

Schedule 2 to the Minutes of the Public Hearing meeting of Richmond City Council held on Tuesday, April 18, 2017.

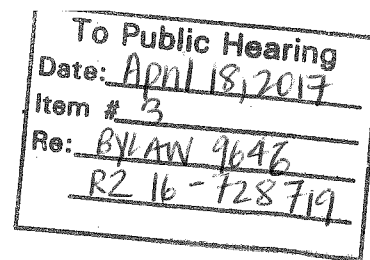
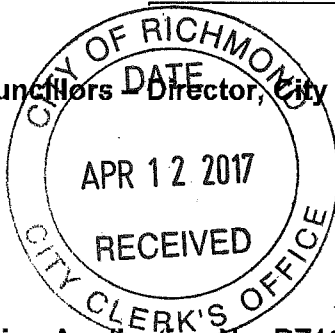
PHOTOCOPIED

SUBMISSION FOR PUBLIC HEARING ON A

FAX NO. 604-278-5139

APR 18 2017

Attn: The Mayor and Councilors
City of Richmond
6911 No. 3 Road
Richmond BC V6Y 2C1



April 12th, 2017

RE: Objection to Re-zoning Application No. RZ16-728719 relating to 9051 & 9071 Steveston Hwy property – Right of Way/Public Access over our Private properties

Objections to Re-zoning application RZ16-728719 on the ground that it poses serious risk to adjacent homeowners and increases the possibility of accidents due to increased traffic in an unsuitable private lane (Between 9093 & 9097 Steveston Hwy)

Dear sir/madam,

We are in receipt of public hearing notice scheduled for April 18th, 2017. As we have been to many earlier meetings/public hearings with the same city staff. I am not sure what else the city wants us to present that we had not already presented. We still strongly object to giving public passage over our private properties based on all the evidence we previously presented related to RZ15-703150.

We had presented an independent legal interpretation on document # **BW406323** to the City council but it seems our every effort falling of City's deaf ears. We have also attached the copy of this letter for your consideration. This letter is self-explanatory and clearly states that this Statuary Right of Way (SRW) is only permitted for utility maintenance and NOT for public passage or access.

We are not objecting city re-zoning Bylaws, the city can very well re-zone but not at the expense of our private properties. We are expressing our strong objection because city is forcefully entering onto our private properties and trying to give public access through our private properties. The city must wait until the back lane is through before allowing re-zoning. Alternatively city could allow to keep atleast one access from Steveston Hwy to 9051 and 9071 because both properties have already two approved entrances from the Steveston Hwy.

I drove all the way from Dyke to the Watermania and there are no such lanes like this one that exists on Steveston highway which has public excess. There are some roads but those are owned by the city. We also offered the city an option of buying this lane from us at the market rate value but it seems the city is adamant in grabbing our land for free of cost and use as public passage based on an interpretation of the easement that it was not intended for (i.e. public access).

The letter from the City Bylaw manager (copy attached) to me clearly indicated that Bylaws are not applicable to this lane because the lane is a private property; it's NOT a PUBLIC ROAD. I am sure your City Bylaw Manager must have consulted your legal department before issuing that firm statement. Now City is denying its own statement because City staff feels that they are above the law of the land.

We are sure that this current controversial decision could be challenged in the court of law but unfortunately we are working people with limited resources. It is unfair that the city's legal department is using our tax money to give this controversial interpretation of SRW document # **BW406323** which is kept hidden from us under the blanket of so called "Privileged information. If you talk about fairness, then give us some budget from the City public contingency fund to

challenge this legal interpretation in the court of law. All we are asking is that you be fair to these homeowners rather than to the developer that stand to gain financially at our expense. Please don't play with our lives as we are similar to all other residents of Richmond who are paying your salaries. Put yourself in our shoes before deciding and think about that before making your final decision

This is very unfortunate that we voted for these councillors who are supporting this re-zoning. These councillors supposed to be protecting our rights but unfortunately they blindly decide to go along with their legal and planning department's advice because they want to protect their political seats.

