RMA Fall 2020 Submitted Resolutions

1) Call to Order
2) Acceptance of Order Paper
3) Resolution Session

1-20F **Police Funding Model Freeze** *(MD of Lesser Slave River)*

2-20F **Blue-Ribbon Panel to Review Unpaid Taxes Owed by Oil and Gas Companies** *(Birch Hills County)*

3-20F **Support for Alberta Farmland Trust** *(Wheatland County)*

4-20F **Provincial Policing Costs Levy – Designate as a Requisition** *(Lacombe County)*

5-20F **Legislated Notice Requirement** *(Big Lakes County)*

6-20F **Government of Alberta Embargoed Committee Work** *(MD of Willow Creek)*

7-20F **Amendments to Municipal Government Act Section 619** *(MD of Willow Creek)*

8-20F **Enhancing Support for Farmers When a State of Agricultural Disaster is Declared** *(Leduc County)*

9-20F **CRTC Aggregate Wholesale Pricing to Mandate Rural Investment** *(Big Lakes County)*

10-20F **Weed Issues on Oil and Gas Sites in Rural Alberta** *(MD of Taber)*

11-20F **Creation of Municipal Affairs Process to Resolve Disputes Regarding Council Sanctions and Disqualifications** *(Rocky View County)*

12-20F **Expansion of Elk Hunting for Management in Agriculture Production Areas** *(Leduc County)*

13-20F **Provincial Government Disaster Recovery Program Payments** *(County of Grande Prairie)*

14-20F **Seniors' Foundation Requisitions** *(MD of Greenview)*

15-20F **Security Deposits for Dispositions** *(Saddle Hills County)*

16-20F **Federal and Provincial Disaster Support** *(RM of Wood Buffalo)*

17-20F **Rural Small Business Properties Assessment Sub-Classes Amendment** *(RM of Wood Buffalo)*

18-20F **Municipal Decision-making on Fire Bans in Hamlets Within Forest Protection Area** *(Mackenzie County)*

19-20F **Reinstatement of the Benefit Contribution Grant for Early Childhood Educators** *(RM of Wood Buffalo)*

ER1-20F **Financial Support from RMA for Appeal of Legal Decision Regarding Vehicle/Trailer Billboard Signs Along Roadways** *(Foothills County)*

4) Vote on Emergent Resolutions
5) Closing of Resolution Session

Resolution 1-20F

Police Funding Model Freeze

MD of Lesser Slave River

Simple Majority Required
Endorsed by District 3 (Pembina River)

WHEREAS the Police Funding Regulation (hereafter referred to as "the Regulation") was enacted by the Government of Alberta on July 22, 2020; and

WHEREAS the Regulation states that each municipality receiving policing under the **Provincial Police Services Agreement** (PPSA) shall pay a cost in each fiscal year for receiving policing services provided by the provincial police service in an amount determined by the Minister in accordance with the Regulation; and

WHEREAS the police funding model established in the Regulation will start in 2021 at 10% of total provincial costs under the PPSA, and increase to 15% in 2022, 20% in 2023 and 30% in 2024; and

WHEREAS for municipalities that have not borne the provincial policing service cost in the past, these additional costs will be a significant budget line item in 2021 and beyond; and

WHEREAS the current PPSA was signed by the Minister of International and Intergovernmental Relations on August 31, 2011; and

WHEREAS a corporate review of the current PPSA and the overall organizational structure, efficiency and effectiveness of the Royal Canadian Mounted Police policing service has not been completed; and

WHEREAS as with any other municipal contracted service, municipalities need the best information available to ensure that their taxpayer dollars are being used in the most cost-effective manner; and

WHEREAS rural crime in Alberta is increasing and the Government of Alberta has acknowledged this as a priority;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta (RMA) advocate to the Government of Alberta to freeze municipal contributions under the police funding model at no greater than 10% of the total policing costs under the Provincial Police Services Agreement (PPSA) until a corporate review of the PPSA and the overall organizational structure, efficiency and effectiveness of the Royal Canadian Mounted Police (RCMP) policing service has been completed and the review made available to all municipalities in Alberta; and

FURTHER BE IT RESOLVED that RMA advocate to the Government of Alberta that all monies collected from the police funding model remain in the Rural Municipalities of Alberta district from which they were collected.

Member Background

The Municipal District of Lesser Slave River has a process and policy in place for the procurement of goods and services. The policy is established so the procurement of goods and services are done in a manner that is consistent, competitive, transparent and ensures citizen confidence. Research of other rural municipalities indicate that similar policies are also in place.

In the policy, the procurement of goods and services with an estimated value greater than $10,000 must be completed through a public process such as a request for quote, request for tender, request for proposal or a prequalification of bidder/expression of interest invitational tender. All procurement opportunities of this nature must be advertised externally via our website, regional newspapers and the Alberta Purchasing Connection website (for goods and services greater than the $75,000 and construction project greater than the $200,000 thresholds).

The police funding model applied via the *Police Funding Regulation* will be a direct requisition/invoice to the Municipal District of Lesser Slave River and all other municipalities receiving Royal Canadian Mounted Police (RCMP) service under the Provincial Police Services Agreement (PPSA). Based on the police funding model, the current equalized assessment and population numbers for the Municipal District, the table below indicates our estimated requisitions for the next four years:

Police Funding Model*			
PFM Percentage	**Year**	**$ per Capita**	**Invoice**
10%	2021	38	$150,820
15%	2022	57	$158,844
20%	2023	76	$211,640
30%	2024	113	$317,687

* **Base cost** (50% weighted equalized assessment + 50% weighted population) – **Modifiers** (shadow population + crime severity index + detachment proximity) = **Requisition/Invoice**

The procurement of the provincial police service (as a contract service provider) for the Municipal District far exceeds our procurement policy in dollar value. Additionally, the spirit of consistent, competitive, and transparent procurement has been eliminated and this does not inspire citizen confidence on the service or the costs. This is a significant cost to the Municipal District. We are unfortunately on the back end of this procurement process.

At the front end of this is the Government of Alberta, based on the PPSA, which was signed with the RCMP in 2011. This is the starting point where the Government of Alberta needs to conduct a review of the agreement and the organizational structure of the RCMP to ensure that the consistent, competitive and transparent procurement of police services is completed and communicated to municipalities prior to issuing requisitions/invoices above the 10% municipal costing threshold in place for 2021.

The Municipal District is not opposed to contributing a portion of the costs for a provincial police service. As with all governmental procurement, accountability, transparency and value to our citizens and ratepayers is a crucial part of good governance. To go beyond the police funding model of 10%, the Government of Alberta needs to demonstrate that the current provincial police service meets or exceeds these criteria.

RMA Background

2-19F: Government of Alberta's Police Costing Test Model

> THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta urge the Government of Alberta to engage in further consultation with municipalities on the police costing test model to examine options to meet the Government of Alberta's goal of reducing policing costs without negatively impacting policing service delivery or municipal financial viability.
>
> Click here to view the status and government response to this resolution

Resolution 2-20F

Blue-Ribbon Panel to Review Unpaid Taxes Owed by Oil and Gas Companies

Birch Hills County

Simple Majority Required
Endorsed by District 4 (Northern)

WHEREAS the Government of Alberta oversees the development of the province's natural resources, grants industry the right to explore for and develop energy and mineral resources, and encourages industry investment that creates jobs and economic prosperity; and

WHEREAS rural municipalities require provincial support in the collection of the unpaid oil and gas property taxes; and

WHEREAS there may exist an inequity in paid taxes between similar properties depending on their location in rural Alberta; and

WHEREAS municipalities require property taxes to provide the infrastructure and services that industry relies on to access natural resources; and

WHEREAS Alberta's property tax system needs amendment to prevent oil and gas companies from refusing to pay property taxes;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta urge the Government of Alberta to appoint an independent panel of experts to review unpaid property taxes owed by oil and gas companies and its impact on rural municipalities; and

FURTHER BE IT RESOLVED that the panel provide the Government of Alberta and rural municipalities with implementable recommendations related to the recovery of property taxes owed by oil and gas companies.

Member Background

Alberta's rural municipalities face a critical financial situation due to unpaid taxes owed by oil and gas companies. Rural municipalities require provincial support in the collection of the unpaid taxes.

It is time to explore new approaches and alternatives and focus on achieving a sustainable financial situation for rural municipalities. Municipalities require property taxes to provide the infrastructure and services that industry relies on to access natural resources. If Alberta's property tax system is not amended to prevent oil and gas companies from refusing to pay property taxes, many rural municipalities will struggle to remain viable.

RMA Background

1-19F: Priority of Unpaid Property Taxes on Linear Property

> THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta (RMA) advocate for the Government of Alberta to take steps to ensure that municipalities are able to effectively recover all property taxes, including property taxes on linear property;
>
> FURTHER BE IT RESOLVED that RMA advocate for the Government of Alberta to address the growing concern regarding unfunded abandonment and reclamation costs for oil and gas properties and the affect that those costs have on the ability of municipalities to recover unpaid property taxes;
>
> FURTHER BE IT RESOLVED that RMA advocate for the Government of Alberta to make immediate amendments to *the Municipal Government Act* (MGA) to
>
> > 1. Clarify that the reference to "property tax" in section 348 includes all property taxes, including property taxes on linear property;
> > 2. Clarify the meaning of the phrase "…land and any improvements to the land…" in section 348 to specify that all of the property that is subject to assessment pursuant to Part 9 of the MGA within that municipality is subject to the special lien established in that section;

3. Provide municipalities with improved enforcement powers, such as the specific power to apply to the courts for the appointment of a receiver to enforce a claim for unpaid linear property taxes against the assets that are subject to a special lien established by section 348;
4. Apply the above amendments retroactively to ensure that existing linear property tax arrears constitute a secured claim.

Click here to view the status and government response to this resolution

6-19F: Municipal Recourse for Solvent Companies Choosing Not to Pay Taxes

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta advocate that the Government of Alberta direct the Alberta Energy Regulator to add unpaid municipal taxes to the grounds for which a company may be denied a licence to operate in Alberta.

Click here to view the status and government response to this resolution

6-18F: Securing Municipal Property Taxes in the Event of Bankruptcy or Insolvency

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta partner with Alberta Urban Municipalities Association to advocate to the Government of Alberta to amend section 348 and other relevant sections of the *Municipal Government Act* to ensure that municipal property taxes are legally assured a status as a secured claim in the event that the property owner enters bankruptcy or receivership.

Click here to view the status and government response to this resolution

Resolution 3-20F

Support for Alberta Farmland Trust

Wheatland County

Simple Majority Required
Endorsed by District 2 (Central)

WHEREAS the Alberta Farmland Trust is a new land trust organization pursuing charitable status and advocating for the advancement of mechanisms to support the protection, conservation and enhancement of agricultural lands in Alberta; and

WHEREAS the ***Alberta Land Stewardship Act*** (ALSA) establishes "the protection, conservation and enhancement of the environment," "the protection, conservation and enhancement of natural scenic or esthetic values," and "the protection, conservation and enhancement of agricultural land or land for agricultural purposes" as valid purposes for conservation easements; and

WHEREAS **Canada's Ecological Gifts Program** (EcoGift) offers "significant tax benefits to landowners who donate land or partial interests in land to a qualified recipient" by way of a conservation easement with the purpose of protecting and preserving ecologically sensitive lands, but no similar program exists in support of the protection, conservation and enhancement of agricultural lands; and

WHEREAS funding, tax benefits, and support offered to ecological conservation easements (such as EcoGift) have proven to be an effective tool for the conservation of ecologically sensitive lands; and

WHEREAS cultivated lands do not qualify under the EcoGift program;

WHEREAS many of Alberta's high quality, productive soils are found in areas with high development pressure and therefore are at risk of loss without an effective mechanism for legal protection; and

WHEREAS agricultural land owners are unable to conserve agricultural land because of risks and costs that would be alleviated by supports currently offered only for ecologically sensitive lands; and

WHEREAS rural municipalities, due to their obligatons under regional land use plans and their role as a voice for rural landowners, have an interest in the availability of effective tools for the preservation of agricultural lands; and

WHEREAS financial barriers to placing conservation easements on agricultural land render them economically unavailable for legal protection at this time;

WHEREAS the ALSA establishes that the Lieutenant Governor in Council or designated Stewardship Minister is responsible for establishing, supporting or facilitating the development of conservation easements and instruments, including for agricultural land or land for agricultural purposes;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta (RMA) request that the Government of Alberta support the creation of agricultural conservation easements on lands within Alberta's highly productive, food-producing areas through the following means:

1. **The establishment of agricultural conservation as a priority under the Alberta Land Trust Grant Program so that agricultural land trusts can access funding, and benefit from policy support;**
2. **Any other policies and programs that the Government of Alberta identifies to create functional mechanisms for the protection and conservation of farmland in Alberta; and**

FURTHER, BE IT RESOLVED that the RMA request that the Government of Canada work with Alberta and other provinces to establish an "AgriGift" program similar to the existing "EcoGift" in support of the protection, conservation and enhancement of Canada's most valuable food producing agricultural lands.

Member Background

In January of 2020 Wheatland County's Agricultural Service Board received a presentation from Stan Carscallen, a lawyer, rancher, and co-founder of Alberta Farmland Trust. Carscallen described challenges faced by landowners and land trusts seeking to protect, conserve and enhance Alberta's agricultural lands, and efforts made by Alberta Farmland Trust to improve supports available to them. Wheatland County's Agricultural Service Board and Council were inspired to join advocacy efforts for the development and

implementation of programs and policies that support agricultural conservation easements in Alberta, with recognition of the importance of preserving and protecting our most valuable agricultural lands. We hope that agricultural conservation easements will soon become a feasible option for the landowners in our municipality, and others, through this advocacy work.

Please see Carscallen's attached paper titled *The Urgent Need for the Formation and Support of an Alberta Farmland Trust* as background support for this resolution.

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RMA Background

RMA has no active resolutions directly related to this issue.

Resolution 4-20F

Provincial Policing Costs Levy – Designate as a Requisition

Lacombe County

Three-fifths Majority Required
Endorsed by District 2 (Central)

WHEREAS in December 2019, the Government of Alberta approved a new police funding model which requires urban municipalities with populations less than 5,000 and all rural municipalities to pay a portion of provincial policing costs; and

WHEREAS under the new police funding model, affected municipalities will contribute 10% of policing costs in 2020, 15% in 2021, 20% in 2022, 30% in 2023 and 30% in 2024; and

WHEREAS based on 2018 population and equalized assessment information the total amount of policing costs to be borne by the affected municipalities is $15,407,888 in 2020-21, $26,655,970 in 2021-22, $37,855,777 in 2022-23, $60,351,940 in 2023-24 and $60,351,940 in 2024-25; and

WHEREAS provincial policing costs represent a significant portion of the affected municipalities' annual operating budgets; and

WHEREAS pursuant to Section 354(1) of the *Municipal Government Act*, a municipality's property tax bylaw must set and show separately all of the tax rates imposed to raise the revenue required for requisitions, including the Alberta School Foundation Fund, school board, housing management body, and designated industrial property requisitions; and

WHEREAS Alberta Municipal Affairs has advised that policing costs are not legislatively designated as a requisition and therefore there is no authority for municipalities to show policing costs as a separate line item on the municipal tax bylaw, or to levy a specific tax rate for the collection of revenue to support policing costs; and

WHEREAS municipalites must include invoiced policing costs in municipal budgets and fund costs from revenues collected from the general municipal tax rate; and

WHEREAS all residents of Alberta should know how much of their annual property taxes is allocated to policing costs;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta request the Government of Alberta to amend section 326(1)(a) of the *Municipal Government Act* by designating the provincial policing costs levy as a requisition to allow municipalities to show separately on their property tax notices the tax rate imposed to raise the revenue required for the provincial policing costs levy.

