
Appeal File Number: 021-STU-005
Appeal Against: Development Authority of Sturgeon County
Appellant: Jon Bullee and Owen Baba
Date and Location of Hearing: August 17, 2021
Sturgeon County Council Chambers
Date of Decision: August 27, 2021
SDAB Members: Chair Julius Buski, Neal Comeau, Lee Danchuk, Mark Garrett, Allan
Montpellier

NOTICE OF DECISION

IN THE MATTER OF an appeal by Jon Bullee and Owen Baba against the Development Authority's issuance of a Stop Order located at SE 8-55-22-W4, Plan 0024376, Lot 1 within Sturgeon County.

- [1] This is the decision of the Sturgeon County Subdivision and Development Appeal Board (the "SDAB" or "Board") on an appeal filed with the SDAB pursuant to section 685 of the *Municipal Government Act*, R.S.A. 2000, c. M-26 (the "MGA" or "Act").
- [2] In making this decision, the Board reviewed all the evidence presented and considered provisions of the *Municipal Government Act*, Sturgeon County's Land Use Bylaw 1385/17 (the Land Use Bylaw or LUB), and Sturgeon County's Municipal Development Plan (MDP), and any amendments thereto.
- [3] The following documents were received prior to the hearing and form part of the record:
- The Notice of Appeal;
 - A copy of the Stop Order;
 - Planning and Development Services Report; and
 - Appellants' submission

PRELIMINARY MATTERS

- [4] There were no preliminary matters addressed at the hearing.

PROCEDURAL MATTERS

- [5] The appeal was filed on time and in accordance with section 686 of the MGA.
- [6] There were no objections to the proposed hearing process as outlined by the Chair.

[7] There were no objections to the composition of the Board hearing the appeal.

[8] The Board is satisfied that it has jurisdiction to deal with this matter.

ISSUE

[9] The Appellants raised the following grounds of appeal:

- The Appellants have a limited season and would like to be able to finish the 2021 season with the last event taking place by the end of September 2021.

RECOMMENDATION OF THE DEVELOPMENT AUTHORITY

Tyler McNab, representative for the Development Authority, provided a presentation which outlined the Development Authority's issuance of the Stop Order:

- [10] Stratotech Park is considered a *Recreation, outdoor motorized vehicle facility* as per Part 18 of the Land Use Bylaw which is defined as *a facility for vehicular or motorized sports activities or both conducted outdoors. This includes but is not limited to sport recreation facilities such as off highway vehicle and motor vehicle race courses and boating facilities.*
- [11] Stratotech Park, as a *Recreation, outdoor motorized vehicle facility*, is neither a permitted nor a discretionary use within the "I4 – Medium Industrial Serviced" district.
- [12] In March 2004, Development Permit 305305-03-D0347 was approved by the Subdivision and Development Appeal Board (File # 004-STU-005) adjusting the use to a *Motorsports Park*. Anecdotal evidence suggested the track continued operating until 2012; however, since 2012, the track appears to have been unused until operations restarted in 2020.
- [13] In June 2021, an incident of a vehicle leaving the track and colliding with a fence and entering the highway right-of-way was reported. This incident raised concerns regarding the safety of Stratotech Park and the liability of Sturgeon County as both the Development Authority and a partner on the road construction.
- [14] Site visits by Planning and Development Services staff were made and concerns were raised with the Appellants. Warning letters were issued in July 2021.
- [15] Part 645 of the *Municipal Government Act* authorizes Sturgeon County to issue a Stop Order when a development, land use, or use of a building is not in accordance with the Land Use Bylaw. Therefore, a Stop Order was issued July 22, 2021 which allowed for the execution of the Stop Order to commence on July 26, 2021 to allow a planned motorcycle race event to proceed before the Stop Order was applied. Safety concerns were mitigated via a Letter of Safety Attestation as well as a copy of the insurance policy. Financial liability regarding the highway construction

project impacts were mitigated by Alberta Transportation assuming any costs for this single event only.

