

ALBERTA ENVIRONMENTAL APPEAL BOARD

Report and Recommendations

Date of Mediation Meeting – September 12, 2002
Date of Report and Recommendations – September 27, 2002

IN THE MATTER OF Sections 91, 92 and 95 of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12 and section 115 of the *Water Act*, R.S.A. 2000, c. W-3.

-and-

IN THE MATTER OF a Notice of Appeal filed by Mrs. Elizabeth Poburan with respect to *Water Act* Approval No. 00186804-00-00, issued to Parkbridge Communities Inc., authorizing the construction of a storm water management pond on a tributary of the Atim Creek, by the Director, Central Region, Regional Services, Alberta Environment.

Cite as: *Poburan v. Director, Central Region, Regional Services, Alberta Environment re: Parkbridge Communities Inc. (23 September 2002), Appeal No. 02-064-R (A.E.A.B).*

MEDIATION MEETING BEFORE: Mr. Ron Hierath.

APPEARANCES:

Appellant: Mrs. Elizabeth Poburan.

Director: Mr. Darryl Seehagel, Director, Central Region Regional Services, Alberta Environment, and Mr. Doug Y Jeremy, Alberta Environment, represented by Ms. Michelle Williamson, Alberta Justice.

Approval Holder: Mr. Iain Stewart, Parkbridge Communities Inc., Mr. John Ratzke, Parkbridge Communities Inc., Mr. Chuck McNutt, Focus Intec, and Mr. John Stuttaford, Focus Intec.

Other Parties: Ms. Aster Potvin, Ms. Charlotte Bohn and Mr. Roy Bohn.

Board Staff: Mr. Gilbert Van Nes, General Counsel and Settlement Officer.

EXECUTIVE SUMMARY

Alberta Environment issued an Approval under the *Water Act* to Parkbridge Communities Inc. authorizing the construction of a storm water management pond at NE 15-053-27-W4M, on a tributary of the Atim Creek, near the County of Parkland, Alberta.

The Board received a Notice of Appeal from Mrs. Elizabeth Poburan appealing the Approval.

The Board held a mediation meeting in Edmonton, Alberta, following which a resolution was reached by the parties. The resolution provides for the addition of a synthetic liner to the storm water management pond. The Board recommends that the Minister of Environment accept the resolution.

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I. BACKGROUND

[1] On July 25, 2002, the Director, Central Region, Regional Services, Alberta Environment (the “Director”) issued Approval No. 00186804-00-00 (the “Approval”) under the *Water Act*, R.S.A. 2000, c. W-3, to Parkbridge Communities Inc. (the “Approval Holder”) authorizing the construction of a storm water management pond on a tributary of the Atim Creek at NE 15-053-27-W4M near the County of Parkland, Alberta.

[2] On August 8, 2002, the Environmental Appeal Board (the “Board”) received a Notice of Appeal from Mrs. Elizabeth Poburan (the “Appellant”). On August 12, 2002, the Board acknowledged receipt of the Notice of Appeal, notified the Director and the Approval Holder of the appeal, requested that the Director provide the Board with a copy of the records related to the Approval (the “Record”), and requested that the parties provide available dates for a mediation meeting or hearing.

[3] The Board also received a Notices of Appeal from Mr. Rene Victoor (EAB 02-067), Ms. Elma and Mr. Alex Shennan (EAB 02-066), and Ms. Charlotte and Mr. Roy Bohn (EAB 02-068). Mr. Victoor withdrew his appeal¹, and the appeals of Mr. and Ms. Shennan and Mr. and Ms. Bohn were dismissed by the Board for filing their Notices of Appeal outside the time limit specified in the *Water Act*.²

[4] According to standard practice, the Board wrote to the Natural Resources Conservation Board and the Alberta Energy and Utilities Board asking whether this matter had been the subject of a hearing or review under their respective legislation. Both Boards responded in the negative.

[5] On August 26, 2002, the Board received a copy of the Record from the Director and on August 28, 2002, forwarded a copy to the Appellant and Approval Holder.

¹ *Victoor v. Director, Central Region, Regional Services, Alberta Environment re: Parkbridge Communities Inc.* (6 September 2002), Appeal No. 02-067-DOP (A.E.A.B.).

² Those appeals are dealt with in a separate decision.

II. THE MEDIATION MEETING

[6] Pursuant to section 11 of the Environmental Appeal Board Regulation, A.R. 114/93, the Board conducted a mediation meeting in Edmonton, Alberta on September 12, 2002, with Mr. Ron Hierath as the presiding Board Member.

[7] In conducting the mediation meeting, Mr. Hierath reviewed the appeal and mediation process and explained the purpose of the mediation meeting. He then circulated copies of the Participants' Agreement to Mediate. After discussions, an amended version of this agreement was signed by the Parties and discussions continued.

[8] Following productive and detailed discussions, a Resolution evolved at the September 12, 2002 mediation meeting and is attached as page 4.

III. RECOMMENDATIONS

[9] In accordance with section 100 of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12 (the "Act"), the Board recommends that the Minister of Environment vary *Water Act* Approval No. 00186804-00-00, issued by the Director, Central Region, Regional Services, Alberta Environment, in accordance with the Resolution contained herein. Attached for the Minister's consideration is a draft Ministerial Order implementing the recommendations.

[10] Further, with respect to sections 100(2) and 103 of the *Environmental Protection and Enhancement Act* R.S.A. 2000, c. E-12, the Board recommends that copies of this Report and Recommendations, and of any decision by the Minister of Environment, be sent to the following parties:

- Mrs. Elizabeth Poburan;
- Mr. Iain Stewart, Parkbridge Communities Inc., represented by Mr. Garth Anderson, Gowling, LaFleur, Henderson; and

- Mr. Darryl Seehagel, Director, Central Region, Regional Services, Alberta Environment, represented by Ms. Michelle Williamson, Alberta Justice.
- Ms. Aster Potvin;
- Mr. Roy and Ms. Charlotte Bohn; and
- Mr. Rene Victoor.

