

ALL COMMUNICATIONS SHOULD BE ADDRESSED TO THE
DIRECTOR OF SURVEYS AND MAPPING
THE REPLY TO THIS LETTER SHOULD BE MARKED
FOR THE ATTENTION OF:



YOUR FILE NO.
Circular Letter #241

OUR FILE NO.

DIRECTOR AND SURVEYOR-GENERAL ☒ _____
FIELD OPERATIONS DIVISION _____
LEGAL SURVEYS DIVISION _____
MAP PRODUCTION DIVISION _____

SURVEYS AND MAPPING BRANCH
DEPARTMENT OF LANDS, FORESTS,
AND WATER RESOURCES
VICTORIA, BRITISH COLUMBIA

February 19, 1973.

CIRCULAR LETTER TO ALL BRITISH COLUMBIA LAND SURVEYORS.

Dear Sirs:

Re: Farm Land Preservation.

For your information and guidance on the above-noted matter
please find enclosed copies of:-

1. Order in Council 4483 approved December 21, 1972.
2. Order in Council 157 approved January 18, 1973.
3. Circular letter dated February 16, 1973 from the Honourable the Minister of Agriculture which is intended to clarify the intention of the two Orders to the various approving authorities in the Province.

Yours truly,

A handwritten signature in dark ink, appearing to read 'A. H. Ralfs'.

A. H. Ralfs,
Surveyor-General and Director,
Surveys and Mapping Branch.

Enclosures.

Approved and ordered this 21st day of December, A.D. 1972

At the Executive Council Chamber, Victoria,

[Signature]
Lieutenant-Governor.

PRESENT:

The Honourable

in the Chair.

Mrs. Dailly
Mr. Stupich
Mr. Hall
Mr. Macdonald
Mr. Williams
Mr. Strachan
Mr. King
Mr.
Mr. Lorimer
Mr. Cocke
Mr. Hartley
Mr. Levi
Mr.
Mr.
Mr.

To His Honour

The Lieutenant-Governor in Council:

The undersigned has the honour to report:

THAT Section 6 of the Environment and Land Use Act, being Chapter 17 of the Statutes of British Columbia, 1971, provides that on the recommendation of the Committee, the Lieutenant-Governor in Council may make such orders respecting the environment, or land use, as he may consider necessary or advisable:

AND THAT the Committee has recommended that from December 11, 1972 and henceforth until further order or further provision by statute to the contrary, all subdivisions of farm land (as defined in Section 2 of the Taxation Act, being Chapter 376 of the Revised Statutes of British Columbia, 1960, and amendments thereto) including all lands deemed by the Committee to be suitable for cultivation of agricultural crops, be prohibited:

AND TO RECOMMEND THAT, pursuant to Section 6 of the Environment and Land Use Act, all subdivisions of farm land, including all lands deemed by the Committee to be suitable for cultivation of agricultural crops, until further order or provision by statute to the contrary, be prohibited.

DATED this 21st day of Dec A.D. 1972

[Signature]
Minister of Agriculture

APPROVED this 21st day of Dec A.D. 1972

[Signature]
Presiding Member of the Executive Council

Approved and ordered this 18th day of January, A.D. 1973

[Signature]
Lieutenant-Governor.

At the Executive Council Chamber, Victoria,

PRESENT:

The Honourable

in the Chair.

Mr. s. Dailly
Mr. Stupich
Mr. Hall
Mr. Macdonald
Mr. Williams
Mr. Nimsick
Mr. Strachan
Mr. King
Mr. Lorimer
Mr. Hartley
Mr. Calder
Mr.
Mr.
Mr.

