

**SUMMERVILLAGE OF WEST COVE
SUBDIVISION AND DEVELOPMENT APPEAL BOARD HEARING
STOP ORDER
FILE NO. 2014-001
JANUARY 17, 2015**

Minutes of the Subdivision and Development Appeal Board hearing for the Summer Village of West Cove held at the West Cove Community Hall, Summer Village of West Cove, Alberta on January 17, 2015

PRESENT:

Harry Kassian	Chairman, SDAB
Rob Kirk	Member, SDAB
Sandra Benford	Member, SDAB
Debbie Appleby	Secretary, SDAB
Anita Blais	Development Officer, CAO
Kelsey Becker-Brooks	Counsel for the Summer Village of West Cove
Armen Resler	Appellant
Eleanor Resler	Appellant
Kevin Zeiner	Appellant
Lori Zeiner	Appellant
Jerritt R. Pawlyk	Counsel for the Appellants

ALSO PRESENT:
Ron Miller
Ron Derworiz
Lynn Worden
Dave Breton
Madi Madiyalakan

CALL TO ORDER The Chairman Harry Kassian called the Hearing to order at 1:00pm

Chairman Kassian explained the Subdivision and Development Appeal Board meeting format and the process involved.

The Chairman acknowledged Debbie Appleby, Secretary to the Board

Board Member introductions were made

SDAB Administrative staff was introduced Anita Blais and Kelsey Becker-Brooks

Chairman Kassian asked if there were any changes to the agenda. Sandra Benford moved the agenda be adopted as presented. Motion carried.

READING OF THE Debbie Appleby read the appeal, submitted to the Summer Village of West Cove,

APPEAL

on October 20, 2014 by counsel for the Appellants/
Notice of Appeal Appeal of Stop Order issued October 9, 2014 (the “Stop Order”)
Lot 8, Block 10, Plan 6983 KS – 8th Street, Roll 1157 (the “Property”)

As owners of the Property, our clients, Kevin and Lori Zeiner and Armen and Eleanor Resler hereby appeal the Stop Order to the Subdivision and Development Appeal Board of the Summer Village of West Cove, pursuant to section 685(1)(c) of the Municipal Government Act, RSA 2000, c. M-28 (the “Act”).

Reasons for the Appeal of the Stop Order

Though the current Land Use Bylaw 293A-10 of the Summer Village of West Cove contains provisions stating that recreational vehicles (trailers) are prohibited structures and provisions prohibiting recreational vehicles (trailers) from “the more frequent or intensive use of land for the parking of trailers...”, and the use of a “recreational vehicle, holiday trailer...as a permanent or seasonal dwelling unit” specifically under Sections 57(4) and 58(3) of the Act, the impugned use of our client’s recreational vehicles (trailers) on the Property is protected by the principal of legal no-conforming use or building under the Act. To be clear, the Property owners’ use of the recreational vehicles (trailers) on the Property is a legal non-conforming building or use as defined under the Act at Section 616(q)(ii) and (r)(ii).

The current Land Use Bylaw 293A-10 of the Summer Village of West Cove is dated April 2010. The use of recreational vehicles (trailers) on the Property was an existing lawful use on the Property prior to April 2010 and has not been discontinued for a period of 6 consecutive months since that date. In fact, the Property owners’ and their families have used the Property to park their recreational vehicles (trailers) continually since 1979. Legal non-conforming buildings or uses may be continued pursuant to the Act and Section 56 of the current Land Use Bylaw 293A-10 of the Summer Village of West Cove, therefore the Stop Order, issued Oct 9, 2014 against the Property is wholly improper and must be reversed by the Subdivision and Development Appeal Board of the Summer Village of West Cove.

INTRODUCTION OF APPELLANTS

Kevin and Lori Zeiner and Armen and Eleanor Resler were introduced.

The Appellants were asked if they had any objection to any of the present Board members. Counsel for the Appellants stated there were no objections.

