

Court of King's Bench of Alberta

Citation: Lacombe (County) v Delta Land Co. Inc., 2026 ABKB 679

Date: 20260925
Docket: 2303 17697
Registry: Edmonton

Between:

Lacombe County

Plaintiff/Defendant by Counterclaim

- and -

Delta Land Co. Inc.

Defendant/Plaintiff by Counterclaim

Reasons for Judgment of the Honourable Justice M. J. McGuire

[1] The County of Lacombe commenced this action against Delta Land Co. Inc. ("Delta") for recovery of an amount it claims is owing under an Agreement entered into by the parties in 2018. The amount in question relates to the cost of road improvements that the County claims were owed as part of a 2010 Development Agreement for the Defendant's development project.

[2] Delta, despite acknowledging it entered into a Development Agreement on October 14, 2010, and despite acknowledging that it also entered into the related further Agreement in 2018 ("Amending Agreement"), contests the claim made by the County. Delta says that the parts of the Development Agreement that obligate it to pay for certain road improvements are unlawful and unenforceable. Despite that the 2018 Amending Agreement contains a preamble expressly acknowledging the requirement to contribute to road improvements as part of the Development Agreement, Delta takes the position that the provisions of the Development Agreement obliging

Delta to pay for road improvements are *ultra vires* and therefore void *ab initio*. Delta also counterclaims on the basis that if provisions of the Development Agreement are void *ab initio*, then it has paid the County amounts not required which should be reimbursed.

Summary of Facts

[3] Delta Land Co. Inc. owns land in the County of Lacombe. In 2010, Delta applied to the County for permission to develop the land into bareland condominium units for recreational vehicles and a daily use seasonal RV park. The project was known as Sandy Point Resort.

[4] Delta obtained subdivision approval in 2011. The approval was subject to the condition that it adhere to the terms of a Development Agreement that it entered into with the County on October 14, 2010.

[5] Clause 3 of the Development Agreement included an obligation to pay a share of road improvement costs that would be necessitated by increased traffic to and from Sandy Point Resort. The relevant parts of Clause 3 are:

3.1 Improvements to the existing road system will be necessary to accommodate the increased traffic resulting from the development of the Subdivision Area and in this regard, the Developer shall be required to pay for a portion of the costs of the following improvements:

...

(b) Range Road 1-1, from the new realignment of Highway 12 to the Main Access Road of the development area, to a local main access road standard.

... [other subparagraphs identified other roads and intersections] ...

... Payment shall be made to the County prior to the final approval of the subdivision plan by the County.

[6] Clause 3 included details with respect to how and when security and payments were to be made.

[7] In 2018, Delta and the County agreed that paving Range Road 1-1 from Highway 12A to the Sandy Point entrance was of mutual benefit and would be undertaken by the County in 2018. The cost of the work, up to a specified maximum, was to be paid to the County by Delta on the sale of the lands or within five years, whichever came first. The details of this Agreement were set out in a written Agreement signed by authorized representatives of Delta and Lacombe County, including a clause that this Agreement replaced the road improvement levy provisions of the Development Agreement. The parties refer to this 2018 agreement as the Amending Agreement.

[8] The County proceeded with the paving of Range Road 1-1. The cost claimed by the County from Delta was the cost of that work done, less levies collected by the County and less an agreed upon reduction. A partial payment (\$244,043.13) was made by Delta on March 23, 2023. The balance remains outstanding, and is the principal amount claimed by the County. The due date for payment, because the lands were not sold, was five years from the date of the Amending Agreement, and that due date was January 2, 2023.

[9] Subsequent to the due date, and after the County sent an invoice detailing the amount owed, the County and Delta engaged in some discussions and communications about alternative payment arrangements. The County made an offer that included terms for payments by installment over the next nine years. That offer was not accepted by Delta. Delta countered with an offer that sought to eliminate other obligations under the 2010 Development Agreement. The County did not agree to that.

