

## **Save Our Park – Legal Action Core Questions and Answers**

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### **1. What is Scenic Acres' mandate with respect to the Park and school development?**

The Save Our Park initiative was started in response to widespread community opposition to the surprise announcement of a regional school going into the Community's fully developed recreational facility. The Save Our Park mandate has been consistent from the beginning, based on two specific requests: 1, that the school construction project in SA Park is halted and the best site determined based on objective criteria and 2. FrancoSud's (CSFS) need for a school in Northwest Calgary is met on a timely basis at a site best suited for a regional elementary school. We also asked that this regional school not be located on any site with similar characteristics to SA Park and community consultation, lacking in our case, take place with full transparency as part of any site selection process.

### **2. Why has Scenic Acres chosen to take legal action?**

We have advocated with both level of governments and school boards over the last seven months for a transparent, objective review of regional school site selection and have exhausted non-legal options. We have argued our position based on objective logic – the extensive use of the Park for decades, the lack of robust capital planning, the lack of community consultation, the absence of objective selection criteria, specifically regional criteria and the availability of other more regionally conducive sites. However, the governments have demonstrated interest only in a September 2016 school opening timeline and have focussed their energies on the building project alone; this attitude demonstrated even as our local politicians, Ward Sutherland and Sandra Jansen have advocated in support of the Save Our Park mandate.

In our research, we discovered to our surprise, that the CBE and City violated the Municipal Government Act by not complying with a ministerial directive to transfer the Park to Municipal Reserve in 2005. In addition, we uncovered the fact that the City has not complied with their own policies; the Joint Use Agreement and Open Space Policy. In addition, the City has invested financially in Scenic Acres Park as a park and included it in their Urban Park Master Plan. An Area Restructure Plan (ARP) for Scenic Acres is required to be initiated by the City to revise very antiquated community urban plans and that effort was not completed. An ARP was started in 1990 and never approved. We had highlighted these statutory and policy infractions to the City so they could take action but to no avail. These are serious violations of legislation and policy and in a business environment, those authorities responsible would be held to account for like acts of misrepresentation.

### **3. What is the rationale for preserving Scenic Acres Park?**

Scenic Acres Park is one of the most heavily used recreational facilities in Calgary and serves not just the local community but Northwest Calgary. The soccer fields are booked formally 340 hours per year and the programs have operated for nearly 30 years; this heavy usage in addition to hours of informal sports and other recreational use. Many residents, in their contact with governments to preserve the Park have highlighted the variety of activities and extent they use the Park. The baseball diamond which has hosted adult leagues for over 20 years will be impaired by the School development with a shortened left field.

### **4. Is Scenic Acres opposed to school development and/or opposed to the French community?**

Scenic Acres supports the need for additional schools to satisfy our growing provincial population and also has publicly and regularly voiced our support for the Francophone community to have a new school in the Northwest. We do not support tax dollars spend sub-optimally as is the case with the current construction plan.

### **5. Isn't this another bilingual school option for the City of Calgary?**

The proposed school development is not a bilingual option; not an option for students to learn French as a second language. It is a learning environment where the first language is French and students and parents identify with French culture and language. The current Northwest francophone school in Varsity has only 7 of 400 students from Scenic Acres. Though this local number may increase over time if the school were to be constructed in the Community, it likely will remain a minute percentage of the entire school population.

### **6. Isn't Scenic Acres Park a designated school site?**

Scenic Acres Park was a designated school site for a 'local' public elementary school 30 years ago and was highly anticipated by residents at that time. Through a series of land exchanges, that school was constructed in the north part of the Community and is known as Scenic Acres School. Both the separate and public schools have dwindling enrolment and have not been fully utilized for several years, resulting from the aging life cycle of the Community. There was a junior high planned for Scenic Acres at one time that would be considered a 'regional' school but that was planned for the north end where there is better road access adjacent to Scurfield Drive. In addition, the original overall Community school site plan was proposed to service a much larger Scenic Acres which included 16,000 residents and a catchment area that included what is now Tuscany (originally known as East Scenic Acres). Scenic Acres' final housing design included larger lots with a threshold population of about 9,500 residents. It is currently at 8,600 residents, continuing a gradually declining trend which will eventually flatten but will never trend upwards again. The City included Scenic Acres Park in its Urban Parks Master Plan and installed an irrigation

system for the entire Park; it did not maintain a school envelope but considered that specific piece of land parkland as well.

