



July 25, 2014

File: #14-08

DELIVERED BY E-MAIL

Art Friesen
Eggstraordinary Poultry Ltd.
50285 Camp River Rd
Chilliwack BC V2P 6H4

Al Sakalauskas
Executive Director
BC Egg Marketing Board
250, 32160 S Fraser Way
Abbotsford BC V2T 1W5

Dear Sirs:

RE: Eggstraordinary Poultry Ltd. v BC Egg Marketing Board

On June 23, 2014, the BC Farm Industry Review Board (BCFIRB) received a notice of appeal from Art Friesen of Eggstraordinary Poultry Ltd.. The notice was accompanied with a \$100 filing fee.

Mr. Friesen enclosed his letter to the BC Egg Marketing Board dated May 7, 2014 which asked a number of questions about how the Egg Board's new enriched cage policy would be applied in his circumstances

By way of background, in a decision of November 19, 2013, the Egg Board directed that after December 31, 2013, no new cage system may be installed, and no unused cage system may be commissioned, unless it is an enriched cage system, free-run, free-range or aviary system and that any farms not already at the present minimum standard of 67 inches will need to reach that density within two full lay cycles.

Mr. Friesen stated that as the Egg Board had not replied to his letter, he was unable to proceed with the update of his facilities which was causing him considerable hardship. To my knowledge there has been no subsequent response from the Egg Board regarding Mr. Friesen's May 7 letter.

Section 8 of the *Natural Products Marketing (B.C.) Act*, R.S.B.C. 1996 c. 330 (NPMA), gives a "person aggrieved by or dissatisfied with an order, decision or determination of a marketing board or commission" a right of appeal to BCFIRB. In this case, Mr. Friesen is not aggrieved by an order, decision or determination of the Egg Board, as the decision to enact the enriched cage policy was made in November 2013 and I have previously ruled that Mr. Friesen's appeal of that decision was out of time, see *Eggstraordinary Poultry Ltd. v BC Egg Marketing Board*, April 23, 2014.

**British Columbia
Farm Industry Review Board**

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Instead, the subject matter here is that Mr. Friesen is unhappy that to date the Egg Board has not responded to his May 7 letter and answered his questions or given him the guidance he needs to move forward with implementing the new enriched cage policy on his operation.

As the Egg Board has not responded to Mr. Friesen's letter and has not made an order, decision or determination in response to that letter, Mr. Friesen is not aggrieved within the meaning of s. 8 and there is no right of appeal. As I have found that this is not a valid appeal, the filing fee is being returned to Mr. Friesen.

I note that in his letter Mr. Friesen has called this a "complaint" not an appeal but the *NPMA* does not create a formal complaint process. Section 7.1 of the *NPMA* does give BCFIRB general supervisory authority over commodity boards and it may be that the real purpose in filing this "complaint" is that Mr. Friesen wants BCFIRB to direct the Egg Board to respond to his questions.

As a matter of courtesy, Mr. Friesen deserves a response from the Egg Board. That response may simply be an acknowledgement that the Egg Board is still working out transitional details. As the first instance regulator of the egg industry, it is for the Egg Board to determine how to implement its new enriched cage policy and how regulated producers will transition from the current production requirements to the new cage system. This transition may take time and may or may not be further complicated by the fact that the Egg Board's proposed quota distribution policy and other changes resulting from the Egg Board's 'Core Review' are currently before BCFIRB awaiting prior approval.

That said, regulated producers like Mr. Friesen do need guidance as they transition from the old cage system to the new enriched system and I would encourage the Egg Board to address these implementation issues as expeditiously as possible. Once implementation issues have been addressed, aggrieved parties may then exercise their right of appeal to BCFIRB as may be appropriate in the circumstances.

Dated at Victoria, British Columbia this 25th day of July, 2014

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per:



Diane Fillmore, Presiding Member