



**LAND AND PROPERTY RIGHTS TRIBUNAL**

**Citation:** Twogee Developments Ltd. v Lethbridge (County), 2025 ABLPRT 336

**Date:** 2025-06-30

**File No.** NM2024.0010 (Related File Nos. NM2023.0004 and DC2020.0011)

**Order No.** LPRT2025/EX0336

**Municipality:** Lethbridge County

**In the matter of a proceeding commenced under** the *Expropriation Act*, RSA 2000, Chapter E-13 (the “Act”) and Rule 10 of the *Expropriation Act Rules of Procedure and Practice*, AR 187/2001 (the “Rules”).

**And in the matter of** an Application by Notice of Motion.

BETWEEN:

Twogee Developments Ltd.

Applicant (Claimant)

and

Lethbridge County

Respondent

BEFORE: Terri Mann, Presiding Member  
(the “Panel”)

---

**ORDER**

---

**APPEARANCES**

**Written Submissions only were filed by:**

For the Applicant (Claimant): Alex Russell, Representative of the Applicant (Claimant)

For the Respondent: Greg Weber, Reynolds Mirth Richards & Farmer LLP

**Introduction**

[1] The corporate applicant Twogee Developments Ltd. (the “Claimant” or “Applicant”) applied by Notice of Motion for an Order to compel the Respondent to provide answers to undertakings refused at the Questioning of the Respondent’s witness on June 28, 2024.

[2] On March 27, 2025, Order No. LPRT 2025/EX0154, was issued, which addressed the issue as to whether the refused answers to undertakings must be answered. The Order directed certain undertakings which had been refused at the Questioning, must be answered, *to wit*, undertakings 12, 24, 29 and 47 (the

“Refused Undertakings”). The Order stipulated that, with the furnishment of the requisite answers to the Refused Undertakings, Questioning was complete, and the Tribunal “...shall issue a direction that Questioning is complete”.

[3] On May 1, 2025, Greg Weber, counsel for Lethbridge County (the “Respondent”) provided confirmation that it had provided answers to the Refused Undertakings.

[4] On May 15, 2025, the Claimant requested the Tribunal reconsider its decision as regards Undertakings 21 to 23 (the “Request to Reconsider”). The Respondent responded on May 16, 2026 objecting to the Request to Reconsider.

[5] Neither side requested costs.

[6] This decision addresses the Request to Reconsider.

### **Background**

[7] As noted above, the Claimant applied by Notice of Motion for an Order to compel the Respondent to provide answers to undertakings refused at the Questioning of the Respondent’s witness. On March 27, 2025, Order No. LPRT 2025/EX0154, was issued, which addressed the issue. Subsequently, on May 1, 2025, the Respondent confirmed the Refused Undertakings were answered, and the parties were in a position to set hearing dates.

[8] On May 15, 2025, Alex Russell, on behalf of the Claimant (“Russell”), corresponded with the Tribunal. Russell advised that the Claimant agreed with setting a hearing date, and may obtain a further expert’s report on damages. Russell additionally advised that the Claimant had initiated a FOIP Application. Finally, Russell requested that the Respondent be required to “respond” or furnish answers to certain refused undertakings, namely undertakings 21 to 23 (reproduced below).

[9] On May 16, 2025, the Respondent corresponded with the Tribunal arguing that “...the sole purpose of Mr. Russell’s letter was to take issue with aspects of Order No. LPRT2025/EX0154 *that have already been decided and ruled on* by the LPRT” (writer’s emphasis) and therefore, the LPRT cannot consider the submissions. The Respondent further argues that “Twogee has had every fair opportunity to enjoy its due process rights and the time has come to close the door on further discovery” and “...at some point this matter must move forward and be determined by the LPRT and the County respectfully submits that point has come”. As regards the issue of the FOIP application, the Respondent advises it will object to “opening past completed steps”.

### **Issue**

Does the Tribunal have jurisdiction to review or reconsider Order No. LPRT 2025/EX0154 or does the principle of *functus officio* apply?

### **Decision**

The Tribunal has authority to assess and determine compliance with an order, however, the Tribunal does not have jurisdiction to review or reconsider an Order; therefore as regards Order LPRT 2025/EX0154, the principle of *functus officio* applies.

