

Clerk's stamp:

COURT FILE NUMBER 1901-06503
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANTS GERRIT TOP, JANTJE TOP, SPOT ADS INC., and ROSS MARTIN
RESPONDENT MUNICIPAL DISTRICT OF FOOTHILLS NO. 31

DOCUMENT **AFFIDAVIT OF BRIAN WORKHORST**

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 Fairhurst
Dentons Canada LLP
15th Floor, Bankers Court, 850 - 2nd Street SW
Calgary, AB T2P 0R8
Phone: 403-268-6803
Fax: 403-268-3100
Email: sean.fairhurst@dentons.com
Counsel for the Respondent

AFFIDAVIT OF BRAIN WORKHORST


Sworn on December 13, 2019

I, Brian Workhorst, 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. I am a resident landowner in the Municipal District of Foothills ("Foothills") and have been since 1996. I am the owner and resident of SE 7-18-28 W4, the rural civic address for which is 594135 Hwy 2, Foothills.
3. I am always looking for ways to increase the income generated by my land, especially in light of the tax burden imposed upon me in the form of property taxes. Leasing small portions of my property for the purpose of roadside adverting presents a welcome and unique means to supplement my income. The economy has not been good and the revenue assists my family in meeting its expenses.
4. I have had a sign attached to the side of a trailer on my property for approximately the last 20 years, since approximately 1998. I have had Spot Ads signs on my property since approximately 2014. The signs are situated entirely on my own land, and not on public land owned by the Crown.
5. The signs have always been in good repair. I do not consider the signs to be obstructive or displeasing to look at. The most recent sign, in particular, which is attached to this affidavit as **Exhibit "A"**, was a clean and attractive real estate advertisement.
6. It is my intention in having Spot Ads signs on my property to exercise my constitutional right to freedom of expression to display the advertising message on the signs to the public.
7. I am advised and believe that litigation is currently ongoing to challenge the sign prohibition as an unlawful violation of freedom of expression.

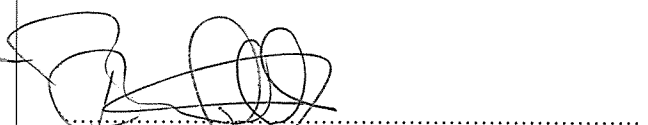
8. I received a letter from Foothills dated November 12, 2019, attached to this affidavit as **Exhibit "B"**, regarding the aforementioned Spot Ads sign on my property. The letter demanded I remove the sign by November 26.
9. The sign was removed, but the trailer to which the sign was attached is unmoved.
10. Without Spot Ads roadside signs, I would lose out on much-needed income.
11. I swear this affidavit *bone fide*, for no improper purpose.

Sworn before me at Calgary, in the Province
of Alberta, on December 13, 2019.



.....

James Kitchen
Barrister and Solicitor



.....

BRAIN WICKHORST

THIS IS EXHIBIT " A "

referred to in the Affidavit of Brian Wickhorst

Sworn before me this 13 day of December A.D. 2019

A Commissioner in and for the Province of Alberta

James Kitchen
Barrister & Solicitor



THIS IS EXHIBIT " _____ " referred to in the Affidavit of _____

Sworn before me this _____ day of _____ A.D. 20_____

A Commissioner in and for the Province of Alberta

THIS IS EXHIBIT " B "
referred to in the Affidavit of
Brian Wickhorst
Sworn before me this 13
day of December A.D. 20 19

A Commissioner in and for the Province of Alberta

File No.: 2019-458



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

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

November 12, 2019

Brian & Marna Wickhorst
Box 6060
High River, AB
T1V 1P7

James Kitchen
Barrister & Solicitor

Re: Land Use Bylaw: Prohibited Vehicle Signs

Property Location: SE 7-18-28 W4, Plan 9412737 Blk 1 Lot 1/ ROLL1828070010
594135 Hwy 2, Foothills County

In follow up to the letter that was sent to you on February 1, 2019 (attached), requesting that you voluntarily remove signage attached to trailers on your property, this letter is being sent to you today because it has been observed that you continue to have trailer sign(s) located on your property.

DIRECTIONS FOR BRINGING YOUR PROPERTY INTO COMPLIANCE:

A roadside inspection was conducted (2019/11/07), at which time it was observed that a total of (1) vehicle sign are currently located on your property.

At this time, you are directed to ensure that all Vehicle Signs are removed from your property by 2019/11/26. Photographs of the vehicle sign(s) that have been observed on your property are attached for your reference.

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, the County will not initiate any further enforcement action and our investigative file will be concluded.

FAILURE TO COMPLY:

Failure to remove prohibited sign(s), as directed above will result in formal enforcement measures being commenced, which may include, but are not limited to:

- Issuance of a Stop Order, pursuant to Section 645 of the Municipal Government Act;
- Issuance of Violation ticket(s) for displaying or allowing to display a prohibited sign;
- Issuance of Violation ticket(s) for failing to comply with a Stop Order;
- Pursuing an injunction from Alberta Court of Queen's Bench;
- Enforcing the Stop Order by entering onto the property to have the vehicle signs removed, pursuant to Section 646 of the Municipal Government Act
- Any costs incurred during the enforcement of a Stop Order are an amount owing to the municipality and as such, may be added to the tax roll, pursuant to Section 553 of the Municipal Government Act.

SPECIFIED PENALTIES – FINES FOR OFFENCES:

Section 9.24.11(j) Foothills County Land Use Bylaw

Erect/place/affix/locate, or allow any person to erect/place/affix/locate any prohibited sign

- Minimum Specified Penalty: \$2000.00 per sign
- Second Contravention within 12 months: \$4000.00 per sign
- Third or Subsequent Contravention within 12 months: \$6000.00 per sign



Section 7.18.2(c) Foothills County Land Use Bylaw

Fail to comply with Stop Order

- Minimum Specified Penalty: \$2500.00
- Second Contravention within 12 months: \$5000.00
- Third or Subsequent Contravention within 12 months: \$7500.00

LAND USE BYLAW AMENDMENTS (June 2019):

Foothills County recently amended the Land Use Bylaw, to more clearly define and identify what constitutes a prohibited sign, and to provide for a new specified penalty fine structure. Please make note of the following amendments:

Vehicle Sign Definition – S. 9.24.1 (Amendment)

A sign that is mounted, affixed or painted onto an operational or non-operational vehicle, including but not limited to trailers with or without wheels, Sea-cans, wagons, motor vehicles, tractors, recreational vehicles, mobile billboards or any similar mode of transportation that is left or placed at a location clearly visible from a highway.

Prohibited Signs – S. 9.24.10 (Amendment)

The following signs are prohibited in the municipality:

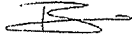
- (a) Vehicle signs, except for signs exclusively advertising the business for which the vehicle is used, where the vehicle:
- (i) is a motor vehicle or trailer;
 - (ii) is registered and operational; and
 - (iii) is used on a regular basis to transport personnel, equipment or goods as part of the normal operations of that business.

