



REPORT UNDER

THE OMBUDSMAN ACT

CASE 2013-0303

RURAL MUNICIPALITY OF ST. ANDREWS

REPORT ISSUED ON MAY 14, 2014

CASE SUMMARY

On September 4, 2013, a resident of the Rural Municipality of St. Andrews made a complaint to our office alleging that the public hearing for his conditional use application to operate a kennel in the RM was procedurally unfair. He asserted that he was not provided with sufficient time at the hearing to respond to the presentations by speakers opposed to his application.

Based on our investigation, Manitoba Ombudsman did not find evidence to support the complaint that the public hearing was procedurally unfair.

Our investigation did identify, however, that the absence of reasons for the decision of the RM to deny his conditional use application may have contributed to the complainant's perception that he was treated unfairly. Manitoba Ombudsman suggests the RM adopt a practice of providing documented reasons that explain council decisions to deny conditional use applications in the future.

OMBUDSMAN JURISDICTION

Manitoba Ombudsman is an independent office of the Legislative Assembly of Manitoba, reporting to the assembly through the Office of the Speaker. The responsibilities and authority of the Manitoba Ombudsman are set out in *The Ombudsman Act*, *The Freedom of Information and Protection of Privacy Act*, *The Personal Health Information Act*, and *The Public Interest Disclosure (Whistleblower Protection) Act*.

Under *The Ombudsman Act*, Manitoba Ombudsman investigates administrative actions and decisions made by government departments and agencies, and municipalities, and their officers and

employees. Investigations may be undertaken on the basis of a written complaint from a member of the public, or upon the ombudsman's own initiative.

The actions and decisions complained about in this case are matters of an administrative nature arising from a public hearing conducted and decisions reached by a municipal council pursuant to the provisions of a provincial statute, *The Planning Act*.

Ombudsman investigations typically assess actions taken or decisions made against a benchmark established by government. Sometimes that benchmark is provincial legislation or municipal by-law. On other occasions it is written policy or established procedures implemented to give effect to legislative purpose. In cases concerning an impact on individual rights or benefits we also examine the fairness of the action or decision. A complaint can raise questions of procedural fairness, substantive fairness or relational fairness. Procedural fairness relates to how decisions are reached including the steps followed before, during and after decisions are made. Substantive fairness relates to the fairness of the decision itself and relational fairness relates to how people are treated during the decision-making process.

While our office has a mandate to investigate complaints, the investigative process we follow is non-adversarial. We carefully and independently consider the information provided by the complainant, the decision maker, and any witnesses we determine to be relevant to the case. Administrative investigations can involve an analysis of statute or by-law provisions, document reviews, interviews and site visits.

The goal of administrative investigations is to determine the validity of complaints and to identify areas requiring improvement. If a complaint is supported by a finding of maladministration, the ombudsman may make recommendations pursuant to section 36 of *The Ombudsman Act*.

Administrative investigations can also identify areas where improvements may be suggested to a government body without a finding of maladministration. Such suggestions are made to support and help government bodies achieve better administration, often through the adoption of best practices. Better administrative practices can improve the relationship between government and the public, and reduce administrative complaints.

THE COMPLAINT

On September 4, 2013, a resident in the RM of St. Andrews submitted a complaint to our office alleging that the public hearing regarding his conditional use application to operate a kennel in the RM was procedurally unfair. He believes a new public hearing should be held for council to reconsider the matter and that he should not be charged the \$475 fee associated with filing another conditional use application. The complainant asserted that:

- The public hearing held to consider his conditional use application was procedurally unfair in that he had insufficient time to appropriately organize himself to respond to the presentations of those opposing his conditional use application.

We note that the complainant was not provided with any written reasons why his conditional use application was denied.

KEY ISSUES

- 1. Was the complainant given an opportunity at the public hearing to present his case and dispute any information that might be contrary to his position before the decision was made?**
- 2. Was the complainant given meaningful reasons for the decision that demonstrate council applied the correct statutory test and considered the evidence before it?**

BACKGROUND

On May 16, 2013, the complainant applied for approval of a conditional use to operate a kennel at a property in the Agricultural Zone (“AR” zone) of the RM of St. Andrews.

As per *The Planning Act*, the Red River Planning District (formally known as The Selkirk and District Planning Area), prepared a planning report dated May 22, 2013, regarding the conditional use application and sent it to the RM of St. Andrews’ municipal council.

