



REGIONAL MUNICIPALITY
OF WOOD BUFFALO

STOP ORDER

Pursuant to Section 645
Municipal Government Act, R.S.A. 2000, c. M-26, As Amended

September 23, 2016

*Delivered in Person or by
Registered Mail*

Dunvegan Gardens (AB) Ltd.

128 Garden Lane,
Fort McMurray, AB
T9H 0B6

Dunvegan Gardens (Fort McMurray) Ltd.

Box 514, Fairview AB T0H 1L0
Owner of Plan 9920950, Lot 6/ 128 Garden Lane

Bradley Friesen and Terri Friesen

PO Box 6613, Fort McMurray AB T9H 5N4
Owner of 062 6798, Block 1, Lot 14/ 116 Garden Lane

Grandma's Attic Ltd.

Box 514, Fairview AB T0H 1L0
Owner of Plan 992 0950, Lot 5/no municipal address
Owner of Plan 0626798, Block 1, Lot 13/116 Garden Lane

RE: CONTRAVENTION OF LAND USE BYLAW 99/059

128 Garden Lane (Lot 6, Plan 9920950)
116 Garden Lane (Lot 13, Block 1, Plan 0626798)
116 Garden Lane (Lot 14, Block 1, Plan 0626798 and Lot 5, Plan 9920950)

In my capacity as a Development Authority for the Regional Municipality of Wood Buffalo, I
Tanuj Grover am hereby issuing a STOP ORDER.

In this STOP ORDER:

“MGA” means the *Municipal Government Act* of the Province of Alberta

“Municipality” means the Regional Municipality of Wood Buffalo

“Lands” means the Lands municipally and legally described as follows:

128 Garden Lane (Lot 6, Plan 9920950)

116 Garden Lane (Lot 13, Block 1, Plan 0626798)

116 Garden Lane (Lot 14, Block 1, Plan 0626798 and Lot 5, Plan 9920950)

“LUB” means Bylaw 99/059, the Municipality’s Land Use Bylaw

“SDAB” means the Municipality’s Subdivision and Development Appeal Board

This STOP ORDER is issued under the authority of Section 645 of the *MGA* with respect to certain hereinafter described unauthorized developments and uses on the Lands contrary to the LUB, the *MGA*, and decisions of the SDAB.

The *MGA* provides that no person shall undertake a development that is contrary to a land use bylaw. The LUB provides that no person shall undertake development unless a development permit has first been issued, and that any development must be in accordance with the terms and conditions of a development permit. Further, the *MGA* and LUB provide that on finding that a development or land use is not in accordance with the *MGA*, or the LUB, or a development permit, a development authority may issue a written order to the owner, person in possession of the land or building or the person responsible for the contravention, or any or all of them, to stop the development or use of the land or building in whole or in part as directed, demolish, remove or replace the development, or carry out any other actions required so that the development or use of the land or building complies with the *MGA*, the LUB, a development permit or a subdivision approval.

The Lands are located within an area of the Municipality that is zoned “Small Holdings District” under the LUB. Although the Lands are owned by separate legal parties, the person who has represented himself to be in possession of all of the Lands and therefore responsible for the contraventions on all of the Lands is Brad Friesen who uses the Lands for the operation of the commercial entity locally known as “Dunvegan Gardens”. The SDAB considered these Lands in Order 2011-012 and has held that all four parcels constitute one site for the purpose of enforcement. As such, this Stop Order is being issued to Mr. Friesen as well as the legal owners of the Lands (hereinafter collectively and separately referred to as the “Recipient”).

TAKE NOTICE THAT at present the development and use of the Lands does not comply with the LUB and orders of the SDAB in the following respects:

1. **Unauthorized Commercial Landscaping** - Site visits on July 8, 2016 and July 13, 2016 confirmed the presence of a landscaping business on the Lands (see attached July 13

Photos #70, 75, 77 and 79). Landscaping falls under the LUB definition of “General Contractor” and is neither a permitted nor a discretionary use in the Small Holdings District. Furthermore, the Recipient was issued a Stop Order on June 9, 2011 which addressed commercial landscaping and which, upon challenge, was upheld by SDAB Order 2011-012 on September 2, 2011. The SDAB ordered the Recipient to “cease all activity related to the commercial landscaping business” and determined that “the operation of a commercial landscaping business and storage of landscaping equipment and materials is not within the existing development permit for a market garden”.

