In presenting this thesis in partial fulfillment of the requirements for an advanced degree at the University of British Columbia, I agree that the Library shall make it freely available for reference and study. I further agree that permission for extensive copying of this thesis for scholarly purposes may be granted by the head of my department or by his or her representatives. It is understood that copying or publication of this thesis for financial gain shall not be allowed without my written permission.

(Signature)

Department of School of Community & Regional Planning
The University of British Columbia
Vancouver, Canada

Date Jan 17 /94

The Homesite Severance Policy of British Columbia's Agricultural Land Commission permits the subdivision of the farmer's home from the farm property. Its purpose is to balance the protection of the agricultural resource with fair treatment for retiring farmers. This study documents the land use implications of the policy as well as its development, charting its origins and changes over the decades.

Critics of the policy have noted two major problems. Urban sized lots have been scattered throughout the agricultural community, increasing the possibility of urban - rural conflicts (over the noises and smells of farming). Scarce arable land has also been lost, through construction (of the home or barns), on the remnant property.

To determine if the agricultural resource has been compromised by the policy the frequency, location and actual area taken by homesite severance will be reviewed. In addition the study will explore the rationale and results of the two reviews of the policy. Suggestions will be offered (as they emerge from the findings and discussion) to alleviate the negative effects of the policy.
# Table of Contents

Abstract  
Table of Contents  
List of Tables, Graphs and Maps  

Chapter 1: Introduction  

Chapter 2: The Political Background  
  The 1975 Election  
  The First Commission  
  The Second Commission  
  Homesite Severance Policy  

Chapter 3: The Negative impacts of Subdivision on the Agricultural Community  
  A Twofold Problem  
  Urban Rural Conflict  
  Loss of Land  

Chapter 4: The First Seven Years: A Review  
  Homesite Severance: A Provincial Analysis  
  Homesite Severance 1978 to 1985  
  Documentation Policies and their Relaxation
Provincial Data for Consolidation and Restrictive Covenants 35

The Okanagan 37

Homesite Severance Size: Regional Variations 38

Homesite Severance Refusals: Why and How Many? 41

Chapter 5: The 1985 Homesite Severance Review: Rationale and Results 46

The Okanagan-Similkameen Homesite Severance Study 46

The 1985 Review 52

The 1985 Homesite Severance Policy 55

Homesite Severance 1985 to 1991: An Analysis 56

Chapter 6: The 1990 Homesite Severance Review 66

The Commission in 1990 66

Homesite Severance in 1991 72

Chapter 7: Conclusion 74

Loss of Land 74

Negative Impact of Urban/Rural Conflict 74

Recommendations 76
Bibliography

Appendix 1  Homesite Severance Policy 1985  84
Appendix 2  Homesite Severance Policy 1990  87
List of Tables, Graphs and Maps

Chapter 4, Page 29: Table 4.1 A Comparison of the Total Applications Received under Section 20(1) of the A.L.C. Act (by Region) and Homesite Severance (H.S.) 1978 - 1991

Chapter 4, Page 31: Graph 4.1 Total Homesite Severances

Chapter 4, Page 38: Table 4.2 Average Parcel Size and Homesite Severance Size (in Hectares) 1978 - 1985

Chapter 4, Page 40: Graph 4.2 Amount of Land Taken by Homesite Severance

Chapter 4, Page 41: Table 4.3 Homesite Severance Refusals 1978-1985

Chapter 5, Page 58: Table 5:1 Homesite Severance Approvals 1978-1991

Chapter 5, Page 61: Table 5:2 A Comparison of Homesite Severance and Subdivision in Lieu of Homesite Severance 1985-91


Page 83: Map # 1 A Regional Distribution of A.L.R's in British Columbia
Chapter 1: Introduction

On Dec. 21 1972 British Columbia's newly elected New Democratic Party Government passed an Order-in-Council halting all conversion of farmland to urban uses. Subsequently this province wide land freeze became law when the Land Commission Act was passed in April of 1973. This legislation restricted the subdivision and non-farm use of the province's best agricultural lands in an effort to save them from urbanization.

The Land Commission Act established a form of provincial zoning in favor of agriculture that overrode local government zoning. Land that was included in the Agricultural Land Reserve (ALR) was deemed to be an important agricultural resource. The intention of the Act was that this resource was to be preserved. Consequently owners of land in the ALR were limited if they wished to subdivide or use their property for urban uses.

The Act set up a commission (the Agricultural Land Commission) to administer its provisions. It was an operating principle of the Commission that the subdivision of farmland into smaller units would reduce its ability to sustain agriculture. In addition, smaller units would encourage or permit urban residents to live in agricultural areas. The Commission believed that the introduction of urban residents into rural areas would negatively affect the surrounding farm community. These two fundamental beliefs have generally
guided the Commission's decision making regarding subdivision requests within the Reserve.

A major exception to the Commission's principle against the subdivision of farm properties has been the Homesite Severance Policy. Since 1978 qualified retiring farmers have had the option under this policy to request the subdivision of their farm home from the larger agricultural property.

Shortly after the establishment of the Agricultural Land Reserves in 1974 the Commission began to receive subdivision requests from retiring farmers. Although not all farmers planned to subdivide their farmland it was not uncommon prior to the A.L.R. to separate the farm homesite from the remainder of the farm at retirement. This subdivision allowed the farmer to remain in his home and also provided a measure of financial retirement security. The Commission had no formal policy when reviewing these requests, but judged each on its own merits. Although it was concerned about the retiring farmer the Commission also had concerns about the long term impact of subdivision, concerns that led to the use of a registered leasehold. By 1978 the Agricultural Land Commission had established a formal Homesite Severance Policy permitting the subdivision of the farm homesite under certain specific conditions upon the farmer's retirement. Two major reviews of this policy occurred in 1985 and 1990 which led to some modifications but left the basic concept unchanged.
Critics of the Homesite Severance Policy have noted two major problems.

1) Small non-agricultural lots have been scattered throughout the agricultural community. It is believed that these lots will eventually be purchased by non farmers who will have conflicts with the surrounding farmers.

2) Scarce arable land has been used to replace the farm home and provide access for the new home on the remaining property.

These negative effects have been downplayed by those who support the policy. They claim that both the minimal numbers of qualified applicants, the small amount of affected agricultural land and special provisions within the policy make Homesite Severance of minor and declining concern, especially when compared with the loss of agricultural land to non farm uses and non homesite subdivision.

It is the purpose of this study to trace the development of the policy (and its subsequent application and modification) and its impact on the land base. First the policy's originators and social objectives will be explored, as will the heated debate over its negative land use implications. Concurrently the study will review how the Agricultural Land Commission tried to reduce these negative land use effects when it crafted the policy, and attempt to discover whether the safeguards it established were successful. Therefore the evolution of the policy will be reviewed; from the Commission's
initial response to the retiring farmer and its formalization of the Homesite Severance policy in 1978 to the policy reviews and modifications of 1985 and 1990. The negative effect of the urban resident within the farm community will also be discussed followed by a regional analysis of the frequency, size and location of homesite severances and the overall area lost to farm homesites.

The findings of this report should enable policy makers in other jurisdictions to judge the severity of the land use impacts that a social policy (focused on the retiring farmer) can have on the preservation of agricultural land. From that judging process may come a further refinement of farmland preservation principles that may increase the future acceptance of effective farmland preservation programs.
Chapter 2: The Political Background

The 1975 Election

As noted in the introduction, the New Democratic Party quickly fulfilled its campaign promise to halt the destructive erosion of farmland to urban encroachment by establishing the Land Commission Act in 1973. Though initially controversial the program rapidly gained public support, and was soon heralded by many as a model of farmland preservation. In late 1975 a Social Credit government under a new leader, Bill Bennett, was returned to power. While in opposition the Social Credit Party had opposed the Land Commission legislation and campaigned during the election to return power to designate farmland use back to Regional Districts. By 1975 a vocal minority still opposed the legislation but the Land Commission Act no longer provoked public debate and although there was widespread dissatisfaction with the NDP's performance in other areas, on the whole the legislation was popular. A November 22 1975 Province\(^1\) editorial stated that:

"Though there was always the potential for trouble, the Land Commission has been one of the NDP's better ideas."

---

This assertion was corroborated by Mark Gillis (1980). In his study of landowners' perceptions of the A.L.R., a wide range of rural landowners indicated that they were generally supportive of the land reserve, regardless of political affiliation.2

During the first year of the Social Credit Administration, the Commission remained intact, however, by late 1976 wholesale changes to the membership of the Commission had occurred. Also in 1977 the Land Commission Act underwent its first major revision. Originally the legislation's mandate included provisions to preserve greenbelt land, parkland, and landbank land3 in addition to agricultural land preservation. These other statutory subjects were deleted and the newly named Agricultural Land Commission Act (A.L.C. Act) was concerned only with agricultural land preservation. Other amendments also changed the process of appealing some Commission decisions.

The First Commission

The Commissioners first appointed by the N.D.P. Minister of Agriculture, Dave Stupich, reflected the eclectic nature of the

---


3 Land Commission Act, 1973
legislation. Bill Lane, the Chairman, had extensive experience in municipal land law from his long service as municipal solicitor in Richmond. Bert Brink was a U.B.C. professor of plant science, Ted Barsby, a naturalist and wilderness sportsman from Vancouver Island, Art Garrish, the only farmer, was an orchardist and the past president of the B.C. Fruit Growers Association, while Mary Rawson was a planner and an economist. The common thread running through this diverse group was that they all held to a strong land conservation ethic.

During the "life" of the first Commission only two membership changes occurred. The first was the resignation of the Chairman, Bill Lane, in mid-1975, who left for a new job at the Greater Vancouver Regional District. Replacing him was the General Manager of the Land Commission, Gary Runka, a part time farmer with extensive technical knowledge of the Canada Land Inventory (the joint federal provincial soils classification, one of the fundamental tools upon which the A.L.R.s' are based). The second change, made in late 1975, was the addition of Don Knoerr, a Bulkley Valley rancher, who added a much needed expertise in the ranching sector to the Commission.

From the outset the Commission felt some sympathy to the retiring farmer. Before the legislation the farmer was responsible for his own retirement, choosing to sell the farm as an ongoing operation or if beset by urban pressures, sell out to development interests. Another option was to subdivide the farm property among his children, (within the context of local government zoning regulations,
if any existed), remaining in the farm home until circumstances forced a change in ownership. Whatever the choice, essentially the farmer's future lay in his own hands. Now by restricting the development and subdivision rights of farmland the Commission felt that it should assist in some way in the retirement of the farmer. Some Commissioners argued that farmers in the A.L.R. would suffer a double blow upon retirement, not only would they lose their job, but also upon the sale of their farm they would also lose their home as well⁴. As a result the Commission adopted an internal policy of sympathy towards the retiring farmer, rationalizing that all those that had been 'caught' by this restrictive zoning deserved to remain on their land when they retired, provided that their presence did not have a permanent detrimental impact on either the existing farm unit or the surrounding agricultural community. In contrast the Commission felt less responsibility to those who purchased their land after the establishment of the legislation, believing that these landowners purchased rural property with their "eyes open", aware of the Reserve's subdivision restrictions.

However despite this degree of compassion for the retiring farmer the Commission remained concerned that the subdivision of the homesite was a permanent measure that could create problems in the long term for the farm community. Because of this the original provision for a homesite severance was a leasehold agreement for life and not creating a lot in fee simple. The Commission believed that leasehold for life recognized the farmer's sentimental

---

⁴ Interview, Allan Claridge, Sept. 1991
attachment to his home but, unlike subdivision, did not create a permanent residential lot. In this type of agreement the leased homesite would revert back to the original property upon the death of both the farmer and spouse. Although this option was offered to fifty seven (57) retiring farmers prior to 1978, only three (3) registered the leasehold. The primary reason why leasehold was an unpopular option was because it did not provide a financial dividend to the retired farmer (or his family) when circumstances dictated that the home be sold. Apart from the unpopularity of such an arrangement among farmers, many lending institutions were also hesitant of granting or holding mortgages to homes on leasehold parcels.

