Court of King's Bench of Alberta

Citation: Glamorgan Landing Estates LP v Silvera for Seniors, 2026 ABKB 107

Date: 20260217
Docket: 2201 09178
Registry: Calgary

Between:

Glamorgan Landing Estate LP by its General Partner Glamorgan Landings Estates GP Inc.

Plaintiff

- and -

Silvera for Seniors

Defendant

Reasons for Judgment
of the
Honourable Justice G.H. Poelman

I. Introduction

[1] This streamlined trial concerns whether the purchaser or vendor of certain land is contractually responsible for an off-site levy charged by the City of Calgary ("City") as a condition of approving a development permit.

[2] Silvera for Seniors ("Silvera"), a management corporation established under the *Alberta Housing Act*, RSA 2000 c A-25, owned a large parcel of land which it considered suitable for a seniors housing development. It obtained subdivision approval from the City; one of the resulting parcels was sold to Glamorgan Landing Estate LP (which, together with its general partner Glamorgan Landings Estates GP Inc., is here called "Glamorgan"). Glamorgan obtained a development permit for its proposed project, conditional on payment of an off-site levy.

[3] Both parties argue that the contract between them makes the other responsible for this levy. Thus, the issue is interpretation of their contract.

[4] The evidence consists of an agreed statement of facts, agreed exhibits, testimony from a representative of each party, and a report and testimony from an expert called on behalf of Silvera.

II. Evidence

A. Agreed Statement of Facts and Exhibits

[5] Much of the agreed facts also was the subject of testimony or otherwise contained in agreed exhibits. It is unnecessary to engage in a detailed review of the agreed facts here.

[6] Briefly, they recite the corporate and partnership status of the parties; summarize the history of the property at issue in this action, including its subdivision and the sale of one of the parcels ($5,583,600); describe the history of the application for and granting of Glamorgan's development permit; and the dispute that arose over an off-site levy in the amount of $703,340.67 imposed by the City as a condition of the development permit.

B. Brian J. Stoddard

[7] Brian J. Stoddard is the president of Glamorgan Landings Estates GP Inc. He has an undergraduate business degree and took some graduate level courses. In 1983, he was admitted to the Canadian Institute of Chartered Professional Accountants and has experience working as a chartered professional accountant.

[8] He was co-owner and president of Carlyle Group from 2006 to 2017, where he was involved in numerous subdivision and development projects. After a short retirement, he established, with his own capital, the Spray Group of entities involved in real estate development. Through Spray Group, Mr. Stoddard also acquired extensive experience working with developments in Calgary. Glamorgan Landing Estates GP Inc. is entirely owned by Spray Group.

[9] Mr. Stoddard described in detail his understanding of the City's subdivision and development procedures and, in particular, Bylaw #2M2016 ("the Off-Site Levies Bylaw") which is the basis for off-site levies. These levies are calculated and applied differently, according to whether a property is within the "Established Area" or a "Greenfield Area" in Calgary.

[10] The property that is the subject of this action first came to Mr. Stoddard's attention in 2019. Initially, it was part of a larger parcel of land ("the Original Lands") owned by Silvera. Part of the Original Lands was subdivided from the Original Lands and became subject to the dealings between Glamorgan and Silvera (that part being here called "the Lands"). Throughout the parties' dealings, Mr. Stoddard primarily dealt with Lorne Robertson. He did not recall any discussions with Mr. Robertson about any outstanding obligations Silvera might have to the City relating to subdivision of the Original Lands.

[11] Discussions between the parties initially focused on establishing a limited partnership agreement, in which Silvera would contribute property and Spray Group would contribute development of the project. The parties ultimately agreed to structure their transaction as a sale of the Lands from Silvera to Glamorgan, rather than a partnership.

[12] The "Agreement of Purchase of Sale" ("Agreement") was executed on or about January 28, 2021. In accordance with common practice, it permitted Glamorgan to pursue a development permit application pending transfer of title, which occurred some time later. The application involved a number of stages: pre-application inquiry, development permit application (December 11, 2020), the City's detailed team review (January 15, 2021) and approval of the development permit (subject to certain terms and conditions) on July 9, 2021, released on September 8, 2021.

[13] One of the conditions of the development permit was payment to the City of an off-site levy in the amount of $703,340.67. Throughout the application process, both parties were aware that an off-site levy would be applicable; by January 15, 2021, when the detailed team review was received, they knew the amount of the levy that would be charged. In fact, Mr. Stoddard prepared his own estimate sometime before January 15, 2021, based on his knowledge of the bylaw and details of the proposed development.

