

BACKGROUND

Resort Associations

Introduction:

A resort association (RA) is an incorporated society established under provincial legislation to promote a resort. It has the ability to levy and recover charges from commercial and residential property owners for promotional activities which can include central booking, marketing, signage, and special events. These activities can increase visitation, new investment, and development to support resort industry and tourism growth.

History:

The first RA was established in Whistler in 1979. In 1995 legislative changes enabled the creation of RAs in other areas. Since then, two additional RAs have been established for Sun Peaks (1996) and Red Resort Association (2007).

The Ministry of Municipal Affairs and Housing is responsible for the legislative framework for RAs. The two key statutes are the *Resort Municipality of Whistler Act* and the *Resort Associations Act*.

Creating a Resort Association:

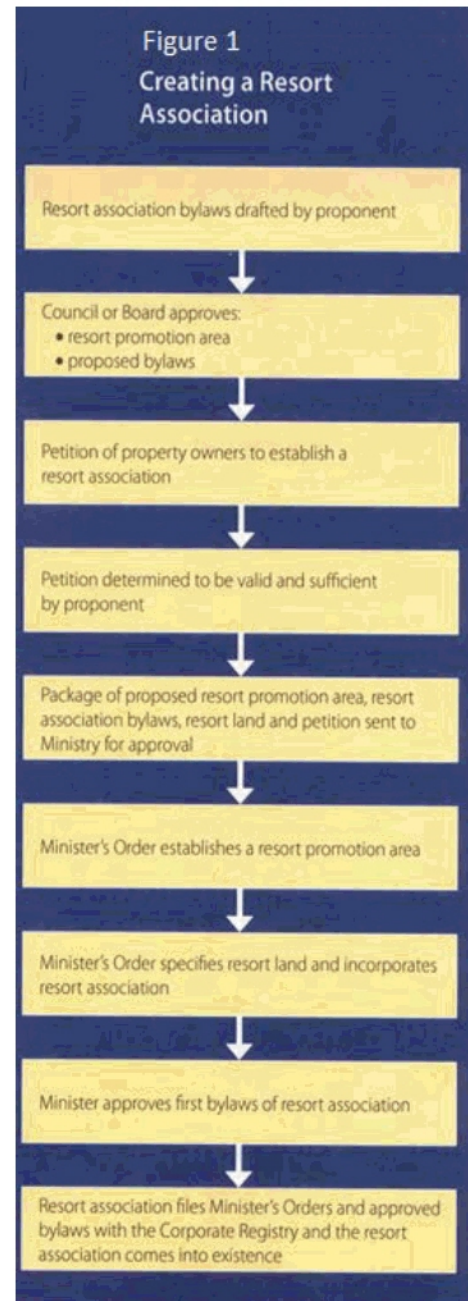
As show in Figure 1, the process for creating a new RA starts with identifying the resort promotion area, drafting society bylaws and undertaking community engagement with property owners and stakeholders. From there, local government endorsement, a positive petition result and ministerial approval are required to formally establish an RA.

Determining the RA Area:

Proponents of an RA first have to consider the scope of the “resort promotion area” which is the wider area of resort recreation and potential development. Within the resort promotion area is a smaller designated area called “resort land” which is the area within which a resort association can levy a charge to recover the costs of resort promotion. Over time this area can be expanded to take in new commercial or recreational development.

Drafting Bylaws:

Proponents next develop draft bylaws for the proposed RA and undertake engagement with resort property owners. The bylaws can include provisions for: membership, voting rights of members, levying assessments on members, and the promotional activities of the RA. The draft RA proposal – including the proposed resort promotion area, resort land, and bylaws – is forwarded to the local government which then considers supporting it or not by resolution.



Petition:

With local government approval, the proponents develop a petition under s. 211 of the *Community Charter*. This petition must describe the promotional scheme, define the boundaries of the resort promotion area (with a map), identify the method of cost recovery and estimate costs to business and residential property owners. Half of the property owners, together representing half of the assessed value of the properties, need to sign the petition to enable the petition to be valid and sufficient. Typically, proponents may contact smaller numbers of property owners directly, especially the larger commercial entities and hotels, but would mail out the petition where there are large numbers of owners involved. Petitions may take months to complete where there are larger numbers of owners.

Minister's Role:

The package of the resort promotion area and resort land maps, bylaws, local government approval and the petition results are then submitted to the Minister of Municipal Affairs and Housing for consideration. The Minister must be satisfied that the area for the RA has alpine ski operations with year round recreational facilities and overnight hotel accommodations (or is in a resort region), and further that the RA promotion area has local government support. The Minister must also be satisfied with the petition process. By policy, Ministry staff also provide an assessment to the Minister on whether or not the RA scheme seems fair and equitable.

Final Steps:

As a final step in the process, an RA comes into existence when its bylaws, list of first directors and address are filed with the Registrar of Companies.

Resort Association History and Creation Process

History:

In 1995, special features under the *Resort Municipality of Whistler Act* were made available to other mountain resorts under the *Mountain Resort Associations Act* (MRAA) including enabling the creation of a mountain resort associations in other areas. Other changes included: waiving the need for assent for capital borrowing, increasing development cost charges; and expanding development permit powers to include external appearances of buildings.

Later in June 2007, the MRAA was amended as part of a broader resort legislative package to facilitate resort development. Renamed the *Resort Associations Act* (RMA), the new Act widened applicability to non-mountain resort communities. As well, the legislation was changed to directly link the petition of property owners in the resort promotion area to the creation of the resort association.

Creating a Resort Association:

Resort associations are typically created early on when a resort is just starting to grow and has few property owners. They are usually proposed by the resort owners, with the support of commercial property owners and the developers of residential properties who have a strong interest in drawing people to the resort.