The Second Commission

After the 1975 provincial election the Commission remained intact until the autumn of 1976 when all but Chairman Gary Runka were relieved of their duties. The new appointees were respected individuals within B.C.'s agricultural community; Allan Claridge was an orchardist recently converted to the cause of agricultural land preservation after actively protesting against the proposed Land Commission Act in 1973. Ted Cornwall was a rancher and former district agriculturalist from Williams Lake, Raymond Kerr was another rancher from the Kamloops area, while Mac Singh was a vegetable grower from the Fraser Valley. From 1976 to 1978 this group of Commissioners initiated the process of formalizing a

---

5 Agricultural Land Commission, Homesite Severance File
Homesite Severance Policy that differed radically from the original Commission's leasehold provision. In particular Allan Claridge undertook to create a policy that would both prove attractive to the retiring farmer and not radically detract from the preservationist goals of the legislation.

Allan Claridge was passionately concerned about the retiring farmer and argued that unlike any other worker in society, the farmer had a deep, almost mystical, relationship with his workplace\(^6\). Also he felt that it was an economic tragedy that many orchardists who had worked a lifetime on the land were required to sell both their home and livelihood upon retirement. He was so concerned about this that when he began orcharding in the late 1950's he purposefully bought a home on .24 ha (some distance from his orchard properties) in order to avoid the inevitability of selling his home with his orchard lands\(^7\). Claridge believed that the government's unilateral restriction upon the subdivision of farmland unfairly penalized the retiring farmer and he was committed to developing a policy that would enable the retired farmer to both remain in his home and provide for his future financial needs.

Land ownership and cultivation patterns particular to orcharding very much influenced Claridge's thinking and arguments. Orchards in the Okanagan are generally small, averaging 3.5 hectares\(^8\), and

---

\(^6\) Interview, Allan Claridge, Sept 1991

\(^7\) Interview, Allan Claridge, Sept 1991

often allow their owners only a partial or inadequate income. In the past two decades a highly parcelized land base has been cited as one of a number of factors (in addition to a less than ideal climate and limited land base) that have caused B.C.'s production of tree fruits to lag behind comparable fruit exporting regions worldwide in both quality and quantity. In addition both the provincial and federal governments have, over the last few decades, established a variety of support schemes to ensure that orchardists are guaranteed a minimum farm income. As a result of these initiatives many small, uneconomic orchards have been sustained by government intervention.

Allan Claridge's perception of agricultural viability also affected his views on the impact of homesite subdivision. Unlike other Commissioners who held that the viability of a farm property was primarily a function of its size, Claridge believed that viability could not be defined in strictly commercial terms. In his mind viability was a function of a property's agricultural potential rather than its size. He believed an orchard property was viable, regardless of size, if an owner received an income equal to his investment. For example, if an orchardist invested 20% of his time and capital into a property and received from that investment 20% of his total income then a property was viable. As such he could support homesite severance even on very small properties because the loss of an

---

9 Ibid Page 23
10 Interview, Allan Claridge Sept. 1991
orchard residence and its replacement on the remnant would not significantly affect the viability (as he defined it) of the parcel.

Other Commissioners opposed Allan Claridge's views. Both Mac Singh and Gary Runka felt that any increase in residential density, especially in the already heavily parcelized Okanagan, would not only decrease the amount of scarce arable land and increase conflict between residents and orchardists but it would also support the belief that the subdivision of farmland was inevitable. In fact Mac Singh held a quite different view that the agricultural land resource was so valuable that all farmers should live in town as he did and commute to their fields.\(^{11}\)

By 1978 the issue had been discussed thoroughly by the Commission, its staff and lawyers. A policy (as described below) was drafted and submitted to the Environmental and Land Use Committee (E.L.U.C.) of Cabinet for comment and approval. E.L.U.C. confirmed that homesite severance must apply to all owners whose principal residence was on that property prior to 1972 and not just to bona fide farmers. This had been a contentious issue as some Commissioners and staff felt that only a bona fide farmer should qualify for severance. The Commission had initially considered the registration of a caveat against the title of the homesite preventing its resale for a five year period. However, after much discussion with its legal counsel the Commission decided the wisest course would be to enter into a private agreement with the farmer to

---

\(^{11}\) Interview, J. Plotnikoff, March 1990
restrict the resale of the homesite for five years. The final draft of the Homesite Severance policy was adopted by the Commission on June 14 1978, and is analyzed below.

**Homesite Severance Policy**

The policy as adopted was:

1) A once only severance may be permitted where the applicant was the owner and occupied the property as his principal place of residence as of December 21 1972.

Only those landowners who had lived on the property prior to 1972 qualified for a homesite. It was felt that those who had purchased after the establishment of the A.L.R. did so with the full knowledge that the farm unit could not be subdivided. The 1972 date was added to satisfy critics who had been concerned that the policy was open ended and long term.

It should be noted that the "may be permitted" phrase was included to remind applicants that they merely qualified for consideration for a homesite and that it was not an established fact.

2) Applicable only at the time of sale of the property as evidenced by an interim agreement or documented proof of sale. Applicable only to the severance of an existing homesite or alternatively, when deemed appropriate by the Commission, for the creation of a lot elsewhere on the property.
This clause was developed to prevent premature (pre-retirement), speculative subdivision. Some Commissioners feared that everyone eligible for Homesite Severance would subdivide prior to retirement just to take advantage of the policy.

The clause's latter portion allowed the Commission to offer an alternate location for a new homesite for the retiring farmer elsewhere on the property if it was felt that subdivision of the existing homesite would interfere with the continued farm operation. For example, if the house and barns existed in close proximity the Commission might subdivide a lot elsewhere on the property for the retiring farmer's new home in order to retain the curtilage as a unit. Though this provision appears logical it is arguably inconsistent with the original purpose of the policy, which was to permit the farmer to stay in his home (and retain its equity) upon retirement. However, it is probable that many farmers welcomed an opportunity to build a newer, more suitable home, given the opportunity.

The study does not attempt to analyze the number and location of these alternate homesites because the result of a homesite severance of either type (original or alternate site) is a small non agricultural property.

A point of concern was that the subdivision of a lot elsewhere on the property made it unlikely that the house and the farm could be reunited at some future date. The inclusion of this portion of the
clause in the policy was opposed by Commissioner Bill Ritchie\textsuperscript{12} who felt that it was not consistent with the overall objectives of the policy.

3) In response to the concern of the agricultural community regarding the impact of small lot subdivision in rural areas, the purchaser of the farm property must be offered the right of first refusal at the time of sale if and when the homesite is sold outside the immediate family.

The 'right of first refusal' was offered as a solution to the elements in the agricultural community who opposed the concept of Homesite Severance because of concerns related to the proliferation of small lots in farm areas. Unfortunately, given the economics of farming it is unlikely that the purchaser of the remnant would re-acquire a non productive residential property. It would be extremely costly and its addition would not enhance the remnant's productive capacity.

4) The size of the homesite should be of minimum size compatible with the character of the property, in addition to a reasonable area for access purposes.

This clause in conjunction with #6 below was intended to ensure that the remnant parcel remain as large as possible so that it would continue to be used for agricultural purposes. It was not the intent of the Commission that the farmer retire to a hobby farm. For example in the Okanagan where many orchards are 2.0 ha or less in size even a modest homesite severance of .8 ha would significantly

\textsuperscript{12} Minutes of Commission meeting September 1978
reduce the productive capacity of the remainder assuming a new homesite would be built on the remainder.

5) The Commission will issue an order stipulating that a condition of the approval is that the homesite is not to be resold for five years except in the case of estate settlements. Before final approval is given the Commission order is to be supplemented by a written undertaking or standard notarized contractual commitment to the Commission to this effect from the owner.

After some discussion, based on legal concerns regarding enforcability, it was determined that a restrictive covenant could not be registered against the title of the property restricting the resale of the property for five years after severance. Instead the Commission decided to enter into a private contract with the owner restricting the resale of the severance for five years hoping that this would discourage speculative subdivision.

6) Where the remainder of the property after the severance of the homesite is, in the Commission's opinion, of an unacceptable size from an agricultural perspective, either the balance must be consolidated with an adjacent property or a covenant placed on the remainder preventing the construction of any dwellings.

Consolidation and restrictive covenants were means to mitigate the negative impacts of homesite subdivision. In instances where the remnant parcel was too small to be considered a viable agricultural unit, homesite severance might only be permitted subject to consolidation of the remainder with a neighboring farm property.
Another option was the registration of a restrictive covenant against the remainder prohibiting the construction of a residence.

7) Upon approval of the Agricultural Land Commission, Regional Districts and Municipalities are encouraged to handle such applications in the same manner as Section 713(A) applications under the Municipal act insofar as compliance with local bylaws is concerned.

Section 713(A) of the Municipal Act has since been repealed and replaced with Section 996. Both sections allow the subdivision of a property for the owner or a close relative in contravention of local zoning bylaws, with strict restrictions concerning size, use and subdivision.

Conclusion

In many ways homesite severance was Allan Claridge's policy, designed to provide for the retirement needs of the Okanagan orchardist. Throughout the years much debate has occurred as to whether the policy complements or contradicts the preservationist goals of the legislation. Initially numerous and perhaps unnecessary safeguards were established to mitigate the perceived negative effects of subdivision. These negative effects will now be reviewed in detail.
Chapter 3: The Negative Impacts of Subdivision on the Agricultural Land Base

A Twofold Problem

The initial result of a homesite severance is the creation of a small lot for a retired farmer, a person who understands farm interests and the daily patterns of farm living. Eventually the lot is sold to neighbors, relatives or even strangers and there is no assurance that they will have the same understanding regarding the common noises and smells of a normal farm operation. A difference in expectations between the resident and the farmer could lead to conflict and the loss of integrity of the farm community through the withdrawal of the neighboring farmer and others nearby to more remote farm areas. In addition homesite severance reduces the size of a property by between 0.2 - 4.0 ha. Critics of the policy point out that although this loss may not initially reduce the agricultural potential of the property, the replacement of new farm buildings and residence (and their access) on productive land can negatively affect the productivity and the viability of the farm.

Urban Rural Conflict

When a rural area is invaded by residents with an urban orientation conflicts usually occur. Julie Glover, a Commissioner and former planner with the Agricultural Land Commission, describes a typical urban rural conflict.
"A new hog operation may establish in an agricultural area, or alternatively an existing operation may need to expand because of the necessity to remain economically competitive. Even though the operation is located in the A.L.R. there are likely to be a few rural residents on small parcels within the vicinity of the farm. The residents get news of the new or expanding operation and become fearful that it will create an odor problem that will reduce the enjoyment of their property, and thus its value. The residents may band together, circulate a petition, march on council and demand that a building permit not be issued for this use. The council, faced by a barrage of complaints from its constituents, usually responds by passing a bylaw which strictly regulates the siting of certain livestock farms."

Julie Glover goes on to state that the largest and vociferous constituency in most rural areas is the rural resident and not the farmer.13

The following story, set in Nova Scotia corroborates Glover's theory of the fundamental incompatibility of the urban and rural mindset.

In the book Fields of Vision14 the story of Vance Daurie, a hog farmer located near Lunenburg, Nova Scotia is recounted. For two years non farm neighbors endured his hog farm's pungent odors, but eventually their distaste for the smell led to the initiation of legal

13 Intergovernmental Committee on Urban and Regional Research, The Urban Fringe in the Western Provinces, September 1979, Page 3.

