

**Order No. 12/19**

**APPEAL OF MANITOBA HIGHWAY TRAFFIC BOARD DECISION  
HTB File: 1/015/086/AB/18  
DATED OCTOBER 15, 2018**

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**January 22, 2019**

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

**SUMMARY:**

By this Order, the Public Utilities Board (Board) upholds the Highway Traffic Board (HTB) decision, dated October 15, 2018 and finds in favour of Manitoba Infrastructure.

**BACKGROUND:**

Ms. Gladys Hayward-Williams, on behalf of the Springfield Seniors Non-Profit Housing Co-operative Ltd. (SSNPHC) submitted an application to the HTB to relocate and widen an access driveway (residential) onto P.T.H. No.15, Lot 1 & 2, Plan 55985, N.E. ¼ 34-10-5E in the R.M. of Springfield, on June 6, 2018. In its letter of October 15, 2018, the HTB denied the application based on administrative and safety reasons. On November 21, 2018, Ms. Gladys Hayward-Williams appealed the HTB decision.

The PUB heard the matter at a public hearing held at 15:00, Friday, December 6, 2018, in the Dugald Community Club in Dugald, Manitoba. In conjunction with the hearing, Chairperson Watson, Member McCutcheon, and Member Kapitany, viewed the property, and areas related to the appeal.

**MS. GLADYS HAYWARD-WILLIAMS:**

Ms. Hayward-Williams testified that she was appearing on behalf of the SSNPHC. Ms. Williams testified that the requested access pertains to new construction within their existing footprint. The access will be restricted to the loading dock whereby a phase 2 building will be able to receive commercial trucks carrying food, emergency vehicles, and deliveries. During phase 1 construction there had been a previously approved temporary access from PTH #15 within a 60 kph zone. During the 14 months that the temporary access existed there were no safety issues or accidents reported. The testimony included the argument that there would be no through traffic from PTH #15 through to Jaffery Street. Ms. Williams suggested that due to significant residential and school bus traffic, safety would be compromised if the access was not granted. Several

stakeholder and constituent petitions were presented to the panel, in support of the application.

### **MR. CORY FORD**

Mr. Ford provided testimony on behalf of the Dugald School Parent Advisory Council (DSPAC). Mr. Ford provided a petition in support of the application and indicated that there were 470 students enrolled in the school adjacent to the SSNPHC complex.

There is significant bus traffic of 807 vehicles per day including 426 pickups and drop offs created an unreasonable opportunity for accidents to occur in the event that the access application is denied.

### **REEVE TIFFANY FELL**

Reeve Fell testified that the RM of Springfield is in support of the application for the access. Reeve Fell testified that several municipalities has submitted an application to Manitoba infrastructure to reduce speed zones in this area and the changes would be rectified soon. Due to growth in the area the RM is applying for a speed change for all towns to be consistent with the municipality this graduated speed change will be 100km reduced to 70 kph reduced to 50 kph. There were no further plans to expand existing infrastructure to accommodate an access road at that time. She indicated that the access will not be joined to the existing parking lot and there will be no through access to Jaffrey Street. Reeve Fell acknowledged that there would be congestion on Jaffrey Street and several municipalities would be looking at alleviating that concern in the future additionally Reeve Fell acknowledged that there was no signage in the area.

### **MS. LESLEY THOMSON**

Ms. Thomson testified that she was the original Chairperson of the co-op. She provided the panel with a package of materials and read a chronology of events of the initial construction project and submissions supplied in 2013. She testified that Manitoba

infrastructure was confusing the 2013 submission with the current submission under consideration. She argued that the 2013 submission concluded once the phase 1 construction was completed. The current submission pertains to phase 2 project exclusively, thus the current application is not a continuing request from 2013.

