
Appeal File Numbers:	023-STU-012
Application Number:	2023-S-002
Appeal Against:	Subdivision Authority of Sturgeon County
Appellants:	Abdul Aziz El Mustapha
Date and Location of Hearing:	July 4, 2023 Council Chambers and Through Electronic Communications
Date of Decision:	July 18, 2023
SDAB Members:	Julius Buski, Neal Comeau, Lee Danchuk, Mark Garrett, and Amanda Papadopoulos

NOTICE OF DECISION

IN THE MATTER OF an appeal by Abdul Aziz El Mustapha against the Subdivision Authority's refusal to subdivide 0.62 hectares (1.53 acres) from 1.24 hectares (3.06 acres) at Plan 4208NY;; Lot 13 (27 – 54220 Range Road 250) 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 678(1) 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*.
- [3] The following documents were received and form part of the record:
 - a. The Notice of Appeal;
 - b. A copy of the subdivision application with attachments;
 - c. The Subdivision Authority's written decision; and
 - d. Planning & Development Services Report.

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 MATTER

[6] The Board noted that section 678(2)(b) of the *Municipal Government Act* requires the appeal of a subdivision authority decision to be filed within 14 days after receipt of the written decision. The Subdivision Authority's decision was issued on February 27, 2023, and the appeal was received 107 days later on June 13, 2023. The Chair asked the parties to make submissions with respect to this preliminary matter.

APPELLANT'S SUBMISSION ON THE PRELIMINARY MATTER

[7] The Appellant, Abdul Aziz El Mustapha, submitted that the appeal documents were left with his realtor and real estate lawyer, with the expectation that they were filing the appeal on his behalf. He later revisited the matter and discovered that his appeal had not been filed as expected. In consideration of the circumstances, although the appeal was submitted later than 14 days after receipt of the written submission, he requested that the Board hear the appeal.

SUBDIVISION AUTHORITY'S SUBMISSION ON THE PRELIMINARY MATTER

[8] Jonathan Heemskerk, representative for the Subdivision Authority, submitted that the decision of the Subdivision Authority was issued via electronic communication and standard mail on February 27, 2023; therefore, the deadline to submit an appeal was March 20, 2023. He requested that the Board dismiss the appeal.

DECISION OF THE BOARD

[9] **The Board determined that it does not have jurisdiction to hear the appeal.**

REASONS FOR THE DECISION

[10] Section 678(2) of the *Municipal Government Act* provides that an appeal under subsection (1) may be commenced by filing a notice of appeal within 14 days after receipt of the written decision of the subdivision authority or deemed refusal by the subdivision authority in accordance with section 681. The Subdivision Authority's decision was issued on February 27, 2023 and the appeal was received 107 days later on June 14, 2023.

[11] The Appellant acknowledged that the appeal was not filed in time, but that he expected his realtor or real estate lawyer to submit the appeal on his behalf.

[12] The Board finds that the deadlines in the *Municipal Government Act* are to be interpreted strictly as the intent of the scheme of the Act is that subdivision and development decisions, including any appeal process, should be concluded expediently to ensure certainty for all parties involved.

[13] 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 18th day of July, 2023.

A handwritten signature in blue ink, appearing to read "J Buski", is centered on the page. The signature is fluid and cursive.

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 subdivision application with attachments;
- The Subdivision Authority's written decision;
- Planning & Development Services Report