



NOTICE OF DECISION

FILE NO. **SDAB 2023-004**

APPEAL.: **An appeal against the issuance of a Stop Order for contravention of Land Use Bylaw No. 99/059 in relation to continued development after an expired Development Permit**

LEGAL DESCRIPTION: **Lot 2, Plan 942 0970**

CIVIC ADDRESS: **84S – 12868 Highway 881, Anzac, Alberta**

IN THE MATTER OF AN APPEAL filed with the Regional Municipality of Wood Buffalo Subdivision and Development Appeal Board (“the Board”) pursuant to Sections 685 and 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26 (“the Municipal Government Act”), the Appeal Hearing was held on Thursday, August 31, 2023, in the Jubilee Centre, Council Chamber, 9909 Franklin Avenue, Fort McMurray, Alberta.

BETWEEN:

Matthew Eisentraut, Fibre Recovery Systems (“the Appellant”)

-and-

The Regional Municipality of Wood Buffalo (“the Development Authority”)

BEFORE:

T. Tupper (Chair)
D. Cleaver
N. Mahgoub
A. McKenzie
T. Morris

Administration:

H. Fredeen, Clerk for the Subdivision and Development Appeal Board
S. Soutter, Clerk, Manager, Legislative Services

JURISDICTIONAL HEARING

[1] At a Jurisdictional hearing held on July 18, 2023, with consent of the parties present, the Board opened and set the hearing date as August 31, 2023.

[2] Following the introduction of the Board, the Chair confirmed with the parties in attendance that there were objections to the constitution of the Board. No objections were raised.

[3] There were no conflicts identified by the Board Members.

Preliminary Matters

[4] No preliminary matters were raised.

MERIT HEARING

Summary of Hearing

Submission of the Development Authority

[5] Legal Counsel for the Development Authority provided an overview of the matter before the Board, a Stop Order issued under section 645 of the *Municipal Government Act*. The Stop Order required the Appellant to stop using the lands as a Campground as there was no valid development permit issued for this use.

[6] Legal Counsel noted that under section 90.1L of the Land Use Bylaw a development permit is required, and the Appellant was given 90 days to comply with the Stop Order issued on June 21, 2023, for the lands located at 84S – 12868 Highway 881, Anzac, Alberta (the Subject Property).

[7] The Development Officer submitted that the Stop Order was issued for Surmont Creek Campground (the “Campground”) and is governed by Land Use Bylaw No. 99/059 (the Land Use Bylaw) and the Willow Lake Area Structure Plan Bylaw No. 15/006.

[8] A Development Permit, No. 2008-1724 was approved by the Development Authority on June 11, 2009, pursuant to section 90.1L of the Land Use Bylaw. Development permits for campgrounds are valid for three years. After which a development permit holder must submit a development permit application if they wish to continue with the use of their land. Development Permit No. 2008-1724 expired on June 11, 2012.

[9] The Development Office provided a chronology of events following the expiration of the Development Permit as follows:

- i. April 7, 2020 - A warning letter was issued for operating the Campground without a valid development permit and identified that action was required to remove infractions that were in contravention with the Land Use Bylaw. Infractions included non-commercial recreational vehicle skirting, accessory buildings, decks and additions and storage and parking of recreation vehicles which were not part of the original Development Permit.

-
- ii. July 27, 2020 – The Appellant submitted a renewal application for a Development Permit; however, he did not rectify the infractions.
 - iii. February 12, 2021 – A site inspection was conducted by the Development Authority who identified multiple infractions within individual recreational vehicle stalls and on the Subject Property including stockpiled materials, wooden additions, non-commercial skirting, unpermitted tanks, manufactured homes, unpermitted decks, accessory structures, outdoor storage, stockpiling including wrecked vehicles. Concerns regarding the Subject Property’s environmental integrity were also noted.
 - iv. August 4, 2022 – Another comprehensive site inspection was conducted on the Subject Property where the Development Authority noted many of the same infractions as noted during the prior inspection.
 - v. November 8, 2022 – A final comprehensive site inspection was conducted on the Subject Property and the Development Authority continued to voice concerns over the infractions that were raised during previous inspections.
 - vi. February 23, 2023 – The renewal application was deemed unsatisfactory and ultimately refused by the Development Authority.
 - vii. June 21, 2023 – The Stop Order was issued for continuing to operate the Campground without a valid development permit.
- [10] The Development Officer referred to the Appellant’s reasons for Appeal (as noted on the Notice of Appeal (Exhibit 1)) is with the Municipality’s bylaws regulating campgrounds being “*arbitrary, unreasonable, unfair and imprecise...*”. The Development Officer asserted that appealing these concerns to the Subdivision and Development Appeal Board is not the correct forum to resolve these concerns.
- [11] The Land Use Bylaw governs the issuance of the original Development Permit No. 2008-1724, and the stipulations have remained the same; however, the Campground has grown beyond the scope of what was originally approved. Aerial imagery of the Subject Property taken in 2013 and 2022 (Exhibit 4, Attachment 15) demonstrates the extent to which the Campground has grown.
- [12] The Development Officer asserted that throughout the development permit application process, the Development Authority has attempted to work with the Appellant to bring the Campground into compliance with the Land Use Bylaw and the Willow Lake Area Structure Plan; however, concerns still exist such as unpermitted structures, stockpiling, storage and environmental infringements.

