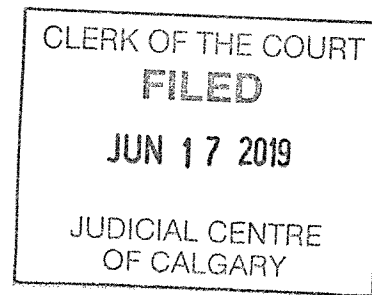


Clerk's stamp:



COURT FILE NUMBER 1901-06503

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANTS GERRIT TOP, JANTJE TOP and SPOT ADS INC.

RESPONDENT MUNICIPAL DISTRICT OF FOOTHILLS NO. 31

DOCUMENT **AFFIDAVIT**

ADDRESS FOR
SERVICE AND
CONTACT INFORMATION
OF PARTY FILING
THIS DOCUMENT

James Kitchen and Jay Cameron
Justice Centre for Constitutional Freedoms
#253, 7620 Elbow Drive SW
Calgary, Alberta T2V 1K2
Phone: 403-667-8575
Fax: 587-352-3233

and

CONTACT INFORMATION
OF ALL OTHER PARTIES

Sean E.D. Fairhurst
MLT Aikins LLP
2100-222 3rd Avenue SW
Calgary, Alberta T2P 0B4
Phone: 403-693-4307
Fax: 403-508-4349
Email: sfairhurst@mltaikins.com
Counsel for the Respondents

AFFIDAVIT OF JANTJE TOP

Sworn on June 15, 2019

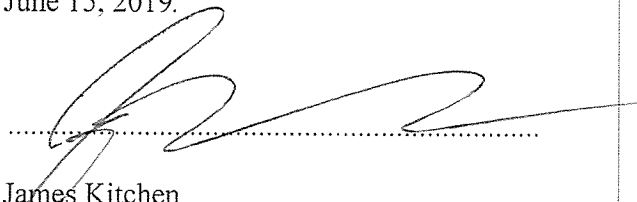
I, Jantje Top, of the Municipal District of Foothills, Alberta MAKE OATH AND SAY THAT:

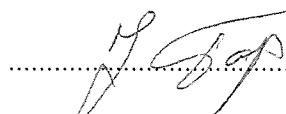
1. I have personal knowledge of the matters and facts hereinafter deposed to by me, except where same are stated to be based upon information and belief, in which cases I believe them to be true.
2. Use of the terms such as “we”, “us” and “our” references my husband, Gerrit Top and myself.
3. We reside in Foothills near High River. We are retired dairy farmers. I immigrated to Canada from Holland in 1954 and my husband immigrated to Canada from Holland in 1952. We farmed in Cayley, Alberta for over 30 years before selling our farm to our son in 2003 and retiring to live in our present home.
4. My husband and I believe strongly in the inherent worth and dignity of all human life, including pre-born human life. We believe we should do everything we can to support young women who are pregnant and possibly feeling fearful and alone. Further, we are of the opinion that Canada ought to create laws that protect the pre-born and, specifically, laws that regulate abortion. Currently Canada has no laws that address the abortion of the pre-born.
5. We are members of High River Pro-Life, a local group of concerned citizens that advocate for life issues. In 2005, High River Pro-Life decided it wanted to erect a billboard sign that would be visible from Highway 2. We offered a trailer we own for the sign. We also offered a property we own as a location on which to put the sign. The land description for the property is S 32-17-28 W4 (Land Title Certificate attached to this affidavit as **Exhibit “A”**) and is located on the eastern side of Highway 2.

6. In 2006, High River Pro-Life arranged to have pro-life themed signs, produced by local artists, affixed to each side of our trailer. Those signs (pictures of which are attached to this affidavit as **Exhibit "B"**) remained in place for approximately 12 years, until October 2018 when High River Pro-Life arranged to have our trailer outfitted with two new signs affixed to each side (the "Pro-Life Billboard").
7. One side of the Pro-Life Billboard states, "CANADA HAS NO ABORTION LAWS" and lists the website "weneedalaw.ca". The other side shows a picture of a young woman and the text "PREGNANT? NEED HELP? YOU ARE NOT ALONE" and lists the website "CHOICE42.COM". A picture of each side of the Pro-Life Billboard is attached to this affidavit as **Exhibit "C"**.
8. On February 1, 2019, we received a letter from Foothills Patrol Division (attached to this affidavit as **Exhibit "D"**) which identified the Pro-Life Billboard as an "advertising trailer" and a "prohibited sign" pursuant to section 9.24.10 of the Foothills Land Use Bylaw. Foothills Patrol Division requested the Pro-Life Billboard be removed and threatened various "enforcement measures" if it was not.
9. I swear this Affidavit *bona fide* and for no improper purpose.

Municipal
District of

Sworn before me at Foothills in the
Province of Alberta, on
June 15, 2019.


