

TO: MUNICIPAL MANAGER  
FROM: APPROVING OFFICER  
SUBJECT: SUBDIVISION REFERENCE #88/85  
FELL AVENUE/CHARLES STREET

PURPOSE: To respond to issues raised by the delegation, Mrs. Mikl, who appeared at the Council meeting of 1990 August 27 in connection with Item 26, Manager's Report No. 50, Council meeting 1990 August 13.

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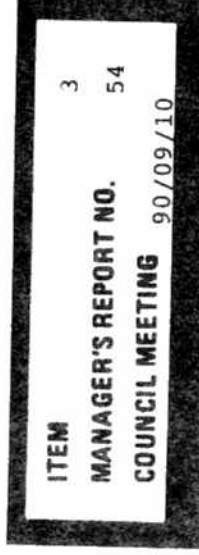
**RECOMMENDATION:**

1. THAT this report be received for information purposes.

**R E P O R T**

The following information is provided in response to points raised by Mrs. Mikl who appeared as a delegation at the Council meeting of 1990 August 27, and by members of Council:

1. A copy of the letter dated 1986 January 20 to which Mrs. Mikl referred is attached.  
The Approving Officer's remarks in paragraph three thereof referred to the scenario of no road being constructed. There was no intent to have the Mikls' payment returned in the event that a road was constructed within the road allowance.  
As mentioned in the above-referenced Council report (Section 3.0), if the Council decision to have a hammerhead road constructed had been in place at the time of subdivision, the estimate for the "In trust" monies required from Mr. and Mrs. Mikl for future construction would have been based on their half of this type of road. This not being the case, their "In trust" payment was based on one-half of the estimated cost of constructing the road through to Fell Avenue.
2. The figure of \$2,570 as mentioned in the above Council report (Section 2.0) represents the difference between the amount that was collected from Mr. and Mrs. Mikl (\$16,725) for a through road and the Mikls' share of the construction cost of the revised hammerhead road (\$14,155). It can therefore be concluded that the Mikls realize a slight financial benefit from the decision to utilize the hammerhead road configuration in this instance.
3. The roadworks as constructed, including the hammerhead turnaround, boulevard landscaping, a sidewalk, and street lights all reflect the current road standards in new subdivisions.  
The configuration of the hammerhead turnaround was approved by Council after consideration of Item 22, Manager's Report No. 80 at their meeting on 1989 December 11.  
In a subsequent report (Item 15, Manager's Report No. 82, Council meeting 1989 December 18), a resolution relating to the development of the full road allowance specifically for a hammerhead road, sidewalk, and landscaping purposes only and for no other purpose was adopted by Council on 1989 December 18.



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4. It is municipal practice to require the second subdivider's contractor to perform road construction works for which the first subdivider has deposited funds for future construction.
5. As mentioned in Section 1.0 of Item 26, Manager's Report No. 50, Council meeting 1990 August 13, the landscaping is slated for this fall and will be subsequently maintained by the Municipality.
6. The 33 foot road dedication was and still is required from Mr. and Mrs. Mikl's site to contain the road, the sidewalk, and associated landscaping in accordance with the Council adopted resolution.  
An exemption was granted by the Approving Officer to allow the creation of two single family lots, each having a width below that required in the Zoning Bylaw since the lot area requirement could be met for both proposed lots. This is in accordance with powers granted to the Approving Officer under the terms of Provincial and Municipal Acts and Bylaws.

In light of the foregoing and the information provided in the report received by Council on 1990 August 27, there exists no justification for the Corporation to reimburse the subdivider for any of the balance of the "In trust" funds, which already have been employed for the construction of the roadworks.

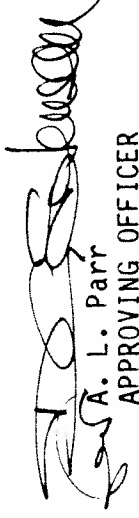
Adoption of the recommendation of the August 27 report (presently tabled) will allow staff to proceed with the refund of the \$2,570 amount to which the Mikls are properly entitled.

This is for the information of Council.

CMM:lf

Att.

cc: Director Engineering  
Director Finance  
Municipal Solicitor



A. L. Parr  
APPROVING OFFICER

ITEM 3  
MANAGER'S REPORT NO. 54  
COUNCIL MEETING 90/09/10

Mr. A.J. Miki,  
4017 Brentlawn Drive,  
Furnaby, B.C.  
V5C 3V3

Dear Sir:

Re: SURDIVISION REFERENCE #88/85

We wish to acknowledge receipt of your letter of 1986 January 16, together with payments and confirmation of intent in connection with the development of proposed Lot 1.

Relative to your statement regarding road dedication and lot sizes, we must advise that under Section 995 of the Municipal Act the owner of the land being subdivided shall provide, without compensation, land for road purposes. Under Section 965, the owner shall provide works and services on the road. Section 991 requires an owner to arrange for the installation of all services before the Approving Officer approves the subdivision unless the owner deposits a bond in the amount of the servicing costs and enters into an agreement with the Municipality to construct and install the required works and services by a specified date or forfeit to the Municipality the amount secured by the bond. In the subject case, the Approving Officer is prepared to approve the subdivision provided that monies "In Trust" are deposited with the Municipality and these funds used towards construction of the road at a later date when the remainder of the road allowance is obtained through subdivision.

If a decision is made in the future not to construct the road, arrangements will be made to refund your payment of \$16,725.00. We would ask that you clarify your stated intent to attempt to retrieve this payment. Were this statement to be taken literally, it may be necessary under Section 991 of the Municipal Act to require you to enter into a subdivision servicing agreement providing for construction of an interim road by you at this time rather than the current arrangement which is to initiate construction when the complete road allowance is obtained.

The portion of your site being dedicated as road is shown as road on the subdivision plans. In this regard, this portion may be used for road purposes only and becomes the property of the Province upon registration of the subdivision plans in the Land Title Office. We would have no objections should you wish to maintain this portion of road until such time as further road dedication is obtained from the property to the north and road construction completed at that time.

Yours truly,



A. L. Parr,  
APPROVING OFFICER

  
CMM:ad

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