Position of the Parties

[10] The County takes the position that the amount claimed is the amount Delta is obliged to pay in accordance with the Development Agreement as amended in 2018, as well as the interest and the costs of enforcement that were agreed to as part of the 2018 Amending Agreement.

[11] The Defendant, Delta takes the position that the obligation to pay for the development of Range Road 1-1 was an obligation imposed by the County that exceeds the scope of what the *Municipal Government Act* permits. It argues that the road improvement obligation in the 2010 Development Agreement must therefore be *void ab initio*, and that would also render the payment obligation under the 2018 Amending Agreement void.

[12] In Delta's counterclaim, it claims that other requirements in the Development Agreement similarly exceeded the County's authority under the *Municipal Government Act*. Delta claims it is entitled to restitution for amounts that were paid to the County pursuant to obligations that were imposed that exceeded the scope of the *Municipal Government Act*.

[13] To the counterclaim, the County responds that Delta has not paid the County for any of the other disputed terms of the Development Agreement within the applicable limitation period. There was a \$96,000 payment by Delta for trail improvements, but that was not pursuant to the 2010 Development Agreement. That payment related to a trail improvement obligation in a different Development Agreement dated August 11, 2022 ("Campground Agreement"). That amount is therefore not within the scope of the counterclaim and there is no restitution to be made.

Is the Development Agreement Void in Whole or in Part?

Can a road improvement clause be part of the Development Agreement?

[14] The County argues that, although this Development Agreement was an agreement entered into prior to subdivision approval, it is an agreement that would be valid even if it were an agreement ordered to be entered into as a condition of subdivision approval under s. 655 of the *Municipal Government Act*, RSA 2000, c M-26.

[15] Section 655(1)(b) sets out types of agreements that a municipality may require as a condition of subdivision approval. Included in that section is agreements to pay for roads that give access to the subdivision. Section 655 does not, however, stand alone in describing what might be included in the terms of a s. 655 agreement. Section 651 provides additional scope to what might be included in a s. 655 agreement. Section 651 authorizes a municipality to require an applicant to agree to "construct or pay for all or a portion of an improvement with an excess capacity."

[16] The Defendant refers to s. 651 as an “oversizing” section, separated from s. 655 for purposes of providing a scheme for the equitable sharing of costs between an initial developer and subsequent developers who may benefit from the first developer’s front-ending of costs that will benefit subsequent developments. The Defendant argued that it is most often a clause that deals with sewer and water services and is rarely a provision used in relation to roads.¹ The Defendant argues that if s. 651 applies to road improvements, it must be read as only applicable to roads which are already within the scope of s. 655(b)(i). The Defendant’s interpretation limits s. 651, when used in relation to roads, to roads required to give access to the subdivision (“access roads”). The Defendant says that this provision would be appropriate in a situation where a first developer pays for improvements to an access road into its development, and later a subsequent developer for adjacent land benefits from that access road for access to the subsequent development. Using s. 651, the municipality could then require the subsequent developer to pay a share of the improvement cost and reimburse the first developer.

[17] The Defendant’s example may fit within s. 651, but it is not the extent of the scope of s. 651. The Defendant’s argument ignores the language used and defined in the provision. Section 651(5)(b) defines “improvement” for the purposes of the section. “Improvement” includes “a road” and it includes a road “whether or not located on the land to be developed or subdivided and whether or not constructed at the time of development or subdivision approval.” Section 651 does not merely duplicate or supplement s. 655(1)(b)(i). It is an additional area for which a municipality may require a development applicant to agree as a condition of subdivision approval.

[18] As to the argument that the provision is rarely used for roads, the frequency by which s. 651 is used for this purpose is not the issue. The issue is the whether the municipality may use s. 651 for this purpose. I find that the provision authorizes the imposition of an agreement for the developer to pay for the costs of improvements of off-site roads with an excess capacity, as a condition of subdivision approval. In this case, that applies to the improvement of Range Road 1-1.

