



THE CITY OF
CALGARY

February 26, 2016

CORRECTED

Cambrian Heights Community Association
Planning Committee
Attention: Mr. Daryl Beatty
44 Connaught Dr NW
Calgary, Alberta
T2K 1V8

Dear Daryl and Gary,

It was a pleasure meeting with you both and I must apologize that I have not responded sooner.

Caveats are placed on the Certificate of Title of numerous residential properties throughout the City's inner city communities. Some of the caveats date from pre-World War I and were placed on title by Canadian Pacific Railway, some caveats regulate the minimum setback from the front property line, while others state the size of a house and whether chickens are allowed. Caveats were a tool to regulate development prior to more sophisticated planning legislation at a provincial level and zoning, development control and land use bylaws at a municipal level. In the more suburban communities, the original developer may use caveats for architectural controls to regulate the colour and design of new houses in their community.

In your particular community, the caveat that appeals on most property owner's certificate of title dates from 1956. Since that time the City has adopted at least 5 distinct bylaws to regulate the use and development of land within the corporate limits of Calgary. The most recent bylaw is Land Use Bylaw 1P2007 adopted by City Council on June 1, 2008. This is the guiding document for development within Calgary. The Development Authority cannot follow caveats that to **do not** follow any planning legislation approved at a Provincial and Municipal level of government.

I have seen cases in Elboya and Britannia where the immediate neighbours go to Court (Alberta Queen's Bench) to have the Court enforce the caveat. This is done on an individual approach and the case is heard before a Judge where the Judge decides on whether the caveat will be enforced. In one particular case, the homeowner was required by a Judge to relocate their proposed house to the prescribed setback from the front property line as noted in the Caveat. That homeowner also required a new development permit application, as their previously approved permit situated the house within the caveat's required minimum setback.

The above mentioned process is costly and very personal. I have seen other cases where the homeowner has requested Court to discharge (remove) the caveat and have been successful.

By the Development Authority following the rules of the Land Use Bylaw, the uses and development rules are applied throughout the City. City Council held a public hearing and adopted the current Land Use Bylaw in accordance with the Municipal Government Act.

I trust this explanation will be worthwhile and if you have any further comments or questions, kindly contact me.

Sincerely,

A handwritten signature in blue ink that reads "Carol McClary". The signature is written in a cursive style with a large, sweeping initial "C" and "M".

Carol McClary

Technical Lead Planner
Inspection and Permit Services
Mail Code # 8094