14 Jenkins, Phil, Fields of Vision: A Journey to Canada's Family Farm
action against the Daurie family. The Daurie's neighbors were urbanites who had moved to the country to enjoy a sanitized rural lifestyle during the years when Vance Daurie's father had let his land become a hobby farm. When the hog operation was begun by Vance, relations between the Daurie family and their neighbors deteriorated. In the ensuing lawsuit the litany of complaints spoke of ruined barbecues, tainted laundry and sealed windows. Although Vance Daurie won the first court case on the strength of support from his remaining farm neighbors, subsequent appeals drained his financial resources. Ironically there was no winner in the situation, the hog operation was beggared by the court action and the litigious neighbors eventually moved.

In her book *Ill Fares the Land* Mary Rawson recounts examples of how every type of agricultural activity can suffer from conflict with urban people.

"a) Pear Orchard, - Five acres of Class 2 land. Farm not fenced. Children from nearby subdivisions pick fruit, enter picker's cabins and vandalize them, knock down sprinklers and break branches.

b) Feedlot, - Thirty three acres with access to highway. Gradually being surrounded by urban uses - drive-ins, residences. Increasing difficulties in the operation of the feedlot because of vandalism and complaints of urban neighbors about smell and noise. Vandalism includes: children stoning animals, trampling the hay, setting the shaving pile on fire.
c) Dairy farm, - 60 acres, Class 4. No other bona fide farmers left on road. Trouble with neighbors - shot at for late cutting of fodder, complaints about manure on the road making neighbors' tires dirty. Hay cutting machinery breaks glass tossed in field, glass gets mixed in with cattle feed. Can't take any more; intends to quit dairying and subdivide into 10 acre parcels.\(^\text{15}\)

A recent B.C. example involving an exclusion application to the Agricultural Land Commission illustrates how urban rural conflicts can develop in a farm community.

Owners of a ten hectare raspberry field in south Chilliwack requested exclusion from the A.L.R. in 1990 because of conflict with non farm neighbors. Initially the property owner argued that the property was not good farmland and that its exclusion from the A.L.R. could be supported because of poor soil quality. Following an on-site soils analysis by a Ministry of Agriculture soils specialist which challenged this assertion, the landowner was refused exclusion, however, in his subsequent appeal to the Minister of Agriculture unresolvable conflicts with his urban neighbors were cited as insurmountable obstacles to the efficient agricultural utilization of the property. The owner states in a Nov. 22, 1991 letter;

"The surrounding land to the east and south of our property has recently been subdivided and is currently under development. The neighboring house occupants have complained about our farm dogs,

machinery noise, dust, irrigation water being sprayed on their property and the foul smell of chicken manure piles. The immediate urban development, with only a boundary line separation has also resulted in complaints from us. We have had crop and wiring vandalism by juveniles...Our main concern is the danger of exposing the public to health risk type chemicals...."16

These arguments, like those of the previous examples have been reiterated in many submissions to the Commission. Non farm residents who live in or on the fringe of the farm community can do irreparable harm to that community merely by resenting and complaining about those daily activities necessary for farming. In addition, by their own ignorant actions such as trespass and littering, they can endanger their own health and that of the farm operation. A non farm resident often has urban values and the sights, smells and noise of the modern farm operation are usually resented and often actively resisted. Pesticide use, manure spreading, early morning farm equipment operation all mitigate against a peaceful co-existence between the farmer and the urban resident seeking a country lifestyle. All too often the highly prized rural ambiance takes on a distinctly offensive bouquet.

It can be argued that Homesite Severance Policy contributes to rural residential conflict. Typically a homesite severance is a residential property, not larger than .8 ha. Eventually this property will be purchased by a non farmer, concerned mostly about the quiet enjoyment of his property and not with the rights and needs of his

16 A.L.C. File #02-M-CHWK-90-25199
farm neighbors. When the policy was drafted the Commission attempted to mitigate possible future conflict by providing the purchaser of the remnant property with the right of first refusal of the original homesite. However this option was rarely (if ever) exercised due to the fact that the remnant's purchaser either did not need a new home after the five year agreement had expired (having already built a replacement home) or was unwilling to invest in a non productive addition to the land base.

This study did not explore whether existing homesites had contributed to urban rural conflict because there is no certainty that odors, noise and other offensive occurrences would be constant, nor that every non farm landowner would respond consistently to these annoyances. Crop type and intensity of activity may vary on the farm side, while attitudes may change with successive home owners. The only thing that may be said with certainty is that the existence of an urban sized property in the farm community increases the likelihood of a conflict occurring at some time under certain conditions.

**Loss of Land**

A homesite severance eventually results in the loss of land from agricultural production. Even though the original severance will only sever non-productive areas containing yards, access and accessory buildings, the eventual replacement of the farm infrastructure will result in the loss of land from production.
If an agricultural property was already barely viable because of its limited arable area, the loss of even 5% of its area to replacement buildings and access could have disastrous effects upon the property's ability to support a productive farm. Also there is no assurance that the purchaser of the remnant will be careful about the location of a new home with regards to efficiency for agricultural production, especially if the property is already small and not intended to be used for agriculture. In this way much more area than necessary could be alienated permanently from future agricultural production. Often the area used for the original homesite was best suited for this because of its non productive soils or topographic considerations. Its division from the larger parcel could leave no other area but prime productive land for the new homesite location.

One difficulty in assessing the 'loss of land' problem lies in the uncertainty of the remnant property owner's actions. Provided that road access is available, each legal parcel in the Agricultural Land Reserve is permitted a dwelling. But not every remnant purchaser has an immediate desire to build a home on the land. In fact, some may be nearby farmers willing to hold and work the land as a productive unit, while others may have purchased for long term speculative purposes. There can be any number of reasons for not building a home on the remnant property. In summation, productive land can be used to replace the lost farm dwelling and other necessary structures but may not for various 'non agricultural'
reasons. In the mind of critics this short term uncertainty crumbles before the realization that eventually every accessible parcel will become the site of a home.

Conclusion

When the Agricultural Land Commission established Homesite Severance Policy it did two things that had the potential to damage farms and the farm community. First the policy will eventually place a resident with an urban mindset beside a farm, creating the potential for future conflict between the rural resident and the farmer. While the initial occupant (being a farmer) would not likely create conflict with surrounding neighbors the preceding examples indicate that the presence of a non-farmer in a farm community can increase the potential for rural residential conflicts. The result of conflict is the loss of investment, the flight of 'commercial' farmers to more remote areas, and continuing pressure to urbanize the rural landscape. Second, homesite severance reduces the agricultural potential of the property by either removing the original farmhouse and eventually necessitating the replacement of this infrastructure or severing off a vacant lot for a new homesite, to the detriment of the productivity of the remaining parcel.

In order to understand the overall impact of Homesite Severance in terms of both potential conflict and the loss of productive land the following chapters will analyze the frequency and location of
homesite severances throughout the A.L.R. in British Columbia, and the amount of land separated from the property as a result of homesite severance. In addition subsequent reviews and changes to the policy will be analyzed. These occurred as it quickly became apparent to the Commission that some of the policy's built-in safeguards were not having their intended effect of alleviating the most damaging result of Homesite Severance, the urban lot in the farm community.
Chapter 4: The First Seven Years. A Review

Homesite Severance: A Provincial Analysis

This chapter will examine the number, location and size of homesite severances awarded between 1978 and 1985. They will be compared by region and changes in the Commission's documentation requirements will be thoroughly reviewed. Chapter 5 will consider similar data from 1985 to 1991. The reason for the division into two parts is because in 1985 the Commission reviewed and changed the Homesite Severance policy. The review was undertaken for two reasons; because of complaints from local governments (both Regional Districts and Municipalities) that the policy was being inconsistently applied, and because there was concern within the Commission that the provision of homesite severance was proving detrimental to the agricultural land base and a hindrance to the maintenance of healthy farm communities. The review led to changes both in the policy and its application, changes that will become evident upon a comparison of the data of the pre and post review periods.

For the purpose of simplicity the analysis divides the province into six regions comprising all of the province's 29 regional districts; the regions are Vancouver Island, Northern B.C., the Central Interior,
the Kootenay's, the Okanagan and the Fraser Valley (see Map #1 page 83). This division serves a twofold purpose.

1) Each region has distinct climatological and topographical characteristics that determine the type and intensity of agricultural activity.

2) Although these regions do not represent an equal division of farm numbers, the size of the agricultural land base, farm gate receipts, or overall provincial importance to agriculture, each region has provided an approximately equal number of applications made under section 20(1) of the A.L.C. Act over the 1974 to 1989 period. Section 20(1) is the legislative clause of the A.L.C. Act under which the land owner makes application to request the subdivision (and homesite severance) of property affected by the A.L.C. Act.

The following table compares the number of all applications received for each region under Section 20(1) of the A.L.C. Act from 1978 through 199118 (A.L.C. Statistics 1990) and compares them to the number of homesite severance approvals.

---

Table 4.1  A Comparison of the Total Applications Received under Section 20(1) of the A.L.C. Act (by Region) and Homesite Severance (H.S.) 1978 - 1991

<table>
<thead>
<tr>
<th>Region</th>
<th>Section 20(1) Applications</th>
<th>H.S. Approval</th>
<th>H.S. as a % of 20(1) App.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northern B.C</td>
<td>2085</td>
<td>75</td>
<td>3.6%</td>
</tr>
<tr>
<td>Central B.C.</td>
<td>2276</td>
<td>70</td>
<td>3.0%</td>
</tr>
<tr>
<td>Kootenays</td>
<td>1955</td>
<td>51</td>
<td>2.6%</td>
</tr>
<tr>
<td>Vancouver Island</td>
<td>1838</td>
<td>70</td>
<td>3.8%</td>
</tr>
<tr>
<td>Okanagan</td>
<td>2257</td>
<td>287</td>
<td>12.7%</td>
</tr>
<tr>
<td>Fraser Valley</td>
<td>2277</td>
<td>93</td>
<td>4.0%</td>
</tr>
<tr>
<td>Totals</td>
<td>12,688</td>
<td>646</td>
<td>5.0%</td>
</tr>
</tbody>
</table>

Plainly the Okanagan has a disproportional number of requests for Homesite Severance. Two reasons are offered to explain this area's prevalence.

The Okanagan Valley suffers from higher levels of rural parcelization than other parts of the province. Small parcels have in part a historical cause, connected to the original plans for settlement. Patterns of small parcels were caused by a perception that orcharding was an intensive industry capable of supporting a family on a small farm\(^\text{19}\). This belief has created and sustained small,

\(^{19}\) Steacy, Newton, P., A Brief Dealing with the Problems of The Small Farm Unit in British Columbia. Presented to the Special Committee of the Senate on Land Use in Canada, May 1959.
inefficient farm units that are poorly equipped to meet the competitive challenge of international and nearby U. S. orchard regions\textsuperscript{20}. The Okanagan region's rapid population increase, its preponderance of small rural properties, and recent low prices for fruit have increased the pressure for rural land subdivision. Due to these pressures it is possible that an orchardist could significantly increase the worth of a small orchard by subdividing the home and reselling the remnant for residential purposes.

**Homesite Severance 1978 to 1985**

Between 1978 and 1985 the number of Homesite Severance approvals steadily increased, from a low of 14 in 1978, the first year of the policy, to a high of 74 in 1984. Three reasons are offered for the increase.

1) Local government staff became more familiar with the policy and began to suggest this option to applicants whose holdings lay in the A.L.R..

2) The policy became known within the farm population as neighbors and acquaintances were allowed homesite subdivision.

3) The Commission began to offer homesite severance to applicants who did not request it (for reasons of ignorance) in lieu of the applicant's original request for subdivision.

The following graph illustrates the rapid increase in homesite severance.