Alternatively, is the agreement valid even if it cannot be a condition of subdivision approval?

[19] Even if I am wrong, and s. 651 of the *Act* cannot be used to compel a developer to pay for improvements to off-site roads impacted by the excess capacity of a development, I cannot find that an improper condition on subdivision approval would result in the voiding of an otherwise valid contract that was agreed to prior to subdivision approval.

[20] The road improvements clause, even if it exceeds the scope of what the *Act* authorizes in section 655, does not render the Development Agreement void, nor does it void that clause of the agreement.

[21] The Defendant interprets section 655 of the *Act* as a restriction on the conditions that may be included in a Development Agreement. The legislation does not do that. Section 655 provides for the scope of conditions that a subdivision authority may impose on a subdivision approval. The imposition of conditions on subdivision approval is not a matter of contract, but a unilateral action taken by the municipality.

¹ The Defendant did not refer to *Camgill Development Corporation v Wood Buffalo (Subdivision and Development Appeal Board)*, 2023 ABCA 264, a case in which s. 651 was used in relation to road improvements.

[22] One of the conditions that may be imposed on a subdivision approval is a condition that the applicant enter into an agreement with the municipality dealing with certain costs. If the subdivision authority were to require the developer to enter into a contract with clauses beyond the scope of s. 655, then the subdivision approval is not in accordance with s. 655. But that is not a matter of contract. That is a matter of subdivision approval.

[23] When a municipality does something contrary to the *Municipal Government Act*, the remedy for that wrongdoing is found in the *Act*. In the case of a subdivision authority acting outside the scope of section 655 when imposing conditions on a subdivision approval, the remedy is found in section 678 of the *Act*. The remedy is an appeal of the decision of the subdivision authority to the Subdivision and Development Appeal Board or to the Land and Property Rights Tribunal.

[24] In this case, the Subdivision Approval was dated August 25, 2011, and is contained in a letter to the Defendant dated September 1, 2011 (Exhibit 4 of the Agreed Statement of Facts). One of the conditions imposed on the subdivision approval was: “18. All requirements outlined in the Development Agreement date October 14, 2010, to be adhered to prior to the final approval of the subdivision”. In accordance with section 656(2)(a), the Subdivision Approval gave notice to Delta that it could appeal any of the conditions of approval, and a Notice of Subdivision Appeal form was provided. Notice of the availability of an appeal to the County’s Subdivision and Development Appeal Board was also contained in the Guide to the Approval Process provided by the County at an earlier stage in the process.

[25] Delta did not appeal the condition imposed on the subdivision approval. Instead, Delta proceeded with its development. The deadline for appealing the condition has long passed. The Defendant took the benefit of its decision not to appeal – having the subdivision approval it required to develop the lands. Delta’s position in this case amounts to a very out of time appeal of the subdivision approval condition, while blurring the distinction between contract and subdivision approval terms to attempt to make a statutory appeal provision have the effect of a rule of contract law.

[26] The time to appeal the subdivision approval condition was in September 2011. No appeal of the conditions of subdivision approval is now available.

[27] The Development Agreement dated October 14, 2010, is a contract between Lacombe County and Delta Land Co. Inc. The Development Agreement is not a unilateral imposition of conditions under s. 655 of the *Act*. There is a relationship between the Development Agreement and the Subdivision Approval, but that relationship does not change the character of the Development Agreement as a contract. The Development Agreement contract is drafted in such a way that the “Agreement shall only be operative in the event a bare land condominium subdivision is approved.” That is the connection, and it provides the protection to the developer that it will not be bound by the contract if the development does not receive the requested subdivision approval. The County drafts the agreement in consultation with the developer, and the developer has the freedom to contract – to agree or not agree. The developer may wish to agree to terms that make its subdivision application more likely to gain approval. That does not turn the Development Agreement into conditions imposed on subdivision approval under s. 655 of the *Act*. If the developer believes the terms are unreasonable, they may decide to not sign the agreement and take the chance they may not get the approval, which is discretionary.

