

TOWN OF BARRHEAD

Order No 19706

File No BARR/T-3

BEFORE THE LOCAL AUTHORITIES BOARD FOR THE PROVINCE OF ALBERTA

IN THE MATTER OF THE "Municipal Government Act"

AND IN THE MATTER OF THE "Local Authorities Board Act"

AND IN THE MATTER OF an application by the Council of the Town of Barrhead for the review of certain conditions contained in Board Order No 11611

Pursuant to Section 20 of the Municipal Government Act and Section 55 of the Local Authorities Board Act, the Council of the Town of Barrhead, in the Province of Alberta, petitioned the Local Authorities Board for the Province of Alberta for the review and variance of certain conditions contained in Board Order No 11611 dated March 22, 1979, as they affect the following described territory:

SOUTH EAST QUARTER OF SECTION THIRTY-TWO (32) TOWNSHIP FIFTY-NINE (59) RANGE THREE (3) WEST OF THE FIFTH MERIDIAN EXCEPTING THEREOUT

a) ALL THAT PORTION DESCRIBED AS FOLLOWS COMMENCING AT THE NORTH EAST CORNER OF THE SAID QUARTER SECTION, THENCE SOUTHERLY ALONG THE EAST BOUNDARY THEREOF 660 FEET, THENCE WESTERLY AND PARALLEL TO THE NORTH BOUNDARY THEREOF 792 FEET, THENCE NORTHERLY AND PARALLEL TO THE SAID EAST BOUNDARY TO A POINT ON THE SAID NORTH BOUNDARY, THENCE EASTERLY ALONG THE SAID NORTH BOUNDARY TO THE POINT OF COMMENCEMENT

b) ALL THAT PORTION DESCRIBED AS FOLLOWS COMMENCING AT THE SOUTH EAST CORNER OF THE SAID QUARTER SECTION, THENCE NORTHERLY ALONG THE EAST BOUNDARY THEREOF 273 FEET, THEN WESTERLY AND PARALLEL TO THE SOUTH BOUNDARY OF THE SAID QUARTER SECTION 710 FEET, THENCE SOUTHERLY AND PARALLEL TO THE SAID EAST BOUNDARY TO A POINT ON THE SAID SOUTH BOUNDARY, THENCE EASTERLY ALONG THE SAID SOUTH BOUNDARY TO THE POINT OF COMMENCEMENT

c) ROAD PLAN 872 K S

d) SUBDIVISION PLAN 4831 R S

ALL THAT PORTION OF THE SOUTH WEST QUARTER OF SECTION TWENTY-NINE (29) TOWNSHIP FIFTY-NINE (59) RANGE THREE (3) WEST OF THE FIFTH MERIDIAN WHICH LIES EAST OF THE LAND SUBDIVIDED UNDER PLAN 6213 N Y AND NORTH OF A LINE DRAWN PARALLEL TO THE NORTH BOUNDARY OF THE SAID QUARTER SECTION AND 1,320 FEET PERPENDICULARLY DISTANT SOUTHERLY THEREFROM EXCEPTING THEREOUT PLAN OF SUBDIVISION 872 2857

THE ABOVE DESCRIBED LAND CONTAIN EIGHTY-FOUR AND EIGHTY HUNDREDTHS (84 80) HECTARES (209 54 ACRES), MORE OR LESS

(hereinafter called the said territory)

and in respect to which the Board held a public hearing into the matter on January 8, 1991

The Town of Barrhead was represented by Councillor Don Schultz, who is also Chairman of the Court of Revision, Municipal Secretary Wes Romanchuk and Assessor Janice Halko

Landowners Reinhold Koberstein and Dan Stoik were present

Bob Cross, Regional Manager, and Russ Kada, District Assessment Supervisor of Assessment Operations, Assessment Services Division, Alberta Municipal Affairs, were observers

The Town advised that it is making the application on behalf of the landowners. The Council has no objection and did pass a resolution at the July 9, 1990, regular meeting requesting an extension of the terms and conditions of Board Order No 11611. At the hearing in 1979 the Town argued that the territory sought for annexation was required to provide long range planning of land uses and utilities. Furthermore, the Town indicated that if potential resource developments occurred within the region the Town desired to be in a position to quickly respond to the growth demands and could do this best by having sufficient territory within its jurisdiction. Development of the magnitude anticipated at that time has not occurred. The Local Authorities Board, in its Order granting the original application, also granted tax relief in respect to "farm buildings" for the calendar years 1979, 1980 and 1981, unless an application for the extension of the time limit was made. In accordance with the terms and conditions of the said Board Order, the tax relief for farm buildings was terminated after 1981 as no application was made to the Board. The Town further advised that landowner R. Koberstein approached the Town several times for tax relief since 1981 and it wasn't until 1989 that the Town and subsequently the landowners became aware that an application could be made to the Local Authorities Board to reintroduce the terms and conditions of the said Board Order.