SUMMARY OF APPELLANTS' POSITION

- [16] The Appellants stated that the racetrack did not cease operations in 2012 but had a change of ownership and the new owners were undecided if they were going to continue operations.
- [17] The Appellants did not receive any correspondence from the County of any Bylaw amendments and were not aware that the development was considered non-conforming.
- [18] The Appellants would prefer an amendment to the Land Use Bylaw to change the use in specific industrial areas to allow operations to continue instead of being required to proceed with a rezoning application.
- [19] Before the Stop Order was issued, the Appellants added 12 large straw bales as an additional safety measure and have strategically placed them around the track to mitigate any future incidents.
- [20] Mr. Bullee and Mr. Baba noted themselves as experts in the field and with their combined knowledge and experience have a good understanding of what the track would need to meet safety standards.

DECISION

- [21] **The Board UPHOLDS the Stop Order issued by the Development Authority on July 22, 2021 and AMENDS the Stop Order to set the deadline to comply to September 30, 2021.**

REASONS FOR THE DECISION

- [22] The Board finds that, although the MGA states that the Board has the authority to set aside a Stop Order, the SDAB's authority has been further defined by case law, and the Board's focus must be on whether or not the Stop Order was properly issued by the Development Authority in the first instance, and if so, whether the alleged contravention exists. The Board may uphold a Stop Order but exercise its discretion and give the recipient more time to comply with the terms of the Order.
- [23] The Appellants did not dispute that the Stop Order was properly issued or that the development is in contravention of the Land Use Bylaw. Therefore, the Board finds that the Stop Order was properly applied.
- [24] Having determined that the Stop Order was properly applied, the Board considered the timelines to comply prescribed in the Stop Order. The Board notes that the MGA creates an expectation that development matters are addressed in a timely fashion. For example, pursuant to section 686 of the MGA, the SDAB must hold an appeal hearing within 30 days after receipt of a notice of

appeal and must issue a decision within 15 days of the hearing. With the racetrack being neither a permitted nor a discretionary use in the I4 – Medium Industrial Serviced district, a rezoning application would be required. With the upcoming municipal election interrupting the usual timelines of a public hearing and decision on a rezoning application, a Council decision would likely not be rendered until November at the earliest. The Board finds that extending the deadline to comply with the Stop Order to September 30, 2021, which is the end of the 2021 racing season, meets the intent of the provincial planning and development regulations and is reasonable in that it allows the Appellants to continue their operations until a decision on their rezoning application can be rendered.

- [25] The Appellants spoke about their expertise in racetrack operations, with Mr. Baba noting that he has been involved in the construction of several racetracks and Mr. Bullee having appeared as an expert witness on racetrack operations in court proceedings in the United States. The Appellants also acknowledged short-term opportunities to improve the safety of the track and committed to making those improvements immediately. The Board is satisfied that the Appellants will seek to address safety concerns while proceeding with the required rezoning process.
- [26] The Board did not receive any submissions from neighbouring property owners or evidence from the Development Officer suggesting that the development is unduly interfering with the amenities of the neighbourhood or materially interfering or affecting the use, enjoyment, or value of neighbouring parcels of land.
- [27] For all of these reasons, the Board upholds the Stop Order issued by the Development Authority and sets the deadline to comply to September 30, 2021.



Julius Buski, Chair

Pursuant to Section 688(1)(a) of the Municipal Government Act (MGA), an appeal of a decision of the Subdivision and Development Appeal Board lies with the Alberta Court of Appeal on a matter of law or jurisdiction. In accordance with Section 688(2)(a), if a decision is being considered, an application for permission to appeal must be filed and served within 30 days after the issuance of the decision and, notice of the application for permission must be provided to the Subdivision and Development Appeal Board and in accordance with Section 688(2)(b), any other persons that the judge directs.

APPENDIX "A"
List of Submissions

- The Notice of Appeal;
- A copy of the Stop Order;
- Planning and Development Services Report; and
- Appellants' submission