

AGENDA

INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD (ISDAB)

COUNCIL CHAMBER, LEDUC COUNTY CENTRE, NISKU

Friday, January 20, 2023

1. Order and Roll Call – 9:00 a.m.
2. Organizational meeting of the Board
 - a) Nomination of Chair
 - b) Nomination of Vice Chair
3. Agenda Adoption
4. Previous minutes - Intermunicipal Subdivision and Development Appeal Board Meetings
 - December 9, 2022 Stop Order, Roll #396030
5. Subdivision and Development Appeal Hearing SDAB 07-2022 (continuation of hearing)

* a) 9:00 a.m.

Apellant(s)	Roozbeh Ayaghchi, Bhareh Ayaghchi and Danielle Mucha
Landowner's name	Roozbeh Ayaghchi and Bhareh Ayaghchi
Leduc County Municipal Roll #	396030
Legal description of subject property	Lot 1, Block 2, Plan 132 3619
Municipal address	23251 Township Road 484, Leduc County
Nature of Stop Order	Developments without a development permit
Development permit application #	n/a

6. Next meeting date - to be determined
7. Adjournment



Legend

* Items Attached To Agenda

** To be provided

MINUTES OF THE INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON FRIDAY, JANUARY 20, 2023 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.

Order and Roll Call

The meeting was called to order at 9:04 a.m., Friday, January 20, 2023 by Clerk Joyce Gavan with board members Rick Thomas, Larry Wanchuk, Gerd Andres and Pat Rudiger present.

Present as well were the following:

- Miranda Anderson, Recording Secretary
- Charlene Haverland, Manager - Development Services
- Karen Mercer, Planner - Development Services
- Alifeyah Gulamhusein, Brownlee LLP - legal counsel for Development Authority
- Daina Young, Reynolds Mirth Richards Farmer LLP - legal counsel for ISDAB
- Danielle Mucha, Appellant
- Roozbeh Ayaghchi, Appellant (*via Teams*)
- Greg Barker, Peace Officer, Leduc County Enforcement Services (gallery)
- Clarence Nelson, Director, Leduc County Enforcement Services (gallery)
- Renee Drover, Bylaw Enforcement Officer, Leduc County Enforcement Services (gallery)

Organizational Meeting of the Board

Clerk Joyce Gavan indicated that in accordance with Bylaw No. 33-19 establishing the Intermunicipal Subdivision and Development Appeal Board, the Chair and Vice Chair are to be elected at the first meeting of each year.

Nominations for Chair

Clerk Gavan advised that Mary-Ann McDonald is absent for the meeting today, however indicated her willingness to put her name forward as Chair for 2023.

Clerk Gavan called for nominations for the position of Chair of the Intermunicipal Subdivision and Development Appeal Board.

Board member Andres nominated Board member McDonald as Chair.

Nominations Cease - Chair

01-23 Board Member Wanchuk -- that nominations cease for Chair of the Intermunicipal Subdivision and Development Appeal Board.

Carried

Appointment of Chair

Clerk Gavan declared Board Member McDonald elected, by acclamation, as Chair of the Intermunicipal Subdivision and Development Appeal Board.

Nominations for Vice Chair

Clerk Gavan called for nominations for the position of Vice Chair of the Intermunicipal Subdivision and Development Appeal Board.

Board member Wanchuk nominated Board member Thomas as Vice Chair.

Board member Thomas nominated Board member Rudiger as Vice Chair.



Secret ballot elections and Scrutineers

02-23 Board member Thomas -- that the Intermunicipal Subdivision and Development Appeal Board (ISDAB) conduct a secret ballot vote for the determination of Vice Chair, and appoints Joyce Gavan and Miranda Anderson as scrutineers.

A secret ballot vote was conducted for Chair.

Appointment of Vice Chair

Clerk Gavan declared Board Member Rudiger elected as Vice Chair of the Intermunicipal Subdivision and Development Appeal Board.

Destroy ballots

03-23 Board member Andres -- that the ballots be destroyed.

Carried

Assume Chair

Vice Chair Rudiger assumed the Chair in Mary-Ann McDonald's absence.

Agenda Adoption

04-23 Board member Thomas -- that the agenda for the January 20, 2023 Intermunicipal Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

Adoption of Previous Minutes - December 9, 2022

05-23 Board member Thomas -- that the December 9, 2022 Intermunicipal Subdivision and Development Appeal Board minutes be confirmed as circulated.

Carried

Appeal by Roozbeh Ayaghchi and Danielle Mucha - Stop Order issued for Developments without a development permit, located at Plan 132 3619, Lot 1 at 23251 Twp Rd 484, Leduc County, Alberta, Roll #396030

Chair Rudiger called the hearing to order at 9:09 a.m. and asked those in attendance to introduce themselves.

