

Jansson, Michelle

Schedule 18 to the Minutes of the
Public Hearing meeting of
Richmond City Council held on
Tuesday, December 15, 2015.

To Public Hearing
Date: <u>Dec 15 /15</u>
Item # <u>6</u>
Re: <u>9131 Steveston Hwy</u> <u>RZ 15-703150</u>

From: Qaiser Iqbal <q_iqbal@hotmail.com>
Sent: December-14-15 11:27 AM
To: Jansson, Michelle; MayorandCouncillors
Subject: Public ROW Access on Private Properties (9093 & 9097) - Rezoning application at 9131 Steveston Hwy (RZ 15-703150)
Attachments: LtrToRichmond.Dec11.15.signed.pdf

Michelle,

Please find attached the independent legal interpretation of the SRW Document # **BW406323** obtained from an independent lawyer. This attached legal interpretation is completely different what City legal department has imposed on us. Over and above our lawyer has demanded in writing from the city legal department to disclose the City's version of legal interpretation of this document. Our lawyer has already faxed directly this document to the city on December 11th, 2015, please furnish the requested details as soon as possible.

Thanks,
Qaiser

From: MayorandCouncillors <MayorandCouncillors@richmond.ca>
Sent: November 17, 2015 1:57 PM
To: 'Qaiser Iqbal'
Subject: RE: Public ROW Access on Private Properties (9093 & 9097) - Rezoning application at 9131 Steveston Hwy (RZ 15-703150)

This is to acknowledge and thank you for your email of November 16, 2015 to the Mayor and Councillors, in connection with the above matter, a copy of which has been forwarded to the Mayor and each Councillor for their information and will be available at the Planning Committee Meeting today at 4pm.

In addition, your email has been referred to Wayne Craig, Director, Development. If you have any questions or further concerns at this time, please call Mr. Craig at 604.276.4000.

Thank you again for taking the time to make your views known.

Yours truly,

Michelle Jansson, CMC
Manager, Legislative Services

City of Richmond, 6911 No. 3 Road, Richmond, BC V6Y 2C1
Phone: 604-276-4006 | Email: mjansson@richmond.ca

From: Qaiser Iqbal [mailto:q_iqbal@hotmail.com]
Sent: November-16-15 6:45 PM
To: Lussier, Cynthia; MayorandCouncillors
Cc: 'anandnisha.dc@gmail.com'; 'anand.dorairaj@yahoo.com'
Subject: Public ROW Access on Private Properties (9093 & 9097) - Rezoning application at 9131 Steveston Hwy (RZ 15-703150)

Cynthia,

Then how we would know what is the "legal interpretation" builder has put forward? How come without disclosing to us the planning committee unilaterally decided to move forward with the application. How come all our information related to this SRW is available to builder but we have no access to his "Legal Interpretation"? It seems we have been blindfolded and city is putting gun on our heads asking us to accept this decision. This is not fair on our part, we even don't know what is this "Legal Interpretation", To us its just a "Miss-Interpretation" that's why city is hiding from us under the blanket Called "Legal Interpretation". When we bought these houses we were clearly told that these are temporary SRW given to these four houses only and no public access is allowed except for the city maintenance staff. This same understanding we got it from you when we had meeting with you on July 31st, 2015.

We are still unable to understand why the city is listening to one side only and trying to impose the decision on us. We should also be given fair trial before its too late. Your report even does not mention about our last meeting in which we had shown great opposition to this idea of using our property for public access. Your report casually mentioned that we are not supportive of this decision. Why would we support this? we are strongly opposing that the city is moving forward with builder application.

Please forward our objection to your superior chain of command so that our voice could be heard. I hope proper information will be given to us in due course. Thanks for listening

Qaiser

From: CLussier@richmond.ca

To: g_igbal@hotmail.com

CC: anandnisha.dc@gmail.com; anand.dorairaj@yahoo.com

Subject: RE: Public ROW Access on Private Properties (9093 & 9097) - Rezoning application at 9131 Steveston Hwy (RZ 15-703150)

Date: Tue, 17 Nov 2015 01:08:49 +0000

Hi Qaiser

The direction that I've been given is that the legal interpretation obtained by the applicant, is not available to the public.

