

Declaration of Insufficiency of the *Petition*



Memo

DECLARATION OF THE INSUFFICIENCY OF THE *PETITION AGAINST THE ESTABLISHMENT OF THE HIGHLAND INDUSTRIAL PARK BUSINESS IMPROVEMENT AREA*

I, Jeff Fielding, City Manager of the City of Calgary, am appointed by Council to carry out the powers, duties and functions of the chief administrative officer under the provisions of the Alberta *Municipal Government Act*, R.S.A., 2000, c. M-26 ("the MGA"). Pursuant to Section 226(1) of the MGA I am responsible for determining, and making a declaration, whether any petition received by the City is sufficient or insufficient in accordance with legislative criteria.

On 2017 June 26, a petition entitled the *Petition Against the Establishment of a Highland Park Business Improvement Area* ("the *Petition*") was filed. The petitioners object to the establishment of the proposed Highland Park Business Improvement Area ("the BIA").

The *Petition* was reviewed by the Law Department and Calgary Neighbourhoods for compliance with the requirements of the MGA and the Business Improvement Area Regulation, AR 93/2016 ("the Regulation"). The process followed and the findings of that review are stated below.

DECLARATION

I declare to the Calgary City Council that the *Petition Against the Establishment of a Highland Park Business Improvement Area* is insufficient.

PROCESS TO DETERMINE SUFFICIENCY

In order for the *Petition* to be sufficient, it must meet all of the applicable statutory requirements in the MGA and the Regulation.

The process to assess whether the *Petition* complied with the mandatory statutory requirements in Sections 221 to 225 of the MGA and Sections 4(1) and (2) of the Regulation included the following:

1. a review by the City of Calgary Law Department for compliance with the requirements of the MGA; and,
2. a review by Calgary Neighbourhoods to count the number of valid signatures.

This process included verification of the following:

1. whether the signatories to the *Petition* met the eligibility requirements in Section 4(1) of the *Regulation* and Section 225(f)(3) of the MGA and were eligible to sign the *Petition*;
2. whether the *Petition* included the information required by Section 224(2) of the MGA for each petitioner;
3. whether the signature of each petitioner was witnessed as required by Section 224(3) of the MGA;
4. the number of petitioners (counted in accordance with Section 225 of the MGA); and,
5. whether the number of petitioners met the threshold of 51% required by Section 4(2)(a) of the Regulation.

FINDINGS OF REVIEW

The Law Department identified that the *Petition* failed to meet the requirements in the following sections of the MGA:

1. Section 224(3): *Petition* missing the required affidavit of witness to signatures; and,
2. Section 224(4): *Petition* missing the required signed statement of representative of the petitioners which must be attached to the *Petition*.

Calgary Neighbourhoods identified that the *Petition* failed to obtain the required number of signatures to meet the 51% threshold under Section 4(2)(a) of the Regulation. The total number of persons eligible to sign the petition is 304. The minimum number of signatories for the *Petition* to meet the requirement ins. 4(2)(a) of the Regulation is 153. The number of signatures counted is 119.

In counting the signatures, Calgary Neighbourhoods reviewed the *Petition* to verify that the signatories were eligible under Section 4(1) of the Regulation to sign the *Petition*, and counted the signatures in accordance with Section 225 of the MGA. Calgary Neighbourhoods conducted a line by line review of each signature on the *Petition*, and excluded 39 signatures from the count because the signatures do not meet the statutory requirements. The grounds for exclusion included: duplication of signatures; signatures not witnessed; errors in the printed name of petitioner; the qualifications entitling a person to sign the petition is not, or is incorrectly, described or set out in the *Petition*; and the date when the person signed the *Petition* is not stated.

A numerical breakdown of the signatures counted and threshold calculation is provided below.

Petition	
	Number
Signatures on Petition	158
Signatures Excluded from Count	39
Signatures Counted	119
51% Threshold Calculation	
Total Number of Potential Ratepayers	304
Total Number of Signatures Counted	119
Percentage of Signatures	39.1%

CONCLUSION

Based on the deficiencies identified, I determine the *Petition* does not meet the requirements of Sections 222 to 226 of the MGA, and declare the *Petition* to be insufficient.

Signed at the City of Calgary, in the Province of Alberta, July 24, 2017



JEFF FIELDING, City Manager