Chair Rudiger called upon the Clerk to introduce the subject of this appeal.

Joyce Gavan, Clerk, advised of the appeal by Roozbeh Ayaghchi and Danielle Mucha, relating to a stop order issued by the Development Authority for developments without a development permit, located at Plan 132 3619, Lot 1 at 23251 Twp Rd 484, Leduc County, Alberta.

The reasons for appeal submitted by Roozbeh Ayaghchi and Danielle Mucha within the notice of appeal received Nov. 25, 2022 stated the following:

- 1) False claims and slander - we are not operating a kennel. This is our home and our dogs are our personal pets.



- 2) We stopped rehoming our dogs because we no longer had a valid kennel license. This has been for almost two years. We have spayed all of our females and neutered almost all of our males.
- 3) The outdoor “kennels” - to us they are dog runs/backyards will be impossible to move in the winter as they’re frozen in the ground. Even in the summer they are challenging to dismantle because they are so grown-in into the ground.
- 4) The pen that is 87 meters away/closest to neighbors is not used. We had already discussed during the inspection that we have never used that pen for a dog because we had a pig in there that had mange. To which that pig passed away over three years ago. No dogs have been in there or near so that pen should not even be considered or recorded.
- 5) The cat pen was a chicken/pigeon coup. Should not be labelled for dogs.
- 6) We cannot help but feel that you guys pressured us to apply for a kennel license, knowing we would not get approved (your words Karen), so that you could kick us out of our own land.
- 7) We have communicated countless times that we are not a kennel and no one seems to comprehend.

Clerk Joyce Gavan advised the following submissions are provided as part of the hearing package for the Board:

- 1) Appeal received November 25, 2022 by Roozbeh Ayaghchi and Danielle Mucha.
- 2) Notice of Stop Order issued November 23, 2022.
- 3) Notice of continuation of Intermunicipal Subdivision and Development Appeal Board Hearing dated December 14, 2022.
- 4) Development Authority’s submission
- 5) Appellant’s submission - Roozbeh Ayaghchi and Danielle Mucha

The Board confirmed the appeal was submitted properly and is acceptable to the Board.

Chair Rudiger asked if any board members felt a need to step down from this hearing within the boundaries of conflict of interest, and there was no one.

Chair Rudiger asked if anyone had any objection to any of the members of the Intermunicipal Subdivision and Development Appeal Board hearing this appeal, and there was no objection indicated.

Chair Rudiger explained the purpose of the hearing, the order of presentations, and the procedures to be followed.

Chair Rudiger then called upon the Development Authority to provide background information.

Alifeyah Gulamhusein, Brownlee LLP - legal counsel, on behalf of the Development Authority (Karen Mercer, Planner - Development Services) provided a presentation relating to the stop order issued by the Development Authority, highlighting the following:

- Introduced the file, relevant legislation, and history.
- Summarized the Development Authority’s submission on page 13 of 95 of the agenda package.
- Raised preliminary matter that on the agenda, the appellants are listed as Mr. Roozbeh Ayaghchi, Ms. Danielle Mucha, and Ms. Bhareh Ayaghchi. It was noted that while Ms. Bhareh



Ayaghchi is listed as a landowner, she did not appeal the stop order, and so the appellants are only Roozbeh Ayaghchi and Danielle Mucha. The certificate of title can be viewed on page 24 of 95 of the agenda package.

