

STEWART AULINGER AND COMPANY
BARRISTERS AND SOLICITORS

DIRECT LINE (604) 879 5952
E-MAIL: bkasting@smartt.com
www.bobkasting.com

27 March 2017

Young Anderson
1616 – 808 Nelson Street
Box 12147 Nelson Square
Vancouver, BC V6Z 2H2

Attn: Reece Harding

Dear sir:

Re: Town of Gibsons
George Property Development including Gower Point Road and Lower Winn Road

I am legal counsel for a group of concerned citizens, including Marcia Timbres. I direct this letter to you, as counsel for the Town of Gibsons.

It has come to my client's attention that development permits have been issued, and might continue to be issued on the George waterfront development in Gibsons, when such issuance is contrary to the statutory regime currently in place. It is my hope, in addressing this in a detailed way, to bring this issue to the attention of the Town and enable a correction of whatever course the Town has taken, or is planning to take in the future.

The chronology of events, simply stated, is the following:

1. The property in question was formerly used for a dry dock and for boat repair and maintenance. Any development of this site is restrained by s. 40(2) (a) of the *Environmental Management Act* and s. 3(3) and Schedule 2G of the *Contaminated Site Regulations*. A site profile must be delivered to the director under the *Environmental Management Act* (EMA) 10

days *before* dismantling a building or structure or decommissioning the site. Once a site profile has been delivered, a municipality may not approve a development permit unless it has received the clearances set out in s. 557 of the *Local Government Act*.

2. The owner of the property in question sent a Development Permit Application to the Town of Gibsons on February 1, 2013. It indicated in the application that it had provided a "site profile in accordance with the *Contaminated Sites Regulations*". This was a false statement, as no such site profile was included and, in any event, the Town of Gibsons had opted out of reviewing site profiles, leaving such matters to be dealt with directly by the director under the *Environmental Management Act*.

3. As of April 1, 2016, the marine tracks and other parts of the marine ways were removed without a development permit. No site profile had been provided to the director by the owner. The owner was, at this point, in violation of s. 40(2) of the *Environmental Management Act*.

4. On May 30, 2016, a development permit was issued by the Town to allow for, among other things, the deconstruction of the boat house and removal of existing fuel tanks. As of this date, no site profile had yet been provided to the director by the owner. The owner continued to be in violation of s. 40(2) of the *EMA* and the Town, at that point, had issued a development permit contrary to s. 557 of the *Local Government Act*.

5. By June 17, 2016, the boathouse had been completely removed. No site profile had been provided to the director.

6. On July 7, the development permit was amended, but not withdrawn. Still no site profile had been provided to the director. The owner continued to be in violation of the *Environmental Management Act*; the Town again issued the amended permit contrary to s. 557 of the *Local Government Act*.

7. The owner did not deliver a site profile to the director until December 5, 2016.

8. On December 14, 2016, the director ordered a "detailed site investigation" pursuant to s. 7(1) of the *Contaminated Site Regulations* and s. 41 of the *Environmental Management Act*.

It is evident that an error occurred in granting the development permit to the developer in May 2016 and in issuing the amended development permit in July 2016. Now that the detailed site investigation has been ordered by the director, the Town must not issue any further development permits, demolition permits or allow for any further rezoning. To do so would be to act in clear and knowing violation of s. 557 of the *Local Government Act*.


My clients are interested in receiving assurances from the Town that it will, in the future, abide by s. 557 of the *Local Government Act* and not approve any further development or demolition permits until the contamination issue has been resolved and the director has issued a final determination under s. 44 (2) (e) of the EMA to the Town.

My clients are also interest in knowing whether the Town intends to revoke the development permits, issued prematurely and incorrectly in May and July 2016.

As this is an issue which involves illegal issuance of permits, with the issuance of future permits clearly being contemplated by the owner and the Town, we request a timely response to this letter to avoid any unnecessary, time-consuming, and likely expensive steps being taken by my clients to ensure that the Town abides by its mandatory statutory obligations

I await your communication.

Yours truly,


Robert A. Kasting