HEARING PROCESS

Chairman Kassian read the hearing process.

The Appellants and audience were asked if there were any concerns with the Hearing Process. There were no concerns.

DEVELOPMENT OFFICER PRESENTATION

Counsel for the Summer Village of West Cover, Kelsey Becker-Brooks gave the presentation

Ms. Becker-Brooks referred to Stop Order of October 9, 2014 and acknowledged

that the Reslers received the Stop Order but the Zeiners did not.

The Stop Order put the Appellants on notice that trailers needed to be moved by October 23, 2014 and that the outhouse on the property needs to be decommissioned by the same date.

She stated that the recreational vehicles (trailers) are being used as seasonal dwellings and The Summer Village of West Cove acknowledged that the appeal was filed in time.

The Board was directed to review Tab 6 – 293-10 Section 57, which is the reason for this Stop Order There is no single family dwelling on this lot. There is no valid building permit (Section 58). Appellants claim that the use of the recreational vehicles is a legal non-conforming use which is not in compliance today.

Ms. Becker-Brooks explained that originally there were 2 tent trailers on the lot in 1979. Over time the recreational vehicles were swapped out. The trailers were moved each winter for a number of years. Prior to 1982 the trailers were on the property only during the summer months. It is the Summer Village of West Cove's position that when the trailers were left on the property all year that the Bylaw in force under 1979 Bylaw, required a development permit. MGA, section 643, there has been a change in use and a change in intensity.

Ms Becker-Brooks presented Vulcan Case: Morozoll v. Vulcan County. If an SDAB is hearing a Stop Order appeal, and there is no development permit, the SDAB cannot overrule a Council's decision to enforce a bylaw.

This ended the presentation from Ms Becker-Brookes.

Chairman Kassian asked if the Board had any questions. Sandra Benford clarified that this is discretionary use of temporary living accommodations, but there is a need to comply with the Bylaws, Sec 57 and 58. You can't have a trailer, unless in the context of building something else. A temporary living accommodation is defined as a trailer and can be used if there is a permit applied for to build a permanent residence. The trailer can then be used temporarily while the permanent structure is under construction.

APPELLANT
PRESENTATION

Jerritt Pawlyk, counsel for the Appellants, Kevin and Lori Zeiner, and Armen and Eleanor Resler gave their presentation.

He started by saying the trailers on the Property have been used for 35 years. Mr. Resler has made a Statutory Declaration that one trailer has been moved out, but the other has never left. It will be the Board's discretion to determine what is a building.

1979 purported Bylaw: The information is not filled in, there is no signature, no readings. This raises a doubt. From 1979 to 1991 we are not sure what the rules are.

The discontinued use for six months is seasonality. Because it is winter doesn't mean that use discontinues. The outhouse has been on the property since 1979. It is not a pit toilet. The toilet sits on a holding tank.

This concluded the presentation by Mr. Pawlyk.

Chairman Kassian asked if there were any questions from the Board. There were no questions.

CALL FOR OTHERS
TO SPEAK ON THE
APPEAL

Chairman Kassian asked if there were people in the audience who wished to speak in support of the Appeal.

Ron Miller – presented his written submission speaking in support of the Appeal

Madi Madiyalakan – expressed concerns that is an example of selective enforcement.

Ron Derworiz – presented his written submission speaking in support of the Appeal.

Chairman Kassian asked if there were people in the audience who wished to speak in opposition of the Appeal.

Lynn Worden stated she is in support of the Summer Village of West Cove. Her reason is that she built a place and obeyed bylaws. If this appeal is approved how do we tell others that want to put trailers on their lots that they can't.

Mrs. Worden also asked the age of the 2 trailers.