In the report, the Red River Planning District (RRPD) referenced legislation that in their view was relevant to the conditional use application, specifically section 103 of *The Planning Act*.

The planning report recommended that if council wished to approve the application, it should attach the following conditions to the application, requiring the complainant to:

- acquire a business licence and a kennel licence from the municipal office of St. Andrews
- obtain all required development and/or building permits for any new or altered structures from the RRPD
- obtain a provincial licence for a kennel as per *The Animal Care Act*
- limit the operation to no more than 10 dogs at any one time.

As per section 169 of *The Planning Act*, the RRPD provided notice of the required public hearing to be held at the Council Chambers, Municipal Offices, Railway Avenue, Clandeboye, MB, on Tuesday June 11, 2013, at 6:00 p.m.

At the public hearing, four people presented in opposition to the conditional use, and two people presented in support of the conditional use, including the applicant.

Council voted after the public hearing and denied the conditional use application to allow a kennel for up to 10 dogs in an Agricultural Restricted zone. Council’s reasons for the decision at the time of the public hearing were not recorded.

POSITION OF COMPLAINANT

The complainant believes that it was procedurally unfair of council not to provide him with sufficient time to respond to the allegations made by opponents to his conditional use application during the public hearing. The complainant notes that he did not request more time, a break, or an adjournment to the proceedings to prepare to refute the opponent's statements because he did not know it was an option.

After the conditional use application was defeated by council, the complainant made an email request to the RRPD to waive the fee for a second public hearing on the basis that the first public hearing was procedurally unfair. The RRPD denied the request based on two reasons: first that the RRPD incurs costs for report preparation and notification when processing conditional use applications and preparing for public hearings; and second that they understood from the RM that the application was handled fairly.

POSITION OF THE RURAL MUNICIPALITY OF ST. ANDREWS

In response to an inquiry by our office about the complainant's conditional use public hearing and subsequent denial of his application, the RM provided us with a number of documents including the relevant section of the RM's *Procedures By-Law No. 4202*, the report from the RRPD, a copy of the notice of the public hearing that was sent to the residents within 350 metres of the property, and representations from other parties opposed or in support of the conditional use application. The minutes of the public hearing are the legal record of the meeting and they are posted on the RM's website.

When asked to provide this office with the reasons for council's denial of the conditional use application, the RM sent a letter dated December 3, 2013 that states:

Council is not polled for their reasons for the way they vote and the vote is not recorded unless specifically requested, in accordance with The Planning Act no reason needs to be given. I have no record of Council's reasons, and the minutes are the legal record of the meeting. This matter was discussed at the June 11, 2013, minutes which are available on the municipal website www.rmofstandrews.com.

SCOPE OF THE INVESTIGATION

Our investigation of this complaint included the following:

- A review of *The Planning Act*; *The Municipal Act*; the RM of St. Andrews *Procedures Zoning By-Law No. 4202*; the RM of St. Andrews *Zoning By-Law No. 4066*; and the RM of St. Andrews *Municipal Animal Control By-Law No. 4129*.
- Review of the planning report by the Red River Planning District.

- Interviews with a number of government officials including the CAO of the RM of St. Andrews, the assistant CAO of the RM of St. Andrews, and the Manitoba Municipal Government's community planner with the Red River Planning District.
- Interviews with the complainant's representative and the complainant.
- A review of the RM of St. Andrews' council minutes and council agenda of the meeting held Tuesday, June 11, 2013 at Clandeboye, Manitoba.
- A review of the Red River Planning District's planning report regarding this conditional use application, and a review of the RRPD's brochure titled "Conditional Use."

STATUTORY FRAMEWORK

Municipalities make decisions under *The Planning Act* on matters such as re-zonings, conditional uses, variations and subdivisions. The act contains specific requirements and tests that must be met for decisions. When making a decision under *The Planning Act*, council must therefore be consistent with the relevant sections of the act, and any other legislation governing the application and decision-making process.

In order to determine if the conditional use application was administratively and procedurally fair in this case, we looked for evidence to indicate whether the public bodies involved in the conditional use application process followed the steps required in a conditional use application as legislated in *The Planning Act*, *The Municipal Act*, the RM's *Procedures By-Law 4202*, and any other applicable policies and procedures regarding conditional use applications in the RM of St. Andrews.