Mr Koberstein explained to the Board that there have been no changes to his property, it is still farmed and there has been no development. Mr Koberstein stated that at the original hearing in 1979 he requested "agricultural tax status" until such time as his property was required for development. Mr Koberstein advised the Board that he was not made aware of the terms and conditions of Board Order No 11611 and that he has been appealing his taxes since the expiration of the terms and conditions of the said Board Order.

Mr Stoik advised the Board that at the original hearing he was left with the impression that the "agricultural assessment status" would continue until the use of the property changed. Mr Stoik advised that he also was not aware of the terms and conditions of the original Board Order.

With regard to land use designation and future development, the Town advised that Mr Stoik's property is zoned R1 Reserve and Urban Reserve and is serviced with water and sewer. Mr Koberstein's property is zoned Urban Reserve and is unserviced. Both properties received other normal municipal services, such as fire and police protection.

The Town also advised that development is slow in the area and there is scant possibility that the land would be developed in the next five years.

The Board, having considered the evidence received at the hearing, has reached the following conclusions:

- 1 That there is mutual agreement between the Town of Barrhead and the landowners that the improvements should be assessed in the same manner as if they had remained in the County of Barrhead No 11.
- 2 That due to the limited potential for development of the properties, that the "farm land, residences and buildings" classification should continue to apply in regard to the said territory.
- 3 That the application to vary Board Order No 11611 should be GRANTED IN FULL.

Therefore, subject to the Lieutenant Governor in Council approving this Order, or prescribing conditions that the Order is subject to and approving the Order subject to those conditions, or varying the Order and approving the Order as varied, IT IS ORDERED AS FOLLOWS:

I That Board Order No 11611, dated the 22nd day of March, 1979, be amended by adding thereto the attached Schedule "C".

II That Clause IV of Board Order No 11611, dated the 22nd day of March, 1979, be deleted and the following Clause IV substituted therefore:

"IV (A) That the assessor for the Town of Barrhead shall, for taxation purposes with respect to the lands described in the attached Schedule "C", classify and assess any farm land, farm residences and farm buildings, annexed by this Order to the Town of Barrhead, as if the land, residences and buildings were farm land, residences or buildings located in a rural municipality, and which if located in the County of Barrhead No 11 would be classified as farm land, residences and buildings pursuant to the Municipal Taxation Act.

(B) That such "farm land, residences and buildings" classification shall be given to such land, residences and buildings only for the years 1991 to 1995 inclusive after which time such classification shall immediately terminate, provided however

(i) that if the land or residences and buildings located on the said parcels are, pursuant to Clause IV(A) above, determined by the assessor for the Town of Barrhead as being no longer "farm land, residences and buildings", even if they had been located in the County of Barrhead No 11 referred to in Clause IV(A), then such classification of "farm land, residences and buildings" shall immediately terminate in respect of the said parcels, or

(ii) that if the Council of the Town of Barrhead, by Resolution, makes an application to the Local Authorities Board and establishes before the Local Authorities Board that the provisions of Clause IV(A) should be varied prior to the date established in Clause IV(B), the Local Authorities Board may vary the time such classification as "farm land, residences and buildings" shall remain in effect

(C) The owner of a parcel described in Clause IV(A) may apply to the Local Authorities Board for an extension of the time limit for the classification of "farm land, residences and buildings" as it applies to that specific parcel and the Local Authorities Board may order that the provisions of Clause IV(B) be varied or rescinded "

III Except as hereby amended Board Order No 11611, dated March 22, 1979, be and the same is hereby confirmed

DATED and signed at the City of Edmonton, in the Province of Alberta, this 15th day of January, 1991.

LOCAL AUTHORITIES BOARD

(SGD) B T CLARK
VICE CHAIRMAN

(SGD) EVA FRIES
MEMBER

CERTIFIED A TRUE COPY

RAY MYRONIUK
BOARD SECRETARY

SCHEDULE "C"

A DETAILED DESCRIPTION OF TERRITORY SUBJECT TO CLAUSE IV
OF BOARD ORDER NO 11611

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