Continuing Offences – S. 7.18.1.1. (New Section)

Where a contravention of this Bylaw is of a continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which it continues and a person is guilty of such an offence and is liable to a penalty for each day.

A copy of the pertinent sections of the Land Use Bylaw have been attached for your reference and review. Should you have any questions regarding this request and the attachments, please feel free to contact the undersigned Peace Officer during regular business hours at 403-603-6300.

Regards,



B. M. ZINKHAN
Peace Officer (Reg #14805)
Investigator
Foothills Patrol Division

attachments



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

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



February 1, 2019

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

- 9.23.11 The type of wastewater disposal/septic systems installed in a development shall be in accordance with the site requirements specified in the applicable land use district or an alternate type of wastewater disposal/septic system as specified by Bylaw.
- 9.23.12 Septic systems or alternate means of waste removal shall be approved by the Municipal Plumbing Inspector prior to any commencement of construction of the proposed development.
- 9.23.13 All wastewater disposal/septic systems shall meet all requirements of the Alberta Private Sewage Systems Standard of Practice.
- 9.23.14 All private wastewater/sewage disposal systems shall be sited in accordance with the Alberta Agriculture, Food and Rural Development minimum setback requirement to man-made water features. See Section 9.18 on Man-made water features for more information pertaining to setback requirements.

Storm water:

- 9.23.15 A storm water management plan, prepared by a qualified Professional Engineer, may be required for all future subdivision and/or development in accordance with Provincial regulations and Municipal standards.

Solid Waste:

- 9.23.16 Lot owners and residents are encouraged to take their solid waste to the Foothills Regional Waste Facility or a Transfer station.
- 9.23.17 Burning barrels may be used only if constructed with a non-combustible apron around the perimeter of at least 24" (61 cm) and if fully covered with a screen mesh that prevents the escape of sparks or combustible materials. Fire permits may be granted by local fire guardians for all other fires. Failure to comply may result in Fire-Response charges and a fine for non-compliance in accordance with the Municipal Fire Bylaw.

9.24 SIGNAGE

Definitions for this Section:

- 9.24.1 For the purpose of this Section, the following definitions shall apply:

Billboard Sign: a sign, primarily self-supporting and permanently affixed to the ground, that advertises goods, products, services, events or facilities which are at a location other than the property on which the sign is located.

Directional Sign: a sign which is required to provide direction to a business, trade or institution and advertises goods or services which are at a location other than the property on which the sign is located. A directional sign may also be a temporary sign depending upon how it is to be used.

Fascia Sign: a sign placed flat and parallel to the face of a building so that no part projects more than 0.3m. (1 ft.) from the building.

Free Standing Sign: a sign on a standard base or column permanently fixed to the ground and not attached to any building or other structure. The sign advertises goods and services which are at the location on which the sign is located.

Functional Sign: a sign which is not intended to be used for promotional purposes. It is required by public authorities, utility companies and other companies. Its sole purpose is for the direction and control of traffic, pedestrians or parking (i.e. identification of service locations and on-site hazards).

Portable Sign: a sign, regardless of how mounted or supported, capable of being moved and which is not attached or affixed to a building or the ground.

Roof Sign: any sign erected upon, against, or directly above a roof or on top of or above the parapet wall of a building.

Sign: any device or structure used for the display of advertisements, pictures and/or messages and without, in any way, restricting the generality of the foregoing, includes posters, notices, panels and boarding.

Sign Area: the total surface within the outer edge of a frame or graphics, the sum of the area of the smallest rectangle enclosing the letters, numerals or graphics.

Temporary Sign: a sign which is not permanently anchored to the ground or affixed to a building, advertising for a limited time goods, services or activities and which by their nature, could readily be relocated to service a similar purpose in another location. These include garage sale signs, banners, portable signs, pennants, signs advertising a demonstration of agricultural methods and signs announcing the sale of goods or livestock on land not normally used for commercial purposes.

Vehicle Sign: a sign that is mounted, affixed or painted onto an operational or non-operational vehicle, including but not limited to trailers with or without wheels, Sea-cans, wagons, motor vehicles, tractors, recreational vehicles, mobile billboards or any similar mode of transportation that is left or placed at a location clearly visible from a highway..

General Provisions:

- 9.24.2 Any person applying to erect, enlarge or structurally alter a sign that is on privately owned lands shall comply with the provisions of this Part. These regulations do not deal with signage within Municipal or Provincial right of ways.
- 9.24.3 A sign which is separate from a building must be located so as to comply with the front yard setback, requirements applicable to the principal building unless otherwise provided, or exempted by a designated officer in writing.
- 9.24.4 Signs that are located in the right of way of a municipal or provincial road are governed by the *Temporary Signs on Highways Bylaw #18/2006*.

General Sign Regulations:

- 9.24.5 All signs, whether or not they require a Development Permit, shall meet the following general provisions:
 - a. A sign shall not be located such that it obstructs visibility at roadway intersections;
 - b. No signs shall be erected on or affixed to private property without the consent of the owner;
 - c. Signage which makes use of illumination, whether it be on the exterior or from the interior of the sign, shall adhere to the *Dark Sky Bylaw* included as Appendix E of this bylaw;
 - d. Animated signs or illuminated signs shall not be permitted in developments where, in the opinion of the Development Authority, they might:
 - i. Affect residents in adjacent housing or residential districts and are visible from any residential property within a distance of 90m (295 ft.);
 - ii. Interfere with the interpretation of traffic signs or controls;
 - iii. Cause interference to the motoring public; or
 - iv. Contravenes the County's *Dark Sky Bylaw* included as Appendix E of this bylaw.

- e. Temporary signs relating to a specific sale, event or work shall be removed by the advertiser within 14 days after the completion of the sale, event or work to which the sign relates;
- f. A sign which is separate from a building must be located so as to comply with the front yard setback requirements applicable to the principal building unless otherwise provided, or exempted by a designated officer in writing.
- g. All signs shall be kept in a safe, clean and tidy condition and may be required to be renovated or removed if not properly maintained;
- h. Existing signs which conform to this Bylaw, may be cleaned, maintained, repaired and repainted without need for an additional Development Permit;
- i. All signs must comply with applicable provincial legislation and approvals; Currently, no sign, notice or advertising device shall be erected within 300m (984 ft.) from the limit of a controlled highway or 800m (2625 ft.) from the center point of an intersection of a controlled highway another highway or other public roadway without a permit from the Minister of Transportation pursuant to Section 5 of the Highway Development Control Regulation, Alberta Regulation 242/90.
- j. Setbacks, approval requirements and provincial regulations may be subject to change from time to time. It is the responsibility of the landowner / developer to contact the appropriate department for updated and current regulations.