[Signature]

To His Honour

The Lieutenant-Governor in Council:

The undersigned has the honour to report:

THAT section 6 of the Environment and Land Use Act provides that on the recommendation of the Committee, the Lieutenant-Governor in Council may make such Orders respecting the environment, or land use, as he may consider necessary or advisable;

AND THAT, pursuant to section 6, Order in Council 4483/72 was made;

AND THAT it is considered necessary and advisable to further define the intent, and extend further the application, of Order in Council 4483/72;

AND TO RECOMMEND THAT, pursuant to section 6, no non-agricultural development, which shall include developing a site, changing a land use, and constructing a building, except a building that is necessary for the operation of a farm or a residence for persons engaged in the operation of a farm, shall be carried out on, or respecting, farm land.

For the purposes of this Order and Order 4483/72, "farm land" means any land of two acres or more that is

- (a) situated in unorganized territory and classified as farm land as that expression is defined in section 2 of the Taxation Act; or
- (b) situated in a municipality and classified as farm land under section 332 of the Municipal Act; or
- (c) designated as Class 1, 2, 3, or 4 of the classification of soil capability for agriculture developed as part of the Canada Land Inventory under the Agricultural and Rural Development Act (ARDA) (Canada).

No approving officer shall pursuant to the Land Registry Act, approve a subdivision of farm land unless authorized to do so by an order of the Lieutenant-Governor in Council or by the provision of any other Act.

No person shall issue or cause to be issued a building permit authorizing the construction of a new building on farm land.

No municipality, regional district or the City of Vancouver shall pass a zoning by-law, or enter into a land use contract, authorizing farm land to be used for non-agricultural use.

No Registrar under the Land Registry Act shall accept an application for deposit of a plan of subdivision pursuant to the Strata Titles Act respecting farm land.

Notwithstanding the above prohibitions when an applicant, by sworn statement, provides sufficient proof to the satisfaction of the Approving Officer or official charged with issuance of building permits that the development was substantially commenced on or before the twenty-first day of December, 1972, the Approving Officer or such other official may give a certificate to the effect he believes the development to have substantially commenced before the twenty-first day of December, 1972, and a subdivision may then be approved; a building permit may then be issued; a zoning by-law may then be enacted; a land use contract may then be approved; and a Strata Titles Act subdivision may then be accepted for deposit.

This Order shall not apply to developments, subdivisions, re-zonings, building permits, land use contracts, and Strata Title subdivisions where the purpose of the proposed development is for agricultural use.

Where a person having any interest in farmland is aggrieved by any action taken under authority of this Order, he may appeal to the Environment and Land Use Committee, who may hear the appeal and vary, amend, rescind or confirm the action.

DATED this

18

day of

Jan

A.D. 1973

Carol A. Hargrave

Minister of Agriculture

APPROVED this

18

day of

Jan

A.D. 1973

E. D. Dailly

Presiding Member of the Executive Council



VICTORIA

February 16, 1973.

To: -- Municipal Clerks and Regional District Secretary-Treasurers.
Approving Officers in Municipalities and Regional Districts.

Re: Farm Land Preservation

Two Orders in Council were recently approved by government as an emergency and interim measure to ensure that land capable of supporting agriculture is not altered so that it cannot be used for agriculture. It is expected legislation will soon be enacted to take more complete care of the situation.

In the meantime the Environment and Land Use Committee is concerned that the approach to the implementation of the Orders should be the same throughout the province and so have instructed me to put that Committee's wishes on paper for distribution to all municipalities, regional districts and the Department of Highways in British Columbia. A copy of both Orders in Council 4483/72 and 157/73 are attached for convenience. They should be examined carefully before reading the following.

1. Certificate

The Committee is aware that a measure of judgement will be required in the processing of instream applications (those which have been received).

Where your administration is satisfied with the applicant's sworn statement in which she or he gives as much detail as he or she wishes showing the development did indeed substantially commence on or before 21 December 1972, a certificate should be issued.

In reviewing an application for a certificate recognition should be given to:

- (a) parcel size (the smaller the parcel size the harder it is to establish a viable farm unit)
- (b) small parcels in close proximity to existing development (closely surrounded on three sides by urbanized land, etc.)
- (c) whether the proposal has been prosecuted vigorously or is an old dormant proposal "dragged out and dressed up"
- (d) whether there is hardship.