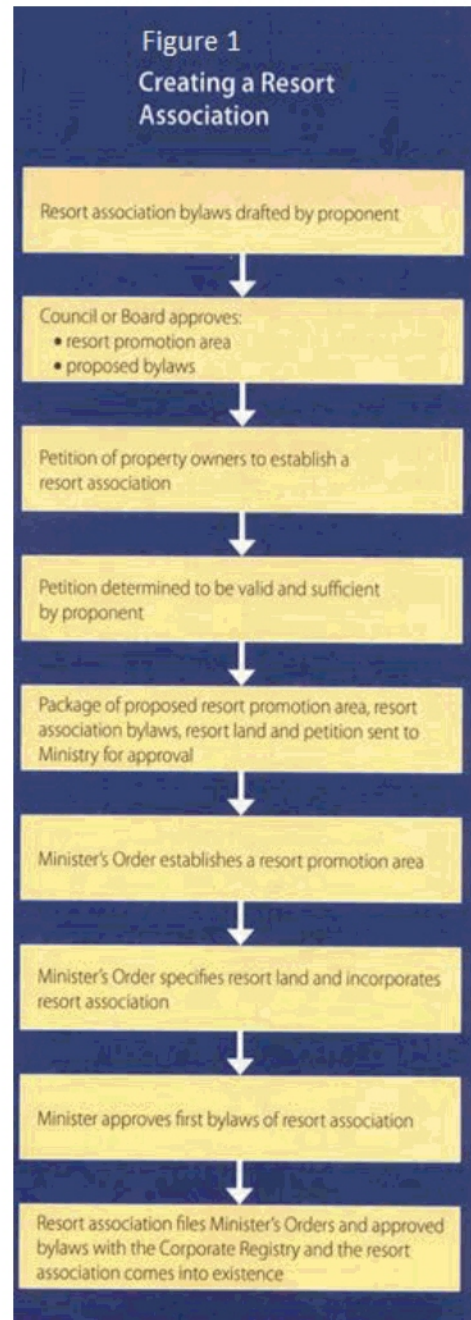
As show in Figure 1, the process for creating a new RA starts with identifying the resort promotion area, drafting society bylaws and community engagement. From there, local government endorsement, a positive petition result and ministerial approval are required to formally establish an RA.

Determining the RA Area:

Proponents of a resort association first have to consider the scope of the “resort promotion area” which is the wider area of resort recreation and potential development. Within the resort promotion area is a smaller designated area called “resort land” which is the area within which a resort association can levy a charge to recover the costs of resort promotion. Over time this area can be expanded to take in new commercial or recreational development.

Draft Bylaws:

Proponents next develop draft bylaws for the proposed RA



and undertake engagement with resort property owners. The bylaws can include provisions for: membership, adding members, voting rights of members and levying assessments on members. The draft resort association proposal -- including the proposed resort promotion area, resort land and bylaws – is then forwarded to the local government which then considers supporting it or not by resolution.

Petition:

With local government approval, the proponents develop a petition under s. 211 of the *Community Charter*. This petition must describe the promotional scheme, define the boundaries of the resort promotion area (with a map), and identify the method of cost recovery and estimate costs to business and residential property owners. Half of the property owners, together representing half of the assessed value of the properties, need to sign the petition to enable the petition to be valid and sufficient. Typically, proponents may contact smaller numbers of property owners directly, especially the larger commercial entities and hotels, but would mail out the petition where there are large numbers owners involved. Petitions may take months to complete where there are larger numbers of owners.

Minister's Role:

The package of the resort promotion area and resort land maps, bylaws, local government approval and the petition results are then submitted to the Minister of Community, Sport and Cultural Development for consideration. The Minister confirms if the proposal has alpine ski operations with year round recreational facilities and overnight hotel accommodations (or is in a resort region), confirms the local government support by resolution, and then determines if the bylaws are fair and equitable and decides if there is evidence the petition is sufficient.

Determining if Bylaws are Fair and Equitable:

Bylaws are reviewed by Ministry staff to determine:

1. Association governance has adequate sectoral representation by residential, residential lodging, hotels, commercial, resort operator, etc. on the association board of directors
2. Promotional scheme includes activities that would reasonably be expected to promote, facilitate and encourage the development and operation of a resort promotion area
3. Activities of promotional scheme produce an annual budget that is supportable by the owners of property inside the resort lands according to an equitable fee schedule (each property type pays reasonable fees according to benefits received)
4. Reasonable process for stakeholder engagement on resort association proposal has been undertaken and the outcomes of the engagement are reflected in bylaw changes to improve equity and fairness to various sectors of property owners

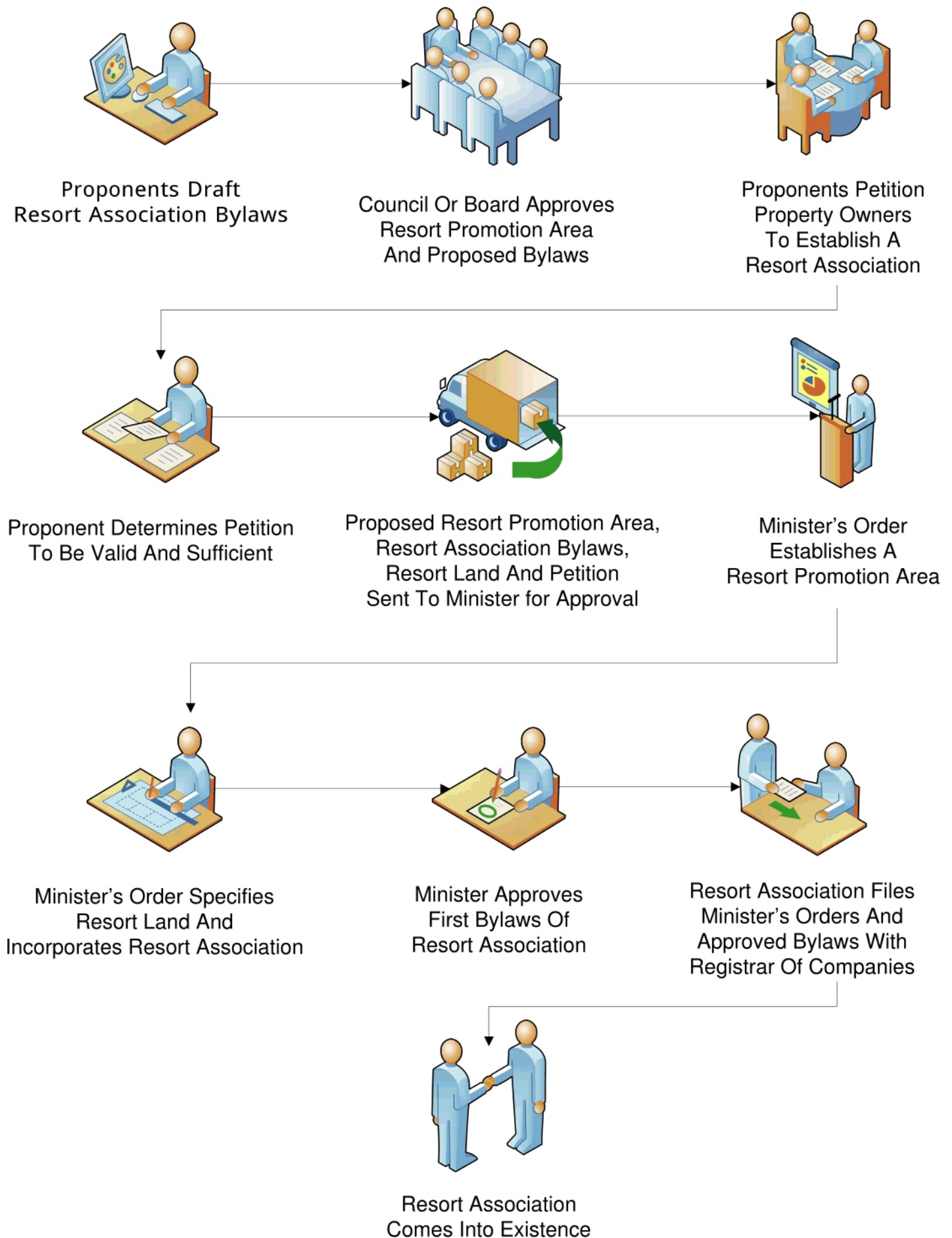
Determining if Petition is Sufficient:

1. Petition should be reviewed and verified by competent third party before the proponent sends it to the Ministry along with the RA submission package.
2. The number of petitions signed by property owners must be greater than half the properties within the resort promotion area.
3. As well, the petitions together must represent greater than half the total assessed value of the total properties within the resort promotion area.

If the numbers of petitions is close to 50% of the total property owners, and if there is considerable local resistance to the resort association it may not be prudent for the Minister to create the resort association for the proposed geography or with the current bylaws.

If the package is complete and submitted from a year-round resort (as defined above) and the Minister is assured that the bylaws are fair and equitable and the petition is sufficient, the Minister may approve the bylaws, sign a Minister's Order specifying the resort promotion area and sign a second Minister's Order specifying resort land and incorporating the resort association. The orders and approved bylaws along with the names of the first directors and the association address are then registered with the Corporate Registry to bring the resort association into existence as a society.

s.13



PETITION For Establishment of a Resort Association

(Date)

To: The Minister of Community, Sport and Cultural Development

WHEREAS:

1. The (name of resort) offers year-round recreation facilities including overnight accommodation and alpine ski lift operations **or** there is a development agreement signed with the provincial government to provide year-round recreation facilities as above **or** the area is within a resort region as defined by the *Local Government Act*;
2. The *Resort Associations Act* provides a mechanism for incorporating a Resort Association (Association) for the purpose of promoting, facilitating and encouraging the development, maintenance and operation of a resort promotion area;
3. The process for incorporating an Association involves:
 - a. Obtaining approval of landowners in the resort promotion area of creation of the Resort Association and its proposed first bylaws;
 - b. Obtaining approval of the council of the municipality or board of the regional district in which the resort promotion area is located for establishing the resort promotion area, designation of resort lands, creating a resort association and its proposed first bylaws;
 - c. Making application to the Minister of Community, Sport and Cultural Development (Minister) for an order that establishes the resort promotion area;
 - d. Making application to the Minister for an order that specifies the resort land and incorporates the Resort Association; and
 - e. Filing with the Registrar of Companies the Minister's Order, the Association bylaws, a list of directors of the Association, and the address of the Association to complete the incorporation.

NOW THEREFORE IT IS REQUESTED THAT:

1. The area outlined in bold black on the map attached to this petition as Schedule A be designated by the minister as a resort promotion area;
2. The area outlined in bold black on the map attached to this petition as Schedule B be designated by the minister as resort land and;
3. That the minister approve incorporation of an Association under the name (name of Association) and approve the first bylaws of the (name of Association) in the form attached to this petition as Schedule C.

The first directors of the Association are:

(name and addresses)

The registered and records address of the Association is (address).

I understand that each member of the Association is required to pay assessments levied in accordance with the bylaws of the Association.

Signature of Landowner

Date

Name: _____

Address: _____

RESORT ASSOCIATION BYLAW CHANGE PROCESS

Process for approval of bylaw amendments for a resort association:

1. The Resort Association takes their draft bylaws to their initial review by membership or a bylaw committee.
2. The Resort Association submits their draft bylaw(s), prior to their approval or adoption by the RA, to their municipality and the Ministry of Community, Sport and Cultural Development (Ministry) for their review and comment.
3. The Resort Association should provide information to the City and the Ministry in support of their bylaws which explains:
 - a. What they are trying to accomplish in remove a section in bylaws or adding new sections
 - b. Why they are wanting to do it
 - c. What the implications (costs and benefits) expected to be
 - d. What communication has been carried out with the members
4. The Resort Association makes the required changes to their bylaws and brings them to their membership for approval at the AGM or at an extraordinary general meeting
5. The Resort Association submits the finalized bylaws first to the local government and then to the Ministry for their respective approvals
6. The Ministry receives the amended bylaws, evidence of support by the membership, and a copy of the local government's approval (resolution) in support of the RRA's bylaws
7. The submission to the Ministry is supported by a short note answering the questions in part 2 above and includes the final version of the bylaws as approved by the RRA.

RESORT ASSOCIATION BYLAW REVIEW PROCESS

Process for approval of bylaws for a resort association:

1. The Resort Association takes their draft bylaws to an initial review by a group of proponents or a bylaw committee.
2. s.14
3. The Resort Association should provide information to the City or Regional District and the Ministry in support of their draft bylaws which explains:
 - a. What they are trying to accomplish in scope and extent of their bylaws
 - b. Why they are wanting to create certain governance and fee structures
 - c. What the implications (costs and benefits) are expected to be
 - d. What communication has been carried out with the resort community and what changes have been made to the bylaws in response
4. The Resort Association makes the required changes to their bylaws and brings them back to their working group for approval and perhaps a legal opinion.
5. The Resort Association submits the finalized bylaws first to the local government and then to the Ministry for their respective approvals
6. The Ministry receives the amended bylaws, evidence of support by the membership, and a copy of the local government's approval (resolution) in support of the association bylaws
7. The submission to the Ministry is supported by s.13 answering the questions in part 3 above and includes the final version of the bylaws as approved by their local government
8. Ministry staff consider the bylaws to determine:
 - a. If there was adequate opportunity for public engagement and comments
 - b. Are they consistent s.13 and with the requirements of the Society Act
 - c. Have they been reviewed and vetted by the proponent's legal counsel
 - d. Do the bylaws provide a fair and equitable operating environment for the resort association members s.13 s.13
 - e. If bylaws provide a clear outline of promotional services offered, operational rules and role of board, and the means to add further members to the resort land.

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s.13

From: [McGowan, Alex MAH:EX](#)
To: [Carsen, Dannie MAH:EX](#)
Subject: Resort Association work
Date: February 8, 2018 1:06:50 PM
Attachments: [s.13](#)

Hi Dannie,

Here's a doc that I've been working on. I will have another hour or so after 3pm to work on it- I was thinking that it would be most helpful for you folks if I put together a separate document [s.13](#)
[s.13](#)

For now, here's what I've got for your review.