-
- [13] Relevant policies under the Willow Lake Area Structure Plan have not been respected by the Appellant with respect to the Campground including the requirement for a 30-metre setback from Surmont Creek and the conservation maintenance of the setback in its natural state. The Willow Lake Area Structure Plan prioritizes conservation of vegetation, protection of riparian areas, and ground water quality as outlined in section 5 of the original Development Permit No. 2008-1724. Portions of the Campground encroaches on the 30-metre setback and environmentally constrained areas (Exhibit 4, Attachment 14).
- [14] The Development Officer noted the Land Use Bylaw's definition of a "campground" is "*a planned development for the use of recreational vehicles, campers and tents and is not used as a year-round storage*". The Development Authority observed stored recreational vehicles during multiple site inspections along with other unpermitted developments beyond recreational vehicles, campers and tents.
- [15] Section 90 of the Land Use Bylaw provides general regulations specific to campground developments. Further a campground must be developed to the satisfaction of the Development Authority and must adhere to all general requirements. The Development Authority has made the Appellant aware of what was required for the use of a campground including the warning letter, site inspection reports and the development permit refusal.
- [16] The Development Officer reiterated that the development permit renewal process has been ongoing for years and all attempts to bring the Campground into compliance have been unsuccessful. Regulatory and safety concerns communicated to the Appellant by the Development Authority have not been mitigated which ultimately led to the issuance of the Stop Order. The Development Authority therefore recommends that the Subdivision and Development Appeal Board uphold the Stop Order.
- [17] The Development Authority Manager provided further context regarding the Stop Order, submitting that prior to the issuance of a Stop Order, the Development Authority works with campground owners and provides a reasonable time for them to comply with the regulations in the Land Use Bylaw, submit a development permit application, or apply for Land Use Bylaw amendments. The Development Authority Manager stated that the matter before the Board was not brought forward due to the Development Authority acting outside of their normal process, there have been similar arrangements with other campgrounds in the Region and enforcement action has been taken on all of them. In one case, a campground applied for a Land Use Bylaw amendment of which the process is ongoing. In another case, the campground applied for a development permit and were successful in getting their development permit. Another campground decided not to apply for a development permit and the campground was ultimately shut down.

Questions of the Development Authority

-
- [18] Upon questioning, the Development Officer provided clarification on the *significant regulatory and safety concerns* noted in the Planner's Report (Exhibit 4, paragraph 33) by referring to point 5 within the Stop Order (Exhibit 2) regarding a permanent stall location map not been established. The Development Officer noted that the Appellant has indicated in his submission that there have been fires at the Campground. If there is no location map at the entrance, emergency response times can be hindered.
- [19] The Development Officer referred to the Appellant's submission, where it is indicated there has been floods on the Subject Property. Point 6 of the Stop Order (Exhibit 2) references the requirement of a 30-metre setback from Surmont Creek which has been disregarded. The Development Officer asserted that the requirement for a 30-metre setback is not only to protect the environment, it is also there to protect the Subject Property from flooding.
- [20] Examples of other safety concerns were provided by the Development Officer, including stockpiling of materials and other infractions as noted in point 8 of the Stop Order (Exhibit 2).
- [21] The Development Authority Manager, also submitted, that the process whereby the Development Authority deems a development safe is through the development permitting process as an applicant is required to submit a safety plan. In the absence of a development permit, activities on the Subject Property, are not inspected and are therefore deemed to be unsafe, as the Development Authority does not know what is occurring on the Subject Property and as stated previously the development has not gone through the review process which includes safety inspections.
- [22] The Development Authority Manager, referred to the Planner's Report (Exhibit 4) Attachment 8, Site Inspection Report, and indicated that points 11, 21, 31 and 37 are examples of safety concerns observed on the Subject Property. Once again, the absence of a regular development permit application process, has resulted in the Subject Property not having been properly inspected by the Municipality or the Safety Codes branch.
- [23] With regards to the illustration contained in the Appellant's submission (Exhibit 3 section G, Pg 6) the Development Authority Manager submitted that concrete steps on a wooden deck used to enter and exit a recreational vehicle, is against campground regulations which are designed for recreational vehicles to come and go. The Development Authority submitted that it has been observed that people are residing at the Campground year round. Further, in accordance with the Land Use Bylaw, permanent structures are not permitted in a campground. The wooden deck shown in the illustration and the concrete steps on the deck are considered permanent structures and imply that the recreational vehicle has been there for some time. This is only one illustration that demonstrates permanent structures on the Subject Property. There are many more illustrations contained in the Appellant's package that contain illustrations of permanent structures existing on the Subject Property.