[28] A municipality has natural person powers. This is confirmed by s. 6 of the *Act*. And it is the municipality's natural person powers that allow it to contract. The ability of a municipality to contract is unlimited except where legislation imposes limits. Section 655 of the *Act* is a limitation. But s. 655 is a limitation on contracts that are entered into as a condition of subdivision approval. The 2010 Development Agreement between Delta and the County is not that.

[29] The Defendant has argued that: "a municipality's natural person powers are not in play when it comes to demanding the execution of a development agreement, and that a municipality is limited in what it can demand from a developer to what is expressly set out in the Municipal Government Act". For this proposition, the Defendant cites paragraphs 52 and 53 of ***Prairie Communities Development Corp. v Okotoks (Town)***, 2011 ABCA 315. These paragraphs do not support the argued proposition. The Defendant disregards the contextual lead-in to the two paragraphs it cites: "Natural persons have no powers to issue subdivision or development approvals. Here, the Town is exercising its municipal powers which are restricted by the *MGA*." (para 51)

[30] It is true, a municipality cannot demand as a condition to subdivision approval the inclusion of terms therein that are beyond its express statutory provisions. (***Bristol Developments (Alberta) Ltd v Sturgeon (Municipal District No 90)***, [1992] AJ 1458, as cited with approval in ***Prairie Communities Development Corp. v Okotoks (Town)***, 2011 ABCA 315 at para 52)

[31] In ***Bristol Developments***, a municipality demanded as a condition of subdivision approval a condition that the applicant enter into an agreement that included terms exceeding the scope of s. 92 of the *Planning Act*, RSA 1980 c P-9. (subsequently replaced by s. 655 of the *Municipal Government Act*). The Applicant in that case executed the agreement but then sought to have the Court strike from the agreement the provisions that could not have been ordered by the subdivision approving authority. One of the clauses sought to be struck related to an obligation for the developer to contribute to off-site services that could alternatively have been imposed by bylaw as an off-site levy. Although the municipality could not demand the applicant enter such an agreement as a condition of subdivision approval, Cooke J accepted the evidence that the municipality would not have entered into the development agreement without some way of requiring that payment. The request to strike that clause from the executed agreement was denied.

[32] ***Bristol Developments*** was a case addressing subdivision approval conditions that demanded an execution of a development agreement. Lacombe County's subdivision approval did not require the execution of an agreement. It approved the subdivision based upon an agreement already executed. It could not have required as a condition of approval that the developer enter into an agreement that contained requirements that were beyond the scope of s. 655. But it did not do that. In approving the subdivision, the County considered the agreement that had already been negotiated and executed. The defendant acknowledged in its submissions that a condition to enter into an agreement is a very different thing. Here there was no condition to enter into an agreement. There was only a condition to do what had already been negotiated and agreed.

[33] The Defendant claims the municipality used coercive powers to make demands for things it could not require under s. 655. That was the situation in ***Prairie Communities Development Corp. v Okotoks (Town)***, 2011 ABCA 315, where the Court of Appeal found that the

municipalities natural person powers were inapplicable because coercion negated the voluntariness of the agreement in the particular circumstances of that case.

[34] There is no evidence of any coercion in this case. There is evidence that the municipality, in deciding whether this was a development that should receive subdivision approval, considered all of the things that the developer had already agreed to in the Development Agreement. The subdivision authority had the ability to approve or deny the subdivision application, and it had the ability to approve with additional conditions, beyond what had already been agreed in the Development Agreement. The subdivision authority could not compel, as a condition of approval, the execution of a new agreement with different terms more favourable to the County beyond the scope of s. 655. It did not do that.