[14] In his testimony, Mr. Stoddard addressed several additional issues relevant to Glamorgan's acquisition of the Lands:

a) The City required Glamorgan to upgrade a water main to serve a fire hydrant, at a cost of $673,885.70. Glamorgan contested the obligation to pay that amount to the City, although it notified Silvera that if the amount was owed, it would require Silvera to reimburse Glamorgan. Ultimately, Glamorgan was successful in contesting the City's water main upgrade charges through the courts.

b) Silvera had made a "Road Cost-Sharing Agreement" as of August 21, 2020 with the City ("RCA") to pay for a road extension, as a condition to development of the Original Lands which would be subdivided and ultimately, in part, be developed. The Agreement allocated part of these costs to Glamorgan.

c) As part of its development, Glamorgan was required to build driveway aprons over city sidewalks by its project. It did not seek to recover these costs from Silvera.

Mr. Stoddard testified that Glamorgan did not pay any of the costs associated with subdivision of the Original Lands other than a proportion of charges under the RCA.

[15] At some stage before the Agreement was finalized, Mr. Stoddard sent to Silvera a preliminary budget of what the project would cost – on a line-by-line basis. It did not include anything for an off-site levy. However, he was not specific as to when the draft was sent, and it is not in evidence. In his experience, post-closing adjustments are usually minor items. He recalled no discussions between the parties about responsibility for payment of the City's off-site levy.

[16] Mr. Stoddard gave his evidence in a straightforward manner. There are no concerns regarding his credibility or reliability.

C. Lorne Robertson

[17] Mr. Robertson is on the management team of Silvera, a non-profit provider of seniors care in Calgary. He has a Bachelor of Commerce degree and formerly was a certified management accountant.

[18] Over his career, he has worked in the health sector and seniors care; in the private sector, again involved in seniors work mainly; and then he joined Silvera where, at the relevant times, he was chief development officer. Over the course of his career, and in particular at Silvera, he acquired experience in land use, subdivision and development activities. He became very familiar with the applicable city procedures and bylaws. He was the lead representative for Silvera in dealing with Glamorgan.

[19] The Lands initially were owned by Silvera as part of the Original Lands. Prior to making the Agreement with Glamorgan, Silvera went through the City's land use process to get zoning approval; it then applied for subdivision; and following that, was required to finalize an agreement, the RCA, with the City to extend 50th Avenue SW for public access to parts of the subdivided parcels. As a condition of subdivision, Silvera had to pay for the creation of the infrastructure to support the development to the point of the property: this included such things as road, sidewalks, streetlights, underground sewer, water, electricity and gas lines.

[20] In negotiations with Glamorgan, it was initially intended to enter into a joint venture or a partnership. In the end, primarily because Silvera was a housing provider rather than an investment vehicle, it was decided that Silvera would sell the Lands to Glamorgan with the understanding that Glamorgan would develop them.

[21] Early in dealings between the parties, Glamorgan provided an estimated budget for information purposes only. Mr. Robertson could not recall if the off-site levy was referred to in the budget; however, there were no discussions between the parties about the off-site levies.

[22] Mr. Robertson confirmed that Glamorgan paid its share of the road upgrade costs, as referred to in the Agreement and imposed on Silvera by the City under the RCA.

[23] Glamorgan demanded payment by Silvera of the off-site levies, after they were imposed by the City. Silvera refused to pay them; Mr. Robertson testified that, in his experience, these were part of a developer's obligations.

[24] Mr. Robertson's evidence was given in a straightforward, fair manner. There are no concerns about his credibility or reliability.

D. Kris Compton

1. Qualifications

[25] Kris Compton was tendered by Silvera as an expert witness "specializing in industry practices with respect to development and the charging of offsite levies in the Established Area in the City of Calgary." He is a land development engineer with a Bachelor of Science (Civil Engineering) degree. He has been working in land development approvals since January 2004.

[26] Glamorgan challenged Mr. Compton's qualifications to testify as an expert, alleging that he could not provide an independent, impartial or objective assessment because his firm was a consultant serving Silvera, including on a project neighbouring the Lands.