Alex

Alex McGowan | Legislative Intern
Governance & Structure Branch | Ministry of Municipal Affairs and Housing
Direct: 250-812-8555 | Email: alex.mcgowan@gov.bc.ca

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s.13

Process for Establishing an Resort Association

Sequential Steps

Define resort land and resort promotion area; and draft bylaws	Local government approval	Petition	Minister approval (after local approval and after petition)	Ministers Orders, First bylaws filed with the Registrar of Companies
	RSA Section 2(2)(b)	3(2)	RSA 2(2)(b); and 3(2)	RSA 3(6)

Process for Amending the Bylaws of an Established Resort Association

Sequential Steps

Draft amendments and go through special amendment process (follow bylaws and <i>Societies Act</i>)	Approval of the local government	Approval of the Minister	Bylaw alteration is filed by the registrar
	Sequence not clear under RSA 7(2)		

#	Process to Establish a Resort Association	Resp
1.	Area offers year-round recreation facilities including overnight accommodation and ski lift operations or development agreement signed with provincial government or the area is within a resort region as defined by the <i>Local Government Act</i>	Ass
2.	Local government council or board has, by resolution, approved establishment of Resort Promotion Area (Area) and the proposed bylaws of Resort Association	LG
3.	Petition to property owners in Resort Promotion Area to create proposed Resort Association	Ass LG
4.	Petition is ^{s.14} (50% of landowners with 50% of assessment), and provided to local government	Ass Min
5.	Application to Minister of Community Services (Minister) for creation of Resort Promotion Area, incorporation of Resort Association, designation of Resort Land and approval of proposed first bylaws	Ass
6.	Minister's Order signed to create a Resort Promotion Area	Min
7.	Minister's Order signed that incorporates Resort Association for the Resort Promotion area and designates Resort Land	Min
8.	Minister approves first bylaws of Resort Association	Min
9.	Approved association bylaws, the associated Minister's Orders, a list of first directors and association address(es) are filed with Registrar of Companies to enable association operations	Min

Ass=Association

Min= Community Sport & Cultural Development

LG=Local Government

PETITION
For Establishment of the *Name of* Resort Association

(Date)

To: The Minister of Community, Sport and Cultural Development

1. Pursuant to section 3(2) of the *Resort Associations Act* we petition the Minister of Community, Sport and Cultural Development to create a Resort Association to promote, facilitate and encourage the development, maintenance and operation of the Resort Promotion Area as further described in this Petition.
2. The boundaries of the Resort Promotion Area are outlined in the map attached to this Petition as Schedule 1.
3. The activities to promote, facilitate and encourage the development, maintenance and operation of the Resort Promotion Area include:
 - a.
 - b.
 - c.
 - d.
 - e.
4. If the Resort Association is established, each member of the Resort Association will be required to pay the levies described in the bylaws of the Association.

Levies on Members

e.g., Fees based on type, use and/or size of property, should include amount and frequency of payment plus default provisions as described in the proposed Resort Association bylaws.

5. The boundaries of the Resort Land are outlined in the map attached to this Petition as Schedule 2.

6. We the undersigned are owners of land within the Resort Promotion Area and we submit this Petition in favour of establishing the **Name of Resort Association**.

Property Address_____

Legal Description_____PID_____

Name of Property Owner

Signature of Property Owner

Date

Name of Property Owner

Signature of Property Owner

Date

Name of Property Owner

Signature of Property Owner

Date

Name of Property Owner

Signature of Property Owner

Date

NOTE: If there are two or more owners of properties, all owners should be listed and a majority of owners must sign.



BRIEFING NOTE FOR INFORMATION

Date: December 13, 2018

Prepared For: Honourable Selina Robinson, Minister of Municipal Affairs and Housing

Title: Silver Star Mountain Resort Association Status – Meeting Advice

Issue: Meeting advice for a Silver Star property owner opposed to the establishment of a resort association.

SUMMARY:

- **As there is no proposal currently before the ministry, staff advise that the Minister not accept any meeting requests at this time. In the interim, a draft reply email is appended to this note to respond to requests.**
- **A proposal to establish a resort association is still in the petition stage, which is nearing completion. It is anticipated a decision could come to the ministry early in the new year.**
- **When the proposal arrives for review, staff will assess all the information available to determine if additional information or meetings would help the decision process.**
- **s.13**
- **Ministry staff continue to monitor the process and encourage concerned residents (supporters and critics) to direct comments to the Silver Star Resort Association Task Force.**

BACKGROUND:

For the past two years, the Silver Star Resort Association Task Force (Task Force) has been leading a proposal to establish a resort association for the Silver Star Resort. The task force is a group of interested stakeholders, including individual property owners, businesses, hotels and the resort operator. Currently, the resort has a recreation management fee system to raise revenue for resort promotion that the task force says is not working and excludes many of the properties that benefit from being part of a resort. There is support and opposition in the community and the ministry has received communications from both sides.

Silver Star Mountain Resort is located within Electoral Area C of the Regional District of North Okanagan (RDNO), northeast of the City of Vernon. Silver Star Mountain Resort is an important part of the north Okanagan regional economy, with over 1,500 employees and 500,000 visitors annually. The population at the Silver Star Mountain Resort is less than 300 full-time residents.

As an unincorporated community, rather than a self-governing resort municipality, Silver Star indirectly shares in the benefits of the annual regional district grant from Ministry of Municipal Affairs and Housing (MAH) to the RDNO but receives no other provincial funding. It is not among the 14 BC resort municipalities that share \$10.5 million annually under the Province's Resort Municipality Initiative (through Tourism, Arts and Culture).

While rarely used, the Province has a legislative framework for creating "resort associations," which are incorporated societies established to promote a resort. The last resort association established in the Province was Red Resort in 2007. Other resort associations exist in Whistler (1979) and Sun Peaks (1996).



The legislation requires support from the local government and a successful petition process before a proposal can come to the Minister for a final decision to establish a resort association.

In this instance, the RDNO board [approved](#) the proposal in February 2018. Following that, the Task Force started the petition process in September 2018 and is nearing the end of the petition gathering stage.

The proposal to establish a resort association coincides with a review underway to update Silver Star's Master Plan between the Province and the resort that permits the resort to operate on Crown land. Managed by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD), if approved, the new Master Plan would enable new development to expand the resort operations and the base area, including new accommodation. There is no conflict between the Master Plan process and the resort association proposal. [s.13](#)

[s.13](#)

DISCUSSION:

Creating a resort association can improve marketing and build better brand awareness for a resort to increase visitation, in overall support of BC's tourism economy. Resort associations do this through their authority to levy charges or fees on commercial and residential property owners for promotional activities including marketing, signage, booking and events planning.

