



BC Farm Industry Review Board

February 25, 2022

File: F2202

DELIVERED BY EMAIL

Israel Cohen



Alia Elaraj and C.J. McNichol



Dear Parties:

A COMPLAINT FILED UNDER THE FARM PRACTICES PROTECTION (RIGHT TO FARM) ACT CONCERNING NOISE FROM ROOSTERS

On January 31, 2022, the BC Farm Industry Review Board (BCFIRB) received a complaint and the \$100.00 filing fee from Israel Cohen, of Salt Spring Island, BC alleging that he is aggrieved by a noise disturbance from roosters on a neighbouring farm operated by Alia Elaraj and C.J. McNichol.

By letter dated February 2, 2022, BCFIRB set up a submission schedule to hear from the parties on the threshold issue of whether the subject complaint involves a disturbance resulting from a farm operation conducted by a farm business as required by section 3 of the [Farm Practices Protection \(Right to Farm\) Act \(FPPA\)](#):

3(1) if a person is aggrieved by any odour, noise, dust or other disturbance resulting from a farm operation conducted as part of a farm business, the person may apply in writing to the board for a determination as to whether the odour, noise, dust or other disturbance results from a normal farm practice.

The parties were also asked to explain how the rooster is integral to the particular farm business.

I have reviewed the brief submissions. The respondents describe their "normal farm" as consisting of 19 chickens (2 roosters), 7 chicks, 18 hatching eggs in transit, 2 mini-Border Cheviot sheep, 3-5 call ducks on order, a kitten and a livestock guardian dog. They sell eggs from the chickens which covers their cost of feed and housing. They have never claimed "farm status" and describe themselves as "hobby farm enthusiasts". Food security and self-reliance is important to them. They indicate they plan to move the chicken coop which they hope will provide some sound abatement.

The complainant states they have not noted any farm business on the property and that the farm stand at the bottom of the driveway has been empty since it was put up last fall. They say the respondents indicated to them that they have "farm status".

Web:

Email: firb@gov.bc.ca

Website: www.gov.bc.ca/BCFarmIndustryReviewBoard

Phone:

Info: 250 356-8945

Fax: 250 356-5131

Mail:

PO Box 9129 Stn Prov Govt
Victoria BC V8W 9B5

Location:

2975 Jutland Rd
Victoria, BC V8T 5J9

Decision

For the reasons set out below, I find that the subject matter of this complaint is not within the jurisdiction of BCFIRB under s. 3 of the *FPPA* and as such, I decline to refer the complaint to a panel for hearing.

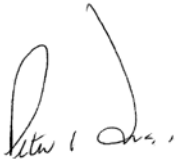
In this case, the parties are in agreement. The complainant does not believe there is a farm business on the property. The respondents describe themselves as running a hobby farm with no significant income generated. The rooster noise disturbance complained of arises out of the respondents' lifestyle choice as opposed to a farm operation conducted by a farm business. The *FPPA* was not designed to address every complaint by a neighbour about a disturbance resulting from a farm operation or farm animal.

In my view, it is not appropriate for the complainant to bring a complaint to BCFIRB where there is no evidence that a disturbance arises out of a farm operation conducted by a farm business. The complainant can and should pursue existing common law remedies in nuisance or alternatively, take their noise complaint up with local government. Further, the protections offered by the *FPPA* only apply to farm businesses following normal farm practices; where there is no farm business the protections have no application.

As such, the complaint is dismissed.

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per:

A handwritten signature in black ink, appearing to read "Peter Donkers". The signature is written in a cursive style with a large initial "P".

Peter Donkers
Chair, BC Farm Industry Review Board

Enclosure