**Graph 4.1 Total Homesite Severances**

<table>
<thead>
<tr>
<th>Year of Approval</th>
<th>Homesite Severances Without Full Documentation</th>
<th>Homesite Severances Requiring Full Documentation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1978</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1979</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1980</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1981</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1982</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1983</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1984</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1985</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1986</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1987</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1988</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1989</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1990</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1991</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Documentation Policies and their Relaxation

Between 1978 and 1980 the Commission was careful to demand the full documentation required by the policy. This documentation included;

1) Proof that the owner had purchased the property prior to 1972.
2) An interim agreement between the purchaser and the owner which ensured that the homesite severance would be transferred upon its creation to the purchaser.
3) The registration of a charge against the title of the homesite property of a right of first refusal in favour of the purchaser of the remnant parcel.
4) The conclusion of an agreement with the Commission which restricted the resale of the homesite for a period of five years.

As a further safeguard the Commission would issue authorization to the Land Title Office to accept the subdivision plan only when the ownership transfer was finalized. Between 1978 and 1980 78 (88%) of 88 homesite severences were required to complete the entire documentation procedure as outlined above. In contrast, between 1981 and 1985, full documentation was required in only 18 (6.2%) out of 286 homesite severances. In each of the remaining 268 homesite approvals from 1981 to 1985 the registration of the right of first refusal clause was not required and in some cases the agreement not to resell the property was also lifted. In contrast the submission of proof of purchase prior to 1972
and the sellers agreement were required without exception. These were considered essential to the process because they indicated whether the applicant qualified for homesite severance and ensured that severance was not premature. The graph noted above illustrates this change. The hatched area on the top of each bar indicates the number of yearly homesite severance approvals that were not required to register the full documentation demanded by the policy.

Although the Commission was responsible for the preparation of the agreement between the Commission and the applicant and the registration of the right of first refusal charge against the title the cost of preparation of the charge was borne by the applicant. It is possible that complaints about this expense, (which ranged from $200.00 to $500.00 dollars an application), and the time delays required for its registration caused the Commission to be less strict about documentation. What is more likely is the Commission began to realize that the homesite and the remnant parcel would not be reunited and thus became more lenient on this documentation.

By 1980 very few homesite severances were required to register the right of first refusal against the title. Although it was the Commission's intention to encourage the reuniting of the homesite and the remnant when the retired farmer left his home, (by providing the purchaser with the right of first refusal on the homesite) this quickly proved to be an impractical and unlikely scenario given the economic realities of agriculture. Very few
farmers, having already purchased the productive remnant property, would wish to purchase a non productive and relatively expensive rural residence. The abandonment of this restriction simplified the Homosite Severance process. After 1982 virtually no Homosite Severances were awarded that required the right of first refusal documentation.

Another reason why this relaxation occurred was because the membership of the Commission continued to change. In 1980 Allan Claridge's term expired and other Commissioners were added, most of whom did not have an intimate knowledge of the policy. A further factor affecting the enforcement of documentation was the location of an agricultural property. In areas where farms were large and far from urbanizing pressures full documentation was rarely required. For example in the ranching country of B.C.'s central interior, encompassing the Cariboo Regional District, Thompson Nicola Regional District and Columbia Shuswap Regional District, the Commission approved 46 Homosite Severances in the 1978-85 period. Only 6 of these required full documentation and all were awarded in the earliest three years of that period (1978-81).

The Commission did not provide every pre-1972 landowner with a homosite severance. Even though documentation was increasingly waived during this period many applicants were refused homosite severance or were granted severance subject to condition #6 of the policy in order to mitigate the perceived negative effects that the
homesite subdivision would have on the surrounding agricultural community. Condition 6 required either:

1) the registration of a restrictive covenant against the remnant property restricting the building of a residence.

2) the legal consolidation (through either the binding of titles or legal survey) of the remnant with an adjoining property.

Both of these restrictions were used to ensure that the remnant property would be used for agricultural rather than residential purposes. Under the A.L.C. Act and regulations a legal parcel is permitted only one residence unless two or more are deemed necessary for the farm operation. In the Commission's mind these restrictions mitigated the perceived negative effects that a permanent residential parcel would create in a farm community. Although these options were used throughout the province they were most common in the Okanagan because the area was characterized by small agricultural properties and subject to intense urbanizing pressures.

**Provincial Data for Consolidation and Restrictive Covenants**

In total 37 (9.9%) Homesite Severances throughout the province (out of 374 for the 1978-85 period) were required to consolidate the remnant parcel with an adjoining property (24 in the Okanagan
alone). Only 11 (30%) of these approvals were ever concluded, usually because the applicant also owned the adjoining property and had indicated to the Commission both the opportunity and the willingness to consolidate. In the same period only 13 (3.5%) restrictive covenants were to be registered against the remnant (10 in the Okanagan) restricting the building of a residence. However in contrast to the 30% rate of consolidation more than 50% of these restrictive covenants were registered. A restrictive covenant ensured the remnant could not be used for residential purposes but still permitted a severance. Although this restriction was used less frequently by the Commission it was more popular among landowners because nearby farmers could purchase a separate piece of productive land that could be sold again. What is surprising is that this option was not utilized more frequently to reduce the inevitable increase in residential density that accompanied homesite subdivision. A covenant required neither a willing neighbor, nor the financial burden of a resurvey yet ensured that the land would remain in agricultural production because it could not be sold for residential purposes.

Aside from the Okanagan other regions of the province rarely had consolidation and restrictive covenants as conditions to mitigate the negative impacts of homesite severance. For example in Northern B.C. only three of the 47 homesite severance approvals between 1978 and 1985 were required to consolidate or register a restrictive covenant restricting dwellings on the remnant property. A possible explanation was that property sizes were generally much larger in
the north and the creation of a residential property had little effect on either the productive capacity of the remaining farm operation or on the surrounding farm community.

**The Okanagan**

The Okanagan, when compared to other areas of the province, had the lowest average parcel size requesting homesite severance in the Agricultural Land Reserve. In British Columbia the average size of a homesite applicant's property was 24.8 ha. In the Okanagan farm properties were much smaller, especially in the southern and central fruit growing areas; 5.3 ha in Okanagan Similkameen, 9.0 ha in Central Okanagan, and 19.5 ha in North Okanagan. It was the Commission's belief that properties of less than 4.0 ha were likely to be converted to rural residences following homesite subdivision rather than remain in agricultural production. Because of this the Commission tended to apply the most severe restrictions on homesite severance in the central and southern Okanagan. Between 1978 and 1985, 24 (15%) of 161 severances in that area were required to consolidate the remnant with an adjoining parcel and 10 (6.2%) were required to register a restrictive covenant against the remnant parcel restricting the construction of a dwelling.

Although the Commission sometimes required consolidation as a condition of homesite severance such decisions were unpopular with the landowner. The problem confronting the applicant was finding a neighbor willing to buy the remnant property and to bear the
expense of consolidation. Consolidation brought little advantage to the purchaser, in fact it might even make the farm property more difficult to sell. In contrast multiple properties brought resale flexibility and a higher financial return at resale than a single large property of equal size.

Homesite Severance Size - Regional Variations

The following table indicates both the average lot sizes and the size of homesite parcels that characterized each major region.

Table 4.2 Average Parcel Size and Homesite Severance Size (in Hectares) 1978 - 1985 (for approved H.S.)

<table>
<thead>
<tr>
<th>Region</th>
<th>Parcel Size (P.S.)</th>
<th>Homesite Size (H.S.)</th>
<th>H.S. as a % of P.S.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northern B.C.</td>
<td>66.0</td>
<td>5.0</td>
<td>7.5%</td>
</tr>
<tr>
<td>Central B.C.</td>
<td>44.8</td>
<td>2.0</td>
<td>4.5%</td>
</tr>
<tr>
<td>Kootenays</td>
<td>32.9</td>
<td>3.9</td>
<td>11.8%</td>
</tr>
<tr>
<td>Vancouver Island</td>
<td>17.5</td>
<td>1.1</td>
<td>6.2%</td>
</tr>
<tr>
<td>Okanagan</td>
<td>11.2</td>
<td>0.62</td>
<td>5.5%</td>
</tr>
<tr>
<td>Fraser Valley</td>
<td>10.1</td>
<td>0.63</td>
<td>6.3%</td>
</tr>
</tbody>
</table>

The homesite parcel size varied from region to region both in real hectares and as a percentage of the original parcel size because the Commission had no rule or formula that it applied to every application. Each request was affected by local topography, the size
of the property, the type of agricultural activity, the applicant's expectations, the location of the home in relation to road access, and accessory buildings and structures, including wells and septic tanks. In the north where cattle ranches and grain farms comprising several hundred hectares were prevalent it was common to provide applicants with homesite severances ranging in size from 2 to 6 ha and larger. For example the Peace Laird R.D. had an average H.S. size of 3.5 ha (on 21 approvals), and Bulkley Nechako, 3.7 ha (on 11 approvals). In contrast retiring orchardists in the Okanagan were routinely offered homesite parcels of .4 ha (one acre) or less.

The total amount of land taken by the creation of the homesite parcel during the 1978-1985 period was 640 ha. The graph noted on the next page compares the amount of land in each region that was taken for homesite severance to the total A.L.R. in each region. While the bar figures in the graph indicates the actual amount of land taken by homesite severance the line superimposed on the bars indicates the amount of land taken by homesite severance as a percentage of the A.L.R. in each region.

The overall scale of the area taken for homesite severance is better appreciated by comparison to the A.L.R. area for the Central Fraser Valley Regional District, one of the smallest Districts in the province, which contains 28,700 ha of land within the A.L.R. and the largest single district, the Peace River R.D. which has 1.4 million hectares.
The amounts shown in the above graph do not necessarily reflect the real dimension of the issue since the amounts do not include the equivalent amount of arable land that may have been removed from production as new homesites to replace the separated homesites. It is possible that other farmers purchased these remnant properties for agricultural purposes only and because of existing homes and barns did not build on the land. What is important to realize that the 640 ha lost to homesite severance is a very small amount when compared to the provincial total of 4.7 million hectares of land in the reserve.
Homesite Severance Refusals - Why and How many?

In this analysis only the number of homesite severance refusals occurring between 1978 and 1985 will be reviewed. There is no comparable data available for the 1986 to 1991 period because a refusal documented in these years may not have been recorded. Between 1978 and 1985 only 33 severance requests were refused outright (9.1% of total requests). The regional breakdown is illustrated in the table on the following page.

Table 4.3  

<table>
<thead>
<tr>
<th>Regions</th>
<th>H.S. Appli.</th>
<th>H.S. Refused</th>
<th>% H.S.</th>
<th>Av. P.S.</th>
<th>Av. H.S. Requested</th>
<th>H.S. as a % of P.S.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northern</td>
<td>82</td>
<td>7</td>
<td>8.5%</td>
<td>66.7</td>
<td>8.8</td>
<td>13.1%</td>
</tr>
<tr>
<td>Central</td>
<td>71</td>
<td>1</td>
<td>0.01%</td>
<td>40.0*</td>
<td>4.0</td>
<td>10.0%</td>
</tr>
<tr>
<td>Kootenays</td>
<td>54</td>
<td>3</td>
<td>5.5%</td>
<td>64.0*</td>
<td>28.0</td>
<td>43.7%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2.2*</td>
<td>9.0%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3.2*</td>
<td>12.5%</td>
</tr>
<tr>
<td>Vanc. Isl.</td>
<td>74</td>
<td>4</td>
<td>5.4%</td>
<td>4.3</td>
<td>1.4</td>
<td>32.5%</td>
</tr>
<tr>
<td>Okanagan</td>
<td>299</td>
<td>12</td>
<td>4.0%</td>
<td>4.0</td>
<td>0.8</td>
<td>20.0%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>44.1*</td>
<td>15.0%</td>
</tr>
<tr>
<td>Fraser Val.</td>
<td>99</td>
<td>6</td>
<td>6.0%</td>
<td>7.8</td>
<td>0.8</td>
<td>10.2%</td>
</tr>
</tbody>
</table>

* This notation indicates that the number is not an average but represents a single or anomalous request out of character with the other figures for the region.
A comparison of the average size of approved homesite severances (Table 4.2) and those requests that were refused (Table 4.3) indicates that although the unsuccessful applicants had requested slightly larger homesites and had smaller properties overall, many similar requests had also been approved by the Commission. For example in 1985 the Commission refused a request in the Okanagan for the subdivision of a .3 ha homesite severance from a 4.0 ha property\textsuperscript{21}, ostensibly because the remnant parcel was too small to be considered a viable farm unit. On 14 occasions prior to this the Commission had approved the same size or larger homesite severance on a 4.0 ha or smaller property. Although an unsuitable remnant is a legitimate reason for refusal, what would be so difficult for the farmer to understand is why this rationale was used so arbitrarily (in his mind). It should be remembered that the Commission's rationale at the time may have been legitimate, the remnant's area may have been small, largely infertile and difficult to develop, precluding its use for agriculture. In other cases (where homesite severance was approved) the remnant area may have been a similar size but much more able to support agricultural activity because of favorable topography and soil quality. To the unsuccessful applicant, especially if he was aware of other nearby farmers who had received a homesite severance on a similar sized property, a negative decision may have appeared unfair or even erratic.