Signs requiring a Development Permit:

- 9.24.6 Unless otherwise exempted under *Section 4.2* of this bylaw, a Development Permit shall be obtained for all signs, structures for signs and any enlargement, relocation, erection, construction or alteration of an existing sign.
- 9.24.7 An application for a Development Permit to structurally alter or erect a sign that requires a Development Permit shall be made to the Development Authority and shall include the following:
 - a. A letter of consent from the registered owner of the land or building upon which the sign will be located;
 - b. The name and address of the sign company responsible for the sign;
 - c. The owner of the sign;
 - d. Two copies of a rendering / illustration of the proposed sign with dimensions and total sign area, height of top and bottom of the sign above average ground level and thickness of the sign;
 - e. Materials, finishes, colours, size of lettering and graphics;
 - f. Mounting or Installation details: the Development Authority may require that a structural drawing be prepared and sealed by a Professional Engineer;
 - g. The location of all existing and proposed signs on the building façade or on a site plan of the parcel indicating the front and side property lines, setbacks and distances from existing buildings;
 - h. Mounting height or clearance to grade; and
 - i. The appropriate fee as outlined in the Planning Fee Service Bylaw, as amended from time to time by Council resolution.
- 9.24.8 Where a sign is located within 300m (984 ft.) of a Provincial highway or 800m (2,624.8 ft.) of such intersection, the landowner and / or applicant must have an approved

FootHills County Land Use Bylaw |

Roadside Development Permit, from the Province, before the County will consider applications for a Development Permit.

- 9.24.9 Where an applicant wishes to deviate from the terms of the Development Permit, the applicant shall notify the Development Authority, submit amended drawings and, if required by the Approving Authority, make application for a new Development Permit and submit the prescribed fee.

Prohibited Signs:

- 9.24.10 The following signs are prohibited in the County:

- a. Vehicle Signs, except for signs exclusively advertising the business for which the vehicle is used, where the vehicle:
 - i. is a motor vehicle or trailer;
 - ii. is registered and operational; and
 - iii. used on a regular basis to transport personnel, equipment or goods as part of the normal operations of that business.
- b. Signs that are prohibited in accordance with the Dark Sky Bylaw included as Appendix E of this bylaw;
- c. Signs that display intermittent, flashing or rotating lights;
- d. Signs using a red or yellow background;
- e. Signs that incorporate moving parts; and
- f. Signs on hay and/or straw bales.

Signs – Offences:

- 9.24.11 No person shall erect, place, affix or locate, or allow any other person to erect, place, affix or locate:
- a. A sign that obstructs visibility at roadway intersections;
 - b. A sign erected on or affixed to private property without the consent of the owner;
 - c. A sign that uses illumination not compliant with the *Dark Sky Bylaw*, as included in *Appendix E* of this Bylaw;
 - d. An animated or illuminated sign without Development Authority approval;
 - e. A temporary sign at any location exceeding 14 consecutive days;
 - f. A sign not complying with setback requirements;
 - g. A sign that is located within 300 m (984 ft) from the limit of a controlled highway without permit;
 - h. A sign that is located within 800 m (2625 ft) from the centre point of an intersection of a controlled highway another highway or other public roadway without permit;
 - i. A sign that requires a development permit without such permit;
 - j. A sign that is prohibited pursuant to Section 9.24.10; or r
 - k. A sign that does not comply with the provisions set out in this Bylaw.

594135 - Highway 2
Brian & Marna WICKHORST



CLERK OF THE COURT
FILED
DEC 13 2019
JUDICIAL CENTRE
OF CALGARY

Clerk's stamp:

COURT FILE NUMBER 1901-06503
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANTS GERRIT TOP, JANTJE TOP, SPOT ADS INC., and ROSS
MARTIN
RESPONDENT MUNICIPAL DISTRICT OF FOOTHILLS NO. 31
DOCUMENT **AFFIDAVIT OF ROSS MARTIN**

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Justice Centre for Constitutional Freedoms
#253, 7620 Elbow Drive SW
Calgary, Alberta T2V 1K2
Phone: 403-667-8575
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and

CONTACT INFORMATION
OF ALL OTHER PARTIES

Sean Fairhurst
Dentons Canada LLP
15th Floor, Bankers Court, 850 - 2nd Street SW
Calgary, AB T2P 0R8
Phone: 403-268-6803
Fax: 403-268-3100
Email: sean.fairhurst@dentons.com
Counsel for the Respondent

AFFIDAVIT OF ROSS MARTIN
Affirmed
Sworn on December 11, 2019

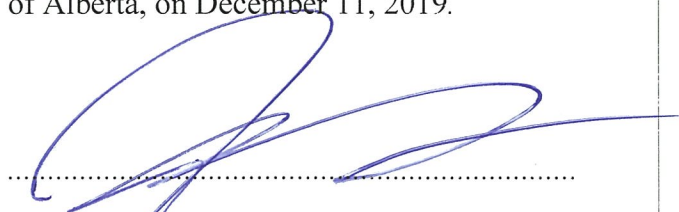
I, Ross Martin, of the Municipal District of Foothills, Alberta MAKE OATH AND SAY THAT:

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. I am a resident landowner in the Municipal District of Foothills (“Foothills”) and have been since 1979. I am the owner and resident of SE 21-21-29 W4, the rural civic address for which is 276117 32 ST. E., Foothills.
3. I am always looking for ways to increase the income generated by my land, especially in light of the tax burden imposed upon me in the form of property taxes. Leasing small portions of my property for the purpose of roadside adverting presents a welcome and unique means to supplement my income. The economy has not been good and the revenue assists my family in meeting its expenses.
4. I have had Spot Ads signs on my property since 2017. The signs have always been in good repair and are similar. I do not consider the signs to be obstructive or displeasing to look at. The signs are situated entirely on my own land, and not on public land owned by the Crown. Attached as **Exhibit “A”** is a picture of the trailer sign on my property currently.
5. It is my intention in having Spot Ads signs on my property to exercise my constitutional right to freedom of expression to display the advertising message on the signs to the public.
6. I am advised and believe that Foothills has a bylaw in place that prohibits roadside billboard signs that are attached to the sides of transport truck trailers, such as the signs used by Spot Ads and that are located on my property. I am further advised and believe that litigation is currently ongoing to challenge the sign prohibition as an unlawful violation of freedom of expression.

7. On December 4, 2019, in relation to a Spot Ads sign on my property, I was issued a \$2,000 violation ticket and a Stop Order for a contended violation of the sign prohibition, which is section 9.24.10(a) of the Foothills Land Use Bylaw (attached to this Affidavit as **Exhibit "B"** is the ticket and Stop Order).
8. The ticket and Stop Order was an unpleasant surprise to me, as I had received communication less than a week prior from Spot Ads which advised that the lawyer for Foothills had said no enforcement would take place against me until the Court had determined the constitutionality of the sign prohibition (attached to this affidavit as **Exhibit "C"**). I relied on what the lawyer for Foothills said about no enforcement.
9. I feel ambushed by Foothills, which, through its lawyer, said there would be no enforcement proceedings, and then wrote me a ticket for \$2,000 anyway. Foothills sent me no warning that it had changed its mind about waiting for the Court's decision to take punitive steps against landowners like me.
10. Without Spot Ads roadside signs, I would lose out on much-needed income.
11. I swear this affidavit *bone fide*, for no improper purpose.