The staff report includes all of the information that is available to the public. Please review my staff report available via this link: http://www.richmond.ca/agendafiles/Open_Planning_11-17-2015.pdf

Please let me know if you have any questions about any of the information that I've included in my staff report.

Thanks,

Cynthia Lussier

Planner 1

Development Applications Division

City of Richmond

Tel: 604-276-4108

Email: clussier@richmond.ca

www.richmond.ca

From: CLussier@richmond.ca

To: g_igbal@hotmail.com; DevApps@richmond.ca

CC: anandnisha.dc@gmail.com; anand.dorairaj@yahoo.com

Subject: RE: Public ROW Access on Private Properties (9093 & 9097) - Rezoning application at 9131 Steveston

Hwy (RZ 15-703150)

Date: Mon, 16 Nov 2015 20:55:34 +0000

Hi Qaiser

I was not able to provide you with a response late Friday afternoon.

I am currently looking into whether the legal interpretation of the right-of-way is available to the public. If so, then you would be welcome to view the file here at City Hall.

I will find out and let you know as soon as possible.

Cynthia Lussier

Planner 1

Development Applications Division

City of Richmond

Tel: 604-276-4108

Email: clussier@richmond.ca

www.richmond.ca

From: Qaiser Iqbal [mailto:q_iqbal@hotmail.com]

Sent: Friday, 13 November 2015 4:43 PM

To: Lussier, Cynthia; DevApps

Cc: 'anandnisha.dc@gmail.com'; 'anand.dorairaj@yahoo.com'

Subject: Public ROW Access on Private Properties (9093 & 9097) - Rezoning application at 9131 Steveston Hwy (RZ 15-703150)

Thanks Cynthia,

Can you refer to us which legal interpretation (Document #, Clause #, etc), we would like to know how City has unilaterally decided to proceed with this without involving the residents. We'll bring that document in the meeting if you could refer us to the right document.

Thanks,

Qaiser

From: CLussier@richmond.ca

To: q_iqbal@hotmail.com; DevApps@richmond.ca

CC: anandnisha.dc@gmail.com; anand.dorairaj@yahoo.com

Subject: RE: Public ROW Access on Private Properties (9093 & 9097) - Rezoning application at 9131 Steveston Hwy (RZ 15-703150)

Date: Sat, 14 Nov 2015 00:31:47 +0000

Hi Qaiser and Nisha

As discussed today by phone, the staff report on the proposed rezoning application at 9131 Steveston Hwy (RZ 15-703150) will be available hopefully this evening through a link on the City's website at

: <http://www.richmond.ca/cityhall/council/agendas/planning.htm>

The staff report is scheduled to be presented at a Planning Committee meeting to be held on Tues Nov 17 in the Anderson Room at Richmond City Hall at 4pm, next week.

The meeting is open to the public, and there will be an opportunity to speak to the Committee when they are considering the application. A copy of the Meeting Agenda will also be available through the above link.

I understand your concerns regarding use of the right-of-way over your properties, however a legal interpretation has been provided to staff which indicates that the right-of-way may be used for the purpose of utilities and public-right-of-passage, and that it was envisioned at the time that your lots were created that the right-of-way provide temporary vehicle access to access adjacent lots in this block until such time that a permanent lane access is made available. It is on this basis that staff is recommending that the application be moved forward to the Planning Committee for their consideration. The outcome of the proposal will be determined by Council with consideration given to the public's comments.

If the Planning Committee decides to move the application forward to the next step, there will be an opportunity for you to provide comments at a subsequent Council meeting and Public Hearing.

