

# MUNICIPALITY OF ANCHORAGE



*Mayor Dan Sullivan*

## PUBLIC WORKS DEPARTMENT

4700 ELMORE ROAD ❖ P.O. BOX 196650 ❖ ANCHORAGE, AK 99519-6650  
(907) 343-8120 ❖ (907) 343-8200 FAX

September 26, 2014

Del and Sue Isabelle  
P.O. Box 220021  
Anchorage, AK 99522-0021

## NOTICE AND ORDER

Dear Mr. and Mrs. Isabelle

I researched the issue with regards to the Feb, 4, 2010 Stop Work Issues. The Stop work at that time was only issued for Illegal Dumping of Frozen materials and was to Cease and desist dumping that frozen material. The stop work is still in place for the fill issue. The Stop Work was never for the structure itself so the structure can be worked but will need a report. An engineering assessment will be required as there are questions with the integrity of the structure as per IBC Section 1714.1. There was no Stop Work issued in 2013 as previously thought. The MOA Inspector said he stopped by and since a Stop Work for illegal fill was still in place he verbally reminded the owner of the situation and did not write up an additional Stop Work Order.

I found the letter in which the Isabelle's were promised that the electric pole located in their driveway would be moved. It describes the pole movement as a condition for granting CEA an easement on a King Street Property that the Isabelle's also own. I have been in contact with CEA and they now agree they will move this pole if we document where that pole is to be relocated. We will need to review and locate the best location for this in the current ROW. This will be determined by October 15, 2014 by the MOA.

Neighbors on several sides of your property still continue to believe you have placed fill on their property. A prior determination by the City Manager Dennis LeBlanc in the past identified what he and the Building Official, myself at the time, determined through our best engineering judgment to be the elevation of your lot corner where you installed the gabion walls. A recommendation this week by the current City Manager, George Vakalis directed me to have a third party engineering company review and again determine if that elevation is correct or needs to be revised. The MOA will report on our findings as soon as they become available. Depending on the outcome additional requirements could possibly be identified.

As far as the previous letter dated April 22, 2014 I offer the following update based upon questions and inquiries made at your attorneys office I also am providing a clear Notice and Order of the time frames in which we will require each item to be addressed.

### ITEM #1

An Improvement to Public Place (IPP) agreement for realignment of Lori Drive into the center of the right of way (ROW). This agreement can be applied for through our Private Development Section. Contact Kent Kohlhase at 343-8310 to obtain an application for the agreement and to discuss the typical section for this access. Note that you will be permitted to use the 1 ½ to 1 slope easement that is granted to you by plat for the side slopes supporting the roadway. You will not be permitted to place any fill beyond the limits of this slope easement.

Question: Is this a new requirement and where is the code that references this requirement?

ANSWER:

Yes, this seems to be a new requirement that was not in any previously identified requirements for this project. I could find no code section that allows the MOA to require an IPP for this situation. The requirement is not valid and cannot be required as per the following:

I believe based upon 21.15.150 that the lot containing the Isabelle's property is exempt from any of the provisions of 21.15.150 as per B.1. Therefore, an IPP is not required but it is one of the options available to you for consideration

21.15.150 Improvements associated with building or land use permits.

A. *Improvements required.* The issuance of a building permit under Title 23 or a land use permit under Title 21 for the construction of a commercial or industrial structure on a lot, or for a residential structure on a lot, shall be subject to the permit applicant providing the public use easements and improvements required for a subdivision in the same improvement area under chapters 21.80 and 21.85. In applying the provisions of chapters 21.80 and 21.85 under this section, the term "lot" shall be substituted for the term "subdivision," the term "permit applicant" shall be substituted for the term "subdivider," and the term "municipal engineer" shall be substituted for the term "platting authority."

B. *Exceptions.* The requirements in subsection A of this section shall not apply to a building permit or land use permit to the extent that:

1. All construction associated with a single dwelling unit located on a single lot, tract, or parcel, regardless of zoning district; or

#### CONCLUSION:

The Isabelle's have the option to enter into a IPP Agreement or obtain a Driveway permit. The benefit of an IPP is that the MOA will take on the maintenance of the ROW once the improvements have been accepted. The driveway permit can be obtained through ROW connecting the Isabelle's property from Dimond Blvd. to their property line but under the driveway permit the Isabelle's would have to maintain it as the MOA would not accept it for maintenance purposes.

On an additional note the existing location of the driveway actually crosses onto the neighbors property to the west and this must be addressed by joint access agreement or move it back to the ROW.

#### ITEM #2

Drainage calculations, based on the existing topography of your property showing where drainage is retained on your property and where it may be exiting your property. These calculations must be prepared by a civil engineer registered in the State of Alaska. It must be demonstrated that any drainage leaving your property is not in excess of that which existed prior to your development of the property. If this cannot be demonstrated then you must discuss how you will mitigate the impact of this excess drainage.

#### CONCLUSION:

After speaking with Ron Wilde and reviewing the file the following are two options to resolve this item:

1. **Drainage Calculations provided by a registered Engineer showing that the final design of the property does not increase the amount of flow across the property lines. I found previously submitted contours from the original property submitted by the Isabelle's as well as existing contours that the MOA did on the site. The existing contour as-built the MOA funded shows the present configuration and can be used to help with the final outcome going to be finished by the Isabelle's. The final design should be updated to depict exactly how the Isabelle's would like to finish the elevation for the lot. Drainage calculations can be conducted with the old contours and the MOA as-built to determine surface runoff to prove no additional runoff is crossing property lines, or**
2. **Ron Wilde believes the ditch that was dug in the South East corner of the lot is just slightly too small to accommodate the drainage from the site. His conclusion is that if the Isabelle's do not want to provide drainage calculations they can meet on site and we can enlarge the drainage pond on their property to accommodate all the drainage of the area. Since this will be an estimate, we will monitor to ensure the pond area is as deep as needed to accommodate all drainage onsite. If water still pools up and crosses the property lines we would reserve the right to require the Isabelle's to enlarge again in the future. We can work together to determine the size of the area we will need to excavate to ensure proper drainage will remain on site. It is not estimated to be a large amount.**

### **ITEM #3**

A Statement, recorded against the property, that no other structure will be built on the property beyond that which already exists under your current permit. This is required because much of the fill that was placed on your property is known to contain substantial amounts of organic material. However, because the material has stabilized you are not being required to remove it. Kent Kohlhasse can give you a sample language to use in the statement, similar to what has been required for similar properties.