The Task Force and supporters for creating a resort association at Silver Star want to enhance the competitiveness of the resort to draw in more tourists. They argue that the current voluntary resort promotion scheme is not effective and fair. Critics of the proposal assert that creating a resort association changes the pretext under which they originally purchased their homes and that they should be exempted. The Task Force has affirmed that an owner of a resort property not offered for rent or otherwise used for commercial purposes will not have to pay the resort association dues.

The ministry has been contacted by both critics and supporters of the proposed resort association. [s.13,s.14](#)

The gathering of petitions is expected to close December 14, 2018 at which time a former Chief Administrative Officer hired by the Task Force will start the validation process to see if the petition met the legislative threshold of 50 percent of local property owners, representing 50 percent of the assessed property value.

If the petition is successful, ministry staff anticipate that a request for a decision from the Minister would come forward early in January 2019. At that time, staff will review all available material in preparing a recommendation for the Minister and can also advise if meetings with representatives could aid the decision process by potentially bringing forward new information.

[s.13](#)

FINANCIAL IMPLICATIONS:

- None



Ministry of
Municipal Affairs
and Housing

Attachments: (1)

1. Suggested Content for Email Response



Ministry of
Municipal Affairs
and Housing

PREPARED BY:

Brent Mueller, Director
Governance and Structure Branch
(250) 778-698-3220

APPROVED BY:

Tara Faganello, Assistant Deputy Minister
Local Government Division

Jacqueline Dawes, Deputy Minister

DATE APPROVED:

December 13, 2018



Attachment 1: Suggested Content for Email Response

Suggested content for the Minister (or staff) to reply back:

Thank you for your email sent on November 21, 2018 regarding your concerns about a proposal to establish a resort association at Silver Star, and your request for a meeting.

As you may know, under provincial legislation, before I can receive a request to create a resort association, local government approval and a successful petition process is required.

With respect to the proposal to establish a resort association at Silver Star, local government approval was provided by the Regional District of North Okanagan earlier this year in February.

The petition process is now underway and is being conducted by the Silver Star Resort Association Task Force. If it is successful, it will be up to the Task Force to make a request to the Ministry to consider approving a proposal to establish a resort association. If it is not successful it cannot come before me for decision and cannot be established as proposed.

I appreciate your offer to meet with me, but at this time there is no decision before me to make. Again, the legislative process for the creation of a resort association lays out the process which includes approval of the local government and a successful petition, so community concerns can be heard.

If I do receive a proposal to establish a Resort Association at Silver Star, and as part of my deliberations and review of all of the information available, I will then consider the need for meetings with representatives from both sides.

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BRIEFING NOTE FOR INFORMATION

Date: November 16, 2018

Prepared For: Honourable Selina Robinson, Minister of Municipal Affairs and Housing

Title: Sun Peaks Mountain Resort Association Bylaw Amendments Approval

Issue: Resort association bylaw amendments require Ministerial approval under s. 7(2) of the *Resort Association Act* to have effect.

SUMMARY:

- **Sun Peaks Mountain Resort Association (SPMRA) has sent proposed bylaw amendments to the Ministry for approval.**
- **Staff reviewed the proposed amendments (as shown on attached draft SPMRA bylaws) and recommend approval through Minister's signature of the attached certificate.**

BACKGROUND:

A resort association is an incorporated society established under provincial legislation for resort promotion and marketing, with the ability to levy charges from property owners. The process to establish a resort association includes support from the local government, a successful petition process as defined in legislation, and approval from the Minister. Establishment and subsequent changes to operating bylaws require local government and Ministerial approval (*Resort Association Act*, section 7(2)).

Generally known as Tourism Sun Peaks, SPMRA was established on March 19, 1996, and has an annual operating budget of \$3 million to support resort promotion over an area that spans 5000 hectares and 1,500 properties in Sun Peaks Mountain Resort Municipality (in the Thompson-Nicola Regional District 58 kilometres from Kamloops). Core activities the organization undertakes include: operating an information centre, group sales and central reservations, travel trade development, and promotional campaigns.

After undertaking initial process steps to amend their bylaws, SPMRA submitted a package of proposed bylaw amendments to the Ministry for final approval on May 4, 2018. Attached to this note for review are:

- Minutes from the special extraordinary meeting held with the society's membership;
- A full copy of the bylaws with amendments shown in "markup"; and
- A copy of the resolution(s) of support from the Sun Peaks Mountain Resort Municipality.

DISCUSSION:

Resort promotion can support resort development and growth in the tourism industry. The Province has a legislative framework for the establishment of "Resort Associations," which are incorporated societies established to promote a resort. The last resort association established in Province was for Red Resort (2007). Along with Sun Peaks, the other resort association is in Whistler (est. 1979).

SPMRA is proposing a series of changes to their bylaws affecting operations and budget revenue. The process for making these changes has included communication with their membership, notification to First Nations, a special extraordinary meeting, and approval from the local government. The next step is a decision from the Minister.



The amendments respond to: changes at the resort, including the development of new hotels and a need to set a standard fee payment for the resort operator; opportunities to achieve administrative efficiency; and the need to align with changes to the new *Societies Act*. The main changes are as follows:

1. Stipulating the Annual General Meeting be held once in every calendar year (and not the current 15 month timeframe);
2. Adding a Director to bring the total to 6 from 7;
3. Fixing the Sun Peaks Operator fee at \$825,000.00 per year, paid in monthly installments instead of quarterly, commencing in the fiscal year ending in 2019;
4. Authorizing electronic communication of notice, statement or report by electronic means (by email where provided by members);
5. Changing naming conventions from "President" to "Chairman of the Board", and from "Vice-President" to "Vice-Chairman";
6. Enabling the hiring of a Chief Administrative Officer to undertake some of the tasks that were previously undertaken by Directors;
7. Enabling administrative and accounting tasks to be delegated from Directors to staff; and
8. Adding the Secretary "or his assistant" and The Treasurer "or his assistant" in requirements for financial statements and administrative reports.

Ministry staff are unaware of any issues or concerns in relation to these proposed amendments. The SPMRA undertook the changes with process guidance from the Ministry and with their own legal advice. The SPMRA is responding to changes at the resort to make sure property owner classes (sectors) are adequately represented and budget revenue appropriately apportioned with stable flow. The changes are also intended to ensure alignment with the *Societies Act* and to enable administrative efficiency.

s.16

Ministry staff are recommending approval of the bylaw amendments in the form of the attached certificate (need two copies). If signed by the Minister, Ministry staff will number the certificate, and send it back to the SPMRA, with a copy of the marked up bylaws indicating the approved changes. s.14

s.14

**FINANCIAL IMPLICATIONS:**

- None.

