

**IN THE MATTER OF A DEPOT PERMIT APPLICATION
FOR CHANGE OF LOCATION
IN RELATION TO THE AMPM BOTTLE DEPOT
SUBMITTED TO THE BCMB MAY 1, 2020**

DECISION OF THE BCMB

I. INTRODUCTION

This is the decision of the Beverage Container Management Board (“BCMB”) with respect to a Depot Permit Application for Change of Location (the “Application”) on behalf of the AMPM Bottle Depot (“AMPM Depot”).

For the reasons set out in the decision, the Application is refused.

II. BACKGROUND

In 2015 the BCMB issued a Request for Applications with respect to a prescribed area (the “RFA Zone”) in South East Calgary. The BCMB granted the successful Applicant a permit to operate the AMPM Depot at 10725 -74 S.E. Calgary. The communities to be provided service by the AMPM Depot included Walden, Mahogany, Copperfield, Auburn Bay, Quarry Park, Ogden, Dover, Riverbend, Shepard, Hotchkiss and the Cornerstone Area Structure Plan. The AMPM Depot permit holder has operated the AMPM Depot at its current location since May 10, 2018.

On May 1, 2020 the permit holder for the AMPM Depot submitted a Depot Permit Application for Change of Location (the “Application”) to the BCMB seeking to move the AMPM Depot from its current location to 1172 & 1176 137 Ave, SE Calgary.

The BCMB required the permit holder to publish a public notice of the Application. A public notice was published in the Calgary Herald over a one-week period.

The BCMB received over 350 responses to the public notice (although some respondents sent in more than one response). There were 21 respondents who expressed support for the relocation. 13 respondents were seeking further information. The remaining respondents expressed objection to the Application. Among the respondents objecting to the relocation were operators of other Depots in the vicinity of the AMPM Depot’s proposed new location. In addition, the BCMB received communications from the office of Calgary Ward 14 Councillor Peter Demong. The BCMB also received a petition from individuals objecting to the Application. Most of the names on the petition were of people who also had submitted individual responses.

The objections received to the Application can be very generally categorized as follows:

- Objections specific to the new location: eg. there is a daycare next door to the proposed location and there were concerns about inadequate parking;



BEVERAGE CONTAINER MANAGEMENT BOARD

- Objections to Depots generally; eg. concerns about noise, broken glass, increased traffic, the potential to attract unwanted visitors to the neighbourhood etc.;
- Objections from Depots relating to the potential impact on their operations and concerns that the Depot was moving from the RFA Zone for which the permit had been granted. 21 objections were received from or on behalf of Calgary Depots.

The BCMB provided all of the public responses to the permit holder and provided the permit holder with an opportunity to comment on the responses. The permit holder expressed concern about the fact that somebody had placed hundreds of lawn signs opposing the Application and that it appeared that whoever had placed the signs was purporting to have done so on behalf of the Deer Ridge Community Association although the Community Association denied this was the case. The permit holder also advised that he had met with members of the public after the lawn signs were erected and had a positive response to that meeting, including a letter of support from the owner of the daycare next to the proposed location. The permit holder advised that the new location was intended to serve the communities of Deer Run, Deer Ridge, Queensland, Parkland, Lake Bonavista and Canyon Meadows. In his response the permit holder also addressed in detail the objections that had been received. Finally, the permit holder stated that the Application was not intended to impact any other Depots and noted that the Application was in compliance with the relevant BCMB By-laws.

III. THE DEPOT BY-LAW

Applications to relocate an existing depot are governed by the By-laws passed by the BCMB, and in particular the *Depot By-law*.¹

In accordance with section 6.3 of the *Depot By-law* a Permit Holder may apply to amend, add or delete a term or condition of a Permit including the Depot location specified in that Permit.

The *Depot By-law* also provides as follows:

- 3.2 In determining the number and location of Depots to be permitted in Alberta, the BCMB shall have regard to the following criteria:
- 3.2.1 patterns of population growth;
 - 3.2.2 closure of existing Depots;
 - 3.2.3 the number and nature of complaints received from the public regarding the collection of Containers generally; and
 - 3.2.4 any other criteria the BCMB considers relevant in order to maintain a viable Container recovery system.

In accordance with section 6.9 of the *Depot By-law*, the decision whether or not to grant an application for amendment is in the sole discretion of the BCMB subject to the population and proximity requirements contained in the By-law.

¹ https://www.bcmb.ab.ca/uploads/source/By-laws_Current/Depot_By-law/2019.11.20.Depot.Bylaw.BOARD.APPROVED..pdf.

