

REGIONAL DISTRICT OF NANAIMO

**SPECIAL BOARD MEETING
TUESDAY, JUNE 14, 2016
7:00 PM**

(RDN Board Chambers)

A G E N D A

1. CALL TO ORDER

5. COMMUNICATIONS/CORRESPONDENCE

3-5 **John Adams, Cook Roberts LLP**, re Request for Board reconsideration under *Community Charter s. 78* – 2954 Canyon Road, Electoral Area ‘A’ – Hazardous Property.

6. UNFINISHED BUSINESS

Board reconsideration under *Community Charter s. 78* – 2954 Canyon Road, Electoral Area ‘A’ – Hazardous Property.

Property owner wishing to speak to Board reconsideration under *Community Charter s. 78* – 2954 Canyon Road, Electoral Area ‘A’ – Hazardous Property.

At the May 24, 2016 Board Meeting, the following motions were carried:

That the Board declare that the building on the property legally described as Lot 1, Section 3, Range 8, Cranberry District, Plan 15453 (2954 Canyon Road) creates an unsafe condition pursuant to Section 73(1) of the Community Charter.

That the Board directs the owner of the property, pursuant to Section 72 of the Community Charter, to undertake remedial action in accordance with the attached Order within (14) fourteen days or the work will be undertaken by the Regional District of Nanaimo (RDN) or its agents at the owner's cost.

6-7 **Greater Nanaimo Pollution Control Centre Marine Outfall Replacement Project – Loan Authorization** (All Directors – Weighted Vote).

That Southern Community Sewer Local Service Capital Improvements Loan Authorization Bylaw No. 1741, 2016 be adopted.

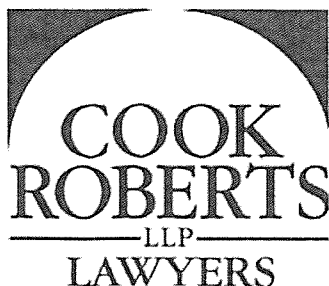
9. ADDENDUM

10. BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

11. NEW BUSINESS

12. IN CAMERA

13. ADJOURNMENT



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June 7, 2016

EMAIL

Regional District of Nanaimo
6300 Hammond Bay Rd.
Nanaimo, BC V9T 6N2

c/o Tom Armet

Dear Sirs and Madams,

Re: 2954 Canyon Road

As Alex Dutton of our office has already notified you, we have been retained by 0904255 BC Ltd. with respect to the Order under Division 12 of Part 3 of the *Community Charter*, SBC 2003, c 26 (the "*Charter*") in relation to 2954 Canyon Road, made by the Regional District's Council on May 24, 2016.

Pursuant to section 78 of the *Charter*, this is our client's request for reconsideration of May 24, 2016 Order.

Our client seeks the reconsideration of the Order on the basis that the extreme measure of demolishing the property is not necessary and that our client is actually taking active steps to remediate the property, as well as on procedural grounds.

With respect to the concerns expressed by the Regional District about the condition of the property, since our client was contacted by the Regional District of Nanaimo's by-law enforcement department in relation to the April 2016 staff direction that the property required remediation, the property has been:

- substantially cleaned up (landscaping, removal of debris, removal of graffiti);
- secured (the property line has been fenced, the cistern covered over, and plywood affixed to the inside of the wall covering all windows);

- reviewed by Eva Kozikowska, a designer at Oracle Interiors Ltd. in Vancouver, BC; and,
- examined by Sharat Chande, a structural engineer at Kontrol Engineering Ltd. in Burnaby, BC.

We anticipate being able to provide further information about our client's plans to restore and renovate the building at the June 14, 2016 Council meeting.

The procedural issues affecting the validity of the May 24, 2016 Order, include without limitation:

- Our client was not properly notified of the April 14, 2016 staff direction alleging that the property was a nuisance within the meaning of section 74 of the *Charter*;
- Our client was not properly notified of the May 24, 2016 meeting;
- When our client became aware of the May 24, 2016 meeting, it advised the Regional District of their intention to retain legal counsel and that they would require an adjournment to do so. However, our client was not afforded an opportunity to seek legal counsel nor was our client provided the opportunity to seek an adjournment of the meeting so that it could do so;
- In contrast to the April 14, 2016 staff direction that indicated that the Regional District of Nanaimo considered the property to be a "nuisance" within the meaning of section 74 of the *Charter*, the Notice of Hearing indicated that there would be a determination that the property was in a "hazardous condition" within the meaning of section 73 of the *Charter*;
- The Notice of Hearing did not include a copy of the Staff Report which appears to have been a key factor in the Council's decision;
- The Notice of Hearing did not include a copy of the motion that was to be considered by Council at the meeting with respect to the property;
- The Staff Report
 - failed provide sufficient detail or evidence to enable Council to determine whether or not the property "is in or creates an unsafe condition or the matter or thing contravenes the Provincial building regulations" within the meaning of section 73 of the *Charter*;
 - mischaracterized the efforts of our client to comply with the April 2016 staff direction as to remediate the property; and
 - included information from a period prior to our client's ownership of the property to the prejudice of our client.

