



No. CAR-S-S-15139
Campbell River Registry

In the Supreme Court of British Columbia

Between

STRATHCONA REGIONAL DISTRICT

Petitioner

and

CONRAD JORDAN DOMBROWSKI, RYAN HARVEY, LOVENA HARVEY,
LUKASZ EMIL BIELA, ALLISON PETRA GREGORY,
and NOBA ANDREA ANDERSON

Respondents

RESPONSE TO PETITION

Filed by: Connie Quayle (previously known as Conrad Dombrowski), Ryan Harvey, Lovena Harvey, Lukasz Biela, Allison Gregory and Noba Anderson (the “Respondents”)

THIS IS A RESPONSE TO the amended petition, filed 21 JAN 2021 (the “Petition”)

Part 1: ORDERS CONSENTED TO

The Respondents consent to the granting of the orders set out in the following paragraphs of Part 1 of the Petition: NIL

Part 2: ORDERS OPPOSED

The Respondents oppose the granting of the orders set out in paragraphs 1-2 of Part 1 of the Petition.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The Respondents take no position on the granting of the orders set out in paragraphs NIL of Part 1 of the Petition.

Part 4: FACTUAL BASIS

1. The Respondents are individuals who co-own a property on Cortes Island which is the subject of this petition proceeding (the “Property”).
2. The Property is located within Electoral Area “B” – Cortes Island of the Strathcona Regional District (“SRD”). The Property is 8.85 hectares in size.
3. There are a number of buildings on the Property, including three family homes, one large cottage, and a number of secondary buildings. The secondary buildings are not self-contained and are not used for dwelling purposes.

OCP and Zoning Revisions

4. In 2013, after extensive public consultation, the petitioner Strathcona Regional District (“SRD”) adopted a new Official Community Plan for Cortes Island (the “OCP”).
5. During the consultation and review leading up to OCP adoption, two matters that were hotly contested by residents of Cortes Island were the number of permitted houses on un-subdivided lots and the permissible size of a secondary cottage or suite.
6. The new OCP specifically did deal with these issues by deleting the prior wording that restricted the number of residents on un-subdivided lots and the size of cottages. The residents of Cortes Island were advised by the SRD that these matters would be further dealt with in the new zoning bylaw for Cortes Island, which would be promptly revised following adoption of the OCP.
7. From 2013 to October 2018, the SRD was engaged in development of the new zoning bylaw for Cortes Island. The public was heavily engaged in this process in 2016-2018, including through the work of the Cortes Island Advisory Planning Commission.
8. As with the OCP, the issue of density was a hotly contested issue in the development of the proposed new zoning bylaw for Cortes Island.
9. In April 2018 the SRD Board gave first reading to the new Cortes Island Zoning Bylaw, which was subsequently rescinded by the Board in July 2018, and a revised Bylaw given first and second readings.
10. The SRD held a public hearing for the proposed Zoning Bylaw in September 2018 where it faced significant objection and opposition from the public.
11. On October 10, 2018 the SRD Board received the public hearing record for the proposed Zoning Bylaw and directed staff to give the proposed Zoning Bylaw a full review to include the public and agency referral comments, and to return to the Board with a new draft bylaw.
12. The SRD Board has not taken any further steps to advance the new Zoning Bylaw for Cortes Island since October 2018.

October 2018 to Present

13. The Respondent Noba Anderson was elected as the Regional Director of Strathcona Regional District Electoral Area B in 2008, and has served as the Director of Electoral Area B since that time. Director Anderson was most recently re-elected in October 2018.
14. Shortly after the 2018 election a petition was commenced in BC Supreme Court to have Director Anderson disqualified from her position on the Board due to a conflict of interest. The disqualification petition was subsequently dismissed by Justice Skolrood of the BC Supreme Court.
15. In early 2019 the SRD also commenced an investigation into allegations that Director Anderson had acted in a conflict of interest. Director Anderson was subsequently exonerated by the investigator hired by the SRD.
16. In addition, shortly after the 2018 election the SRD received a complaint about Director Anderson and the Property.
17. After consultation with SRD staff, in early 2019 the Respondents decided to apply to the SRD to rezone the Property. However, in April 2019 SRD staff advised that a rezoning application could be problematic given the political climate at the SRD, and recommended that the Respondents subdivide the Property.
18. SRD staff also advised the Respondents that once they filed a subdivision application, the Respondents could take the time needed to complete the subdivision, and that the pressure would be off the Respondents with respect to bylaw enforcement by the SRD.
19. In early 2020 the Respondents engaged a septic professional and submitted their subdivision application to the Ministry of Transportation and Infrastructure (MoTI) in March 2020. The Vancouver Island Health Authority visited the Property in June 2020.
20. After consultation with MoTI and the Provincial Approving Officer in January 2021, the Respondents determined that they would have to revise their subdivision application to a bare land strata subdivision. The revised application was submitted to MoTI in March 2021.

Part 5: LEGAL BASIS

1. The Respondents deny the allegations made in the petition and put the petitioner to the strict proof thereof.
2. In the alternative, if the Respondents are in breach of the Electoral Area “I” (Cortes Island) Zoning Bylaw, 2002 (the “Zoning Bylaw”), any breach of the Zoning Bylaw is *de minimis*.

3. In the further alternative, if the Respondents are in breach of the Zoning Bylaw, the Court should exercise its discretion to refuse the injunction sought on the basis that it:
 - a. is premature and of limited utility as the Respondents are in the process of subdividing the Property;
 - b. is premature and of limited utility as any breach of the Zoning Bylaw may be cured by the SRD's adoption of the new zoning bylaw for Cortes Island;

and the Respondents will suffer unnecessary hardship if an injunction is granted, which is not outweighed by the public interest.

Part 6: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Noba Anderson, sworn March 25, 2021;
2. Affidavit #1 of Lovena Harvey, sworn March 25, 2021;
3. Affidavit #1 of Noba Anderson, made June 30, 2020, filed in SCBC No. S15097, Campbell River Registry;
4. The pleadings filed herein; and
5. Such further and other material as counsel may advise and this Court may allow.

The petition respondents estimate that the hearing of the petition will take 1.5 days.

Dated: 05 APR 2021



Signature of Matthew R. Voell
Lawyer for the Respondents

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