-
- [24] Questions brought forward by the Appellant:
- [25] The Appellant queried if the concrete steps found in Exhibit 3, section G, Pg. 6 are considered permanent structures? The Development Authority Manager stated, he is not an expert with Safety Codes; however, if the concrete steps were part of a development permit application, they would be inspected by the Safety Codes branch. The Development Authority Manager stated that questions should be on the merits of the Stop Order, and not the development permit process.
- [26] The Appellant questioned if a propane tank was shown in Exhibit 4, Attachment 12, Pgs. 94 to which the Development Authority Manager clarified to the Board in the absence of an existing development permit, an inspection on the Subject Property by the Safety Codes branch has not taken place, therefore; it cannot be confirmed if there are existing propane tanks on the Subject Property.
- [27] With regards to paragraph 23 in the Planner's report (Exhibit 4, Pg. 5) the Appellant questioned if the Development Authority is taking the position that they are justified for being unreasonable?
- [28] The Board noted that questions on validity or reasonableness of Bylaws is outside of the Board's jurisdiction and redirected the Appellant's questioning to be towards the validity of the Stop Order.
- [29] It was also questioned if the Development Authority has an obligation to ensure that the Land Use Bylaw is consistent with the Municipal Development Plan? (Exhibit 3, Section B, Pgs. 1) of which Counsel for the Development Authority reminded the Appellant that the matter before the Board is the issuance of the Stop Order.
- [30] The Appellant sought clarification on the Development Authorities assertion that activities are occurring within the bounds of the 30-metre setback from Surmont Creek? (Exhibit 3, Section A. Pg. 2 and Section C, Pg. 81). It was submitted by the Development Officer that the Land Use Bylaw stipulates that all developments have a 30-metre setback from bodies of water. This is also outlined in the Willow Creek Area Structure Plan, and added this is not a unique stipulation for the Campground or the campers' activities in the campground.
- [31] Following a question on the definition of a stockpile, it was confirmed by the Development Authority that there is no definition of "stockpile" in the Land Use Bylaw and the general definition of "stockpile" is stocking of material. It was further noted that every development in the Municipality requires a development permit. The only uses that would not require a development permit can be found in section 17 of the Land Use Bylaw. An example would be a shed under 10 metres x 10 metres.

[32] In response to a query the Development Officer stated the Willow Lake Area Structure Plan was created in the summer of 2015 and the five principles of the Willow Lake Area Structure Plan are:

- i. Protect and preserve the natural environment;*
- ii. Preserve the existing character of the Willow Lake area;*
- iii. Enhance local recreational activities;*
- iv. Safe transportation;*
- v. Community Health and Safety.*

Through a series of questions, the Development Authority provided the following responses for the record:

[33] The requirement for commercially designed skirting is not defined in the Land Use Bylaw as this would be covered under safety codes and building bylaws and would be determined by a safety codes inspector during a safety inspection of the development.

[34] The definition of a modular home in Land Use Bylaw provides a rating CSAZ240 which would represent whether the structure is rated for all seasons or just the summer season. This rating would also provide the safety codes officer with the ability to classify a structure as a manufactured home or a recreational vehicle. As well, a modular home does not have a chassis, running gear, or wheels.