Attachments: (1)

1. Submission Materials including: minutes from extraordinary meeting; proposed bylaw amendments of SPMRA (amendments shown in red); and local government support resolution.

PREPARED BY:

Dannie Carsen, Senior Program Analyst
Governance Relations Branch
(778) 698-3259

APPROVED BY:

Tara Faganello, Assistant Deputy Minister
Local Government Division

Jacqueline Dawes, Deputy Minister

DATE APPROVED:

November 8, 2018

November 13, 2018



BRIEFING NOTE FOR INFORMATION

Date: October 19, 2017
Prepared For: Honourable Selina Robinson, Minister of Municipal Affairs and Housing
Title: Silver Star Resort Association Proposal
Issue: Silver Star Resort Association Task Force has developed a resort association proposal which is going to the Regional District of North Okanagan for approval

SUMMARY:

- **The Silver Star Resort Association Task Force (Task Force) has developed a proposal for a new Resort Association (RA) for the Silver Star Mountain Resort near Vernon in Regional District of North Okanagan (RDNO).**
- **As part of the RA establishment process, the RDNO has to approve the proposal. The Task Force is providing an update to the RDNO Committee of the whole on November 1 which will be followed by questions and discussion from the public. A vote and decision on the matter by the RDNO board is scheduled for November 15th.**
- **Following local government approval, a petition needs to be signed by 50 percent of the owners with 50 percent of the property assessment value in the resort promotion area. The proponents can then send the proposal to the Minister of Municipal Affairs and Housing for consideration.**
- **The Minister's role is to confirm that all legislative requirements have been met before approving the establishment of the RA.**

BACKGROUND:

The Task Force is working on a proposal to establish a resort association for the Silver Star Mountain Resort. The Task Force represents a group of interested stakeholders that includes individual property owners, businesses, hotels and the resort operator. The resort currently has a recreation management fee system (RAM) in place to raise revenue for resort promotion; the Task Force indicates that system is not working.

Silver Star Mountain is located 22 km northeast of the city of Vernon within Electoral Area C in the RDNO and has been in operation since 1958 with T-bar lifts developed in 1964 and Silver Star Mountain Resort incorporated in 1981. Hotels were built in the next 10 years and residential developments began in 1990. The estimated population living full time in the Silver Star area is currently 150 and the proposed resort promotion area would include approximately 1003 properties (Single family – 415; Strata Condos – 213; Strata Hotels 230; Non-Strata Hotels – 118; Commercial – 27). We estimate that 80% of residential type properties may be rentals; property owners not using their properties for rental or similar commercial type operations will not have to pay levies under the proposed bylaws.

RAs are local organizations that provide promotional services. Through member levies on property owners they raise funds to support activities such as central booking, marketing, signage and special events planning. Establishing an RA under the *Resort Association Act* requires:

- The approval of the municipal council or regional district board of the association and bylaws;
- A petition signed by 50 percent of the owners with 50 percent of the property assessment value in the resort promotion area; and



- Ministerial approval, which has three instruments: establishment of the resort promotion area by Minister's Order; approval of the first set of bylaws for the RA; and establishment of the resort land and the RA by a second Minister's Order.

Refer to Appendix 1 – Resort Association Backgrounder – for more information on RAs.

DISCUSSION:

The Task Force began developing a proposal to establish a RA in 2016. Its works to date have included researching other RA models, engaging in public and stakeholder consultation, drafting a proposed set of bylaws, with legal advice, and defining the proposed resort land and promotion area. The Resort Association model is designed to help promote a new resort and market land for development. Silver Star is a well-established community with lots of property owners which makes the situation more complicated.

The Task Force has also sought input from ministry staff and has been advised to: follow the legislative process; and undertake due diligence in developing their proposal including reviewing other existing RA bylaws and operations, consulting with the public, and adjusting the proposal to reflect input received. Ministry staff are also providing advice and answering questions related to the conduct of the petition process.

The proposed Silver Star RA would encompass the resort operations and base area. It would have an annual budget of approximately \$970,600 for promotional activities that would include: marketing and sales; research; communications; special event planning and execution; and resort community advocacy. The board would be comprised of 11 directors in total of which nine would be elected from these categories: Residential (1), Residential Lodging (2), At Large (2), Hotel Lodging (2), Commercial (1), Single Owner Hotel Lodging (1), Silver Star Mountain Resort, and two appointed by the Resort. The RA's fee structure is part of their draft bylaws. They have a provision that enables the Board to increase assessments annually at an amount no greater than the consumer price index + two percent.

Any other changes must be approved by Special Resolution to amend their bylaws. Amending provisions of their bylaws also requires local government and Ministerial approval after the RA conduct its internal process.

During public engagement, a small number of residential owners (~10-15 properties at Silver Star) have voiced concerns about being "forced" into an RA and having RA charges levied against their year-round residential properties. As well, there have been as many as five phone calls and letters from these residents to ministry staff, complaining about the formation of a resort association without their direct approval. Generally the concerns have come from residents from the older areas of Silver Star (the Knoll, Cabin Colony, Pinnacles Road, and Creekside) which were developed in the 1990-2000s and were not subject to the RAM. In response to the concerns raised, the proposed RA would not place levies on properties that are not being rented or operating as a business.

It will be up to the RDNO to determine if it supports the proposal at its meeting is scheduled for November 15, 2017. If approved, the Task Force would then have to conduct a petition process, which could take several weeks. If that process were successful, the proposal would then come to the Minister for consideration.

The RA process is underway at the same time as a review to update Silver Star's Master Plan between the Province and the resort that permits the resort to operate on Crown land. This process is managed by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNR). If approved, the new master plan would enable new development to expand the resort operations and the base area



including new accommodation. s.13
s.13

FINANCIAL IMPLICATIONS:

- None

Appendices: (1)

1. Appendix 1: Resource Association Backgrounder

PREPARED BY:

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APPROVED BY:

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Local Government Division

Jacqueline Dawes, Deputy Minister

DATE APPROVED:

October 18, 2017

October 19, 2017



Appendix 1 – Resort Association Backgrounder

Introduction:

A resort association (RA) is an incorporated society established under provincial legislation to promote a resort. It has the ability to levy and recover charges from commercial and residential property owners for promotional activities which can include central booking, marketing, signage, and special events. These activities can increase visitation, new investment, and development to support resort industry and tourism growth.

History:

The first RA was established in Whistler in 1979. In 1995 legislative changes enabled the creation of RAs in other areas. Since then, two additional RAs have been established for Sun Peaks (1996) and Red Resort Association (2007).

