

Save Our Park – Legal Fund Information

Premise

Scenic Acres has lobbied with both levels of government and school boards since April 2014 for a transparent, objective review of regional school site selection and have exhausted non-legal options. In research conducted by the Save Our Park Committee and Chris Davis Law, it was discovered:

1. The CBE and City violated the Municipal Government Act (MGA) and School Act (SA) by not complying with a Ministerial directive to transfer the Park to Municipal Reserve in 2005.
2. The City did not comply with municipal policies; the Joint Use Agreement (JUA), Open Space Policy and the Municipal Development Plan (MDP).
3. The City invests financially in SA Park as a park and included it in the Urban Park Master Plan.
4. An Area Restructure Plan (ARP) for Scenic Acres required by the City to revise antiquated community plans was not completed. An ARP was drafted in 1990 but not approved and did not include a regional school in the Park.

We had highlighted these statutory and policy infractions to those in authority so action could be taken to resolve them but to no avail. These are serious violations of legislation and policy and in a business environment there would be repercussions for similar acts of misrepresentation.

Claim

The Scenic Acres Community Association is the Plaintiff along with individual residents for this legal claim. The claim is founded based on statutory obligations that the CBE and FrancoSud must meet regarding the Park under sections 672 (1, 2) of the MGA which require surplus lands to be designated as municipal reserve. In 2005, the CBE made a request to the Province to surplus land in the Park where they held title, received Ministerial approval to proceed as required by the School Act (SA), and then failed to complete the land title transfer. The CBE then transferred the Park to FrancoSud in 2013 without Ministerial approval. Scenic Acres contends that no school board has lawful legal title to the Park. The claim is based on a few facts that are not in dispute and therefore no lengthy deliberations are expected. The detailed claim is available upon request. Although Scenic Acres on the advice of our lawyer has determined we have a strong case, there is no guarantee of a successful judgement.

Legal Fund

Funding for this claim is being provided by residents of Scenic Acres based on targeted donations for this purpose. Contributions are not tax deductible. The funds will be distributed to cover legal costs, minor research costs as well as bank fees.

Lawyer

Chris Davis from Chris Davis Law is representing Scenic Acres. Chris is a former City lawyer and specializes in Land Development and Municipal Matters. Chris was recommended to Scenic Acres by a number of sources. <http://www.chrisdavislaw.ca/>

Administration

A separate bank account has been established for the Save Scenic Acres Park fund and is managed by two individuals who have had no direct involvement with the Save Our Park initiative. Contributions are kept confidential unless disclosed by the individual contributor. Cheques should be designated to 'Save Scenic Acres Park' placed in a sealed envelope and delivered to the Community Association office. Place envelopes in the mailbox outside the front door and please ensure you provide name, address, and phone number information for the bank account administrators' records. The bank account will be maintained only for the length of this claim – residual funds, if any, will be reimbursed to contributors proportionally. A minimum \$200 donation is required to be considered for proportional reimbursement.

Background

The Save Our Park initiative was started in response to widespread community opposition to the surprise announcement of a regional school planned for the Community's fully developed recreational facility, Scenic Acres Park.

The Save Our Park mandate has been consistent from the beginning, based on two specific requests:

1. The school construction project in SA Park is halted and the best site determined based on objective criteria
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 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, a non-criterion and have focussed their energies on the building project even as our local politicians, Ward Sutherland and Sandra Jansen have advocated in support of the Save Our Park mandate.

For more extensive information on the Save Our Park initiative and issues, please review the Save Our Park Position Paper available on the SACA Website <http://www.scenicacresca/save-our-park>.