[27] Mr. Compton testified that the firm for which he works, Urban Systems Ltd., has a number of divisions and 120 owners, of which he is one. Mr. Compton works in the civil engineering division; neither he nor that division has worked for Silvera. The landscape architectural part of Urban has done some work with Silvera, including on adjacent property. There is some ongoing work, but not very active. Mr. Compton has never done any work for Silvera. Mr. Compton testified that he understood his role as an expert witness was to provide an impartial, objective, unbiased, and independent opinion to assist the court in understanding how the development process worked.

[28] I ruled that the basic framework for allowing expert opinion evidence (as an exception to the exclusionary rule for opinions) comprised the requirements of logical relevance, necessity to assist the trier of fact, absence of an exclusionary rule and a properly qualified expert – which included the criterion of being willing and capable of complying with a duty to provide impartial,

independent and unbiased evidence: *R v Mohan*, [1994] 2 SCR 9; and *White Burgess Langille Inman v Abbott and Haliburton Co*, 2015 SCC 23 at paras 10, 32, 34, 40, and 45-50. Mr. Compton's testimony at the qualification stage affirmed his impartiality and independence, supported by his very limited connection with Silvera. There was no evidence or reasonable inference to the contrary.

2. Testimony

[29] Mr. Compton's testimony primarily addressed the points covered at pages 3 through 8 of his report. I will summarize his evidence on these topics.

[30] The Off-Site Levies Bylaw distinguishes between the Greenfield Area and the Established Area in Calgary. These distinctions are important for the purpose of off-site levies authorized to be charged by the City. The two areas can be determined by reference to a map included in the bylaw. In general, properties within the Established Area involve development for new population growth.

[31] Table 2 of the bylaw sets the rates for a treatment plant levy in the Established Area, which, for residential developments, depends on the type of unit (single detached, semi-detached or duplex, multi-residential grade-oriented, and multi-residential non-grade-oriented). The off-site levy for a residential development in the Established Area can be calculated based on the total number of units, the gross area of commercial development included in the project and determination of the equivalent population per hectare as set out in another table in the bylaw.

[32] A development permit application includes the details necessary to calculate an off-site levy for a project in the Established Area. The process usually begins with a pre-application enquiry to the City. The City's response will include (as it did in this case) a statement regarding whether off-site levies are applicable. It does not set the amount of levies at this stage.

[33] The development permit application is followed by the City's "detailed team review", which contains a preliminary estimate of the off-site levy based on the information in the development permit application. Following further information exchanges, the City may grant a development permit with various terms and conditions on the "approval date"; after the conditions have been satisfied, this will be followed by a "release date."

[34] Thus, before development permit approval, the City typically provides a preliminary estimate of the off-site levy. The final statement of the levy occurs only when the development permit is issued, because until that time, changes to the application might be made that would affect the calculation (for example, the number of units might change to address some approval conditions).

[35] Since the bylaw came into effect in 2016, the City has not been imposing off-site levies at subdivision because of a change in its practices which makes determination of levies more efficient. Currently and at the times relevant to this case, off-site levies are applied at the development approval stage for projects in the Established Area. Mr. Compton's opinion on this point, as summarized in his report, is that off-site levies for parcels in the Established Area "are assessed and charged at time of Development Permit and not at time of subdivision; no levies are charged through the subdivision process. A subdivision process is a mechanism that defines titled parcels for which levies can be assessed upon, however, the trigger for levies within the Established Area is the Development Permit."

[36] Mr. Compton indicated that the off-site levy is a financial requirement the City imposes on a project. It is open to vendors and purchasers to negotiate who ultimately will pay the levy.

[37] Mr. Compton gave his testimony in a straightforward, non-evasive manner. There are no concerns about his reliability or credibility.

III. Principles of Contractual Interpretation

[38] Contracts are enforced according to the intention of the parties, determined from the words used in their agreements: *Nexxtep Resources Ltd v Talisman Energy Inc*, 2013 ABCA 40 at para 20. Contractual interpretation is not concerned with the parties' subjective understanding of their agreement, but rather with what someone similarly situated would have reasonably understood: *Nexxtep* at paras 21-22; *Sattva Capital Corp v Creston Moly Corp*, 2014 SCC 53 at paras 47-49.

[39] Primacy must be given to the words used in the contract, considered as a whole, because parties are presumed to choose words that convey their intentions: *Nexxtep* at para 22; *Sattva* at para 57. In addition, the court will properly consider surrounding circumstances (or the "factual matrix") known to the parties when they made their contract, because that informs what their words mean, objectively construed: *Nexxtep* at para 20-21; Sattva at paras 47-48 and 58.