2. **Unauthorized Commercial Landscaping Materials Stockpiling-** Site visits on July 8, 2016 and July 13, 2016 confirmed that there is storage and stockpiling of commercial landscaping materials on the Lands that is not permitted (see attached July 8 Photos # 10, 13 and 14 and July 13 Photos #3, 8, 25, and 27). In SDAB Order dated March 11, 2011, the SDAB overturned DP 2010-1849 for Intensive Agriculture (Stockpiling) noting “the “development does not qualify as a discretionary use” and that “this development would negatively impact the use, enjoyment, safety and value of the neighbourhood and adjacent properties”. Further, in SDAB Order 2014-018, a decision on the appeal of the conditions imposed on the development permits for Intensive Agriculture (Sod Farm Tree Farm) issued for the Lands, the SDAB ordered that the Recipient could not truck dirt for the purposes of building up the lands or for purposes related to the Intensive Agriculture and that the Recipient must deposit any excess fill on a site approved by the Municipality.
3. **Unauthorized Retaining Wall** – Site visits on July 8, 2016 and July 13, 2016 confirmed the unauthorized development of retaining walls without building permits and contrary to s. 74.4 of the LUB (see the attached July 13 Photos #3, 5, 8, 12, 25, and 27).
4. **Unauthorized Sale of Goods** - Site visits on July 8, 2016 and July 13, 2016 confirmed that the retail store on the Lands is selling more than locally grown vegetables and fruits, as requested in the original application for Accessory Building (Greenhouse) and approved in the subsequent Development Permit 2006-0140 issued on February 7, 2007 (see attached July 13 Photos #29, 30, 33, 35, and 37 - 44). Development Permit 2006-0140 only approved the sale of “Bedding Plants, Nursery and Vegetables”. A Greenhouse use only permits the sale of bedding, household and ornamental plants and related products. Further, the items observed for sale do not comply with Development Permit 2008-0138 which permits a Market Garden. A Market Garden use only permits the growing of vegetables or fruit for commercial purposes. Additionally, SDAB Order 2014-018, which was an appeal of a development permit for Intensive Agriculture (Sod Farm Tree Farm), held that the Recipient could not truck in mature trees or sod for the purposes of re-sale. The goods observed for sale and shown in the attached pictures constitute a General Retail Store use which is neither a permitted or discretionary use in the Small Holdings District.

5. **Unauthorized Farm Animals** - Site visits on July 8, 2016 and July 13, 2016 confirmed the presence of farm animals (see attached July 8 Photos #1 and 12; July 13 Photos #1, 4, 5, 34, and 36). Pursuant to s. 76.7 of the LUB, keeping livestock, fowl, or fur-bearing animals other than domestic pets is a discretionary use in the Small Holdings District and the Recipient does not have a permit for keeping any animals.
6. **Unauthorized Park** – Site visits on July 8, 2016 and July 13, 2016 confirmed the presence of pedal bikes and the development of a pedal bike course (see attached July 13, 2016 Photos #10, 13, 14, 15, 17, 19, 20, 21, 23). Although a Park is a permitted use in the Small Holdings District, the Recipient does not have a development permit for such use.
7. **Unauthorized Electrical Panels** – Site visits on July 8, 2016 and July 13, 2016 confirmed the presence of unauthorized electrical panels (see attached July 13 Photo #24). The Recipient does not have the proper electrical permits for these panels.

ACCORDINGLY, THE RECIPIENT IS ORDERED TO DO THE FOLLOWING:

1. Commercial Landscaping

As outlined in paragraph #1 above, commercial landscaping is not authorized on the Lands. Therefore the Recipient is ordered to immediately cease all commercial landscaping and any associated activity on the Lands including, but not limited to: storage and maintenance on the Lands of any vehicles and equipment associated with commercial landscaping; storage and stockpiling of any fill or other landscaping materials on the Lands; and the hauling of any equipment or materials associated with commercial landscaping to or from the Lands.

2. Commercial Landscaping Materials Stockpiling

As outlined in paragraph #2 above, commercial landscaping materials stockpiling is not authorized. Therefore the Recipient is ordered to remove from the Lands all stockpiles of landscaping material and fill, including but not limited to any dirt, fill, rocks, gravel or other materials used for commercial landscaping by 4pm on December 31, 2016.

3. Retaining Wall

As outlined in paragraph 3 above, the retaining walls on the Lands are not permitted. Therefore the Recipient is ordered to:

- a. Apply for and obtain all necessary permits and approvals for retaining walls by 4pm on November 18, 2016; or

- b. Demolish and remove the retaining walls by 4pm on December 31, 2016.

4. Unauthorized Sale of Goods

As outlined in paragraph #4 above, there are goods being sold contrary to the permit and LUB. Therefore the Recipient is ordered to:

- a. Immediately cease the sale of any unauthorized goods; and
- b. Remove all goods not authorized for sale under Development Permit 2006-0140 from being available for sale by 4:00 pm on December 31, 2016.

5. Unauthorized Farm Animals

As outlined in paragraph #5 above, the keeping of livestock on the Lands is unauthorized. Therefore the Recipient is ordered to remove from the lands by 4:00 pm on December 31, 2016 all livestock, fowl and fur-bearing animals that are not authorized and licensed domestic pets.

6. Unauthorized Park

As outlined in paragraph #6 above, the use of the Lands as a Park under the LUB is not permitted. Therefore the Recipient is ordered to:

- a. Immediately remove all pedal bikes and restore the Lands to remove any development associated with the pedal bikes and discontinue use of the Lands as a Park until the Recipient has obtained all necessary permits and approvals for which a the complete application has been received by the development authority not later than 4:00 pm on December 31, 2016; or
- b. Immediately remove all pedal bikes, restore the Lands to remove any development associated with the pedal bikes and discontinue any use of the Lands as a Park by 4:00 pm on December 31, 2016.