Member Background

Despite municipalities' significant concerns with the requirement that urban municipalities with populations less than 5,000 and all rural municipalities contribute to frontline policing costs, and the implementation of the ensuing police funding model, the Government of Alberta proceeded with this in late 2019. As a result of this provincial government downloading, municipalities must reallocate money from their already strained operating budgets to policing, which reduces funding for other core and supplemental municipal services or increases property tax rates. If Alberta residents and businesses are legislatively required to pay for other third party-provided services including public education, seniors housing, designated industrial property assessments, and now policing, through their property taxes, it is imperative that they know how much of their property taxes are going towards each service.

The purpose of this resolution is to ensure that municipal taxpayers are aware of what they are paying for front-line policing.

RMA Background

RMA has no active resolutions directly related to this issue.

Resolution 5-20F

Legislated Notice Requirement

Big Lakes County

Three-fifths Majority Required
Endorsed by District 4 (Northern)

WHEREAS both the Government of Alberta and Alberta's municipalities are committed to govern in a way that best serves the people of Alberta; and

WHEREAS both parties share a responsibility for funding and providing services utilized by Alberta residents and businesses; and

WHEREAS to maintain essential municipal services, municipalities require financial stability and adequate notice of potential provincial policy or legislative changes with significant impacts on municipal finances;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta advocate that the Government of Alberta amend the *Municipal Government Act* to provide a mandatory notice period of one year before implementing any action that will have the specific and direct effect of decreasing revenue or increasing required expenditures for municipalities.

Member Background

Provinces and municipalities in other parts of the country have, through legislation and memorandums of understanding (MOUs), developed a process of mutual respect, accountability and a recognition of the importance of cooperation while achieving win/win solutions.

Recent actions by the Government of Alberta will produce extreme financial shortfalls leading to the reduction and removal of municipal services and further unintended consequences. Many municipalities will be required to mitigate these loses by raising their tax rates to their citizens, small businesses and industries.

The enclosed resolution simply provides an opportunity for municipalities to work with the Government of Alberta and be partners in achieving solutions that support the needs of Albertans without creating negative financial extremes and hardships for municipalities.

The result of this formal collaborative arrangement will enhance due process which benefits both parties and most importantly all Albertans, whom we all serve.

RMA Background

5-18S: Provincial Government Consultation and Communication Protocol with Municipalities

> THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta (RMA) appeal to the Government of Alberta to establish and maintain a uniform consultation and communication protocol with municipal elected officials which is applicable to all provincial bodies;
>
> FURTHER BE IT RESOLVED that through this consultation and communication protocol, the Government of Alberta recognizes and acknowledges the legislated significance of municipal elected officials, and that the Government of Alberta engage municipalities openly and transparently to provide input and feedback on the consultation and communication protocol from inception through to implementation.
>
> Click here to view the status and government response to this resolution

Resolution 6-20F

Government of Alberta Embargoed Committee Work

MD of Willow Creek

Simple Majority Required
Endorsed by District 1 (Foothills Little Bow)

WHEREA**S** the Government of Alberta has recently undertaken public policy discussions and decision-making on fundamental changes which affect local governments through "embargoed" processes which prohibit municipal organizations participating in these processes from consulting with member municipalities; and

WHEREAS the Government of Alberta required that organizations participating in the assessment model review abide by strict confidentiality requirements through an embargoed process; and

WHEREAS the Government of Alberta is requiring as a condition of participation in the Alberta Police Advisory Board that organizations abide by strict confidentially requirements through an embargoed process; and

WHEREAS embargoed processes do not allow for the application of fundamental democratic processes including transparency and consultation with parties most impacted by changes to government policy or legislation; and

WHEREAS municipal councils regularly address confidential information and are bound by the provisions of the *Freedom of Information and Protection of Privacy Act*, the *Municipal Government Act* and municipal councilor code of conduct bylaws and as such confidentiality requirements may be assured when consultations include municipal governments;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta request the Government of Alberta to amend its policy development processes for embargoed committee work to ensure that organizations that represent municipal governments can share information and seek input from their member municipalities during the committee process.

Member Background

Rural municipalities across Alberta have expressed concerns regarding two recent policy matters which have been addressed by the Government of Alberta including the police funding model and the assessment model review.

The policy development process undertaken by the Government of Alberta for these issues included the participation of various stakeholders including the Rural Municipalities of Alberta and the Alberta Urban Municipalities Association. All stakeholders invited to participate in the committee process were required to adhere to strict conditions of confidentiality which included a prohibition on consultation with members of the municipal organizations.

Municipal councils regularly address confidential information and are bound by the provisions of the *Freedom of Information and Protection of Privacy Act*, *the Municipal Government Act* and municipal councillor code of conduct bylaws. As such, confidentiality requirements may be assured when consultations include municipal governments.

The embargoed process as required by the province does not allow for information sharing among stakeholder groups during the policy development process, is inadequate to provide participation and creates immediate resistance to committee proposals which arise from committee work as a direct result of the lack of information available to stakeholders. Additionally, it does not provide transparency and lacks critical public oversight which ensures a fair and equitable process for all stakeholders.

RMA Background

RMA has no active resolutions directly related to this issue.

Resolution 7-20F

Amendments to Municipal Government Act Section 619

MD of Willow Creek

Three-fifths Majority Required
Endorsed by District 1 (Foothills Little Bow)

WHEREAS the ***Municipal Government Act*** (MGA) provides for the preparation and adoption of planning documents such as intermunicipal development plans, municipal development plans, land use bylaws and area structure plans to ensure orderly, economical and beneficial development and use of land; and

WHEREAS section 619 of the MGA allows a license, permit, approval or other authorization granted by the **Natural Resources Conservation Board** (NRCB), the **Energy Resources Conservation Board** (ERCB), the **Alberta Energy Regulator** (AER), the **Alberta Energy and Utilities Board** (AEUB) or the **Alberta Utilities Commission** (AUC) to supersede municipal authority over land use planning; and

WHEREAS section 619 further states that if an application is received by a municipality for an amendment to a statutory plan, land use bylaw, subdivision approval, development permit or other authorization under this Part, and the requested amendment is consistent with the licence, permit, approval or other authorization granted by the NRCB, ERCB, AER, AEUB or AUC, the municipality must approve the application thereby restricting or removing the municipality's decision-making authority regarding land use matters; and

WHEREAS the NRCB, ERCB, AER, AEUB or AUC are not legislatively required to consider municipal land use planning bylaws when these Boards approve confined feeding operations, electrical generation or transmission projects; and

WHEREAS the NRCB, ERCB, AER, AEUB or AUC have approved projects on productive agricultural lands resulting in fragmentation and permanent loss of production; and

WHEREAS section 8 of the South Saskatchewan Implementation Plan for Agriculture requires municipalities to: identify areas where agricultural activities – including extensive agriculture and associated activities should be the primary land use in the region, limit fragmentation of agricultural lands and their premature conversion to other non-agricultural uses, employ appropriate tools to direct nonagricultural subdivision and development to areas where development will not constrain agricultural activities and to minimize conflicts between intensive agricultural operations and incompatible land uses; and

WHEREAS the protection of productive agricultural land for agricultural purposes is a principle stated within many rural municipalities' municipal development plans and land use bylaws; and

WHEREAS the NRCB, ERCB, AER, AEUB and AUC repeatedly and consistently approve licenses, permits, approvals and other authorizations without consideration of local land use bylaws and without consideration of the preservation of productive agricultural land;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta urge the Government of Alberta to amend Section 619 of the *Municipal Government Act* to clearly state that the Natural Resources Conservation Board, the Energy Resources Conservation Board, the Alberta Energy Regulator, the Alberta Energy and Utilities Board or the Alberta Utilities Commission must consider municipal statutory land use planning related to the protection of productive agricultural lands when making decisions on licenses, permits, approvals and other authorizations under their jurisdiction.

Member Background

Section 619 of the *Municipal Government Act* allows a allows a license, permit, approval or other authorization granted by the Natural Resources Conservation Board (NRCB), the Energy Resources Conservation Board (ERCB), the Alberta Energy Regulator (AER), the Alberta Energy and Utilities Board (AEUB) or the Alberta Utilities Commission (AUC) to supersede municipal authority over land use planning, including any statutory plan, land use bylaw, subdivision decision or development decision by a subdivision authority, development authority, subdivision and development appeal board or the Municipal Government Board or any other authorization under this Part.

When these provincial agencies consider the issuance of licenses, permits, approvals and other authorizations there are few requirements which statutorily require them to consider municipal planning

documents which outline land use priorities and plans – particularly those which include the protection of agricultural land including fragmentation and conversion to non-agricultural uses.

This resolution is intended to initiate a discussion on the amendment of the *Municipal Government Act* to require the consideration of municipal planning documents with respect to the protection of agricultural land when considering applications for licenses, permits, approvals or other authorizations by the NRCB, ERCB, AER, AEUB or AUC.

The relevant legislation is below:

Municipal Government Act Section 619 Chapter M-26 RSA 2000
Division 1
Other Authorizations, Compensation
NRCB, ERCB, AER, AEUB or AUC authorizations

619(1) A licence, permit, approval or other authorization granted by the NRCB, ERCB, AER, AEUB or AUC prevails, in accordance with this section, over any statutory plan, land use bylaw, subdivision decision or development decision by a subdivision authority, development authority, subdivision and development appeal board, or the Municipal Government Board or any other authorization under this Part.

(2) When an application is received by a municipality for a statutory plan amendment, land use bylaw amendment, subdivision approval, development permit or other authorization under this Part and the application is consistent with a licence, permit, approval or other authorization granted by the NRCB, ERCB, AER, AEUB or AUC, the municipality must approve the application to the extent that it complies with the licence, permit, approval or other authorization granted under subsection (1).

(3) An approval of a statutory plan amendment or land use bylaw amendment under subsection (2)

(a) must be granted within 90 days after the application or a longer time agreed on by the applicant and the municipality, and
(b) is not subject to the requirements of section 692 unless, in the opinion of the municipality, the statutory plan amendment or land use bylaw amendment relates to matters not included in the licence, permit, approval or other authorization granted by the NRCB, ERCB, AER, AEUB or AUC.

(4) If a municipality that is considering an application under subsection (2) holds a hearing, the hearing may not address matters already decided by the NRCB, ERCB, AER, AEUB or AUC except as necessary to determine whether an amendment to a statutory plan or land use bylaw is required.

(5) If a municipality does not approve an application under subsection (2) to amend a statutory plan or land use bylaw or the municipality does not comply with subsection (3), the applicant may appeal to the Municipal Government Board by filing with the Board

(a) a notice of appeal, and
(b) a statutory declaration stating why mediation was unsuccessful or why the applicant believes that the municipality was unwilling to attempt to use mediation.

(6) The Municipal Government Board, on receiving a notice of appeal and statutory declaration under subsection (5),

(a) must commence a hearing within 60 days after receiving the notice of appeal and statutory declaration and give a written decision within 30 days after concluding the hearing, and
(b) is not required to notify or hear from any person other than the applicant and the municipality against whom the appeal is launched.

(7) The Municipal Government Board, in hearing an appeal under subsection (6), may only hear matters relating to whether the proposed statutory plan or land use bylaw amendment is consistent with the licence, permit, approval or other authorization granted under subsection (1).

(8) In an appeal under this section, the Municipal Government Board may

(a) order the municipality to amend the statutory plan or land use bylaw in order to comply with a licence, permit, approval or other authorization granted by the NRCB, ERCB, AER, AEUB or AUC, or
(b) dismiss the appeal.

(9) Section 692 does not apply when the statutory plan or land use bylaw is amended pursuant to a decision of the Municipal Government Board under subsection (8)(a).

(10) A decision under subsection (8) is final but may be appealed by the applicant or the municipality in accordance with section 688.

(11) In this section, “NRCB, ERCB, AER, AEUB or AUC” means the Natural Resources Conservation Board, Energy Resources Conservation Board, Alberta Energy Regulator, Alberta Energy and Utilities Board or Alberta Utilities Commission.

(12) Despite any other provision of this section, every decision referred to or made and every instrument issued under this section must comply with any applicable ALSA regional plan. RSA 2000 cM-26 s619;2007 cA-37.2 s82(14); 2009 cA-26.8 s83;2012 cR-17.3 s95

RMA Background

RMA has no active resolutions directly related to this issue.

Resolution 8-20F

Enhancing Support for Farmers When a State of Agricultural Disaster is Declared

Leduc County

Simple Majority Required
Endorsed by District 3 (Pembina River)

WHEREAS much of the northwest region of Alberta has seen excessive moisture over the past three years; and

WHEREAS harvesting, seeding, and spraying operations have been severely disrupted over the past three years, creating stress and financial difficulty for many farmers; and

WHEREAS the declaration of a state of agricultural disaster by a municipality does not provide additional supports for farmers in the affected area;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta (RMA) request that the Government of Alberta review supports for farmers when a state of agricultural disaster is formally declared within a municipality; and

FURTHER BE IT RESOLVED that RMA request that the Government of Alberta develop additional programs to enhance support to farmers when a state of agricultural disaster is declared; and

FURTHER BE IT RESOLVED that RMA request that the Government of Alberta take a regional approach to declaring agricultural disasters such that they can be initiated within a region of Alberta where several municipalities have declared a state of agricultural disaster to allow for the release of reserve funds for farmers in that region.

Member Background

In the spring and summer of 2020, thirteen municipalities declared a state of agricultural disaster. Excessive moisture for the previous two years devastated agriculture within the area, with precipitation in some areas being 150% of the long-term average in 2020 alone (the most precipitation seen in the past sixty years). For some municipalities, such as Leduc County, it was the second consecutive year that a state of agricultural disaster was declared.

A municipal declaration is a way for municipal governments to raise awareness of the severity of the situation with the general public through the media; however, a declaration does not provide additional support to the farmers who are dealing with unseeded acres, lost crop, or lack of feed for livestock.

The Rural Municipalities of Alberta had developed *A Guide for Declaring Municipal Agricultural Disasters in Alberta*. The guide was created to assist municipalities in the difficult decision on whether to declare an agricultural disaster. This document has been helpful in creating consistency in when and how a municipality should declare a state of agricultural disaster.

Although municipal declarations bring awareness to an issue in a specific area of the province, it does nothing to trigger a provincial declaration, nor allow access to any funding to support the farmers that are experiencing extreme hardship. Farmers are only provided access to disaster support funds of the Government of Alberta declares a provincial state of agricultural disaster. This decision is made by Cabinet and although it may use municipal declarations to inform its decision-making, the decision is made with respect to the province as a whole.

It is appreciated that the Government of Alberta must make decisions with respect to the entire province. It would be an extremely rare and serious situation if the entire province suffered an agricultural disaster; it is more common that specific regions within Alberta will experience adverse conditions that would warrant a declaration of disaster. If the Government of Alberta were able to declare a region of the province as an area of agricultural disaster, this should allow for the release of reserve funds to aid farmers in that region.

References:

RMA Guide for Declaring Municipal Agricultural Disasters https://rmalberta.com/wp-content/uploads/2019/07/RMA-Guide-for-Declaring-Municipal-Agriculture-Disasters.pdf

RMA Background

RMA has no active resolutions directly related to this issue.

