

**Order No. 158/18**

**APPEAL OF MANITOBA HIGHWAY TRAFFIC BOARD DECISION  
HTB File: 3/005/099/A/18  
DATED SEPTEMBER 21, 2018**

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**December 3, 2018**

**BEFORE: Mike Watson, Panel Chair  
Shawn McCutcheon, Member**

**SUMMARY:**

By this Order, the Public Utilities Board (Board) upholds the Highway Traffic Board (HTB) decision, dated September 21, 2018 and finds in favour of Manitoba Infrastructure (MI).

**BACKGROUND:**

Mr. Murray Olmstead submitted an application to the HTB to relocate and widen an access driveway (residential) onto P.T.H. No.5, Lot 1, Plan 53137, N.W. ¼ 31-10-14W in the R.M. of North Cypress-Langford (NCL), on July 26, 2018. In its letter of September 21, 2018, the HTB denied the application based on safety arguments presented by MI. On October 16, 2018, Mr. Murray Olmstead appealed the HTB decision.

The PUB heard the matter at a public hearing held at 13:00, Friday, November 16, 2018, in the Council Chambers in the R.M of North Cypress-Langford in Carberry, Manitoba. In conjunction with the hearing, Chairperson Watson and Member McCutcheon, viewed the property, and areas related to the appeal.

**MR. MURRAY OLMSTEAD:**

Mr. Olmstead testified he has owned the present described property for 12-years and presently operates a small trucking company out of the location along with having a private residence at this same location. Additionally, he testified that the existing highway access is inadequate for his purposes. Specifically, it is too narrow and in the wrong location for ease of access for the large displacement vehicles he is operating. He stated

that moving the present access further south and widening it would accommodate his needs better. He further argued that in his opinion this would also create a safer traffic situation than the present location. In his testimony he described a traffic accident he was involved in at the present location when the commercial vehicle he was operating was hit by a passenger vehicle as he was in backing into his property. Mr. Olmstead stated he was charged by the policing authorities as a result of this accident. Mr. Olmstead stated he has witnessed numerous near miss traffic accidents in this location. Mr. Olmstead testified because of the location of two Hydro poles, one on the south corner and one on the north corner of his property any widening of the existing approach or relocation to the north would be challenging because of these poles. Mr. Olmstead described his future plans for this property including the construction of a shop and some storage facilities and that the relocation of the existing access would better accommodate these plans. Lastly, he stated his concerns about the widening of the existing access at its present location and the effect that would have on the aesthetics of his yard and specifically his residence.

#### **MANITOBA INFRASTRUCTURE (MI):**

Ms. Karen Toews Therrien provided a written submission as exhibit #7. Her testimony presented MI's concerns from three perspectives. They were: The classification of PTH #5 and its function; motorist and traffic safety; and concerns with establishment of precedent in the event that the access permit is approved. Ms. Toews Therrien testified

that traffic has increased from 2100 vehicles per day in 2011 to 4680 vehicles in 2014. Additionally, traffic volumes further increase in the summer months to 5335 vehicles per day. Additionally, Ms. Toews Therrien explained that the highway speed at that location is 100km/hr and is it is at the intersection of a merge lane and a bypass lane. The MI exhibit and Ms. Towes Therrien's testimony, offered two potential alternative solutions that Mr. Olmstead could consider. The alternate solutions were: widening an existing access at its present location; and secondly, relocating the access to a more northerly location which is a safe distance away from the existing by-pass lane.

### **BOARD FINDINGS**

The Board thanks both parties for their contributions. Both parties presented safety arguments in support of their respective positions. The Board is sympathetic to the case presented by Mr. Olmstead, however, based on the significant experience and expertise of MI in road safety matters, the panel concluded that MI made the more compelling argument.

### **IT IS THEREFORE ORDERED THAT:**

1. The HTB decision 3/005/099/A/18, denying the relocation of the residential access is upheld.

### **IT IS RECOMMENDED THAT:**

1. Mr. Olmstead consider the alternative options as presented by MI.

Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure (Rules). The Board's Rules may be viewed on the Board's website at [www.pub.gov.mb.ca](http://www.pub.gov.mb.ca).

THE PUBLIC UTILITIES BOARD

"Mike Watson"

Panel Chair

"Darren Christle MPA, BA, CCLP, P.Log, MCIT"

Secretary

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Secretary