[35] The Defendant was aware that traffic impact was an important consideration for the County. Delta retained an engineering company to conduct a traffic impact study. That traffic impact assessment report, dated October 10, 2010 (predating the Development Agreement), was submitted by Delta as part of its proposal to the County. It was Delta who submitted, in the recommendations contained in that report, that Range Road 1-1 should be improved to residential subdivision standards. Far from being a coercive exercise of municipal power, the clause of the Development Agreement relating to the improvement of Range Road 1-1 was a clause proposed by Delta for the purpose of mitigating a recognized risk to its subdivision approval.

[36] What would have happened if Delta had not agreed to pay for the road improvements to Range Road 1-1? Perhaps the County would have considered the off-site levy provisions in s. 648 of the *Act*. Or perhaps it would simply not have granted the subdivision approval, exercising its discretion with regard to the potential or likely negative impact the proposed development would have on the existing municipal roadway.

[37] If clause 3 had not been part of the Development Agreement, and had the County approved the subdivision with a condition that Delta pay for upgrades to Range Road 1-1 (assuming that such a condition would be beyond the scope of s. 655), Delta's remedy would be to appeal the approval pursuant to s. 678. An appeal, even if successful, would not necessarily result in an appeal board striking the condition and leaving the approval otherwise undisturbed. The appeal body may have revoked the approval decision (*Municipal Government Act*, s. 680(2)).

[38] Developers know, or ought to know, that potential negative impacts of their proposed development on the municipality will be a matter of concern in the consideration of a subdivision proposal. By executing a Development Agreement prior to subdivision approval, a developer presents its offer aimed at assuaging such concerns in the hopes of subdivision approval. A developer may offer things beyond what the municipality can compel under the *Act*, in order to address the suitability of the land for subdivision. What they cannot do is get the approval on the basis of such offers and then renege.

[39] Delta knew that its proposed development would result in increased traffic to Range Road 1-1 and that increased traffic would be more than the existing road was capable of handling. Delta agreed to share the burden of improving the road when it agreed to the 2010 Development Agreement. That agreement was a valid contract.

Conclusion on validity of clause 3 of the Development Agreement

[40] I have concluded that the County was not barred from including a clause requiring Delta to pay for road improvements, including improvements to Range Road 1-1. Section 6 of the *Act* recognizes the natural person powers of a municipality, subject to limitations contained within the *Act*. Even if a municipality's ability to contract in the context of a development agreement is limited to the terms that can be imposed as conditions of subdivision approval, s. 651 authorizes the inclusion in a development agreement of a requirement for payment for road improvements such the requirement in this case.

[41] To the extent that the subdivision approval contained a condition compelling adherence to the Development Agreement, any dispute with that condition ought to have been raised in an appeal of the decision, pursuant to s. 678.

[42] The contractual obligations in this case arise from Delta's agreement, signed and dated October 14, 2010. The agreement was not one compelled as a result of the August 25, 2011, subdivision approval. And the subsequent subdivision approval does not void the preexisting contract obligations. Had Delta appealed the subdivision approval conditions successfully, the remedy would not be the voiding of a valid contract. The remedies for an appeal are limited to those provided by the appeal granting statute, in this case the *Act*.

[43] The October 14, 2010, Development Agreement is a valid and enforceable agreement.

Effect of the 2018 Amending Agreement

[44] The Defendant acknowledges that if the 2010 Development Agreement is valid, then the 2018 Amending Agreement is also valid. In the Amending Agreement, Delta acknowledges its obligation to contribute to road improvements on Range Road 1-1. The provisions of the 2018 agreement outline when the amount is due and payable to the County, and includes related provisions for security, interest, and enforcement costs.

[45] The amount claimed by the County was due five years following the date of the January 2, 2018, agreement.

The Amount Owed by Delta to the County

[46] There is no dispute that the principal amount owed under the 2018 Amending Agreement is \$1,488,625. There is also no dispute that the 2018 agreement included a requirement that Delta pay interest, calculated at the Servus Credit Union Ltd prime rate plus 1% calculated and compounded quarterly until paid.