[40] Consideration of the factual matrix is proper in every case of contractual interpretation. Comprising only objective evidence of background facts known to the parties when the contract was made, it does not offend the parol evidence rule and does not require a finding that the contract's words are ambiguous: *Sattva* at paras 58-60.

[41] Evidence of subjective intentions, however, is not relevant and not admissible: *Eli Lilly & Co v Novopharm Ltd*, 1998 CanLII 791 (SCC), [1998] 2 S.C.R. 129 at para 54; *Nexxtep* at para 21; *Sattva* at para 61; and *Alberta Union of Provincial Employees v Alberta Health Services*, 2020 ABCA 4 at paras 27, 30 and 31. The purpose of contractual interpretation is to determine what the parties objectively intended when they made their contract. It requires the court to stand outside of their minds, looking only to their words, facts known to them, and sometimes their conduct.

[42] Further, courts must prefer an interpretation that, from the whole of the contract, promotes the true intention, objectively understood, when the contract was made, and an interpretation that brings about a realistic, sensible result: *Consolidated Bathurst v Mutual Boiler* 1979 CanLII 10 (SCC), [1980] 1 S.C.R. 888 at 901; *IFP Technologies (Canada) Inc v EnCana Midstream and Marketing*, 2017 ABCA 157 at para 88. This means the focus is on determining the meaning of a contract and its terms, rather than focusing on specific words or sentences – because they must be interpreted in the context of the whole; and where there are apparent inconsistencies, the court must attempt to find an interpretation that reasonably gives meaning to all of the terms: *CNOOC Petroleum North America ULC v 801 Seventh Inc*, 2025 ABKB 145 at paras 385 and 386.

[43] The Supreme Court in *Sattva* concisely summarized the correct approach to contractual interpretation as follows:

> ... The overriding concern is to determine "the intent of the parties and the scope of their understanding" ... To do so, a decision-maker must read the contract as a whole, giving the words used their ordinary and grammatical meaning, consistent

> with the surrounding circumstances known to the parties at the time of formation of the contract. Consideration of the surrounding circumstances recognizes that ascertaining contractual intention can be difficult when looking at words on their own, because words alone do not have an immutable or absolute meaning[.] [Para 47, citations omitted.]

IV. The Factual Matrix

[44] For the most part, the parties are in agreement on what constitutes the factual matrix in this case. I have distilled what I consider to be the factual matrix from the evidence and their arguments.

[45] Silvera owned the Original Lands which it intended to subdivide to enable development for seniors housing. The Original Lands were subdivided in 2019. As part of that process, Silvera was required to pay for services such as streets, sewer and electricity – in general, everything required for services to be brought to the point of the subdivided parcels.

[46] The subdivision contemplated an extension of 50th Avenue SW to enable secondary access for fire and emergency services. As a condition of subdivision, Silvera and the City entered into the RCA to share costs for the extension.

[47] In 2019, the parties began discussing a commercial arrangement under which Glamorgan would participate in developing the Lands. Preliminary draft agreements were exchanged in 2020, first for a limited partnership and then a joint venture. By late 2020, they were exchanging drafts for a purchase and sale agreement. The final version was executed as the Agreement on January 28, 2021. It was attached as a schedule to the August 21, 2020 RCA.

[48] In the negotiations, both parties were led by senior executives with significant experience in commercial real estate projects and in dealing with the City to develop them. They were advised by experienced legal counsel.

[49] Both parties were aware of the Off-Site Levies Bylaw, its different application as between Greenfield and Established Areas, and the fact that the Lands were in the Established Area. The off-site levies at issue were intended to fund water and wastewater treatment infrastructure upgrades to serve new population growth within the Established Area: Compton Expert Report at 4; Off-Site Levies Bylaw, sections 5(2) and 3(1).

[50] Off-site levies were imposed "on the date of the approving authority's decision on a development permit." They are calculated according to specific formulae in the Off-Site Levies Bylaw applied to the floor dimensions, types of units specified, number of units in the development permit application and the equivalent population per hectare (Compton Report at 5). The chargeable amount is prescribed by the City in the development permit approval but can be calculated before then by the developer based on the specifics of the project for which it seeks approval.