Affirmed

Sworn before me at Calgary, in the Province
of Alberta, on December 11, 2019.




James Kitchen
Barrister and Solicitor

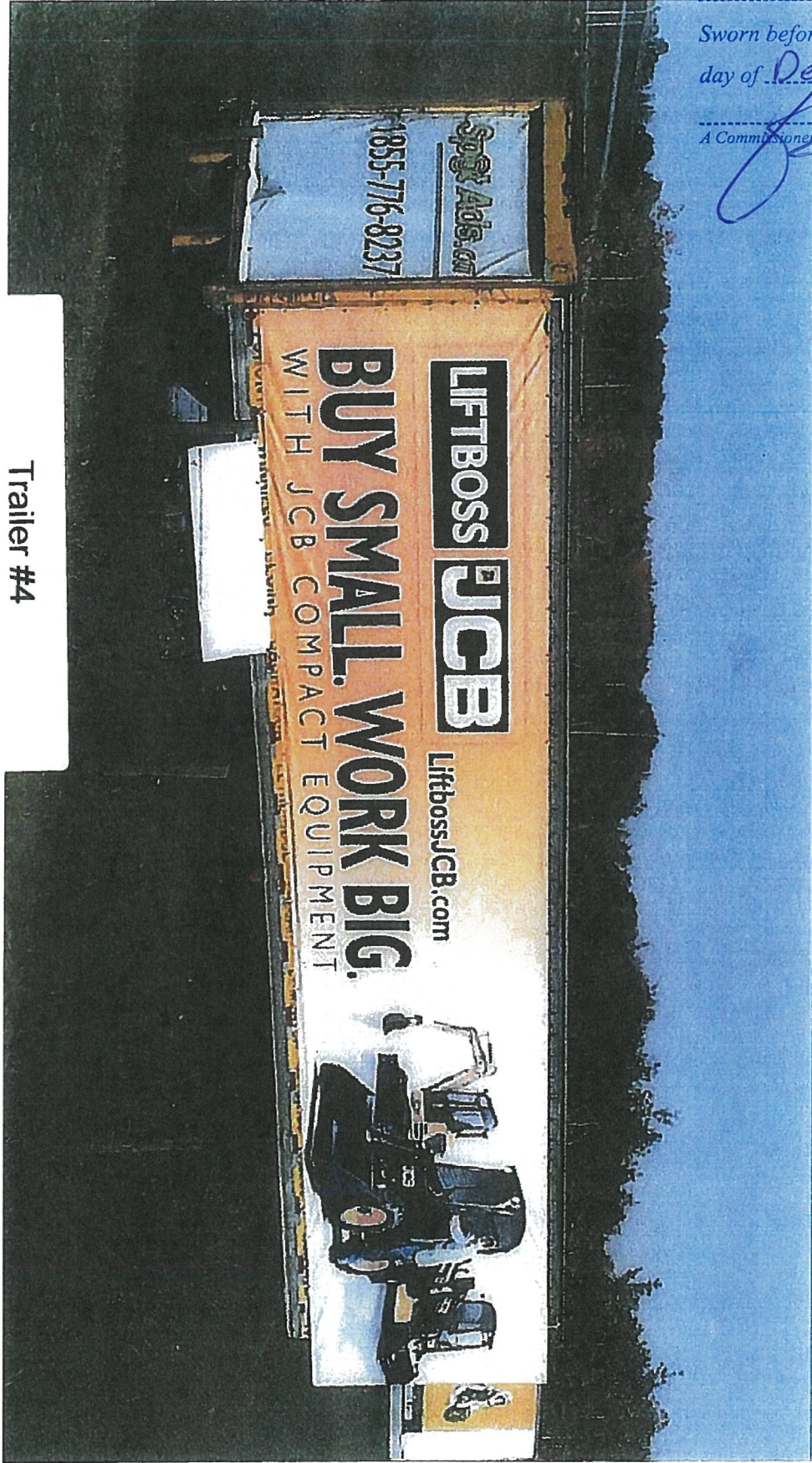


ROSS MARTIN

THIS IS EXHIBIT " A "
referred to in the Affidavit of
Ross Martin

Sworn before me this 11
day of December A.D. 20 19


A Commissioner in and for the Province of Alberta
James Kitchen
Barrister & Solicitor



Trailer #4
276117 32 Street E.
Ross & Marjorie MARTIN

THIS IS EXHIBIT " B " referred to in the Affidavit of Ross Martin

Sworn before me this 11 day of December A.D. 20 19

A Commissioner in and for the Province of Alberta
James Kitchen
Barrister & Solicitor

A 89621980 R VIOLATION TICKET PART 2 SUMMONS
CANADA Province of Alberta

On or about DECEMBER 4, 20 19, at or near OKOTOKS
date place in Alberta

NAME MARTIN ROSS CAMERON
last first middle

ADDRESS 276117-32 STREET EAST
street
FOOTHILLS AB T1S 3P6
city, town, village province postal code

DID UNLAWFULLY CONTRAVENE SECTION 9.24.11(i) PROHIBITED
Sec. #, Sub-Sec. #, Description

SIGN ON PROPERTY OF THE

Traffic Safety Act
 Use of Highway & Rules of the Road Reg.
 Vehicle Equipment Reg.
 Operator Licencing & Vehicle Control Reg.
 Commercial Vehicle Safety Reg.

Gaming & Liquor Act
 Municipal Bylaw
FOOTHILLS COUNTY
LANDUSE BYLAW 60/2014
 Other Act or Regulation

Summons
I believe on reasonable and probable grounds and swear that the person named above committed the offence as indicated and that I served a Summons personally upon the person charged on the offence date. I understand that this statement is deemed to have been made under oath.

[Signature] B. ZINKUAN 14305 MDFU
Complainant Signature Print Name No. Force

YOUR COURT APPEARANCE DATE AND LOCATION TO APPEAR BEFORE A JUSTICE IS
 CMO Counter, Provincial Court, 223 Main St., Turner Valley, Alberta
 CMO Counter, Provincial Court, 98 McRae Street, Okotoks, Alberta
on April 27, 20 20 at 7:00 a.m. p.m.
 anytime between 9:00 a.m. and 1:00 p.m.

THE FOLLOWING DOES NOT FORM PART OF THE CHARGE
Speed Limit Recorded km/h Speed km/h Clocked Air-craft Esti-mated Camera Radar/Laser

Court Appearance Required
 Adult Youth

Voluntary Payment Option \$ 2000 XX

You may appear personally or by agent at the appearance address and date and plead guilty or not guilty or you may plead not guilty by registered mail. See Options 2 and 3 on the reverse.