[35] The Appellant questioned if there is no existing development permit for the campground, how did the Development Authority ascertain the Subject Property is being used as a campground. The Development Authority provided the previous development permit was for a campground, and the most recent development permit application was for a campground; therefore, the Stop Order was issued for not having a valid development permit for a campground and indicated that the Land Use Bylaw's definition for Campground is: *A planned development for the use of recreational vehicles, campers and tents and is not used as a year-round storage. A Campground shall be developed in association with a Resort Facility.*

[36] It was further reiterated that a campground is not a year-round facility. It is intended to be a facility where recreational vehicles come and go. It is not meant to be used as a year-round storage facility. In addition, the matter before the Board is not about the structures on site, it is that the structures on site are existing without valid development permits.

[37] The Site Inspection Report dated November 8, 2022 (Exhibit 4, Attachment 12), confirmed the existence of dwelling units in illustrations that reveal wooden additions. The Development Authority Manager submitted that the size of the individual structures on the site are unknown; however, the Stop Order was not issued because of the individual structures on the site, it is regarding the development as a whole.

-
- [38] The structures in the illustration contained in Exhibit 4, Attachment 12, Pgs. 101-102 do not appear to be accessory structures, they appear to more than that and would then need to be assigned a more intensive use; however, without having a development permit, they are unable to conclude what these structures are. In addition, there are recreational vehicles and other structures on the Subject Property that are being used year-round.
- [39] The Appellant confirmed that there are “things” that exist within the 30-metre setback of Surmont Creek; but questioned what can exist within the 30-metre setback.
- [40] The Development Authority when questioned about the process, clarified that the Development Authority does not actively seek developments that are operating without a permit. It is up to the development permit holder to reapply for a development permit after it expires; however, once the Development Authority is privy to a development that does not have a development permit or an expired permit, the Development Authority must action it.
- [41] When queried about the timeline it was submitted by the Development Officer that a warning letter was issued to the Appellant in 2020 (Exhibit 4, Attachment 5), which triggered the development permit application. It was noted that they have worked with the Appellant for over two years to remediate the concerns and that the Appellant was given 90 days to comply with the Stop Order which would be approximately September 12, 2023.
- [42] The Development Authority indicated in 2020, a review of all campgrounds within the Municipality was initiated by the Development Authority and added that this is often done to assist with calculating the shadow population for a municipal census.
- [43] When asked about a consideration on an extension to the Stop Order compliance date, Legal Counsel for the Development Authority submitted that should the Board enforce the September 12, 2023, deadline, this would be unreasonable for the Appellant to comply and therefore, the Development Authority submitted that should the Board choose to grant an extension, they would submit October 15, 2023 as reasonable time to respond to the requirements of the Stop Order.

Submission of the Appellant

- [44] The Appellant referred to his written submission (Exhibit 3, Part J) and made reference to quotes taken from the Municipal Development Plan:

“Continually improve the quality of life within our community”; and

“The Municipality will support innovative housing options that accommodates a variety of housing needs, incomes, and lifestyles. In particular, the Municipality will encourage housing innovations that respond to Wood Buffalo’s northern climate, promote affordability, and or increase local vibrancy and desirability.”

-
- [45] The Appellant submitted that the definitions and bylaws concerning campgrounds in the Regional Municipality are not consistent with the values and goals in the Municipal Development Plan. For example, requiring a resident who can barely afford their rent to spend thousands of dollars on custom commercial skirting to keep warm in the harsh Fort McMurray winter is unreasonable.
- [46] Bylaws have been broken at Surmont Creek Campground and the Campground has been operating without a valid development permit since 2012; however, the Campground has withstood changing economic circumstances and its impact on the environment has been minimal.
- [47] The bylaws that have been broken have nothing to do with the good of the community, protection of the environment or achieving any worthwhile goal. It was requested that a process be started to allow relevant stakeholders the chance to present thoughtful amendments to the bylaws that affect campgrounds.
- [48] The Appellant submitted, that he is happy to follow bylaws, but wants to be able to give his tenants the things that other jurisdictions allow. The Appellant presented a video (Exhibit 3, Part J, Slide 7) of Surmont Creek, that is located within the campground and spoke to old, abandoned vehicles which have been removed and the numerous hours that has been spent cleaning up the property. The Appellant also pointed out a walking path to the Creek that he created and maintains and argued that he is very respectful of the Creek.
- [49] The Appellant asserted that he has never cut down a mature healthy tree near the bank of Surmont Creek, he has a recreational vehicle located adjacent to Surmont Creek (Exhibit 3, Part J, Slide 8) that has mesh wrapped around it and the trees, to keep the beavers from cutting down the trees.
- [50] The Appellant referred Exhibit 3, Part J, Slide 9 adding that campers near Surmont Creek within the 30-metre setback are highly sought after sites. Stating that Environmental legislation says nothing about setbacks, only speaking to harm of the Creek.
- [51] The Appellant argued that the Development Authority spoke to flooding on the Subject Property, but they have never been to the property when it floods. It was submitted that the Subject Property slopes downward in an east direction, which means that as soon as the Creek breeches the bank, it goes into a lower area, the water does not go back into the Creek, it goes through a ditch into a culvert over a kilometre away from the Creek.
- [52] Exhibit 3, Part J, Slides 11-12, shows trees and bush between the recreational vehicles and the Creek, and that the campers cannot access the Creek from their sites.