The process and steps required in a conditional use application process are set out in *The Planning Act*:

The Planning Act, Part 7: Conditional Uses

Applicants

103(2) An application for approval of a conditional use must be made by the owner of the affected property, or a person authorized in writing by the owner.

Application to board or council

103(3) The application must be made to

- (a) *the council of the municipality in which the affected property is located; or*
- (b) *the board of the planning district in which the affected property is located, if the planning district has adopted a district-wide zoning by-law under section 69.*

Application requirements

103(4) The application must be in the form and accompanied by any supporting material and fee required by the board or council.

Public hearing

- 105 Upon receiving an application for approval of a conditional use, the board, council, or planning commission must
- (a) hold a public hearing to receive representations from any person on the application; and
 - (b) give notice of the hearing in accordance with section 169.

Decision

106(1) After holding the hearing, the board, council or planning commission must make an order

- (a) rejecting the application; or
- (b) approving the application if the conditional use proposed in the application
 - (i) will be compatible with the general nature of the surrounding area,
 - (ii) will not be detrimental to the health or general welfare of people living or working in the surrounding area, or negatively affect other properties or potential development in the surrounding area, and
 - (iii) is generally consistent with the applicable provisions of the development plan by-law, the zoning by-law and any secondary plan by-law.

We reviewed the Red River Planning District's website regarding Municipal Zoning – Conditional Use. It sets out the definition of a conditional use and when it is required. It also includes information on the basic information required for the office to process a conditional use application, including an application form, a detailed letter of intent, a site plan, and non-refundable payment. There is also information regarding what a letter of intent should include, and information on the process of acquiring approval for a conditional use as follows:

Generally, the Municipal Council holds conditional use hearings monthly to provide an open and fair forum where all sides in each case can be heard. Council hears all arguments in favor and against the conditional use application before ruling on the applicant's proposal.... The applicant and any affected land owner(s) will have the opportunity to make representation to Council on the date specified in the notice.... Council's decision is final and there is no appeal.

We looked at the complainant's "Application for Conditional Use" dated May 16, 2013, received by the RRPD, and we reviewed the lot, parcel plan number and zone.

We reviewed the RM of St. Andrews Zoning By-Law 4066 for the Agricultural Restricted (AR) Zone in the *Table 10, Agricultural Use Table*. Kennels are a conditional use in an AR zone meaning, according to the zoning by-law:

the use of land or building that, owing to some special characteristics attendant to its operation or installation, such as odour, noise, smoke, dust, or traffic generation, may be permitted in any particular zoning district subject to approval by the Board and may be subject to design or operational requirement different from the usual zone requirements.

In the zoning by-law, a kennel means any premise on which three or more domestic pets are boarded, bred, trained or cared for, in return for remuneration or are kept for the purpose of sale.

ANALYSIS OF ISSUES AND EVIDENCE

It should be noted that municipal councils govern under the authority of *The Municipal Act* and have autonomy and flexibility to manage their own affairs and to make decisions they think will best meet the needs of their communities. Municipal council members act primarily in a law-making or policy-making capacity. Because, however, they wear many different hats when performing the duties that fall within council's jurisdiction, some the actions they take and decisions they make are subject to the requirements of administrative fairness. When performing certain functions assigned by provincial statute, municipal councils are acting in a capacity similar to that of an administrative tribunal or appeal body. In this capacity, municipal councils are empowered with the responsibility of considering submissions, giving weight to the evidence submitted, and making a determination on the basis of its interpretation of the appropriate legislation.

The statutory threshold for our review of the decisions of council when performing functions similar to that of an administrative tribunal is the "clearly wrong or unreasonable" test set out in section 23 of *The Ombudsman Act*.

Limitation on review of discretionary powers

23(2) Where, in the course of or after an investigation of any decision, act or omission, done or omitted by a department, agency of the government or municipality, or any officer or employee thereof in the exercise of a discretion vested in that department, agency, municipality, officer, or employee, the Ombudsman is satisfied that the decision, act or omission is not clearly wrong or unreasonable, the Ombudsman shall make no further investigation of the matter and shall report to the complainant that he is so satisfied.

The threshold or benchmark of clearly wrong or unreasonable is a significantly higher test than allegations of administrative errors or omissions. A difference of opinion regarding the application of legislation, policy, or the weight given to evidence would not constitute a finding of clearly wrong or unreasonable. There must be conclusive evidence that readily and plainly identifies the imputed error, and that error must be shown to significantly affect the result or decision.

