



# Corporate

NO: R134

# Report

COUNCIL DATE: June 4, 2001

**REGULAR COUNCIL**

TO:	Mayor & Council	DATE:	May 30, 2001
FROM:	General Manager, Planning & Development	FILE:	12512-80103
SUBJECT:	Unauthorized Soil Placement at 12512 Old Yale Road		

**RECOMMENDATION**

The Planning & Development Department recommends that Council:

1. receive the information contained in this report as information;
2. adopt the resolution attached as Appendix "A" to this report that declares the soil at 12512 Old Yale Road a nuisance pursuant to Section 727 of the Local Government Act and order its removal; and
3. authorize the City Clerk to forward a copy of this report to the owners of the subject property.

**INTENT**

The intent of this report is to provide Council with a response to the presentation made to Council by Mr. Sukhdev Jhand's delegation on November 8, 2000 and to obtain a Council Order to remove soil that was deposited at 12512 Old Yale Road that is a nuisance.

**BACKGROUND**

The property at 12512 Old Yale Road is owned by Sukhdev S. Jhand and Sampuran S. Jhand. The property was filled in the early part of 1999 using waste concrete, asphalt and soil. This was done without a soil-depositing permit. Drainage difficulties for the property at 12504 Old Yale Road were reported as a result of the fill placement and inadequate drainage. Several meetings with staff were held on site and at City Hall along with correspondence requesting that Sukhdev S. Jhand and Sampuran S. Jhand comply with the provisions of

Surrey's Soil Depositing By-law No. 5880 and rectify the drainage problem. Because the problem was not dealt with by the owners, the Planning and Development Department forwarded Corporate Report No. R243 (copy attached as Appendix "E") to a Regular Council meeting on October 30, 2000, which recommended that Council declare the illegal fill material on the subject property a nuisance pursuant to Section 727 of the Local Government Act and order its removal. In response to the Corporate Report requesting a Section 727 declaration, the owner's delegation presented an unsigned and undated document (author unknown) refuting many of the statements in the first Corporate Report.

## **DISCUSSION**

The document submitted by the owner's delegation was not numbered by page or paragraph. A copy of that document is attached as Appendix "C" to this report. For the purposes of this response, numbers have been assigned to each paragraph of the Jhand document and each paragraph will be addressed in numerical order.

### **Paragraph No. 1:**

- Issues raised:
- (a) Parking tickets at a separate site.
  - (b) Disputing the existence of a ditch on the subject property.
- Response:
- (a) Parking tickets issued at another site are a separate issue, not related to the illegal placement of fill or the subsequent drainage problems.
  - (b) City staff has attended the site and confirms that there was a ditch carrying water to a storm sewer drain at the south edge of Old Yale Road. Photographs #1 and #2 taken before and during the fill placement show the ditch and the substantial flow of water therein.

### **Paragraph No. 2:**

- Issue raised:
- The cost of constructing a driveway over the "GVRD line" in relation to the property purchase price.
- Response:
- A person did attend the Planning & Development counter, Building Division, prior to the fill placement, inquiring about the requirements of obtaining a Soil Depositing Permit at this site. They were given a checklist of requirements, which included the driveway-crossing requirement. The driveway crossing work is required to protect the Vacusan sewer line that is buried within an easement along the front of the subject property. This is a requirement of Surrey's Engineering Department and cost estimates come from the Engineering Department. It is expected that the purchase price of the lot would reflect that this work has not been done. Building or soil depositing permits are issued for properties in Bridgeview and South Westminster by City policy only after the Engineering Department has approved the driveway construction to the lot for which the permit is sought.

### **Paragraph No. 3:**

No response required.

**Paragraph No. 4:**

- Issues raised:
- (a) Type of driveway crossing required.
  - (b) City staff gave oral permission to place fill on the lot.
- Response:
- (a) The type of crossing normally required is a pre-cast concrete structure. Staff report that Mr. Jhand talked of a short term, temporary crossing to move a machine onto the property for clearing brush and brambles from the lot. Surrey's Engineering Department would be required to assess the adequacy of such a crossing.
  - (b) City staff did discuss the placement of fill on the property with Mr. Jhand. The initial placement of some material to support an excavator for the purpose of clearing the lot would be allowed without a permit. This fill could only be placed after an approved crossing of the Vacusan sewer was installed. The actual filling of the property significantly exceeded the scope of the fill initially discussed at the site. No proper crossing of the Vacusan sewer has been approved for this property as of March 2001.

**Paragraph No. 5:**

- Issue raised: Mr. Orsetti denied giving permission to fill the property.
- Response: Refer to response to Paragraph No. 4.

**Paragraph No. 6:**

- Issue raised: Identifying and resolving the source of a septic odour near 12512 Old Yale Road.
- Response: Although an odour has been noticed, neither the South Fraser Health Region, the G.V.R.D. nor the City of Surrey could identify a source.

**Paragraph No. 7**

- Issue raised: Mr. Jhand states that he did clearing work at his expense and against his own best judgement on neighbouring properties at the request of those property owners. Mr. Jhand then voluntarily paid the cost of repairing the settlement of the asphalt in the side yard of 12522 Old Yale Road. Mr. Jhand wants to know why this information about the repair is absent from the original Corporate Report.
- Response: Contrary to Mr. Jhand's claim, because the pavement extended from the store to the west property line of 12522 Old Yale Road no substantive vegetation was removed by him from that property (see photo #3). The damage to the asphalt at 12522 Old Yale Road appears to be a consequence of the placement of the illegal fill on 12512-Old Yale Road causing settlement of the area. The placement of new asphalt by Mr. Jhand has not

corrected the problem as the settling has continued and the new asphalt itself is now settled and cracked. There is no mention of the repair in the original Corporate Report because that repair does not relate to the removal of the illegal fill or the ongoing drainage difficulties. The attached plan, labelled Appendix "D", illustrates the relative location of the different addresses to which this report refers.