The older trailer is from 1977, the other is somewhere in the 1990s

Kelsey Becker-Brooks stated that it is important for the Board to determine whether or not there is a breach. This hearing is about land use and bylaws, not whether the Reslers and Zeiners are good citizens

Jerritt Pawlyk stated that there is sufficient evidence to raise reasonable doubt. Mr. Pawlyk referred the Board to section 643 15.3(1).

Councillor Dave Breton stated that we are trying to move forward, not backwards but there is something strange about this.

Rob Kirk, Board Member asked for clarification regarding the remark that 'there is something strange about this'.

Kelsey Becker-Brooks responded that there have been concerns voiced about enforcement and referred to a public hearing in the Summer Village of West Cove in July, 2014 where there were strong opinions voiced on garages on properties etc.

A few others started to voice their opinions, but this discussion was halted.

Chairman Kassian called for a 15 minute recess. After calling the hearing back to order, after the recess, Chairman Kassian asked if there were any questions from

the Board. There were none.

SUMMARIES

Kelsey Becker-Brooks addressed concerns from members of the audience that there have been various breaches that the Summer Village of West Cove is dealing with and that prior to these Stop Orders there have been 8 or 9 Stop Orders/letters issued and that all of those have been resolved.

Jerritt Pawlyk stated that he has nothing more to add and that the Board knows what is relevant and what isn't relevant.

Chairman Kassian asked if the persons who have made representations felt that they have had a fair hearing. There were no objections.

Chairman Kassian declared the hearing concluded at 2:30 pm.

**SUMMERVILLAGE OF WEST COVE
SUBDIVISION AND DEVELOPMENT APPEAL BOARD HEARING
STOP ORDER
FILE NO. 2014-002
JANUARY 17, 2015**

Minutes of the Subdivision and Development Appeal Board hearing for the Summer Village of West Cove held at the West Cove Community Hall, Summer Village of West Cove, Alberta on January 17, 2015

PRESENT:	Harry Kassian	Chairman, SDAB
	Rob Kirk	Member, SDAB
	Sandra Benford	Member, SDAB
	Debbie Appleby	Secretary, SDAB
	Anita Blais	Development Officer, CAO
	Kelsey Becker-Brooks	Counsel for the Summer Village of West Cove
	Loretta Muir	Appellant
	Ron Miller	Appellant
	Debbie Bishop	Counsel for the Appellants
ALSO PRESENT:	Ron Derworiz	
	Lynn Worden	
	Madi Madiyalakan	
	Brice Richard	
	John Harvard	

Dave Breton
Sona Zakravsky
Dwight Pawelek

CALL TO ORDER: The Chairman Harry Kassian called the hearing to order at 2:40pm

Chairman Kassian explained the Subdivision and Development Appeal Board meeting format and the process involved.

The Chairman acknowledged Debbie Appleby, Secretary to the Board

Board Member introductions were made

SDAB Administrative staff was introduced- Anita Blais and Kelsey Becker-Brooks

READING OF THE APPEAL: Debbie Appleby read the appeal, submitted to the Summer Village of West Cove by Loretta Muir and Ron Miller (Note: there is no date on the Letter/Notice of Appeal)

Dear Sir:

I wish to appeal your stop order dated October 9, 2014 regarding my property on Lot 9, Block 10, Plan 6983 KS, 809-8 Street. In addition to copies of the letters that you have supplied, I am in possession of a letter dated March 20, 2003 that should be in your property file. This letter is written by Mr. Lyle Markovich of New Era Services deals with the non-compliance of this building and the minutes form the council of the time confirms this decision. It should be noted that this building has been on this lot for 17 years without incidence. It should also be noted that there is an election this month in West Cove and it would appear that these land use issues are being used in a punitive manner.

Sincerely
Lorettat Muir Ron Miller

cc. Dave Breton
Minister of Municipal Affairs

INTRODUCTION OF APPELLANTS: Loretta Muir and Ron Miller were introduced

The Appellants were asked if they had any objection to any of the present Board members. Counsel for Appellants, Debbie Bishop stated there were no objections.