In order to support the complaint, Manitoba Ombudsman must be satisfied that the decision of council was clearly wrong or unreasonable or determine the hearing process was procedurally unfair. In an effort to fully consider this complaint, our office set out to address two key issues:

- 1. Was the complainant given an opportunity at the public hearing to present his case and dispute any information that might be contrary to his position before the decision was made?**
- 2. Was the complainant given meaningful reasons for the decision that demonstrate council applied the correct statutory test and considered the evidence before it?**

The first issue we addressed was the complainant's right to present his case.

Procedural fairness focuses on the steps the decision maker takes before and after making a decision. Procedural fairness requires that the person who will be affected by a decision is given advance notice and a reasonable amount of time to prepare any submission for the decision maker. Further, the applicant must be provided with a meaningful opportunity to state or present his case. Depending on the situation, a person may be able to state his case at a hearing or a public meeting, or he may state his case through a written submission. Procedural fairness also requires that the person who will be affected by a decision be given an opportunity to challenge or dispute any information that might be contrary to his position when a decision is made. Finally, the decision maker must be impartial and without personal interest in the outcome of the decision.

We reviewed the planning report by the RRPD dated May 22, 2013, regarding the complainant's conditional use application to allow a kennel in the AR Zone, and the complainant's letter of intent and site plan.

We reviewed a copy of the notice of the public hearing sent to the residents within 350 metres of the property, which advised of the date, time and location of the public hearing, and indicated that the conditional use requested was to "allow a Kennel in the Agricultural Restricted Zone." The notice indicated "property owners are being notified in order to give them the opportunity to speak in support or objection to the proposed conditional use as per Section 103 of *The Planning Act*."

We reviewed copies of the public hearing sign-in sheets as well as written representations including email submissions. We also reviewed a copy of the complainant's public hearing sign-in sheet, his letter of intent and the minutes of his presentation during the public hearing, the property sketch, letter of reference, and petition of residents in support of or not in opposition to the proposed kennel.

Our investigation confirmed that the complainant applied for a conditional use to operate a kennel for up to ten dogs in an Agricultural Restricted zone in the RM of St. Andrews. The RRPD followed *The Planning Act* and a planning report was prepared for the RM, a public hearing was scheduled, and the public hearing notification was prepared. The evidence also shows that a public hearing took place at the time and place scheduled, and a number of area residents spoke in support of and in opposition to the proposed conditional use.

The issue we addressed was the complainant's right to have an opportunity to dispute any information that might be contrary to his position at the public hearing before the decision was made.

The Planning Act sets out the requirements of the conduct of a public hearing:

The Planning Act, Part 11: Notices and Hearings

Conduct of Hearing

172(1) A body holding a hearing under this Act must

(a) subject to subsection (2), hold the hearing at the date, time and place set out in the notice of hearing;

- (b) hear any person who wishes to make a representation on the matter to be considered at the hearing; and
- (c) keep written minutes of the hearing.

Representations

- 173(1) A person may make a representation at a hearing under this Act by
- (a) making an oral submission at the hearing; or
 - (b) filing a written submission with the body holding the hearing, before or at the hearing.

Recording representations

- 173(2) The body holding the hearing must keep a record of all representations made at the hearing.

Regarding the opportunity to present his case during the public hearing, the procedures regarding public hearings are further set out in the RM's *Procedures By-Law 4202*. Section 149(1) of *The Municipal Act* requires municipalities to pass a by-law establishing rules of procedure and to review the by-law at least once during council's office in term. The RM's *Procedures By-Law 4202* includes:

Procedure at Public Hearing

- 12.1 The Chair of the public hearing has the right to limit the time taken by a person to (10) minutes, after which council may wish to ask questions of the person. All questions must be channeled through the Chair of the hearing.
- 12.2 The Chair of the public hearing may decline to hear further presentations, questions or objections where he is satisfied that the matter has been addressed at the public hearing.
- 12.3 The Chair of the public hearing may decide which presenters will be heard, if he is satisfied that the presentations are the same or similar.

The Red River Planning District publishes a two-page pamphlet titled "Conditional Use" available to all citizens interested in submitting an application for a conditional use. The pamphlet includes a definition of a conditional use, when it is required, the purpose of a conditional use hearing, and information regarding making presentations at the public hearing. The pamphlet explains "the applicant and any affected land owner will have the opportunity to make representation to council and is strongly encouraged to be at the meeting on the date specified in the notice...." It also explains that refunds are not made if an application is rejected: "The monies collected for the application are used to cover the costs of processing and notification."