The Ministry of Municipal Affairs and Housing is responsible for the legislative framework for RAs. The two key statutes are the *Resort Municipality of Whistler Act* and the *Resort Associations Act*.

Creating a Resort Association:

As show in Figure 1, the process for creating a new RA starts with identifying the resort promotion area, drafting society bylaws and undertaking community engagement with property owners and stakeholders. From there, local government endorsement, a positive petition result and ministerial approval are required to formally establish an RA.

Determining the RA Area:

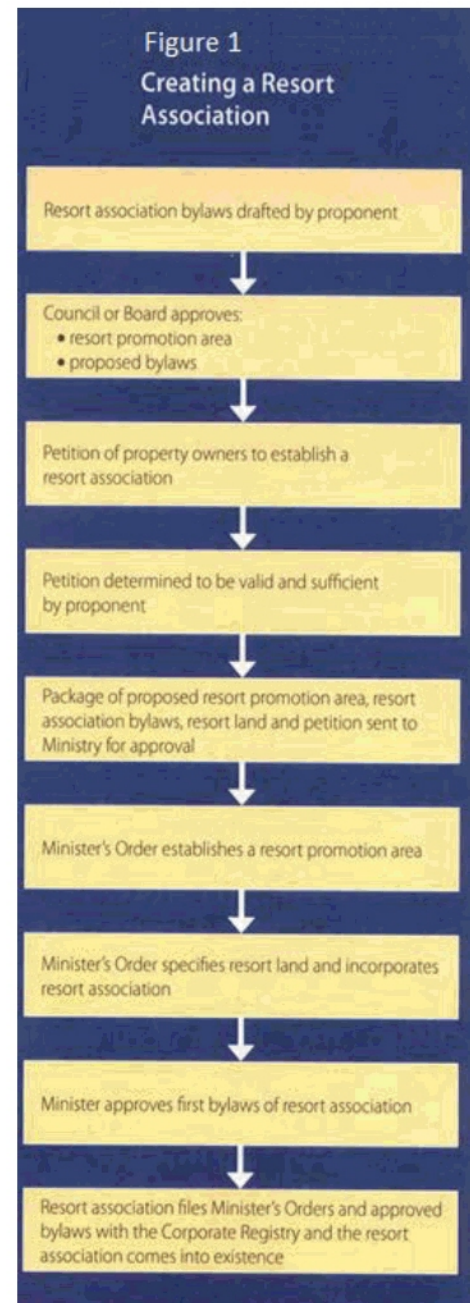
Proponents of an RA first have to consider the scope of the “resort promotion area” which is the wider area of resort recreation and potential development. Within the resort promotion area is a smaller designated area called “resort land” which is the area within which a resort association can levy a charge to recover the costs of resort promotion. Over time this area can be expanded to take in new commercial or recreational development.

Drafting Bylaws:

Proponents next develop draft bylaws for the proposed RA and undertake engagement with resort property owners. The bylaws can include provisions for: membership, voting rights of members, levying assessments on members, and the promotional activities of the RA. The draft RA proposal – including the proposed resort promotion area, resort land, and bylaws – is forwarded to the local government which then considers supporting it or not by resolution.

Petition:

With local government approval, the proponents develop a petition under s. 211 of the *Community Charter*. This petition must describe the promotional scheme, define the boundaries of the resort promotion area (with a map), identify the method of cost recovery and estimate costs to business and residential property owners. Half of the property owners, together representing half of the assessed value of the properties,





need to sign the petition to enable the petition to be valid and sufficient. Typically, proponents may contact smaller numbers of property owners directly, especially the larger commercial entities and hotels, but would mail out the petition where there are large numbers of owners involved. Petitions may take months to complete where there are larger numbers of owners.

Minister's Role:

The package of the resort promotion area and resort land maps, bylaws, local government approval and the petition results are then submitted to the Minister of Municipal Affairs and Housing for consideration. The Minister must be satisfied that the area for the RA has alpine ski operations with year round recreational facilities and overnight hotel accommodations (or is in a resort region), and further that the RA promotion area has local government support. The Minister must also be satisfied with the petition process. By policy, Ministry staff also provide an assessment to the Minister on whether or not the RA scheme seems fair and equitable.

Final Steps:

As a final step in the process, an RA comes into existence when its bylaws, list of first directors and address are filed with the Registrar of Companies.



Ref: 205060

s.22

Dear s.22

Thank you for your correspondence of February 17, 2017, to the Honourable Peter Fassbender, Minister of Community, Sport and Cultural Development, regarding a draft proposal to create a Silver Star Resort Association inside the Regional District of North Okanagan (RDNO). As the Director of Governance Relations, Local Government Division, your letter has been forwarded to me for response, pending the conclusion of the current election period and subsequent appointment of a new provincial Cabinet. I apologize for the delay in responding.

I appreciate that some property owners at Silver Star have concerns about a draft proposal from the Silver Star Resort Association Task Force (Task Force) to create a new resort association. In particular, property owners who have not paid a levy in the past for resort promotion activities under an existing scheme are concerned they may be required to pay a levy in the future. As well, I understand there are other concerns about the governance structure for the proposed resort association.

At the outset, it is important to clarify that there has not yet been a proposal submitted to the Minister for consideration. The draft proposal is still with the Task Force and community consultation is still underway.

To ensure a fair process, the Province of British Columbia has a legislative framework for creating a resort association. It includes the need for local government approval (in this case from the RDNO), and majority support of property owners representing at least 50 percent of the total property value in the area (determined through a petition process), before a proposal can be considered by the Minister. It is only after those conditions have been met that a submission is made to the Minister for decision about the creation of a resort association.

In this situation, Ministry staff has been advising all parties to work to find a reasonable path forward. In response to community engagement undertaken to date, I understand that the Task Force has been adjusting its proposal, including lowering the assessment and limiting residential property assessments to residential rentals and resort-related businesses run from residences. As well, the proposed governance structure has been revised to provide for a governing board that is more broadly representative of the community.

.../2

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Ultimately, it is up to the community to determine if a resort association makes sense for Silver Star, through the consultation, local government approval and the petition process.

I encourage you to work with the Task Force to continue this important local discussion and to ultimately find a community understanding on a reasonable method for promoting the Silver Star resort.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brent Mueller", with a long horizontal line extending to the right.

