

CAPITAL REGIONAL DISTRICT
Regional Planning Services Department

Staff report to the Regional Planning Committee
Meeting of Wednesday, March 17, 2004

SUBJECT:

The RGS Bylaw and the Juan de Fuca Electoral Area – A Legal Opinion from the Regional Solicitor

BACKGROUND:

The CRD adopted Bylaw No. 2952, *A Bylaw to Adopt a Regional Growth Strategy for the Capital Regional District*, on August 13, 2003. Under the *Local Government Act* section 865 (1, 2, 3) all bylaws adopted and services undertaken by the CRD must be consistent with the adopted RGS bylaw.

Due to the CRD's requirement to be consistent with the RGS Bylaw, Regional Planning Services requested legal guidance on the affect the RGS Bylaw has on land use decision-making and regional service extensions in the Juan de Fuca Electoral Area (JDFEA).

DISCUSSION:

Unlike a municipality, the JDFEA falls under the direct jurisdiction of the CRD. Legislation requires that the CRD be consistent with the RGS bylaw, in its actions and decisions related to land use and servicing within its area of jurisdiction. The CRD has received applications for OCP amendment and rezoning and regional service extensions (most often regional water service) in the JDFEA.

A current example is an application to re-designate and subdivide approximately 50 hectares of property in the Otter Point area (De Mamiel Estates Ltd.), with a concurrent application to CRD Water for a Juan de Fuca Water Distribution system service extension to serve this proposed development. This would require the extension of piped services approximately 1 km. beyond the current limit. The Juan de Fuca Water Distribution Commission tabled this application, given advice that approval would be in violation of the RGS bylaw. In the context of the RGS statements regarding JDFEA, staff requested legal clarification of the CRDs responsibilities to act consistently with the RGS bylaw, when considering applications of this sort in the JDFEA.

Attached for the Committee's review is a legal opinion from the CRD's solicitors Staples McDannold Stewart dated March 1, 2004 that addresses this matter (Attachment A). Ms. Lori Staples will be in attendance at the meeting to speak to the letter.

RECOMMENDATION:

That Regional Planning Committee refer the March 1, 2004 letter from Staples McDannold Stewart to the Board for information.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION:

N/A

Mark Hornell, MCIP
Director, Regional Planning Services

EXECUTIVE DIRECTOR'S COMMENTS:

W.M. Jordan, Executive Director

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