[51] As explained by Mr. Compton, off-site levies in the Established Area are specifically to fund water and wastewater infrastructure upgrades to serve the new population growth (Report at 3). Practice at the City since the bylaw came into effect in 2016 has been to charge the levies only at the development permit approval stage as a condition to be satisfied before the release date of the permit. However, the Off-Site Levies Bylaw still contemplates a levy being determined "in the case of a subdivision, on the date of execution of an interim Indemnity

Agreement" according to Mr. Compton (Report at 6, and testimony). The bylaw bears this out in sections 5(2), (5) and (6); and section 6(8) (all of which have potential application at the subdivision stage). These provisions are consistent with the *Municipal Government Act*, RSA 2000, c. M-26, for the purposes of imposing a levy in respect of land that is to be developed or subdivided: section 648(1.1). (The *Municipal Government Act* was amended effective June 1, 2021, changing the wording of section 648(1.1). Since the development permit was issued in July 2021, the version in force at that time is applicable.)

[52] The main dates relating to dealings between the parties and their dispute are:

a) **December 11, 2020:** Glamorgan submits its application for a development permit for a multi-family residential development of 278 units in two buildings, plus an amenity building.

b) **January 15, 2021:** The City's detailed team review is sent to the parties, containing an estimate of $703,340.67 for the off-site levy – the amount ultimately made a condition to the development permit.

c) **January 28, 2021:** The Agreement is executed.

d) **February 17, 2021:** After waiver of conditions, the Agreement closes and Glamorgan acquires the Lands.

e) **July 9, 2021:** The City issues a development permit for Glamorgan's proposed seniors housing complex, one of the pre-conditions being payment of an off-site levy of $703,340.67.

f) **July 13, 2021:** Glamorgan notifies Silvera of the off-site levy and seeks payment.

[53] Glamorgan paid its proportionate share of the RCA. It also paid the costs of driveway aprons and related improvements to the Lands as required in the development permit.

[54] It is well to summarize a few basic facts in the matrix. The parties were familiar with the Off-Site Levy Bylaw, passed pursuant to the *Municipal Government Act*. They knew an off-site levy would be applied as a condition of the development permit applied for by Glamorgan. It was based on the details of the project contained in Glamorgan's development permit application.

[55] Both parties knew the exact amount that would be a condition to the development permit, at latest on January 15, 2021 when the City's detailed team review was received; and thus knew the amount as of January 28, 2021 when the Agreement was executed. Theoretically, the amount could change but only if Glamorgan's application details changed. There is no evidence this was expected.

[56] The amount is material: $703,340.67, 12.6 percent of the $5,583,600 purchase price. Yet the evidence is that how it was to be allocated between the parties, if at all, was never discussed. No parol evidence is relied on; both parties say their positions succeed on the wording of the Agreement.

[57] Likewise, there is no evidence of any discussion about the possibility of carry-over off-site levies arising from the subdivision being charged.

V. The Contract Construed

A. Introduction

[58] The following is an analytical overview of the primary terms of the Agreement relevant to the parties' dispute. Where it seems necessary, I have reproduced the clauses in their entirety. In many cases, excerpts and paraphrases will suffice.

B. Purchase and Sale (Article 1) and Purchase Price (Article 2)

[59] The basic bargain is set out in articles 1 and 2: Silvera agrees to sell and Glamorgan agrees to purchase the Lands, with permitted encumbrances (one of which is the RCA). The purchase price payable by Glamorgan is $5,583,600, "subject to usual adjustments and those specifically provided for in clause 2.2 [if a survey showed a variation in parcel size] and Article 13 [which the Agreement later indicates was intentionally deleted]." Clauses 2.3 and 2.4 also provide for GST to be added to the purchase price and interest to be payable between execution and closing date.

[60] The brief reference to "usual adjustments" overlaps with clause 11.1, which sets out the obligations in more detail. With the same allocation of responsibilities (before and after closing date), it refers to "all municipal property and local improvement taxes, rates, utilities, levies and other charges accrued against the Lands." Thus, to the extent that levies are included in adjustments, responsibility for them would be allocated according to the closing date.

C. Conditions (Article 4) and Closing (Article 5)

[61] Clause 4.1 makes Glamorgan's completion obligations subject to release of a development permit (on terms satisfactory to Glamorgan) and expiry of an appeal period, and securing construction financing. Both conditions were waived shortly after execution of the Agreement, even though the development permit process had not been completed.