Brent Mueller, Director
Governance Relations

pc: Mike Macnabb, RDNO



BRIEFING NOTE FOR INFORMATION

Date: February 8, 2019
Prepared For: Honourable Selina Robinson, Minister of Municipal Affairs and Housing
Title: Silver Star Mountain Proposed Resort Association - Status
Issue: Concerns about Silver Star Resort Association proposal and related petition process
Meeting With: Eric Foster, MLA for Vernon-Monashee on February 15, 2019

SUMMARY:

- The Silver Star Marketing Task Force (Task Force) has been leading a proposal to establish a resort association for the Silver Star Resort.
- The support of local government and a successful petition process is required before a proposal to create a resort association can come to the Minister for review and a final approval decision.
- Regional District of North Okanagan (RDNO) board approved the Task Force's proposal in February 2018.
- The Task Force conducted a petition process from September to mid-December 2018.
- There are no legislated timelines, for the completion of a petition process, nor a requirement for the local government for the area – the RDNO -- to certify the petition. The conduct of the petition process should be within a reasonable time; as a guide, ministry staff advised that a three-month time frame to conduct the dissemination and gathering of petitions would be reasonable. This was based on considering the practice of local government petition processes, as well as the fact that this petition was being conducted by a non-government entity.
- It is the Task Force's responsibility to consider fairness and transparency when completing the process, including setting or adjusting the petition deadline. The conduct of the petition process is the responsibility of the proponent; s.13
- If the petition shows that the proposal is supported by a majority of owners representing a majority of the tax base, the Task Force will bring the proposal to the ministry for consideration.
- At that time, ministry staff would review all available material s.13
- No proposal has yet been submitted by the Task Force to the ministry.



BACKGROUND:

For the past three years, the Silver Star Marketing Task Force (Task Force) has been leading a proposal to establish a resort association for the Silver Star Resort. The Task Force is a group of interested stakeholders, including individual property owners, businesses, hotels and the resort operator. Currently, the resort has a recreation management fee system to raise revenue for resort promotion that the Task Force says is not working and excludes many of the properties that benefit from being part of a resort. There is support and opposition in the community and the Ministry of Municipal Affairs and Housing (MAH) has received communications from both sides.

Silver Star Mountain Resort is located within Electoral Area C of the RDNO, northeast of the City of Vernon. Silver Star Mountain Resort is an important part of the north Okanagan regional economy, with over 1,500 employees and 500,000 visitors annually. The population at the Silver Star Mountain Resort is fewer than 300 full-time residents.

As an unincorporated community, not a resort municipality, Silver Star indirectly shares in the benefits of the annual regional district grant from MAH to the RDNO but receives no other provincial funding (14 resort municipalities share \$10.5 million annually under the Province's Resort Municipality Initiative through Ministry of Tourism, Arts and Culture).

While rarely used, the Province has a legislative framework for creating "resort associations," which are incorporated societies established to promote a resort. The last resort association established in the Province was Red Resort in 2007. Other resort associations exist in Whistler (1979) and Sun Peaks (1996).

-Provisions in the *Resort Association Act* (RAA) and the Community Charter (CC) require support from the local government and a successful petition process with the support of 50 percent of property owners representing 50 percent of the property assessment value, before a proposal can come to the Minister for a final decision to establish a resort association.

In this instance, the RDNO board provided approval in February 2018. Following that, the Task Force started the petition process in September 2018 and the Task Force's website states December 14, 2018 as the petition completion date.

The proposed resort association coincides with a review underway to update Silver Star's Master Plan between the Province and the resort, under which the resort operates on Crown land. Managed by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD), if approved, the new Master Plan would enable new development to expand resort operations and base area, including new accommodation. There is no conflict between the Master Plan process and the resort association proposal. ^{s.13}

DISCUSSION:

Creating a resort association can improve marketing and build better brand awareness for a resort to increase visitation, in overall support of British Columbia's tourism economy. Resort associations do this through their authority to levy charges or fees on commercial and residential property owners for promotional activities including marketing, signage, booking and events planning.

The Task Force and supporters for creating a resort association at Silver Star want to enhance the competitiveness of the resort to draw in more tourists. They argue that the current voluntary resort promotion scheme is not effective and fair. Critics of the proposal assert that creating a resort association changes the pretext under which they originally purchased their homes and that they should be exempted. The Task Force has affirmed that an owner of a resort property not offered for rent or not otherwise used for commercial purposes will not have to pay the resort association dues.



MAH has been contacted by both critics and supporters of the proposed resort association. ^{s.13}
^{s.13}

Petition Process

The petition process has been a focal point of criticism. The conduct of the petition process is the responsibility of the proponent; ^{s.14}
^{s.14}

The conduct of the process is guided by provincial legislation. The main provisions are in the CC and are the same provisions used for the establishment of other local services. For the purposes of conducting a petition process for establishing a resort association, the RAA states that CC provisions apply “as far as reasonably possible”.

The conduct of the petition process should be within a reasonable time, but there are no legislated timelines for the completion of the process. As a guide, MAH staff have advised that a three-month time frame to conduct the dissemination and gathering of petitions would be reasonable. This was based on considering the practice of local government petition processes, as well as the fact that this petition was being conducted by a non-government entity.

In a municipality or regional district, the corporate officer would verify and certify the results of a petition. For a resort association, a local government does not have to conduct the petition and no requirement exists in the RAA for a corporate officer to verify and certify the results. ^{s.16}
^{s.16}

, the choice of managing the process was the Task Force’s to determine. They have managed this part of the process on their own and engaged a former Chief Administrative Officer to verify the petition.

As a non-government body, the Task Force advises that it has had challenges in conducting the process and reaching out to property owners including those outside of the country. As well, during the process the mail strike also had negative impact. The Task Force advised MAH of the start of the process in early September and publicly announced on its website that the signature gathering process closed on December 14, 2018.

Those opposed to the resort association are concerned about the length of the petition process and how it was conducted, including unverified concerns regarding soliciting signatures beyond the December 14, 2018 deadline.

Next Steps

On January 14th, a frequent critic of the proposal sent a formal request to meet with Minister Robinson, (following this letter, additional citizens also asked for a meeting). ^{s.13,s.14}
^{s.13,s.14}

If the petition has been successful, and the Task Force verifies that the petition reached the legislative thresholds, MAH staff anticipate that a formal proposal for a decision from the Minister could come forward at any time. When a proposal arrives, staff will review all available material and also assess the engagement undertaken by the Task Force with First Nations to determine if additional provincial consultation is needed, in preparing a recommendation for the Minister.



Ministry of
Municipal Affairs
and Housing

MAH staff will also confirm any further legal considerations (e.g. administrative fairness) that might affect how the process of considering the proposal unfolds (e.g. whether meetings with representatives for both sides would be appropriate)

FINANCIAL IMPLICATIONS:

- None

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Governance and Structure Branch

Tara Faganello, A/Deputy Minister

DATE APPROVED:

February 8, 2019

February 8, 2019