-
- [53] The Appellant presented that the recreational vehicle skirting that is used at the Campground, is not commercial as required by the Development Authority, but is heavy duty, has grommets and works as it is supposed to.
- [54] The Appellant spoke to difficulties working with the Development Authority and submitted that there are two ways that he can move forward, either conform the Campground so that it follows the laws, or he can change the laws. He submitted that the Campground only exists because he went through an amendment process in 2007.
- [55] The Appellant provided in his disclosure 16 letters from campers who have indicated there are no issues with safety in the Campground.

Questions of the Respondent

- [56] The Appellant indicated that he has year-round campers at the Campground which was always the intention. The Appellant further submitted that when he approached the Development Authority regarding campgrounds with year-round tenants, the Development Authority claimed that they were in the process of amending the Land Use Bylaw to allow year-round tenants.
- [57] When asked why a renewal for the Development Permit in 2012 was not sought, the Appellant submitted that working with the Development Authority is difficult as there are no clear answers to questions. The Appellant indicated that he used the expired Development Permit to obtain building permits and business licenses.
- [58] The Appellant indicated that should the draft of new Land Use Bylaw be passed, there is no requirement for a development permit to operate a campground and further submitted that it is his full intent to bring bylaw amendments before Council.
- [59] The Appellant confirmed that the accessory structures that exist on the Subject Property are owned by the residents.
- [60] When asked if there were any conditions on the Stop Order that he would comply with, the Appellant submitted that he was okay with installing a location map and asserted that the storage of recreational vehicles is outside of the campground and separate from the campground business and it was his understanding that the Development Authority is okay with that. He further asserted that there are no manufactured modular homes in the campground as they are located outside of the boundaries of the Campground and are used for storage. The Appellant submitted that he would like to get the accessory structures permitted.
- [61] When asked why an appeal when the development permit was refused was not initiated, the Appellant submitted, that he now has the understanding that, that is what he should have done and indicated that he would gladly submit another development permit application if that meant he could bring an amendment before Council.

[62] Legal Counsel for the Development Authority clarified that the Stop Order was issued for failing to have a development permit. The items listed on page two of the Stop Order (Exhibit 2), are only examples of observations that were made during the November 8, 2022, inspection. These points were used to provide clarity.

Submission(s) of Affected Persons in Favor of the Appeal

[63] The Board heard from Ann Eisentraut, sister of the Appellant, former manager, and current employee of the Campground, who also submitted written comments (Exhibit 5). Ms. Eisentraut submitted that the property is very large, the Campground is a subset of the property.

[64] It was indicated that she reviewed the Development Authority's submission (Exhibit 4) and observed things that were left out including a painfully slow release of information.

[65] Ms. Eisentraut submitted that there are examples of permitted uses in the Rural district that the Development Authority has not listed including trappers' cabins (up to 74.2 square metres) decks (with a height under one sixteenth of a foot), accessory structures, sheds smaller than a certain amount which do not require permits.

[66] It was submitted that extensive comments regarding campgrounds were submitted when the draft Land Use Bylaw 21/003 was circulated for public comments in April 2021, but nothing was received from the Municipality to acknowledge receipt.

[67] Ms. Eisentraut urged the Board to allow the Campground to continue operations in its current state and further compel the Municipality to revise the campground laws with stakeholder input. It was also requested that the Board allow the Appellant sufficient time to resubmit a development permit application or apply for Land Use Bylaw amendments.

[68] It was submitted that the original intent of the Campground was to cater to workers, and this aligns with the Willow Lake Area Structure Plan and the current and draft Municipal Development Plan, adding that many of the illustrations of infractions that have been presented to the Board are dated and have since been addressed.

[69] Ms. Eisentraut reiterated that an Environmental Assessment Report was paid for by the Appellant which included a site visit. There were no concerns mentioned in the Report.