7. Unauthorized Electrical Panels

As outlined in paragraph #7 above, the electrical panels on the Lands are not permitted. Therefore, the Recipient is ordered to:

- a. Immediately cease the use of all unauthorized electrical panels until the Recipient has obtained all necessary permits and approvals the complete application for which must be received by 4:00 pm on October 30, 2016; or
- b. Immediately cease all use of all unauthorized electrical panels and remove all unauthorized electrical panels by 4:00 pm on December 31, 2016.

TAKE NOTICE THAT in the event the Recipient of this Stop Order fails or refuses to comply with this Stop Order within the timelines provided, the Municipality has the authority to enter onto the Lands and take any action necessary to carry out the order pursuant to Section 646 of the *MGA*. In addition, the Municipality may register a caveat on the certificate of title for the Lands in respect of this Stop Order pursuant to Section 646. The Municipality may also seek an injunction or other relief from the Court of Queen's Bench of Alberta pursuant to Section 554 of the *MGA*.

FURTHER TAKE NOTICE THAT the Municipality has the authority to add all the costs and expenses for carrying out the Stop Order to the tax roll for the Lands pursuant to Section 553(1)(h.1) of the *MGA*. Also be advised that pursuant to the LUB, you may be subject to fines for breach of the LUB and/or failure to comply with the Stop Order.

You are hereby advised that you have the right to appeal this Stop Order to the SDAB pursuant to Section 645(3) of the *MGA*. If you wish to exercise this right, then your written notice of appeal together with the applicable fee must be received by the Secretary of the SDAB within fourteen days of receipt of this Order. The address for filing an appeal is:

Secretary, Subdivision and Development Appeal Board
Regional Municipality of Wood Buffalo
9909 Franklin Avenue, 7th Floor
Fort McMurray, AB T9H 2K4

**ISSUED BY THE REGIONAL MUNICIPALITY OF WOOD BUFFALO
THIS 23rd DAY OF SEPTEMBER, 2016**

Per:



Tanuj Grover
Development Authority
Planning & Development Department
Regional Municipality of Wood Buffalo
P: 780-793-1116
Tanuj.Grover@rmwb.ca

Att: Photographs from July 8, 2016 Inspection
Photographs from July 13, 2016 Inspection

July 8, 2016.

#1



#2



#3



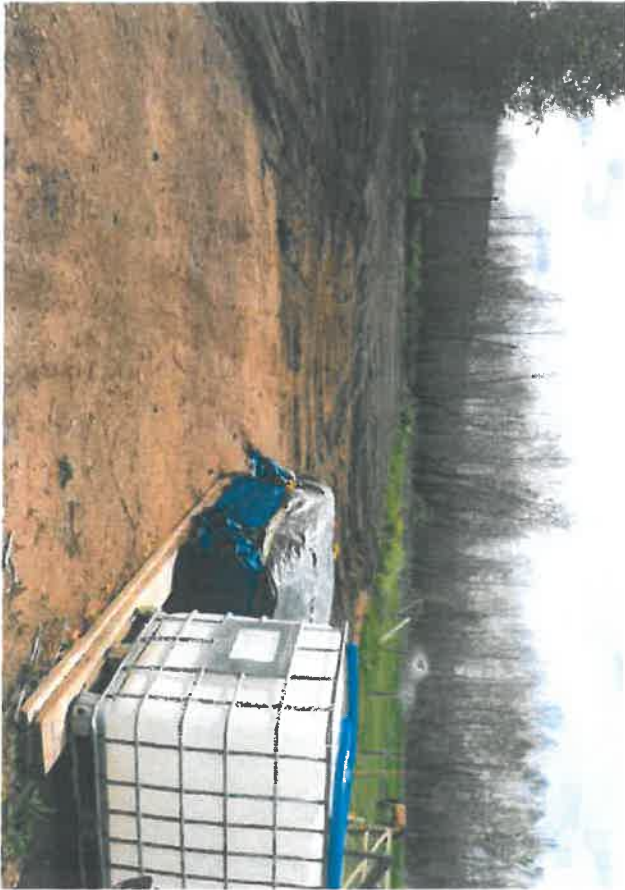
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#5