[47] Clause 13 of the 2018 agreement also requires that Delta pay to the County the full cost and expense of solicitors retained in the event of a default. The Defendant relies upon ***Bristol Developments (Alberta) Ltd v Sturgeon (Municipal District No 90)***, [1992] AJ 1458 as authority for the impermissibility of such a clause being included in a development agreement. Because such a clause could not be included in an original development agreement, the Defendant argues that it is equally impermissible in an agreement that makes amendments to such an agreement.

[48] As stated above, a municipality cannot impose contractual obligations on a developer as a condition of subdivision approval except as authorized by the *Municipal Government Act*. There

is no condition of the subdivision approval in this case that imposes the obligations in the 2018 Amending Agreement. The 2018 Amending Agreement is a contract, agreed to and executed in writing on behalf of the parties. No subdivision approval compels it. It is entirely outside the scope of s. 655 of the *Act*. The fact that a clause relating to the legal costs of enforcement could not be included in an agreement referred to in s. 655 of the *Act* does not preclude a developer and a municipality entering into a non-compelled agreement dealing with payment arrangements for a debt owing. The other requirements for a contract were met, including the consideration that the developer had a new payment agreement.

[49] I find that clause 13, containing an obligation to pay legal expenses related to default is a valid condition within a valid agreement.

The Effect of the 2023 Discussions and Negotiations

[50] The Defendant takes the position that there is a valid and enforceable agreement that was reached in 2023 despite that no agreement was signed in writing. Delta says that it accepted the Draft 2023 Amending Agreement by conduct, by making a payment of \$244,043.13. The Defendant argues that this payment amounts to partial performance, which makes the installment plan contained in paragraph 7 of the Draft 2023 Amending Agreement a binding agreement.

[51] The Draft 2023 Amending Agreement was sent by the County to the Defendant attached to an email dated April 18, 2023. It is clear that, leading up to that date, there had been some communications about replacing the 2018 Amending Agreement with a new “Amending Development Agreement” with a revised payment schedule. The email from Tim Timmons to Lance Dzaman, dated April 13, 2023, referred to an intention to “revise the payment schedule as well as finalize the new Amending Development Agreement”. The email also indicated that Council will consider the Amending Development Agreement at their April 27th meeting. On April 18, the draft outlining the new payment arrangements and conditions was sent by email to Mr. Dzaman. The email made clear that the draft would be presented to Council on April 27 “with a recommendation that it be approved”.

[52] The April 18 email made clear that the draft document was not an offer Delta could accept unilaterally as of that date. It had not yet been approved by Lacombe County’s council. Lance Dzaman’s response on April 20, 2023, was: “I have looked through it and need to show Frank. He is out of the office until Friday Morning. I will reply ASAP.” Frank Wilson was the owner of Delta Land Co at that time. Lance Dzaman was his employee. The April 20, email makes clear that Lance Dzaman did not have authority to accept the Draft 2023 Amending Agreement without Frank Wilson’s approval. Neither party had agreed to the Draft 2023 Amending Agreement as of then.

[53] On April 27, while the Council meeting was in progress, Lance Dzaman and Tim Timmons, the County’s Chief Administrative Officer were in communication by email. Mr. Dzaman requested removal of paragraph 12 (confirming continuing applicability of future obligations under the 2010 agreement). Mr. Timmons advised he was not prepared to remove it.

[54] It appears that Council did approve the Draft 2023 Amending Agreement on April 27, as Mr. Timmons emailed Mr. Dzaman on April 28 saying: “The agreements are ready for Delta’s signature.” On May 4, 2023, Mr. Dzaman responded asking for the new Amending Agreement to be mailed to him. On May 10, 2023, Mr. Dzaman emailed saying: “I would like to meet and discuss POINT 12 in the paving repayment agreement.” Mr. Timmons’s response repeated his

April 27 position that paragraph 12 would not be removed and stated: “Until such time as the new Amending Development Agreement is executed the January 2, 2018, agreement which required Delta to pay the total amount of the paving cost of RR 1-1 by January 3, 2023, remains in place.”