[70] The Board then heard from Matthew Michetti and Michael Robert with Willow Lake Métis Nation who also submitted a letter for the Board's consideration (Exhibit 6). It was presented that the Willow Lake Métis own just over 250 acres of land adjacent to the Subject Property. Willow Lake Métis has taken steps to acquire Surmont Creek Campground with a view of creating an approved long term temporary recreational vehicle site, short term eco-campsites, and high-end tourist attractions that will enhance the natural beauty while preserving and promoting the existing character of the Willow Lake area. Willow Lake Métis supports the current business model of the Campground and acknowledged the Appellant's resourcefulness and responsiveness, to the needs of the Region's residents while creating an independent and sustainable campground business. It was indicated that it is hoped to maintain services while also upgrading the Campground and expanding to a larger tourist market. The Willow Lake Métis requested that the Stop Order be revoked or that it be pushed out so that the Willow Lake Métis can work with the Appellant, and the Appellant can apply for a development permit and Land Use Bylaw amendments.

Questions for Affected Person in Favor of the Appeal

[71] The Willow Lake Métis submitted that they have an agreement with the Appellant which has been extended and discussions started just over a year ago. And further indicated that they would need approximately six months to a year to finalize the acquisition of the Campground with the Appellant.

Submission of Affected Persons in Favor of the Appeal (Continued)

[72] The Board then heard from Valence Rumbolt who is a current year-round resident of the Campground. Mr. Rumbolt requested for the definition of a permanent structure and spoke to the concrete steps in Exhibit 3 section G, Pg 6 indicating the steps allow his disabled child access in to the camper. Mr. Rumbolt indicated that the Stop Order would render him homeless.

Submission(s) of Affected Persons in Opposition to the Appeal

[73] There were no, verbal or written comments in opposition of the Appeal.

Additional Questions from the Board

[74] The Development Authority Manager confirmed that the Stop Order applies to the entire Subject Property, not just the Campground.

[75] The Appellant indicated that it would be illegal for the Board to extend the Stop Order to October 15, 2023, as suggested by the Municipality as Provincial law requires that landlords of a "Mobile Home Park" in which the Campground is considered must provide six months' notice.

[76] The Appellant further reiterated that it is his intent to apply for a Development Permit to bring Land Use Bylaw amendments before Council and to sell the property.

Closing Comments from the Respondent

[77] In closing Legal Counsel for the Development Authority reiterated that the matter before the Board is the Stop Order issued under section 645 of the *Municipal Government Act*. Section 645 permits the Development Authority to issue a Stop Order when there is development that is not in accordance with the Land Use Bylaw.

[78] Legal Counsel further stated that the question for the Board to consider is did the Regional Municipality of Wood Buffalo have the authority to issue the Stop Order? To which, yes, the Municipality did have the authority to issue the Stop Order per section 645 of the *Municipal Government Act* being the authority for Development Authority to act. The Land Use Bylaw is very clear that this type of development needs a development permit. Section 90.1L of the Land Use Bylaw states that all permits issued for a campground shall expire in three years from approval in which time a new application is to be submitted.

[79] It was further submitted that there is no doubt that the Campground continues to operate without a development permit and the Appellant has no plans to cease operations regardless of a permit.

[80] Legal Counsel reiterated that this was not targeted enforcement by the Development Authority. They did not seek out the Campground with the sole purpose of issuing a stop order. Adding that that many other campgrounds were identified as operating in contravention of the Land Use Bylaw and have been subject to similar enforcement efforts.

[81] The Development Authority understands that this will have a negative effect on community members and the Regional Municipality of Wood Buffalo has attempted to work with the Appellant on many occasions to bring the development into compliance.

[82] Legal Counsel submitted that the Appeal be denied and that the Stop Order be upheld and given a reasonable time for enforcement. Adding that a reasonable time would be within the year. October 15, 2023, was proposed earlier with consideration of the winter months. This matter has been continuing for many years and to allow the Campground to continue operations much longer is not fair to the other campgrounds who have brought their campgrounds into compliance.

Closing Comments from the Appellant

[83] The Appellant submitted that it is recognized that this matter is not going away. In January 2021, the Appellant stated comments from outside stakeholders were received and there were no objections, the mobile homes were fine. An inspection in February 2021 was done and the inspection results were received eleven months later.

[84] The Appellant advised that should the Board choose to provide more time to go through the development permit application process, it will cause no harm to anyone. The Appellant reiterated the tenants would need to be given six months' notice. If additional time is granted, the Appellant asserted that should he not be able to do what needs to get done, then Campground would be shut down.

[85] Upon conclusion, the Chair asked the parties present, if they felt that the hearing was conducted in a fair manner. No issues were brought to the Board's attention.