We looked at the minutes of the public hearing and we spoke with witnesses in attendance at the public hearing to determine if the complainant was given a meaningful opportunity and sufficient time to state or present his case at the public hearing. The minutes show that the community planner introduced the application to council and then a neighbouring landowner made a verbal and a written presentation against the proposed conditional use. The second presentation was made via an email message by a neighbouring landowner also in opposition to the proposed conditional use. The third presentation was both verbal and written by a landowner in opposition. And a fourth landowner made a presentation also in opposition to the proposed conditional use application.

The next speaker was the applicant himself who made a verbal presentation in support of his proposed conditional use application which included a proposal letter, sketch of property, letter of reference, written petition of neighbouring landowners “who either support the application or do not oppose the operation of a small hobby kennel,” and background information.

The sixth person to make a representation was in support of the proposal. The seventh and final representation was the same opposing landowner who spoke first, questioning the validity of the applicant’s petition. The community planner then confirmed the validity of the applicant’s petition.

Then council voted and the application for a conditional use was defeated.

The minutes of the public hearing confirm that the public hearing took place at the date, time and place set out in the notice of the hearing and that people who requested to make representations on the matter did so, one by email and the others in person. The RM recorded the minutes of the hearing and they are located on the RM’s website; the RM also kept a record of the written representations submitted by the speakers at the public hearing as per *The Planning Act* subsection 173(2). After the discussion at the public hearing ended, council voted to defeat the conditional use application.

Based on the evidence that we have reviewed, it appears that the complainant was provided an opportunity to make his presentation after the four opponents had made their presentations to council. Speaking directly after the opponents to his proposal, the applicant would be aware of the issues they raised regarding the proposed conditional use, and he would be able to respond to the presentations of those opposing his conditional use application. The minutes and witnesses at the hearing confirm that the chair of the public hearing did not limit any presentations to ten minutes including the applicant’s, nor did the chair decline to hear further presentations, questions or objections. There is also no evidence to suggest that the chair asked anyone to stop speaking before they were complete. Although the RM’s *Procedures By-Law 4202* gives the chair of the public hearing the right to limit the time taken by a person to ten minutes, after which the council may wish to ask questions of the person, there is no evidence that the chair limited any of the presenters or declined to hear further presentations.

Based on the evidence we have reviewed, it would appear that the complainant was afforded a reasonable opportunity to present both evidence and argument in support of his position. In response, council considered the evidence and arguments, reached a conclusion, and rendered a decision within its authority to make.

2. Was the complainant given meaningful reasons for the decision that demonstrate council applied the correct statutory test and considered the evidence before it?

Public officials must balance the views, interests and proposals of all parties involved, and find the best course for serving the overall general public good. More importantly, a conditional use hearing requires that the decision-making process is fully compliant with the applicable legislation upon which the decision was made.

In this case, the criteria to be applied in the decision-making process are set out in *The Planning Act*, subsection 106(1) as follows:

Decision

106(1) After holding the hearing, the board, council or planning commission must make an order

(a) rejecting the application; or

(b) approving the application if the conditional use proposed in the application

(i) will be compatible with the general nature of the surrounding area,

(ii) will not be detrimental to the health or general welfare of people living or working in the surrounding area, or negatively affect other properties or potential development in the surrounding area, and

(iii) is generally consistent with the applicable provisions of the development plan by-law, the zoning by-law and any secondary plan by-law.

As per the legislation above, after holding the public hearing to provide the public with an opportunity to convey their views on the proposed land use application, council must make a decision to either reject the application or approve it. To approve a conditional use, council is required to conclude the criteria listed above are met. In other words, the conditional use application proposed by the applicant must be consistent with the following criteria set out in the legislation above:

- Is the land use proposed compatible with the general nature of the surrounding area?
- Would the land use proposed have a negative impact on neighbours or the neighbourhood?
- Is the application consistent with the RM's development plan, zoning by-laws, and secondary plans?

A conditional use application requires a board or council to exercise its discretion in applying the zoning by-law as it affects a specific property. The person affected by the decision in this case was not given reasons for council's decision to defeat the proposed conditional use application. Under *The Planning Act*, there is no stated requirement for council to provide reasons for its decisions regarding conditional use applications. Therefore, we were required to make inquiries to ensure that council's decision to deny the conditional use was based on relevant considerations and sufficient evidence.