Cynthia Lussier
Planner
Development Applications Division
City of Richmond
Tel: 604-276-4108
Email: clussier@richmond.ca
www.richmond.ca

From: Qaiser Iqbal [mailto:q_iqbal@hotmail.com]
Sent: Friday, 13 November 2015 3:47 PM
To: Lussier, Cynthia; DevApps
Cc: anandnisha.dc@gmail.com; anand.dorairaj@yahoo.com
Subject: Public ROW Access on Private Properties (9093 & 9097) - Rezoning application at 9131 Steveston Hwy (RZ 15-703150)

Cynthia,
We need a little bit of more clarity on the rezoning "board" being displayed at the property of 9131 Steveston Hwy for Rezoning application number **RZ15-703150**. We made it very clear to the applicant (Maryem Ahbib) that we are not giving any kind of public/Vehicle access to the rear lane through the lane between 9093 & 9097 properties but display sign board is somewhat confusing with the wording **"To permit a subdivision to create (2) Lots, with Vehicle access from a Proposed Extension to the existing rear lane"** I am also attaching the display board photos. We all know that the extension of existing rear lane is not possible until all the houses are sold, under current situation access to the existing lane is not possible because we are not prepared to give any kind of public access through our ROW. Our this decision was clearly communicated to Maryem Ahbib and her partner (see below emails). A copy of that decision was also sent to City of Richmond on August 1st 2015. We also had a meeting with you at the city hall on July 31st, 2015, in which we made it clear that we don't want to give any public access through this lane.

Therefore please do not approve their rezoning application permitting the subdivision with Vehicle access from the rear lane as there is no way they can access to the proposed properties through rear lane.

We already left detail messages at your answering machines, feel free to contact us to discuss this if necessary.

Thanks,
Qaiser
604-839-3011 (Cell)

From: Iqbal, Qaiser
Sent: 2015, August 09 12:14 PM
To: Lussier, Cynthia (CLussier@richmond.ca)
Cc: 'Khalid Hasan (info@khalidhasan.com)'
Subject: Public ROW Access on Private Properties (9093 & 9097) - Rezoning application at 9131 Steveston Hwy (RZ 15-703150)

For your information

From: Qaiser Iqbal [mailto:q_iqbal@hotmail.com]
Sent: 2015, August 01 10:36 AM
To: mahbib@sutton.com; bpanesar@sutton.com
Cc: anand.dorairaj@yahoo.com
Subject: Public ROW Access on Private Properties (9093 & 9097)

Attention: Maryem Ahbib and Bhajan Panesar - Sutton Group (Seafair Realty)

Please be informed that we the owners of properties 9093 Steveston Hwy & 9097 Steveston Hwy jointly decided not to give/allow any kind of public access through our properties as shown on Plan BCP # 13121. Therefore no further meetings/visits to our houses are necessary to pursue this matter with us. This matter deemed closed hereinafter.

Thank you,

Qaiser/Naureen owner of 9093 Steveston Highway, Richmond BC
Anand/Nisha owner of 9097 Steveston Highway, Richmond BC