HEARING PROCESS: Chairman Kassian read the hearing process.

The Appellants and audience were asked if there were any concerns with the Hearing Process. There were no concerns.

DEVELOPMENT OFFICER Kelsey Becker-Brookes, counsel for the Summer Village of West Cove gave the presentation.

PRESENTATION:

The Stop Order issued to Loretta Muir and Ron Miller on October 9, 2014 deals with a garage that was constructed on the lands and is not in compliance with the development permit and the Summer Village of West Cove's Bylaws.

The development permit issued July 4, 1997 was subject to a condition that a single family dwelling be constructed within three years. On December 8, 2000 the three years was extended to July 19, 2002. No single family dwelling has been built.

Although the Stop Order that was issued required that a development permit be submitted by October 23, 2014 and construction commenced by November 6, 2014, there is no development permit in place, and construction has not commenced.

The development permit (July 1997) has a variance in place as the garage is located in the front half of the yard. One condition required that a single family dwelling be constructed and attached to the garage within a three year period (by July 19, 2000)

Ms. Becker-Brooks stated that this is not a legal non-conforming use. It is not grandfathered. The development permit was issued with the condition that a single family dwelling, attached to the garage would be constructed. She notes that according to the Summer Village of West Cove garages are not permitted on vacant lots.

In the application submitted in 1997, the site plant shows a future dwelling and the appellants represent that they are going to build a single family dwelling.

Ms. Becker-Brooks provided an overview of the timelines and noted that 13 years have passed and there is no house built. She also pointed out that, in regard to the memo from Mr. Markovich of New Era Municipal Services to Dennis Evans CAO, SV of West Cove, dated March 20, 2003, recommending a passive approach and no course of enforcement, Ms. Becker-Brooks noted that enforcement can happen after a period of time at the discretion of a municipality.

- May 2001 – further attempts to resolve the Muir / Miller situation
- June 2001 – the Deputy Mayor wanted to set dates to discuss the garage issue
- January 16, 2003 – Mayor Twible spoke to Mr. Markovich noting the permit had lapsed and that no enforcement and no steps would be taken at the present time. It was noted that Loretta Muir was a councillor at that time
- January 31, 2003 – Minutes of this council meeting state that after a report from Dennis Evans (CAO) about a similar request to the Muir/Miller property, and Ms. Muir, a councillor at that time moved to refuse the application for a garage to be placed in the front of the yard as it did not meet the spirit or intent of the land use bylaw.

Ms. Becker-Brooks stated that it is very clear that there is a breach. Nothing has been done for over 10 years. The board could agree to extend the time frame as the time frames on the Stop Order were very short.

In the submissions from the Appellants, Ms. Becker-Brooks stated that this is not Issue Estoppel because the issue has not been decided and cannot apply in this case. There has not been a final determination, it is information only, there has been no resolution voted.

Regarding the affidavits that have been submitted by the Appellants, from Pat Twible (mayor in 2003) and Dennis Evans (CAO 2003), the Affidavits are contradictory to the minutes. There is no motion in the minutes saying that council made a decision about the garage.

The numerous other Affidavits, signed by the Appellants neighbours and other West Cove rate payers, that state the neighbours have no problem with the garage is not relevant. The appeal is about the land use bylaw.

We are not deciding if a permit should be granted. The issue is that there is a breach of the development permit. Extend the time required or remove the garage.

There are also points in the Appellants Submissions that indicate this is a targeted enforcement. Ms. Becker Brooks pointed out that the Summer Village of West Cove's Administrator, Anita Blais has issued 8 to 9 stop orders/letters prior to this Stop Order.

There was a public meeting in June of 2014 to consider allowing garages on lots without a house.

This is the longest standing infraction and that is why it needs to be dealt with.

Chairman Kassian asked for questions from the Board. There were no questions.

Questions from the Audience:

Eileen Agnew asked where the minutes of the public meeting were.