We are really expecting proper justice from the city in this case. Council really needs to connect with people and broaden their vision. One day you could also be in the same situation. It's very easy to do the postal service; you really need to analyze the whole situation before making your final decision. There should be a third independent party with no influence from city hall to handle such controversial cases.

Therefore we are requesting the city council to re-consider and reject this re-zoning application under the current situation.

Below are the main points that we have been highlighting to the council, please do consider these genuine facts before making your final decision on this issue;

1. Loss of privacy and intrusion to local community
2. Increased property damage due to vehicle hitting the walls (we have already seen 3 hits on our retaining walls by non-residents)
3. Inadequacy of parking, traffic generation and endangerment to resident safety
4. Noise and disturbance resulting from increased local traffic
5. Unfounded grounds for the application - This new one sided legal interpretation of our right of way does not provide evidence of giving the access to public through our properties. The SRW Document # **BW406323** does not automatically allow City to give public access over our private property. City does need our consent to do that which we have already declined many times.

~~The intent of this document (SRW document # BW406323) was to provide the City of Richmond the "right of way" for occasional access to maintain the back-lane. The City of Richmond has now taken the position to treat this "right of way" as a public road and provide access to the back-lane for general public. There are many safety concerns if this lane is to be treated as a public road with regular two-way traffic. This private lane is connected directly to Steveston Hwy where vehicles are moving at 65 km/hr and so the turning radius used by some drivers is quite large and the speed at which they turn is alarming.~~

This is a narrow lane which poses potential dangers of vehicle colliding with the walls of our home. Wooden retaining walls have already seen three vehicle hits. It is a sharp right turn into this lane with not much advance visibility of any cars coming out at the time someone is going in.

The traffic on Steveston Highway is much heavier than 10 years ago and the city should revisit this decision to reflect the real traffic situation.

Who is liable for a traffic accident on this private lane due to the increase of traffic imposed by the City of Richmond and Department of Transportation?

The City of Richmond planner and planning committee dismissed our concerns and deem the lane to be fit for two way traffic because it is as wide as the back-lane. The back-lane does not connect to Steveston Hwy, but this lane does.

Request for information/clarification:

hwy. It does not matter whose fault it is when a bus or truck hits a small car from the back on a dark rainy day on Steveston Hwy – the folks in the car will be the ones getting hurt. No one even considered it worth looking up/ trying out despite all of us saying that we are having difficulty with the existing situation, so we have come to the conclusion that we are not significant enough in the large scheme of things to be considered. ***We feel truly sorry for the buyers of the proposed new homes if this goes forward. They will not know what they are getting into till they move in and start using this access. Just like we did not realize how difficult this type of access would be for us.***

We do need piece of mind for our families. This is very unfair imposition. We feel like we are being victimised by the City's interpretations of this SRW document. Our original objection to give access to builder over our properties still stands..

A few years back a pedestrian was hit by a visitor while turning onto the Steveston Hwy from this lane meaning more traffic more chances of hitting the pedestrian.

My neighbour "George", resident of 9091, was also involved in an accident. He was coming out of this lane slowly and a fast moving west bound car hit his car on the front side. These are real events that the city must re-consider

Everyone agrees that the anterior lane from Mortfield Gate is the solution. ***Perhaps the reason no steps are being taken to implement that is because there appears to be a free and easy out. Can you stop this free and easy out now?***

We trust our objections will be taken into consideration in this final hearing.

Sincerely,

Qaiser Iqbal and Naureen Qaiser - owner of 9093 Steveston Highway, Richmond BC

Phone: 604-277-6493, Email: q_iqbal@hotmail.com

Taha Qaiser and Yusra Qaiser – Children above 18 years of age at 9093 Steveston Highway

Attachment: 1. Copy of the Letter from the City ByLaw Manager dated Sept 6th, 2011
2. An independent legal interpretation letter on the SRW document # BW406323 from Goodwin & Mark LLP