- In order to issue a stop order under section 645 of the *Municipal Government Act* (MGA), the Development Authority must find a breach of the Land Use Bylaw (LUB). The Development Authority can then issue an order to the landowner, the person in possession, the person in contravention, or to any or all of them. In this case, the stop order was issued to one of the landowners and the persons in possession or responsible for the contravention.
- A stop order must be issued in writing, made and issued on the same day, and must specify what is needed to comply. Noted that this stop order meets all of these requirements can be viewed on page 19 of the agenda package.
- Relevant sections of the LUB can be viewed in Exhibit D, pages 14-16 of the agenda package.
- With respect to the LUB, these lands are in the *Agricultural District*. In that district, a kennel is a discretionary use and requires a valid development permit in accordance with section 9.1.3 and must meet the development regulations in the LUB, section 7.20.
- The definition of a kennel is identified on page 16 of the agenda package.
- The Development Authority has concluded that there is a breach of the LUB, which is why the stop order was issued.
- History of file:
 - There is no development permit for a kennel on the lands currently.
 - In November 2018, a landowner applied for and was issued a conditional development permit for two years to facilitate the rehoming of 36 dogs that were on the land at the time. Page 46 contains the conditional kennel permit.
 - On page 48 of the agenda package, the application states a desire to rehome the dogs, so a temporary permit was needed. The business information notes that it was going to operate from 7:00 a.m. – 9:00 p.m. 7 days per week. It noted that there would be two employees with occasional volunteers, and that there is one motor vehicle associated with the business. It also lists the 36 dogs that they were planning to rehome. This is viewable on pages 46 – 50 of the submission.
 - On April 2, 2021, the permit expired. The stop order notes a March date and there has been some confusion over when it expired. One of the dates was when the permit was issued, and the other was when it became effective. Ultimately, the permit expired in March or April of 2021 and there is no permit.
 - On October 27, 2021, the appellants applied for a new development permit for a kennel, application D21-336 (exhibit F). In that application on page 56, it includes in the business information that they intend to kennel 21 dogs. The business will be called “Pitty Pals,” and will operate from 7:00 a.m. – 9:00 p.m. 7 days/week with one employee. The application was deemed refused in June 2021 because it was not complete (a function of the MGA).
 - In October 2022, there was an incident whereby a young child is attacked by a dog that is known to be owned by the appellants and is from the lands. The incident itself is not germane to the appeal, but it led the Development Authority to do an inspection of the lands.
 - After conducting the inspection in October 2022, the Development Authority issued a stop order, which speaks to the lack of development permit and seeks to have the recipients of the stop order remove/rehome the dogs and remove the infrastructure for the kennel, which includes the dog runs and dog pens.



The Development Authority (Karen Mercer, Planner - Development Services) reviewed her PowerPoint (exhibit H) and outlined her findings from the inspection. In addition to the information contained in the submission, Ms. Mercer provided the following points:

- Based on information in County records, it is the Development Authority's understanding that due to passing of the previous owner of approximately 50 pit bull dogs and the subject lands, the appellant Roozbeh Ayaghchi and his sister, Bhareh Ayaghchi (preferred name Ashley), took on the care of the dogs and were seeking to rehome them.
- In January 2019, Ashley Ayaghchi submitted an application for a kennel to allow the opportunity to care for dogs until they could be rehomed or until they passed away. Ashley indicated that there was no intention to breed the dogs.
- With consideration given to the situation, and to allow time to rehome dogs, a permit was issued that stipulated no breeding or boarding of other people's dogs was allowed to occur. This permit expired on April 2, 2021.
- In November 2021, the appellants applied for Development Permit application D21-336, which was denied as an incomplete application in June. There was no appeal to this decision.
- Ms. Mercer gave an overview of the October 2022 inspection (page 73 of the agenda package).
- Ms. Mercer provided the site plans (pages 75 – 78 of the agenda package).
- Following the site inspection and a thorough review of planning records, the Development Authority decided that it constitutes a kennel and issued a stop order for the removal of the kennels and dogs.
- Ms. Mercer gave an overview of Facebook posts for Pitty Pals (page 83 – 99 of the agenda package).
- Ms. Mercer expressed that she wanted to highlight Exhibit G, Attachment D, identifying the location of the kennel that's not in use in relation to the closest dwelling, which is 87 metres. It was noted that while it was not in use, it could be, and it was on the subject lands.
- Ms. Mercer shared an air photo overlay (page 78) and the site inspection photos (pages 79 – 82) from the presentation.
- Ms. Mercer concluded the presentation with a slide defining a kennel as per the definition of the LUB. It has been determined that there is a kennel being operated on the lands and that the stop order was issued properly and should be upheld.

Chair Rudiger asked if there were any questions by the Board members of Development Authority staff.

In response to questions from Board members, the Development Authority advised of the following:

- The definition under the LUB does not specify number of dogs, it specifies the uses (breeding, boarding, caring or training of dogs).

Chair Rudiger called upon the appellant(s) to speak to the stop order.

Danielle Mucha, appellant, noted that their presentation is included in the agenda package. Additionally, she provided the following:

- Regarding the Facebook posts, there is a difference between what a person says and what a person does. There was one breeding and it took place off the property in Edmonton.



