.

It is ordered, therefore, in respect to the annexation application, that:

I. There shall be annexed to the City of Edmonton and thereupon be separated from the County of Strathcona No. 20, the following described lands:

Firstly: All that portion of the east half of section 1, township 52, range 25, west of the fourth meridian which lies south of the northerly limit of the right-of-way as shown on right-of-way plan 1225 K.S.

Secondly: All that portion of the fractional section 6, township 52, range 24, west of the fourth meridian which lies south of the northerly limit of the said right-of-way as shown on right-of-way plan 1225 K.S.

Thirdly: All those portions of section 5 and 6-R, township 52, range 24, west of the fourth meridian as shown on a plan of survey of part of the Papaschase Indian Reserve which lies south of the northerly limit of the said right-of-way as shown on the said Plan 1225 K.S.

Fourthly: All of the north-south road allowances adjoining the west boundaries of the said sections 4, 5, 6-R and the fractional section 6 which lies south of the northerly limit of the said right-of-way as shown on the said plan 1225 K.S. produced across the said road allowances.

(The general location of the annexed lands is shown on the attached sketch marked Schedule "A".)

II. Any taxes owing to the County of Strathcona No. 20 as at December 31st, 1970, in respect of the aforementioned annexed properties shall transfer to and become payable to the City of Edmonton, together with the amount of any lawful penalties and costs levied thereon in respect of such taxes; however, upon the City of Edmonton collecting any or all of the said taxes, penalties, or costs, such collections shall forthwith be paid by the city to the said county.

III. The city assessor, City of Edmonton, shall for taxation purposes in the year 1971, re-assess or re-value the lands and assessable improvements thereon situate within the territory which is by this Order annexed to the city, so that the assessment or valuation thereof shall be fair and equitable with other lands and assessable improvements in the City of Edmonton.

IV. The City of Edmonton shall tax the annexed properties at the appropriate city mill rates.

V. The chief provincial assessor, appointed pursuant to the provisions of The Municipalities Assessment and Equalization Act, shall for taxation or grant purposes commencing in the year 1971, re-assess or re-value, as the case may be, all properties that are assessable or subject to valuation under the terms of The Electric Power and Pipe Line Assessment Act and The Municipal and Provincial Properties Valuation Act, and which lie within the areas that are by this Order annexed to the City of Edmonton, so that the assessment or valuation shall be fair and equitable with properties of a similar nature.

VI. The effective date of this Order shall be the 1st day of January, 1971.

LOCAL AUTHORITIES BOARD,
C. G. MACGREGOR (Chairman).
I. MORRIS (Member).
A. B. WETTER (Member).

Certified a True Copy,
W. C. ELLIOTT (Secretary).

SCHEDULE "A"

A SKETCH SHOWING THE GENERAL LOCATION
OF THE AREAS AFFECTED BY ORDER No. 4804
EFFECTIVE DATE - JANUARY 1, 1971

 AFFECTED AREA(S)

