



Feb. 26, 2021

Public Notice

RE: Alberta Court of Queen's Bench Challenge to County of Newell Electoral Division Bylaw 1998-20

On December 29, 2020, the County of Newell Council proceeded with a third reading of Bylaw 1998-20 which establishes new electoral divisions/boundaries, provides for seven (7) councillors and seven (7) electoral divisions/boundaries and is intended to take effect for the October 18, 2021 general municipal election.

In accordance with the *Municipal Government Act*, RSA 2000, c M-26, the public notification/advertisement process for Bylaw 1998-20 opened a 60-day window from the last date on which Bylaw 1998-20 was advertised, in which electors had the opportunity to submit a petition for a vote of the electors to determine whether Bylaw 1998-20 should remain in effect.

The period/deadline for submitting such a petition passed without a sufficient petition being received by the County of Newell.

Notwithstanding the opportunity to submit a petition for a vote of the electors to determine whether Bylaw 1998-20 should remain in effect, the County of Newell has recently received notice that another course of action is being pursued, namely a formal challenge to Bylaw 1998-20 through the Alberta Court of Queen's Bench.

The attached documents have been received by the County of Newell. The County of Newell is proceeding with a defence of Bylaw 1998-20.

Additional information regarding this matter will be posted as it becomes available.

Clerk's Stamp

COURT FILE NUMBER

COURT

COURT OF QUEEN'S BENCH OF
ALBERTA

JUDICIAL CENTRE

EDMONTON

APPLICANTS

DONALD JACOBSON and
KATHLEEN JACOBSON

RESPONDENT

COUNTY OF NEWELL

DOCUMENT

**NOTICE TO OBTAIN RECORDS
OF PROCEEDINGS**

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

Attention: Robert Reynolds, QC
ALBERTA COUNSEL
800, 9707-110 Street NW
Edmonton, AB T5K 2L9
Telephone: 780-652-1311
Fax: 780-652-1312
File: 563-001

NOTICE TO RESPONDENT: COUNTY OF NEWELL

This application is made against you. You are a respondent. You have the right to state your side of this matter before the master/judge.

Requirement

You are required to provide the following or an explanation as to why they, or any of them, cannot be provided:

- (i) the decision or written records of the act that is the subject of the originating application for judicial review,
- (ii) the reasons given for the decision or act, if any,
- (iii) the document starting the proceeding,
- (iv) the evidence and exhibits filed with you, if any, and
- (v) anything else in your possession relevant to the decision or act.

Clerk's Stamp

COURT FILE NUMBER

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

APPLICANTS DONALD JACOBSON and KATHLEEN JACOBSON

RESPONDENT COUNTY OF NEWELL

DOCUMENT ORIGINATING APPLICATION

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Attention: Robert Reynolds, QC
ALBERTA COUNSEL
800, 9707-110 Street NW
Edmonton, AB T5K 2L9
Telephone: 780-652-1311
Fax: 780-652-1312
File: 563-001

NOTICE TO RESPONDENT:

This application is made against you. You are a respondent. You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date: March 22, 2021
Time: 10:00 a.m.
Where: Edmonton Law Courts 1A Sir Winston Churchill Square, Edmonton, AB
Before: Presiding Justice in Chambers

Go to the end of this document to see what else you can do and when you must do it.

Basis for this Claim:

1. The Applicants, Donald Jacobson and Kathleen Jacobson (the "Jacobsons") are individuals residing at all relevant times in the County of Newell in the province of Alberta and are electors in the County of Newell.
2. The Respondent, the County of Newell (the "County"), is a municipal district in Alberta within the meaning of the *Municipal Government Act*, RSA 2000, c M-26 (the "MGA") and duly formed, constituted, and administered pursuant to the MGA and its regulations.
3. On December 29, 2020, the County of Newell Council (the "Council") passed Bylaw 1998-20 (the "Bylaw") at a Special Council Meeting contrary to section 231(4) of the MGA.

Background

4. On October 22, 2020, the Council proposed the Bylaw at a Council meeting. The proposed Bylaw established new electoral division boundaries and reduced the number of councillors in the County. Under section 149(1) of the *MGA*, the proposed Bylaw had to be passed by December 31, 2020 to take effect for the October 18, 2021 general municipal election (*Local Authorities Election Act* RSA 2000, c. L-21 s.11(1)(a)).
5. Under sections 144(3) and 149(3) of the *MGA*, a proposed Bylaw to change electoral division boundaries and the number of councillors must be advertised.
6. Under section 606(2)(a) and 606(3) of the *MGA*, a proposed Bylaw must be advertised for two consecutive weeks before its second reading. Under section 231(4) of the *MGA*, electors must be given 60 days after the final date of advertisement to petition the municipality regarding the proposed Bylaw.
7. On November 11, 2020 and November 18, 2020, the County advertised the proposed Bylaw in a local newspaper, the *Brooks Bulletin*. However, the advertisement was deficient as it did not meet the requirements set out in section 606(6) of the *MGA* with respect to the necessary notice information contained in the advertisement.
8. On December 9, 2020, the Jacobsons, along with three other County residents, wrote a letter to the Council outlining the deficiencies in the process surrounding the proposed Bylaw. This letter was emailed to the Council members. At a Council meeting on December 10, 2020, Kathleen Jacobson, read the letter aloud.
9. Following the Council meeting on December 10, 2020, the County readvertised the proposed Bylaw in accordance with section 606(6) of the *MGA* on December 16, 2020 and December 23, 2020. These advertisements stated that residents had until February 22, 2021 to petition the County about the proposed Bylaw.
10. Despite the statutory requirements concerning petitions and the County's own notices in their advertisements, the County passed the Bylaw on December 29, 2020.
11. Not only did this breach section 231(4) of the *MGA* by failing to provide residents with 60 days to petition the County regarding the proposed Bylaw, but it was also contrary to the deadline of February 22, 2021 which the County stated in its own advertisements.
12. As a result, residents of the County were only given 6 days to petition the proposed Bylaw.
13. Even in the event that the statutorily required 60-day period to petition the County regarding the proposed Bylaw began on November 18, 2020 (the final date of the deficient advertisement), the County is still in breach of section 231(4) of the *MGA* as 60 days from November 18, 2020 is January 18, 2021.

Grounds for Judicial Review

14. The County of Newell breached section 231(4) of the *MGA* in their proceedings prior to the passing of Bylaw 1998-20.
15. Such other grounds as counsel may advise and this Honourable Court may permit.

Remedy Sought:

16. An Order to have Bylaw 1998-20 declared invalid pursuant to section 537 of the *MGA*, and therefore of no force and effect;

17. In the alternative, a declaration that Bylaw 1998-20 is invalid pursuant to section 536 of the *MGA*, and therefore of no force and effect;
18. An Order declaring that the law as it existed prior to the passage of the Bylaw regarding electoral divisions and the number of councillors in the County be in effect;
19. Granting the costs of this application; and
20. Such further and other relief as this Honourable Court deems appropriate.

Affidavit or other evidence to be used in support of this application:

21. The Record of the County of Newell; and
22. Such further and other materials as counsel may advise and this Honourable Court may allow.

Applicable Acts and regulations:

23. *Municipal Government Act*, RSA 2000, c M-26.
24. *Interpretation Act*, RSA 2000, c I-8.
25. *Local Authorities Election Act*, RSA 2000, c L-21.
26. *Alberta Rules of Court*, Alta Reg 124/2010, as applicable.
27. Such other Acts and Regulations as counsel may advise and this Honourable Court may permit.

WARNING

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.