[62] Clause 5.5, contained in the "closing" article, sets out details about the relationship between purchaser and vendor regarding the development permit application. The main provisions are as follows:

a) Silvera will approve Glamorgan's development permit application for construction of improvements on the Lands, such approval not to be unreasonably withheld. (A related provision is clause 8.3 which involves Silvera approving plans for the development which will accompany the application.)

b) "Purchaser [Glamorgan] shall be responsible for all costs associated with the Application" (clause 5.5).

c) Silvera shall provide Glamorgan with authorizations "to allow the Purchaser to make the Application and to pursue the Application" and will execute documents required to be executed by the registered owner "that are conditions of the approval of the Application" (clause 5.5), provided that if this involves a financial covenant by Silvera, Glamorgan shall indemnify and agree to save it harmless.

d) Glamorgan intends to construct two apartment buildings and one amenity building with approximately 278 units in aggregate which Silvera agrees is reasonable (clause 5.5).

[63] These provisions show the parties agreeing that Glamorgan will apply for a development permit for the project and "be responsible for all costs associated with the Application" – that is, the application for a development permit. Silvera will make financial commitments as necessary to facilitate the application but will be reimbursed therefor.

[64] Two observations can be made. First, Silvera agrees to assist Glamorgan in *making* and *pursuing* the development permit application. Second, all costs associated with the application are Glamorgan's responsibility. The terminology suggests that the process and costs in mind go beyond merely filing an application; they contemplate pursuing it to completion.

D. Representations and Warranties of the Vendor (Article 7)

[65] Article 7 sets out representations and warranties made by Silvera to Glamorgan. Only clause 7.11 is important for present purposes.

[66] It is cumbersome in wording and structure. Therefore, it is helpful to reproduce it in its entirety as follows (with the sentences numbered and separated into paragraphs, for ease of reference and reading):

> **[1.]** Subject to the provisions of clause 8.13, at the Closing Date there will be no outstanding reserve obligations in respect of the Lands and the Vendor shall be responsible for the payment of any and all Servicing Costs, as defined below, that are not specific to the Purchaser's development.
>
> **[2.]** For the purposes of the clause 7.11, "Servicing Costs" means all payments and obligations relating to off-site work or costs, dedications of lands (including but not limited to easements) on account of reserves (or payment of cash in lieu thereof), acreage assessments, off-site levies, frontage charges, or any similar amounts to The City of Calgary, off-site development obligations, contributions to oversized improvements, and all other obligations to contribute to or reimburse the Vendor, the municipal authority, or any other party for costs of any municipal infrastructure (excluding "voluntary recreation levy" established on development permit applications and any other fees connected to development or building permit applications customary in the industry) that would customarily be required to be performed or be levied or charged by the subdivision authority as a condition of subdivision approval to create separate title to the Lands.
>
> **[3.]** The Purchaser shall only be responsible for conditions of the development permit that relate to the Purchaser's specific development project on the Lands.

[67] The first sentence, grammatically, is the dominant part of the paragraph. It fits well within the context of a clause on representations and warranties. Analytically, it can be understood as follows:

a) It sets out a representation by Silvera on which Glamorgan may rely. Subject to clause 8.13, at closing "there will be no outstanding reserve obligations in respect of the Lands and the Vendor shall be responsible for the payment of any and all Servicing Costs, as defined below, that are not specific to the Purchaser's development."

b) Putting aside for the moment the subordinate provisions, Silvera agrees there will be no outstanding "reserve obligations" and that it will be responsible for "Servicing Costs" not specific to Glamorgan's development. (Reserve lands are portions of land (or cash in lieu) required from developers for public uses such as environmental protection, parks and schools.) Obligations for reserve lands are imposed at the subdivision stage: Division 8 of the *Municipal Government Act.*

[68] The second sentence is a lengthy, unwieldy definition of "Servicing Costs." Reading it first without the bracketed phrases, it states:

> For the purposes of this clause 7.11, "Servicing Costs" means all payments and obligations relating to off-site work or costs, dedications of lands . . . on account of reserves . . . acreage assessments, off-site levies, frontage charges, or any similar amounts to The City of Calgary, off-site development obligations, contributions to oversized improvements, and all other obligations to contribute to or reimburse the Vendor, the municipal authority, or any other party for costs of any municipal infrastructure . . . .

This sentence, read with the previous one, primarily shows a concern to make Silvera responsible for everything related to its creation of the Lands by subdividing the Original Lands. The interpretive difficulty that arises between the parties is the inclusion in servicing costs to be borne by Silvera of "off-site levies," because those on which this action focuses are applied at the development permit application stage, not the subdivision stage.