\textsuperscript{21} A.L.C. File #21- 18924
On the whole the Commission has been rather inconsistent in its rationale for refusing a homesite severance. One possible reason may be the fact that different sets of Commissioners judged requests on slightly different criteria. Since the makeup of the Commission changed regularly the collective mood towards homesite severance may have varied from year to year.

In general a persistent applicant received a homesite severance. The existence of the policy indicated to the landowner that if Homesite Severance was not an entrenched right it was well on its way to becoming one. Any refusal was often greeted with disbelief or even outrage and was usually quickly reconsidered at the applicant's request. Often the Commission would arbitrarily adjust the applicant's request if it felt that the homesite was too large. Failing that, it might require that the remnant be consolidated with an adjoining property or require that a restrictive covenant be registered against the remnant prohibiting the building of a dwelling. With these options at the Commission's disposal it is surprising that any Homesite Severances were refused. What may have occurred on these rare occasions is that the properties under application were composed of excellent soils and represented such a high quality agricultural unit that the refusal was an attempt to discourage the creation of a homesite of any size. An emphatic refusal rather than a compromise would serve to decrease the likelihood that the negative decision would be appealed. If any of these thirty three unsuccessful applicants had persisted they may have been
successful in reaching a satisfactory compromise with the Commission.

Conclusion

In total the Commission awarded 374 homesite severances between 1978 and December 1985, 236 (63%) of which were not required to register the right of first refusal documentation required by the policy, documentation which was meant to mitigate the negative effects of the creation of a non agricultural lot in the rural setting. In the first two years of the policy, (until the retirement of Allan Claridge in 1980), the Commission adhered closely to the policy's documentation requirements; the proof of purchase prior to 1972, the registration of the right of first refusal against the title of the homesite lot, the five year agreement not to resell the property, and the submission of an agreement for sale and the transfer of the property upon the creation of the homesite. The loss of Commissioner Claridge and the addition of others to the Commission who had not been instrumental in the policy's development coincided with the growing realization that the homesite and the remainder would never be reunited and resulted in the abandonment of this requirement.

In general the Commission awarded homesite severances that were in proportion to the overall size of the parent property, employing other restrictive mechanisms (restrictive covenants and consolidation) when it felt that the subdivision of a homesite and its
replacement on the remnant would seriously affect the agricultural capability of the remnant property or the integrity of the surrounding agricultural community.

The total amount of land taken by homesite severance, 640 ha, was comprised primarily of non-arable access and buildings and was not significant when compared to the total amounts of land in the Agricultural Land Reserve.

The application of the Homesite Severance Policy in the manner described in this chapter might have persisted for an unknown period of time had not the Regional District of Okanagan Similkameen reviewed the Homesite Severance Policy in 1985.
Chapter 5: The 1985 Homesite Severance Review, Rationale and Results

The Okanagan Similkameen Homesite Severance Study

The Commission's 1985 review of Homesite Severance was prompted by the Regional District of Okanagan-Similkameen's study of the subject, a study undertaken because it was perceived by this district's elected officials that the number of homesite severance applications in the district were increasing and that there were problems with the administration of the policy. Between 1974 and 1985 about 15% of this district's total subdivision applications considered by the Commission under section 20(1) of the A.L.C. Act were for Homesite Severance, a figure that was significantly higher than that experienced by other regional districts in the province.

The review asked four questions.

1) Had the Regional Board and the Commission treated the applications within the same framework?
2) Had the decisions been consistent?
3) Were all aspects of the policy workable?
4) What occurred to the homesite after permission had been granted; did the applicants follow through with subdivision and actually keep the farmhouse as a home?

Though the review was primarily concerned with the Homesite Severance decisions made after the adoption of the formal policy in 1978, it also included data between 1974 and 1978 because during this period the Commission had provided a number of applicants
with homesite subdivision without the policy in place. The report concluded that out of a total of 109 homesite severance requests, 55 were refused and 45 permitted, an overall approval rate of 41% (9 applications had no decision or were tabled). It should be noted that these numbers do not correlate with the Commission's data as shown in chapter 4. This is because the district and the Commission differed in its definition of what constituted a homesite severance approval; because an extra 4 years of data were included; and because the Regional District represented only a portion of the Okanagan's total area. According to the District, prior to the implementation of the policy in 1978, only 6 of 28 homesite applications were approved (an approval rate of 21%) while between 1978 and 1985 the approval rate climbed to 48% (39 approved out of 81 requests).

The data relating to the 28 applications received before 1978 indicates that the Commission only allowed 6 homesite severance requests outright, and refused 11. Of the remaining 12; nine required consolidation of the remnant with an adjoining parcel or the registration of a covenant restricting the construction of a dwelling, two were tabled and on one no decision was reached.

The District's review of the Commission's decisions made after 1978 indicates that 27 of 81 (34%) homesite severances occurred with the full documentation required by the policy (as defined in Chapter 4). A further 30 applications (37%) were approved subject to either the conditions of consolidation or covenant while 8 (10%) required
both the policy's full documentation as well as an additional condition of either consolidation or covenant. In total, 65 requests for Homesite Severance were approved either outright or subject to the policy's conditions or subsequent conditions in the 1978 to 1985 period, an overall approval rate of 85%. Seven (7) requests were refused outright while the remaining 9 were listed as either pending, tabled or had had no decision rendered.

Critically viewed, the report, while a valuable source of raw data, is flawed. The most glaring example of the mishandling of data occurs in Figure 4 of the report showing that 45 requests for homesite severance had been approved while 55 had been refused. In contrast the report's Appendix 3 indicates that during the 1978-85 period 81 requests for homesite severance were approved either with or without restriction, while only 18 had been refused outright. The remaining 10 were either pending, tabled or had had no decision rendered. Even if the District had included only those approvals requiring documentation (and not those requiring consolidation or covenant) it is not possible to arrive at a 45/55 approval/refusal ratio. Given this apparent sloppy handling of the data it is possible that many of the report's conclusions may be suspect.

The report also confirmed that of the 45 approved homesite Severances, 24 were finalized and 21 residual properties were sold, usually to neighbors or family members. Contrary to what many Commissioners had supposed might occur after homesite severance
had occurred, the study concluded that almost all the homesites (23) were retained by their original owners beyond the five year period demanded by the Commission.

The report then proceeded to critique the Homesite Severance policy, rationalizing that since there had been no apparent abuse of the policy the documentation developed to guard against abuse should be abandoned. It concluded that the following policy clauses were unnecessary or so restrictive and costly that they should be eliminated. These clauses would allow the subdivision of the homesite only if:

1) the remainder of the property was in the process of being sold (clause 2)
2) a charge was registered against the remnant providing the purchaser with the right of first refusal when the homesite was resold (clause 3).
3) an agreement restricting the resale of the remnant for five years was concluded between the Commission and the applicant (clause 5).
4) the remnant was of a suitable agricultural size (clause 6)

Of particular concern was the Commission's discretionary power to refuse a severance if it felt that the remainder would not be a suitable size from an agricultural perspective. The study's writers felt that the region's farming areas were comprised of a mix of smaller hobby and larger commercial farms and that both were of
value to the farm community. Hence it declared that homesite severance should be permitted in all situations and not only for commercial farm operations. The report recommended that the "remainder's" size should be compatible with surrounding properties, and not based on some arbitrarily determined commercial size based on viability.

At approximately the same time as the Okanagan Similkameen review, a report was submitted to the Commission by Joanne Grimaldi (a councillor from Penticton) which provided the Commission with an opposing view. The report identified 244 agricultural parcels of ALR land within Penticton's city limits of which 98 (40%) were identified as having potential for future homesite severance. The primary concern addressed by the report was that a homesite severance could become a node of residential development in a rural area and that eventually these residential nodes would demand costly municipal services such as garbage pick-up, snow removal and lighting. In addition the report went on to generally condemn the negative effects of urban sprawl on orchard lands and warned of dire consequences to the fruit industry if steps were not taken to ensure the protection of this scarce land resource.

It was in this atmosphere of two opposing sides that the Commission's 1985 Homesite Severance review was conducted. As in 1978, much of the input came from the central and southern Okanagan, an orchard region characterized by small uneconomic
parcels and undergoing extreme urbanization pressure. Arrayed on both sides of the debate were affected agencies and organizations: on one side Penticton's Grimaldi and other concerned representatives of local governments who perceived homesite severance as the thin edge of the urbanization wedge; on the other side the affected farmers and landowners whose views were echoed by the Osoyoos local of the B.C. Fruit Growers Association which praised the Homesite policy for its compassion and urged its retention²².

At this time another recommendation pertaining to the review was received from the Peace River/Laird Regional District. In a short letter²³ to the Commission three proposals for improving Homesite Severance procedure were outlined.

1) Fast-Track homesite severance applications.
2) Process these applications at the local level.
3) Provide all retiring farmers with the homesite option, not only those who had purchased their property prior to 1972, provided that they had lived on the land for 10 years.

In order to ensure that documentation requirements did not delay the sale of the remainder the District recommended that severance applications be 'fast tracked' through the application system. Often applicants had complained that the delays associated with

²² File letter from B.C. Fruit Growers Association, A.L.C. Homesite Severance File
²³ File letter from Peace River Laird Regional District, A.L.C. Homesite Severance File
forwarding the application and waiting for approval (not to mention any subsequent documentation delays) were unnecessary and made it difficult to transfer the remnant parcel.

It was also recommended that severance applications be processed at the local level based on strict guidelines rather than at the central office. This arose out of a concern that the decision makers were remote, arbitrary and unaware of the needs of the local farmers. In this theory, a severance should require very little discretionary judgement, except perhaps in the determination as to what constituted a suitable remnant.

The Regional District's recommendation that any retiring farmer who had lived on his land for at least ten years, (rather than having owned his land prior to 1972) be considered for a homesite severance reflected the widely held attitude of Peace River area farmers that there was no agricultural land shortage in northeastern B.C.. They believed that the large farm units of that region could easily support many decades or even centuries of homesite severance without significant loss of productive capability.

**The 1985 Review**

On the 18th of December 1985 the Commission met to discuss the Homesite Severance Policy and more particularly the Okanagan Similkameen Report and its recommendations. Earlier that year Allan
Claridge had been reappointed to the Commission for a three year term and, as expected, was delighted with the findings of the Okanagan Similkameen Regional District's report. In almost every respect the report vindicated Claridge's assertion that homesite severance was necessary and that it would not be abused. In contrast other Commissioners remained concerned, particularly those (Ian Paton, M.F.Clarke) who had been openly critical of Homesite Severance Policy and its negative long term effects on the integrity of the rural community.

