
ALBERTA
ENVIRONMENTAL APPEAL BOARD

Discontinuance of Proceedings

Date Discontinuance of Proceedings – October 20, 2000

IN THE MATTER OF Sections 84, 85, and 87 of the
Environmental Protection and Enhancement Act, S.A. 1992, ch. E-
13.3;

-and-

IN THE MATTER OF an appeal filed on May 9, 2000 by Mr.
Gilbert Magnan of the Alberta Fish and Game Association, with
respect to Approval 00073615-00-00 issued under the *Water Act* to
Sunset Harbour Developments Ltd., by the Manager, Regional
Support, Parkland Region, Alberta Environment.

Cite as: Alberta Fish and Game Association v. Manager, Regional Support, Parkland
Region, Alberta Environment, *re: Sunset Harbour Developments Ltd.*

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BACKGROUND

[1] On April 19, 2000, the Manager, Regional Support, Parkland Region, Alberta Environment (The “Department”) issued Approval No. 00073615-00-00, under the *Water Act* to Sunset Harbour Developments Ltd. (the “Approval Holder”). The Approval authorizes the Approval Holder to construct a marina and stormwater management works at Pigeon Lake in the SW 12-47-02-W5 subject to certain conditions.

[2] On May 10, 2000, the Environmental Appeal Board (the “Board”) received a letter dated May 9, 2000 from Mr. Gilbert Magnan of the Alberta Fish and Game Association (the “Appellant”), appealing the Approval.

[3] On May 10, 2000, the Board acknowledged receipt of the Appellant’s letter of May 9, 2000 and, at that time, requested a copy of all records relative to the appeal from the Director.

[4] According to standard practice, on May 10, 2000, the Board wrote to the Natural Resources Conservation Board (the “NRCB”) and the Alberta Energy and Utilities Board (the “AEUB”) asking whether this matter had been the subject of a hearing or review under their respective Boards' legislation. Replies were subsequently received from the NRCB dated May 11, 2000 and from the AEUB dated May 23, 2000 stating that they did not hold any hearing or review under their legislation.

[5] The Board received the documents requested from the Director and forwarded them to the Appellant on June 8, 2000.

[6] On June 16, 2000, the Board requested in its letter that the Appellant provide their available dates for a mediation meeting/settlement conference.

[7] The Board, on June 23, 2000, requested the Appellant provide available dates for a pre-mediation meeting. On June 27, 2000, the Board advised the Appellant that a pre-mediation meeting would be held on June 29, 2000, at the Board's office. However, on June 29, 2000, due to scheduling difficulties of all the Appellants involved in the Sunset Harbour matter, the Board advised that it would not proceed to a pre-mediation meeting.

[8] The Board received a letter of June 26, 2000, from Sunset Harbour Developments Ltd. In the letter, Sunset Harbour Developments Ltd. acknowledged all the Appellants' concerns, and advised that they had worked closely with all levels of government with regards to design standards and environmental regulations. They went on to say that the grading contract does not include channel dredging on the lake side excavation along the shoreline or shore protection, as this work is scheduled for next year, and that they would have preferred to meet with all the Appellants prior to the start of construction scheduled to commence July 15, 2000. In closing, Sunset Harbour Development's Ltd. advised that meeting the Appellants prior to the commencement of construction would have been preferable, however, they could not "under the circumstances justify a further delay in construction." The Board forwarded this letter to all the parties on July 4, 2000.

[9] In consultation with the parties, the Board scheduled a two-day mediation meeting/settlement conference for September 19 and 21, 2000, at the Board's office. An advertisement was placed in the Edmonton Journal on September 8, 2000, the Wetaskiwin Times on September 11, 2000, and the Leduc Representative on September 15, 2000.

THE MEDIATION MEETING/SETTLEMENT CONFERENCE

[10] Pursuant to section 11 of the Environmental Appeal Board Regulations, A.R.

114/93, the Board conducted a mediation meeting/settlement conference in Edmonton, Alberta, on September 19 and 21, 2000, with Dr. Steve Hrudehy as presiding Board member.

[11] According to the Board's standard practice, the Board called the mediation meeting to facilitate through settlement conference the resolution of this appeal or failing that, to structure procedural arrangements for the oral hearing. The Board invited representatives from each party to participate in the mediation meeting/settlement conference.

[12] In conducting the mediation meeting/settlement conference, Dr. Hrudehy reviewed the appeal and mediation process and explained the purpose of the mediation meeting. He then circulated copies of the "Participants' Agreement to Mediation", however, the Appellant chose not to sign the agreement.

[13] On September 21, 2000, during the mediation meeting/settlement conference, the Appellant withdrew from the mediation proceedings and on September 28, 2000, the Board wrote to the parties stating as follows:

"Further to the mediation/settlement conference which took place on September 19 and 21, 2000, the Board confirms that the Alberta Fish and Game Association ("AFGA") chose to withdraw from the mediation proceedings on September 21, 2000. The Board further acknowledges that AFGA's only issue before the Board is the quantity of fish habitat compensation that the Approval Holder must construct.

In accordance with its authority under section 13 of the Environmental Appeal Board Regulation, it is the Board's understanding that AFGA intends to pursue this matter with the federal Department of Fisheries and Oceans ("DFO"). Specifically, AFGA will be discussing DFO's willingness to reconsider the quantity of fish habitat required. Further, it is the Board's understanding that only if DFO admits that the quantity of fish habitat compensation is inadequate, but is unwilling to reconsider their Approval in relation to this matter, then AFGA will pursue their appeal to this Board. If AFGA does pursue its appeal with this Board, the Board requires that an initial submission that this Board has

jurisdiction with respect to this issue be submitted by AFGA by October 16, 2000. This submission should address the jurisdiction of the Board in relation to the DFO Approval.”

[14] On October 17, 2000, the Board received a letter dated October 13, 2000, from the Appellant withdrawing their appeal.

DECISION

[15] Pursuant to section 87(7) of the *Environmental Protection and Enhancement Act*, and based on the Appellant’s letter of October 13, 2000, the Board hereby discontinues its proceedings in Appeal No. 00-024 and will be closing its file.

Dated October 20, 2000 at Edmonton, Alberta.

Dr. William A. Tilleman