

LOCAL AUTHORITIES BOARD

ORDER NO. 4549

FILE: S.F. NO. 53

MONDAY—THE FIFTEENTH DAY OF DECEMBER, 1969

Before:

The Local Authorities Board
for the Province of Alberta.

In the matter of The Municipal
Government Act:

And in the matter of applica-
tions by Cyrus L. Little and
Hildur A. Little: Stewart Sup-
plies (Penhold) Ltd. and Reginald E. Newton for separation of
certain lands from the Village of
Penhold.

Pursuant to an application by Cyrus L. Little and Hildur A. Little of Penhold, Alberta, requesting separation of some one hundred and twenty-four and sixty-seven hundredths (124.67) acres in the north-east quarter of section 36, township 36, range 28, west of the fourth meridian, from the Village of Penhold, the Board conducted a public hearing of the matter in the said village on October 23, 1969.

Notices of the said hearing were given to all interested parties and in addition were sent to Stewart Supplies (Penhold) Ltd. and Reginald E. Newton, farm land owners and owner and owner-purchaser, respectively, of parts of the south-west quarter of section 36, township 36, range 28 west of the fourth meridian and parts of the south half of section 36, township 36, range 28, west of the fourth meridian.

It was represented by applicants Little that due to the assessment and taxation by the village of all their farm buildings including their two farm residences, the tax burden on the one hundred and twenty-four and sixty-seven hundredths (124.67) acres had become oppressive, particularly when judged with similar and competing farm units situated in the rural County of Red Deer No. 23.

The Village of Penhold was represented by Mayor Reginald E. Newton, Councillors W. E. Janssen and K. O. Johnston and Secretary-Treasurer F. Long.

The village represented that while it would, and had consented to the granting of the application, the loss of the assessment of the Littles' property would be a substantial one to the village. Further, the village stated that the Little property was hooked up to the village's sewer and water systems, even though the owners at present were using their own water well supply and that the Little property was suitable for use as an extension of the village's residential development which expansion was becoming imminent. Finally, the village submitted that it would not oppose any action of the Board to refuse separation of the Little's property if, at the same time, it granted appropriate assessment considerations to the said farm operation.

G. Ford, Manager, Stewart Supplies (Penhold) Ltd., owners and farmers of some one hundred and fifteen and seventy-one hundredths (115.71) acres, more or less, in part of the south-west quarter of section 36, township 36, range 28, west of the fourth meridian, advised the Board that its farm operation had also become detrimentally affected by the village's assessment and taxation of all their farm buildings

including two farm residences thereon and that were their lands in the County of Red Deer, the buildings and residences would not be assessable and taxable. Stewart Supplies lastly stated that they would not object to the non-separation of the said south-west quarter of section 36 from the village if the Board granted appropriate assessment consideration for their farm operation which was not served by the village's sewer or water services.

Reginald E. Newton, speaking as the owner and purchaser of certain farm lands in the village, in part of the south half of section 36, township 36, range 28, west of the fourth meridian, stated that his farm operation paralleled the Stewart Supplies and Little farm operations within the village limits, and that his two farm residences and other farm buildings were now being assessed and taxed by the village. The Newton farm is not served by village sewer and water systems. Mr. Newton advised the Board that he would not object to his farm lands remaining in the village if the Board granted it appropriate assessment consideration as a farm operation.

The County of Red Deer, represented by J. C. Masson, Secretary-Treasurer, did not oppose the application for separation, though it noted the resultant substantial assessment loss to the village. It suggested for consideration the alternative of Board refusal of separation with control of affected assessments or village remission of any "excess" tax levies on farm operations within the village.

The Red Deer Regional Planning Commission staff indicated the desirability of eastward expansion for the village's development and suggested that separation of the east half of section 36, township 36, range 28, west of the fourth meridian, could result in a shortage of lands suitable for future residential use.

The Department of Highways and Transport offered no objection to the granting of the application.

After reviewing all the evidence placed before it, the Board has come to the following substantial conclusions:

(1) The Little, Stewart and Newton lands are all used for farming purposes and the owners and operators of these farm lands within the village limits would not be taxed for their farm buildings including residences if the lands were to be separated from the village into a rural-type municipality.