**7. Isn't the school site only taking a small portion of the Park?**

The school site is taking a large portion of the Park and will impede recreational and resident activities significantly. There has been an attempt to justify the development by stating it takes 20% of the Park, and will maintain the basketball, tennis and baseball assets. The government has also stated this is a compact design suggesting they minimized the school footprint.

These are technical statements useful for project management but deceptive for use as public statements. The 20% figure is based on property lines which include the hillsides and wooded areas bordering the Park. Our best estimate is that the school will actually consume 30-35% of the useable land within Park; the flat graded portion. The baseball facility also will be compromised as left field will be shortened, making it difficult to keep the ball in play for the adult leagues. The so-called compact school footprint is the same size as the one proposed 30 years ago. These 'temporary' soccer fields have been in use for 30 years, used by Norwest and Blizzard soccer programs and booked 340 hours per year officially with significant unofficial use occurring as well. The cumulative development effect of tennis and basketball courts, baseball diamond and school does not leave much remaining green space.

**8. Wasn't Scenic Acres Park chosen as the best school site based on objective criteria?**

No and frankly if that was the case, we wouldn't have justification for the case to preserve the Park. We have asked repeatedly for the criteria and those involved have been unable to produce any technical or objective rationale. During the re-assessment of potential sites, the defining motivation to move forward with construction in Scenic Acres Park was solely a September 2016 opening date; a non-criterion. This comment is not sufficiently tangible to justify any construction project. Those involved argue site re-selection would create delays but will not speculate on the length of those delays. The City has publicly stated they would accelerate any land transfer activity that would be involved with an alternate site, thus reducing potential delay. At worst, construction delays would be 'months' and pale in comparison to the irreparable damage incurred by a development within the Park!

**9. Who is involved with the Save Our Park Committee?**

The Save Our Park initiative was formally endorsed by the Scenic Acres Community Association and the SACA Board receives regular updates on the activities of the SOP Subcommittee (SOPC). This Subcommittee is led and coached by three veteran members of the SACA Board who have previous experience with government engagement and developments. Although there are a few SOPC members who live adjacent to the Park, the SACA Board members and several other members do not have any personal financial exposure whether the school is constructed in SA Park or not. SOPC consists of a mixture of residents who have recently moved to Scenic Acres and those who have lived in the Community for decades. All decisions and actions have been based on objective criteria and SOPC has vigorously shunned and opposed actions based on speculation or gossip.

**10. Isn't the Scenic Acres Community Association acting outside their Board mandate?**

No. The City requires Community Associations to represent their respective communities and regularly solicit input and request support from the CA's on a variety of topics from policies and procedures to specific local programs, activities and developments. Our local politicians engage with the Board on a plethora of issues. The Scenic Acres Community Association has a successful collaborative track record with the City and Province on all developments, with major ones most recently being Crowfoot LRT Station, Stoney Trail, and LEAF. Advocacy work consumes significant volunteer time and has been uniquely productive in Scenic Acres resulting from long standing, sustained positive relationships with the

governments and veteran Community Board members. Additionally, the Association has one of the highest membership participation rates in the City at nearly 30% with a highly engaged resident base volunteering in the activities and the issues within the Community, greatly assisting the Board's efforts.

#### **11. Isn't Scenic Acres reacting as 'entitled' residents, acting based on a 'not in my backyard' attitude?**

The actions of the Save Our Park Committee have been based on factual information endorsed by the Scenic Acres Community Association Board. If this original premise was a 'not in my backyard' motivation, the SACA Board would have opposed it. In other words, if the Park was not used extensively, if the motivation was to maintain an unused green space, or protect property values or help a few residents adjacent to the Park or even stop the construction of our local school, the SOP initiative would not only not exist, but SACA would be working to oppose groups forming with those motivations.

The Save Our Park initiative is led by individuals not adjacent to the Park with no personal incentive to maintain the Park. The support from the entire Scenic Acres resident population has been overwhelming, passionate and sustained with most of the 3700 petition signatures sourced from the Community. Many residents, on their own initiative have written politicians, government officials, commenting in the media supporting the preservation of the Park. Residents' attendance at SOP event meetings has been beyond expectations. The Community Association is regularly asked by residents what else they can do to help the cause. SOPC meeting minutes are recorded and any dialogue that has suggested entitlement has been openly challenged. Individual residents with this entitlement motivation have been challenged and not supported.