1. Is there any other city road that enables a right turn from Steveston Hwy that has the same width with no pavement? There's NONE as far as we discussed with City planning department?
2. Did transportation authority run any safety trials before approving this plan for increased traffic? (Like having someone drive out and another person turn in at the same time) We would like to know the results of these safety assessments and credible reasons why this is considered safe regulation of traffic for the public and if there are any other similar roads (precedents) on Steveston Highway. If not we would like a proper safety assessment. That it is the same width as the back lane is a poor reason and does not make us feel safe.
3. Is it acceptable means and method to use private road not design to regular city road standard as a mean to connect city road ("the back lane") and the Steveston Hwy?
4. If damage or accidents occur on our private properties will the City's insurance cover-off the costs? Will it be ICBC? Will it be the owner's property insurance?

City Staff's response to our questions: No we cannot stop anyone from building a larger single family home in the way on the anterior lane making this plan permanent. No we have no information on how many other homes are ready to implement this. No we cannot wait to implement this solution by bringing the lane in from Mortfield Gate or Roseland Gate. No we cannot do anything about the risk of the lane getting blocked at any time.

So we have come to the conclusion that no work or planning has been done to ensure the implementation of the anterior lane. In the private sector, when we prepare a "temporary plan" we are required to support it with feasibility studies, risk assessments, time line for implementation of permanent solution, budgets and actions for implementation. It comes as a BIG disappointment that the same standards do not apply in the public sector. That all it takes to constitute a "PLAN" is a color print-out presented by the staff at the planning meetings with purple paint depicting where they WISH the anterior lane to eventually appear.

We now present a real case to show the outcome of such planning – we have spoken to the owner affected by a similar situation on No 2 Road and Colville Road. The owner expressed that he was told that the anterior lane would work its way out and he would have his land back. Many years have gone by and increased numbers of homes are using the lane but a large home on both sides has stopped the progress and made the so-called temporary solution permanent. His words were "I will not get my land back in this lifetime". He expressed his dissatisfaction and helplessness at the situation. When asked why he did not fight back at that time, the answer brought the true helplessness of the Richmond resident to the fore. Many residents are not native English speakers, not only do they find speaking in front of council too daunting and a stage show only, they also are not able to understand fully what goes on and express themselves well enough to be convincing. Today we speak for this gentleman as well as the voice of the voiceless. But the voted council is intended to be the voice of the voiceless. The average resident is not a trained lawyer or a leader who can communicate well in public. ***In a city like Richmond, we need a council who can visualize the common man's pain beyond what mere words can convey because the sad truth is that the common man cannot convey.***

We have expressed safety concerns that while turning in from a fast road like Steveston hwy, a large turning radius is required.. The only answer we receive is that "22ft meets requirements". Even an intern from the staff/ transportation has not shown up to drive in and see if it is possible to turn in without coming to a complete stop while another car is trying to come out. Transportation can look up how likely it is to be rear-ended when one comes to a complete stop on Steveston

Goodwin & Mark LLP

Barristers & Solicitors
Trade Mark Agents

JOHN R. GOODWIN (Ret.)
ALEX SWEEZEY
PETER J. GOODWIN
MICHELLE J. RANDALL

DONALD T. MARK (Ret.)
VIRGINIA HAYES (Ret.)
HERMAN C. CHEUNG
PATRICK J. MARCH

TELEPHONE (604) 522-9884
FAX (604) 526-8044
E-mail: alex@goodmark.ca

217 WESTMINSTER BUILDING
713 COLUMBIA STREET
NEW WESTMINSTER, B.C. V3M 1B2

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 Maryem 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") B/W406323 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."

- 2 -

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

Iqbal, Qaiser

To: Mercer, Wayne
Cc: MacKinnon, Deb; MayorandCouncillors; Toews, Curt
Subject: RE: Alleged Dogs Off Leash - 9000 blk Steveston Hwy

From: Mercer, Wayne [mailto:WMercer@richmond.ca]
Sent: 2011, September 06 2:49 PM
To: Iqbal, Qaiser
Cc: MacKinnon, Deb; MayorandCouncillors; Toews, Curt
Subject: Alleged Dogs Off Leash - 9000 blk Steveston Hwy

Mr. Iqbal:

Your message to the Mayor's Office has been referred to my office for investigation and response.