Resolution 9-20F

CRTC Aggregate Wholesale Pricing to Mandate Rural Investment

Big Lakes County

Simple Majority Required
Endorsed by District 4 (Northern)

WHEREAS the owners of broadband infastructure have invested significant sums of money in developing their distribution networks; and

WHEREAS the owners of broadband distribution networks set their user fees to facilitate future investment in expanded networks; and

WHEREAS the owners of broadband distribution networks allow for third party internet service providers to utilize their networks for a fee; and

WHEREAS Telecom Order CRTC 2019-288 set final rates for wholesale high-speed access that owners of broadband distribution networks can charge third party internet service providers for aggregated wholesale high speed access services; and

WHEREAS the position taken by the CRTC related to wholesale internet pricing has the potential to significantly reduce the level of investment in internet infrastructure in small and rural communities in Canada; and

WHEREAS in September 2019 the Federal Court of Appeal issued a temporary stay of Telecom Order CRTC 2019-288; and

WHEREAS the **Canadian Radio-television and Telecommunications Commission (CRTC)** has issued Telecom Notice of Consultation CRTC 2020-131 which reviews the approach to rate setting for wholesale telecommunications services;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta (RMA) urge the Government of Canada and the Canadian Radio-television and Telecommunications Commission (CRTC) to reconsider its position on wholesale internet pricing; and

FURTHER BE IT RESOLVED that RMA request the Government of Canada and CRTC to create a financial framework where communication and internet fee structures include funds for mandatory investment of network expansion into currently unserved areas of Canada by all telecom and internet service providers.

Member Background

The wholesale pricing model introduced in August 2019 has the potential of increasing competition and lowering internet pricing for urban areas in Canada where there are multiple providers and good existing high-speed internet infrastructure. However, in rural areas where there are often only a few telecom providers or no service at all, the pricing model discourages investment in these rural areas. When a large telecom provider decides to invest in a rural area, the period to recoup the investment is very long, if ever. If the telecoms are forced to provide low cost access to these assets to their competitors, it discourages the investment. With the large number of additional towers needed to move from 4G to 5G networks, this Canadian Radio-television and Telecommunications Commission (CRTC) decision will likely result in rural areas never receiving upgrades, and areas currently unserved will remain unserved. With the advancements in artificial intelligence and our ever-increasing reliance on the internet to provide basic services to our residents, the need for a robust Canada wide network coverage including the most remote rural areas is a national problem. Having higher wholesale rates and forcing the network operators to reinvest the additional money collected into poorly covered or unserved areas would better serve Canada's collective interests.

RMA Background

RMA has no active resolutions directly related to this issue.

Resolution 10-20F

Weed Issues on Oil and Gas Sites in Rural Alberta

MD of Taber

Simple Majority Required
Endorsed by District 1 (Foothills Little Bow)

WHEREAS Alberta has experienced an extended period of economic challenge in the oil and gas industry which has resulted in many resource companies becoming insolvent, forced into receivership, or ultimately claiming bankruptcy; and

WHEREAS there are thousands of oil and gas wells across Alberta where regular lease maintenance is not being carried out as per the terms of private surface lease agreements, including wells transferred to the Orphan Well Association, companies in receivership or in bankruptcy proceedings, or companies currently still operating and producing product; and

WHEREAS there are no legislated timelines for oil and gas companies to reclaim inactive wells; and

WHEREAS there are currently approximately 90,000 inactive wells in Alberta; and

WHEREAS the Alberta Energy Regulator has been reluctant to suspend well licenses or limit access to these sites for companies that are in non-compliance surface leases terms related to weed control, contamination issues, fence maintenance, or non-payment of surface rentals; and

WHEREAS agricultural operators have been left to address the liabilities of many oil and gas wells that have been abandoned by bankrupt companies or companies that are unwilling or financially unable to maintain their sites; and

WHEREAS neglect of weed control on well sites has been a recent concern of municipalities and landowners across Alberta;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta advocate to the governments of Alberta and Canada to put in place appropriate legislation and standards to protect landowners from undue hardship as a result of oil and gas company neglect of weed control on well sites.

Member Background

Ongoing depressed oil and natural gas prices have dramatically affected the industry, the provincial government, and the residents of Alberta. One of the unforeseen consequences to rural landowners has been the effects of unaddressed weed issues from oil and gas lease sites.

Several struggling oil and gas companies have opted to forego weed control measures on their lease sites on both private and Crown lands. This includes companies whose assets have been assigned to the Orphan Well Association, companies in receivership or bankruptcy proceedings, and companies that continue to operate and are choosing not to address their weed control obligations through their surface lease agreements.

This unfortunate symptom of an industry in peril has resulted in economic implications to cooperating landowners. In many cases, these neglected leases have resulted in weeds moving off the lease onto neighboring lands causing reduced crop yields and having landowners incur the cost, inconvenience, and liability of managing these weed issues themselves.

Efforts by landowners to contact operators of these facilities has proven to be frustrating. In some cases a contact person cannot be found, or if they are successful in contacting the company, many times the issues go unresolved.

The plant of primary concern is the Kochia weed (Kochia scoparia). This now common, non-native plant grows in wide range of soil types, is drought tolerant, and is becoming increasingly resistant to traditional herbicide treatments. This plant is of great concern to producers of annual cereal crops as it can substantially reduce crop yields and seed cleaning costs in affected fields. Kochia is not listed in the Alberta Weed Control Regulation, therefore municipalities are limited in their ability to address this issue through legislative processes.

Attempts at contacting the Orphan Well Association, the Alberta Energy Regulator, and the Alberta Surface Rights Board have not been successful in attenuating this situation.

RMA Background

RMA has no active resolutions directly related to this issue.

Resolution 11-20F

Creation of Municipal Affairs Process to Resolve Disputes Regarding Council Sanctions and Disqualifications

Rocky View County

Three-fifths Majority Required
Individual Resolution

WHEREAS section 146.1 of the ***Municipal Government Act*** (MGA) requires municipalities to establish, by bylaw, a code of conduct that governs the conduct of councillors and how violations of municipal codes of conduct should be resolved, including the placement of sanctions on councillors; and

WHEREAS section 174 of the MGA states the circumstances in which a councillor is disqualified from council; and

WHEREAS section 175 of the MGA requires a disqualified councillor to resign immediately, and if they fail to do so, the only alternative is to refer the matter to the Court of Queen's Bench for resolution; and

WHEREAS there have been a number of cases in Alberta municipalities that have resulted in legal action because a councillor refutes imposed sanctions or does not resign from council as the result of a disqualification; and

WHEREAS there is no intermediate step for the resolution of conflict regarding code of conduct sanctions or disqualifications between resolving the issue internally at the municipal level and a formal judiciary process; and

WHEREAS legal action is costly, combative, and time-consuming to the municipality and all parties involved; and

WHEREAS the courts do not have the same level of awareness and understanding of the responsibilities, obligations, and internal processes of municipalities as does the Minister of Municipal Affairs; and

WHEREAS municipalities derive their authority, requirements, and responsibility from the Minister of Municipal Affairs; and

WHEREAS the Minister of Municipal Affairs has the authority to adjudicate on municipal matters and could create a process that serves as an intermediate step to adjudicate on disagreements regarding council sanctions and the removal of disqualified councillors;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta advocate to the Government of Alberta to amend the *Municipal Government Act* to create a process by which the Minister of Municipal Affairs can enforce, amend, or remove sanctions for code of conduct violations and enforce the removal of disqualified councillors, as an alternative to referring matters directly to the Court of Queen's Bench.

Member Background

Conflict and dispute can arise among councillors in municipalities. The *Municipal Government Act* (MGA) provides mechanisms and requirements for councils to resolve their problems internally. Section 146.1 enables councils to create a code of conduct bylaw to define how individual councillors must conduct themselves as representatives of the municipality. If violations occur, the code of conduct bylaw outlines steps to follow and actions that can occur. The MGA allows councils to place sanctions on councillors who violate codes of conduct. If a councillor does not agree with the sanctions and the matter cannot be resolved internally, that councillor's only recourse is to refer the matter to the Court of Queen's Bench.

Section 174 of the MGA describes the circumstances by which a councillor is disqualified, while section 175 states that disqualified councillors must immediately resign from council. If a councillor does not resign, section 175(2) states that the only recourse is to refer the matter to the Court of Queen's Bench. As a result, to ensure that the legislative requirements of the MGA are met, a council must proceed through a costly and time-consuming judiciary process. This also leaves municipalities in a situation where disqualified councillors can continue to sit while the process is resolved through the courts.

There are no intermediate steps to resolve councillor sanctions and disqualifications. The only options are to resolve it internally or to refer it to the courts. Legal action is costly, time-consuming, and combative, which further exacerbates internal council tensions. Additionally, courts often lack the intimate

understanding of municipal affairs possessed by the Minister of Municipal Affairs, which may result in decisions that fail to understand the nuances of local government. There are certain types of quasi-judicial items that could be resolved without a lengthy, expensive court process, specifically disputes about councillor sanctions and removal of disqualified councillors. Section 574 of the MGA provides the Minister with the ability to adjudicate on council conduct after an investigation. Minor amendments to Section 175 of the MGA could allow this process to be used for disqualifications as well.

Municipalities derive their authority from provincial statutes, and are thus bound by the authority of the Minister, who can adjudicate on municipal matters. Minor amendments to the MGA would clarify the Minister's authority and allow for creation of a streamlined process to adjudicate on council sanctions and the removal of disqualified councillors. The process could be used by either the affected councillor or the council to oppose or enforce a sanction. For example, if a sanctioned councillor disagrees with the sanctions that have been imposed, they could make a case to the Minister of Municipal Affairs to review the circumstances. The Minister would then have the option of upholding, removing, or amending the sanctions. This process could also be used by the Minister to remove a councillor who has clearly been disqualified under Section 174 of the MGA.

This would provide an alternate option for resolving conflict, rather than having to resort immediately to legal action if the matter cannot be resolved internally through the code of conduct bylaw. These changes would significantly reduce costs for municipalities and provide a mechanism for the swift resolution of these issues. If an adjudication from the Minister is still not agreeable to either parties, the judicial process remains an option.

RMA Background

RMA has no active resolutions directly related to this issue.

Resolution 12-20F

Expansion of Elk Hunting for Management in Agriculture Production Areas

Leduc County

Simple Majority Required
Endorsed by District 3 (Pembina River)

WHEREAS Alberta's elk populations are increasing rapidly due to current wildlife management policies; and

WHEREAS increased elk populations within primarily agricultural areas has impacted agricultural producers through damage to hay land, pasture, silage crops and other crops; and

WHEREAS the introduction of an antlerless elk season in many of Alberta's wildlife management units was intended to assist in elk population control;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta (RMA) request that the Government of Alberta increase the number of antlerless elk draw seasons to a minimum of two per wildlife management unit (WMU) located within agricultural areas; and

FURTHER BE IT RESOLVED that RMA request that the Government of Alberta increase the number of antlerless elk tags allocated within WMUs that are located within agricultural areas to compensate for poor hunter harvest success.

Member Background

Wildlife Management Unit (WMU) 334 is comprised of portions of Leduc County, Brazeau County, and Yellowhead County. The eastern portion of this WMU is primarily agricultural land with a high proportion of livestock operations, who rely on hay land and silage crops (such as corn) to provide winter feed for their cattle herds. Over the past three years, several herds of non-migrating elk have become established within WMU 334. Sightings of at least two separate herds of eighty elk and two herds of forty are common within the area. These elk have been damaging both standing and stockpiled forages that are intended for cattle feed.

Elk in the area have become especially damaging to corn crops that are intended as winter grazing for the cattle. While there are techniques for preventing and mitigating ungulate damage, such as deterrent, intercept feed and permanent fencing, these techniques are typically not effective/economical when dealing with large areas, such as entire fields.

The introduction of an antlerless elk season is believed to assist in the control of elk populations by removing female elk from the population. Tags are allocated within each WMU based on population numbers. This allocation assumes that with a 100% success rate of harvest, population numbers will be manageable. However, based on Alberta Environment and Parks' (AEP) Hunter Harvest Report, hunter success rates for elk only exceeded 50% in one WMU, and was only 11% in specifically for WMU 334.

AEP has confirmed that there has not been a specific survey for elk conducted within WMU 334, and the last aerial survey that was flown for other ungulate species was in January 2016. However, AEP had allocated 20 antlerless tags for WMU 334 in 2019 and 20 in 2020. According to the 2019 Hunter Harvest Report in 2019, five female elk and two young elk were harvested within the WMU, a success rate of 35%. Although this is a higher success rate than is recorded on the estimated resident harvest for elk, it is not a high enough success rate to ensure populations are managed.

By increasing the number of antlerless hunting seasons within WMUs where agriculture is a significant operation, the season in which elk can be hunted within these WMU's can be extended, and it is believed that the hunter harvest success rate can be increased. By increasing the number of antlerless tags available in these unit areas, elk populations will be more accurately managed even with a less than ideal hunter harvest rate.

Past resolutions have been endorsed by members of the Rural Municipalities of Alberta specifically related to elk population control, although there are no active resolutions currently.

References:

https://open.alberta.ca/publications/hunter-harvest-report-elk-estimated-resident-harvest-for-elk

https://rmalberta.com/resolutions/2-15s-elk-quota-hunt/

https://rmalberta.com/resolutions/4-15s-landowner-special-licence-for-elk/

RMA Background

RMA has no active resolutions directly related to this issue.

Resolution 13-20F

Provincial Government Disaster Recovery Program Payments

County of Grande Prairie

Simple Majority Required
Endorsed by District 4 (Northern)

WHEREAS the Government of Alberta has an effective emergency management system and an effective Provincial Operations Centre; and

WHEREAS the Government of Alberta regularly requests emergency response deployments from municipalities to assist with regional disaster situations; and

WHEREAS municipalities typically respond quickly to disaster situations and support one another during times of need; and

WHEREAS municipalities are required to submit detailed accounting of expenses incurred during deployments under the provincial **Disaster Recovery Program** (DRP); and

WHEREAS the Government of Alberta is required to ensure fiscal responsibility in DRP payments;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta advocate that the Government of Alberta review its Disaster Recovery Program processes to ensure municipalities receive payments within a defined timeline for resources deployed to assist during regional disasters.

Member Background

In the past few years, the Government of Alberta has experienced an increased frequency of regional emergencies where resources from unaffected municipalities were deployed under provincial direction or at the request of an affected municipality.

Municipalities are quick to respond to regional emergencies and support one another in times of need. During such disasters and corresponding responses, municipalities incur additional operating and administrative costs.

In 2018, the Government of Alberta developed the *Alberta Structure Protection Program Operational Guidelines* document, which is intended to "strengthen the capacity for Provincial structure protection while providing flexibility to deploy trained and capable resources with clear rules of engagement and reimbursement requirements."

The processing of Disaster Relief Program (DRP) claims is lengthy, and Alberta municipal elected officials are concerned with the timelines required for DRP payments.

A recent example is the May 2019 Chuckegg Creek Wildfire for which reimbursements are still outstanding for the local municipality and responding regional partners.

RMA Background

RMA has no active resolutions directly related to this issue.

Resolution 14-20F

Seniors' Foundation Requisitions

MD of Greenview

Three-fifths Majority Required
Endorsed by District 4 (Northern)

WHEREAS the *Housing Act* (hereafter referred to as "the Act") provides that a management body may annually requisition municipalities for which the management body provides lodge accommodation for the amount of the management body's annual deficit for the previous fiscal year, and any amounts necessary to establish or continue a reserve fund for the management body; and

WHEREAS the Act provides that the management body shall supply a copy of its calculation of the requisitioned amount for the municipality; and

WHEREAS the Act provides that if a municipality agrees to contribute to the operating costs of any housing accommodation, other than lodge accommodation, provided by a management body, it shall make the contribution agreed to within 90 days after the mailing of the invoice by the management body; and

WHEREAS the Management Body Operation and Administration Regulation (hereafter referred to as "the Regulation") provides that each year, a management body must prepare and submit to the Minister a business plan that includes the operating budget for the upcoming three-fiscal-year period, a capital plan for the upcoming five-fiscal-year period, and any other information required by the Minister; and

WHEREAS the Regulation places limits on reserve funds, including a requirement for ministerial approval to establish reserves and limits on the amount of reserves in relation to the management body's estimated capital and operational costs; and

WHEREAS the current Act and Regulation lacks clarity regarding the scope of housing management body requisitions, specifically relating to capital project costs;

WHEREAS this lack of clarity has resulted in situations in which housing management bodies have attempted to requisition municipalities for capital costs, expenses based on the current year's budget, and to contribute to reserve funds not approved by members, all of which do not align with the intent of the Act and Regulation;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta (RMA) request the Government of Alberta review the oversight of the Ministry of Seniors and Housing over housing management bodies (HMBs) to ensure that all HMBs are correctly and consistently requisitioning municipalities under the requirements of the *Housing Act*; and

FURTHER BE IT RESOLVED that RMA request that the Government of Alberta provide enhanced training and education to HMBs on the *Housing Act* and the Management Body Operation and Administration Regulation to ensure they have a clear understanding of their financial powers, limitations and responsibilities, including related to requisitioning and reserve creation; and

FURTHER BE IT RESOLVED that RMA request the Government of Alberta to amend the *Housing Act* to clearly state the ability of municipalities to approve or deny requests for capital projects.

