

<b>M A N I T O B A</b>	)	<b>Order No. 39/15</b>
	)	
<b>THE HIGHWAYS PROTECTION ACT</b>	)	<b>April 14, 2015</b>

**BEFORE: Susan Proven, P.H.Ec, Acting Chair**  
**The Hon. Anita Neville, P.C., B.A. (Hons.), Member**

**APPEAL OF A HIGHWAY TRAFFIC BOARD DECISION, DATED MAY 2, 2014**  
**JAMES AND BARBARA ROBSON**  
**DENIAL FOR PERMISSION TO BUILD A DWELLING AND RESIDENTIAL GARAGE**  
**2929 MCGREGOR FARM ROAD**  
**ADJACENT TO PTH No.59 OTM LOTS 101 AND 102**  
**RM OF EAST ST. PAUL**  
**FILE NO. 1/059/036/B/14**

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## **1. Summary**

By this Order, the Public Utilities Board (Board) upholds a Highway Traffic Board (HTB) decision that denied the application for the construction of a dwelling and residential garage.

## **2. Background**

Mr. and Mrs. Robson submitted an application to the HTB to construct dwelling and residential garage at 2929 McGregor Farm Road in the RM of East St. Paul on March 3, 2014. In its letter of April 29, 2014, the HTB denied the application. The stated reasons were that there exists a functional design study for the intersection of PTH No. 59 and PR No. 202. The plan shows the need for the Department to acquire additional land for highway right-of-way improvements, on which the dwelling and garage are proposed. Any new or additional development at this location would have a detrimental impact on the future highway improvement upgrades planned for the intersection and the proposed development.

Mr. and Mrs. Robson appealed the decision to the Board on May 22, 2014 and subsequently advised the Board in writing on August 4, 2014 that they would agree to defer their appeal hearing for a period of six (6) months, at the request of Manitoba Infrastructure and Transportation (MIT). MIT indicated at that time that they were anticipating a resolution and upfront expropriation of the land in question.

Mr. Robson contacted the Board on January 9, 2015 to advise that having had no offer from MIT he wanted to proceed with his appeal.

The Board heard the matter at a public hearing held at 2:00 pm, Tuesday, March 31, 2015, in the Council Chambers of the City of Selkirk, Manitoba.

### **3. James and Barbara Robson (the applicant)**

Mr. Robson presented to the Board the history of the property. It originally consisted of river lots 101 and 102 and was settled in the early 1850s by the Smith family, who were close family friends of the Robson family. Mr. Robson inherited the property in 1994.

The property has had a control circle of 1,500 feet in effect since the 1960's, put into place at that time by the Manitoba Department of Highways, now MIT.

### **4. Manitoba Infrastructure and Transportation (MIT)**

MIT submitted that in the late 1990's, a long range planning study for PTH 59 from PTH 101 to PR 213 was undertaken to identify its long term transportation needs for this corridor. The study was completed in February 2000 and identified the need for a future interchange at PR 202 and six laning PTH 59 in the area as well.

On May 28, 2014 Premier Greg Selinger announced the Government's plans to construct the PTH 59/101 interchange project. This project will include constructing a new interchange at PTH 101, six laning PTH 59 from PTH 101 to north of PR 202 and constructing a signalized intersection on PTH 59 and PR 202. The interchange at PR 202 proposed in the 2000 study, along with more recent studies, will not be constructed as part of the announced project but is still required and will be constructed at a future date.

In order to accommodate construction of the project approximately 20 properties (in whole or in part), including the Robson's property, are being expropriated. MIT stated that Crown Land and Property Agency land acquisition staff have been in regular contact with the Robson's as the Department moves forward with the expropriation.

MIT presented Order In Council (OIC) No. 99/2015 which confirmed Declaration of Expropriation for the Robson's property. MIT advised that Notices of Intended Expropriation were also registered against the land title on March 30, 2015.

## 5. Board Findings

The Board thanks the parties for their time and contributions. Given the OIC and Notice of Intended Expropriation registered against the land title, the Board has determined that the decision of the Highway Traffic Board, File No. 1/059/036/B/14 should be upheld and the appeal by Mr. and Mrs. Robson denied. It is the understanding of the Board that the entire property in question will be expropriated on or around August 1, 2015.

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).

## 6. It Is Therefore Ordered That:

1. The appeal BE AND IS HEREBY DENIED.

THE PUBLIC UTILITIES BOARD

"SUSAN PROVEN, P.H.Ec"

Acting Chair

"JENNIFER DUBOIS, CMA."

Acting Secretary

Certified a true copy of Order No. 39/15  
issued by The Public Utilities Board

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Acting Secretary