In their discussion the Commissioners agreed with the Okanagan Similkameen report's assessment that both the interim agreement and the right of first refusal requirement were awkward, costly and unnecessary restrictions. Yet they also felt that some documentation as to the intent of sale was essential to ensure that severance was not speculative and premature. The Commission differed with the report's recommendation that the five year resale agreement be eliminated, believing that the reason why there had been so little abuse in the past was because of the restriction. This was perhaps a speculative assumption, since much of District's data pertaining to the retention of the homesite applied to those approved prior to 1978 (and the need to register a five year agreement). Though the restriction was retained, the remaining reforming efforts concentrated on ways to streamline the procedure to avoid delays and financial burdens. The greatest debate centred on what constituted a suitable remnant parcel. Should it be a strictly commercial definition, difficult if not impossible to determine given
the multitude of variables, such as debt, or the use of family labour, or should the remnant be similar in size to parcels in the surrounding area. No consensus was reached on the issue.

The size of a suitable remnant remained the most controversial of the issues surrounding the Homesite Severance Policy. One reason is because historical land subdivision and ownership patterns can bear little relation to the present day commercial viability of a farm operation. Today many farmers still own their farm properties, but increasingly they seek to expand their operations by acquiring the rights to use additional properties through lease or rental agreements. This is particularly true in the lower Fraser Valley where agricultural land costs are extremely high. Although in most parts of the province, property ownership still provides a fairly accurate yardstick by which to measure the appropriate land base necessary for a specific agricultural activity, it is increasingly common for farmers to own less land than they require for a commercial farm operation and lease or rent additional lands to make the operation viable.

The result of the review was the updated 1985 guidelines for Homesite Severance, which remained in effect until September 1990. The complete form is included in appendix 1 but the significant changes are reviewed below.
The 1985 Homesite Severance Policy

The most significant addition to the Homesite Severance Policy in 1985 was the inclusion of clause #2. It stated:

*Where an applicant for a homesite severance has had a previous application approved by the Commission resulting in the creation of a lot on the property, the Commission may consider that approval as fulfilling the objectives of the Homesite Severance Policy, and may negate any further consideration under the Policy.*

The clause was added to remind successful past applicants that one subdivision was all they could expect from the Commission. The elimination of the right to be considered for homesite severance if a previous subdivision of the property had been approved was to reduce the number of potential applicants. Within the Commission's decision-making framework it also gave the Commission an 'easy out' when grappling with complex applications where "the heart said yes but the head said no". It would become common for the Commissioner's to allow an applicant's pre-retirement subdivision request when it became apparent that they would eventually be eligible for consideration under the Homesite Severance Policy. In short the addition of this clause tempted the Commission to allow any subdivision request that had been made exclusive of the Homesite Severance policy if in the Commission's mind the applicant was eligible for homesite severance at some time. They would then grant the non homesite severance subdivision on the condition that the applicant waive any further rights to Homesite Severance. This became known as subdivision in lieu of Homesite Severance.
Other changes included the elimination of the right of first refusal clause (as recommended by the Okanagan Similkameen Regional District's report) which had already discredited it as an effective means to reunite the severance and the remnant, and the relaxation of the need for providing an interim agreement for sale. Instead documentation was required indicating that the applicant had a legitimate intention to sell the remainder within a specified period of time. As a safeguard the Commission would not authorize the registration of the subdivision plan at the land title office unless the transfer of estate in fee simple was registered concurrently. These changes formalized what had actually been occurring in the past five years as many of the documentation requirements had already been abandoned.

**Homesite Severance 1985 to 1991. An Analysis**

What effect did the review and the subsequent changes to the policy have upon the Commission's decision making processes and upon homesite severance size and frequency? One immediate result of the relaxation in the requirements was the number of severances requiring full documentation sharply increased. Full documentation now having been reduced to; proof of purchase prior to 1972, an agreement to resell the remnant and a five year agreement with the Commission not to resell the property. In 1986, the first full year of the 'improved' policy, the Commission required full documentation
for 35 (73%) requests for homesite severance. In contrast 13 severances did not require documentation, however, these were not submitted as formal homesite severance requests. Unlike the approvals prior to 1985 not requiring documentation these approvals had a slightly different orientation. Usually they were single lot subdivision requests (or occasionally multi-lot requests) that had a homesite "flavor", for building lots for the applicant's family. This issue is discussed later under the heading Subdivision in lieu in Homesite Severance.

Between 1985 and 1991 the Commission considered a steady stream of Homesite Severance requests. From a high of 72 in 1984 the number of annual approvals declined slightly, averaging just over 50 per year. Only two of the six regions maintained and even increased their number of homesite severance approvals during this period. Table 5:1 shows the decline of Homesite Severance requests in the hinterlands of the province and a slight increase in the Okanagan and the Fraser Valley.
Table 5:1  **Homesite Severance Approvals 1978-1991**

<table>
<thead>
<tr>
<th>Region</th>
<th>H.S. Approvals 78-85</th>
<th>H.S. Approvals 86-91</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total     #/year</td>
<td>Total     #/year</td>
</tr>
<tr>
<td>Northern B.C.</td>
<td>47         6.7</td>
<td>29         5.0</td>
</tr>
<tr>
<td>Central B.C.</td>
<td>46         6.6</td>
<td>24         4.8</td>
</tr>
<tr>
<td>Kootenays</td>
<td>36         5.1</td>
<td>15         3.0</td>
</tr>
<tr>
<td>Vancouver Island</td>
<td>42         6.0</td>
<td>27         5.4</td>
</tr>
<tr>
<td>Okanagan</td>
<td>161        23.0</td>
<td>126        25.6</td>
</tr>
<tr>
<td>Fraser Valley</td>
<td>42         6.0</td>
<td>51         10.2</td>
</tr>
<tr>
<td>Totals</td>
<td>374        53.4</td>
<td>272        54.4</td>
</tr>
</tbody>
</table>

There may be a variety of reasons for the slight change in the distribution of Homesite Severance approvals. One might be that the absolute numbers of qualified applicants were declining in certain areas of the province. This decline was expected, especially in areas where the agricultural land owning population was relatively small. Even during the policy's formulation the Commission recognized that homesite severance was a sunset policy and would eventually be eliminated as the numbers of pre 1972 owners of farmland declined.

A possible reason for the relative increase in the homesite severance requests from the two areas under the greatest urban pressure (the Okanagan and Fraser Valley) may be because it would be economically advantageous to create a residential property in a rapidly escalating, speculatively driven land market. As population pressures increase in the Lower Mainland and in the Okanagan every
legitimate opportunity to subdivide rural land will be explored, especially since the land supply is limited. In hinterland areas higher land availability and lower land prices may erase the economic benefits of homesite severance subdivision.

Subdivision in Lieu of Homesite Severance

After the 1985 review the Commission began to provide qualified homesite severance applicants with a non homesite subdivision provided that the applicant waive any future rights to homesite severance. Between 1985 and 1991 the Commission provided qualified homesite severance applicants with 66 non homesite subdivision's in lieu of homesite severance. In that same period 206 Homesite Severances requiring documentation were approved. The majority of the subdivisions in lieu of homesite severance involved two types of requests:

1) to supply a residential lot(s) for the applicant's children.

2) to solve the question of multiple ownership.

A good example of the former occurred in the Regional District of Comox Strathcona in 1989 when the Commission approved the

---

24 It is the Commission's understanding that some real estate agents in the Lower Mainland identify potential Homesite Severance properties and bring this information to the attention of landowners who are not aware of their situation. Such activity could be a partial explanation of the increase in Homesite Severances in the Lower Mainland. Source: B.E. Smith, Planner, Agricultural Land Commission.
subdivision of a .4 ha homesite from a 60 ha property for the qualified applicant's daughter. Occasionally the Commission even permitted the subdivision of multiple lots for an applicant's children.

An example of the second type of situation occurred in the Okanagan Similkameen Regional District. The Commission refused the subdivision of a 17.4 ha orchard into three equal sized parcels (to satisfy the three joint owners) on the grounds that the resulting properties were not large enough to be considered viable agricultural units. The Commission did allow the creation of two 8.7 ha lots in lieu of homesite severance on the grounds that two lots of 8.7 ha could be considered viable agricultural units. Although the previous case did not reflect this, in the majority of instances the provision of subdivision in lieu of homesite severance involved the creation of a small residential lot. On those rare occasions when this did not occur the land was usually split into two lots of roughly equal size, as in the case above.

The table below compares the numbers of homesite severances permitted between 1985 and 1991 and the numbers of subdivisions approved in lieu of Homesite Severance.

---

25 A.L.C. File #21-I-89-23227
26 A.L.C. File # 21-V-88-22111
Table 5:2  
A Comparison Homesite Severance and Subdivision in Lieu of Homesite Severance 1985-91

<table>
<thead>
<tr>
<th></th>
<th>Homesite Severance</th>
<th>Subdivision in lieu of H.S.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northern B.C.</td>
<td>16</td>
<td>13</td>
</tr>
<tr>
<td>Central B.C.</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>Kootenays</td>
<td>10</td>
<td>5</td>
</tr>
<tr>
<td>Vancouver Island</td>
<td>16</td>
<td>12</td>
</tr>
<tr>
<td>Okanagan</td>
<td>108</td>
<td>18</td>
</tr>
<tr>
<td>Fraser Valley</td>
<td>48</td>
<td>3</td>
</tr>
<tr>
<td>Totals</td>
<td>206</td>
<td>66</td>
</tr>
</tbody>
</table>

The table reflects the dominance of Homesite Severance in the two regions experiencing the greatest amount of urban pressure, the Okanagan and the Fraser Valley. It also indicates that proportionally the Okanagan and the Fraser Valley were the least likely areas to receive subdivision in lieu of Homesite Severance. These findings corroborate those of the previous chapter which indicated that the Commission was also less likely to demand the strict adherence to the policy's documentation requirements in the four hinterland regions (during 1978-1985) than in the areas experiencing intense urban pressure.

Homesite Severance - An Analysis of Size

Between 1985 to 1991 the Commission did not award homesites that differed significantly in size from those of the earlier period. Table
5:3 provides the comparison of the average size of property and severance in each of the Regional Districts.

Table 5.3  

<table>
<thead>
<tr>
<th>Region</th>
<th>Average H.S. Size</th>
<th>Average Remnant Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northern B.C.</td>
<td>5.0 3.3</td>
<td>66.0 67.1</td>
</tr>
<tr>
<td>Central B.C.</td>
<td>2.0 2.6</td>
<td>44.8 39.3</td>
</tr>
<tr>
<td>Kootenays</td>
<td>3.9 3.5</td>
<td>32.9 34.3</td>
</tr>
<tr>
<td>Vancouver Island</td>
<td>1.1 0.8</td>
<td>17.5 12.3</td>
</tr>
<tr>
<td>Okanagan</td>
<td>0.62 0.56</td>
<td>11.2 8.0</td>
</tr>
<tr>
<td>Fraser Valley</td>
<td>0.78 0.78</td>
<td>10.1 11.0</td>
</tr>
</tbody>
</table>

The above table indicates the Commission consistently provided a homesite severance that was between 5 and 10 percent of the size of the remnant as it had in the earlier period. In all other aspects the two periods were almost identical in terms of size of homesite provided and size of remnant. The northern and central interior of the province were consistently provided with homesites ranging from two (2.0) to four hectares (4.0), while the Fraser Valley, Vancouver Island and the Okanagan were provided with homesites ranging from slightly larger than one hectare to as small as 0.3 ha.
Amount of Land Subdivided by Homesite Severance

The following table indicates the amount of land subdivided by homesite severance in the 1985 to 1991 period and compares this with the area lost in 1978 to 1985.