#3



#6



Attachment 5: Stop Order

#9



#10



#11



#12

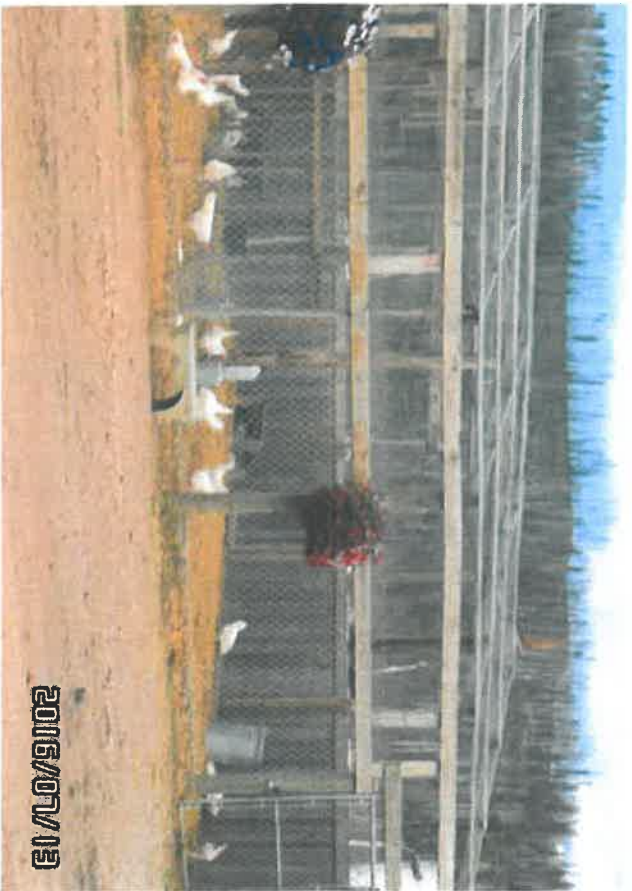


#1



#2





Attachment 5: Stop Order



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Attachment 5: Stop Order

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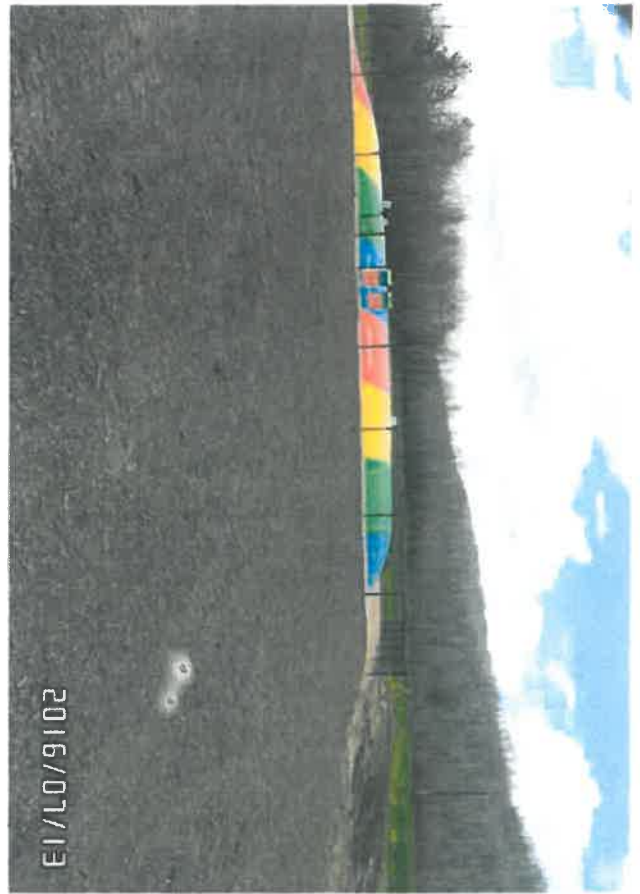
15



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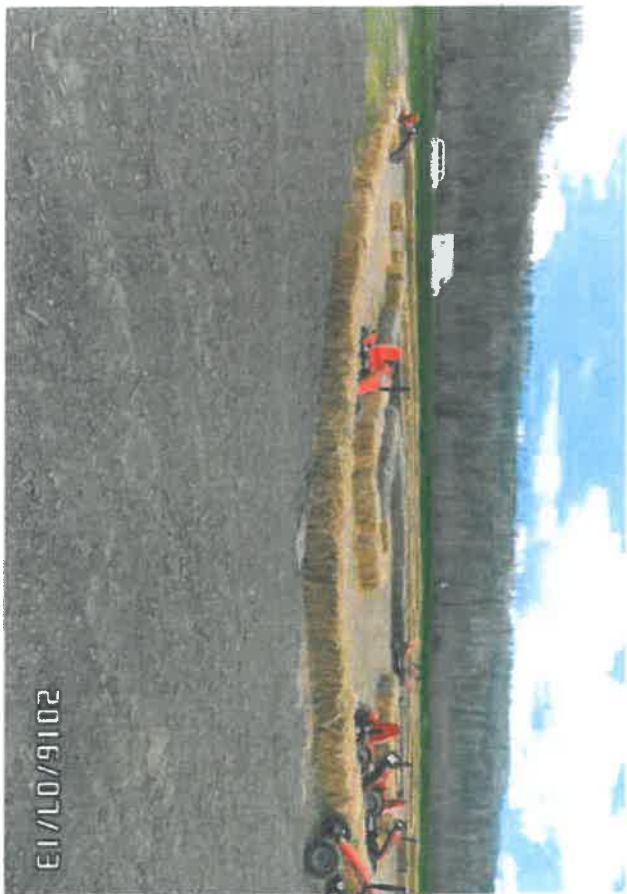
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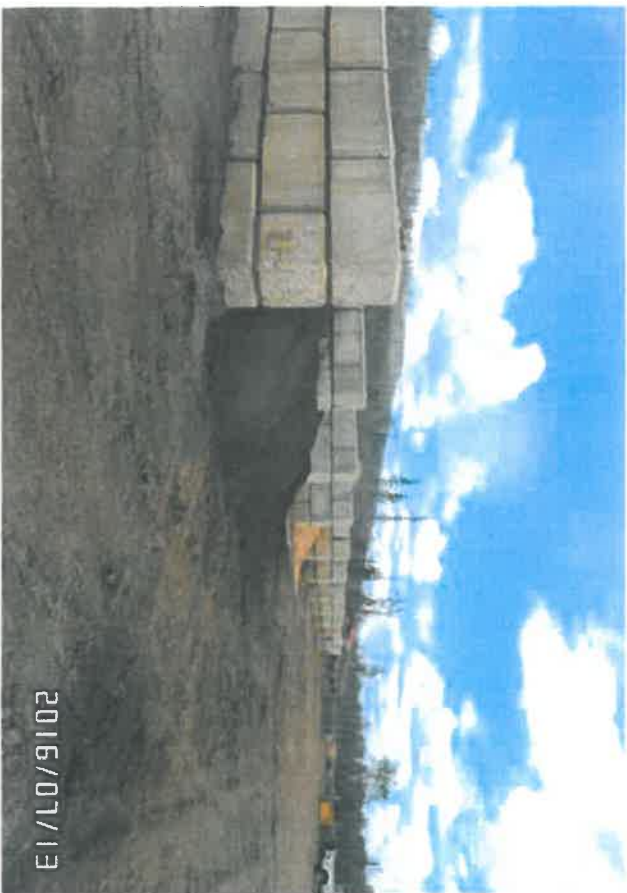