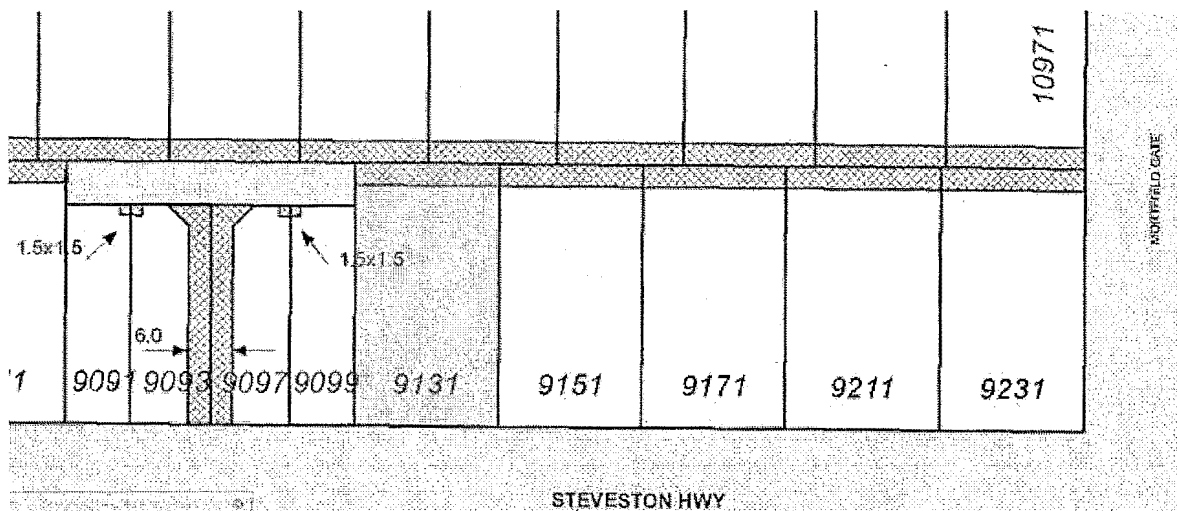
From: Lussier, Cynthia [mailto:CLussier@richmond.ca]
Sent: 2015, July 27 3:42 PM
To: Iqbal, Qaiser
Subject: RE: Temporary Public Access on Private Property

Hello,

Thank you for taking the time to inquire about the proposed Rezoning application at 9131 Steveston Hwy (RZ 15-703150).

Maryem Ahbib has submitted an application to request permission from City Council to rezone the land to enable a subdivision to create 2 lots with vehicle access from an eastbound extension of the existing City-owned lane along the north property line of 9091/9093/9097/9099 Steveston Hwy (see the map below showing your property and the City-owned lane along the north property line). City staff are currently reviewing the rezoning application. One of the issues that City staff need to review is the proposed vehicle access to the site.

I think it would be worth discussing the redevelopment history of the lots at 9091/9093/9097/9099 Steveston Hwy in person. Are you able to attend a brief meeting with me to discuss this? Please let me know your availability to meet with me. I am in the office this week and then out of the office next week, returning on Monday August 10th.



Thank you,

Cynthia Lussier
 Planning Technician
 Development Applications Division
 City of Richmond
 Tel: 604-276-4108
 Email: clussier@richmond.ca
www.richmond.ca

From: Iqbal, Qaiser [<mailto:Qaiser.Iqbal@bchydro.com>]
Sent: Monday, 27 July 2015 12:41
To: DevApps
Cc: InfoCentre
Subject: Temporary Public Access on Private Property

Attention: The Land Title Manager

I have been approached by two realtors from Sutton group (refer attached file) asking me to sign an authorization granting them a temporary public access to develop the property in the block of 9100 (east side) giving them access from back lane to the future residents as well. My understanding is; this lane between my house at 9093 Steveston Hwy and our neighbour at 9097 Steveston Hwy is not public property. This vehicle access is provided jointly by us and our neighbour so that vehicles can access the garages at the rear of the 4 houses in this complex only. Since builder is developing the adjacent block they should have their own private lane similar to us instead of asking us to provide the access. By giving access traffic in this lane is going to be increased, over and above this lane is not built for heavy and more traffic. Over the past number of years we have noticed that this lane is already sinking due to current traffic conditions. Before we sign or refuse to sign, we would like to know, what are our legal rights in case we refuse to grant any additional public access through this lane? What are the legal implications for refusing to give access.? Does City support us in any decision we would like to put forward in future?

Can we get our previously signed copy of the access that we have given to the current property owners? Please advise in detail. If you are not the right person to deal with such inquires please forward our request to the concerned department.