Member Background

The *Housing Act* provides parameters for how housing management bodies may requisition member municipalities for operating deficits and reserve funds. It is the general understanding that housing management bodies may requisition funds for the operating deficit of the previous year as well as any reserve funds, both capital and operating, as agreed upon between the management body and the member municipalities. There are some housing management bodies across the province that have been requisitioning municipalities for capital funds outside of any agreement that creates an operating or capital reserve between member municipalities and the housing management body.

The discrepancies between housing management bodies' understanding of their requisitioning abilities may be due to a lack of oversight and clarity in the Act and Regulation from Alberta Seniors and Housing. While many housing management bodies appear to be following the correct process in working with their

municipal partners to raise capital funds through official agreements for reserve contributions and operating deficits, there are other housing bodies that are not following the proper process and approaching capital projects as a requisition, to which the municipality has no ability to deny.

Further, some housing management bodies have been requisitioning municipalities based on the current year's operational budget. The Act states that the operating requisition must be based on the previous year's operating deficit. This discrepancy should also be rectified under the oversight of Alberta Seniors and Housing or clarified in the Act and Regulation.

RMA Background

RMA has no active resolutions directly related to this issue.

Resolution 15-20F

Security Deposits for Dispositions

Saddle Hills County

Simple Majority Required
Endorsed by District 4 (Northern)

WHEREAS changes to policy regarding maintenance and renewal of Alberta Environment and Parks dispositions now requires a security deposit to be held for Crown land leases for municipalities; and

WHEREAS the changes have also forced non-profit organizations to turn to local municipalities and seek unbudgeted financial support and administration guidance to renew dispositions; and

WHEREAS the new security deposit requirement for crown land dispositions is not practical or financially sustainable for municipalities or non-profit organizations wishing to maintain or renew their dispositions; and

WHEREAS the security deposit is taking funds from a lower level of government to a higher level;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta request that the Government of Alberta remove the requirement for municipalities to provide a security to receive Crown land dispositions.

Member Background

Municipalities that hold dispositions on Crown land have demonstrated excellent stewardship of the land and Alberta Environment and Parks has alternate means of ensuring Crown lands are satisfactorily reclaimed following the cancellation of a disposition.

RMA Background

RMA has no active resolutions directly related to this issue.

Resolution 16-20F

Federal and Provincial Disaster Support

RM of Wood Buffalo

Simple Majority Required
Endorsed by District 4 (Northern)

WHEREAS the Government of Canada maintains a disaster recovery assistance program known as the **Disaster Funding Assistance Arrangements (DFAA)**; and

WHEREAS the DFAA reimburses provinces, including the Government of Alberta, for recovery costs incurred from a natural disaster; and

WHEREAS the Government of Alberta maintains the **Disaster Recovery Program (DRP)**, to which the DFAA contributes funding; and

WHEREAS natural disasters have recently increased in both frequency and severity, resulting in rising recovery costs such that according to a 2016 Government of Canada report entitled *Estimate of the Average Annual Cost for DFAA Due to Weather Events*, Alberta is the highest overall recipient of DFAA funding, having received $2.3 billion between 1970 and 2014; and

WHEREAS the Government of Canada and Government of Alberta have signaled their intention to modify disaster support such that DRP assistance may not be available in its current form to Alberta municipalities going forward;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta advocate to the Government of Alberta for continued Disaster Recovery Program funding to support community reslience and enable the relocation of affected property owners where re-construction is impractical or inadvisable.

Member Background

2020 Spring Floods

In 2020, Alberta was once again facing the resulting effects from severe spring flooding. Portions of Fort McMurray and the adjoining community of Draper were submerged under high flood waters that reached approximately the 1:100 flood level. According to the Insurance Bureau of Canada, insurable damages in the Regional Municipality of Wood Buffalo (RMWB) have now exceeded $400 million as a result of this flooding event.

In 2020, other communities throughout Alberta were also impacted by flooding. In addition to the RMWB, the Government of Alberta has also extended Disaster Recovery Program (DRP) funding to Calgary, Airdrie, Rocky View County and Mackenzie County.

Federal Disaster Funding Assistance Arrangements (DFAA)

The Disaster Funding Assistance Arrangements (DFAA) is a federal program that assists provinces and territories with a portion of the costs of dealing with a disaster where those costs would otherwise place a significant burden on the provincial economy and would exceed what they might reasonably be expected to fully bear on their own.

The DFAA is intended to support the province in providing or reinstating the necessities of life to individuals, including help to repair and restore damaged homes; re-establishing or maintain the viability of small businesses and working farms; repairing, rebuilding, and restoring public works and the essential community services to their pre-disaster capabilities; and funding limited mitigation measures to reduce the future vulnerability of repaired or replaced infrastructure.

Provinces and territories are responsible to design, develop, and deliver disaster response and assistance programs within their own jurisdictions. This includes establishing the financial assistance criteria they consider appropriate for response and recovery.

As natural disasters are increasing in both frequency and severity, all levels of government are responding by altering their policies in a manner that may result in changes to and reductions in disaster relief program

spending; thereby transferring more risk to the municipalities and people in flood hazard areas. In 2016, the Government of Canada authored a report analyzing the DFAA entitled *Estimate of the Average Annual Cost for DFAA due to Weather Events.* The report indicated that over the last 20 years, the annual cost[1] for DFAA for weather events has been steadily increasing.

Inflated to 2014 values using nominal gross domestic product (GDP), the average DFAA cost from 1970 to 1994 amounted to $54 million per year; between 1995 and 2004 this annual average cost had risen to $291 million, and between 2005 and 2014,[2] it reached $410 million per year. Given the substantial increase in DFAA event costs over the past 20 years, the Parliamentary Budget Officer (PBO) set out to determine if these high costs would increase further, stay the same or return to their previous levels.

The report noted that the DFAA does not cover expenses where "insurance coverage for a specific hazard for the individual, family, small business owner, or farmer was available in the area at reasonable cost."[3] At the time the report was published, individual (private property) overland flood insurance at a reasonable cost did not exist. Based on the availability and affordability of overland flood insurance, the Government of Canada has likely been highly relied upon for disaster funding. However, the report also noted that the program's design does not incentivize active flood damage mitigation in many of the affected areas.

Between 1970 and 2014, Alberta received more than $2.3 billion from the DFAA, which exceeds that of any other province. This does not include DFAA funding that Alberta received for the 2016 Horse River Wildfire or the 2020 flooding that occurred throughout the province.

Currently, flooding is Canada's most costly natural hazard and accounts for roughly three quarters of DFAA payments. However, residential losses account for only 5-15% of that total – a greater portion by far, perhaps as much as 70%, is spent on recovery of public infrastructure.[4] The PBO estimated that over the period 2017 to 2022, the DFAA program can expect claims of $673 million per year for floods. Recognizing this trend, the Government of Canada established an Advisory Council on Flooding in early 2018 with the purpose of advancing the national agenda on flood risk management. This led to the creation of a public-private sector Working Group on the Financial Management of Flood Risk, co-chaired by Public Safety Canada and the Insurance Bureau of Canada.

Provincial Disaster Recovery Program

At the provincial level, disaster recovery is overseen by the Alberta Emergency Management Agency (AEMA) and funded through a mechanism known as the Disaster Recovery Program (DRP). The DRP is funded primarily through the DFAA. The DRP provides disaster recovery assistance to residents, small businesses, agriculture operators, and provincial and municipal governments when a disaster occurs that is considered:

1) extraordinary,
2) when the event is widespread, and
3) when insurance is not reasonably or readily available.

The *Emergency Management Act* defines a disaster as an event resulting in serious harm to safety, health or welfare of people or in widespread property damage. After a disaster, the affected municipality can apply for the DRP and if the municipal application is approved, affected residents can subsequently apply for financial assistance. According to the *Alberta Disaster Assistance Guidelines*, DRPs assist with:

1) providing or reinstating the basic essentials of life to individuals, including financial assistance to help repair and restore damaged homes;
2) re-establishing or maintaining the viability of small businesses and working farms; and
3) repairing, rebuilding and restoring public works and the essential community services specific in the Guidelines to their pre-disaster functional capabilities.

[1] Cost refers to the sum of the payments due to all weather events that occurred in a particular year. The actual payments to provinces can occur several years after the actual event.

[2] Some of the values included in the 2005 to 2014 average are estimates since all costs and their eligibility for some events have not been determined.

[3] Public Safety Canada (2015d) p. 14.

[4] Insurance Bureau of Canada (2019). P.6.

According to the Guidelines, the DFAA prescribes procedures that must be followed for the cost-sharing of DRP. The federal guidelines stipulate that only provinces and territories are eligible for disaster financial assistance. Federal assistance is available when Alberta's eligible expenses incurred in carrying out its own programs are above $3.25 per capita of the provincial population.[5] Once the threshold is exceeded in any given event, the federal government will provide financial assistance in accordance with the following formula:

Eligible cost sharing of provincial expenses after per capita threshold met	**Government of Canada share**
First $3.25 (per capita)	0%
Next $6.51 (per capita)	50%
Next $6.51 (per capita)	75%
Remainder	90%

Both the federal and provincial levels of government are looking at the severity and frequency of disasters and seeking to understand potential future recovery costs. Given the increasing costs highlighted above, there are indications that the province may be changing the format of the DRP, resulting in disaster recovery costs being redistributed to municipalities and property owners. As such, municipalities cannot assume that DRP funding will be available in its current form to cover future disasters.

Insurance Availability

A recent report from the National Working Group on Financial Risk of Flooding published in June 2019, *Options for Managing Flood Costs of Canada's Highest Risk Residential Properties*, focused primarily on measures to transfer residential property risk from public sector disaster financial assistance programs, which are funded by the taxpayer, to private sector insurance solutions, which are primarily funded by the property owner. However, the report recognized that many homeowners, particularly those with low incomes, simply cannot afford the premiums that would be required to cover that risk.

The report advocates for a new approach to disaster-related insurance that is inclusive, efficient, and financially sustainable while providing optimal compensation to residential property owners and reducing reliance on ongoing taxpayer-funded subsidies. The optimal approach would be financially self-sufficient; create the conditions necessary for expansion of private market insurance coverage; elevate risk awareness; and incent de-risking efforts amongst Canadians.

It is unclear what approach the Government of Canada and insurance industry will adopt and the timeline for implementation. What is clear is that the Government of Canada has given strong indications that it does not consider the current disaster relief framework financially sustainable in the long-term. In the interim, it is anticipated that insurance will continue to be difficult to obtain at reasonable rates for private property in flood hazard areas.

All municipalities in Alberta would be affected by the changes that the federal and provincial levels of government have signaled, in addition to concerns related to insurance availability and premiums.

RMA Background

RMA has no active resolutions directly related to this issue.

[5] Population figures are as estimated by Statistics Canada to exist on July 1st in the calendar year of the disaster. The per capita threshold is adjusted annually by Public Safety Canada for inflation on January 1st of every year, starting in 2016.

Resolution 17-20F

Rural Small Business Properties Assessment Sub-Classes Amendment

RM of Wood Buffalo

Simple Majority Required
Endorsed by District 4 (Northern)

WHEREAS the Matters Relating to Assessment Sub-Classes Regulation authorizes a municipality to set tax rates for small business property at no less than 75% of the tax rate of other non-residential property; and

WHEREAS some municipalities currently have non-residential classes for both their urban service areas and rural service areas; and

WHEREAS there may exist an inequity in taxation between similar properties depending on their location in either the rural service area versus the urban service area; and

WHEREAS some municipalities may be restricted in their ability to provide tax equity within the small business property sub-class as it limits the tax rate differential for the small business sub-class in relation to the other non-residential property sub-class;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta urge the Government of Alberta to amend the Matters Relating to Assessment Sub-Classes Regulation to allow a tax rate differential of up to 50% between the "small business property" and "other non-residential property" sub-classes.

Member Background

The Regional Municipality of Wood Buffalo (RMWB) is a specialized municipality established in 1995 by the Government of Alberta. Recognizing the uniqueness of the region, section 10 of the establishing Order In Council (O.C. 817/94) provided the RMWB with the ability to create different taxation rates for the rural service area and for the urban service area.

The oil sands industry is located within the RMWB, specifically within the Municipality's rural service area. This industry is assessed and taxed within the rural non-residential property sub-class. Section 2 of Matters Relating to Assessment Sub-Classes Regulation authorizes municipalities to divide the non-residential class further into a small business property sub-class but limits the differential between the small business property sub-class and the other non-residential property sub-class to no less than 75% of the tax rate for the non-residential property sub-class. The Municipality has determined that properties within the small business property sub-class operating within the rural service area require a further tax rate differential modification, to no less than 50% of the rural non-residential sub-class, to provide tax equity between the rates assessed between the rural small business sub-class to the urban small business property sub-class.

This RMA resolution is critical to tax equity in the RMWB and the continued economic viability of rural small business properties in the Municipality.

RMA Background

RMA has no active resolutions directly related to this issue.

Resolution 18-20F

Municipal Decision-making on Fire Bans in Hamlets Within Forest Protection Area

Mackenzie County

Three-fifths Majority Required
Endorsed by District 4 (Northern)

WHEREAS Alberta Agriculture and Forestry is the wildfire authority under the *Forest and Prairie Protection Act* in the **Forest Protection Area** (FPA) in Alberta; and

WHEREAS during times of high wildfire hazard, the Government of Alberta may issue a fire restriction or fire ban within the FPA including the hamlets that fall within this area; and

WHEREAS an urban municipality (defined as a city, town, village, summer village, or urban service area of a specialized municipality) in the FPA has the authority to issue its own fire bans within its boundaries; and

WHEREAS hamlets are also areas where there is a concentration of people and residential dwellings; and

WHEREAS the *Municipal Government Act* (MGA) states that the council of a municipal district or specialized municipality may designate an unincorprated community within its boundaries as a hamlet if the unincorporated community meets certain density thresholds; and

WHEREAS the MGA allows for the council of a municipal district to pass a bylaw respecting fires that applies to the part of a hamlet that is within the FPA; and

WHEREAS the *Municipal Government Act* does not allow for the council of a specialized municipality to pass a bylaw respecting fires that applies to the parts of a hamlet that is within the FPA; and

WHEREAS the *Forest and Prairie Protection Act* also does not clearly define a municipal district, other than it includes a special area, and does not provide any definition of a specialized municipality; and

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta advocate to the Government of Alberta to amend necessary legislation (including the *Municipal Government Act* and/or the *Forest and Prairie Protection* Act) to clarify that councils of municipal districts and specialized municipalities may make decisions on fire bans in hamlets within the Forest Protection Area.

Member Background

Mackenzie County falls entirely within the Forest Protection Area and as such is banned from any fires, including campfires, during a provincial fire ban.

