

M A N I T O B A) Order No. 168/03
)
THE HIGHWAYS PROTECTION ACT) November 13, 2003

BEFORE: G. D. Forrest, Chairman
 M. Girouard, Member

**APPEAL OF SAMBORSKI GARDEN SUPPLIES LTD. -
HIGHWAY TRAFFIC BOARD LETTER OF JULY 31,
2003 - RELOCATION AND CHANGE IN USE OF
DRIVEWAY - PROVINCIAL TRUNK HIGHWAY NUMBER
3 IN THE RURAL MUNICIPALITY OF MACDONALD**

APPEARANCES:

Mr. C. Chappell	Representing Samborski Garden Supplies Ltd. (the Appellant)
Mr. R. L. Tyler	Representing Samborski Garden Supplies Ltd. (the Appellant)
Mr. E. Christiansen	Director, Highway Planning and Design, Department of Transportation and Government Services (Highways)
Mr. R. Nichol	Senior Access Management Analyst, Highway Planning and Design, Department of Transportation and Government Services (Highways)

Background

An Application was made to The Highway Traffic Board (the HTB) by Samborski Garden Supplies Ltd. for a relocation and change in use of a driveway for property with location in Pt. NW-2-10-2E (lot 1, Plan 23978), in the Rural Municipality of MacDonald and along Provincial Trunk Highway No. 3 (PTH #3).

The HTB by way of letter dated July 31, 2003 denied the application.

By letter dated August 26, 2003 from Mr. Chappell to The Public Utilities Board (the Board), the decision was appealed to the Board.

The evidence in this appeal was taken by the Board at a public hearing held at 9:30 a.m., Tuesday, November 4, 2003, in the Hearing Room of the Board.

At the commencement of the proceedings Mr. Chappell, on behalf of the applicant indicated that they had reached an agreement with the Department of Transportation and Government Services. The signatories to the agreement are Mr. Chappell on behalf of the applicant and Mr. Christiansen on behalf of Manitoba Transportation and Government Services. The agreement attached as Schedule "A" and dated November 4, 2003 read as follows:

Order issue:

- (a) to permit the existing access to be utilized at its current location as identified on Sketch Plan 100 3250-25ARL-03 on the following terms and conditions:
- 1) current commercial access use by Samborski Landscaping business to the property Lot 1, Plan 23978 WLTO.
 - 2) the said access to be available as emergency vehicle access to proposed 1 lot subdivision (Coverall).
 - 3) the applicant, Samborski Garden Supplies Ltd. entering into a letter agreement with Manitoba Transportation and Government Services relating to condition (2).

Mr. Chappell noted that the original application to the HTB included an 18 lot development with access to PTH 3. The applicant was however now proceeding with a single lot development with entrance from and exit to Brady Road. The applicant also noted that the existing access on PTH 3 would remain in its current location to be available as emergency vehicle access only to the proposed 1 lot subdivision. The applicant also noted that a road would be constructed on the road allowance leading to Brady Road and which will serve as the public access to and exit from the 1 lot subdivision.

Mr. Christiansen on behalf of Manitoba Transportation indicated that they were in full agreement with the document submitted to the Board. He indicated a concern with the volume

of traffic on PTH 3 and was supportive of the 1 lot subdivision with permanent access off Brady Road. Mr. Christiansen indicated that the Department was willing to allow emergency access on a temporary basis only so as to meet the requirements for 2 emergency accesses to the 1 lot subdivision. Mr. Christiansen also noted that the recent upgrade of the junction of Brady Road and PTH 3 would make this option a safer alternative.

Board Findings

Having considered the matter the Board will adopt the principles as outlined in the agreement as they are satisfied it meets the needs of the applicant, the Department of Highways and it does not impinge on the safety of the motoring public.

IT IS THEREFORE ORDERED THAT:

1. The Agreement in Schedule "A" as agreed upon by both parties be adopted by the Board.
2. Both parties establish sufficient provisions that would ensure that the current access to PTH 3 is used as an access to the 1 lot subdivision in emergency cases only.
3. Within 30 days the parties file with the Board the letter of agreement referred to in item 3 of Schedule "A".

THE PUBLIC UTILITIES BOARD

"G. D. FORREST"

Chairman

"H. M. SINGH"

Acting Secretary

Certified a true copy of
Order No. 168/03 issued by
The Public Utilities Board

Acting Secretary

SCHEDULE "A"