You may plead guilty to the offence charged by making the voluntary payment in the amount indicated. Payments may be made online at fines.alberta.ca. Or you may attend personally or by agent at the appearance address and date and plead guilty or not guilty. Or you may plead not guilty by registered mail. See Options 1, 2 and 3 on the reverse.

SEE REVERSE FOR MORE INFORMATION ABOUT YOUR OPTIONS FOR RESPONDING TO THIS SUMMONS

You have the right to retain and instruct counsel. Conviction of certain motor vehicle offences will result in demerit points being assessed against your driving record. No reminder notice will be sent to you regarding this charge. It is your responsibility to act on or before the above court appearance date.

Questions?
Go online to tickets.alberta.ca for more information.

WARNING:
A warrant may be issued for the arrest of any person who fails to respond to a summons as required by law by the court appearance date.

A 89621980 R
CTS2397 (2017/05)



Foothills County

Box 5605, 309 Macleod Trail S.
High River, AB T1V 1M7
Telephone (403) 652-2341 or (403) 931-1905

STOP ORDER

Section 645, *Municipal Government Act*
R.S.A. 2000, c. M-26, as amended

December 5th, 2019

TO:

Ross C. & Marjorie L. Martin
276117 32 Street E.
Foothills, AB
T1S 3P6

HAND DELIVERED / POSTED ON PROPERTY

REGISTERED MAIL

Dear Sir/Madam:

RE: Ptn. SE 21-21-29 W4M (the "Lands")

In my capacity as Development Officer for the Foothills County, I hereby issue a Stop Order pursuant to section 645 of the *Municipal Government Act*, with respect to the following lands:

MERIDIAN 4 RANGE 29 TOWNSHIP 21

SECTION 21

QUARTER SOUTH EAST

CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS

EXCEPTING

FIRSTLY: THOSE PORTIONS ON THE FOLLOWING PLANS

PLAN	NUMBER	HECTARES	ACRES MORE OR LESS
HIGHWAY	3294HX	4.111	10.15
ROADWAY	731633	4.074	10.06
ROADWAY	7410574	.077	0.19
SUBDIVISION	1112187	1.67	4.13

SECONDLY: THAT PORTION LYING SOUTH AND WEST OF THE ROADWAY ON PLAN

731633, CONTAINING 4.98 HECTARES (12.32 ACRES) MORE OR LESS

THIRDLY: THAT PORTION WHICH LIES TO THE SOUTH OF THE NORTH

1,074.5 FEET OF THE SAID QUARTER SECTION, AND TO THE NORTHEAST OF THE

**NO. 3 HIGHWAY, ON PLANS 3294 HX, AND 7410574
CONTAINING 25.7 HECTARES (63.64) ACRES MORE OR LESS**

FOURTHLY:

PLAN	NUMBER	HECTARES	(ACRES) MORE OR LESS
SUBDIVISION	1512140	1.659	4.10

**EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME**
(the "Lands")

The Foothills County Land Use Bylaw states:

2.5 DEFINITIONS

HIGHWAY means a primary highway or a secondary highway or either of them, as the context may require.

HIGHWAY (PRIMARY) means a primary highway or proposed highway designated as a primary highway under the Public Highways Development Act.

HIGHWAY (SECONDARY) means a secondary highway designated by the Minister of Infrastructure as a secondary road pursuant to the Public Highways Development Act.

SIGN means any device or structure used for the display of advertisements, pictures and/or messages and without, in any way, restricting the generality of the foregoing, includes posters, notices, panels and boarding. *More information and specific definitions for signage can be found in Section 9.24 of this bylaw.*

VEHICLE SIGN: a sign that is mounted, affixed or painted onto an operational or non-operational vehicle, including but not limited to trailers with or without wheels, Sea-cans, wagons, motor vehicles, tractors, recreational vehicles, mobile billboards or any similar mode of transportation that is left or placed at a location clearly visible from a highway.

4.1 DEVELOPMENT PERMIT REQUIRED

- 4.1.1 Except as provided in Section 4.2 of this Bylaw, no person shall undertake any development unless:
- A Development Permit has first been issued pursuant to this Bylaw;
 - The development proceeds in accordance with the terms and conditions of the Development Permit issued in respect of the development;
 - A Building Permit has been obtained when the Building Officer so requires;
 - All necessary plumbing, gas, septic and electrical permits have been issued.

4.2 NO DEVELOPMENT PERMIT REQUIRED

4.2.1 A Development Permit is **not** required with respect to the following developments and/or uses but such developments and/or uses shall otherwise comply with the provisions of this Bylaw and must be carried out or performed in accordance with all other applicable legislations, regulations and bylaws:

Signs:

4.2.1.39 Campaign signs for Federal, Provincial, Municipal, Regional Health Authority or School Board elections on private property, to a maximum of one (1) sign per lot provided that:

- a. Such signs are removed within seven (7) days after the election. Candidates must ensure that the site is returned to its previous condition; and
- b. The consent of the property owner or occupant is obtained prior to the signs being placed.

4.2.1.40 Signs relating to the sale, lease or rental of a building or land to which they are attached, provided that:

- a. The sign is not illuminated; and
- b. Each sign shall not exceed 1.0 sq. m. (11 sq. ft.) in area, in a Hamlet Residential District
- c. Each sign shall not exceed 2.32 sq. m. (25 sq. ft.) in area, in any other District; and
- d. Each sign is removed within 14 days of the sale, lease or rental.

4.2.1.41 Signs indicating the address and/or owner of a residence or the name of a home based business, provided that the signs do not exceed 0.55 sq. m. (5.92 sq. ft.). This sign is permitted to be placed at the entry of the property, provided it is solely on the landowner's property and not in the road right of way.

4.2.1.42 Signs indicating the name of the Development provided they do not exceed 2.32 sq. m. (25 sq. ft.) in area, and that they are located on lands within that same Development, not within any Municipal or Provincial road right of way, or as a means of advertisement on other lands located within the County. Only one sign per Development is permitted.

4.2.1.43 Signs on land or buildings for religious, educational, cultural, recreational, medical or similar public or quasi-public purposes that relate to the use of the land or buildings on which they are displayed, provided that:

- a. The sign shall not exceed 2.5m (8 ft.) in height or 5.9 sq. m. (64 sq. ft.) in area; and
- b. There shall be a limit of one (1) sign per lot.

4.2.1.44 Temporary signs advertising sales displayed on the interior or exterior of the building in which such sales will be or are being conducted, and are intended to be displayed for a short time period. Such advertisements shall be removed within 14 days of the completion of said sale.

4.2.1.45 Temporary signs (no more than 14 days) with an area of less than 1.0 sq. m. (11 sq. ft.) intended to advertise any local event being held for charitable purposes, which may be religious, education, cultural, political, social or recreation, but not for commercial purposes.