Regards,

Qaiser Iqbal/Naureen Qaiser
Folio Number: 074-841-012

Civic Address: 9093 STEVESTON HWY RICHMOND, BC V7A 1M6

Tel: 604-528-1777 (W) **Cell:** 604-839-3011

Email: gaiser.igbal@bchydro.com

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217 WESTMINSTER BUILDING
713 COLUMBIA STREET
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REPLY ATTENTION OF: Alex Sweezy
OUR FILE #41,403s

December 11, 2015

Mayor/Councillors
City of Richmond
6911 No. 3 Road
Richmond, B.C.
V6Y 2C1

Fax to: (604)278-5139

Attention: Director, City Clerk's Office

Dear Sirs/Mesdames:

**Re: Application RZ 15-703150 by Marvem Ahbib for Rezoning at 9131 Steveston Hwy -
Amendment Bylaw 9505 to Zoning Bylaw 8500 - Public Hearing December 15, 2015 - 7PM**

We have been consulted by Qaiser Iqbal and Naureen Qaiser, the owners of 9093 Steveston Highway, and by M. Anandraj Dorairaj and Nisha Cyril the owners of 9097 Steveston Highway, with respect to this rezoning application.

This letter will not address the merits of the rezoning application generally; our clients and other neighbours have done that separately.

However, our clients have consulted us more specifically about the significance of Statutory Right of Way ("SRW") BW406323 to the rezoning application. Our clients have expressed surprise at the recent change in the City's interpretation of the SRW. City staff have always looked at the SRW as simply for sewers, drains, etc., and what our clients and their neighbours otherwise did with the SRW area over their property was up to them.

Now, however, the City seems to be viewing the SRW as a public roadway, available to the current applicant, for example, to use for access instead of their own driveway.

In our opinion, this is an untenable interpretation of the SRW, as well as an unrealistic one.

It is instructive to read the SRW carefully.

In Part 1, setting out the objectives of the SRW

"(b) Richmond desires to obtain from the Owner a statutory right of way to construct certain Works on, over and under the hereinafter described portion of the land;

(c) The statutory right of way is necessary for the operation and maintenance of Richmond's undertaking."

This is the whole of the purpose of the SRW. There is no other purpose or objective.

In Part 2, the specific grant is stated:

"...the Owner does hereby grant unto Richmond the full, free and uninterrupted right of way for Richmond, its licensees, servants, officials, workmen, machinery and vehicles, at any time and at their will and pleasure for the benefit of Richmond."

Again, the grant itself does nothing to expand the purpose set out in Part 1.

Part 3 then merely sets out the usual specific ways in which Richmond can exercise the grant given in Part 2, for the purpose set out in Part 1. Anything in Part 3 must be interpreted as merely implementing Parts 1 and 2, and not as expanding them. If the intent of the SRW was to establish a public roadway, that would have been stated in Parts 1 and 2.

Or, in the normal way, in a wholly separate SRW, not imbedded in two or three words buried away in a sewer and drainage SRW.

In fact, in 40 years of practice, I don't believe I have ever seen one single combined SRW used for both purposes, rather than separate SRWs.

And a SRW intended for a public roadway would have considerably more provisions specific to such use.

To illustrate the impracticality of this being intended for a public roadway, consider the very limited restrictions placed upon the Owner. He is not required to do any maintenance of a roadway, or even to provide one at all. In fact he is prohibited from having a concrete driveway.

There is nothing to prevent him from removing all existing ground cover and replace it with grass, bushes or other vegetation (as long as he does not diminish or increase the depth), and allowing children to play in the whole area.

There is nothing to prevent him from parking vehicles across the SRW area, or installing a fence (so long as he allows Richmond access for its "Works".)

There is a "Lane" across the North end of the Lots, and perhaps the Applicant can access that from the West end. But, in our opinion, Richmond has no right to purport to allow the Applicant the use of the SRW.

If you have a legal opinion to the contrary, please provide a copy, and we would be pleased to address it.

Yours truly,

GOODWIN & MARK LLP

Alex Sweezy
ALEX SWEEZEY