

17. Re: Letter - Mr. and Mrs. A. Lavers & Mr. and Mrs. W. Allemann
Boarding of Horses

Appearing on the Agenda for the February 7, 1972 Council Meeting is a letter dated January 25, 1972 from Mr. and Mrs. A. Lavers and Mr. and Mrs. W. Allemann protesting the boarding of horses in the area around Government Road. These persons contend that because horses are not properly fenced, they trespass and cause damage to trees, private lawns, etc.

The Chief License Inspector, who collaborated with the Pound Inspector in investigating the complaint, reports as follows:

"The following three properties appear to be the cause of the complaint:

Mr. W. Unger 7454 Government Road	1 horse
Mrs. L. Mollica 7468 Government Road	2 horses
Mr. R. W. Lowe 7508 Government Road	2 horses

Two of the parcels of land, 7454 Government Road and 7468 Government Road, are comprised of several acres while the third parcel, 7508 Government Road, contains approximately two acres. The pasture area of each property ranges from approximately one and one-quarter acres to three and one-half acres. These properties are adjacent to each other and each has been in use as a pasture for horses or other species of livestock for some considerable time, in one case several years.

This area is zoned as a residential district (R1). The keeping of horses or livestock is not a permitted use under the current zoning regulations.

Discussion with owners and occupants of these properties revealed only one property, 7508 Government Road, is used by the owner to pasture his own horses. The pasture area of the two adjacent properties is rented to absentee horse owners.

Based on the nature of the complaint, emphasis was placed on the condition of the fences. This served to reveal the horses pastured at 7468 Government Road are the main cause for complaint. Conversation with the owner of the two horses at this location revealed the fences were in need of repair, some of which has been recently undertaken. General condition of all fences suggests some attention is necessary; however, these properties are currently involved in subdivision development. Consequently, there is a certain reluctance to proceed with major repairs. In any case, the Municipality has no authority to order such repairs.

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The owner of each property has been verbally advised as to the possible non-conforming mis-use of said property. This information, together with a warning that any recurrence of the complaints may necessitate action to enforce the zoning by-law, has been served in written form.

In my opinion it is the absentee horse owners which are the major cause of complaint. The fact that they are not readily available to capture the animal when it escapes and the possibility the animal may not receive adequate attention, particularly during inclement weather, is often the reason surrounding residents become aggravated. The S.P.C.A. concurs in this matter.

Should it become necessary to pursue legal action to enforce the by-law, it may be difficult to obtain a conviction. It is suspected that horses were being housed on these properties prior to the enactment of the Burnaby Zoning By-law in June, 1965. Under provision of the repealed Town Planning By-law, Section 9 (J), the keeping of horses was a permitted use at the time, in which case the present use could be legally non-conforming.

Consultation with the Municipal Solicitor resulted in the advice that before a charge may be laid under the Zoning By-law, we must have information to prove that animals were not on the property prior to the 7th day of June, 1965, the date Council adopted the by-law.

Unless the property owners are violating some other Municipal By-law, the only action the Municipality may take would be to apprehend the animals while running at large or lay charges for running at large under provisions of the Burnaby Pound By-law 1921, No. 306.

If the animals are causing damage to private property, this would be a civil matter which must be pursued by the complainants.

In view of the possible legal non-conforming use of these properties and giving consideration to the nature of the complaint, I feel there is no further action that can be taken at this time. Any future incidents of this nature will be investigated under provision of the Burnaby Pound By-law, 1921, No. 306."

The Public Health Department is conducting a separate study of this complaint. If findings are significant, Council will receive a report in approximately two weeks.

RECOMMENDATION:

THAT no further action be taken regarding this matter at this time; and
THAT further complaints regarding this matter be investigated under Burnaby By-law 1921, No. 306; and
THAT copies of this report be sent to the complainants and owners of the horses and properties.