

COURT OF APPEAL OF ALBERTA

Form AP-1
[Rules 14.8 and 14.12]

COURT OF APPEAL FILE NUMBER: 2001-0194AC
TRIAL COURT FILE NUMBER: 1901-06503
REGISTRY OFFICE: CALGARY
PLAINTIFF(S)/APPLICANT(S): GERRIT TOP, JANTJE TOP,
SPOT ADS INC., ROSS MARTIN,
JOHN MARKIW



STATUS ON APPEAL: APPELLANTS
DEFENDANT(S)/RESPONDENT(S): MUNICIPAL DISTRICT OF
FOOTHILLS NO. 31

STATUS ON APPEAL: RESPONDENTS

DOCUMENT: **CIVIL NOTICE OF APPEAL**

APPELLANT'S ADDRESS FOR
SERVICE AND CONTACT
INFORMATION:

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WARNING

To the Respondent: If you do not respond to this appeal as provided for in the Alberta Rules of Court, the appeal will be decided in your absence and without your input.

1. Particulars of Judgment, Order or Decision Appealed From:

Date pronounced, entered and served: September 8, 2020

Official neutral citation of reasons for decision, if any: 2020 ABQB 521

2. Indicate where the matter originated:

Court of Queen’s Bench of Alberta

Judicial Centre: Calgary

Justice: The Honourable Mr. Justice Nicholas E. Devlin

On appeal from a Queen’s Bench Master or Provincial Court Judge: No

3. Details of Permission to Appeal, if required (Rules 14.5 and 14.12(3)(a)):

Permission to appeal is not required.

4. Portion being appealed (Rule 14.12(2)(c)):

Whole

5. Provide a brief description of the issues:

The Appellants respectfully contend:

- a. The Learned Chambers Justice erred in law in failing to meaningfully and substantively consider and balance the personal and political expression of the Appellants, Gerrit and Jantje Top. The Learned Chambers Justice engaged only in a substantive analysis of the commercial expression of the Appellant, Spot Ads Inc.;
- b. The Learned Chambers Justice erred in law in determining that section 9.24.10(a) of the Foothills County Land Use Bylaw, which prohibits all vehicle signs that are visible from a highway (the “Bylaw”), is rationally connected to the County’s objective of maintaining rural aesthetics such that the Bylaw’s limitation of freedom of expression as protected by section 2(b) of the *Charter* is capable of being saved by section 1 of the *Charter*;
- c. The Learned Chambers Justice erred in law in determining that the Bylaw minimally impairs freedom of expression such that the Bylaw is capable of being saved under section 1 of the *Charter*;
- d. The Learned Chambers Justice erred in law in determining that the benefits of the Bylaw are proportionate overall to the deleterious effects of the Bylaw’s limitation of freedom of expression such that the Bylaw is capable of being saved by section 1 of the *Charter*.

6. Provide a brief description of the relief claimed:

The Appellants respectfully request that the appeal be allowed, the decision of the Honourable Chambers Justice be set aside and the following relief be granted:

- a. A declaration pursuant to section 52(1) of the *Constitution Act, 1982* that section 9.24.10(a) of the Foothills County Land Use Bylaw infringes section 2(b) of the *Charter*, is not saved by section 1 and is therefore void and of no force or effect;
- b. Costs, both on appeal and at the Court of Queen’s Bench; and
- c. Such further and other relief as this court deems just and equitable.

7. Is this appeal required to be dealt with as a fast track appeal? (Rule 14.14):

No.

8. Does this appeal involve the custody, access, parenting or support of a child?

No.

9. Will an application be made to expedite this appeal?

No.

10. Is Judicial Dispute Resolution with a view to settlement or crystallization of issues appropriate? (Rule 14.60)

No.

11. Could this matter be decided without oral argument? (Rule 14.32(2))

No.

12. Are there any restricted access orders or statutory provisions that affect the privacy of this file? (Rules 6.29, 14.12(2)(e),14.83)

No.

13. List counsel for the Respondent, with contact information:

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14. Attachments

Judgment being appealed.