The wildfire risk in Mackenzie County hamlets is extremely low based on the topography of the land. Each community has a volunteer fire department and inspections are completed by the Fire Chief prior to any fire pit approval. Mackenzie County has been accredited pursuant to Section 26 of the *Safety Codes Act* in the fire discipline since 1995. Additionally, members are also involved in the Wildland Urban Interface planning, training, and support.

Two other municipalities lie within our boundaries and are exempt based on their urban municipality status. This causes great dissention when similar communities in the same geographical area fall under different rules.

Mackenzie County's official status, as established by Order in Council (OC), was changed from a municipal district to a specialized municipality on June 23, 1999. No urban service area has been established or defined in the OC.

RMA Background

RMA has no active resolutions directly related to this issue.

Resolution 19-20F

Reinstatement of the Benefit Contribution Grant for Early Childhood Educators

RM of Wood Buffalo

Simple Majority Required
Endorsed by District 4 (Northern)

WHEREAS the Government of Alberta has cancelled the **Benefit Contribution Grant** (BCG) for early childhood educators effective July 1, 2020; and

WHEREAS the cost of living in northern, remote communities in Alberta continues to be higher than other areas of the province; and

WHEREAS northern, remote communities will be disproportionately negatively impacted by the cancellation of the BCG;

WHEREAS incentives such as the BCG are critical to delivering effective, accessible, and affordable childcare to children and their families; and

WHEREAS early childhood educators and their employers are at risk of exiting the profession as a result of the cancellation of the BCG; and

WHEREAS the availability of quality early childhood educators in all communities allow for a stable workforce across all industry sectors; and

WHEREAS the cancellation of the BCG for early childhood educators has compounded the crisis being experienced in the childcare profession as a result of the COVID-19 pandemic;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta advocate that the Government of Alberta reinstate the Benefit Contribution Grant for early childhood educators, retroactive to July 1, 2020.

Member Background

Council for the Regional Municipality of Wood Buffalo has received numerous requests and statements from the local early childhood educators in the community, expressing concern with the Government of Alberta's decision to cancel the Benefit Contribution Grant for early childhood educators in Alberta effective July 1, 2020.

Correspondence received from Rebecca Schulz, Minister for Children's Services, Government of Alberta, states "the Benefit Contribution Grant for childcare workers was implemented in 2007 in response to a bustling economy and extremely high labour demands. That has changed." It is agreed that the days of the "bustling economy" have passed, however, there remains a high demand for qualified early childhood educators, especially in rural, remote communities. Moreover, cost of living in many northern communities is high, and the Benefit Contribution Grant provided childcare service providers a financial incentive to attract and retain qualified professionals.

Accessible and affordable childcare is an essential building block for a thriving workforce and labour market. The loss of the Benefit Contribution Grant for early childhood educators will likely result in workers leaving the profession which will negatively impact the number of childcare spaces available in our communities. The resulting reduction in number of childcare spaces impacts the ability for people to enter the labour market including sectors such as small businesses, education, healthcare, and oil and gas.

In a survey conducted by the Association of Childcare Educators of Alberta, it was found that as the pandemic continues, 70% of all childcare centres could face permanent closure in the next one to three months if they are not given help with their operation costs. Early childhood educators in northern communities are also concerned that once centres have the ability to open their doors again, there may be an even greater shortage of early childhood educators, due to the loss of their Benefit Contribution Grant. This will result in a labour market shortage, as families will not be able to secure affordable childcare, recreating the "extremely high labour demands" that are supposed to have ended.

RMA Background

RMA has no active resolutions directly related to this issue.

Resolution ER1-20F

Financial Support from RMA for Appeal of Legal Decision Regarding Vehicle/Trailer Billboard Signs Along Roadways

Foothills County

Simple Majority Required
Emergent Resolution

WHEREAS the Court of Queen's Bench of Alberta ruled in favour of the Respondent (Foothills County) on September 8, 2020 on their argument that while vehicle-advertising signs (also known as trailer billboards) along roadways constitute a protected form of commercial expression under the Charter of Rights and Freedoms, those constitutional rights can be reasonably restricted by local governments; and

WHEREAS the Applicants have filed a Civil Notice of Appeal with the Court of Appeal of Alberta on October 7, 2020; and

WHEREAS Foothills County has borne the cost of $97,087.50 to date to respond to the successful decision on the originating application at Court of Queens Bench of Alberta;

WHEREAS Foothills County's legal counsel estimates that remaining legal costs will be in the range of $18,970 - $30,330 to complete of the appeal process; and

WHEREAS the implications of this decision would potentially affect all Alberta municipalities in their ability to regulate signage along roadways; and

WHEREAS as per Rural Municipalities of Alberta policy (FIN-04: RMA involvement in Member Legal Matters), an endorsed resolution is required to support member legal appeals that have been heard by a provincial or federal Court;

THEREFORE, BE IT RESOLVED that the Rural Municipalities of Alberta, through financial resources, support Foothills County in the legal fees associated with the appeal of the previous Court of Queen's Bench of Alberta decision empowering municipalities to reasonably restrict vehicle signs (also known as roadside billboards) in an act of solidarity as the outcome of this case is imperative for all municipalities that regulate signage along roadways in Alberta.

Member Background

Successful decision for Dentons and Foothills County: Judge upholds bylaw banning ad-bearing trailers (Published by Dentons September 21, 2020 https://www.dentons.com/en/whats-different-about-dentons/connecting-you-to-talented-lawyers-around-the-globe/news/2020/september/successful-decision-for-foothills-county-in-alberta-judge-upholds-bylaw-banning-ad-bearing-trailers)

In a judgment rendered September 8, 2020, Court of Queen's Bench Justice Nick Devlin ruled that while vehicle-advertising signs along roadways constitute a protected form of commercial expression under the Charter of Rights and Freedoms, those constitutional rights can be reasonably restricted by local governments.

Foothills County's bylaw banning vehicle-advertising signs was at issue in the case.

Justice Devlin determined that protection of the community's visual environment is a pressing objective sufficient to justify a limit to the right of expression, and that the bylaw advanced that objective in a fair and rational manner. By providing a number of available alternative forms of signage the bylaw was held to only minimally restrict expression.

In balancing the beneficial and detrimental effects of the bylaw Justice Devlin stated:

> The law recognizes that our visual environment is a resource all citizens are entitled to enjoy, and that it can and should contain personal and commercial messages of a quantity and quality that do

not despoil it. By analogy, regulation in this area seeks to hold the line between being occasionally spoken to and constantly shouted at. Insisting that large roadside signs are modest in number and are complimentary to the overall nature and aesthetics of the community as possible, is a constitutionally appropriate balance.

This favourable decision for Foothills County ratifies the time and careful consideration taken by County Council and Administration in crafting planning regulations respecting signage and advertising.

In this case, Dentons Canada represented Foothills County with a team led by Partner Sean Fairhurst and Associate Emily Shilletto.

For more information about the decision, read the article published by the *Calgary Herald* on September 10, 2020, or the official judgment.

This resolution seeks member support for the enactment of RMA policy FIN-04: RMA involvement in Member Legal Matters to assist Foothills County in addressing the appeal filed by the Applicants on the original September 8 ruling. Relevant information within the policy includes the following guidelines:

- "It is only through an endorsed resolution that the RMA will become involved in member legal matters. For the purposes of this policy, member legal matters include only legal appeals that have already been heard at least once by a Provincial or Federal Court. Subsequent appeals will only be supported by the Association through a new member-endorsed resolution." (Guideline 1)
- "The RMA will contribute 25 per cent of the legal costs up to a maximum of $10,000 in any member legal appeal." (Guideline 7)

Attachments:

1. Civil Notice of Appeal Filing with the Court of Appeal of Alberta.
2. RMA Policy FIN-04: RMA involvement in Member Legal Matters.

COURT OF APPEAL OF ALBERTA

Form AP-1
[Rules 14.8 and 14.12]

Registrar's Stamp

COURT OF APPEAL FILE NUMBER:	2001-0194AC
TRIAL COURT FILE NUMBER:	1901-06503
REGISTRY OFFICE:	CALGARY
PLAINTIFF(S)/APPLICANT(S):	GERRIT TOP, JANTJE TOP, SPOT ADS INC., ROSS MARTIN, JOHN MARKIW
STATUS ON APPEAL:	APPELLANTS
DEFENDANT(S)/RESPONDENT(S):	MUNICIPAL DISTRICT OF FOOTHILLS NO. 31
STATUS ON APPEAL:	RESPONDENTS
DOCUMENT:	**CIVIL NOTICE OF APPEAL**
APPELLANT'S ADDRESS FOR SERVICE AND CONTACT INFORMATION:	James Kitchen Justice Centre for Constitutional Freedoms #253, 7620 Elbow Drive SW Calgary, Alberta T2V 1K2 Phone: 403-667-8575 Email: jkitchen@jccf.ca

WARNING

To the Respondent: If you do not respond to this appeal as provided for in the Alberta Rules of Court, the appeal will be decided in your absence and without your input.

COURT OF APPEAL OF ALBERTA

Form AP-1
[Rules 14.8 and 14.12]

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WARNING

To the Respondent: If you do not respond to this appeal as provided for in the Alberta Rules of Court, the appeal will be decided in your absence and without your input.

1. **Particulars of Judgment, Order or Decision Appealed From:**

Date pronounced, entered and served: September 8, 2020

Official neutral citation of reasons for decision, if any: 2020 ABQB 521

2. **Indicate where the matter originated:**

Court of Queen's Bench of Alberta

Judicial Centre: Calgary

Justice: The Honourable Mr. Justice Nicholas E. Devlin

On appeal from a Queen's Bench Master or Provincial Court Judge: No

3. **Details of Permission to Appeal, if required** (Rules 14.5 and 14.12(3)(a)):

Permission to appeal is not required.

4. **Portion being appealed** (Rule 14.12(2)(c)):

Whole

5. **Provide a brief description of the issues:**

The Appellants respectfully contend:

a. The Learned Chambers Justice erred in law in failing to meaningfully and substantively consider and balance the personal and political expression of the Appellants, Gerrit and Jantje Top. The Learned Chambers Justice engaged only in a substantive analysis of the commercial expression of the Appellant, Spot Ads Inc.;

b. The Learned Chambers Justice erred in law in determining that section 9.24.10(a) of the Foothills County Land Use Bylaw, which prohibits all vehicle signs that are visible from a highway (the "Bylaw"), is rationally connected to the County's objective of maintaining rural aesthetics such that the Bylaw's limitation of freedom of expression as protected by section 2(b) of the *Charter* is capable of being saved by section 1 of the *Charter*;

c. The Learned Chambers Justice erred in law in determining that the Bylaw minimally impairs freedom of expression such that the Bylaw is capable of being saved under section 1 of the *Charter*;

d. The Learned Chambers Justice erred in law in determining that the benefits of the Bylaw are proportionate overall to the deleterious effects of the Bylaw's limitation of freedom of expression such that the Bylaw is capable of being saved by section 1 of the *Charter*.

6. **Provide a brief description of the relief claimed:**

   The Appellants respectfully request that the appeal be allowed, the decision of the Honourable Chambers Justice be set aside and the following relief be granted:

   a. A declaration pursuant to section 52(1) of the *Constitution Act, 1982* that section 9.24.10(a) of the Foothills County Land Use Bylaw infringes section 2(b) of the *Charter*, is not saved by section 1 and is therefore void and of no force or effect;

   b. Costs, both on appeal and at the Court of Queen's Bench; and

   c. Such further and other relief as this court deems just and equitable.

7. **Is this appeal required to be dealt with as a fast track appeal?** (Rule 14.14):

   No.

8. **Does this appeal involve the custody, access, parenting or support of a child?**

   No.

9. **Will an application be made to expedite this appeal?**

   No.

10. **Is Judicial Dispute Resolution with a view to settlement or crystallization of issues appropriate?** (Rule 14.60)

    No.

11. **Could this matter be decided without oral argument?** (Rule 14.32(2))

    No.

12. **Are there any restricted access orders or statutory provisions that affect the privacy of this file?** (Rules 6.29, 14.12(2)(e),14.83)

    No.

13. List counsel for the Respondent, with contact information:

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Emily Shilletto
Dentons Canada LLP
15th Floor, Bankers Court, 850 - 2nd Street SW
Calgary, Alberta T2P 0R8
Phone: 403-268-7000
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emily.shilletto@dentons.com

14. Attachments

Judgment being appealed.

Court of Queen's Bench of Alberta

Citation: Top v Municipal District of Foothills No. 31, 2020 ABQB 521

Date:
Docket: 1901 06503
Registry: Calgary

Between:

Gerrit Top, Jante Top,
Spot Ads Inc, Ross Martin, John Markiw, and Brian Wickhorst

Applicants

- and -

Municipal District of Foothills No. 31

Respondent

Reasons for Judgment
of the
Honourable Mr. Justice N. Devlin

I. Introduction

[1] A vista of blue skies over golden prairies, rolling into foothills beneath the front range of the Rocky Mountains, grace the highways of southern Alberta. So too do a brace of disused semi-trailers, adorned with large vinyl advertising banners. For the Municipal District of Foothills ["Foothills"], their presence is dissonant, distracting, and degrading to the rural aesthetics that are a social and economic cornerstone of their community. In 2019, Foothills expressly banned these "vehicle signs".

[2] The Applicants own vehicle signs or host them on their land. They claim these trailers are a protected form of expression under section 2(b) of the *Canadian Charter of Rights and Freedoms* ("*Charter*") and ask this Court to quash Foothills' Bylaw banning them.

[3] For the reasons that follow, I find that vehicle signs are protected by s 2(b), but that the restriction on this form of expression is a reasonable limit under s 1 of the *Charter*. Control over vision pollution, and protection of the visual environment, are legitimate and significant concerns for local governments. Banning unattractive or distracting forms of advertising is a rational means of achieving this end, and is an acceptable minimal impairment of the right where other viable options for expression are available. The balance of rights and interests in this case favours the restriction.

II. Background

[4] The presence of vehicle signs in Foothills has been a source of contention since the original, previous owners of the applicant Spot Ads began erecting, or rather parking, them along roadways in the respondent County, almost a decade ago. In 2012, Foothills functionally disallowed trailers signs by prohibiting signage that was contrary to its Land Use Bylaw, 60/2014 ["the Bylaw"]. In 2019, it further amended the Bylaw to expressly prohibit "vehicle signs" in response to their continued proliferation.

[5] Foothills contacted the Applicants and demanded removal of the signs in accordance with the Bylaw. The Applicants responded by filing this application challenging the constitutionality of the prohibition. After further correspondence between the parties, Foothills issued stop orders to those landowners who still had vehicle signs on their properties in December 2019. The Applicants applied for, and were granted, an injunction suspending enforcement of the Bylaw pending the outcome of this proceeding.

(i) The Applicants

[6] The Applicants fall into three groups, each with different interests in the disputed trailer signs. Gerrit and Jantje Top are private land owners who have displayed signs relating to abortion on their property since 2006. The signs are provided by High River Pro-Life and have been affixed to an old trailer parked along the roadside. The messages on them are expressions of the Tops' deeply held religious beliefs on abortion and their perceived moral duty to act on this issue.

[7] After being notified in February 2019 that their sign was in a prohibited form and had to be removed, the Tops discussed switching to a type of sign permitted within the County's regulatory framework, but have not taken any steps towards doing so.

[8] Spot Ads is an outdoor advertising company established in 2012. It leases commercial advertising space on the sides of semi-trailers it places on private property adjacent to roadways in Alberta, including in Foothills. Spot Ads has always operated without any Development Permits for their signs and without a business licence.

[9] Spot Ads' initial business model appears to have been premised on regulatory non-compliance. In a blustery letter to Foothills in 2013, Matthew Jerome, the then-managing partner of Spot Ads, wrote to the Manger of Enforcement in Foothills. Speaking about potential legal actions against the company's non-conforming signs, he said this:

> ...we believe that we have the ability to comfortably withstand the pressure while going through this process, and that for all intensive purposes [sic] it will be impossible to get us out of business barring a major decrease in demand for outdoor advertising within your community...

