

Subject: Feb 14/2005 Agenda Item #5 - Encroachments on Highway and Municipal Property

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Your Worship & Members of Council,

As this item was originally to be dealt with on Jan 24th and since my input at that time seems not to be included in the present council package on this issue I thought I would again send you my (somewhat updated) thoughts on this matter...

Under the Community Charter since "a council may grant a license of occupation or an easement, or permit an encroachment, in respect of a highway that is vested in the municipality under subsection (1)(a)." I think it inappropriate that such authority be given over to staff and thus hope council will NOT allow this in any Council Policy.

I have no concerns that the Manager of Regulatory Services may renew all existing licences to occupy agreements automatically on a year to year basis until cancelled by either party - so long as Council periodically reviews all such licenses.

To ignore written complaints from those who are not neighbours to encroachments, be it on parkland, highway, or municipal property, unfairly disenfranchises the vast majority of district taxpayers - who are the common stakeholders of our public lands. All written complaints should be treated on an equitable basis and the "Real Estate and property Section" should be directed to do so.

Encroachment appeals by the applicant to council, or those being proposed to be granted by staff should all be dealt with at an open council meeting. This ensures open accountability of the use of our public lands.

Should council still decide to let the Municipal Engineer authorize and execute a Highway Encroachment Agreement then I urge council to closely examine the conditions for such. For example, 3.04 on page 228(now 64) of council package should read "impede" not "prohibit", while I agree with 3.05 it should be noted that this provision has already been violated by the some of the current agreements. Clearly these encroachments should not be renewed - and council should say so.

Since the use of fenced-in encroached property can readily change - there being little basic monitoring even of encroachments much less what goes in them - I urge council to maintain the simple single fee structure.

I find it contradictory that different lease rates should be adopted for different uses (5% for major, 2.5% for minor) while the same rate per unit area be adopted district wide. Clearly, encroachments near waterfront properties, which have a much higher assessed value should pay more. Since the appropriate calculation involves a simple assessment lookup and a bit of arithmetic, and since the number of encroachments number about 30, the administrative overhead is minimal. At the very least the average assessed value per unit area in the vicinity should be used - not the district average. To do otherwise would encourage encroachments of only expensive properties.

To argue that since Council generally adjust the mill rate downward when assessments increase as the basis for reducing the % charged from 7.5 to 5.0 ignores market realities that rents are largely based on assessments. If automobiles should double in price I don't see leasing companies suddenly reducing their lease rates.

It should be noted that currently BC Assessment Authority does not make any of the encroachments taxable - thus depriving the District and others of their rightful taxes.

I do not agree that a clear and equitable policy is in any way related to "support for staff to demand removal of any encroachments found in the future unless a license fee is paid". It only relates to how much would be paid for the license fee.

If I were a public trustee handling the affairs of a private estate I would be obliged to get the best value for the property. In the same way I expect the District's Real Estate and Property Section to get the most from our public assets. I currently lack such assurance.

Yours truly,

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