Dated on September 27, 2002, at Edmonton, Alberta.

“original signed by”

Mr. Ron Hierath

IV. RESOLUTION

RESOLUTION OF APPEAL NO. 02-064 REGARDING APPROVAL NO. 00186804-00-00 ISSUED UNDER THE *WATER ACT* BY THE DIRECTOR, CENTRAL REGION, REGIONAL SERVICES, ALBERTA ENVIRONMENT, TO PARKBRIDGE COMMUNITIES INC., AUTHORIZING THE CONSTRUCTION OF A STORM WATER MANAGEMENT POND AT NE 15-053-27-W4M ON A TRIBUTARY OF ATIM CREEK, IN PARKLAND COUNTY, ALBERTA.

All parties to the appeal have agreed to the following terms and conditions:

1. Parkbridge Communities Inc., the Approval Holder, shall hold an information session regarding "Phase 3" of their development with the stakeholders of the area and affected landowners.
2. Parkbridge Communities Inc. shall provide a copy of the applications that they have submitted to Alberta Environment regarding Phase 3 of their development to Mr. Chris and Mrs. Elizabeth Poburan, Mr. Roy and Ms. Charlotte Bohn, Mr. Alex and Ms. Elma Shennan, and Mr. Rene and Ms. Joan Victoor, within one week of the date of this agreement.
3. Parkbridge Communities Inc. shall provide a copy of the advertisement that will be placed in the newspaper with respect to the applications they have submitted to Alberta Environment regarding Phase 3 of their development, at the same time the advertisement is placed, to Mr. Chris and Mrs. Elizabeth Poburan, Mr. Roy and Ms. Charlotte Bohn, Mr. Alex and Ms. Elma Shennan, and Mr. Rene and Ms. Joan Victoor.
4. Parkbridge Communities Inc. shall install a synthetic liner in the storm water management pond authorized by Approval No. 00186804-00-00. Approval No. 00186804-00-00 is amended by adding immediately after condition 9: "10. The approval holder shall install a synthetic liner in the storm water management pond that is to the satisfaction of the Director."
5. Parkbridge Communities Inc. shall install a 6-foot high chain link fence on the property line between the property owned by Parkbridge Communities Inc. and the property owned by the Poburans, by December 15, 2002, at the expense of Parkbridge Communities Inc.
6. That in consideration of Parkbridge Communities Inc. agreeing to the foregoing, the Appellant, Mrs. Elizabeth Poburan, agrees to withdraw her Notice of Appeal.

RESOLUTION AGREED TO BY:

"original signed by"
Poburan Farms
represented by Mrs. Elizabeth Poburan

Date: September 20, 2002

"original signed by"
Mr. Darryl Seehagel, Director
Central Region, Regional Services, Alberta Environment
represented by Ms. Michelle Williamson, Alberta Justice

Date: September 26, 2002

"original signed by"
Parkbridge Communities Inc.
represented by Mr. Iain Stewart

Date: September 25, 2002

V. DRAFT ORDER

**Ministerial Order
/2002**

Environmental Protection and Enhancement Act
R.S.A. 2000, c. E-12

Water Act
R.S.A. 2000, c. W-3

**Order Respecting Environmental Appeal Board
Appeal No. 02-064**

I, Dr. Lorne Taylor, Minister of Environment, pursuant to section 100 of the *Environmental Protection and Enhancement Act*, make the order in the attached Appendix, being an Order Respecting Environmental Appeal Board Appeal No. 02-064.

Dated at the City of Edmonton, in the Province of Alberta this ____ day of _____, 2002.

Honourable Dr. Lorne Taylor
Minister of Environment

Draft Appendix

Order Respecting Environmental Appeal Board Appeal No. 02-064

With respect to the decision of the Director, Central Region, Regional Services, Alberta Environment (the “Director”) to issue Approval No. 00186804-00-00 (the “Approval”) under the *Water Act*, R.S.A. 2000, c. W-3, to Parkbridge Communities Inc., I, Dr. Lorne Taylor, Minister of Environment, order that the Approval be varied as follows:

1. Immediately after clause 9 the following is added:
 - “10. The approval holder shall install a synthetic liner in the storm water management pond that is to the satisfaction of the Director.”

**Ministerial Order
27/2002**

Environmental Protection and Enhancement Act
R.S.A. 2000, c. E-12

Water Act
R.S.A. 2000, c. W-3

Order Respecting Environmental Appeal Board

Appeal No. 02-064

I, Dr. Lorne Taylor, Minister of Environment, pursuant to section 100 of the *Environmental Protection and Enhancement Act*, make the order in the attached Appendix, being an Order Respecting Environmental Appeal Board Appeal No. 02-064.

Dated at the City of Edmonton, in the Province of Alberta this 1st day of Oct., 2002.

“original signed by”

Honourable Dr. Lorne Taylor
Minister of Environment

Appendix

Order Respecting Environmental Appeal Board Appeal No. 02-064

With respect to the decision of the Director, Central Region, Regional Services, Alberta Environment (the “Director”) to issue Approval No. 00186804-00-00 (the “Approval”) under the *Water Act*, R.S.A. 2000, c. W-3, to Parkbridge Communities Inc., I, Dr. Lorne Taylor, Minister of Environment, order that the Approval be varied as follows:

2. Immediately after clause 9 the following is added:
 - “10. The approval holder shall install a synthetic liner in the storm water management pond that is to the satisfaction of the Director.”