

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

IN THE MATTER OF THE *FARM PRACTICES (RIGHT TO FARM) ACT*

AND

IN THE MATTER OF A COMPLAINT FILED AGAINST A NURSERY WITH
RESPECT TO DRAINAGE ISSUES

BETWEEN:

PATRICK MORAN

COMPLAINANT

AND:

KATO'S NURSERY (2007) LTD.

RESPONDENT

WRITTEN REASONS AND ORDER

WHEREAS:

- On May 2, 2011, BC Farm Industry Review Board (BCFIRB) received a notice of complaint from Patrick Moran (the complainant) regarding water drainage issues affecting his property alleged to be the result of the farm practices of Kato's Nursery (2007) Ltd. (the respondent).
- Following a facilitated settlement process, substantial modifications were made to the drainage on the respondent's property, as well as a downstream property.
- Following the completion of the drainage modifications, in 2015 the complainant was asked to withdraw his complaint but he declined to do so.
- Section 31(1)(f),(2) and (3) of the *Administrative Tribunals Act* allow for summary dismissal of a complaint which has no reasonable prospect of success, after giving the

complainant an opportunity to make written submissions and upon providing written reasons.

- By letter dated March 9, 2016, the complainant was given an opportunity to provide a written submissions explaining why, in light of the significant changes to the complained of practices leading to the 2011 notice of complaint, this complaint should not be summarily dismissed.
- The complainant did not provide BCFIRB with a written submission by the requisite deadline.
- BCFIRB is satisfied that the circumstances leading to the filing of the 2011 notice of complaint have materially changed over the past five years and should the complainant be aggrieved by a current farm practice of the respondent (including its drainage management practices), a new complaint would need to be filed.

THEREFORE THIS BOARD ORDERS:

- That the complaint filed on May 2, 2011 by the complainant, Patrick Moran, against the respondent, Kato's Nursery (2007) Ltd., be summarily dismissed.

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per:



John Les
Chair

Dated: March 18th, 2016 at Victoria, British Columbia.