- No dogs were sold without a kennel license. Ms. Mucha posted the ads and Mr. Ayaghchi had no knowledge that she was posting. Ms. Mucha didn't know when the kennel license expired and there was a miscommunication between them.
- Ms. Mucha noted that the whole situation has been very confusing, and their intention has always been to do their best for the dogs.
- Ashley (the other landowner) had a temporary kennel license and decided to move on. Ms. Mucha and Mr. Ayaghchi decided to take over the property and rehome some of the dogs.
- Ms. Mucha made the Facebook posts, but there was never any selling. Any time they sold a dog they posted on Facebook with a picture and have contracts to support when they were sold/rehomed.
- They didn't decide to come to the property and bring dogs and pens. They had no idea what they were doing; it was a confusing situation.
- The County told them they needed kennel license, but it was unclear why they needed one.
- Ashley Ayaghchi was the only name on the original license.
- The County kept telling them they need a kennel license. They applied for one, but the application was incomplete. It was very confusing, as the application asked about employees. They were told to put themselves as employees. It mentioned a muster point, but it was their family home.
- When the application was rejected, they didn't appeal, and thought it was closure. They thought it was clear they didn't need a kennel license because they weren't operating a business.
- The County definition they received was a little different than the one presented by the Development Authority (see appellant submission, attachment C on page 93 of the agenda package). The Development Authority's definition didn't state anything about the selling of dogs.
- "A facility engaged in the business or recreation of breeding, boarding, and selling of dogs" was the definition that they were given.
- They did breed after the temporary kennel license expired but did not breed onsite. They made no money and it was to satisfy a contract the original owner (deceased brother) had. Ms. Mucha and Mr. Ayaghchi didn't realize they didn't have to uphold the brother's breeding contracts.
- With respect to the October 2022 incident, Ms. Mucha clarified that their dog did not attack a child, it attacked a Yorkie dog.
- Ms. Mucha and Mr. Ayaghchi want to come to agreement with the County; they don't want to be out of compliance.
- Currently, they have 17 dogs, and it is difficult to take care of them all. They have stopped rehoming. They didn't rehome privately because they didn't want to be perceived as a business, but want to resume as there are too many dogs to care for.
- Their outdoor structures keep moving because they are temporary. Ms. Mucha and Mr. Ayaghchi are confused why they are in the stop order. In all of the definitions they have read, it has nothing to do with those structures, but they have no issue taking them down. In summer it's nice to enclose the dogs but they can take them down once the ground thaws.
- Ms. Mucha and Mr. Ayaghchi would love to privately rehome the dogs.



Roosbeh Ayaghchi, appellant, provided the following additional comments:

- The whole time they have been trying to be compliant. When Ms. Mucha made the Facebook posts, they were in the process of submitting their application and he thinks that's why she thought it was ok to post.
- He has also been very confused. His sister Ashley was the one who wanted to have a kennel. It was thrown in their laps and they are just trying to take care of the dogs.
- It was never clear what was needed to be done to be in compliance, they were just told to reapply.

Chair Rudiger asked if there were any questions by the Board members of the appellants.

In response to questions from Board members, Mr. Ayaghchi advised of the following:

- They inherited 50 dogs. The intent of the initial application was to rehome many of the dogs. It has proven very difficult to find good homes.
- His sister gave up trying to find them homes and Mr. Ayaghchi and Ms. Mucha didn't know when the permit was going to expire.
- They had no intention of breeding. The only reason they went to breeding was because former customers of his brother's contacted them saying they bought a dog from the deceased brother and there was a contract to breed. Mr. Ayaghchi and Ms. Mucha ended up paying for the pups' parvo treatments and one of them died.
- They were never trying to run a kennel or a business. The only reason that there were employees listed on their application is because they were told by the County that they needed to have it on there.
- They were told by Bylaw Enforcement and the Development Authority they had to apply for a kennel permit and they were confused about what aspects classified them as a kennel, and what they would need to do to no longer be classified as a kennel. They are still confused because there is no specified number of dogs allowed. They were also told they wouldn't get the permit because there was a multi-lot subdivision close by, so it made no sense to them why they were being asked to apply.

In response to questions from Board members, Ms. Mucha advised of the following:

- Their appellant submission shows the documentation that they received from the Development Authority, including the definition that was provided to them.

Ms. Gulamhusein provided the following clarification on behalf of the Development Authority:

- There are two definitions of "kennel." The definition that Ms. Mercer referred to and which is included in the Development Authority's presentation is from the LUB, and the stop order was issued in relation to a breach of the LUB. The other definition differs slightly and is from the County's Animal Control Bylaw.
- Ms. Gulamhusein also wanted to clarify that we are talking about not having a development permit. As part of the application for a development permit, in section 720(7), it lists all the development regulations if you have a kennel. One of the regulations in the LUB is you must also get a kennel license under the Animal Control Bylaw. Therefore, if you get a development permit for a kennel, you will also need to apply for a license under the Animal Control Bylaw, where a different definition



of “kennel” applies. Neither are currently in place. “License” and “permit” have been used interchangeably, but the only thing that applies is the definition under the LUB which has been included in the Development Authority’s materials.