Findings Of Fact

[86] The Board makes the following findings of fact:

- i. The Subject Property is located in the Rural District and the Campground is a discretionary use in the Rural district under the Land Use Bylaw.
- ii. The Campground is in the Willow Lake area designated as 'Potential Recreation and Tourism' within the Regional Municipality of Wood Buffalo Municipal Development Plan Bylaw No 11/027.4
- iii. There has been no approved development permit for the subject property since 2012.
- iv. Stop Order PD2022-00142 was issued pursuant to section 645 of the *Municipal Government Act* for the operation of a Campground without a valid development permit.

Decision

[87] **It is the decision of the Subdivision and Development Appeal Board to deny the Appeal and vary Stop Order No. PD2022-00142.**

[88] **The date to bring the unauthorized developments and uses on the Subject Property (Land) and building into compliance with all conditions therein and set out in Stop Order No. PD2022-00142 is June 30, 2024**

Reasons for The Decision

[89] The Board notes that its jurisdiction is found within Section 687(3) of the *Municipal Government Act, RSA 2000, c.M-26*. In making this decision, the Board has examined the provisions of the Land Use Bylaw and has considered the oral and written submissions by and on behalf of the Development Authority, the Appellant as well as affected persons.

687(3) In determining an appeal, the board hearing the appeal [...]

(c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own.

[90] The Board finds that the Appellant is an affected person because he was the recipient of the Stop Order. The Board finds that those who submitted written comments and spoke in support of the appeal are affected persons for the following reasons:

- i. Ann Eisentraut (verbal submission in support of appeal, Exhibit 5) – is an employee of the Campground and is therefore an affected person.
- ii. Matthew Michetti and Michael Robert, Willow Lake Métis (verbal submission in support of the appeal, Exhibit 6) – Willow Lake Métis is an adjacent property owner of the Subject property and are currently working to acquire the Subject Property from the Appellant; therefore, Willow Lake Métis was found to be affected by the appeal.
- iii. Valence Rumbold (verbal submission in support of the appeal) – is a year-round resident of the Campground therefore affected by the appeal.
- iv. Alexander Robert (Exhibit 13), John Dallas Zacharias, Elizabeth Eisentraut, – are employees of the Campground and are therefore deemed affected by the appeal.
- v. Alisdair Brown (Exhibit 21), Malcom Campbell (Exhibit 22), and Charlotte Wood (Exhibit 18) – are full-time residents of the Campground and are therefore found to be affected by the appeal.
- vi. Bethany Ouellette and Robert Nelson (Exhibit 7), Elissa Clark (Exhibit 8), Allen Shorey (Exhibit 9), Marc and Carole Foley (Exhibit 10), Kimberly Russel (Exhibit 11), Sherry and Brad Stuckless (Exhibit 12), Troy and Sadie Dusang (Exhibit 14), John Dallas Zacharias (Exhibit 15), Lori Ropson (Exhibit 16), Chris Heyninck (Exhibit 17), Christy DeYoung (Exhibit 19), are seasonal campers at the Campground and were found to be affected by the appeal.

[91] The Board notes that a development permit application for the Campground was submitted by the Appellant and subsequently refused by the Development Authority in February 2023. The Appellant did not file an appeal against the development permit and therefore, a challenge to this decision is no longer a valid option. The Board heard multiple arguments from all parties, with regards to unpermitted accessory buildings, permanent structures, year-round storage, year-round residency, environmental integrity, encroachment on setbacks, stockpiling and more; however, the Board's jurisdiction is that of the Stop Order and whether it was validly issued. Arguments for and against the refusal of the development permit refusal is not within the Board's purview to consider under this Appeal. Furthermore, arguments that the Land Use Bylaw and other bylaws are unreasonable are outside of the Board's jurisdiction to consider.

[92] The first question the Board must address is whether the Stop Order was validly issued. The Stop Order was issued by the Development Authority on June 21, 2023, pursuant to section 645(1) of the *Municipal Government Act*, for continued operation of the Campground after an expired development permit.

645(1) Despite section 545, 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 t.o the person or persons referred to in subsection (2) on the same day the decision is made.

[93] The Board referred to section 19.1 of Land Use Bylaw which states:

Except as otherwise provided in this Bylaw, no person shall undertake any development in the Municipality unless a development permit has first been issued pursuant to this Bylaw, and the development is in accordance with the terms and conditions of a development permit issued pursuant to this Bylaw.

[94] A Campground as defined in the Land Use Bylaw is a..