- 4.2.1.46 Gate signage is permitted on 21 acres or more and shall not exceed 1.0 sq. m. (11 sq. ft.).
- 4.2.1.47 Signs that require cleaning, repair or repainting, provided that the sign is not being changed from its original content, and was originally approved through a Development Permit or is a sign that meets one of the above noted exemptions.

SECTION 7 ENFORCEMENT

7.1 GENERAL PROVISIONS

- 7.1.1 A Designated Officer may enforce the provisions of the Municipal Government Act and its provisions, the Subdivision and Development Regulation, a subdivision approval, the conditions of a Development Permit and this Bylaw. Enforcement may be by written warning, stop order, remedial order, violation tickets or any other authorization action to ensure compliance.

7.2 PROHIBITIONS

- 7.2.1 No person shall contravene or permit a contravention of this Bylaw. No person shall commence or undertake a development, use or sign that is not permitted by this Bylaw.
- 7.2.2 No person shall contravene a condition of a permit issued under this Bylaw.
- 7.2.3 No person shall authorize or undertake any development that is at variance with the description, specifications or plans that were the basis for the issuance of a Development Permit. No person shall modify any description, specification, or plans that were the basis for the issuance of any permit by a Development Authority.

7.6 STOP ORDERS

- 7.6.1 On finding that a development, land use, or use of a building is not in conformance with Section 645 of the Municipal Government Act or its regulations, a Development Permit, subdivision approval or the conditions of either, or this Bylaw, a Development Authority may, by written notice, order the registered owner, the person in possession of the land or buildings, or the person responsible for the contravention or all or any of them to:
- a. Stop the development or use of the land or building in whole or in part as directed by the notice;
 - b. Demolish, remove, or replace the development; or
 - c. Carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a Development Permit or a subdivision approval within the time set out in the notice.
- 7.6.2 Stop orders issued pursuant to Section 645 of the Municipal Government Act must specify the date on which the order is made and must contain any other information required by the regulations.

7.18 OFFENCES AND SPECIFIED PENALTIES

- 7.18.1 A person, who violates any provisions of this Bylaw or permits a contravention of this Bylaw, is guilty of an offence.
- 7.18.1.1 Where a contravention of this Bylaw is of a continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which it continues and a person is guilty of such an offence and is liable to a penalty for each such day.
- 7.18.2 No person shall:
- a. Fail to comply with a remedial order;
 - b. Fail to comply with an order to remedy;
 - c. Fail to comply with a stop order;
 - d. Obstruct or interfere with a Designated Officer, Community Peace Officer or Bylaw Enforcement Officer, in the execution of their duties.
- 7.18.3 The Minimum specified penalty payable in respect of a contravention of a provision of this Bylaw is the amount shown in Appendix D "Specified Penalties for Offences"
- 7.18.4 Where there is no specified penalty listed for an offence in Appendix D of this Bylaw, the minimum fine shall be \$500.00.
- 7.18.5 Notwithstanding Section 7.18.3 of this Bylaw:
- a. Where any person contravenes the same provision of this Bylaw twice within one twelve (12) month period, the specified penalty payable in respect of the second contravention is double the amount shown in Appendix D "Specified Penalties for Offences"
 - b. Where any person contravenes the same provision of this Bylaw three or more times within one twelve (12) month period, the specified penalty payable in respect of the third or subsequent contravention is triple the amount shown in Appendix D "Specified Penalties for Offences"
- 7.18.6 Notwithstanding the presence of a specified penalty for an offence, a Community Peace Officer or Bylaw Enforcement Officer may issue a summons to the person responsible for the offence by means of a violation ticket requiring a court appearance, if it is in the public interest to proceed in this manner pursuant to the provisions of the Provincial Offences Procedure Act R.S.A. 2000, Chapter P-34.
- 7.18.7 Payment of any fine, service of any term of imprisonment or other penalty imposed by a Court of competent jurisdiction shall not relieve any person from the requirements to remedy the conditions that constitute the original offence or to pay any fees, charges or costs associated to the enforcement of this Bylaw.

9.24 SIGNAGE

Definitions for this Section:

- 9.24.1 For the purpose of this Section, the following definitions shall apply:

Billboard Sign: a sign, primarily self-supporting and permanently affixed to the ground, that advertises goods, products, services, events or facilities which are at a location other than the property on which the sign is located.

Directional Sign: a sign which is required to provide direction to a business, trade or institution and advertises goods or services which are at a location other than the property on which the sign is located. A directional sign may also be a temporary sign depending upon how it is to be used.

Fascia Sign: a sign placed flat and parallel to the face of a building so that no part projects more than 0.3m. (1 ft.) from the building.

Free Standing Sign: a sign on a standard base or column permanently fixed to the ground and not attached to any building or other structure. The sign advertises goods and services which are at the location on which the sign is located.

Functional Sign: a sign which is not intended to be used for promotional purposes. It is required by public authorities, utility companies and other companies. Its sole purpose is for the direction and control of traffic, pedestrians or parking (i.e. identification of service locations and on-site hazards).

Portable Sign: a sign, regardless of how mounted or supported, capable of being moved and which is not attached or affixed to a building or the ground.

Roof Sign: any sign erected upon, against, or directly above a roof or on top of or above the parapet wall of a building.

Sign: any device or structure used for the display of advertisements, pictures and/or messages and without, in any way, restricting the generality of the foregoing, includes posters, notices, panels and boarding.

Sign Area: the total surface within the outer edge of a frame or graphics, the sum of the area of the smallest rectangle enclosing the letters, numerals or graphics.

Temporary Sign: a sign which is not permanently anchored to the ground or affixed to a building, advertising for a limited time goods, services or activities and which by their nature, could readily be relocated to service a similar purpose in another location. These include garage sale signs, banners, portable signs, pennants, signs advertising a demonstration of agricultural methods and signs announcing the sale of goods or livestock on land not normally used for commercial purposes.

Vehicle Sign: a sign that is mounted, affixed or painted onto an operational or nonoperational vehicle, including but not limited to trailers with or without wheels, Seacans, wagons, motor vehicles, tractors, recreational vehicles, mobile billboards or any similar mode of transportation that is left or placed at a location clearly visible from a highway.

General Provisions:

- 9.24.2 Any person applying to erect, enlarge or structurally alter a sign that is on privately owned lands shall comply with the provisions of this Part. These regulations do not deal with signage within Municipal or Provincial right of ways.
- 9.24.3 A sign which is separate from a building must be located so as to comply with the front yard setback, requirements applicable to the principal building unless otherwise provided, or exempted by a designated officer in writing.
- 9.24.4 Signs that are located in the right of way of a municipal or provincial road are governed by the *Temporary Signs on Highways Bylaw #18/2006*.