It was explained that it was a public meeting that became very vocal, with many people speaking at once, it was impossible to take minutes.

Debbie Bishop (counsel for the Appellants) asked that if this is complaint driven, why there is nothing filed.

Anita Blais responded that there was an oral complaint from Don and Wendy Henderson made in the fall of 2012 as they had a similar development issue and wondered why others could do what they do, but the Henderson's could not.

There was also another verbal complaint, but the individual did not want their name revealed. Ms Blais asked for legal advice in August of 2014 to determine if time was an issue.

Debbie Bishop – In December or January did the Summer Village pay a legal bill of \$12,000? Many are concerned about tax dollars.

Kelsey Becker-Brooks responded that the question is irrelevant.

Lynn Worden said that she supports the Stop Order. There is a need to enforce the bylaws and comply with the bylaws.

Debbie Bishop asked if Ms. Worden is the sister of Anita Blais. Lynn Worden responded that she did not feel the question is relevant and that she is Anita Blais' sister.

APPELLANT
PRESENTATION:

Debbie Bishop, counsel for the Appellants started by stating that the Stop Order received on October 9, 2014 by the Appellants was had very tight timeframes and came as a surprise because there had been no notice for 11 years.

The time frames outlined in the Stop Order were impossible to comply with and because of these timeframes, Ms. Muir concluded this was retaliation.

Ms. Muir and Mr. Miller canvassed all their neighbours on 8th Street and no one complained about the garage. They both thought that the Development Officer had dealt with this back in time.

June 4, 1997 – A letter from Mr. Ron Miller to New Era Municipal Services stated that a garage is to be the only building on the property. The memo from New Era Municipal Services to Council stated that a dwelling will be constructed on the property, but this is only speculation.

July 3, 1997 – a development permit was issued, with a three year time frame to construct a single family dwelling that is attached to the garage

January 26, 2001 – Letter from Loretta Muir and Ron Miller to Lyle Markovich (Development Officer) explaining that they do not have access to \$2000 to post a performance bond as requested.

In 2001, Ms. Muir and Mr. Miller asked for an appeal. Had this gone forward there would have been an Appeal Hearing, however, there was no action taken.

In 2002 the garage was brought forward at a Council meeting and Council decided to look into it again.

In 2003 a memo from Mr. Markovich to Dennis Evans (CAO) , Mr. Markovich advised that they need not address the issue further as it could be costly divisive and wouldn't appear to serve a purpose. He recommended to weigh

the benefits as there is no danger to public and that he leans toward non-enforcement and a passive approach.

This opinion was accepted by Council. Mayor Pat Twible in a sworn Affidavit stated "I understood that Council decided that this matter was completed". Ms. Bishop asked do we dispute meeting minutes over sworn affidavits. Council accepted the Development Officer's advice.

Ms. Bishop advised that there are numerous sworn Affidavits, emails and written statements from folks on 8th Street. There are no concerns on the entire block.

The MGA states that at the Board's discretion a decision can be made and that a variance is at the Board's discretion. Section 687(3) of the MGA allows that even if the issue does not comply with the land use bylaw, the Board can make a decision.

There are 2 ways to grant a variance. If the Development Officer made that decision, it is judicial in nature and cannot be raised again.

Board must consider that this question has been decided in the minutes, in the memo from Mr. Markovich and in the Affidavits.

CALL FOR OTHERS
TO SPEAK ON THE
APPEAL:

Ms. Bishop noted that there is also one letter from a former councillor, Lindsay Familton stating that she felt it was common knowledge that this garage was approved by the Council of the time.

Ron Miller (Appellant) read a statement that covered the timeline of the garage and mentioned new bylaws (Aug 11, 2014), MGA 687 and that it has been an 11 year interval. On the 2nd page of Mr. Miller's statement, there are 8 points that refer to other issues.

