



LAND AND PROPERTY RIGHTS TRIBUNAL

Citation: Fisher v Foothills County (Subdivision Authority), 2025 ABLPRT 14

Date: 2025-01-09

File No. S24/FOOT/CO-027

Decision No. LPRT2025/MG0014

Municipality: Foothills County

In the matter of an appeal from a decision of Foothills County Subdivision Authority (SA) respecting the proposed subdivision of NE 6 – 21 – 3 W5M (subject land) under Part 17 of the *Municipal Government Act*, Chapter M-26 RSA 2000, (*Act*).

BETWEEN:

D. Fisher

Appellant

- and -

Foothills County (Subdivision Authority)

Respondent Authority

BEFORE: L. Yakimchuk, Presiding Officer
(Panel)

K. Lau, Case Manager

B. Case, Case Manager

DECISION

APPEARANCES

See Appendix A

This is an appeal to the Land and Property Rights Tribunal (LPRT or Tribunal). A preliminary hearing was held via videoconference, on December 16, 2024.

PRELIMINARY MATTERS

[1] This preliminary hearing was scheduled to consider a postponement request from the Appellant and determine appropriate disclosure dates.

BACKGROUND

[2] This appeal concerns an application for a subdivision to create one 29.76 acre Agricultural District first parcel out from a 155.11-acre quarter section in Foothills County (County). The subject lands are directly south of Highway 549 and about 4 km west of the Hamlet of Millarville.

[3] The SA refused the application for the following reasons:

In consideration of Policy 2 of the Agriculture section of the MDP2010, Council did not find sufficient merit in the proposal to consider allowing fragmentation of the subject lands into smaller agricultural parcels, as it is Council's intent to maintain the agricultural land base. In addition, Council is not supportive of the proposed access and feels that the application is contrary to MDP2010 Agriculture Policy 5.3 and Section 9.1 of the County's Land Use Bylaw 60/2014 regarding access to the proposed parcel.

Further, the application for amendment to the Agricultural Land Use District for NE 06-21-03 W5M to allow for the future subdivision of one 29.76 +/- acre Agricultural District parcel was refused by Council on May 10, 2023, and therefore the proposed subdivision does not comply with Land Use Bylaw 60/2014.

[4] The Appellant appealed the decision as it is their position the access accords with approvals from the municipality and the concern about fragmentation is unfounded as the lands are naturally fragmented and cannot be farmed together.

[5] The *Act* requires the LPRT to set a hearing within 60 days of receipt of a notice of appeal. Prior to the scheduled hearing the Appellant advised that they would be requesting a postponement of the merit hearing. Further, the LPRT administration advised the parties that the difficulty caused by the Canada Post strike in providing required notice to adjacent landowners and referral agencies a postponement would likely be necessary.

ISSUES

[6] This preliminary hearing focused on two issues:

1. When should the merit hearing proceed?
2. What the appropriate timing of disclosure?

SUMMARY OF APPELLANT'S POSITION

[7] The Appellant requested a postponement prior to the hearing because they are waiting for a response to a *Freedom of Information and Protection of Privacy* (FOIPP) request for documents from the County. The Appellant proposed the following dates:

End of January 2025:	FOIPP response from the County
February 10, 2025:	Appellant submission
February 18, 2025:	Any requests for additional information
February 24, 2025:	Simultaneous rebuttal from any party

Week of March 3, 2025: Hearing

SUMMARY OF TRANSPORTATION and ECONOMIC CORRIDORS (TEC) POSITION

[8] TEC had no objection to the postponement and agreed to the dates as suggested.

SUMMARY OF THE SA'S POSITION

[9] The SA concurred with the parties' positions and agreed to a postponement. The SA also stated that it expects to be able complete the *FOIPP* request by the end of January.

FINDINGS

1. The appeal is properly before the LPRT.
2. The LPRT finds it appropriate to grant a postponement in this case.

DECISION

[10] The LPRT postpones the merit hearing to **March 4, 2025** at 9 AM. The hearing will proceed via videoconference, and the deadlines for submissions are as follows:

January 31, 2025 – *FOIPP* response from County by end of day

February 10, 2025 - Appellant submission

February 18, 2025 – Any additional requests for further information

February 24, 2025 – Rebuttal from any party

[11] All submissions are due at 12 noon on the dates above unless otherwise noted. Submissions are to be made electronically to lpvt.appeals@gov.ab.ca with a copy sent to kellie.lau@gov.ab.ca as well as to the other parties.

REASONS

[12] With respect to the postponement request, the LPRT recognizes that the 60-day timeline specified in the *Act* for scheduling a hearing may not provide sufficient time for the parties to prepare and in this case the additional difficulty in notifying all the required parties due to the Canada Postal strike necessitates additional time to ensure all parties are notified in accordance with the *Act*. In this case all the parties agreed to the rescheduled hearing date and disclosure deadlines; accordingly, the LPRT accepted the proposed dates, and postponed the merit hearing to the dates requested.

[13] Please note, this Panel is not seized with the matter, and a different Panel may hear the merits of the appeal.

Dated at the City of Edmonton in the Province of Alberta this 9th day of January 2025.

LAND AND PROPERTY RIGHTS TRIBUNAL

(SGD) L. Yakimchuk, Member

APPENDIX A

PARTIES WHO ATTENDED, MADE SUBMISSIONS OR GAVE EVIDENCE AT THE HEARING

NAME	CAPACITY
C. Marble	Appellant, Legal Counsel
D. Fisher	Appellant
D. Smith	Appellant, Observer
L. Wymer	Appellant, Observer
T. Chipchase	SA Representative
E. Neilsen	Alberta Transportation and Economic Corridors