![Graph 5.1 A Comparison of Land Lost by Creation of Homesite Parcels between 1978-1985 and 1986-1991](image)

While the numbers of homesite severances for each period are not similar (374 between 1978 and 1985; 272 between 1986 and 1991) the comparison serves to illustrate the slight increase in amount of
land lost to homesite severance in the Okanagan and Fraser Valley. In total the Okanagan lost 103 ha between 1986 and 1991 (versus 90 ha between 1978 and 1985) while the Fraser Valley lost 44.5 ha. (versus 41.5 ha between 1978 and 1985) In total 484 ha of land was subdivided by homesite severance in the 1985 to 1991 period, an average of 1.7 ha per request. By way of comparison 640 ha of land was subdivided by homesite severance with an average size of 1.7 ha between 1978 and 1985.

Conclusion

The analysis of homesite severance data for the 1985 to 1991 period indicates that the Commission's rate of homesite severance approval was slightly higher than the earlier period and that the Fraser Valley and the Okanagan were the two regions that accounted for this increase. Also the analysis confirmed that, as a result of the 1985 review, documentation requirements of the policy were required in the majority of instances to ensure compliance with the spirit of homesite severance.

The total amount of land lost to homesite severance (see Graph 5.1) decreased during this time because the total number of requests and approvals was fewer than the previous period (the previous period was 7 years compared to 6 years for the current period). The average size of a severance, absolutely and proportionally remained similar both regionally and province wide.
As a result of the 1985 changes to the policy a new phenomena began to emerge, the provision of subdivision in lieu of homesite severance. Although the absolute number of these approvals remained small (see Table 5.2) when compared to standard homesite severance approvals, they began to raise some concerns for the Commissioners and staff. Subdivision in lieu of homesite severance was seen by both the Commission and the A.L.C. staff as a unsettling precedent, increasingly being used inappropriately. The following chapter will analyze the 1990 debate that this use of the policy precipitated and the resulting changes to the construction and application of the Homesite Severance Policy.
Chapter 6: The 1990 Homesite Severance Review

The Commission in 1990

The two preceding chapters show the permanent effects of homesite severance on the Province's A.L.R.. To many, the creation of permanent residential lots and the minor loss of land seemed reasonable given other, far greater concerns regarding the preservation of agricultural land including, non farm use and non homesite subdivision within the Reserve and the actual exclusion of land from the A.L.R.. Although the varied Commissions and individual Commissioners had found the policy workable though flawed, critics abounded, both on the Commission and within the A.L.C. staff. To these it remained an annoying loophole though which opportunistic farmers and landowners degraded the agricultural land base and farm community. Increasingly the policy came under criticism from certain Commissioners as the old guard began to change.

Following the 1985 Homesite Severance review the Commission continued to undergo personnel changes. Ian Paton, a Delta dairy farmer, was the longest serving member by 1990, having served as a Commissioner since 1981 and Chairman since 1983. Allan Claridge was again reappointed in 1988 and 1989 to consecutive one year terms. In the spring of 1990 he was replaced by Rod King (also an orchardist) whose appointment precipitated the 1990 review of the
Homesite Severance Policy. Other recent appointees, Jim Collins, John Malenstyn, and Harold Allison had become increasingly critical of both the existence and application of the policy but it was the addition of Rod King and the retirement of Allan Claridge (the policy's originator) that brought the policy to the forefront of the Commission's agenda.

Between 1985 and 1990 the number of Homesite Severance applications remained small both absolutely and proportionally when compared to all other subdivision requests, averaging approximately 50 per year (as compared with 400-500 subdivision applications per year). As noted both the Commission and staff grew dissatisfied with the policy on principle because it was being used to justify non homesite subdivisions for many pre 1972 landowners. Unlike the 1985 review, the 1990 Homesite Severance review was instigated internally by the Commission and no advice was solicited from any local government or outside agricultural organization. The only input requested by the Commission was from A.L.C. staff who were invited to submit their comments on the policy in writing, and to present them at a meeting scheduled for September 7, 1990.

At this meeting both the staff and Commissioners discussed the issue. Almost without exception those in attendance believed that Homesite Severance subdivision increased urbanizing pressures in rural areas. Though many of the staff and Commissioners opposed the retention of the policy, a number of key staff and Commissioners held a different view.
Their concern was that Homesite Severance was perceived by the present Social Credit government and B.C. farmers as an entrenched right, a non discretionary regulation 27. Their argument was threefold. Rescinding the policy would:

1) reduce the credibility of the Commission with the provincial government.

2) lead to the imposition of a non discretionary regulation. This argument was supported by the belief that the policy was a key factor that had made the legislation palatable to a generally unsupportive provincial government.

3) create a level of unfairness to those landowners who were eligible but had not yet made an appeal for homesite severance because they were not yet prepared to retire.

These arguments reflected a sensitivity to existing political realities. The policy's supporters within the Commission recognized the A.L.C.'s existence and continued influence rested on widespread public support for the legislation and not upon the present (Social Credit) government's level of ideological support for restrictions on the use of agricultural land. They believed that a loss of credibility would

accompany the rescinding of Homesite Severance Policy and would provide the provincial government with the justification to impose a non-discretionary homesite severance regulation. They also indicated a more profound impact, that it was possible that the rescinding of the policy could even provide the rationale to eradicate the Agricultural Land Reserve.

Finally those in favour of retaining the policy argued that it was a 'sunset' policy that at worst had only a minor impact on the alienation of agricultural land especially when compared to the Commission's overall approval rate for subdivision. Their recommendations were to tighten up the wording in the policy in order to emphasize its discretionary aspect, and above all to apply it consistently. These recommendations reflected the three most common problems with the policy.

1) Inconsistency. Often the Commission would refuse a request for homesite severance or approve it subject to consolidation only to subsequently overturn its original decision after repeated requests from the applicant. In addition similar requests in similar situations might not receive equal consideration. For no apparent reason other than the persistence of an applicant, one request might be approved, while the other refused.

2) Viability. The most common criticism was that homesite severances were being awarded when it was obvious that the
remnant parcel was not large enough to be considered a suitable agricultural property.

3) Subdivision in lieu of Homesite Severance. There was great concern that the policy was being improperly used as a shortcut to eliminate future homesite applications (subdivision in lieu of homesite severance). It was concluded that the Commission should return to the stricter application of the policy guidelines that had characterized the earliest period of the policy's existence.

At a subsequent meeting of the Agricultural Land Commission it was concluded that the following changes should be made to the preamble of the policy.

Persons making use of this policy should understand clearly that:

a) no one has an automatic right to a "homesite severance"

b) the Commission shall be the final arbiter as to whether a particular "homesite severance" meets good land use criteria:

c) a prime concern of the Commission will always be to ensure that the "remainder" will constitute a suitable agricultural parcel.

The detailed wording and organizational changes to the Homesite Severance Policy and its explanatory covering letter dated October
11 1990 can be found in Appendix 2. The reworded document was then circulated among all the Province's Regional and Municipal Government offices. It represents a return in many ways to the original stringent requirements of the first Commission. The preamble was particularly clear emphasizing that a homesite severance decision would be based on good land use criteria, which if not met, could override the eligibility for the policy requirement. Also it emphasized the discretion of the Commission over any inferred rights of the retiring farmer.

Most of the changes to the policy involved the reorganization of the text to improve its clarity. The content was not changed significantly from the 1985 Policy Guidelines except in applicable instances where the Commission's discretion was emphasized. Specifically in Clause #5 it is emphasized that the Commission may deny the severance if the 'remainder' is of an unacceptable size or configuration from an agricultural perspective.

In general the 1990 changes to the Homesite Severance policy were positive. It was hoped that the reorganization of the text and the emphasis upon its discretionary nature would bring about a renewed consistency in its application. It is interesting to note that without exception those involved in the 1990 review agreed that the introduction of permanent residential lots into rural communities had a detrimental long term effect on agriculture (as noted in Chapter 3). What was disputed was the extent of the overall contribution of Homesite Severance subdivisions to this problem.
The number of homesite severance approvals in 1991 dropped significantly, to 26, from an average of 50 per year between 1986 and 1990. This was not a result of the drop in homesite severance requests. Like the previous five year period there were over 50 requests in 1991. Instead the drop in approvals reflected the Commission's renewed commitment to consistency and its exercise of critical judgement as to what constitutes a suitable agricultural remnant.

Since the adoption of the amended policy on September 17 1990 the Commission provided only two subdivision's in lieu of Homesite Severance in the following year (1991). One approval divided a four ha property in the North Okanagan into two lots of roughly equal size. The other, also in the North Okanagan, provided a homesite type subdivision for the applicant's daughter. On average, subdivision in lieu of Homesite Severance had been permitted at a rate of 13 per year since 1985. This drop in 1991 indicates that even with the retention of the clause permitting the Commission to consider a previous subdivision as fulfilling the spirit of homesite severance it is less likely to provide non homesite subdivision even if the applicant qualifies for homesite severance.
The 1990 review encapsuled the continuing debate as to whether homesite severance was harmful to the A.L.R.. Advocates felt the policy was politically necessary and had only a small negative impact on the Reserve. Critics continued to believe that the policy was harmful in the long term to the integrity of farm communities. The Commission's response in 1991 was, as promised in the renewed policy, to become more discriminating in its approval of homesite severance.
Chapter 7: Conclusion

Loss of Land

Since the creation of Homesite Severance Policy in 1978 until 1991, the Commission has provided approval for 646 non agricultural parcels within the rural community comprising approximately 1,124 ha of homes, yards and driveways and productive land. As noted earlier in the study some, though not all of these homes, have been replaced on the remnant's arable land. However the greatest concern to critics of the policy is not the amount or quality of agricultural land that may have been lost to homesite severance. Although areas of prime capability have been lost through the provision of homesite severance the study indicates the 1,124 ha subdivided for this purpose is proportionally very small when compared to the overall amount of land within the Reserve. In addition it is extremely small when compared with land lost through exclusion (under Section 12(1) of the Act) from the Reserve over the 1974 to 1989 period, some 104,920 ha28.

Negative Impact of Urban/Rural Conflict

Instead it is the creation of a permanent non farm property within the farm community that is perceived as the most serious long term consequence of homesite severance. Chapter 3 indicated in detail

---

some of the possible scenarios that can arise from the juxtaposition of urban and rural mindset. As yet there is no indication that homesite severance has contributed to a specific conflict with an existing farm operation. However, the continued creation of these lots, particularly in the areas under the greatest urban pressure enhances the potential for conflict to arise.

In order to understand the contribution of homesite severance to the potential for creating problems of urban rural conflict within the A.L.R. the number of subdivisions that occur yearly within the A.L.R. must be compared with the number of homesite severances. Requests for subdivision within the A.L.R. average 500 per year (based on data from 1985 to 1989) of which an average of 270 are approved\(^{29}\). A sample year, 1989 (chosen because it most closely approximates the five year average) shows that out of 272 subdivision requests that were allowed, 630 lots were created, 53% smaller than 3 hectares\(^{30}\). It is unlikely that any property of this size would be used for strictly agricultural purposes. By way of comparison, in 1989, fifty four (54) homesite severances were created, 8.5% of the 630 non homesite lots and only 16% of the lots of less than 3.0 hectares. While the contribution of homesite severance to the problem of residential properties within the reserve cannot be ignored it is clearly not the primary source of these small properties.

---


The purpose of any policy is to achieve a specified objective. The original narrow objective of Homesite Severance Policy was to ease the financial and social dislocation of the retiring farmer (caught by the restrictive A.L.R.) by allowing him both to remain in his home upon retirement and to retain the financial equity built over the years. Although the policy contributes to potential rural residential conflict and can lead to the loss of arable land it is a minor offender when compared to the overall rate of subdivision approval and exclusion (as noted above). There also remain compelling political and social arguments for its retention. It must also be admitted that the latest amendments may provide the framework for a much stronger policy providing that the Commission applies it consistently. It has often been argued the Homesite Severance policy is of minor and declining concern and that it should be retained. On the whole the study has corroborated this contention and confirmed that the policy, with a few exceptions has been applied with sensitivity to protect both the integrity of the farm community and the needs of the retiring farmer.