- The fact that our client had been in communication with the Regional District of Nanaimo's planning department prior to the meeting to discuss the remediation of the building and our client's future plans for the property was not disclosed to Council;
- The May 24th meeting was the first time our client learned that the resolution being recommended by staff and considered by Council was that the building be demolished, rather than simply remediated; and
- There was no evidence in the Staff Report or presented at the May 24th meeting to establish that the property represented a "significant risk to health or safety" within the meaning of section 79 of the *Charter* and that our client's time to comply with the order should be abridged.

Our client reserves the right to bring appropriate proceedings to challenge the validity of the May 24, 2016 Order depending on the outcome of the June 14, 2016 meeting. We note that our client's request to Council to reconsider the May 24th Order is being made on a without prejudice basis to our client's right to challenge the validity of the Order based on the type of procedural issues outlined above.

Our client of course would far prefer to focus its efforts on properly remediating the property and restoring it to its former role as a functioning establishment, than on procedural disputes with the Regional District. We trust that the information provided by our client either on or before the June 14th meeting will satisfy the Regional District that there is no need to try insisting that our client proceed with the draconian step of demolishing the property, and that this matter will be able to be resolved between our client and the Regional District in a manner that satisfies both our client's and the Regional District's interests and without the need for any form of legal proceedings.

Yours truly,

COOK ROBERTS LLP

Per: 
John Adams
JCA/jad
Cc: client

REGIONAL DISTRICT OF NANAIMO

BYLAW NO. 1741

**A BYLAW TO AUTHORIZE THE BORROWING OF
ELEVEN MILLION DOLLARS (\$11,000,000)
FOR THE SOUTHERN COMMUNITY SEWER LOCAL SERVICE**

WHEREAS the Board of the Regional District of Nanaimo (the "Regional District") established the Southern Community Sewer Local Service pursuant to Bylaw No. 888, cited as "Regional District of Nanaimo Southern Community Sewer Local Service Conversion Bylaw No. 888, 1993" for the purpose of collection, conveyance, treatment and disposal of sewage;

AND WHEREAS the Regional District wishes to undertake and carry out capital improvement and upgrades requirements to the Greater Nanaimo Pollution Control Centre Marine Outfall (the "Works");

AND WHEREAS the Regional District Liquid Waste Management Plan has been approved by the Minister under section 24(5) of the *Environmental Management Act* and the borrowing authority to implement the Liquid Waste Management Plan does not require approval of the electors;

AND WHEREAS the estimated cost of the Works, including expenses incidental thereto, is the sum of Eleven Million Dollars (\$11,000,000);

AND WHEREAS the financing is to be undertaken by the Municipal Finance Authority of British Columbia pursuant to proposed agreements between the Authority and the Regional District;

NOW THEREFORE the Board of the Regional District of Nanaimo in open meeting assembled enacts as follows:

1. This bylaw may be cited for all purposes as the "Southern Community Sewer Local Service Capital Improvements Loan Authorization Bylaw No. 1741, 2016".
2. The Regional District is hereby empowered and authorized to borrow funds to undertake and carry out or cause to be carried out the capital improvement and upgrades requirements to the sewage collection, treatment and disposal system of the Greater Nanaimo Pollution Control Centre Marine Outfall.
3. The total amount to be borrowed under the authority of this bylaw shall not exceed Eleven Million Dollars (\$11,000,000).
4. The maximum term for which debentures may be issued to secure the debt created by this bylaw is 20 years.
5. The borrowing authorized relates to the Southern Community Sewer Local Service established pursuant to Bylaw No. 888, cited as "Regional District of Nanaimo Southern Community Sewer Local Service Conversion Bylaw No. 888, 1993".

Introduced and read three times this 26th day of April, 2016.

Received the approval of the Inspector of Municipalities this 7th day of June, 2016.

Adopted this _____ day of _____, 2016.

CHAIRPERSON

CORPORATE OFFICER