(2) The aforesaid three farm operations in respect to taxation of their improvements within the village limits, suffer a direct and considerable taxation penalty when compared with like rural farm competitors.

(3) Some additional lands are likely to be required for subdivision expansion in the Little or Newton lands in the parts of the north-east quarter of section 36 or the south half of section 36, township 36, range 28, west of the fourth meridian lying easterly of road plan 1596 E.U., within a year or so. For this reason alone, these farm lands should not now be separated from the village.

(4) The Stewart Supplies (Penhold) Limited lands in the west half of section 36, township 36, range 28, west of the fourth meridian are bordered on the north by a residential-type subdivision (plan 292 H.W.) and are fragmented in the south-west quarter of section 36 by the C.P.R. and road plan 1596 E.U. While additional subdivision of these lands for urban-type development does not appear imminent, the Board favours maintenance by the village of direct development control thereon at this time.

(5) The Little farmstead, unlike the Stewart and Newton farms, enjoys hookups to the village's sewer and water systems, though the village's water system is presently being used by Littles as a standby for their own private water well.

These connections to the village's major utility systems provide the Little residences with full urban advantages and for this reason, the Board believes that it should not extend assessment and tax exemption to these two residences.

(6) All farm buildings, on the Little, Stewart and Newton farmsteads in the village, other than the two fully serviced residences situated on the Little farm on the north-east quarter of section 36, township 36, range 28, west of the fourth meridian, should be exempted from assessment and taxation commencing in the year 1970, for a conditionally limited period.

It is ordered, therefore, as follows:

I. That the applications by Cyrus L. Little and Hildur A. Little, Stewart Supplies (Penhold) Ltd., and Reginald E. Newton, all of the Village of Penhold, Alberta, for separation of the undernoted lands from the said village, be refused:

- (a) Little lands — Part of the north-east quarter of section 36, township 36, range 28, west of the fourth meridian, containing one hundred and twenty-four and sixty-seven hundredths (124.67) acres as described in Certificate of Title No. 201-G-177.
- (b) Stewart Supplies lands — Parts of the south-west quarter of section 36, township 36, range 28, west of the fourth meridian, containing some one hundred and fifteen and seventy-one hundredths (115.71) acres, more or less, as described in Certificate of Title No. 101-B-181.
- (c) Newton (and the Director, The Veterans' Land Act) lands: Parts of the south half of section 36, township 36, range 28, west of the fourth meridian, containing some one hundred and sixty-three and three tenths (163.3) acres, more or less as described in Certificates of Title numbered 197-N-160, 236-K-160, 235-G-160, 162-F-192, 161-F-192, 51-D-239 and 163-F-192.

II. That, for taxation purposes in the years 1970 to 1973 both inclusive, the assessor for the Village of Penhold shall assess the farm buildings situate on the lands described in Clause I, other than the two residences situate on lands described in (a) of Clause I, on the same basis of assessment as would apply to them had such improvements been situate on farm lands within the County of Red Deer No. 23 provided, however, that if the village's sewer and water systems are extended to serve the farm residences situate on the lands described in (b) and (c), or (b) or (c) of Clause I, the appropriate residences shall be assessed equitably with other residences in the village.

III. That for taxation purposes commencing in the year 1970, the farm residences situate on the lands described at Clause I(a) herein shall be assessed equitably with other residences in the village.

IV. That the farm lands described at Clause I shall for taxation purposes commencing in the year 1970, be assessed on the same basis as they would be assessed if they were located in the County of Red Deer No. 23.

V. That the assessments derived under the provisions of Clauses II, III and IV shall for the years 1970 to 1973, be taxed by the Village at the appropriate mill rates pertaining in the village.

VI. That the village council or the land owners, in writing, and for substantial reasons, may at any time before December 31st, 1973, apply to the Board for such variations or amendments to the terms of this Order as they may deem are fair and appropriate.

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

Certified a true copy, .

W. C. ELLIOTT (Secretary).