General Sign Regulations:

- 9.24.5 All signs, whether or not they require a Development Permit, shall meet the following general provisions:
- a. A sign shall not be located such that it obstructs visibility at roadway intersections;
 - b. No signs shall be erected on or affixed to private property without the consent of the owner;
 - c. Signage which makes use of illumination, whether it be on the exterior or from the interior of the sign, shall adhere to the *Dark Sky Bylaw* included as Appendix E of this bylaw;
 - d. Animated signs or illuminated signs shall not be permitted in developments where, in the opinion of the Development Authority, they might:
 - i. Affect residents in adjacent housing or residential districts and are visible from any residential property within a distance of 90m (295 ft.);
 - ii. Interfere with the interpretation of traffic signs or controls;
 - iii. Cause interference to the motoring public; or
 - iv. Contravenes the County's *Dark Sky Bylaw* included as Appendix E of this bylaw.
 - e. Temporary signs relating to a specific sale, event or work shall be removed by the advertiser within 14 days after the completion of the sale, event or work to which the sign relates;
 - f. A sign which is separate from a building must be located so as to comply with the front yard setback requirements applicable to the principal building unless otherwise provided, or exempted by a designated officer in writing.
 - g. All signs shall be kept in a safe, clean and tidy condition and may be required to be renovated or removed if not properly maintained;
 - h. Existing signs which conform to this Bylaw, may be cleaned, maintained, repaired and repainted without need for an additional Development Permit;
 - i. All signs must comply with applicable provincial legislation and approvals; Currently, no sign, notice or advertising device shall be erected within 300m (984 ft.) from the limit of a controlled highway or 800m (2625 ft.) from the center point of an intersection of a controlled highway another highway or other public roadway without a permit from the Minister of Transportation pursuant to Section 5 of the Highway Development Control Regulation, Alberta Regulation 242/90.
 - j. Setbacks, approval requirements and provincial regulations may be subject to change from time to time. It is the responsibility of the landowner / developer to contact the appropriate department for updated and current regulations.

Signs requiring a Development Permit:

- 9.24.6 Unless otherwise exempted under *Section 4.2* of this bylaw, a Development Permit shall be obtained for all signs, structures for signs and any enlargement, relocation, erection, construction or alteration of an existing sign.
- 9.24.7 An application for a Development Permit to structurally alter or erect a sign that requires a Development Permit shall be made to the Development Authority and shall include the following:

- a. A letter of consent from the registered owner of the land or building upon which the sign will be located;
 - b. The name and address of the sign company responsible for the sign;
 - c. The owner of the sign;
 - d. Two copies of a rendering / illustration of the proposed sign with dimensions and total sign area, height of top and bottom of the sign above average ground level and thickness of the sign;
 - e. Materials, finishes, colours, size of lettering and graphics;
 - f. Mounting or installation details: the Development Authority may require that a structural drawing be prepared and sealed by a Professional Engineer;
 - g. The location of all existing and proposed signs on the building façade or on a site plan of the parcel indicating the front and side property lines, setbacks and distances from existing buildings;
 - h. Mounting height or clearance to grade; and
 - i. The appropriate fee as outlined in the Planning Fee Service Bylaw, as amended from time to time by Council resolution.
- 9.24.8 Where a sign is located within 300m (984 ft.) of a Provincial highway or 800m (2,624.8 ft.) of such intersection, the landowner and / or applicant must have an approved Roadside Development Permit, from the Province, before the County will consider applications for a Development Permit.
- 9.24.9 Where an applicant wishes to deviate from the terms of the Development Permit, the applicant shall notify the Development Authority, submit amended drawings and, if required by the Approving Authority, make application for a new Development Permit and submit the prescribed fee.

Prohibited Signs:

- 9.24.10 The following signs are prohibited in the County:
- a. Vehicle Signs, except for signs exclusively advertising the business for which the vehicle is used, where the vehicle:
 - i. is a motor vehicle or trailer;
 - ii. is registered and operational; and
 - iii. used on a regular basis to transport personnel, equipment or goods as part of the normal operations of that business.
 - b. Signs that are prohibited in accordance with the Dark Sky Bylaw included as Appendix E of this bylaw;
 - c. Signs that display intermittent, flashing or rotating lights;
 - d. Signs using a red or yellow background;
 - e. Signs that incorporate moving parts; and
 - f. Signs on hay and/or straw bales.

Signs – Offences:

- 9.24.11 No person shall erect, place, affix or locate, or allow any other person to erect, place, affix or locate:
- a. A sign that obstructs visibility at roadway intersections;
 - b. A sign erected on or affixed to private property without the consent of the owner;

- c. A sign that uses illumination not compliant with the *Dark Sky Bylaw*, as included in *Appendix E* of this Bylaw;
- d. An animated or illuminated sign without Development Authority approval;
- e. A temporary sign at any location exceeding 14 consecutive days;
- f. A sign not complying with setback requirements;
- g. A sign that is located within 300 m (984 ft) from the limit of a controlled highway without permit;
- h. A sign that is located within 800 m (2625 ft) from the centre point of an intersection of a controlled highway another highway or other public roadway without permit;
- i. A sign that requires a development permit without such permit;
- j. A sign that is prohibited pursuant to Section 9.24.10; or r
- k. A sign that does not comply with the provisions set out in this Bylaw.

Further, Part 17 of the *Municipal Government Act* and **Part 3, Section 7** of the Foothills County Land Use Bylaw allows a Development Officer to issue a Stop Order where a development or use of land or buildings does not comply with the *Municipal Government Act*, the Land Use Bylaw, or a development permit or subdivision approval.

At present, the Lands do not comply with the Foothills County Land Use Bylaw given:

Presence of Vehicle Sign(s) in contravention to the Land Use Bylaw 60/2014

Accordingly, you are hereby ordered to stop the unauthorized development and use of the aforementioned lands and the buildings thereon and comply with the Land Use Bylaw by:

Remove all Vehicle Sign(s) from the subject parcel

within **twenty-four (24) days** of the date of this Order, **being on or before 8:00 am December 30th, 2019.**

You are hereby advised that you have the right to appeal this Order to the Subdivision and Development Appeal Board. If you wish to exercise this right, written notice of an appeal *together with the applicable appeal fee of \$575* must be received by the Secretary of the Subdivision and Development Appeal Board within twenty-one (21) days of posting of this letter. The completed Notice of Appeal Form and payment of Appeal Fee can be sent via:

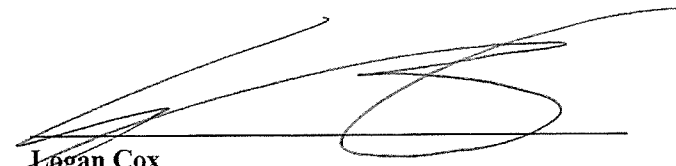
Mail/Deliver: **The Clerk of the Subdivision and Development Appeal Board**
 c/o Foothills County
 Box 5605, 309 Macleod Tr. S.
 High River, AB
 T1V 1M7
Fax: **403-652-7880**
Email (scanned pdf): **appeals@FoothillsCountyAB.ca**

Please be advised that Foothills County has the authority, in the event that this Stop Order is not complied with within the time limit provided, to enter onto the Lands in accordance with Section 542 of the *Municipal Government Act* to take whatsoever actions are determined by Foothills County to bring the Lands into compliance, and may seek an Injunction or other relief from the Court of Queen's Bench of Alberta pursuant to Section 554 of the *Municipal Government Act*. Further, Foothills County has the authority to add the costs and expenses for carrying out this Stop Order to the tax roll for the Lands pursuant to Section 553(1)(h.1) of the *Municipal Government Act*.