James Kitchen
Barrister and Solicitor


JANTJE TOP



LAND TITLE CERTIFICATE

THIS IS EXHIBIT " A " referred to in the Affidavit of Jantje Toppe
Sworn before me this 15th day of June A.D. 20 19
A Commissioner and for the Province of Alberta

James Kitchen
Barrister & Solicitor

S
LINC SHORT LEGAL
0037 404 548 1612749;1;1

TITLE NUMBER
161 286 713

LEGAL DESCRIPTION
PLAN 1612749
BLOCK 1
LOT 1
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 91.02 HECTARES (224.92 ACRES) MORE OR LESS

ESTATE: FEE SIMPLE
ATS REFERENCE: 4;28;17;32;S

MUNICIPALITY: Foothills County

REFERENCE NUMBER: 941 011 308
161 286 711

REGISTERED OWNER(S)				
REGISTRATION	DATE (DMY)	DOCUMENT TYPE	VALUE	CONSIDERATION

161 286 713	30/11/2016	SUBDIVISION PLAN		
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OWNERS

GERRIT TOP

AND

JANTJE TOP

BOTH OF:

R.R. #2

CAYLEY

ALBERTA TOL OPO

AS JOINT TENANTS

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION		
NUMBER	DATE (D/M/Y)	PARTICULARS
8483HI	16/01/1958	CAVEAT CAVEATOR - CANADIAN WESTERN NATURAL GAS COMPANY LIMITED.

(CONTINUED)

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2
161 286 713

REGISTRATION
NUMBER DATE (D/M/Y) PARTICULARS

" AFFECTS PART OF THIS TITLE "

831 039 669 04/03/1983 UTILITY RIGHT OF WAY
GRANTEE - CANADIAN WESTERN NATURAL GAS COMPANY
LIMITED.
AS TO PORTION OR PLAN:831209
"TAKES PRIORITY OF CAVEAT 811050995"

931 268 068 27/10/1993 EASEMENT
OVER PLAN 9312055 LOT 1
FOR BENEFIT OF 4;28;17;32;NW,SW
(WEST 30 METRES)

961 097 441 06/05/1996 UTILITY RIGHT OF WAY
GRANTEE - CANADIAN WESTERN NATURAL GAS COMPANY
LIMITED.
PORTION AS DESCRIBED

111 305 007 23/11/2011 UTILITY RIGHT OF WAY
GRANTEE - SUNSHINE GAS CO-OP LTD.
" AFFECTS PART OF THIS TITLE "

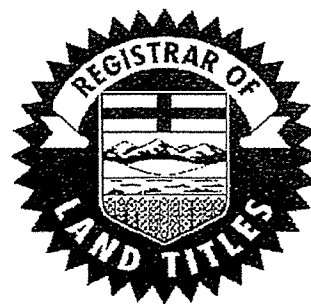
151 197 017 07/08/2015 UTILITY RIGHT OF WAY
GRANTEE - SUNSHINE GAS CO-OP LTD.
" AFFECTS PART OF THIS TITLE "

TOTAL INSTRUMENTS: 006

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 13 DAY OF JUNE,
2019 AT 10:36 A.M.

ORDER NUMBER: 37422492

CUSTOMER FILE NUMBER:



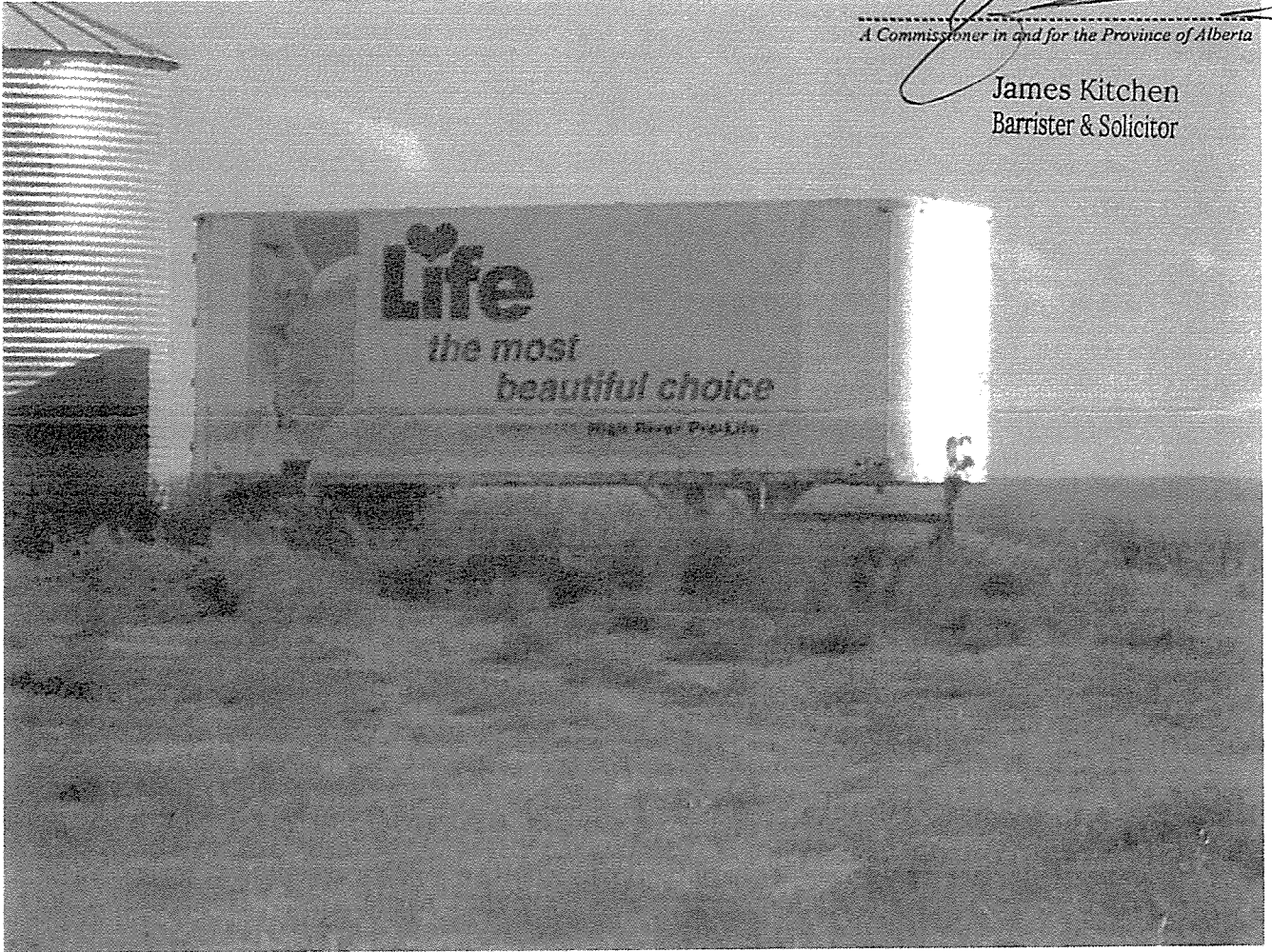
END OF CERTIFICATE

(CONTINUED)

THIS IS EXHIBIT " B " referred to in the Affidavit of Jantje Topp
Sworn before me this 15th day of June A.D. 20 13

A Commissioner in and for the Province of Alberta

James Kitchen
Barrister & Solicitor







THIS IS EXHIBIT " C "

referred to in the Affidavit of

Janetie Tef

Sworn before me this 15th

day of June A.D. 20 19

A Commissioner in and for the Province of Alberta

James Kitchen
Barrister & Solicitor

PREGNANT? NEED HELP?
YOU ARE NOT ALONE.



CHOICE 42.COM





Foothills County
309 Macleod Trail
Box 5606
High River, AB
T1V 1M7

Ph: 403-603-6300
Fax: 403 652-4548



February 1, 2019

Gerrit & Jantje Top
Box 5036, High River, AB
T1V 1M3

Re: Land Use- Prohibited Signage

Your property has been identified as having a large advertising trailer(s), which is in contravention of the *Land Use Bylaw 60/2014*, as our records show no development permit that would allow this use.

Land Use Bylaw states that:

Prohibited Signs:

The following signs are prohibited in the municipality:

- a. Signs attached to shipping containers or Sea-cans, including signage painted or adhered directly onto a container;
- b. Signs attached to licensed or unlicensed vehicles, not including imagery or wording either painted or adhered by magnetic or glued on decals directly onto the vehicle in question;

At this time, we are asking for your compliance in removing the signage from your property. Currently, the fine for having a non-compliant sign, such as is currently located on your property, carries a fine of \$1000 per occurrence. Please be advised that Foothills County is currently revising the Land Use Bylaw provisions respecting prohibited signs and that these revisions shall further clarify what constitutes a prohibited sign as well as substantially increasing the fine structure for property owners or other persons who place or allow to be placed trailers with advertising or messaging on them without proper permits in place.

Failure to remove prohibited signs will result in formal enforcement measures being commenced against yourself, your property, and the owners of the advertising trailers. These may include but are not limited to a Stop Order pursuant to *Section 645 of the Municipal Government Act*, violation ticket(s) for displaying a prohibited sign, or failing to comply with a stop order, removal of the prohibited sign, and/or an injunction from the Alberta Court of Queen's Bench.

Our mission at Foothills Patrol is to attempt to resolve compliance issues with the lowest recourse possible; it is our hope that it will not be necessary to further escalate this matter in order to achieve compliance with the Land Use Bylaw. If the signs attached to the trailer(s) located on your property are removed as requested, no further enforcement action will be initiated by the municipality.

Should you require more information or have additional questions please feel free to contact the undersigned Peace Officer during regular business hours.

Regards,

Brady Durbano
Peace Officer (Reg 15488)
Investigator
Foothills Patrol Division
(403) 603-6300

THIS IS EXHIBIT " D " referred to in the Affidavit of Jantje Top
Sworn before me this 15th day of June A.D. 20 19

A Commissioner in and for the Province of Alberta

James Kitchen
Barrister & Solicitor