Such a certificate could be worded "This is my certificate that I am satisfied and believe the development of (legal description or scale map with dimensions as required) for (size and nature of proposed land use) to have substantially commenced before December 22, 1972."

2. Certificate Distribution

Where the certificate is for a building permit a copy should be attached to the permit and a copy should be attached to the office copy of the permit and the attachment noted on the permit.

Where the certificate is for a subdivision or strata titles case a copy should be kept on file, a copy given the applicant and a copy sent to the Registrar in the appropriate Land Registry Office with a covering letter giving enough detail to make the case understandable. Where the subdivision adjoins a Controlled Access Highway, a further copy of the certificate should be sent with the proposal to the appropriate provincial official.

The Order gives dual jurisdiction for issuing certificates - either the approving officer or building inspector. The appropriate officer should issue the certificate.

In cases other than subdivision where, outside a municipality, a building bylaw applies to an area in which there is need for certification the building inspector for that area would provide the certificate.

Except for the Gulf Islands in the Capital Regional District, all certificates for subdivision outside municipalities will be issued by the Approving Officer in the Department of Highways.

In those rare cases outside municipalities where there are areas where there is a zoning bylaw but no building bylaw, the Approving Officer of the Department of Highways does all certification.

3. Substantial Commencement

Instream applications should be allowed where the land has been so physically altered that it cannot reasonably be used for agriculture and where approvals have been held out to the extent that refusal would be a hardship on the applicant whether it be a single person or a company.

(a) Holding Out

Holding out has been interpreted as referring to approvals which go to the heart of consenting to the concept of the proposed land use. These should include valid tentative or final subdivision approvals; metes and bounds descriptions approved by the Approving Officer and acceptable to the Registrar in the Land Registry Office:

approved final subdivisions registered since January 1, 1972; regional district land use contract bylaws which have been approved by the Lieutenant-Governor in Council; municipal land use contract bylaws which have been given third reading and have received any approval required under the Controlled Access Highways Act; buildings for which building permits have been issued.

However, holding out should not include expired tentative subdivision approvals; approved subdivision plans not tendered for deposit with the Registrar in the Land Registry Office within sixty days after it has been approved by the Approving Officer; metes and bounds descriptions acceptable to the Registrar in the Land Registry Office which have not been granted approval by the Approving Officer; subdivisions registered before January 1, 1972; regional district land use contract bylaws which have not received Lieutenant-Governor in Council approval; municipal land use contract bylaws which have not been given third reading and have not received and approval required under the Controlled Access Highways Act; zoning or rezoning bylaws; applications for building permit; a certificate of public convenience and necessity issued under Public Utilities Act; a waste water disposal permit issued pursuant to Pollution Control Act, 1967; a water licence; a certificate of approval under the Health Act.

(b) Commencement

Evidence of substantial commencement should be considered to include physical work which alters the land such as road or drainage construction, subdivision utility installation, foundation excavation, concrete foundation slabs, and buildings under construction. However, where physical work leaves the land tillable, it should not be considered to be substantial commencement and this would include clearing, grubbing, fencing or the installation of drainage tile or water pipes not part of a subdivision.

4. Refusal

In all cases where an approval or permit is denied because of the Orders in Council the applicant should be notified in writing and the notification should fully state the reasons.

Where an application has been denied, the authority denying is advised that if the applicant appeals the decision it may be requested by the Environment and Land Use Committee to provide relevant information in order to properly consider the appeal.

5. Appeal

Where a person having an interest in farm land is aggrieved by any action taken under authority of Order 157/73 he may appeal to the Environment

and Land Use Committee. Appeals are to be in writing. Appeals are to be addressed to the Secretary, Environment and Land Use Committee, Parliament Buildings, Victoria, and should set out relevant details and enclose any plans and documents the applicant deems necessary, including a copy of the letter of denial.