### **MR. RANDY WILLIAMS**

Mr. Williams submitted a letter as an exhibit and spoke in favour of the submission. He testified that the co-op paid to extend Jaffrey Street and never anticipated a day care for 74 children being built across the street. The intent was for light residential traffic only. He testified that there's been significant school growth since the construction of phase 1. He reiterated that the co-op only wants PTH #15 access for food delivery and emergency vehicles exclusively. He indicated that there will not be regular traffic access from the PTH. He was concerned that frequent traffic related to ambulances and emergency vehicles mixing with other traffic on the current street will create an unreasonable safety issue.

### **MS. DIANE ROLLAND**

Ms. Rowland appeared on behalf of the sunrise school division. She submitted a presentation which provided an overview of school enrolment and enrolment for the day care which opens in January 2019. She indicated that delivery trucks and emergency vehicles will need to go through the main crosswalk used for the school. Additionally she raised demographic concerns. The concerns were that aged people will need greater access to services over time. This will increase risk of vehicle pedestrian accidents.

**MANITOBA INFRASTRUCTURE (MI):**

Mr. Walter Burdz and Ms. Karen Toews Therrien appeared on behalf of Manitoba Infrastructure. They provided a written submission which was accepted as exhibit # 11. Executive Director Burdz testimony presented MI's concerns from four perspectives. They were: The classification of PTH #15 and its function; motorist and traffic safety; previous development review, and concerns with establishment of precedent in the event that the access permit is approved. Executive Director Burdz testified that traffic volumes for the section of highway in question are 7730 vehicles per day with an increase to 8890 vehicles per day in the summer months. Executive Director Burdz explained that the highway speed at that location is a primary arterial highway within a 100km/hr speed zone. The proposed access application is inconsistent with MI policy concerning access spacing requirements. Testimony provided arguments about establishing precedent for other landowners respecting access and explained the difficulty experienced by the Province and land owners if the access must be removed post construction. Executive Director Burdz explained that the 2013 proposed subdivision plan did not include a permanent access from PTH #15 and all future access was to be from Jaffery Street. MI recommends that the HTB decision denying the access be upheld and all future access be from Jaffery Street.

**SPECIAL NOTATION**

Post hearing, MI filed a written submission to the Public Utilities Board with a concern that they believed that the testimony of Reeve Fell was inaccurate regarding a plan filed to reduce the speed zone on the PTH #15 at Dugald, Manitoba.

On January 11, 2019, Ms. Hayward-Williams responded to the December 21, 2018 concern raised by MI. Her response included an email response from Reeve Fell which acknowledges that testimony regarding the speed zone amendment application was inaccurate. There is no current application for a speed reduction on the PTH #15 at Dugald, Manitoba before MI.

## **BOARD FINDINGS**

The Board thanks both parties for their contributions. Both parties presented safety arguments in support of their respective positions. The Board understands the importance to the community for the access based on the case presented by SSNPHC and supported by the community both through testimony and petitions. However, the Board believes that Manitoba Infrastructure possesses significant experience and expertise in road safety matters, and is concerned about potential safety issues from a broad perspective potentially impacting the safety of all road users not just the SSNPHC. Additionally, the Board would like to thank both parties for investigating and correcting the speed zone application testimony and ensuring that the Panel has been provided with accurate information necessary to make an informed decision. The PUB believes the key elements to an agreement between MI and the community are a reduced speed zone in the area for a new access and an agreement between SSNPHC and the RM of Springfield restricting the use of the access and connected infrastructure to the uses described in the application.

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

The HTB decision 1/015/086/AB/18, is upheld.

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

1. Springfield Seniors Non-Profit Housing Co-operative Ltd. (SSNPHC) and MI along with the RM of Springfield work closely to find an expedited reasonable solution that meets the needs of the community and Manitoba Infrastructure;
2. MI and SSNPHC and the RM of Springfield work together to develop a long-term solution to minimize commercial and emergency vehicle traffic on Jaffrey Street to address the safety concerns raised by the community.

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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issued by The Public Utilities Board



Secretary