In response to questions from Board members, Mr. Ayaghchi advised of the following:

- Bylaw Enforcement told him he was out of compliance and needed to renew his kennel license. When he went to apply, he was told they would use all of this sister’s previous information to reapply. When they submitted it, Ms. Mercer told them this was not what was needed to apply for a kennel. He applied only because Bylaw Enforcement told him he had to.
- He did not spend time looking into what was needed to get into compliance because there was a lot going on. They were in the middle of renovating when this was brought forward. They were not trying to have a kennel and breed dogs, they were just trying to be in compliance and have their own pets.

In response to questions from Board members, Ms. Mucha advised of the following:

- They did not do their due diligence at the beginning. When Mr. Ayaghchi brought home paperwork it didn’t make sense and was a lot of work when they were not trying to have a business. They assumed Ashley got the license and it wouldn’t be difficult to take over. It wasn’t until they were doing the application that they started doing more research.
- The application got to be too much as they are not a kennel, so it was then processed as incomplete.

Chair Rudiger asked if there was anyone who wished to speak in support of the appeal (opposed to the issuance of the stop order) and there was no one.

Chair Rudiger asked if there was anyone who wished to speak against the appeal (in support of the issuance of the stop order) and there was no one.

Chair Rudiger asked if there were any written submissions and the Clerk confirmed there were none.

Chair Rudiger called upon administrative staff to provide final comments.

Development Authority representative Alifeyah Gulamhusein provided the following final comments:

- Historically, this was an unfortunate situation; nonetheless, the County is the regulator of development and the question is whether there was compliance with the LUB.
- The Development Authority can appreciate that there is confusion when it comes to these matters, but ultimately this can’t be a reason to allow non-compliance.
- The Development Authority appreciates that in the appellant’s submissions they noted that they are willing to remove the pens and runs (infrastructure), which is a step towards compliance if they don’t get a development permit, but there is still the issue of the dogs.
- There is a question of the original 2019 application and what they were trying to get. Looking at exhibit E, under *Business Information*, it states that they will be taking care of the 36 dogs, finding the majority new homes and giving a home to the remainder until they pass away.



- There have been comments by Ms. Mucha stating that there was no breeding, but then she spoke of breeding contracts. She said they weren't selling the dogs on the lands, but in the Facebook postings, it talks of selling dogs. The summary of the Facebook postings shows adult dogs for sale, that they were considering another breeding, and dogs for sale in July and August.
- Most importantly, on October 15, 2021, there was a lengthy post that says "we want to respond to what's happening. Pitty Pals is a kennel, dogs were being bred and sold. Although breeding has stopped, selling continues. Dogs were purchased from between \$8K - \$14K USD and dogs are from the best bloodlines."
 - The Development Authority included this info because the Facebook posts continue. The language has changed to remove breeding and selling, but states they are looking at finding forever homes.
 - There is no language in the LUB definition of "kennel" that includes selling. Boarding dogs is caring for dogs that are not your dogs. If they are rehoming the dogs, it is in the estimation of the Development Authority, who is the person who deals with and makes decisions about the LUB, that this is a kennel. It doesn't just have to be about the sale of dogs.
- There is confusion about some of the commentary:
 - The commentary in the written submissions and at this hearing that they never sold dogs is not accurate.
 - Additionally, regarding the commentary about filling in the application because they were told to and were confused, there was a conscious decision to put one employee, not zero, because they both live there.
 - They stated that they are rehoming and not a business, but then the comment was made that there is a lot of work and money involved.
- Ultimately, the position of the County is that this is a kennel under the definition of the LUB, and there is no permit.
- For the record, the Development Authority confirms it is correct that it was a dog that the child was holding that was attacked and not the child, and apologizes for misstatement that the attack was on the child. It is their understanding that the child was not hurt but was upset. While this is not germane to the hearing, investigations are complaint-driven, and this is why the inspection happened.
- They have stated in their submissions that they are willing to remove the infrastructure. The position of the County is that the stop order should be upheld, and the Development Authority acknowledges that if more time is needed that is reasonable. The recommended time extension is to March 1, 2023.

Chair Rudiger asked Board Members if they had any questions.

- In response to a question from a Board Member, the appellants indicated that of the 17 current dogs, seven dogs are theirs and one belongs to Mr. Ayaghchi's father. There are 9 remaining that were original dogs that they would love to rehome.
- Bylaw Enforcement told them that they should breed off property as someone is suing them to breed.



In response to a question from a Board member, Ms. Mercer advised the Facebook posts don't indicate the subject property.