[10] He went on to acknowledge the aesthetic concerns about Spot Ads' trailer signs, and assert that the company would ignore or absorb the cost of any legal orders against them:

> We would agree with you that our trailer billboards do not look good, however you must understand that our clients are driven to advertise with us only because there is no other way for them to market their perfectly legal products and services on outdoor signage which continues to be a proven and effective medium of advertising. We will continue to provide our service as best we can and will get our clients the exposure they pay for, all while accommodating any binding fine or legal order that you can arrange.

[11] The letter concluded with an implicit recognition that the trailers were a form of deliberately non-conforming, and unattractive, guerilla advertising:

> We would welcome the opportunity to sit down and discuss how we might be a part of a legitimate, good-looking outdoor advertising industry within the MD of Foothills, and help alleviate the immense demand you have created by neglecting to address the shortage in conforming options for the outdoor advertising industry.

[12] Notably, Spot Ads' current owners have sued the former owners, on the basis that they were sold an illegal business, and that the original owners knew that none of its signs were legally conforming.[1]

[13] The current owners of Spot Ads also applied to Alberta Transportation for permits to place its signs adjacent to highways, as required by the *Highways Development and Protection Regulation*, AR 329/2006. Having this provincial approval is a condition precedent for receiving a municipal Development Permit under Foothills' Bylaws: the Bylaw, s 9.24.5(i).

[14] The Ministry of Transportation denied Spot Ads' application for permits relating to its signs in Leduc County, resulting in a judicial review application before this Court. In unreported reasons, Justice Hall quashed the refusal and remitted the matter to the Ministry for re-decision.[2] The Record contains no information as to the status of Spot Ads' application or whether similar applications have been made in respect of its signs in Foothills.

[15] The Applicants Ross Martin, John Markiw, and Brian Wickhorst are "land partners" of Spot Ads who currently have (or previously had) Spot Ads' trailers on their property and get paid for permitting this. They do not have personal connections to the businesses advertised on the signs placed on their lands, but wish to continue hosting the advertising as a supplement to their agricultural income.

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[1] This lawsuit is both referenced in the materials before me, and is a matter of public record (Calgary Docket #1701-01355).

[2] ***Spot Ads Inc v Alberta (Minster of Transportation)***, Calgary Docket # 1601-0166, June 20, 2017.

III. The regulatory framework governing land use in Foothills

[16] Land use planning within municipalities typically involves the adoption of an official plan, which defines the overall vision for the municipality's development, and the enactment of a detailed set of land use bylaws to implement the plan. Among other things, land use bylaws specify the nature of permitted uses within each land use district and provide for a process to obtain development permits to authorize developments. (See generally Part 17 of the *Municipal Government Act*, RSA 2000, c M-26 ["*MGA*"]).

[17] In the case of Foothills, the overall plan is set out in the County's 2010 Municipal Development Plan ("MDP"). The Vision Statement in that document declares that:

> MD of Foothills encompasses a diverse rural landscape in which leadership and planning support a strong agricultural heritage, vibrant communities, a balanced economy and the stewardship of natural capital for future generations.

[18] Foothills' MDP states that one of its key planning principles is the preservation of the County's rural landscape. It emphasizes the importance of sustainable landscapes and states that "the long term benefits of [...] aesthetically pleasing landscapes and ecologically sound habitats that ensure a wealth of biodiversity go far beyond the value of what can be achieved in short term development considerations."

[19] In this vein, the MDP identifies minimizing the visual impacts of development as one of the County's main objectives. It states: "our open spaces and spectacular scenery add a vital dimension to life in MD of Foothills and as such, development must be carefully designed to minimize the impact on the views."

[20] The *MGA* gives Foothills the jurisdiction to pursue the goals articulated in MDP. Pursuant to section 639 of the *MGA*, every municipality must enact a land use bylaw. Section 640(4)(m) states that a land use bylaw may provide for "the construction, placement or use of billboards, signboards or other advertising devices of any kind, and if they are permitted at all, governing their height, size and character." Section 640(4)(n) states that the land use bylaw may provide for "the removal, repair or renovation of billboards, signboards or other advertising devices of any kind."

(i) The impugned ban on Vehicle Signs

[21] In accordance with its authority under the *MGA*, the County passed Bylaw 46/2012, amending the Community Standards Bylaw 34/2009. The amendment prohibited the placement of any signage that are in contravention of the Bylaw. This functionally prohibited vehicles signs. On June 5, 2019, Foothills made the ban on Vehicle Signs explicit.

[22] The Bylaw defines "Vehicle Signs" in section 9.24.1 as follows:

> **Vehicle Sign**: a sign that is mounted, affixed or painted onto an operational or non-operational vehicle, including but not limited to trailers with or without wheels, Sea-cans, wagons, motor vehicles, tractors, recreational vehicles, mobile billboards or any similar mode of transportation that is left or placed at a location clearly visible from a highway.

[23] Section 9.24.10(a) of the Bylaw prohibits Vehicle Signs:

> 9.24.10 The following signs are prohibited in the County:
>
> a. Vehicle Signs, except for signs exclusively advertising the business for which the vehicle is used, where the vehicle:
>
> i. is a motor vehicle or trailer;
>
> ii. is registered and operational; and
>
> iii. used on a regular basis to transport personnel, equipment or goods as part of the normal operations of that business.
>
> [...]

[24] The amendment also introduced specialized penalties for contravention of the signage portion of the Bylaw. There is no dispute that these sections of the Bylaw prohibit the Applicants' trailer signs.

(ii) Legal ways to have signs

[25] This case turns heavily on whether the ban on vehicle signs is functionally a broad-based ban on outdoor advertising, or exists amid a range of meaningful, available options for commercial and personal expression through public signage. Therefore, the availability of other options is a relevant factor in the constitutional analysis.

[26] The Bylaw sets out a list of various permissible signs for which approval may be sought. These include billboards, fascia signs attached to buildings, free standing signs, roof signs, and even portable signs: s 9.24.1. The Coordinator of Protective Services for Foothills, Darlene Roblin, provided evidence that the County has no blanket ban on outdoor advertising. She stated that Foothills welcomes appropriate proposals for commercial development that involves advertising signage:

> Vehicle Signs are prohibited in Foothills County but if a land owner chooses, they may apply for a Development Permit to allow for approval of other types of signage. Foothills County welcomes Development Permit applications from landowners seeking to erect, construct, enlarge, relocate, or alter any signs or structures for signs that adhere to the requirements as detailed in the Land Use Bylaw.

[27] Section 9.24.6 of the Bylaw requires individuals to obtain a development permit ("Development Permit") for all signs and modifications to existing signs. The Bylaw also directs that all signs must comply with applicable provincial legislation and approvals. For example, no sign shall be erected within 300m from the limit of a controlled highway without a permit from the Minister of Transportation pursuant to the *Highway Development Control Regulation*, AR 242/90.[3]

---

[3] This Regulation has now been replaced by the *Highways Development and Protection Regulation*, AR 326/2009, which has a similar purpose. The Bylaw and the parties' briefs refer to the old version of the regulation. Nothing turns on this.

[28] Finally, the Bylaw permits residents to make applications for exemptions from its requirements: s 4.2.

IV. Legal framework of the constitutional challenge

[29] Freedom of expression is one of the most import and fundamental rights guaranteed by the *Charter*. The language of section 2(b) is expansive and direct:

> 2. Everyone has the following fundamental freedoms:
>
> [...]
>
> (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;

[30] The ability of citizens to communicate and receive ideas and information is the lifeblood of a free and vibrant society. The right to free expression, therefore, protects a very broad range of conduct. It protects any activity intended to convey meaning, other than through violence or other means inimical to a free society: ***Libman v Quebec (Attorney General)***, [1997] 3 SCR 569 at para 31.

[31] In ***R v Sharpe***, 2001 SCC 2 at para 21, the Supreme Court commented that freedom of expression encompasses both the traditional "core" expression of political, religious, artistic, and other personal views, as well as commercial expression and even depictions of illegal or immoral activity:

> Among the most fundamental rights possessed by Canadians is freedom of expression. It makes possible our liberty, our creativity and our democracy. It does this by protecting not only "good" and popular expression, but also unpopular or even offensive expression. The right to freedom of expression rests on the conviction that the best route to truth, individual flourishing and peaceful coexistence in a heterogeneous society in which people hold divergent and conflicting beliefs lies in the free flow of ideas and images. If we do not like an idea or an image, we are free to argue against it or simply turn away. But, absent some constitutionally adequate justification, we cannot forbid a person from expressing it.

[32] Freedom of expression extends to commercial speech, including advertising. While ads are a ubiquitous and often unloved form of expression, they remain an essential feature of our economic life, benefitting both advertisers and consumers: ***R v Guignard***, 2002 SCC 14 at paras 20-23. Commercial expression is not as closely linked to the core values of democracy and human flourishing as personal or political expression, and thus often attracts a lower level of protection in the overall balancing of rights and interests called for by section 1 of the *Charter*. Nevertheless, the onus is on the state to justify limits that curtail commercial messaging: ***Ford v Quebec (Attorney General)***, [1988] 2 SCR 712 at 766-767.

[33] Signs are an important and often used form of expression, both commercially and otherwise. They provide a useful and often cost-effective means of expression, and are thus important for individuals and businesses who cannot afford more expensive forms of media: ***Guignard*** at para 25; ***Ramsden v Peterborough (City)***, [1993] 2 SCR 1084 at 1096-97. Simply

put, the right to print out one's message and display it to other citizens is a basic exercise of freedom of expression, and protected by the *Charter*.

(i) Situating the infringement

[34] Foothills concedes that the Bylaw infringes the Applicants' right to freedom of expression. All *Charter* infringements are not, however, created equal. The exact nature, mechanism, and impact of the infringement on the core interests and values protected by the right must be determined and defined before undertaking the section 1 analysis or determining a remedy: ***Sharpe*** at para 181.

[35] The limit on expression in this case is content neutral and the impugned legislation has no express or oblique intention to suppress any particular message or speaker. This is important. Content-based restrictions are a uniquely dangerous species of section 2(b) infringement, for they strike at the very heart of the idea of an open marketplace of ideas: ***Irwin Toy Ltd. v Quebec (Attorney General)***, [1989] 1 SCR 927 at 968-969. Content-based restrictions on expression are permissible only within narrow limits when the protection of the disputed expression collides with other core values of democracy and self-fulfillment: ***R v Keegstra***, [1990] 3 SCR 697. That is not the sort of restriction at issue in this case.

[36] Rather, the Bylaw restricts the manner in which the Applicants can express themselves. Restrictions on forms of expression can also have serious impacts on the right, although they often are easier to justify as proportional to the objective they serve than content-based bans or blank bans on entire mediums or venues of expression. Chief Justice McLachlin's statement of the law in ***Committee for the Commonwealth of Canada v Canada***, [1991] 1 SCR 139 at 248-249 summarizes the principles that apply in this context:

> It is sometimes observed that content-neutral restrictions may be easier to justify than content-based restrictions. This follows from the fact that content-neutral restrictions are likely to be (a) more closely tied to the function or purpose of the place in question, and/or (b) less objectionable than content restrictions. Thus the balance will more often fall on the side of the state. But care must be taken to avoid the trap of acceding to limits on expression on the basis that they relate to content-neutral consequences rather than content. Denial of a particular time, place or manner of expression regardless of content may effectively mean denial of the right to communicate.

[37] In this case, the Bylaw limits expression by requiring individuals who want to erect permanent signs on their land to use a permissible form of signage and obtain a development permit where necessary. On its face, the Bylaw appears to burden expressive interests in a modest and content-neutral fashion.

[38] The key questions as to whether there is a good reason for this limit, its contours rationally fit and fulfill that purpose, the ban limits the right to communicate as little as possible, and its ultimate impacts are proportionate, are determined through the section 1 analysis.

V. Section 1 analysis

[39] Foothills bears the onus of justifying this limit on freedom of expression under section 1 of the *Charter*. To do so, it must demonstrate, through evidence, supplemented by common sense

and inferential reasoning, that the Bylaw's restriction on expression is proportional to the compelling public purpose it is said to serve: ***R v Oakes***, [1986] 1 SCR 103 as modified by ***Dagenais v Canadian Broadcasting Corp.*** [1994] 3 SCR 835 and ***Thomson Newspapers Co v Canada (Attorney General)***, [1998] 1 SCR 877.

(i) Does the Bylaw have a pressing and substantial objective?

[40] Foothills states that the objective of the Bylaw is to protect the unique aesthetic appeal of its community from visual pollution and degradation, in accordance with its MDP. This is not a shallow or contrived purpose: see ***Vancouver (City) v Jaminer***, 2011 BCCA 240 at para 1 [***Vancouver (City)***].

[41] Southwestern Alberta possesses one of the most beautiful natural landscapes in the world. These vistas are both a potent resource and the province's visual signature, gracing the provincial Shield of Arms and flag. This natural beauty is a source of pride, enjoyment, and economic benefit. Foothills' planning documents repeatedly mention this physical environment as one of the community's defining assets, and indicate that leveraging this environmental resource is a centrepiece of its long-term social and economic vision.

[42] Courts across Canada have recognized that protecting the visual environment is a legitimate basis for regulating signage, notwithstanding its expressive function. Early in its *Charter* jurisprudence, the Supreme Court held seeking to "avoid littering, aesthetic blight, [and] traffic hazards" is a pressing and substantial objective sufficient to justify an infringement of expression: ***Ramsden*** at p 1105. More recently, the Court affirmed this proposition as an obvious one, holding in ***Guignard*** at para 29 that the prevention of visual pollution is a reasonable objective when restricting outdoor visual advertising:

> ...To be sure, the prevention of visual pollution is a reasonable objective.... It is easy to understand the reasons that prompt municipalities not to allow any kind of sign, in any place and at any time. It is a matter of maintaining a pleasant environment for the residents. ...

[43] A chorus of appellate decisions has followed this authority and found aesthetic objectives to be pressing and substantial: see for example ***Ville de Montréal c Astral Media Affichage***, 2019 QCCA 1609, leave to appeal to the SCC denied [***Astral Media***]; ***Ontario (Minister of Transportation) v Miracle*** (2005), 74 OR (3d) 161 (CA), leave to appeal to the SCC denied; ***Vancouver (City)***; ***Stoney Creek (City) v Ad Vantage Signs Ltd*** (1997), 34 OR (3d) 65 (CA).

[44] Indeed, the right of communities to regulate signage to protect their visual environment is a near universally recognized norm. Even under the more absolutist auspices of the American First Amendment, courts have held that "[i]t is well settled that the state may legitimately exercise its police powers to advance esthetic values": ***City Council v Taxpayers for Vincent***, 466 US 789 (1984) at 805.

[45] Citizens have a right not to be visually 'shouted at' by signs at every turn. Controlling the time, place, and volume (in all its meanings) of advertising is a core quality of life issue.

[46] The signs in question here are large. They compare in overall size to traditional highway billboards. Their visual impact is very real – indeed that is the very premise upon which they operate. As the Court observed in ***Urban Outdoor Trans Ad v Scarborough (City)*** (1999), 43 OR (3d) 673 at para 5 (SCJ), affirmed (2001), 52 OR (3d) 593 (CA): "...Billboards are the largest

and most intrusive outdoor advertising medium in the City. They are fundamentally different from other signs. They are a fixed feature and have a permanent visual impact on the cityscape." The same is true of the signs at issue in this case.

[47] Foothills does not advance traffic safety as the core purpose of their regulations, but courts have also recognized that this is a legitimate basis for limiting signage adjacent to roadways. The Bylaw in this case requires compliance with the provincial *Highway Development Control Regulation* as a precondition for development permits that raise this concern: s 9.24.5(i). I find that this is a sound supplementary basis for the limits in this case.