There is no appeal to any Minister of the Crown and all prospective appellants should be so advised.

6. Miscellaneous Questions

- (a) Where the subdivision of farm land for agricultural use is proposed the principal question is whether the parcels so created would be viable farm units. In determining this the Approving Officer would find it useful to have an opinion as to whether all parcels would qualify for farm classification in assessment terms. The thoughts of the Assessor or other appropriate government officials may be sought.
- (b) Buildings necessary for the operation of a farm or a residence for a person engaged in the operation of a farm are permitted to qualify under the Order. The principal question is whether the land is in fact a viable farm or capable of being made a viable farm unit. In determining this, the issuer of the certificate would find it useful to have an opinion as to whether the parcel would qualify for farm classification in assessment terms. If the land qualifies, it is then necessary to determine if the buildings are necessary for agricultural pursuits. The thoughts of the assessor or other appropriate government officials may be sought.
- (c) In those instances where a reasonable proportion of the parcel is "farm land", the parcel should not be subdivided at this time. Stress is laid on the fact that the Order is an interim measure.
- (d) Where there are no maps showing Canada Land Inventory soil capability classification for agriculture, officials considering the issuance of certificates under the Order should contact the nearest office of the Department of Agriculture and obtain the soil capability classification of the land in question.
- (e) Where without these Orders in Council a subdivision would not have been approved, the Approving Officer's explanation for rejecting or not approving a subdivision should include every reason for taking that action and not give undue stress to the Orders in Council.
- (f) The complete replacement of an existing dwelling by a different one whether by moving the different dwelling onto the parcel or by the construction of a new dwelling on the site is not considered to be a substantial change to the situation that exists and therefore should be permitted.

It is hoped that the foregoing thoughts of the Environment and Land Use Committee will be of value to you as guidance in the implementation of the Orders in Council. Your forbearance and co-operation in this very important issue will be greatly appreciated.

David D. Stupich

David D. Stupich,
Minister of Agriculture.

June 20, 1973

To: ALL BRITISH COLUMBIA LAND SURVEYORS

Amendment to Order in Council 157/73 which formed
part of Circular Letter No. 241 dated February 19, 1973

THE BRITISH COLUMBIA GAZETTE

June 14, 1973

1891

Approved and ordered this 4th day of
June 1973.

W. S. OWEN
Lieutenant-Governor

AT THE EXECUTIVE COUNCIL
CHAMBER, VICTORIA

Present:

The Honourable Mrs. DAILLY,
in the Chair.

Mr. WILLIAMS.
Mr. HALL.
Mr. STUPICH.
Mr. NIMSICK.
Mr. SIRCAHAN.
Mr. KING.
Mr. LEVI.
Mr. LEA.
Mr. RADFORD.
Mr. LAUK.

*To His Honour the Lieutenant-Governor
in Council:*

The undersigned has the honour to report that section 6 of the *Environment and Land Use Act* provides that, on the recommendation of the Committee, the Lieutenant-Governor in Council may make such Orders respecting the environment, or land use, as he may consider necessary or advisable:

And that, pursuant to section 6, Orders in Council 4483/72 and 157/73 were made:

And that it is considered necessary and advisable to further define the intent, and extend further the application, of Order in Council 157/73:

And that, pursuant to section 6, the prohibitions contained in Order in Council 157, approved January 18, 1973, be further clarified by deleting paragraph 2 of page 2, and substituting the following:

"No person shall issue or cause to be issued a building permit authorizing the construction of a new building on farm land other than for agricultural purposes, except that this Order shall not prohibit the construction of one single-family dwelling per lot, provided that the dwelling is eligible for the home-owner grant."

Dated this 31st day of May 1973.

R. A. WILLIAMS
*Minister of Lands, Forests, and
Water Resources*

Approved this 31st day of May 1973.

E. DAILLY
*Presiding Member of the Executive
Council*

je14-4529



A. H. Ralfe,
Surveyor General and Director
Surveys and Mapping Branch