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2016/07/13

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2016/07/13

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2016/07/13

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2016/07/13

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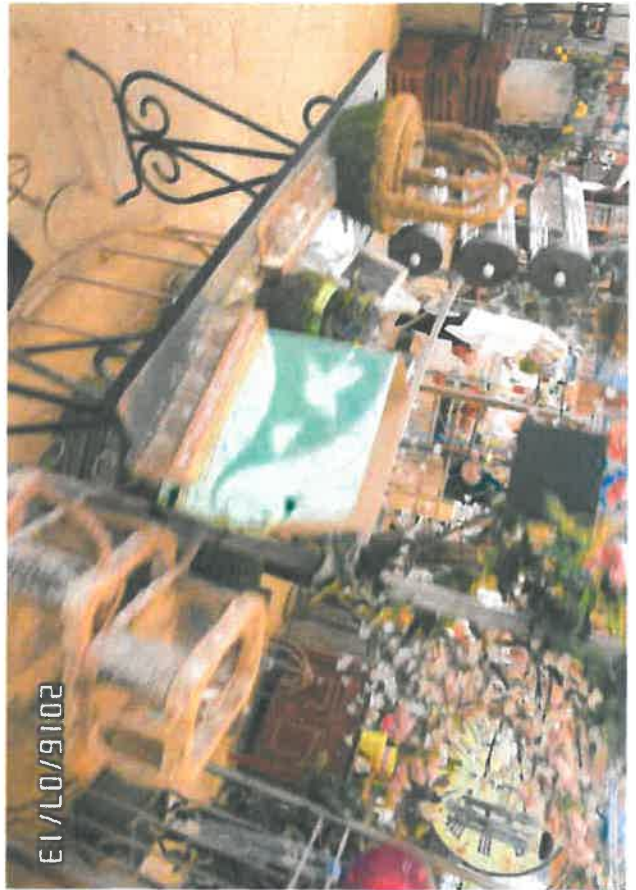


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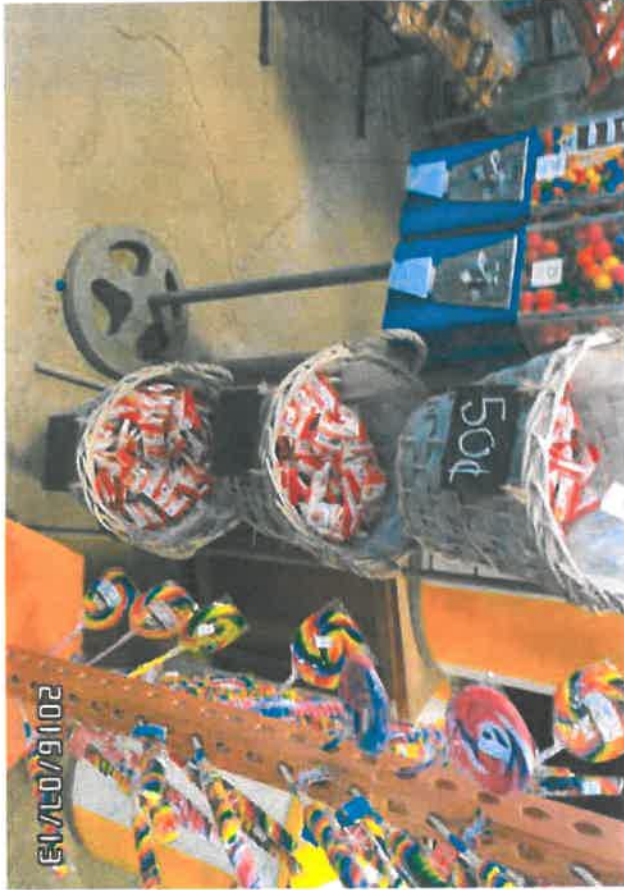