In response to questions from Board members, the Development Authority advised of the following:

- Exhibit G, page 2, lists all of the animals currently in care, the ones that were sold/rehomed, and the ones that have passed away, and the ones who were stolen. This was obtained on the site during the site inspection. There were and are 17 dogs on the property.

Chair Rudiger asked Board members if they have any further questions, and there were none.

Chair Rudiger called upon the appellants to provide final comments:

Ms. Mucha provided the following closing comments:

- With respect to the 2019 temporary kennel license, it sounds like Ashley Ayaghchi was intending to rehome all the dogs, but it was just the intention to rehome the majority.
- Regarding the Facebook posts, the breeding done was offsite in Edmonton, and they never sold the dogs.
- Once they applied for a license, they didn't do their due diligence of what they needed. They did change their language on Facebook when they realized.
- They're not active on social media, and used terms like non-profit, breeder, and kennel without thinking of the official definitions for these. They did change the language at one time because it was false and not congruent with what they were doing at the time.
- They have gotten most dogs spade and neutered. The females are all spade, and they are not intending to breed.
- \$8K - \$14K is what the brother spent on the dogs, but they did not charge nearly that much and gave some for free to good homes.

Chair Rudiger asked if Board members had any questions for the appellants.

In response to questions from Board members, the appellants provided the following:

- The definition of rehoming is a dog going to another family. In some cases they took \$500 so people wouldn't take the dog for free and re-sell it themselves. They would consider it "selling" when it's a litter of puppies.
- If you give anything away for free, people won't value it. Rehoming vs. selling has a dollar amount associated to it.

Development Authority representative Alifeyah Gulamhusein provided the following comment:

- It hasn't been clear in the submissions that the appellants brought dogs with them.

Mr. Ayaghchi responded that they verbally told Bylaw Enforcement and the Development Authority about their personal ownership of some of the dogs.

Ms. Mucha responded that there were seven dogs that they brought to the farm and they spoke about it when there was a site inspection when Momo was quarantined for 14 days following the incident with the Yorkie.

Chair Rudiger asked the appellants, Roozbeh Ayaghchi and Danielle Mucha, if they felt they received a fair hearing, and they responded affirmative.

Conclusion of Public Hearing

Chair Rudiger declared the hearing concluded at 10:29 a.m.

Recess

The hearing recessed at 10:30 a.m. and reconvened at 10:36 a.m. with the following people in attendance: Chair Rudiger and Board Members Rick Thomas, Larry Wanchuk, Pat Rudiger and Gerd Andres.

Present as well were the following:

- Joyce Gavan, Clerk
- Miranda Anderson, Recording Secretary

In-Camera

06-23 Board Member Thomas -- that the Intermunicipal Subdivision and Development Appeal Board meet in-camera.

Carried

The in-camera session commenced at 10:36 a.m.

Revert to Intermunicipal Subdivision and Development Appeal Board Meeting

07-23 Board Member Wanchuk -- that the in-camera session revert to the Intermunicipal Subdivision and Development Appeal Board meeting.

Carried

The in-camera session reverted to the Intermunicipal Subdivision and Development Appeal Board meeting at 11:06 a.m.

Appeal by Roozbeh Ayaghchi and Danielle Mucha - Stop Order issued for Developments without a development permit, located at Plan 132 3619, Lot 1 at 23251 Twp Rd 484, Leduc County, Alberta, Roll #396030

08-23 Board Member Andres -- that the Intermunicipal Subdivision and Development Appeal Board disallow the appeal by Roozbeh Ayaghchi and Danielle Mucha to set aside the Stop Order and upholds the issuance of the Stop Order by the Development Authority dated November 23, 2022, with certain conditions being varied; and

that the Intermunicipal Subdivision and Development Appeal Board amends the Stop Order as follows:

1. By May 1, 2023 all dogs shall be removed; provided however that the occupants of the land, the appellants and/or any future occupants of the land shall be permitted to keep one or more personal dogs on the land upon providing the County with satisfactory information to confirm that the dog(s) belong to the individual in question.



2. All personal dogs that remain on the lands shall be kept in accordance with the Leduc County Land Use Bylaw and any applicable bylaws in effect from time to time.
3. By May 1, 2023 remove all developments and structures that support the use of the land of a Kennel, including but not limited to kennel structures, dog runs, pens, and barns. Any developments or structures intended solely for the purpose of personal dog(s) shall be permitted to remain so long as they are in compliance with the requirements of the County Land Use Bylaws and any other applicable bylaws in effect from time to time.