[69] Next, we turn to the first two bracketed phrases, which are straightforward and non-consequential. They have the effect of including easements to dedications of lands on account of reserves, and including with reserves the payment of cash in lieu thereof.

[70] The remaining bracketed phrase follows the phrase "and all other obligations to contribute to or reimburse the Vendor, the municipal authority, or any other party for costs of any municipal infrastructure." Excluded from these obligations (that is, excluded from servicing costs that otherwise would be Silvera's responsibility) are " 'volunteer recreation levy' established on development permit applications and any other fees connected to development or building permit applications customary in the industry." Again, read carefully, this creates additional interpretive difficulties.

[71] The third and final sentence of clause 7.11 states that "the Purchaser shall only be responsible for conditions of the development permit that relate to the Purchaser's specific development project on the Lands." This reinforces the main idea of the first two sentences: Silvera remains responsible for all costs and obligations related to the subdivision process that created the Lands and made them capable of development. Glamorgan is responsible only for conditions relating to its apartment complex development.

E. Purchaser's Development (Article 8)

[72] Article 8 contains a miscellany of clauses, most but not all expressly related to Glamorgan's proposed project. Of central importance is clause 8.13 (to which clause 7.11 is made subject). Again, for ease of reference and reading, the main parts for our purposes are reproduced with the sentences numbered and separated:

> **[1.]** The Vendor agrees, that as at the Closing Date, the Property shall be "net lands", free and clear of all obligations relating to Servicing Costs, or any similar amounts payable to The City of Calgary, except as relates solely to the Purchaser's development permit.
>
> **[2.]** Without limitation to the generality of the foregoing, the Lands will be free from all off-site development obligations that could have been paid or charged at the time of subdivision and are free from all other obligations to contribute to or reimburse Silvera, the municipal authority, or any other party for costs of any municipal infrastructure.
>
> **[3.]** In particular, but without limiting the generality of the foregoing, the Vendor acknowledges that at the time of registration of the subdivision plan that created the Lands as a parcel of land, The City of Calgary did not require offsite levies to be paid by the Vendor.
>
> **[4.]** Accordingly, there is a potential that it will be a condition of development permit approval that such "non-development related" offsite levies be paid.
>
> **[5.]** In this event, the Vendor shall have the option to either:
>
> a) pay the amount of such offsite levies to The City of Calgary on the Closing Date by way of irrevocable direction to pay out of the proceeds of sale; or
>
> b) reduce the Purchase Price payable or paid by the Purchaser to the Vendor by the amount of such offsite levies. If such a retroactive reduction is applicable, then the Vendor shall pay to the Purchaser an amount equal to such Purchase Price reduction with thirty (30) days of delivery of a notice by the Purchaser to the Vendor providing evidence of the obligation of the Purchaser to pay such off-site levy amount to The City of Calgary.

[73] The first sentence sets out the dominant principle for the clause: at closing, the Lands will be free and clear of all obligations relating to servicing costs (defined in clause 7.11) "or any similar amounts" payable to the City, "except as relates solely to the Purchaser's development permit." We see again the distinction between servicing costs or other amounts payable being Silvera's responsibility, except where relating solely to Glamorgan's development permit.

[74] The second sentence is a more specific provision, without limiting the generality of sentence 1. The Lands will be free of offsite development obligations that could have been paid or charged at time of subdivision. This also is consistent with sentence 1 and the general thrust of clause 7.11.

[75] The second sentence carries on to add "and are free from all other obligations to contribute to or reimburse Silvera, the municipal authority, or any other party for costs of any municipal infrastructure." Taken by itself this is very broad, but its placement and the prefacing words, "without limitation to the generality of the foregoing," means it must be read as referring also to servicing costs or similar amounts, not as bringing in entirely new types of obligations.

[76] The third sentence adds another "without limiting the generality of the foregoing" provision, still building on the primary statement of Silvera's representation in sentence 1. Silvera acknowledges that when the Lands were subdivided from the Original Lands, the City did not require off-site levies to be paid. Thus, there was a possibility "that it will be a condition of development permit approval that such 'non-development related' off-site levies be paid." According to sentence 5, Silvera can pay the levies by (a) directing payment from proceeds of sale of the Lands, or (b) retroactively providing a purchase price reduction.