IV. DECISION AND REASONS

The first two considerations for the BCMB in reviewing an application to amend a permit by changing the Depot location are the population and proximity requirements set out in the *Depot By-law*.

In terms of population requirements, the *Depot By-law* provides that unless otherwise directed by the Board of the BCMB, the number of Depots allowed in a Metro Area shall be calculated by dividing the population of that Metro Area by 40,000 (section 3.3). Calgary is a Metro Area and based on the most recent Government of Alberta Municipal Affairs Population List (2019), Calgary has a population of 1,285,711. There are currently 32 Depots allowed in Calgary and there are 28 permits issued. The Application meets the population requirements.

The proximity requirement is set out in section 3.5 of the *Depot By-law* which provides that unless otherwise directed by the Board, no new permit may be issued in a Metro Area for a Depot that will be located within a 3 kilometre radius of an existing and operating Depot. The BCMB retained an independent surveyor to determine the distance between the property lines of the proposed location and the property lines of each of the Depots in the vicinity of the proposed location. According to the surveyor, the distance between the closest property lines of the proposed location and the nearest Depot was 3.02 km. This measurement was challenged by one of the parties responding to the Application, but the BCMB is satisfied based on its independent survey that the Application meets the proximity requirements.

The BCMB then considered the enumerated criteria in section 3.2 of the *Depot By-law*.

The population in the area proposed as the new location for the AMPM Depot has remained static in recent years. This is likely because it is surrounded on three sides by the Bow River and has well-established communities located to the North. This is not an area of notable population growth.

There have been no recent Depot closures in the area around the proposed new AMPM Depot location.

The BCMB has not received any complaints from residents in this area of Calgary regarding their ability to access Depots or with respect to the Depots servicing the area around the AMPM Depot's proposed new location.

The consideration of the enumerated factors in section 3.2 weighed against siting another Depot in this area of south east Calgary.

Since the BCMB wants to ensure that Albertans have reasonable access to Depots in order to encourage the return of beverage containers, the BCMB considered whether communities in this area already have ready access to a Depot or Depots. The BCMB is of the view that all of the communities have one Depot within a reasonable distance, although only one of the communities has easy access to more than one Depot.

The BCMB also looked at the communities within a 3 kilometre radius of the existing Depots in the area and considered which communities would fall within a 3 kilometre radius of more than one Depot if the Application was allowed. It is clear that the service area of the AMPM Depot, if relocated as proposed,



BEVERAGE CONTAINER MANAGEMENT BOARD

would overlap with the service areas of a number of Depots in the area. While it could be argued that this would increase customer choice and convenience in the area, this area does not appear to be underserved, in contrast to the current location of the AMPM Depot.

The BCMB also reviewed the container volume information in relation to this area of Calgary. While the volumes in the area might be considered sufficient to allow for the location of another Depot, the BCMB was of the view that the addition of another Depot was more likely to result in a redistribution of the current volume of beverage containers being returned in this area than in an increase in overall returns for the City of Calgary.

The BCMB also notes the concerns expressed by some of the Depot owners about the BCMB granting a permit in a specific Zone through an RFA process, and then shortly thereafter allowing the successful permit holder to locate to a different area outside that specific Zone. There is nothing in the *Depot By-law* that prevents this from occurring, and there is nothing improper in the Application that has been made. The BCMB allows relocation amendments to permits despite the RFA process because there are many legitimate reasons why a relocation of an existing Depot may be necessary and appropriate without a new RFA process. However, the fact that this proposed relocation was outside of the original RFA Zone for which the permit was granted, and the relatively short time within which the Application was made are factors that the BCMB has taken into account in denying the Application in this particular case.

The reason that the BCMB creates RFA Zones and calls for applications within those Zones is with a view to siting Depots in underserved areas and areas that appear to be showing rapid population growth or the potential for rapid population growth. The BCMB has not issued an RFA for the area where AMPM is proposing to relocate.

Having considered the matters outlined above and the BCMB's goal of maintaining a viable Beverage Container recovery system, the BCMB is of the view that the Application should be refused.

V. CONCLUSION

The BCMB is extremely appreciative of the time and effort taken by the Applicant in preparing the Application and responding to the response to the public notice. The BCMB also appreciates the time and effort taken by those who responded in providing their perspectives and their feedback.

Dated this 7th day of August 2020.

Sincerely,

Brent Campbell
Director of Operational Strategy and Projects
BCMB