
Appeal File Number: 022-STU-007
Appeal Against: Development Authority of Sturgeon County
Appellant: Marley Broda
Date and Location of Hearing: July 5, 2022
Council Chambers and Through Electronic Communications
Date of Decision: July 19, 2022
SDAB Members: Chair Julius Buski, Lee Danchuk, Alanna Hnatiw, Allan Montpellier, Amanda Papadopoulos

NOTICE OF DECISION

IN THE MATTER OF an appeal by Marley Broda against the Development Authority's issuance of a Stop Order dated April 11, 2022 for property located at 0621672; 1; 1; SE 29-54-27-W4 (27414 TWP 544) 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*, RSA 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 dated April 11, 2022;
 - Planning and Development Services Report;
 - The Appellant's submission; and
 - The Adjacent Landowners' submissions.

PROCEDURAL MATTERS

- [4] There were no objections to the proposed hearing process as outlined by the Chair.
- [5] There were no objections to the composition of the Board hearing the appeal.

PRELIMINARY MATTERS

[6] The Board noted that section 686(1)(ii) of the *Municipal Government Act* requires the appeal of a stop order to be filed within 21 days of its issuance. The Stop Order was issued on April 11, 2022, and the appeal was received 59 days later on June 9, 2022. The Chair asked the parties to make submissions with respect to this preliminary matter.

APPELLANT'S SUBMISSIONS ON THE PRELIMINARY MATTER

[7] Gary Zimmerman, Counsel for the Appellant, provided the following submissions:

- The Alberta Court of Appeal has applied Supreme Court of Canada authority confirming that the law of promissory estoppel applies to a public body, including the SDAB.
- County Administration has conducted themselves in a way to give surety to the Appellant that an appeal was not necessary. There were communications with various members of County Administration that suggested that there was a plan in place for a July 2022 compliance timeframe and the Appellant was working towards that.
- If the Board finds that the Administration is not estopped from enforcement of the Stop Order, the appeal should still be heard based on procedural fairness principles. Government makes decisions that are not purely legislative in nature that impact the rights, privileges, and interests of a party that are encompassed by the principles of natural justice and attract procedural fairness.
- It would be unfair for the Appellant to be penalized from appealing the first Stop Order when the second Stop Order builds on it and is related to it.
- In summary, the Board has jurisdiction to hear the appeal based on two tenets: estoppel and procedural fairness.

DEVELOPMENT AUTHORITY'S SUBMISSION ON THE PRELIMINARY MATTER

[8] Tyler McNab, Program Lead, Development and Safety Codes, Planning & Development Services, provided the following submissions:

- The Development Authority does not have a position on the Board's jurisdiction to hear arguments related to the Stop Order.
- The two Stop Orders before the Board have essentially the same requirements.

DECISION OF THE BOARD

[9] **The Board does not have jurisdiction to hear the Stop Order issued on April 11, 2022.**

REASONS FOR THE DECISION

[10] Section 686(1)(ii) of the *Municipal Government Act* requires the appeal of a stop order to be filed within 21 days of its issuance. The Stop Order was issued on April 11, 2022, and the appeal was received 59 days later on June 9, 2022

- [11] The Counsel for the Appellant submits that, although the appeal was filed out of time, the Board should consider the tenets of estoppel and procedural fairness.
- [12] The Appellant's Counsel cited case law regarding the application of promissory estoppel to a public body. The Board was not persuaded by this evidence and finds that its jurisdiction is derived from the *Municipal Government Act*, which is explicit in that an appellant has 21 days after the issuance of a stop order to file an appeal. The Board finds that it does not have the authority to extend these timelines.
- [13] Further, the Board notes that the Appellant has appealed a second Stop Order dated May 20, 2022, which was filed within the legislated timelines and is substantially similar to the Stop Order in question. Dismissal of the April 11, 2022 Stop Order does not prevent the Appellant from making submissions regarding the May 20, 2022 Stop Order.
- [14] For these reasons, the Board finds that it does not have jurisdiction to hear the appeal.

Dated at the Town of Morinville, in the Province of Alberta, this 19th day of July, 2022.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD
Sturgeon County



Julius Buski, Chair

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;
- The Appellant's submissions; and
- The Adjacent Landowners' submissions