Ms. Becker-Brooks objected to these points and stated they were irrelevant to the hearing. The Board needs to make a decision and discount the 8 points in Mr. Miller's statement. They are not relevant to the Stop Order.

Ron Derworiz read his statement of support to the appeal.

Brice Richard read his statement that covered the beauty of the lot and not being able to understand why after many years this issue has been brought to the fore. When Mr. Richard began to speak in respect of Ms. Blais, counsel for the Summer Village of West Cove, Ms. Becker-Brooks objected again that this portion of the statement was irrelevant to the hearing.

Sandra Benford (Board Member) stated that the statements should be directly related to the hearing.

John Harvard stated that there are times when a development permit may or may not be obtained. He said that he wanted to see a summer village that all people can enjoy.

Dave Breton (Councillor SV West Cove) read his written statement outlining that he is a Councillor for the Summer Village of West Cove and is familiar with land use issues. Mr. Breton's statement then went into allegations of punitive measures and Ms. Becker-Brooks objected to these statements. Mr. Breton continued to speak to the community spirit of Muir/Miller. Requested that the Board decide in favour of Muir/Miller.

Chairman Kassian announced that speakers must not bring in personalities in their statements. He also stated that Mr. Miller, Mr. Richard and Mr. Breton's written statements have irrelevant portions that need to be stricken, and copies of each of the statements with the stricken passage(s) must be signed by the writer and left with the Board Secretary.

Madi Madiyalakan spoke about the taxes in regard to this hearing.

Sona Zakravsky also spoke about the amount of tax payers money going to lawyers.

Dwight Pawelek – He has no complaints.

Chairman Kassian asked if the Board have any questions. There were none.

SUMMARIES:

Kelsey Becker-Brooks that the Board must determine if the Stop Order will be upheld by taking into consideration that there is no development permit because conditions have not been met. The question is: Is there a breach that will uphold the Stop Order?

Ms. Becker-Brooks stated that the Affidavits are irrelevant, it is easy to be swayed, but the point to remember is that this Property does not comply with the land use bylaw.

Everybody needs to be compliant. There seems to be a precedent that if you're on Council they don't enforce against you. For the lion's share of the time period the Muir/Miller Property was not enforced, Ms. Muir was on Council.

With respect to Ms. Bishop's comment that the \$,2000 performance bond had no connection to garage being taken down , please refer to tab 5, the letter of Dec 8, 2000, performance bond be posted in order to cover the costs of removal of the garage.

Ms. Becker-Brooks does not give weight to the Affidavits submitted by Pat Twible and Dennis Evans. The Affidavits indicate that the decision came as the result of the New Era Municipal Services memo and from the recommendations of that memo Council took no action. The minutes of January 2003 state there

was a decision, the memo came after Council's decision. The dates don't line up.

Ms. Becker-Brooks stated that the Affidavit from Mr. Dennis Evans be ignored. She would like to cross-examine him, but it was determined he was not present.

Ms. Debbie Bishop suggested an adjournment of the hearing so that Ms. Becker-Brooks could speak with Dennis Evans.

The decision is not final, there was nothing said as Ms. Muir was on Counsel, back in 1997 when there was a permit, it could have been appealed.

The test that is in front of the Board is: Is there a breach?

The evidence from neighbours is not relevant.

The Summer Village of West Cove board would not be opposed to extending the time frame of the Stop Order.

Chairman Kassian asked for questions from the Board. There were no questions.

Debbie Bishop requested a 10 minute break.

The hearing resumed after the break and Debbie Bishop presented the summary for the Appellants.

Ms. Bishop stated that the Langley case presented by Ms. Becker-Brooks is of no relevance to this hearing. It was in a BC Court of Appeal.

Issue of Estoppel makes a Stop Order not valid. Two cases in the Appellants Submission demonstrate that the law recognizes the Issue of Estoppel.

The Development Officer's decision on this Property was final. Ms. Muir says that she was on Council and for the years she was on Council, she would have abstained from any decisions regarding her Property.

