

● October 4, 2016

**Memorandum to: Jim Bailey, Director of Planning for District of West Vancouver
And the Lower Caulfield Advisory Committee**

Re: 4701 Piccadilly South: Lower Caulfeild Heritage Alteration Permit Application

I have been asked by the owner of the property, Sukhi Muker, to provide a Memorandum which addresses driveway access to the property from Piccadilly South *via* Clovelly Walk.

Clovelly Walk is comprised of property owned by the District of West Vancouver and dedicated for public use as a lane/roadway, i.e., as a 'highway'.

The *Land Title Act* defines a "highway" to include a public street, path, walkway, trail, lane, bridge, road, thoroughfare and any other public way.

The *Transportation Act* defines "highway" to mean a public street, road, trail, lane, bridge, trestle, tunnel, ferry landing, ferry approach, any other public way or any other land or improvement that becomes or has become a highway by any of the means set forth in the definition, including deposit of a subdivision, reference or explanatory plan in a land title office under section 107 of the *Land Title Act*.

Thus, Clovelly Walk became a 'highway' upon the deposit of Subdivision Plan 4763 in the Land Title Office under section 107 of the *Land Title Act*.

As a member of the public, the owner of 4701 Piccadilly South is entitled to use Clovelly Walk, including for access to the property, without interference from any private property owner and without objection from any member of the public.

The District of West Vancouver is entitled to make, or allow for the construction of, any improvements to any portion of Clovelly Walk appropriate to accommodate driveway access to the property consistent with continued use of Clovelly Walk as a *highway*.

Such entitlement in this respect is no different from the entitlement of all members of the public owning residential properties along Piccadilly South, also a *highway*, to be afforded driveway access to their properties.

This principle must be recognized in further deliberations by the Lower Caulfeild Advisory Committee when considering the Guidelines HE 6 for the Lower Caulfeild Conservation Area as they may apply to the Heritage Alteration Permit application including the joint-access proposal from the owners of 4701 and 4713 Piccadilly South based on driveway access from Piccadilly South *via* Clovelly Walk.

: Vince Aldridge
: Chris R. Armstrong, P.Eng.
: Rob DuMerton
: Eric Lundberg
: Brian G. McLean
: Chris Moore
: Mike Preston
: Curtis Simmonds
: Jonathan D. Tweedale
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- In summary, Piccadilly South and Clovelly Walk are both legally established dedicated public *highways* owned by the District of West Vancouver on which members of the public are entitled to travel and from which private property owners are entitled to access their privately held properties without objection or interference from members of the public or private property owners.

The proposed access to 4701/4713 Piccadilly South via Clovelly Walk is founded on established legal rights and it is in this context that the Alteration Permit Application stands to be considered by the Lower Caulfeild Advisory Committee and residents of the area participating in the process.

Yours truly,

McLean & Armstrong LLP

Per:



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