

M A N I T O B A ) Order No. 162/00  
 )  
THE HIGHWAYS PROTECTION ACT ) December 15, 2000

BEFORE: G. D. Forrest, Chairman  
S. Proven, Member

**APPEAL OF DEPARTMENT OF HIGHWAYS AND  
TRANSPORTATION, HIGHWAY TRAFFIC BOARD  
PERMIT NO. 118-00 - OFF PREMISES  
ADVERTISING SIGN**

**APPEARANCES:**

Mr. R. Nichol	Senior Access Management Analyst, Highways Department (the Appellant)
Mr. V. Jordan	Applicant
Mr. Larry Krushelnisky	On behalf of Fas Gas (the Permittee)

**BACKGROUND :**

Mr. L. Krushelnisky submitted an application to The Manitoba Highway Traffic Board on April 25, 2000 for permission to construct an off premises advertising sign on property owned by him (the subject property) adjacent to Provincial Trunk Highway No. 10 ("P.T.H. No 10" or the Highway).

By letter dated June 27, 2000, The Highway Traffic Board issued Permit No. 118-00 allowing for the construction of a sign 2.9m x 3.7m and not less than 3 metres back from the highway.

By letter dated July 24, 2000 that decision was appealed to The Public Utilities Board (the Board) by Mr. V. Jordan a citizen in the community.

The evidence in this appeal was taken by The Public Utilities Board at a public hearing held at 1:00 p.m., Thursday, December 7, 2000, in the Council Chambers of the Rural Municipality of Park, Manitoba.

**TESTIMONY OF THE DEPARTMENT OF HIGHWAYS AND TRANSPORTATION**

1. The Department presented the following:
  - i) Maps of the R. M. of Park and Onanole showing the approximate location of the sign approved by Highway Traffic Board Permit No. 118-00.

- ii) Highway Traffic Board Permit No. 118-00 and attached sketch plan 3010130-27-SI-00 dated June 27, 2000.
  - iii) Minutes of Highway Traffic Board's June 8, 2000 hearing.
  - iv) 9x9 air photo at a scale of 1:12000 and a 2X enlargement of the air photo showing the approximate location of the approved sign.
  - v) Copy of Highway Traffic Board interim Advertising Sign Policy dated August 1991.
2. The Department noted the proliferation of illegal signs on and adjacent to the Right of Way of P.T.H. 10 and the municipality's efforts to remove them.
3. The Department had no objections to the proposed application and recommended approval subject to compliance with The Traffic Board's sign policy and conditions.

**TESTIMONY OF MR. VERN JORDAN:**

Mr. Jordan noted that the main reason for his objection to the sign was the fact that a proposal for a new sign by-law was before Council. He also noted that he was representing himself not the Council. He indicated that the

by-law had not reached the stage of public hearing. By not approving the sign at this time Mr. Jordan suggested that the permittee could possibly be saved the expense of having to move or redesign the sign.

Mr. Jordan noted that this part of P.T.H. 10 included many different zoning areas and many interests. He submitted that signs some distance from town were more effective than those close to the town. He also submitted that visitors to the area generally make prior arrangements and so rely less on signs. Mr. Jordan noted that the application was consistent with current by-laws but that it should be borne in mind that amendments are being considered.

**TESTIMONY OF MR. LARRY KRUSHELNISKY:**

Mr. Krushelnisky submitted in his opinion he had done everything possible to meet the requirements of the existing by-law. He indicated he had met with officials and was advised of the various zones and requirements for erecting an advertising sign. Mr. Krushelnisky also submitted Mr. Jordan had no right to appeal as he did not participate in the initial application and the appeal was received in The Public Utilities Board's offices beyond the thirty (30) day limit.

Mr. Krushelnisky also submitted his application should not be subject to the proposed advertising by-law as it has not had a public hearing nor been voted on by Council. Mr. Krushelnisky indicated that he would oppose the by-law at the public hearings when they are held. Mr. Krushelnisky noted

the applicant was inconsistent in that only one of the two signs approved was appealed. In concluding Mr. Krushelnisky noted signs are needed to promote all businesses in the community.

**MR. RAY FREY, REEVE**

Mr. Frey indicated a number of significant issues have occupied the Council's agenda, and as a result of changes, public discussions have yet to be held on the by-law. He expects several months will elapse before the public discussions are held.

**BOARD FINDINGS**

The Board notes the date of Mr. V. Jordan's application as July 24, 2000 and also notes Mr. Jordan did contact the Board about the application. The Board also notes Mr. Jordan's absence at the Highway Traffic Board hearing does not disqualify him from appealing to The Public Utilities Board. The Board therefore considers the appeal to be properly before the Board.

The Board also notes the position of Mr. Jordan on the application with reference to the proposed by-law currently before the Council. The Board also notes the opinion of the Reeve that it will be several months before the proposed by-law is brought forward for public discussion. The Board also notes the condition of the permit which states "sign shall conform to all existing and future sign regulations and policy" making the