[48] While the Applicants question the degree of importance that can be attached to control over the visual impact of trailer-signs, they sensibly concede that it meets the requisite threshold to pass this initial stage of the section 1 analysis. I find that, both as a matter of fact and law, protection of the community's visual environment is a pressing and substantial objective sufficient to justify a limit on individual rights of expression.

(ii) Is the Bylaw rationally connected to its objective?

[49] Foothills must show that the infringement of the Applicants' expressive conduct is rationally connected to the objective of preventing aesthetic blight and preserving the rural landscape. This part of the analysis asks whether the Bylaw is "arbitrary, unfair, or based on irrational considerations": ***Oakes*** at 139.

[50] The Bylaw plainly advances the objective of eliminating vehicle signs from the visual environment. The common sense of this connection was articulated by the United States Supreme Court in its foundational case on signage restrictions, ***Metromedia, Inc v City of San Diego***, 453 US 490 (1981) at 508, where a plurality of that Court held that:

> ...If the city has a sufficient basis for believing that billboards are traffic hazards and are unattractive, then obviously the most direct, and perhaps the only, effective approach to solving the problems they create is to prohibit them...

[51] The same result has prevailed in Canada. In ***Ad Vantage Signs***, Charron JA (as she then was) considered the constitutionality of a bylaw regulating portable or mobile signs. She concluded that the regulation of portable and mobile signs was rationally connected to the purpose of the impugned bylaw, which sought to maintain aesthetics within that municipality. She stated that even a total prohibition would be rationally connected because "[o]bviously, if all portable and mobile signs were removed in the City...the concerns sought to be addressed by the by-law would be fully answered...": ***Ad Vantage Signs*** at para 17.

[52] Similarly, in ***Astral Media***, the Quebec Court of Appeal found a rational connection between the Plateau-Mon-Royal Borough's restriction on billboards and their objective of preventing visual pollution. On this point, the Court stated at para 127:

> Ce lien est appuyé par la raison ou la logique. Le fait que les panneaux-réclames ont un fort impact visuel, qu'ils sont de grande taille et éclairés de façon permanente permet d'inférer en toute logique que leur retrait et leur interdiction contribueront à prévenir et à éliminer la pollution visuelle. La Ville n'avait pas à administrer une preuve scientifique à cet égard.

> This connection is supported by reason or logic. It can be logically inferred from the fact that billboards have a considerable visual impact and are large and permanently lit that their removal and prohibition will contribute to preventing and eliminating visual pollution. The City did not have to adduce scientific evidence in this regard.

[53] The Applicants nevertheless take issue with the rationality of the Bylaw's connection to its purpose on three fronts. First, they argue that there is no basis to find that trailers signs are any less compatible with the desired rural aesthetic than other forms of signage. Second, they contend that the Bylaw is arbitrary because Foothills does not prohibit the parking of sign-less trailers in the same locations. Finally, they submit that the urbanized, freeway-like locations where most trailer signs are placed lack the rural aesthetic qualities that underlie the ban.

a. The nature of trailer signs

[54] Foothills has singled out one form of signage as inimical to its community's aesthetic character – signs affixed to, or painted on, vehicles – most commonly disused semi-trailer units. The question thus becomes whether this legislative distinction between expressive mediums has a rational basis related to the underlying purpose. Or, in simpler terms, are vehicle signs more of an eyesore than other forms of outdoor advertising?[4]

[55] An interesting factual twist in this case is that the original management team of Spot Ads openly acknowledged that vehicle signs are aesthetically challenged. As quoted above, the company's former managing partner, writing on behalf of Spot Ads, said that, "[w]e would agree with you that our trailer billboards do not look good..." [Emphasis added.]

[56] The current owners of Spot Ads resile from this statement. They say that their trailers are neat, in good condition, and no more or less attractive than other forms of signage. While ugliness is in the eye of the beholder, it is sufficient to observe the obvious fact that Mr. Jerome's letter acknowledges: signs attached to repurposed semi-trailers are qualitatively different from purpose-built advertising signage.

[57] This difference has two roots. The first lies in the nature of semi-trailers themselves. Made of steel and rubber, semi-trailers are unreservedly utilitarian in design, and built without aesthetic concern or influence. This is not a flaw, but rather their essential nature. They visually signify industry, and are a starkly anthropogenic element in any natural landscape.

[58] The second defining feature of vehicle signs is that they are an obvious repurposing of the underlying industrial object. While the thoughtful reuse of materials is a laudable practice, these ersatz billboards engage a sense of abandonment, industrial detritus, and improvisation born of economic necessity. The sign is only affixed to the trailer because the trailer is no longer being used for its intended purpose. Irrespective of the condition of the trailer or the sign, this marriage has an intrinsically déclassé quality to it.

[59] Moreover, where trailer units are older or heavily used, their condition will be even less visually appealing. While Spot Ads is adamant that they take pride in their business and keep their vehicles in good repair and appearance, and the Record appears to bear this out, not all

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[4] In determining a rational connection, I emphasize that the court can supplement the evidence provided by the parties with common sense and inferential reasoning. This was set out in *Frank v Canada (Attorney General)*, 2019 SCC 1 at para 64.

users of vehicle signs will follow the same course. Since this form of advertising was defended as providing a cost-effective medium, it may rationally be inferred that economics will push providers to use older, less valuable, and inevitably more worn trailers as the substrata for their signs. It would be untenable to attempt a regulatory distinction between clean and attractive trailers and more worn ones, and unrealistic to ask already burdened municipalities to get into the business of assessing the visual appeal of individual vehicles.

[60] Ultimately, this Court is not called upon to judge a beauty contest between signage materials. These aesthetic considerations serve a more limited purpose – allowing the court to find that real, meaningful differences exist between vehicle signs and other media that provide a rational basis for the differential treatment accorded them.

[61] I find that a blanket rule covering this entire class of signs is a rational and non-arbitrary means by which to protect of the visual environment.

b. Does Foothills' inconsistent approach to semi-trailers render the Bylaw arbitrary?

[62] The Applicants also attack the Bylaw as arbitrary on the basis that the same trailers that are made unlawful by the Bylaw would be legal if parked at the same roadside locations without a sign affixed to them. They point out that the County's bylaws permit multiple disused trailers to be parked on a property, right beside very roadways the Bylaw is said to protect. This inconsistency, they contend, undermines Foothills' claim that the trailers constitute an unacceptable aesthetic blight.

[63] This argument has some force. It is curious that Foothills' regulatory regime permits the parking of unregistered vehicles, potentially in derelict condition, adjacent to major scenic routes through the region. However, the *Charter* does not insist on perfect regulatory coherence for a measure to pass muster under section 1; the measure need only be reasonable and demonstrably justified: ***Hutterian Brethren of Wilson Colony v Alberta***, 2009 SCC 37 at para 37. The real question is whether the inconsistency shown by the claimant undermines the legitimacy of the impugned law by shining light on an oblique motive for it, or demonstrating that its proclaimed purpose is not truly pressing. Neither is the case here.

[64] First, trailers with and without signs are not equivalent. A disused trailer is a lump of metal. A trailer with a sign on it is a shout-out to passers-by; its object is to catch the eye and garner attention. That is the very *raison d'être* of outdoor advertising. On the scale of visual pollution, the two are not equal.

[65] Moreover, the County retains the authority to enforce clean-ups of unsightly properties, which would extend to herds of unused trailers, under the Bylaw and the Community Standards Bylaw. Section 9.3.1 of the Bylaw requires properties to be maintained in an orderly fashion. Pursuant to section 9.3.2, properties that are considered "unsightly" will be dealt with and enforced under the Community Standards Bylaw. Section 6(c) of the Community Standards Bylaw sets out that properties that exceed the permissible number of unregistered vehicles, including trailers, will be considered unsightly. This confirms that, while there is no explicit ban on trailers without signs, these are still regulated in accordance with the County's objective of preserving the rural landscape.

[66] Second, there was no evidence before the court that disused trailers without signs proliferate to any degree in scenic roadside locations, or indeed anywhere other than appropriate storage locations. There is no basis to conclude sign-less trailers are a problem that the County is ignoring. Indeed, Foothills states that, in implementing the Bylaw, it sought a balance between regulating unsightly Vehicle Signs and respecting the interests of landowners who may have trailers on their property for their intended and proper purposes.

[67] The law requires that municipal governments be given leeway to deal with local problems, such as protection of the streetscape, because they are sensitive to the experiences of the public who live and work in their communities: ***Guignard*** at para 17; ***Nanaimo (City) v Rascal Trucking Ltd***, 2000 SCC 13 at para 35.

[68] Therefore, the alleged legislative gap in the County's control over trailer-based blight does not suggest that protection of the visual environment is not truly a pressing and substantial purpose, nor that the Bylaw advances that purpose in an arbitrary or irrational way. That said, there is tension in the divergent approaches to signs and sign-less trailers. Foothills may wish to address this gap so that it is not vulnerable, on a different record, to the suggestion that its real agenda is limiting expression rather than rounding-up unsightly vehicles.

c. Is prohibiting Vehicle Signs on 'urbanized' thoroughfares necessary?

[69] The Applicants argue that all of its trailer signs are parked along Highway No. 2, principally in the more urbanized areas of Foothills, which they say is not a scenic route "placed in a picturesque county setting" as compared to other stretches of highway in Alberta. They argue that it is not rational to prohibit vehicle signs in every part of the County to promote rural aesthetics when "the high-speed, multi-lane freeways that run through the County are decidedly not "rural" in nature". The Applicants say the onus is on Foothills to demonstrate that roadside signage along major routes is incompatible with maintaining a rural character in the County.

[70] A municipality cannot be faulted for wanting to enhance the roadway on which most travellers encounter and experience its community. That is rational. These are fundamentally different locations than the "unremarkable industrial zones" over which Oakville's restrictive signage bylaws were found to be overbroad: ***Vann Niagara Ltd v Oakville (Town)*** (2002), 60 OR (3d) 1 at para 26, section 1 conclusions reversed on appeal, 2003 SCC 65 [***Vann Niagara***]; ***Vann Media Inc v Oakville (Town)***, 2008 ONCA 752 at paras 1, 22, 51-52 [***Vann Media***]. The ban on the placement of trailer signs in these areas is rationally connected to the Bylaw's stated purposes.

[71] The question of whether a limited number of trailer signs, in a limited number of locations could be permitted without undermining the aims of the Bylaw is a question of minimal impairment. I turn to that aspect of the section 1 analysis next.

(iii) Does the Bylaw minimally impair the right to freedom of expression?

a. The meaning of minimal impairment

[72] Where the need to curtail or regulate *Charter*-protected activity has been established, the state remains under an obligation to minimize the extent of the infringement. Over time, the Supreme Court has interpreted this requirement pragmatically, eschewing an 'absolute

minimum' approach in favour of a more nuanced analysis that recognizes the exigencies of social policy-making. This prevailing approach to minimal impairment was articulated by Chief Justice McLachlin in ***Sharpe*** at paras 96-97:

> This Court has held that to establish justification it is not necessary to show that Parliament has adopted the least restrictive means of achieving its end. It suffices if the means adopted fall within a range of reasonable solutions to the problem confronted. The law must be reasonably tailored to its objectives; it must impair the right no more than reasonably necessary, having regard to the practical difficulties and conflicting tensions that must be taken into account: ...
>
> This approach to minimal impairment is confirmed by the existence of the third branch of the proportionality test, requiring that the impairment of the right be proportionate to the benefit in terms of achieving Parliament's goal. If the only question were whether the impugned law limits the right as little as possible, there would be little need for the third stage of weighing the costs resulting from the infringement of the right against the benefits gained in terms of achieving Parliament's goal. It was argued after *Oakes*, *supra*, that anything short of absolutely minimal impairment was fatal. This Court has rejected that notion. The language of the third branch of the *Oakes* test is consistent with a more nuanced approach to the minimal impairment inquiry -- one that takes into account the difficulty of drafting laws that accomplish Parliament's goals, achieve certainty and only minimally intrude on rights. At its heart, s. 1 is a matter of balancing: ... [Emphasis added.]

[73] Applied to the ban on vehicle signs, the question therefore is not whether *any* vehicle signs could be allowed to exist in Foothills. The *Charter* does not ask Courts to count trailers and decide whether one, two, or ten could exist without polluting the visual environment 'too much'. Rather, the question is whether prohibiting this form of signage impairs the right of citizens to communicate with one another more than reasonably necessary in the broader overall context of available expression.

b. Outdoor advertising in the Canadian legal landscape

[74] The jurisprudence suggests that many more people want to put up outdoor advertising than want to look at it. This fundamental tension has played out in cases across the country as municipalities have limited, often drastically, the type, size, number, and location of third-party signage[5] that is permitted. These limits have, for the most part, been upheld as consistent with the minimal impairment requirement: ***Vann Niagara*** at paras 56-61.

[75] ***Vann Niagara*** is a quietly definitive case. At the Ontario Court of Appeal, the majority struck down both the municipality's blanket ban on third party advertising and its ban on billboards larger than 80 square feet, holding the restrictions to be intrinsically linked. Macpherson JA agreed that the total prohibition of off-site outdoor advertising was disproportionate and could not be saved under section 1. That unanimous conclusion was not

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[5] "Third party" advertising refers to all off-site ads a business might seek to purchase, such as a billboard on the other side of town or a trailer beside the highway, as distinct from signage erected at a business's premises.

appealed. However, he dissented in respect of the size limitation, which he would have upheld. This aspect of the case went before the Supreme Court on further appeal by the municipality.

[76] The Supreme Court unanimously adopted Macpherson JA's reasons in a brief endorsement, making it the law of the land: 2003 SCC 65. This outcome has two significant impacts on the regulation of outdoor advertising in Canada. First, the Supreme Court endorsed the principle that municipalities will be afforded significant leeway to determine what specific levels of regulation are right for their community.

> ...The case authorities clearly establish that municipal regulation of the display of signs, including size restrictions, usually does not offend the minimal impairment component of the *Oakes* test... (***Vann Niagara*** at para 61)

[77] Second, the Supreme Court upheld the restriction limiting billboards to 80 square feet. By comparison, the sides of a conventional semi-trailer range in size from 624 to 742 square feet. This limit on size was accepted as minimally impairing despite excluding virtually all of Vann Media's billboards. If overlaid on Foothills' restrictions, it would ban not only vehicle signs of any sort, but all comparably sized alternatives to them.

[78] The limits on outdoor advertising found to pass constitutional muster in ***Vann Niagara*** were far more restrictive than Foothills' Bylaw, despite the fact they were enacted to protect a bedroom community of the GTA, not a scenic rural municipality.

[79] Notably, neither the Supreme Court, nor the Court of Appeal decision it endorsed, engaged in micro-management of the municipality's chosen size limit. As the court stated in ***Nanaimo (City) v Northridge Fitness Centre Ltd***, 2006 BCPC 67 at para 59: "[i]f the impugned bylaw is within the range of reasonable alternatives, and it is not overly broad, it will meet the standard of minimal impairment..."

[80] The Québec Court of Appeal reached a similar conclusion in ***Astral Media*** when considering a blanket ban on billboards in an architecturally significant borough of Montréal. The court concluded at paras 139-146 that the myriad of other opportunities for advertising in the modern era, together with the dominantly third-party commercial nature of the ads, rendered this broad-based proscription of an entire medium of signage proportional. This ban covered all billboards, irrespective of their medium.

[81] Similarly, in ***Ad Vantage Signs*** at para 22, the Ontario Court of Appeal held that a total ban on mobile or portable signs, irrespective of size, may be justified in a community of elevated historical or aesthetic character.