Recommendations

The following are suggestions which if employed might increase the Commission's decision-making consistency and mitigate the negative impact of the Homesite Severance upon the rural landscape.

1) Create a chart of the minimum land base sizes necessary for the most common current commercial agricultural operations. Also
an ancillary chart should be established to provide new and inexperienced staff and Commissioners with the sizes of Homesite severance and remnants that have been allowed in the past in each region. These standards would help the Commission be consistent and provide an understanding of what constitutes a suitable remnant parcel. It must be recognized that these standards cannot be considered hard and fast rules given the wide variety and regional variations (based on soil and climate) of the land base needs for agricultural operations.

2) Employ the use of the restrictive covenant more frequently (restricting a dwelling), especially in those situations where the remnant size may be marginal. Restricting the construction of a residence is an effective way to eliminate the likelihood that the remnant will be utilized as a residential parcel. It allows the farmer his homesite severance but also ensures that the remnant will be sold for farm purposes and at farm prices.

3) The Commission could make homesite severance non discretionary, especially if it is convinced that the policy has redeeming social value and is of minor and declining concern. Under this option the administration of the process could be achieved through local government in accordance with a regulation provided by the Commission. The shedding of this responsibility would alleviate both the Commission's and the staff workload and continue to streamline the approval process.
It is hoped that the principles gleaned from this study may be useful to policy makers in other jurisdictions motivated by both a concern for the preservation of the agricultural resource and fair treatment for landowners. Certainly there is evidence that the farm and landowning community may find radical farmland preservation programs more palatable if provision is made for their retirement within the program. Conversely policy makers can be assured that modest provision for the retiring farmer has only a minimal impact on the agricultural land base (provided the retirement policy has a sunset clause). With these principles in mind it seems likely that fair but effective farmland preservation programs may be proposed and accepted more readily.
Bibliography


Agricultural Land Commission Act, Chapter 9, Consolidated November 14, 1986.


Intergovernmental Committee on Urban and Regional Research, *The Urban Fringe in the Western Provinces*, September 1979


Province of British Columbia (1982), *"A Guide to the Relationship Between Agricultural Land Reserves and Local Government*

Province of British Columbia (1989), "The Municipal Act"
The Queen's Printer for B.C., Victoria, 1989.


Roy, Denis A., An Analysis of Techniques to Preserve Agricultural Land.

Runka, G., Jurisdictional Rights: Who Has the Responsibility?,
Agrologist, Autumn, 21,1975.

Smith, Barry E., The British Columbia Land Commission Act,

Steacy, Newton, P., A Brief Dealing with the Problems of The Small Farm Unit in British Columbia. Presented to the Special Committee of the Senate on Land Use in Canada, May 1959.


**Interviews**

Jim Plotnikoff, Senior Planner, Agricultural Land Commission

Barry Smith, Policy Planner, Agricultural Land Commission

Allan Claridge, Commissioner, 1976 to 1980, 1986 to 1990

Unpublished Notes, September 10 1990 Commission/Staff meeting

Letters, reports and minutes quoted in the paper all reside in the Homesite Severance file at the Agricultural Land Commission Office in Burnaby B.C.
A Regional Distribution of Agricultural Land Reserves in British Columbia

Source: Atlas of British Columbia and Files of the Agricultural Land Commission
Appendix 1
Homesite Severance - Guidelines (Internal Policy)

The Agricultural Land Commission would consider applications under Section 20(1) of the Agricultural Land Commission Act for the severance of an applicant's homesite from lands within the Agricultural Land Reserve only in situations where the property was the principal residence of the applicant as owner occupant on 21 December 1972, and subject to the following guidelines:

1. A once only severance may be permitted where the applicant was the owner and occupied the property as his principal place of residence on 21 December 1972. (Proof required.)

2. Where the applicant for a homesite severance has had a previous application approved by the Commission resulting in the creation of a lot on the property, the Commission may consider that approval as fulfilling the objectives of the homesite severance policy, and may negate any further consideration under the homesite severance policy.

3. Applicable only at the time of sale of the property as evidenced by some documentation showing a legitimate intention to sell the remainder of the property upon approval of the application for homesite severance. An interim agreement for sale, a written statement of intent to purchase by a prospective buyer, a real estate listing, or some other written evidence of a pending real estate transaction would be acceptable as documentation. In considering the application the Commission may make its approval subject to sale of the remainder within a specified period of time.

4. The size of the homesite should be a minimum size compatible with the character of the property plus a reasonable area, where required, for legal access purposes. Where the location of the existing homesite is such that the creation of a parcel encompassing the homesite would, in the Commission's opinion, create potential difficulty for the agricultural operation or management of the remainder, the Commission may, as it deems appropriate, approve the creation of a lot elsewhere on the subject property.

continued.../2
5. The Commission will issue an order stipulating that a condition of the approval is that the homesite is not to be resold for five years except in the case of estate settlements. Before the final approval is given, the Commission order is to be supplemented by a written undertaking or standard notarized contractual commitment to the Commission to this effect from the owner.

6. Where the remainder of the property after the severance of the homesite is, in the Commission's opinion, of an unacceptable size from an agricultural perspective, either the balance must be consolidated with an adjacent property or a covenant placed on the remainder preventing the construction of any dwellings.

7. Upon approval of the Agricultural Land Commission, Regional Districts and Municipalities are encouraged to handle such applications in the same manner as Section 996 applications under the Municipal Act insofar as compliance with local bylaws is concerned.
Appendix 2
TO: All Local Governments (including Islands Trust)

RE: Revisions to Homesite Severance Guidelines (Internal Policy)

The Commission has recently undertaken a review of its Homesite Severance Policy. The Commission gave serious consideration to the views of many local governments and farm organizations who have in the past offered the view that the Homesite Severance Policy should be abandoned or modified. After a review of the matter and after discussion of the implications of various possibilities, the Commission concluded that the Policy should remain in place but that it would be appropriate to restate the guidelines with emphasis on certain modifications.

As a result, attached to this letter you will find the Agricultural Land Commission's recent policy statement on Homesite Severances as adopted by Resolution #829/90. The following is intended to highlight for you the policy changes and the reasons behind those changes.

You will note that the preamble has been expanded and clarified. Although many public officials and members of the general public are under the impression that the rules for allowing homesite severances are to be found in the Agricultural Land Commission Act and Regulations, the fact is that the Homesite Severance Guidelines are an internal policy of the Agricultural Land Commission, aimed at providing a level of consistency to decisions affecting one particular type of subdivision application under Section 20(1) of the Agricultural Land Commission Act. Because these policy guidelines have been in effect in one form or another for over twelve years, some people have gained the mistaken impression that there is a prescriptive right to a homesite severance. This has never been the case. Since the outset, the policy has always maintained the principle that the needs of the retiring farmer (or other rural landowner) are to be weighed against the suitability of the parcel to support agriculture. This principle is now stated in the preamble to the policy guidelines.

The intent of guideline number 1 has not changed except to clarify that the property must have been the applicant's continuous place of principal residence since 21 December 1972.
The intent of guideline number 3 has not changed from the previous policy, but the Commission wished to make it clear that the policy is not intended to deal with a future speculation but rather would apply only when a person has made and committed to the decision to retire and sell the remainder of the farm (as opposed to an intention to retire several years down the road). Thus the application will only be considered when the owner can demonstrate a current intent to sell and the subdivision plan itself will only be authorized when a buyer is in place. The Commission is not willing to let matters drag on indefinitely and may (where conditions warrant) place a time limit on the completion of the severance.

Guidelines numbers 4 and 5 have been modified to stress the fact that the Commission is not bound to approve every homesite severance application if it feels that the proposal would compromise the agricultural integrity of the area or if the remainder of the property after severance is not of a size or configuration that would constitute a suitable agricultural parcel. As also noted in the discussion in the preamble, there is a perception amongst the public that there is a prescriptive right to a homesite severance; these changes are intended to clarify that there may be circumstances where the Commission may totally refuse a homesite severance proposal.

The remainder of the guidelines are principally the same as the earlier policy except for minor changes in the wording to clarify the intent.

Yours truly

AGRICULTURAL LAND COMMISSION

per: K.B. Miller, A/General Manager

KAP:js (attachment)

cc: The Honourable John Savage
Minister of Agriculture and Fisheries
B.C. Federation of Agriculture
Since June 1978, the Agricultural Land Commission has had an internal policy intended to guide the Commission in its decisions on "homesite severance" applications, that is applications under Section 20(1) of the Agricultural Land Commission Act for the severance of an applicant's homesite from lands within the Agricultural Land Reserve where the property has been the principal residence of the applicant as owner-occupant since 21 December 1972.

Persons making use of this policy should understand clearly that:

a. no one has an automatic right to a "homesite severance";

b. the Commission shall be the final arbiter as to whether a particular "homesite severance" meets good land use criteria; (see #4 below)

c. a prime concern of the Commission will always be to ensure that the "remainder" will constitute a suitable agricultural parcel. (see #5 below)

Without limiting the generality of the foregoing, the following guidelines apply to "homesite severance" applications.

1. A once only severance may be permitted where the applicant submits documentary evidence that he or she has continuously owned and occupied the property as his or her principal place of residence since 21 December 1972.

2. Where an applicant for a "homesite severance" has had a previous subdivision application approved by the Commission resulting in the creation of a separate parcel, the Commission may consider the previous approval as having fulfilled the objectives of the Homesite Severance Policy and may deny any further consideration under the Homesite Severance Policy.

3. An application for a "homesite severance" will be considered only where the applicant submits documentary evidence showing a legitimate intention to sell the remainder of the property upon approval of the "homesite severance" application. [An interim agreement for sale, a prospective buyer's written statement of intent to purchase, a real estate listing, or some other written evidence of a pending real estate trans-action would be acceptable as documentation.]

In considering the application, the Commission may make its approval subject to sale of the remainder within a specified period of time.

A Certificate of Order authorizing the deposit of the subdivision plan will be issued to the Registrar of Land Titles only when a "transfer of estate in fee simple" or an "agreement for sale" is being registered concurrently.
4. There will be cases where the Commission considers that good land use criteria rule out any subdivision of the land because subdivision would compromise the agricultural integrity of the area, and the Commission must therefore exercise its discretion to refuse the "homesite severance".

Where the Commission decides to allow a "homesite severance", there are two options:

a. the existing homesite may be created as a separate parcel where it is of a minimum size compatible with the character of the property (plus a reasonable area, where required, for legal access purposes); or

b. where the location of the existing homesite is such that the creation of a parcel encompassing the homesite would, in the Commission’s opinion, create potential difficulty for the agricultural operation or management of the "remainder", the Commission may, as it deems appropriate, approve the creation of a parcel elsewhere on the subject property.

5. The remainder of the subject property after severance of the homesite must be of a size and configuration that will, in the Commission's opinion, constitute a suitable agricultural parcel. Where, in the Commission's opinion, the "remainder" is of an unacceptable size or configuration from an agricultural perspective, there are three options:

a. the Commission may deny the "homesite severance";

b. the Commission may require that the "remainder" be consolidated with an adjacent parcel; or

c. the Commission may require the registration of a covenant against the title of the "remainder" and such a covenant may prohibit the construction of dwellings.

6. A condition of every "homesite severance" approved by the Commission shall be an order stipulating that the homesite is not to be resold for five years except in the case of estate settlements. Prior to the issuance of a Certificate of Order authorizing deposit of the subdivision plan, the owner shall file with the Commission a written undertaking or standard notarized contractual commitment to this effect.

7. Where a "homesite severance" application has been approved by the Commission, local governments and approving officers are encouraged to handle the application in the same manner as an application under Section 996 of the Municipal Act insofar as compliance with local bylaws is concerned.