

19. Re: Deposits of Material at 4976 Smith Avenue

On January 28, 1974, Council received a letter from the legal firm of Edwards, Edwards and Edwards, regarding a request from their client, Mrs. Gladys Mahhe, to have the Municipality remove certain materials from the client's property which is located at the subject address. Council on that date was advised that the Engineer would submit a report on the matter on February 4, 1974. The Engineer's report follows.

RECOMMENDATIONS:

THAT Mrs. Gladys Mahhe's request to have the Municipality remove certain materials from her property be denied; and

THAT a copy of this report be sent to the firm of Edwards, Edwards and Edwards.

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TO: MUNICIPAL MANAGER

January 30, 1974

FROM: MUNICIPAL ENGINEER

RE: DRAINAGE COMPLAINT: 4976 Smith Avenue (Mrs. G. MAHHE)

The letter dated 21 January, 1974 submitted by Edwards, Edwards & Edwards on behalf of Mrs. G. Mahhe at 4976 Smith Avenue outlines an identical complaint made by Mrs. Mahhe in 1972 and which was fully reported on in Item No. 10 from Manager's Report No. 18 Council Meeting March 13, 1972 a copy of which is attached.

The circumstances as outlined in the March 13, 1972 report have not changed in any regard and the only new element introduced by Edwards, Edwards & Edwards is the statement in the second paragraph to the effect that the Mahhe property cannot be connected to the storm sewer on Smith Avenue because of the level of the street. We have this date checked the level of the basement of the Mahhe property in comparison to the level of the storm sewer main on Smith Avenue and can confirm that the storm sewer is at a sufficient depth to serve the Mahhe property without pumping, and in fact, the six inch diameter storm sewer connection is available at the Smith Avenue frontage of the property to which the owner has never connected. In connection with the drainage problem in the front yard, it was observed while surveying at the property that there is a down pipe at the southwest corner of the house which is discharging roof water in an uncontrolled manner onto the ground in the vicinity of the southwest corner of the house.

RECOMMENDATION:

THAT the firm of Edwards, Edwards & Edwards be advised that in view of the circumstances outlined in this report and as previously described in the report to Council, March 13, 1972 it is not the intention of the Corporation to remove the material as requested.

VK:wlb

Att.

cc: ( ) Municipal Solicitor ( ) Municipal Clerk

*E.E. Adams*  
MUNICIPAL ENGINEER

ITEM 19  
MANAGER'S REPORT NO. 9  
COUNCIL MEETING Feb. 4/74

ITEM 10  
MANAGER'S REPORT NO. 18  
COUNCIL MEETING Mar. 13/72

~~10.~~ Re: Letter - Mrs. G. Mahhe, 4976 Smith Avenue  
Flooding Condition on Private Property

Mrs. G. Mahhe appeared before Council on March 6, 1972 and cited a series of events which she alleges is the cause of flooding on her property during rainy days. Her main contention is that the Municipality, as the result of making improvements to the street on which she owns property, without her consent dumped several loads of cement and other material onto her property, and that the presence of this material is the cause of the flooding condition. The Municipal Engineer investigated this complaint and reports as follows:

" On 6 March, 1972, Mrs. Mahhe appeared at Council suggesting that certain work carried out in 1966 by Corporation crews in bringing up the elevation of her front yard to match the elevation of the sidewalk is presently causing drainage problems on her property primarily in the form of water seepage into the basement.

Mrs. Mahhe informed Council that she had had her property re-tiled last January but that it was "not necessary to go to the front". I am afraid that Mrs. Mahhe received bad advice, whoever it might have been from, inasmuch as she should have taken the drainage to the front storm sewer connection which is available to her but has never been used. Instead she has chosen to connect the drain tiles to the drain pit at the rear of the property.

I informed Council on 6 March that it was important for us to continue our investigation of this matter because it was my recollection that Mrs. Mahhe had signed a Release Form in 1966. Such further investigation has indeed disclosed that Mrs. Gladys Mahhe provided us with a Consent and Release Form dated 3 May, 1966. These records are now microfilmed, but we have transcribed the information from the microfilm and can, of course, provide copies if necessary. Copies of our transcription are attached. From this information it would also appear that Mrs. Mahhe was incorrect in correcting my statement concerning 1966, to 1967.

It is my opinion that the material deposited in the front yard of Mrs. Mahhe's property at her request in 1966 could in no way aid or abet the alleged infiltration of water into her basement but that the problem is basically one of the rock pit at the rear of the house not being able to handle flows of water during periods of heavy run-off. Likewise, the precise nature of the fill placed into the front yard could not have a bearing on causing more or additional water infiltrating the basement.

In view of the fact that Mrs. Mahhe gave us written permission dated 3 May, 1966, and clearance of liability resulting therefrom, and owing to the fact that the work as carried out could in no way affect the drainage around her property, I recommend that her claim be denied.

I informed Council on 6 March, 1972, that the practice of filling on private property used to be fairly standard with construction by Corporation forces, but that owing to problems generated thereby, especially in Mrs. Mahhe's case, I ordered that no further filling on private property be carried out except in very special circumstances, each of which would be thoroughly investigated on its own merits."

RECOMMENDATION:

THAT Mrs. Mahhe's claim for property damage be denied; and  
THAT Mrs. Mahhe be given a copy of this report item.

ITEM 10  
MANAGER'S REPORT NO. 18  
COUNCIL MEETING Mar. 13/72

ITEM 19  
MANAGER'S REPORT NO. 9  
COUNCIL MEETING Feb. 4/74

2 May, 1966

To: Municipal Engineer

Dear Sir:

We understand the Municipality will soon be widening the pavement of Smith Avenue to 36' at which time it is possible the sidewalks will be raised. As we are in the process of putting in a walk from the present sidewalk to the house, we would like to know what the new grade will be so we can make adjustments now.

Yours truly,

"G. L. MAHHE"

To:

The Corporation of the District of Burnaby  
4545 Grandview Douglas Highway  
Burnaby 2, B.C.

Re: Permission to do Work on Private Property  
4976 Smith

I hereby request that the Corporation of the District of Burnaby enter into my property with men and machinery for the purpose of dumping surplus excavated materials.

I expressly understand that by undertaking this work, the Corporation does not admit liability for damage to our property past or future.

Yours truly,

Owner's Address: 4976 Smith Ave.  
Burnaby, B.C.

"GLADYS MAHHE"

(Signed)

Stamped as rec'd  
in Engineering 3 May/6

3 June, 1966

TO: CONSTRUCTION ENGINEER

FROM: OPERATIONS ENGINEER

Re: Request for Fill - 4976 Smith Ave.

Mrs. G. Mahhe of the above address requested some time ago to have surplus soil from excavations deposited on her property at the above address. She was promised some by an unidentified employee of the Corporation but received none in spite of the recent work on Smith Avenue.

She asked me for it once again two days ago and I explained to her our limitations. In particular she was told that in Operations we very seldom have anything worthwhile to use as fill but I promised to pass it on to you in the hope that you may find it useful to have a place to dispose of several trucks of soil. According to what I understand from her, she needs a considerable amount of it.

JJK:op

JJK

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