According to the evidence we have before us, it appears that the basis for the RM's decision to deny the conditional use application may have included the opposition by four neighbouring landowners who maintain that a kennel would be detrimental to the health or general welfare of the people in the surrounding area and would negatively affect other properties. A conditional use cannot be approved if in the opinion of the council it will be harmful or injurious to people or properties in the surrounding area.

Council is entitled to consider the concerns of parties who assert that they will be affected by council's decision to approve the conditional use. Therefore, we were unable to conclude that the decision was contrary to the law or clearly wrong or unreasonable.

However, although under *The Planning Act* there is no stated requirement for council to provide reasons for its decisions regarding conditional use applications, meaningful reasons for decisions guide prospective applicants in assessing the possibility of a new application being approved or rejected. When no avenue of appeal is available to an applicant, it is even more important that council provide meaningful reasons for decisions.

CONCLUSION

Procedural Unfairness Not Supported

Under *The Municipal Act*, municipal councils have a general duty to consider the well-being and interests of the municipality as a whole. Councils also perform specific functions and duties arising under other statutes in the manner required by those statutes, such as *The Planning Act*.

Councils must sometimes operate in situations where they are considering the general well-being and at the same time making decisions affecting individual rights, pursuant to specific statutory criteria. Some of the decisions in these circumstances can be difficult and controversial and can have significant impact on the lives of individuals, in financial or personal terms or both.

In this case, the public hearing process and the defeat of his conditional use application were frustrating for the complainant. He believed that had he been able to better respond to the opponents' concerns and issues, he may have received approval of his conditional use.

In this matter, we found that the evidence did not support the complainant's belief that the conduct of the public hearing and vote resulted in his being treated unfairly.

The conditional use application process was followed – the public hearing date was well in advance of the application date, providing the applicant and neighbouring landowners with sufficient time to prepare any presentations for the public hearing as required by legislation. The public hearing provided the applicant and neighbouring landowners with an opportunity to make their presentations in support of, or in opposition to, the conditional use proposed. Finally, there is no legislative requirement for the RM to provide written reasons for their decision to defeat the conditional use application although meaningful reasons for decisions are strongly encouraged.

Meaningful Reasons for Decision

Under *The Planning Act*, there is no stated requirement for council to provide written reasons for its decisions regarding conditional use applications. However, the act sets out the process and the factors to be considered when approving a conditional use application. There is a legitimate expectation that councils will consider the statutory provisions relevant to the decision they are making and that the decision will be based on an assessment of merit relative to those provisions.

The best way to demonstrate that a council has met that legitimate expectation is to issue clear reasons for a decision. When no avenue of appeal is available to an applicant, it is even more important that council provide meaningful reasons for decisions. While it is understood that each case must be heard on its own merit, decision makers must put their mind to the reasons behind their decision to reject or approve an application and be comfortable in defending their rationale. Giving reasons for decisions serves the values of fair and transparent decision making, reduces the chance of subjective or improper decisions, and cultivates the confidence of citizens and public officials.

The absence of clear and meaningful reasons for decisions can result in individuals forming the belief that the decision-making process, and the decision itself, are unfair. Reasons remove the mystery from the decision-making process. Meaningful reasons for decisions also guide prospective applicants in assessing the possibility of a new application being approved or rejected. Moreover, when reasons are provided applicants are more likely to understand and accept the decision, and the municipality is less likely to receive a complaint about the decision.

Our office continues to urge municipal councils to adopt a practice of documenting reasons for their decisions. Clear reasons provide decision makers with an opportunity to explain the logic behind a decision and help dispel the perception of bias when none exists. In our publication, *Understanding Fairness – A Handbook on Fairness for Manitoba Municipal Leaders*, we discuss the benefits of providing written reasons for council decisions. A copy of this guide can be found at www.ombudsman.mb.ca.

The exercise of providing reasons can help council satisfy itself that it considered the right factors and information and reached the right decision. It can also guide prospective applicants in assessing the possibility of a new application being approved or rejected, or potential actions to take to address the issues and concerns behind the decision of council.

For all of the reasons above, Manitoba Ombudsman strongly urges the RM of St. Andrews, and all municipalities, to issue written reasons for decisions that defeat conditional use applications.

May 2014

MANITOBA OMBUDSMAN