[55] While the Defendant argues that the payment of \$244,043.13 by Delta was part performance of the Draft 2023 Amending Agreement, that cannot be so. That payment was made March 23, 2023, more than a month before Lacombe County Council approved an amendment to the 2018 agreement. The March 23, 2023, payment by Delta can be viewed as nothing more than a partial payment on the debt that was owing under the 2018 Amending Agreement.

[56] Whether or not an oral agreement constitutes a binding contract despite ongoing negotiations was dealt with by the Supreme Court in *Harvey v Perry*, [1953] 1 SCR 233. In that case, as in this, the whole of the correspondence and conduct of the parties showed that they had not agreed upon the terms of a contract.

[57] The Draft 2023 Amending Agreement is not a valid contract. The 2018 Amending Agreement has not been subsequently amended. The full amount owing was due to be paid by Delta to the County on January 2, 2023.

Conclusion with respect to Lacombe County’s claim

[58] I have found the 2010 Development Agreement, including the road improvement clause, valid. The 2018 Amending Agreement is also valid and enforceable. In accordance with the 2018 Amending Agreement terms, the Defendant owes the principal amount of \$1,488,625.11 plus interest calculated in accordance with the terms of the agreement, plus the Plaintiff’s legal costs on a solicitor and own client basis.

Delta’s counterclaim for reimbursement of amounts paid

[59] In argument, the Defendant/Plaintiff by Counterclaim conceded that reimbursement for any payments made by Delta more than two years prior to the counterclaim would be barred by the applicable limitations period. It therefore claims reimbursement of the \$244,043.10 paid on March 23, 2023, and \$96,744.38 paid in relation to a walkway.

[60] The \$244,043.10 claimed by Delta in its counterclaim relates to the partial payment made on March 23, 2023, related to the Range Road 1-1 improvement. As I have found that to be an obligation arising from a valid clause of a valid agreement, the counterclaim in relation to that amount is dismissed.

[61] Delta’s claim for reimbursement of a \$96,744.38 payment relates to a requirement to pave the walkway between Sandy Point and the nearest subdivision. It is clear from the evidence of Mr. Dzaman that this payment was not related to any obligation arising from the Development Agreement at issue in this case. The obligation to pay for the walkway arises from a Campground Development Agreement entered into on August 11, 2022. That Development Agreement was a condition imposed on the issuing of a development permit. Conditions that may be imposed as a condition of a development permit being issued are those set out in s. 650 of the *Act*. Section 650(1)(b)(ii) authorizes, as a condition of a development permit, a requirement to pay for pedestrian walkways to connect the pedestrian walkway system serving

the development with a pedestrian walkway system that serves or is proposed to serve an adjacent development.

[62] There is nothing improper about the requirement in the August 11, 2022, Campground Development Agreement to pay the cost of the walkway. The counterclaim in relation to that amount is dismissed.

Lake Access Charges

[63] The counterclaim also seeks reimbursement of “Lake Access” charges that were required by paragraph 15.1 of the 2010 Development Agreement. However, this is not an amount paid by Delta. Delta cannot claim reimbursement from the County of monies that were never paid to the County. The Defendant argues that this is a significant future concern. It may be, but it is not a valid claim at this time.

[64] The Plaintiff/Defendant by Counterclaim conceded in argument that the Lake Access clause were outside the scope of what the County could require under the *Municipal Government Act*.

Conclusion

[65] The Plaintiff’s claim is allowed as set out in paragraph 58 above. The counterclaim is dismissed.

Heard on the 4th day of February, 2026.

Dated at Edmonton, Alberta this 25th day of September, 2026.

Maureen J. McGuire
J.C.K.B.A.

Appearances:

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