### **CONCLUSION:**

A statement recorded on the property is still required but must identify the need for engineered foundations of any future structure because of the presence of organics and other debris that the owner does not want to remove. Pictures are in the file where it shows large organic trees were within the fill material. 1997 UBC was in force at the time and the requirement was in Appendix Section 3313 - Fills for the materials allowed as well as the compaction and the slopes. We were not able to confirm these therefore the recorded statement is required for this property to notify all future owners.

### **ITEM #4**

A structural engineer's report of the condition of the partially completed structure. The engineer must be registered in the state of Alaska. The report should state which elements of the structure have been so deteriorated by exposure to weather that they must be removed. The report should also contain a plan for correction of any other noncompliant elements.

### **CONCLUSION:**

I believe there is reasonable doubt that the structural stability capacity of this structure may be compromised due to the fact that the materials have been out in the weather for many years. An Engineering Assessment will be required as there are questions with the integrity of the structure as per 1997 UBC Section 3402, as well as present day code 2009 IBC Section 1714.1.

### **NOTICE AND ORDER REQUIREMENTS:**

Based upon the above factors and the amount of time that has passed without action, I must request Item #2 above be addressed before October 31, 2014. The drainage on this site impacts the surrounding neighbors and is considered a hazard that must be mitigated within a specified amount of time as per the following section within title 23:

23.105.104 Hazards. Whenever the code official determines any existing excavation or embankment or

fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the code official, shall within the period specified therein repair or eliminate such excavation or embankment to eliminate the hazard and to be in conformance with the requirements of this code.

All other items must be addressed within 90 days of the date of this letter or they will be subject to any of the following remedies provided to the Building Official in Title 23 listed below. You have the right to appeal this Notice and Order to the Building Board as described below:

**23.10.103.3.3 Notices and orders.** The building official shall issue all necessary notices and orders to ensure compliance with this code. The person to whom a notice or order is directed shall have thirty (30) days to appeal to the board of appeals established under section 23.103.4. If no timely appeal is filed, the notice and order is final and binding and not subject to any further appeal. The building official may withdraw a notice or order at any time.

**23.10.103.5 Violations.**

**23.10.103.5.1 Unlawful acts.** It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

**23.10.103.5.2 Notice of violation.** The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

**23.10.103.5.3 Prosecution of violation.** If the notice of violation is not complied with promptly, the building official is authorized to request the municipal attorney of the Municipality to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

**23.10.103.6 Stop Work Order.**

**23.10.103.6.1 Authority.** Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the building official is authorized to issue a stop work order.

**23.10.103.6.2 Issuance.** The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work shall be permitted to resume.

**23.10.103.6.3 Unlawful continuance.** Any person continuing any work after being served with a stop work order, except such work as the person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

**23.10.103.7 Penalties and Remedies.**

**23.10.103.7.1 Violation penalties.** Any person violating a provision of this code or failing to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law including but not limited to those in Table 3 of this code.

**23.10.103.7.2 Civil Penalties.** In addition to any other remedy or penalty provided by this title, any person violating any provision of this title, or any code of technical regulation adopted pursuant to this title, shall be subject to the civil penalties or injunctive relief, or both, as provided by section 1.45.010 B., or fines may be assessed according to the schedule provided in title 14.

**23.10.103.7.3 Civil Actions.** Any person aggrieved by the act or omission of another person constituting a violation of the provisions of this title or the codes of technical regulation adopted herein may, following thirty (30) days written notice to the municipal official or department empowered to enforce the provision, commence and maintain a civil action for injunctive relief authorized by section 1.45.010 B. The court, in issuing a final order in any action brought by a private person under this section may, in its discretion, award costs of litigation to any party. In any action under this section, the municipality, if not a party, may intervene as a matter of right.

**The Municipality of Anchorage is hoping you will address the issues noted above and will accommodate by meeting the time frames identified within this Notice and Order to allow us to move toward completion of your project. Thanks for your time and cooperation,**



Ronald J Thompson, P.E.  
Public Works Director/ Acting Building Official  
Municipality of Anchorage



D. Isabelle

*Supplementary conditions to granting easement at King Street property. CEA will!*

From: "Mike Tullius" <Mike\_Tullius@chugachelectric.com>  
To: <iceboss@gd.net>  
Sent: Monday, October 08, 2007 11:38 AM  
Subject: Relocation of pole on your property on Dimond

Del,

Chugach plans to relocate and underground the pole near your driveway on your Dimond Road property. We will either complete this work with Chugach's overhead to underground project scheduled in your area or when the State does their project on this portion of Dimond. I am expecting this work to be done either in the 2008 or 2009 construction season.

Michaél Tullius  
Manager Distribution Design  
Chugach Electric  
907-762-4610

*Includes Notice Letter of non objection agreement for ROW encroachment in Lori dr. <sup>social review</sup> to ~~be granted~~ to construct retaining wall for non-objection at no charge to Isabelle for any of the above processing fees only*

*Susan Stewart  
Paul Gulley  
10-B-07*

10/8/2007