> ...Obviously, the community interest is different in a heritage community than it is in a busy, urban centre. <u>In some communities, even a total prohibition of mobile and portable signs may well be justified</u>. ...[Emphasis added.]

[82] That judgment followed the same court's decision in ***Nichol (Township) v McCarthy Signs Co*** (1997), 33 OR (3d) 771 (CA) upholding a total ban on third party advertising in a rural municipality. In that case, the Court of Appeal stated at para 11 that:

> ...The commercial interests of any land owner with respect to advertising any business activity carried out on the owner's property is protected. There is a proportionality between the effects of the measures which limit the right and the objective of the By-law. The effect of the limitation is not to prevent all

> expression, but rather to require that such expression relate to a particular location in order to advance the legitimate objective of protecting the scenic characteristics of the rural community... [Emphasis added.]

[83] Only restrictions that amount to an express or disguised total ban on third-party advertising have been found not to meet the section 1 criteria: ***Ad Vantage Signs*** and ***Vann Media***. It was on this basis that the Ontario Court of Appeal severed as unconstitutional those parts of Oakville's revised sign bylaw that eliminated "most, if not all, commercially viable locations for third party signs": ***Vann Media*** at para 46. Similarly, in ***Ad Vantage Signs*** at paras 21-23, the Court of Appeal rejected a total ban on certain kinds of signage on the basis that neither safety nor aesthetic concerns had been factually proven to justify such a complete restriction.

[84] Likewise, in ***Ramsden*** the Supreme Court struck down a municipal bylaw that prohibited all postering on public property. This sweeping prohibition deprived citizens of access to one of the more affordable and effective forms of individual expression. The Supreme Court found that there were alternatives to a total ban including regulating the size of posters, place of their location, and length for which they could be posted. Given the availability of these alternatives, the court held at para 45 that the bylaw did not impair the right as little as reasonably possible.

[85] In summary, the Canadian jurisprudence on regulation of outdoor advertising recognizes protection of the visual environment as a pressing concern and grants municipalities considerable leeway is determining what is the right level of permissible signage in their community. It will countenance sharp restrictions on the size of permitted signs and even a total prohibition in select locations that have elevated historic or natural significance. It has not, however, found blanket bans on third-party advertising, or actual or *de facto* total bans on outdoor display advertising, to be proportionate or justifiable absent special circumstances.

c. A total ban or a narrow limit on manner of expression?

[86] The parties offered two competing conceptions of the Bylaw, each aligned with one of the trendlines in the jurisprudence. The Applicants characterize the Bylaw as a complete prohibition, akin to the ban on posters held to be unconstitutional in ***Ramsden***, or the functional bans on third party advertising in Vann Media's long running battle with the town of Oakville: ***Vann Niagara*** at paras 33 and 35; ***Vann Media*** at paras 44 and 46; ***Ad Vantage Signs*** at paras 16 and 22. They argue that a total ban on vehicle signs is not required to maintain the rural appearance of the County and that a complete ban on a form expression is more difficult to justify than a partial ban or a ban on a time, place or manner of expression: ***Ramsden*** at 1106.

[87] In contrast, Foothills contends that the Bylaw creates a narrow restriction, targeting one specific, problematic manner of expression, leaving intact a vast array of expressive opportunities. This, they argue, satisfies their onus to demonstrate that the Bylaw is carefully tailored to ensure that section 2(b) rights are impaired no more than reasonably necessary: ***Frank v Canada (Attorney General)***, 2019 SCC 1 at para 66.

[88] I find that the ban on vehicle signs in this case is not analogous to the postering ban in ***Ramsden***. Factually, vehicle signs are a sub-class of large billboards. In banning them, Foothills has restricted one particular manner of signage. This limit would be more analogous to a ban on

posters that are edged with high-reflective tape making them more distracting and unsightly, rather than a ban on posters altogether.

[89] More importantly, on this Record, many alternative options for expression remain open, including those indicated at section 9.24.1 of the Bylaw, such as billboard signs, fascia signs, roof signs, etc.

[90] This case is most similar to ***Vancouver (City)***. There, the British Columbia Court of Appeal considered a bylaw that prohibited all commercial billboards on rooftops. The court characterized the limit on expression as a ban on a single type of large-scale signage. It found that this limit on the place and manner of expression was different in kind from a ban on an entire medium of expression, such as the postering prohibition in ***Ramsden***. Upholding the limit as proportional, the Court of Appeal said at para 34:

> ...the real crux of this case [lies] in the fact that there really was no viable, and less intrusive, alternative open to the City if it wished to restore the skyline of Vancouver to a clutter-free state. Roof-top signs, which by their nature must be large in size, significantly detract from the appearance of the skyline no matter where the building is located....if one wished to restore the beauty of Vancouver's skyline, the prohibition of roof-top signs was the only realistic way to do so. In the overall scheme, moreover, the prohibition is a relatively minor infringement on free expression since many types of signs are still permitted at many locations on and around buildings and other structures, or as free-standing structures, throughout Vancouver. [Emphasis added.]

[91] This reasoning applies directly to the case at bar. Foothills' evidence demonstrates, and I accept as a fact, that residents in Foothills have the ability to apply for signage in a great array of forms and locations, including normal billboards and mobile signs. On the Record before me, the impugned Bylaw does not constitute a *de facto* total ban on outdoor advertising. Foothills has satisfied me that the Bylaw is a limit on one form of billboard; not a restriction of an entire means of expression.

[92] The Record is also devoid of evidence that any of the Applicants have considered or attempted to use other forms of signage. None of the Applicants have ever applied for a development permit to erect a permanent commercial sign. While Foothills bears the legal burden throughout to show that its limitation on vehicle signs is proportionate, its evidence of all the available alternatives has shifted the tactical burden back to the Applicants to refute that these options are real. Their failure to attempt to use conforming alternatives, or any alternatives at all, places them on weak footing to argue that the Bylaw is overbroad.

d. Minimal impairment does not require a carve-out along major highways in the municipality

[93] The availability of alternative forms of signage also answers the Applicant's argument that some trailers signs could be allowed along the urbanized sections of Highway 2 without much impact on the visual environment. Nothing in this Record suggests that the Bylaw prohibits applications to erect normal signage, consistent with the County's standards, in these locations. Foothills' reasons for banning vehicle signs are sound and advance important values. Requiring that this form of advertising be allowed in some of the most highly trafficked areas of the community would undermine those objectives.

[94] Finally, permitting vehicle signs along the main arterial route through Foothills would invite an over proliferation in those locations, magnifying the problems they pose, as well as creating further practical difficulties in regulating their allocation.

[95] A future case may consider whether the availability of reasonable alternate forms of signage in Foothills is illusory and amounts to a shadow-ban such as was found in ***Vann Media***. See also, for instance, ***Toronto (City) v Quickfall*** (1994), 16 OR (3d) 665 (CA), where Toronto's bylaw against postering made an exception for postering "with lawful authority" or by "consent", but the evidence demonstrated that no process for obtaining consent to poster had ever existed.

[96] None of which is to say that the Bylaw stands or falls on the basis of unlimited availability of other signage. As ***Vann Media*** demonstrates, Foothills might well enact more restrictive overall sign laws. If they do, the constitutionality of these measures will be for a future court to assess.

[97] On the Record before me, however, I find that Foothills has proven that numerous alternative forms of signage exist and that the restriction on this form of advertising is within the reasonable range of minimally impairing options available to it.

(iv) Proportionality

[98] The final stage of the *Oakes* test requires balancing the salutary and deleterious effects of the impugned Bylaw. The question before the Court is whether there is proportionality between the overall effects of the *Charter* infringing measure and the objective of the Bylaw: ***Frank*** at para 76, citing ***Oakes*** at 139. This is the final, overall balance spoken of in ***Sharpe.***

[99] In the case of outdoor display advertising, acts of expression always come at the cost of visual peace for other members of the community. The law recognizes that our visual environment is a resource all citizens are entitled to enjoy, and that it can and should contain personal and commercial messages of a quantity and quality that do not despoil it. By analogy, regulation in this area seeks to hold the line between being occasionally spoken to and constantly shouted at. Insisting that large roadside signs are modest in number, and are as complimentary to the overall nature and aesthetics of the community as possible, is a constitutionally appropriate balance.

a. This medium is not the message

[100] At this final stage I also consider whether, and to what extent, the prohibition on this specific form of expression interferes with the core values protected by section 2(b). The chosen medium of expression may be an intrinsic part of the message being conveyed. In other cases, it may be an adjunct to the message, making expression possible or expanding its ability to reach the desired audience. And in some instances, the medium has little connection to the expression at all. That is the case here.

[101] I find that the ban on vehicle signs as a medium does not in any way compromise or infringe the underlying messages being conveyed. Freedom of expression does not protect the parking of trailers, the strapping of vinyl onto steel, or the ability to make money off one's land. It protects the message on the sign. Advertisers chose vehicle signs not because they better convey the message or are part of the message. Rather, they are favoured because they are said to cost less than conventional signs of similar size.

b. The alleged cost-effectiveness of vehicle signs does not tip the balance

[102] The Applicants emphasize that vehicle signs are uniquely affordable, again akin to postering. They have not, however, provided any evidence as to the costs associated with vehicle signs as compared to other forms of signage, nor why the costs are lower. The only evidence as to costs was provided by Foothills, which set out the fees associated with Development Permits. All signs have a $100 filing fee. Personal signs have a $200 application fee and commercial signs have a $525 application fee.

[103] While the financial accessibility of expression is an important consideration, reasonable expenses associated with ensuring that one's expressive act does not mar the visual environment for all other citizens do not infringe the right: ***Ramsden*** at pp 1096-1097 and 1107; ***Guignard*** at paras 25-26, and 30-31. Rather, that is the epitome of a reasonable balance.

[104] Free expression does not guarantee cheap expression. The right does not guarantee use of the most financially expedient mode of expression where that financial advantage is linked to the very characteristics of the medium that have given rise to the need for regulation. As I have concluded above, the lower cost of vehicle signs appears to be a product of regulatory non-compliance and the use of materials that are visually polluting. That is not the type of accessibility that advances *Charter* values.

c. Freedom of expression does not create property rights

[105] Land use is a notoriously, and justifiably, regulated sphere. Coherent municipal planning and land use regulation are essential to the long-term wellbeing of our communities: see ***R v Pinehouse Plaza Pharmacy Ltd***, [1991] 2 WWR 544 (Sask CA); ***Halifax v Wonnacott***, [1951] 2 DLR 488 (NSSC) at 505. It must balance the rights, interests, and quality of life of all an area's residents. The extent and stricture of local rules on signage are open to constitutional challenge, and municipalities must justify the limits they place on expressive activity. The right of individual citizens, like the Tops, to express important personal messages, within the bounds of justified limits, will be zealously guarded. The law, however, has evolved past the point of sustaining any suggestion that a freedom of expression claim exempts land owners from engaging with the collective norms and regulatory processes of their community.

(v) Conclusion on proportionality

[106] The Tops argue that their desire to express a message concerning abortion puts them in a similar overall position to the claimant in ***Guignard*** – namely individuals who wish to send a message from their home about something deeply important to them. For now, however, the similarity ends there. In ***Guignard***, the municipality used an otherwise sensible limit on commercial advertising to tell Mr. Guignard that he was banned from expressing a message airing a profound grievance with a company because it included the company's name. This muzzled an ordinary citizen for no good reason. The overbreadth of the signage restrictions became a functional ban on criticizing corporations, and was struck down as an unjustified limit on free expression.

[107] By contrast, Foothills has never told the Tops that they may not display signs proclaiming their views on abortion. Indeed, in the course of the hearing, Foothills suggested that there may be several compliant ways in which they could do so. Foothills is simply asking them to use a

sign that complies with local land use regulations. That is a reasonable ask. On this Record, there is no evidence that compliance would increase the cost, or reduce the efficacy, of the Tops' expression to a degree that would cause constitutional concern.

[108] The impact on Spot Ads, and its advertisers, is that they may not be able to display their ads as largely and as cheaply as they would like. I appreciate that this may pose a serious financial challenge to the company, but that appears to be a function of its genesis as a purveyor of 'guerilla advertising'. The advertisers, and their audiences, whose section 2(b) rights underwrite this challenge, will have to make due with the myriad of other forms of available expression. This includes signs in other forms, albeit potentially smaller and/or more expensive. The elected municipal government's decision to place a higher social and economic premium on a more unpolluted visual environment is a legitimate one, and a proportional balance of rights and interests under section 1 of the *Charter*.

[109] And lastly, for the land owners, the Bylaw's deleterious impact is that they will be unable to generate revenue from vehicle signs, limiting their land-lease income. The ability to do unsightly things to one's land in exchange for money is far removed for the core value of section 2(b). The specific and general benefits of allowing agricultural land owners to supplement their income may be an economic factor Foothills considers on future development applications. On balance, however, this limited negative impact on a small number of individuals is outweighed by the benefit of the Bylaw to the entire community.

VI. Conclusion

[110] Overall, I find that the limit on the right to freedom of expression is not disproportionate to the benefit that the Bylaw secures for Foothills and its residents. The limit is justified in a free and democratic society.

VII. Remedy

[111] The application is dismissed. In respect of the Tops, whose impacted expression is core to their section 2(b) rights, and who have effectively been caught up in a commercial regulation dispute, enforcement of the Bylaw is stayed for four months from the release of this judgment to allow them an opportunity to identify and implement alternative signage. I encourage Foothills to work cooperatively with them in this endeavour.

Heard on the 26th day of February, 2020.
Dated at Calgary, Alberta this 8th day of September, 2020.

N. Devlin
J.C.Q.B.A.

Appearances:

James Kitchen and Jocelyn Gerke
for the Applicants

Sean Fairhurst and Emily Shilletto
for the Respondent

FIN-04: RMA Involvement in Member Legal Matters

Date Approved: July 30, 2008 **Next Review Date: February 2022**
Amended: January 19, 2012
Reconfirmed: December 15, 2016
Reconfirmed: February 28, 2020

Purpose: To provide guidelines for the Association's involvement in the legal affairs affecting or legal actions involving members. This includes, but is not limited to, the timing of the involvement, the level of participation and any financial contributions.

Policy Statement: The Rural Municipalities of Alberta (RMA) will balance member-directed involvement in matters with fiscal and resource management in the support and protection of member interests while mitigating the risks to the organization. The Association has a mechanism to support issues of sufficient concern and of ultimate benefit to a majority of the membership.

Guidelines:

1. It is only through an endorsed resolution that the RMA will become involved in member legal matters. For the purposes of this policy, member legal matters include only legal appeals that have already been heard at least once by a Provincial or Federal Court. Subsequent appeals will only be supported by the Association through a new member-endorsed resolution.

2. It is only through an endorsed resolution that the RMA can be directed by the membership to conduct a legal analysis or review of an issue.

3. The RMA will enter into a specific agreement for each member-directed legal matter to establish the items outlined in Procedures 4, 5 and 6 below.

4. The RMA reserves the right to engage legal counsel of their choice.

5. Regardless of the RMA being named as a plaintiff, the RMA becomes the lead in the legal action with full decision-making powers.

6. The RMA shall be the only entity authorized to provide direction to legal counsel unless expressly authorized by written consent.

7. The RMA will contribute 25 per cent of the legal costs up to a maximum of $10,000 in any member legal appeal.

8. The RMA will contribute up to a maximum of $5,000 to obtain a legal analysis or review.

9. Any remaining or additional legal costs pursuant to Procedure 7 or 8 will be requisitoned from the membership based on the formula used to calculate membership fees.

10. Any financial recovery that is realized from legal proceedings will be returned to the RMA and the members for costs inccured as outlined in Procedures 7, 8 and/or 9. Any damages or additional awards are not included in this policy.

11. The RMA will not financially support member legal matters where the matter has been decided prior to the resolution passing on the convention floor.

RMA Background

RMA has no active resolutions directly related to this issue.