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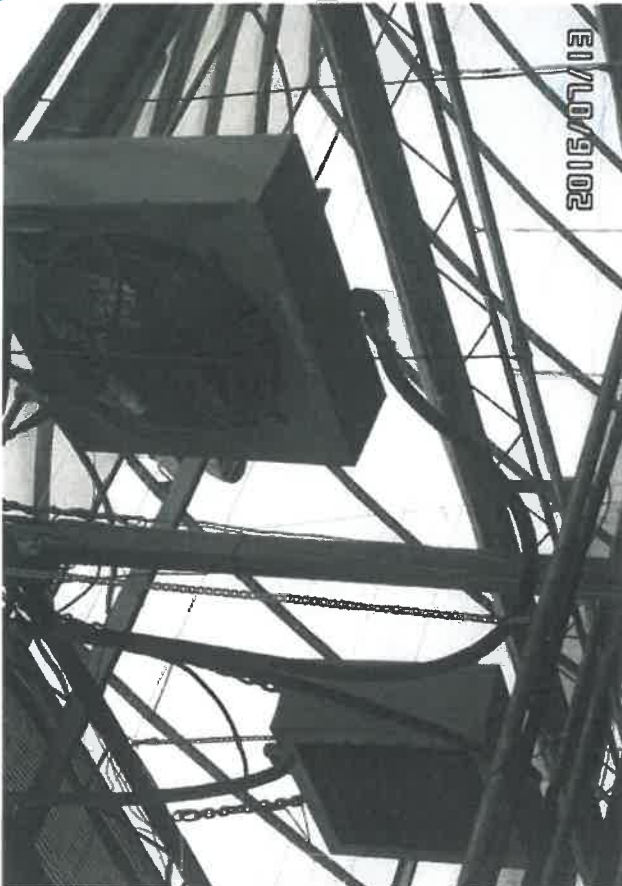




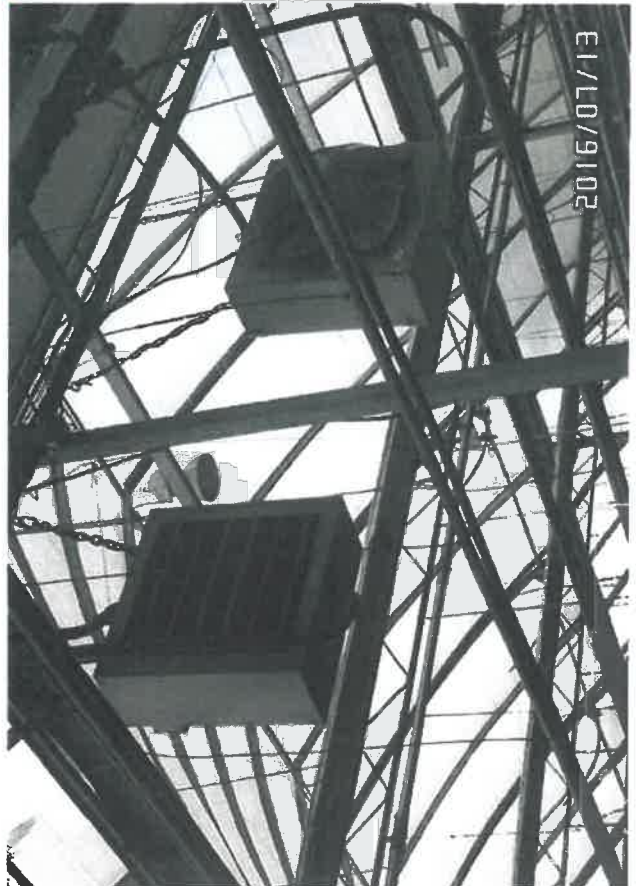
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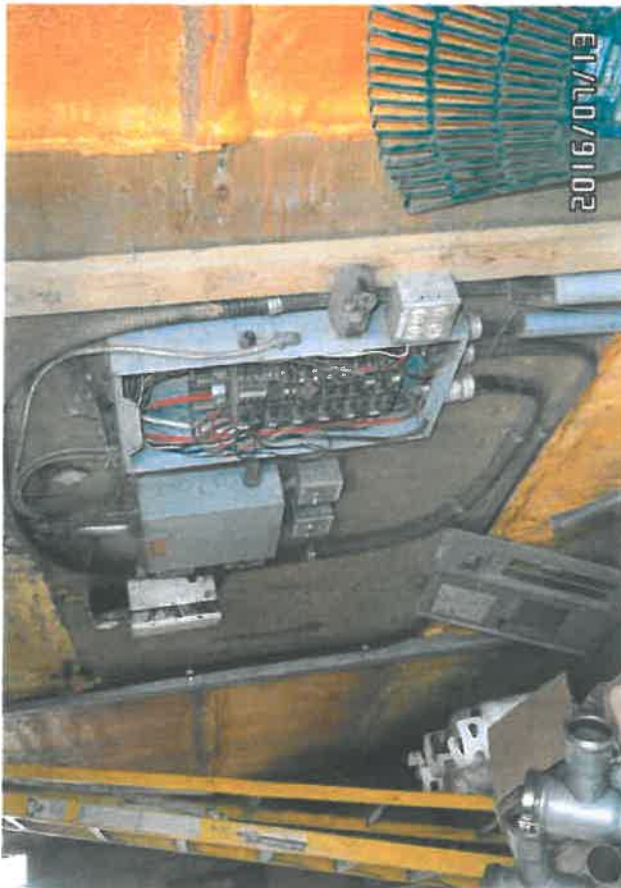
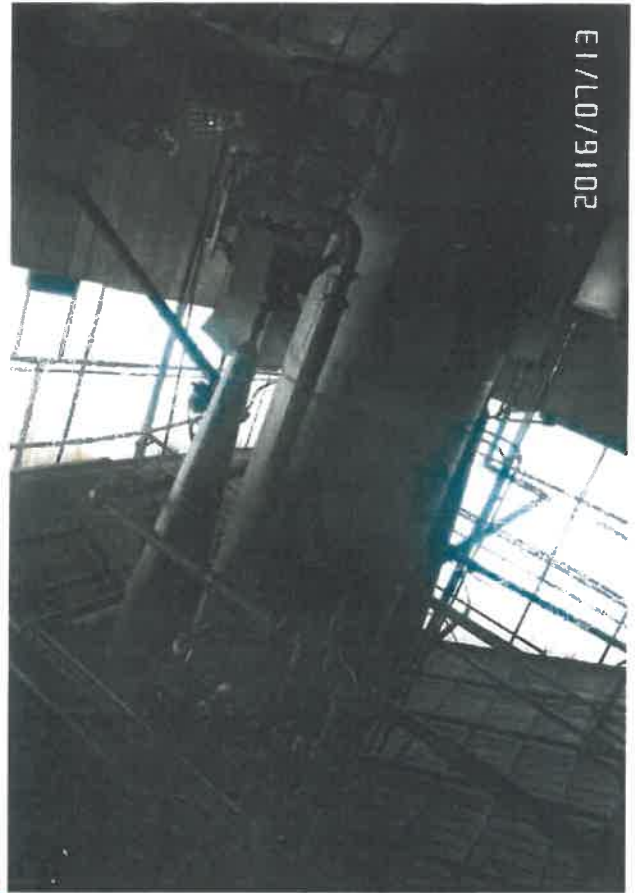
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14