...planned development for the use of recreational vehicles, campers and tents and is not used as a year-round storage. A Campground shall be developed in association with a Resort Facility

-
- [95] Section 20 of the Land Use Bylaw provides a listing of developments that do not require a Development Permit. Campgrounds are not included in this listing and therefore, the Board finds that in accordance with the Land Use Bylaw, a Campground is not exempt from having a development permit.
- [96] There was no argument from the Appellant, that there is not a subsisting development permit for the Campground.
- [97] The Board is satisfied the Stop Order was validly issued and therefore is bound to uphold the Stop Order pursuant to section 687(3)(a.1)(a.3) of the *Municipal Government Act*:
- (3) In determining an appeal, the board hearing the appeal referred to in subsection (1) (a.3) [...] must comply with any land use bylaw in effect;*
- [98] Having upheld the Stop Order, the Board must assess whether it will extend the time for compliance, and if so, by how much.
- [99] The Board considered the Development Authority's recommendation that any extension to the Stop Order, not be longer than a year as the Campground has been in operation without a development permit since 2012.
- [100] The Board also considered the Appellant's argument that he is required by Provincial legislation to provide at least six months' notice to the year-round tenants residing in the Campground.
- [101] The Board accepted the verbal presentation of Mr. Rumbolt and the written submissions of Alisdair Brown (Exhibit 21), Malcom Campbell (Exhibit 22), and Charlotte Wood (Exhibit 18) who reside in the Campground year-round and understands the difficulties and lengthy timelines to obtain affordable housing in the Region.
- [102] The Board gave weight to the Appellant's recourse to reapply for a development permit for the Campground and bring possible bylaw amendments before Council , to bring the Campground into compliance and complete the acquisition of the Campground to Willow Lake Métis.
- [103] With the submissions of the employees, residents, and seasonal campers of the Campground; the Board did not hear any evidence to demonstrate imminent safety concerns on the Subject Property.
- [104] For these reasons, and recognizing the looming winter months, the Board varies the date of enforceable action on the Stop Order to no earlier than June 30, 2024.
- [105] It is so ordered.

Dated at the Regional Municipality of Wood Buffalo in the Province of Alberta, this 17th day of September 2023.

CHAIR:



Talliesin Tupper

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:

EXHIBIT NO.	ITEM	DATE FILED
1.	Notice of Appeal	2023-07-10
2.	Stop Order File No. PD2022-000142	2023-07-11
3.	Appellant's Evidence Disclosure	2023-08-23
4.	Respondent's Evidence Disclosure	2023-08-23
5.	Submission in Support of the Appeal – Ann Eisentraut	2023-08-23
6.	Submission in Support of the Appeal – Willow Lake Métis Nation	2023-08-23
7.	Submission in Support of the Appeal – Bethany Ouellette and Robert Nelson	2023-08-30
8.	Submission in Support to the Appeal – Elissa Clark	2023-08-30
9.	Submission in Support to the Appeal – Allen Shorey	2023-08-30
10.	Submission in Support to the Appeal – Marc and Carole Foley	2023-08-30
11.	Submission in Support to the Appeal – Kimberly Russell	2023-08-30
12.	Submission in Support to Appeal – Sherri & Brad Stuckless	2023-08-30
13.	Submission in Support to the Appeal – Alexander Robert	2023-08-30
14.	Submission in Support to the Appeal – Troy and Sadie Dusang	2023-08-30
15.	Submission in Support to the Appeal – John Dallas Zacharias	2023-08-30
16.	Submission in Support to the Appeal – Lori Ropson	2023-08-30
17.	Submission in Support to the Appeal – Chris Heyninck	2023-08-30
18.	Submission in Support to the Appeal – Charlotte Wood	2023-08-30
19.	Submission in Support to the Appeal – Christy DeYoung	2023-08-30
20.	Submission in Support to the Appeal – Elizabeth Eisentraut	2023-08-30
21.	Submission in Support to the Appeal – Alisdair Brown	2023-08-30
22.	Submission in Support to the Appeal with illustrations – Malcolm Campbell	2023-08-30

APPENDIX “B”
REPRESENTATIONS

Person Appearing	Capacity
Tiffany Primmer	Municipal Legal Counsel
Warren Rourke	Development Officer
Such Chandhiok	Development Authority Manager
Matthew Eisentraut	Appellant
Ann Eisentraut	Affected Person
Matthew Michetti and Michael Robert, Willow Lake Métis	Affected Party
Valence Rumbolt	Affected Person