YOURS TRULY,

FOOTHILLS COUNTY

Per:


Logan Cox
Development Officer

encl: Appendix D – Specified Penalties and Offences

cc: Peace Officer Blair Zinkhan, Foothills County Patrol Division

9.24.11(e)	Erect / place / affix / locate, or allow any person to erect / place / affix / locate a temporary sign exceeding 14 days at location	\$750.00	\$1500.00	\$2250.00
9.24.11(f)	Erect place / affix / locate, or allow any person to erect / place / affix / locate a sign not complying with setback requirements	\$750.00	\$1500.00	\$2250.00
9.24.11(g)	Erect / place / affix / locate, or allow any person to erect / place / affix / locate a sign within 300 m from limit of controlled highway without permit	\$2000.00	\$4000.00	\$6000.00
9.24.11(h)	Erect place / affix / locate, or allow any person to erect / place / affix / locate a sign within 800 m. from centre point of intersection of a controlled highway / another highway / public roadway without permit	\$2000.00	\$4000.00	\$6000.00
9.24.11(i)	Erect / place / affix / locate, or allow any person to erect / place / affix / locate a sign requiring a development permit without such permit	\$2000.00	\$4000.00	\$6000.00
9.24.11(j)	Erect / place / affix / locate, or allow any person to erect / place / affix / locate any prohibited sign	\$2000.00	\$4000.00	\$6000.00
9.24.11(k)	Erect / place / affix / locate, or allow any person to erect / place / affix / locate a non-compliant sign	\$2000.00	\$4000.00	\$6000.00

12/11/2019

Mail - James Kitchen - Outlook

THIS IS EXHIBIT " C "
referred to in the Affidavit of
Ross Martin
Sworn before me this 11
day of December A.D. 20 19
[Signature]
A Commissioner in and for the Province of Alberta

From: josh@spotads.ca <josh@spotads.ca>
Sent: November 27, 2019 8:38 AM
To: 'rosscam201@gmail.com' <rosscam201@gmail.com>
Subject: FW: Spot Ads Foothills

Ross,

See email below from Foothills County lawyer. We can have the signs up with no threat of fines until the court has made a ruling.

Any questions, let me know.


Josh Laforet *b.comm*
Spot Ads Inc.
403.921.1229

From: Fairhurst, Sean <sean.fairhurst@dentons.com>
Sent: Tuesday, November 26, 2019 5:17 PM
To: James Kitchen <JKitchen@jccf.ca>
Cc: Jay Cameron <JCameron@jccf.ca>
Subject: RE: Sport Ads v Foothills - Foothills county enforcement action

James, I have confirmation from Foothills County that it will refrain from enforcement respecting non-compliance with the by-law until the Court has rendered its decision.

Please do not hesitate to contact me if further discussion is required.

Sean

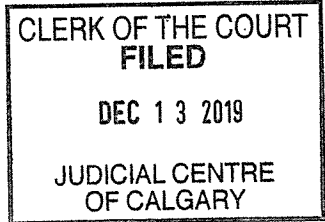
 **Sean Fairhurst**
Partner

D +1 403 268 6803
sean.fairhurst@dentons.com
[Bio](#) | [Website](#)

Dentons Canada LLP
15th Floor, Bankers Court, 850 - 2nd Street SW Calgary, AB T2P 0R8 Canada

Larraín Rencoret > Hamilton Harrison & Mathews > Mardemootoo Balgobin > HPRP > Zain & Co. > Delany Law > Dinner Martin > Maclay Murray & Spens > Gallo Barrios Pickmann > Muñoz > Cardenas & Cardenas > Lopez Velarde > Rodyk > Boekel > OPF Partners

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Clerk's stamp:

COURT FILE NUMBER 1901-06503
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANTS GERRIT TOP, JANTJE TOP, SPOT ADS INC., and ROSS MARTIN
RESPONDENT MUNICIPAL DISTRICT OF FOOTHILLS NO. 31

DOCUMENT **AFFIDAVIT OF JOHN MARKIW**

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 Fairhurst
Dentons Canada LLP
15th Floor, Bankers Court, 850 - 2nd Street SW
Calgary, AB T2P 0R8
Phone: 403-268-6803
Fax: 403-268-3100
Email: sean.fairhurst@dentons.com
Counsel for the Respondent

AFFIDAVIT OF JOHN MARKIW

Sworn on December 12, 2019

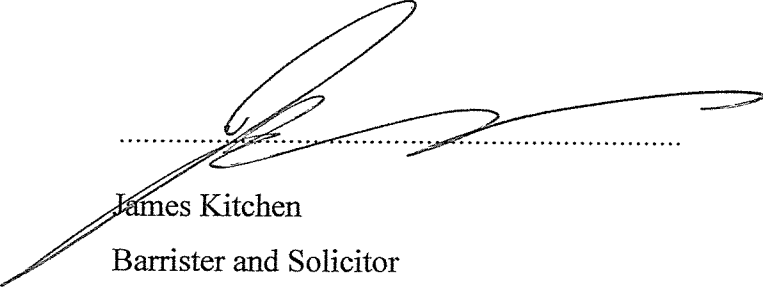
I, John Markiw, of the Municipal District of Foothills, Alberta MAKE OATH AND SAY
THAT:

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. I am a resident landowner in the Municipal District of Foothills (“Foothills”) and have been since 2012. I am the owner and resident of SW-36-20-29-W4M, which is adjacent to Highway No. 2, east of Okotoks.
3. I am always looking for ways to increase the income generated by my land, especially in light of the tax burden imposed upon me in the form of property taxes. Leasing small portions of my property for the purpose of roadside adverting presents a welcome and unique means to supplement my income. The economy has not been good and the revenue assists my family in meeting its expenses. Further, the small portions of my land that I lease for roadside signage cannot be used for any other gainful purpose due to its location within my property, which is a triangular shape.
4. I have had Spot Ads signs on my property since 2012. The signs have always been in good repair. I do not consider the signs to be obstructive or displeasing to look at.
5. It is my intention in having Spot Ads signs on my property to exercise my constitutional right to freedom of expression to display the advertising message on the signs to the public.

6. Without Spot Ads roadside signs, I would lose out on much-needed income.

7. I swear this affidavit *bona fide*, for no improper purpose.

Sworn before me at Calgary, in the Province
of Alberta, on December 12, 2019.



James Kitchen
Barrister and Solicitor



JOHN MARKIW