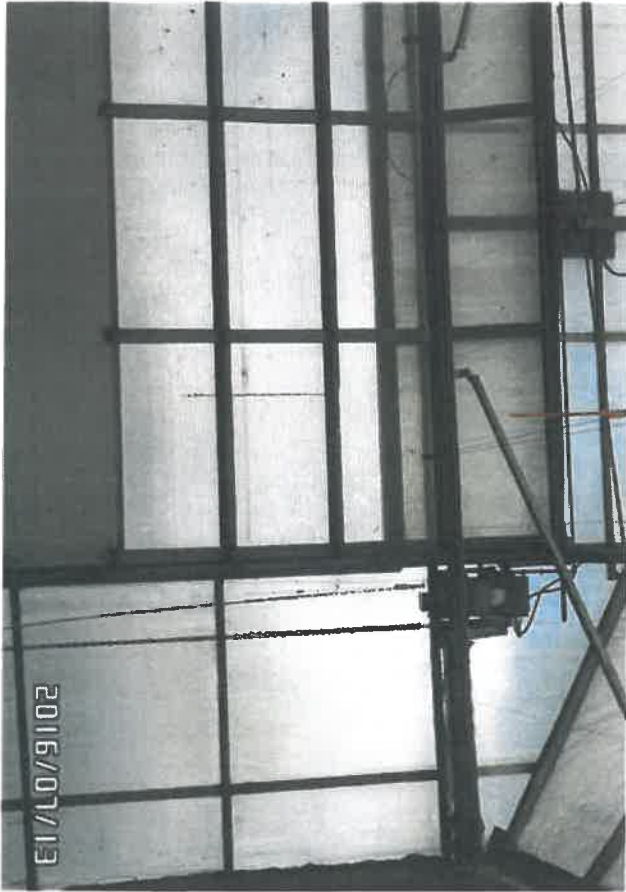
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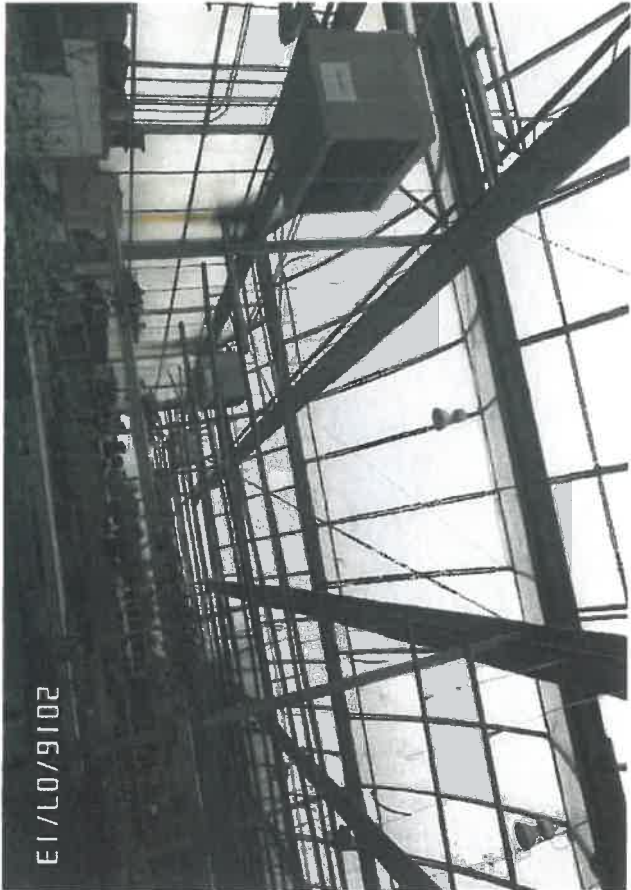
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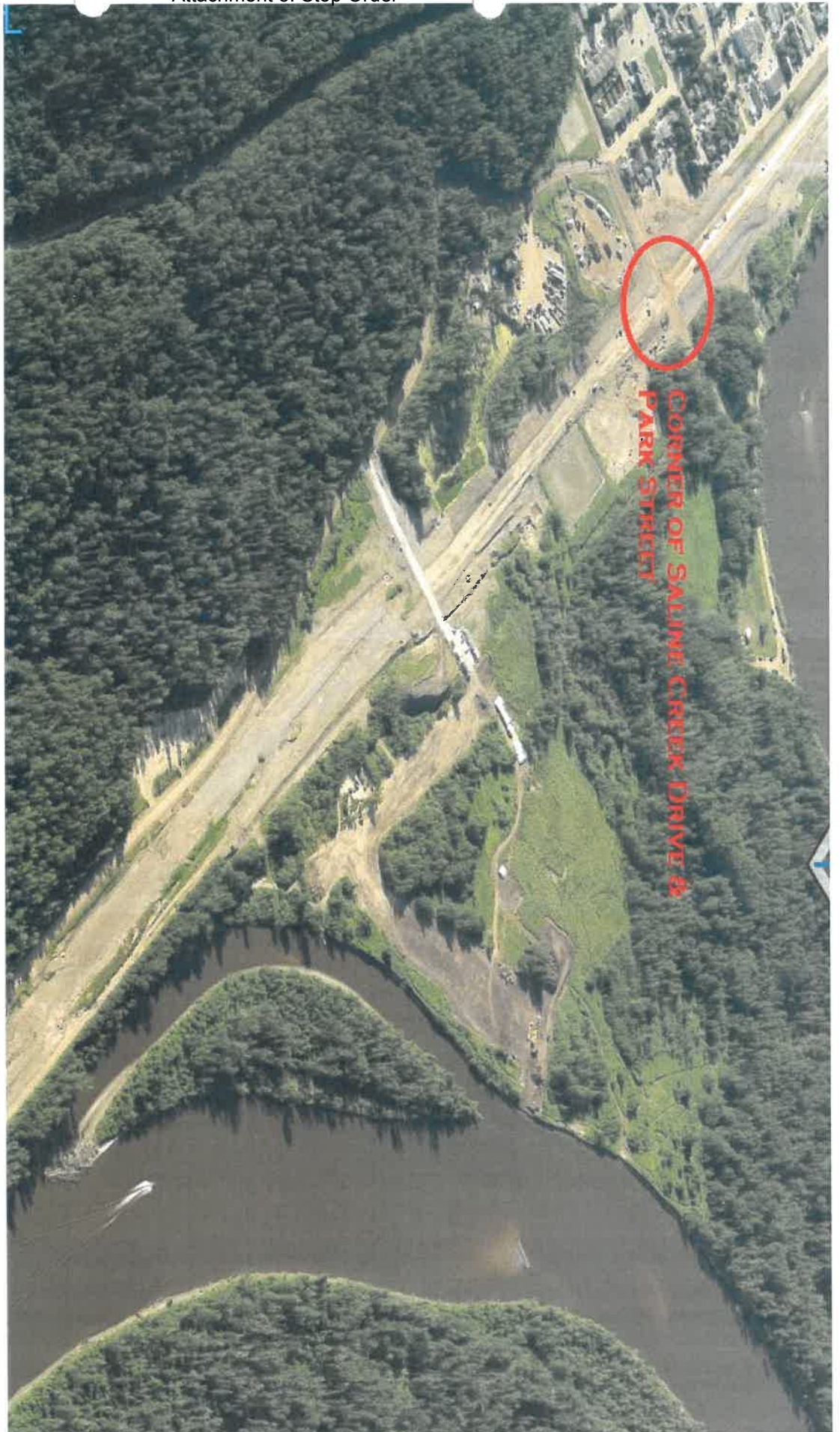


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MAKE OATH AND SAY AS FOLLOWS:

- (a) delivered an original, thereof personally to and leaving the same with him.

SWORN, in the City of Fort McMurray,

In the Province of Alberta, the 26th

Day of September, 2016.

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Tanuj Grover

Velvet Mac Gillivray

AFFIDAVIT OF SERVICE

I, Tanuj Grover, a Development Officer of the Regional Municipality of Wood Buffalo, in the Province of Alberta.

MAKE OATH AND SAY AS FOLLOWS:

1. That, I did on Friday, the 23rd day of September, 2016, at the hour of 1:25pm o'clock in the afternoon served Brad Friesen, with a copy of the said Stop Order.

(a) delivered an original, thereof personally to and leaving the same with him.

In the Regional Municipality of Wood Buffalo, in the
Province of Alberta.

SWORN, in the City of Fort McMurray,

In the Province of Alberta, the 26th

Day of September, 2016.

Velvet Mac Gillivray

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Tanuj Grover