[77] The following provisions of clause 8.13 deal with issues not directly related to the off-site levy dispute: prorating obligations under the RCA, and Glamorgan having the obligation to construct or pay for improvements outside the boundaries of the Lands (such as driveway aprons) where required as development permit conditions.

F. Adjustments (Article 11)

[78] The final clause to note is 11.1, referred to above. It assigns responsibility for a variety of charges, notably including "levies," so that Silvera is responsible for those accrued or attributable for the period up to the closing date and Glamorgan for the period after. (Clause 11.1 appears to use "date of this Agreement" at one point, instead of the closing date, which I take to be an obvious typing error.)

G. Conclusions

[79] Reading the Agreement as a whole, in light of the factual matrix, leads to the conclusion that Glamorgan is responsible for the off-site levy in dispute.

[80] The Original Lands, part of the City's Established Area, had been held by Silvera for some years. Silvera wanted them used for seniors housing. That required subdivision of the larger parcel, creating the Lands on which apartment projects were to be constructed. Silvera applied for and managed the subdivision process, including paying for services that had to be brought up to the subdivision parcel limits.

[81] The dispute between these parties is focused on the off-site levy imposed as a condition of Glamorgan's development permit. That is understandable, as that very significant charge became the subject of controversy once approval was granted. However, as is clear from the Off-Site Levies Bylaw and the *Municipal Government Act*, and acknowledged by Mr. Compton, there remains the possible imposition of an off-site levy arising from subdivision even though that is no longer City practice. Thus, the bylaw allows for the possibility of two types of off-site levies within the Established Area: one arising from subdivision, and the other as part of the development permit process. Bearing the distinction in mind, I return to a brief overview of the more significant clauses of the Agreement.

[82] Clause 7.11 makes Silvera responsible for all servicing costs not specific to Glamorgan's development. Silvera remains responsible for all costs and obligations related to the subdivision process. Servicing costs for which Silvera may be responsible include payments and obligations "relating to offsite work, off-site levies, . . . offsite development obligations" and all other

obligations "for costs of any municipal infrastructure that would customarily be required . . . by the subdivision authority as a condition of subdivision approval to create separate title to the Lands."

[83] The pith and substance of clause 7.11 is to allocate any ongoing or upcoming off-site levies between the parties: Silvera, as to those related to subdivision of the Original Lands, creating the Lands; and Glamorgan, as to those specifically related to its development project.

[84] Clause 7.11 is subject to clause 8.13, to which we return. Again, it focuses on off-site obligations that could have been paid or charged at the time of subdivision and thus are "non-development related." Silvera is responsible for these.

[85] Thus, the tension between Glamorgan being responsible for all development and development permit application related costs and obligations and Silvera being responsible for off-site levies (typically charged only as a condition to a development permit, after subdivision) is resolved by referring to the factual matrix of the bylaw, the *Municipal Government Act*, and past City practice. These would have left open the possibility of an off-site levy still being charged in relation to the subdivision. While this appears to have been a remote possibility (on the very limited evidence before me), it was not non-existent. The possibility is in the bylaw itself.

[86] Perhaps this also explains why the specific amount of the off-site levy to be imposed on the development approval – the significant sum of $703,340.67 – was not included in the Agreement even though it was known well before execution. By contrast, it was unknown whether there might be an off-site levy arising from the subdivision and, if so, in what amount.

[87] Glamorgan's argument seems to be, at root, that the Agreement makes Silvera responsible for off-site levies; the amount in dispute is an off-site levy; and meaning must be given to this obligation, even though other language seems to restrict it to obligations arising from the subdivision process. In my view, Glamorgan's arguments ignore the repeated emphasis throughout the key clauses that Silvera is not responsible for costs related to its specific development or its development permit application.

[88] Glamorgan's argument that the off-site levy at issue is not specific to its development is untenable. The levy is calculated and charged solely on the details of the project for which Glamorgan applied in its development permit application. It has nothing to do with subdivision of the lands.

VI. Judgment

[89] For the reasons given, Glamorgan's action for judgment of $703,340. 67 against Silvera is dismissed. The parties may schedule a further attendance if there are matters arising out of these reasons to address, including costs if they cannot be agreed upon.

Heard on the 2nd and 3rd days of December, 2025.
Dated at the City of Calgary, Alberta this 17th day of February, 2026.

G.H. Poelman
J.C.K.B.A.

Appearances:

Blair R. Carbert, K.C. and Jovan Gill
for the Plaintiffs

Craig O. Alcock and Florence Hogg
for the Defendant