

M A N I T O B A) Order No. 11/00
)
THE HIGHWAYS PROTECTION ACT) January 25, 2000

BEFORE: G. D. Forrest, Chairman
D. T. Anderson, Q.C., Member

**APPEAL OF DEPARTMENT OF HIGHWAYS AND
TRANSPORTATION, HIGHWAY TRAFFIC BOARD
PERMIT NO. 203-99 - ACCESS ONTO P.T.H. NO. 9
R. M. OF ST. ANDREWS**

APPEARANCES:

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| Mr. E. Christiansen, P.Eng. | Director of Highways Planning and Design |
| Mr. B. Magnusson | Senior Functional Design Engineer |
| Mr. R. Nichol | Senior Access Management Analyst |
| Mr. W. Diachun | Adjacent Property Owner, Representing himself |

BACKGROUND:

Mr. B. Thidrickson submitted an application, which was received by The Manitoba Highway Traffic Board on July 6, 1999, for permission to construct an access to Provincial Trunk Highway No. 9 (P.T.H. No. 9 the Highway).

By letter dated September 9, 1999, The Highway Traffic Board issued Permit No. 203-99 allowing for the construction of an access driveway 61.0 metres south of the existing access subject to four (4) conditions.

By letter dated October 6, 1999 that decision was appealed to The Public Utilities Board (the Board) by the Highways and Transportation Department (The Department).

By way of notice dated October 25, 1999 the Board advised all parties of its intention to conduct a hearing "de novo" at 1:00 p.m., Monday, November 8, 1999 in the Council Chambers of the Rural Municipality of St. Andrews, 500 Railway Avenue, Clandeboye, Manitoba. Mr. Thidrickson did not appear at that hearing, and the Board decided to adjourn the hearing to provide Mr. Thidrickson with an opportunity to attend and provide his input in the proceedings.

The Board by way of notice dated November 22, 1999 notified all parties that the hearing was rescheduled for 1:00 p.m., Thursday, December 2, 1999 in the Board's offices in Winnipeg.

The evidence in this appeal was taken by The Public Utilities Board at a public hearing held at 1:20 p.m., Thursday, December 2, 1999 in Hearing Room 1 of the Board's offices in Winnipeg.

Mr. B. Thidrickson did not appear at this hearing.

**MAJOR TESTIMONY OF THE DEPARTMENT OF HIGHWAYS AND
TRANSPORTATION (THE DEPARTMENT) :**

1. The Department presented exhibits including Sketch Plan No. 2009080-3-A-99 showing the location of the public road access approved by The Highway Traffic Board. The Department also provided as exhibits a map of the R. M. of St. Andrews showing the approximate location of the proposed access, an aerial photo of the area showing the Thidrickson property and, a still photo of the Thidrickson property taken in early September prior to the issuance of Permit No. 203-99 by The Highway Traffic Board.

2. The Department noted that Mr. Thidrickson resides on approximately 40 acres of property that fronts and currently has direct access onto P.T.H. No. 9. The Department also noted that the most easterly 600 metres of this property also fronts and has access to a municipal road bounding the south limit of the property. The Municipal Road is graveled from Highway 9 and then turns into a dirt grade just short of the west limit of the Thidrickson's property. The Department noted that Mr. Thidrickson had previously indicated that he farms other land in the area and wanted an additional driveway onto P.T.H. No. 9 so that trucks and large equipment would not have to use his yard site driveway to access his field and the

grain bins he was going to place adjacent to P.T.H. No. 9. The Department submitted that the widening of the existing driveway off P.T.H. No. 9 or access via the municipal road to the south were more suitable options.

3. The Department noted that P.T.H. No. 9 is classified as a Collector A highway with a desirable spacing of agricultural driveways at 200 - 600 metres with a minimum spacing of 80 - 300 metres. The Department noted that the permit allows for an access 61 metres from an existing driveway and 67 metres north of a municipal road with connection onto P.T.H. No. 9. The Department further noted that at this point P.T.H. No. 9 is a two lane high speed highway (100 km/h) that carries moderately high volumes of traffic with an ASDT (Average Seasonal Daily Traffic) of 2570 vehicles/day. The Department submitted that given the high speed allowed and the high volumes of traffic a minimum of 200 - 300 metres spacing between driveways would be preferred. The Department does not recommend or allow new access onto this portion of P.T.H. No. 9 unless they meet minimum spacing of 200 metres, joint use and relocation of driveways is actively promoted.

The Department was concerned about the precedent for future development in the region.

Given the reasonable alternatives available to the property owner the Department asked that the permit be quashed and Mr. Thidrickson ordered to remove the driveway.

OTHER TESTIMONY:

Mr. Daichun an adjacent property owner, noted his concern about the volume of traffic (equipment) using the driveway. He agreed with the position of the Highways Department that the driveways were too close and supported the flow of traffic via the municipal road.

BOARD FINDINGS:

Mr. Thidrickson did not attend the hearing. The Board notes that in the first instance a hearing was called in the offices of the R. M. of St. Andrews which the property owner did not attend. In the second instance a notice was sent to Mr. Thidrickson inviting him to the hearing in the Board's offices. He was also invited to attend by way of a telephone call to him at his workplace.

The Board has decided the matter based on the evidence that was presented at the hearing. Having weighed all the evidence and views expressed orally and in writing the Board will quash the decision of The Highway Traffic Board as per Permit No. 203-99.

