

VIA EMAIL: bkasting@smartt.com

April 25, 2017

Robert Kasting
Stewart Aulinger & Company
1200 - 805 West Broadway Vancouver,
BC V5Z 1K1 –

Dear Mr. Kasting:

**Re: Development Permits & Section 577 Local Government Act (LGA)
Our File No. 00103-0260**

We write further to your letter of March 27, 2017 wherein you query, on behalf of your client, about the Town's issuance of a development permit related to the George Hotel and Residences project. In fact, you go so far as to say the Town has illegally issued the development permit and you ask that the Town revoke the development permit. This is a very serious allegation and request and, as such, we have read your letter and the noted legislation carefully.

To be clear, the Town denies that the development permit was issued contrary to section 577 of the LGA or section 40(1) of the *Environmental Management Act* (EMA).

As you know, the Town, along with many communities in BC, opted out of the site profiling regime many years ago. When allowing for this, the Province also enacted the Contaminated Sites Regulation, B.C. Reg. 184. You have failed to mention this Regulation in your letter. However, we recommend that you review section 4 and, in particular section 4(4) which reads:

“(4) A person is exempt from the duty to provide a site profile to a municipality or approving officer under section 40 (1) of the Act with respect to any site within a municipality if the municipality or approving officer has filed written notice with the minister that the municipality or approving officer does not wish to receive site profiles under section 40 (1) of the Act.”

It would seem this section provides a complete answer to your inquiry. However, we also note that in the introductory wording to section 40(1) of the EMA that that section is to be read “in accordance with the regulations” and further in section 557(2) of the LGA it makes it clear that this section is operative only where a “site profile is required under section 40 of the EMA”. It is clear that in reading section 4(4) of the CSR; section 557(2) of the LGA and section 40 of the EMA

that your concerns about the Town's issuance of the May, 2016 development permit are without merit.

We also wish to advise that to date, the Town has not been informed of any contraventions of the legislation administered by the Ministry of the Environment. Our information indicates that the applicant continues to submit the required information to the applicable authorities, who are processing it accordingly. The Town is in regular contact with Ministry staff and will continue to support the environmental review of the project, where necessary. As you noted, a detailed site investigation has recently been ordered under section 41 of the EMA.

You have also more recently inquired about the imminent issuance of additional development permits. At this time, the writer is informed by Town officials that there are no development permits near issuance for this project. We do not know when this may change.

In closing, we trust this answers your client's concerns. However, the writer does note that this is the second time your client has made premature and inaccurate complaints about the Town's process related to this development through legal counsel. The first was the filing a premature court Petition on March 2, 2016 and the second are these inaccurate allegations related to the development permit at issue. Although we do not mind discussing matters of a public nature with those who may have questions or concerns, we also expect that complaints coming from legal counsel will have some merit. The Town has a limited legal budget and each time it is forced to respond to such allegations under threat of "ensuring that the Town abides by its mandatory statutory obligations" we expend these public funds unnecessarily.

Yours truly,

YOUNG ANDERSON



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