### Key Submissions of the Claimant

[10] The Claimant makes the following submissions:

(a) As regards Question 21

***Did the County of Lethbridge consult with the County of Cardston on this road closure:*** The Claimant argues that "...consultation with the County of Cardston, if done, might have identified issues that would support the applicant's claim for loss and damage. This is not an issue with respect to the propriety of the closure, but rather relates directly to the damage and losses that the applicant has suffered by the closure".

(b) As regards Question 22

***The County of Lethbridge is aware that the lands adjacent to water courses are sites that are significant for ammonite extraction?*** The Claimant argues that this question relates directly to damages suffered by the applicant. "It also relates to information in the control of the County that may not have been provided to Mr. Telford (sic) to assist in the completion of his land valuation wherein he states that there is no higher value use for the lands but agriculture".

(c) As regards Question 23

***Did the County consider solar installations due to the substation in the area?*** The Claimant argues this question also relates to "...alternative uses for the lands which have been affected by the road closure, leading to damages and loss".

### Key Submissions of the Respondent

[11] The Respondent submits the LPRT is not able to consider the Request to Reconsider under the doctrine of *functus officio*.

### Analysis

[12] The Claimant requests that the Hearing Panel reconsider its decision as regards undertakings 21-23.

[13] Before determining the merit of the Request for Reconsideration, the Tribunal must determine whether it has jurisdiction to reconsider Order No. LPRT 2025/EX0154 (the "Decision").

[14] Unlike a superior Court, the Land and Property Rights Tribunal (the "Tribunal") has no inherent jurisdiction. All of its authority must be found in its enabling legislation. However, while certain administrative tribunals are expressly authorized to review their decision, the *Expropriation Act* R.S.A. 2000, c. S-24. (the "Act") contains no such provision. Indeed, section 37 of the Act states that "an appeal lies to the Court of Appeal from any determination or order of the Board ...". In other words, section 37 of the Act stipulates that the forum for an appeal lies with the Court of Appeal from any determination or order of the Board.

[15] The Tribunal finds it is only in those cases where there is specific legislative power allowing a review that an administrative board has the ability to review or reconsider its decision. See *Canadian Industries Ltd. v. Development Appeal Board of Edmonton and Madison Development Corporation Limited* 1969 CanLII 724 (AB CA); also see *Edmonton (City) v. Airco Aircraft Charters Ltd.*, 2018 ABLCB 6 (CanLII) for the proposition that section 37 is inconsistent with any suggestion that the Tribunal may revisit a decision other than to clarify a decision or correct an ambiguity; see also *Paper Machinery*

*Ltd v JO Ross Engineering Corp.* [1934] CanLII 1 (SCC)). However, it is noted the Claimant is not seeking clarification or correction of an ambiguity, but rather a reconsideration of the Decision.

[16] The Tribunal further finds that if the Tribunal has the authority to answer a question without violating *functus officio*, that authority must come from common law. The common law permits a slip or error exception. In *Chandler v. Alberta Association of Architects 1989 CanLII 41 (SCC)*, the Court states:

*As a general rule, once such a tribunal has reached a final decision in respect to the matter that is before it in accordance with its enabling statute, that decision cannot be revisited because the tribunal has changed its mind, made an error within jurisdiction or because there has been a change of circumstances. It can only do so if authorized by statute or if there has been a slip or error within the exceptions enunciated in Paper Machinery Ltd. v. J. O. Ross Engineering Corp., supra.*

[17] The Decision specifically dealt with the question as to whether the refused undertakings 21 to 23 were required to be answered; there was no slip or error. As a result, the Tribunal finds it would violate *functus officio* if it were to proceed to reconsider the Decision as regards these undertakings (see *Gimbel v. Alberta Public Works, Supply & Services 2014 ABLCB 7 (CanLII)*). Simply put, the Tribunal is absent authority to reconsider the Decision, therefore the Tribunal shall not consider the merit of the Claimant's argument.

[18] As regards the Claimant's stated anticipatory FOIP application, FOIP is not within the jurisdiction of this Tribunal, and therefore it is absent authority as regards this item.

[19] Given the foregoing, the Tribunal directs that Questioning is complete.

### **Order**

The Panel directs that Questioning is complete.

Dated at the City of Edmonton in the Province of Alberta this 30<sup>th</sup> day of June, 2025.

**LAND AND PROPERTY RIGHTS TRIBUNAL**

---

Terri Mann, Member