Preliminary matters

1. The Board is satisfied that the Stop Order complies with the technical requirements of Section 645 of the *Municipal Government Act*, and was received by Roozbeh Ayaghchi and Danielle Mucha, appellants; and Bhareh Ayaghchi, landowner(s), on the day it was made, and therefore was issued properly.
2. The Chair confirmed with the parties in attendance that there was no opposition to the composition of the Board.
3. The Board confirmed the appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

Findings of fact

1. There are generally 17 dogs on the lands under the care of the appellants. The appellants submitted that seven (7) of the dogs are their own dogs; one dog belonged to the father and then the remainder were “inherited” and were not Roozbeh Ayaghchi and Danielle Mucha’s personal dogs.
2. The subject lands are located approximately 8.7 km east of Highway 814 on Township Road 484. Directly north of this property is a multi-lot residential subdivision which consists of four residential lots registered at Alberta Land Titles.
3. Section 7.20.1 of the Leduc County Land Use Bylaw states *that a kennel shall not be permitted within or adjacent to a multi-lot residential subdivision or closer than 400m (1,312 ft.) from the boundary of a multi-lot residential subdivision.*
4. The lands are within the Agricultural (AG) District in which a kennel, which is not exempt from the requirement for a development permit, is a discretionary use subject to specific development regulations.
5. The definition of a Kennel, in accordance with the Leduc County Land Use Bylaw, is defined as *a facility used primarily for the breeding, boarding, caring or training of dogs and may include other small animal breeding and boarding services.*
6. The appellants submitted they were confused with the definition of Kennel as provided within the regulation, control and confinement of animals (dogs) Bylaw No. 22-05 which states *“kennel means a facility which is engaged in the business or recreation of breeding and/or boarding and/or selling dogs”.*
7. The appellants maintained they are not running a kennel business but trying to find homes for some of the “inherited” dogs and want to come into compliance with the County and move on with their lives while continuing to reside in the home that they made suitable for the family they have created.

8. The Leduc County Land Use Bylaw states that any kennel structure that is not in compliance shall be removed, specifically:
- Section 7.20.6 - *no building or exterior exercise area used to accommodate dogs shall be located within 30m (98 ft.) of any property line of the lot on which the kennel is located.*
 - Section 7.20.7 - *no building or exterior exercise area used to accommodate dogs shall be located within 90m (295 ft.) of any dwelling on an adjacent lot.*

Legislative framework

The Board considered the following legislation in making their decision:

Municipal Government Act (MGA)

Section 645 Stop Order

- (1) If a development authority finds that a development, land use or use of a building is not in accordance with
 - (a) this Part or a land use bylaw or regulations under this Part, or
 - (b) a development permit or subdivision approval, the development authority may act under subsection (2).
- (2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to
 - (a) stop the development or use of the land or building in whole or in part as directed by the notice,
 - (b) demolish, remove or replace the development, or
 - (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval, within the time set out in the notice.
- (2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.
- (3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

Section 646 Enforcement of Stop Order

- (1) If a person fails or refuses to comply with an order directed to the person under section 645 or an order of a subdivision and development appeal board under section 687, the municipality may, in accordance with section 542, enter on the land or building and take any action necessary to carry out the order.
- (2) A municipality may register a caveat under the *Land Titles Act* in respect of an order referred to in subsection (1) against the certificate of title for the land that is the subject of the order.
- (3) If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the order has been complied with.

Section 685 Grounds for Appeal

- (1) If a development authority



- (c) issues an order under section 645, the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

Leduc County Land Use Bylaw No. 7-08

3.11 Cancellation or Suspension of Development Permits

- 3.11.1 If any time after issuing a development permit, the Development Authority is aware that:
 - (a) the application of development contained a misrepresentation;
 - (b) facts which should have been disclosed at the time the application were not disclosed.

4.1 General Provisions

- 4.1.1 No person shall commence any development or take any action that is contrary to the provisions of the Bylaw or to any permit or order issued under it.
- 4.1.2 A Development Authority may enforce the provisions of the Bylaw, and any permit or order issued under it.
- 4.1.3 After serving reasonable notice, a designated officer may enter a property in order to verify that a contravention exists or that an action required under Section 4.2 of this Bylaw has been completed.
- 4.1.4 If a person fails to comply with an order issued under Section 4.2 of the bylaw, a designated officer may take whatever lawful action is necessary to ensure compliance.

4.2 Stop Orders

- 4.2.1 If a development, land use, or building is found to contravene provisions of this Bylaw or conditions of a permit or order issued under this Bylaw, a Development Authority may serve the landowner, occupant or other person responsible with an order to:
 - (a) stop the development or the use of the land or building in whole or in part as directed by the notice;
 - (b) demolish, remove, or replace the development, or ...
 - (c) carry out any other action required by the notice to ensure compliance with this Bylaw or the conditions of a permit or order issued under this bylaw.
- 4.2.2 An order issued under this section shall specify a date for completing the required action.