Chairman Kassian asked if the Board had any questions. There were no questions.

Chairman Kassian asked if the persons who made representations feel that they had a fair hearing.

All persons who made representations answered yes.

Chairman Kassian then concluded the Hearing at 5:09 pm.

Signed: _____
SDAB Chairman, Harry Kassian

Signed _____
SDAB Secretary, Debbie Appleby

SUBDIVISION AND DEVELOPMENT APPEAL BOARD
SDAB HEARING DECISION
Hearing: January 17, 2015
Stop Order Issued October 9, 2014
File: 2014-001

Decision

For the reasons outlined below, the Board approves the appeal

Background and Findings

The Subdivision and Development Appeal Board (the "Board") heard an appeal by Armen Resler and Eleanor Resler and Kevin Zeiner and Lori Zeiner regarding a Stop Order dated October 9, 2014 with respect to lands described as Lot 8 Block 10, Plan 6983 KS, 808-8th Street, Roll 1156 within the Summer Village of West Cove. (the "Property").

The Board heard from counsel for the Appellants, Jerritt Pawlyk, speaking in favour of the appeal and Kelsey Becker-Brooks, counsel for the Summer Village of West Cove.

Both counsellors provided coil bound submissions that included materials relevant to their discourse. See:

Written Submission of the Development Authority for the Summer Village of West Cove

Written Submission of the Appellants Kevin and Lori Zeiner and Armen and Eleanor Resler

The decision of the Board is based on the following:

1. Section 643, 15.3(1) states that if appellant produces sufficient evidence to raise a doubt about whether his case falls within section 643, that doubt should be resolved in his favour.
2. The Bylaws of the Summer Village of West Cove in 1979 presented at the hearing are incomplete and provide reasonable doubt due to the lack of signatures, lack of dates and lack of readings of the Bylaw.

Therefore the Board concluded that the Appellants appeal be approved.

Moved by Sandra Benford, motion carried unanimously.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD
Summer Village of West Cove

SDAB Chairman, Harry Kassian

SDAB Secretary, Debbie Appleby

January ____, 2015

SUBDIVISION AND DEVELOPMENT APPEAL BOARD
SDAB HEARING DECISION
Hearing: January 17, 2015
Stop Order Issued October 9, 2014
File: 2014-002

Decision

For the reasons outlined below, the Board approves the appeal and grants the Appellants a variance:

Background and Findings

The Subdivision and Development Appeal Board (the "Board") heard an appeal by Loretta Muir and Ron Miller regarding a Stop Order dated October 9, 2014 with respect to lands described as Lot 9 Block 10, Plan 6983 KS, 809-8th Street, Roll 1158 within the Summer Village of West Cove. (the "Property").

The Board heard from counsel for the Appellants, Debbie Bishop speaking in favour of the appeal and Kelsey Becker-Brooks, counsel for the Summer Village of West Cove.

Both counsellors provided coil bound submissions that included materials relevant to their discourse. See:

Written Submission of the Development Authority for the Summer Village of West Cove

Submission of the Appellants Loretta Muir and Ron Miller

The Board acknowledges that there is a breach of Development Permit 97DP03-37, Plan 6983 KS, Block 10, Lot 9, 809-8th Street, Summer Village of West Cove, the decision of the Board is based on the following:

1. Based on the time that has passed and that this issue was not addressed for many years, the MGA allows a variance be made under 687(3) of the MGA.
 - (d) may make an order or decision or issue or confirm the issue of a development permit, even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere wityh or affect the use, enjoyment or value of neighbouring parcels of land,

Therefore the Board concluded that the Appellants appeal be approved and grants a variance.

Moved by Sandra Benford, motion carried unanimously.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD
Summer Village of West Cove

SDAB Chairman, Harry Kassian

SDAB Secretary, Debbie Appleby

January _____, 2015