Thank you very much for forwarding the video as you did – it makes it very clear as to where your neighbours are removing the leashes from their dogs' collars.

In reviewing the area between your house at 9093 Steveston Hwy and your neighbour at 9097 Steveston Hwy, where the unleashing took place, this is not public property. This vehicle access is provided jointly by you and your neighbour so that vehicles can access the garages at the rear of the 4 houses in this complex. I would expect that, when you purchased your home, you agreed to provide such access as part of the purchase agreement.

Because this is private property, evenly split between you and your neighbor, the leashing requirements for dogs under the City's Animal Control Regulation Bylaw do not apply – they only apply on City-owned property. Therefore, your neighbours are not acting contrary to the Bylaw in releasing their dogs from their leashes in this area and we will not be pursuing any enforcement for these actions.

Thanks.....

Wayne G. Mercer
Manager, Community Bylaws

City of Richmond
6911 No 3 Road
Richmond, BC V6Y 2C1

direct: 604.247.4601
fax: 604.276.4036
email: w Mercer@richmond.ca
web: www.richmond.ca



City of Richmond

Notice of Public Hearing

Tuesday, April 18, 2017 – 7 pm

**Council Chambers, 1st Floor, Richmond City Hall
6911 No. 3 Road, Richmond, BC V6Y 2C1**

Richmond Zoning Bylaw 8500, Amendment Bylaw 9646 (RZ 16-728719)

Location/s: 9051 & 9071 Steveston Highway
Applicant/s: Harj Johal
Purpose: To rezone the subject properties from the “Single Detached (RS1/E)” zone to the “Compact Single Detached (RC2)” zone, to permit the properties to be subdivided to create four (4) single-family lots, with vehicle access from an extension to the existing rear lane.
City Contact: Jordan Rockerbie, 604-276-4092, Planning and Development Division

How to obtain further information:

- **By Phone:** If you have questions or concerns, please call the CITY CONTACT shown above.
- **On the City Website:** Public Hearing Agendas, including staff reports and the proposed bylaws, are available on the City Website at <http://www.richmond.ca/cityhall/council/agendas/hearings/2017.htm>
- **At City Hall:** Copies of the proposed bylaw, supporting staff and Committee reports and other background material, are also available for inspection at the Planning and Development Division at City Hall, between the hours of 8:15 am and 5 pm, Monday through Friday, except statutory holidays, commencing April 7, 2017 and ending April 18, 2017, or upon the conclusion of the hearing.
- **By FAX or Mail:** Staff reports and the proposed bylaws may also be obtained by FAX or by standard mail, by calling 604-276-4007 between the hours of 8:15 am and 5 pm, Monday through Friday, except statutory holidays, commencing April 7, 2017 and ending April 18, 2017.

Participating in the Public Hearing process:

- The Public Hearing is open to all members of the public. If you believe that you are affected by the proposed bylaw, you may make a presentation or submit written comments at the Public Hearing. If you are unable to attend, you may send your written comments to the City Clerk's Office by 4 pm on the date of the Public Hearing as follows:
 - **By E-mail:** using the on-line form at <http://www.richmond.ca/cityhall/council/hearings/about.htm>
 - **By Standard Mail:** 6911 No.3 Road, Richmond, BC, V6Y 2C1, Attention: Director, City Clerk's Office
 - **By Fax:** 604-276-5139, Attention: Director, City Clerk's Office
- **Public Hearing Rules:** For information on public hearing rules and procedures, please consult the City website at <http://www.richmond.ca/cityhall/council/hearings/about.htm> or call the City Clerk's Office at 604-276-4007.
- All submissions will form part of the record of the hearing. **Once the Public Hearing has concluded, no further information or submissions can be considered by Council.** It should be noted that the rezoned property may be used for any or all of the uses permitted in the “new” zone.

David Weber
Director, City Clerk's Office