4.3 Enforcement of Stop Orders

- 4.3.1 The County may register a caveat against the Certificate of Title for land that is the subject of an order under Section 4.2 of this Bylaw. The caveat shall be discharged upon achieving compliance with the order.
- 4.3.2 Costs to the County resulting from enforcement actions taken to achieve compliance with an order under Section 4.2 of this Bylaw may be added to the tax roll of lands subject to the order.

4.4 Offences and Penalties

- 4.4.1 A person who contravenes or fails to comply with provisions of this *Bylaw* and any decision, condition or order made under it, or who obstructs or hinders any person in the administration or enforcement of this *Bylaw*, is guilty of an offence under the *Act*.
- 4.4.2 A person who is guilty of an offence under the *Act* is liable to a fine and/or imprisonment.

7.19 Home Based Business Type 3

7.19.4 A Home Based Business Type 3 shall not be permitted in a multi-lot residential subdivision (4 or more contiguous parcels for residential purpose(s) or within 400 m (1,312 ft.) of an existing multi-lot residential subdivision.

7.23 Outdoor Storage

7.23.1 (a) No person shall store goods, products, materials or equipment outside of a building unless the storage is subject of an approved development permit or deemed by the Development Authority to be an integral part of another use that has been approved or does not require a development permit.

Reasons for decision

In consideration of the above, the Board concludes:

1. Although the definition of Kennel was in question by the appellants Roozbeh Ayaghchi and Danielle Mucha, the Board concludes that the use of the land may be interpreted as a Kennel, which gives authority to issue a Stop Order in accordance with Section 645(1)(a) of the Municipal Government Act (MGA).
2. The Board is satisfied the lands are being used as a kennel as a number of dogs on the property are not the appellant's personal dogs and are being boarded and cared for, among other things, and as a result it is appropriate to uphold the issuance of the Stop Order, but vary the requirement for compliance in accordance with Section 645(2) of the MGA.

Decision

In consideration of the above, the Intermunicipal Subdivision and Development Appeal Board concludes the subject lands do not comply with Leduc County Land Use Bylaw No. 7-08 and accordingly, the appellant's Roozbeh Ayaghchi and Danielle Mucha are hereby ordered to **Stop** all unauthorized activities at the subject lands and comply with the Leduc County Land Use Bylaw 7-08 by taking the following actions:

1. By May 1, 2023 all dogs shall be removed; provided however that the occupants of the land, the appellants and/or any future occupants of the land shall be permitted to keep one or more personal dogs on the land upon providing the County with satisfactory information to confirm that the dog(s) belong to the individual in question.
2. All personal dogs that remain on the lands shall be kept in accordance with the Leduc County Land Use Bylaw and any applicable bylaws in effect from time to time.
3. By May 1, 2023 remove all developments and structures that support the use of the land of a Kennel, including but not limited to kennel structures, dog runs, pens, and barns. Any developments or structures intended solely for the purpose of personal dog(s) shall be permitted to remain so long as they are in compliance with the requirements of the County Land Use Bylaws and any other applicable bylaws in effect from time to time.

Other importation information for the appellants/applicant

- In the event that this Stop Order is not complied with within the time limit provided, Leduc County has the authority to enter onto the lands and take any action necessary to carry out this Stop Order,



in accordance with Sections 646 and 642 of the Municipal Government Act, and may seek an injunction or other relief from the Court of King's Bench of Alberta pursuant to Section 554 of the Municipal Government Act.

- Further, Leduc County has the authority to add the costs and expenses to carry out this Stop Order to the tax roll for the lands pursuant to Section 553.1(1) of the Municipal Government Act.
- This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26.
 - An application for leave to the appeal must be made to the Court of Appeal within 30 days after the issue of this decision and notice of the application must be given to the Intermunicipal Subdivision and Development Appeal Board and any other persons that the court directs.

Next Meeting

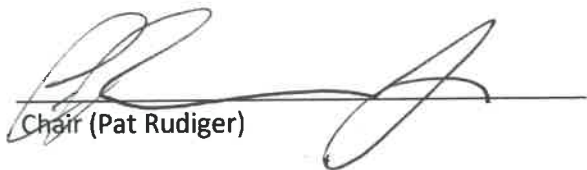
The next scheduled Intermunicipal Subdivision and Development Appeal Board meeting will be held at the call of the Chair.

Adjournment

09-23 Board Member Andres -- that the Intermunicipal Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Intermunicipal Subdivision and Development Appeal Board meeting concluded at 11:08 a.m.


Chair (Pat Rudiger)


Clerk