



BOARD REVIEW DECISION

2023-07 / LA23003

Review of Decision Summary LA23003

Joshua and Deborah Denbok (operating
as JD Feeders)

December 12, 2023

The Board issues this decision under the authority of the *Agricultural Operations Practices Act* (AOPA or the Act), following the Board’s review of Decision Summary LA23003 and subsequent submissions for the written review.

Background

NRCB Decision Summary LA23003 (the Decision Summary), was issued by an approval officer on October 6, 2023, denying an application by Joshua and Deborah Denbok (the Denboks) for a beef confined feeding operation (CFO). The CFO is located at SE 20-11-23 W4M in Lethbridge County (the County).

Under section 20(1)(a) of AOPA, approval officers must consider whether the application is consistent with the municipal development plan (MDP) land use provisions and, where an inconsistency exists, the approval officer must deny the application. In this case, the approval officer denied application LA23003 since, in the opinion of the approval officer, the application was inconsistent with the County MDP.

The Board received one Request for Review (RFR) of the Decision Summary from the Denboks, asking the Board to reverse the denial decision.

On November 14, 2023, the NRCB Board issued a Decision Letter granting a written review. Decision RFR 2023-06 was subsequently released on November 22, 2023, providing the reasons for the decision.

The written review submission filing deadline was December 4, 2023. The Denboks and the County filed submissions prior to the deadline. The reply submission deadline was December 11, 2023. No reply submissions were received.

Hearing Issue

The Board granted a review of the Decision Summary to potentially consider two issues. Will consolidation of the two parcels on SE 20-11-23 W4M remove the inconsistency with the County’s MDP? If not, should the Board approve the application despite the inconsistency?

Board Deliberations

The Denboks’ submission of December 4, 2023, reiterated their concern that consolidating the titles of the two properties to avoid a setback conflict with the County’s MDP and Land Use Bylaw (LUB) could prejudice their position if Application LA23003 was not approved. The Board acknowledges that uncertainty existed whether the application would receive an approval based on potential impacts of the proposed CFO on the neighbouring Old Colony Mennonite Church and school. In the end the application was denied solely based on the inconsistency with the MDP and LUB; therefore, the Board narrowed the scope of review to this single issue.

The County of Lethbridge filed a submission on November 28, 2023, reconfirming its position that consolidating the two titles held by the Denboks on SE 20-11-23 W4M satisfies property line setbacks as required under its LUB RA 4.1. The approval officer denied Application LA23003 since the existing and proposed CFO was inconsistent with the County’s MDP section 3.6 that

incorporated LUB RA 4.1. It follows then that since the proposed consolidation of properties will fulfil LUB RA 4.1, section 3.6 of the County's MDP will also be satisfied. Once the two titles at issue are consolidated, the application will be consistent with the MDP.

While s. 20(1)(a) of AOPA prevented the approval officer from granting an approval with a title consolidation condition, the Board is not so constrained. Granting of an approval with a title consolidation condition will address the Denboks' risk concerns, support consistency with the County's MDP, and allow a CFO that otherwise meets all AOPA requirements to proceed.

Decision

For the reasons set out above, the Board hereby directs the approval officer to issue an approval to the Denboks to construct and operate a confined feeding operation as described in Application LA23003. The Board also directs the approval officer to include all conditions as recommended within Appendix E of the Decision Summary associated with Application LA23003, which includes confirmation of title consolidation prior to construction.

DATED at EDMONTON, ALBERTA, this 12th day December, 2023.

Original signed by:

Peter Woloshyn (chair)

Sandi Roberts

Rich Smith

Darin Stepaniuk