The communications produced over the past seven months have been scrutinized to ensure a strong level of objectivity and integrity, avoiding speculative statements. There are residents who support the school development in SA Park and certainly they have a right to express their opinion and we support it but they cannot legitimately accuse SACA/SOPC of improper motivation if they have reviewed carefully the material and updates provided. Regardless of opinion, there should be common concern that the governments have acted without compliance to legislation and policies.

#### **12. Where are the other potential school sites?**

The City, Calgary Board of Education and the Calgary Separate School District provided eight surplus sites to the FrancoSud Board in addition to Scenic Acres Park and they are located in Rocky Ridge, Hamptons, Edgemont, Hawkwood, Beddington Heights (2), Sandstone and Silver Springs. The City will not prioritize these sites and leaves it up to the school boards to determine site selection. According to the Joint Use Agreement (land and facilities use sharing agreement among school boards and City), all parties are to work collaboratively together to select, manage and develop sites; in practice, this objective is not met and each school board works separately on their own plans. Other potential sites could be added to this list, if the City and school boards considered all Northwest communities and reviewed their entire land bank portfolio. In addition, the City has the option based on policy to procure property to fulfill a school requirement. Considering the Francophone regional school was a new requirement and not incorporated into original City urban planning, this procurement option would seem a viable alternative. For a regional school, we advocated that the location should be adjacent to major road arteries and not intrusive to mature residential areas, satisfying the vehicular commuting dynamics. A preferred option would also have the regional school located in a growing area where it could integrate into evolving community characteristics.

#### **13. Who is funding the legal action?**

Residents of Scenic Acres are funding the legal action through targeted donations provided directly for this cause. These funds are managed in a separate bank account from SACA, separately reported from

SACA financials and administered by volunteers not associated with SOPC. Individuals can donate in confidence, only being known by the volunteer administrators. Though there has not been any direct solicitation, many residents over the last seven months have offered to contribute financially to legal action and provided preliminary funding to get it started. There is further opportunity to contribute now that the legal action is public.

#### **14. Why initiate legal action now? Isn't this going to be prolonged and expensive?**

Many have asked through the months why we haven't launched legal action before now! As a preliminary step, we procured a lawyer knowledgeable in land matters early in the summer to assess our situation and determine if we had a legitimate legal case. To augment this assessment, we conducted our own investigation, reviewing legislation (Municipal Government Act), policy (Joint Use Agreement, Open Space Policy), documents, and government committee roles and dynamics. Legal action was always considered a last resort and we had hoped the government and school boards would review our research and conclude that a re-assessment of this school project was warranted. The legal action is being taken strictly based on a factual premise, requesting that the City fulfill the 2005 ministerial order to take control of Scenic Acres Park and designate it as Municipal Reserve. We are asking the Alberta Queen's Bench to rule on that basis and prolonged litigation is not anticipated.

#### **15. What can I do to help the Save Our Park initiative?**

We appreciate the encouragement that the SOP Committee receives on a regular basis and in various ways to persevere with this initiative to preserve the Park; the appreciation shown to Ward Sutherland and Sandra Jansen for their advocacy efforts; taking action yourselves through persistent contact with our local politicians and government officials. The broad based and prolific involvement from the Community has been amazing! The most effective way to support the SOP cause now is provide financial contribution to the legal action.

#### **16. How does Scenic Acres actions compare with Varsity?**

Scenic Acres SOP initiative has laboured autonomously from Varsity and we are not intimately familiar with their situation. We do know their legal action was initiated by a small group of residents and that their community association is not involved in these efforts. Legislative rationale for legal action would have some similarities but the Varsity green space was governed by different municipal policy from the Scenic Acres Park situation.

#### **17. Who is responsible for this school decision and who can initiate changes?**

No government has been willing to accept responsibility to take the lead in order to resolve this Scenic Acres situation and we heard repeatedly from each one why they weren't responsible. The Ministry of Education develops the school capital plan, the Ministry of Infrastructure provides the funding and is providing the project management for the construction project, the City and school boards provide the land and approvals through participation in the Joint Use Coordinating Committee. At this point, we believe the Minister of Infrastructure and the City have the onus to make the changes necessary to select the most appropriate site. Both Ward Sutherland and Sandra Jansen, our local politicians have advocated saving the Park though the provincial and municipal leadership have not endorsed this advocacy.

For more extensive information on the Save Our Park initiative and issues, please review the Save Our Park Position Paper.