**Paragraph No. 8:**

Issue raised: Mr. Gaunt (owner of 12504 Old Yale Road) has not paid a private debt to Mr. Jhand.

Response: This is a civil issue that does not involve the City of Surrey.

**Paragraph No. 9:**

Issue raised: Mr. Jhand improved the property.

Response: The property was illegally filled with concrete, asphalt and soil. The fill encroached onto two adjoining properties.

**Paragraph No. 10:**

Issues raised: (a) A ditch did not exist on the property.

(b) Mr. Jhand's drainage pipe installation has completely resolved the drainage problems at the site.

Response: (a) City staff observed the ditch before the fill placement. Photographs #1 and #2 show the ditch and water flow.

(b) It is the City's position that the pipe installed by Mr. Jhand is inadequate in four functions.

- The pipe is not deep enough to mitigate changes in ground water levels caused by the placement of the fill material.
- The inlet to the pipe encroaches approximately two meters onto an adjoining lot.
- The inlet is unprotected and prone to plug with sediment or debris.
- There is no provision for the storm run-off water from 12512 Old Yale Road to enter the drainage pipe.

**Paragraph No. 11:**

Issue raised: Mr. Gaunt, owner of 12504 Old Yale Road, and Mr. Jhand have had discussions about a proposed real estate transaction.

Response: This is a civil issue that does not involve the City of Surrey.

**Paragraph No. 12:**

Issue raised: Mr. Jhand is called to the property at 12512 Old Yale Road to observe the flooding caused by the blocked drainage system he has installed. Mr. Jhand clears the inlet and is suspicious when a rag is pulled from the drainpipe inlet.

Response: Two City staff attended and watched Mr. Jhand clear the blockage. Neither recalls a rag being removed from the inlet. Instead, a collection of debris was removed from the unprotected pipe inlet.

**Paragraph No. 13:**

Issue raised: Mr. Jhand expresses a belief that Mr. Gaunt plugged the drain inlet deliberately.

Response: No response required.

**Paragraph No. 14:**

Issue raised: Mr. Jhand is again called to clean the inlet behind 12512 Old Yale Road. Mr Jhand claims a ball was removed from the unprotected pipe inlet and expresses his suspicions.

Response: Two City staff attended and watched Mr. Jhand clear the blockage. Neither recalls a ball being removed from the inlet.

**Paragraph No. 15:**

Issues raised: (a) A survey by the City of Surrey indicated that the imported fill and new fence encroached onto Mr. Gaunt's property at 12504 Old Yale Rod.

(b) Mr. Jhand relates a conversation he had with Mr. Gaunt and his opinion of that conversation.

Response: (a) A survey done by the City of Surrey to determine the boundaries of the property did reveal the fill and fencing work done at 12512 Old Yale Road significantly encroached onto 12504 Old Yale Road and at least two meters onto the land at 12513 - 106A Avenue (as documented in the original report to Council). Appendix "D" illustrates the location of the properties relative to one another.

(b) The conversation between the parties is a civil matter and does not directly relate to the removal of the illegal fill.

**Paragraph No. 16:**

Issue raised: Further details about the conversation between Mr. Gaunt and Mr. Jhand.

Response: The conversation between the parties is a civil matter and does not directly relate to the removal of the illegal fill.

**Paragraph No. 17:**

Issues raised: (a) City staff attended the work place of Mr. Jhand and

would not attend other locations with Mr. Jhand to view unauthorized soil depositing sites.

(b) Attending staff is quoted as saying "I don't care if all of Surrey was filling, but because you have a complaint against you, you have a problem."

Response: (a) The purpose of visiting Mr. Jhand was to deal with the drainage complaint and illegal fill at 12512 Old Yale Road, not other sites.

(b) Mr. Jhand runs an auto repair shop near the 12512 Old Yale Road property. Two staff attended Mr. Jhand's shop to talk with him about the property at 12512 Old Yale Road. Staff indicates that the quote in Mr. Jhand's document is a loose paraphrase. Staff told Mr. Jhand that the City is aware unauthorized soil depositing occurs; however, this visit sought to deal specifically with his property because of a complaint.

**Paragraph No. 18:**

Issue raised: Mr. Orsetti would not attend other sites to look at illegal car parking in the neighbourhood.

Response: Mr. Orsetti works as a Soils and Drainage Technician in the Building Division of the Planning and Development Department. He does not issue parking tickets or have any involvement with parking regulation.

**Paragraph No. 19:**

Issue raised: Mr. Jhand states that "tickets" should not have been issued because the matter was still under consideration.

Response: By-law Enforcement and Licensing advises that all soil depositing tickets were issued in accordance with the applicable bylaws and procedures.

**Paragraph No. 20:**

Issues raised: (a) During a visit to the property at 12512- Old Yale Road Surrey Councillor Jeanne Eddington commented that there did not seem to be a problem.

(b) She then noticed an odour and requested that Mr. Orsetti investigate what the source may be.

Response: (a) Site inspections have caused City staff to conclude that there is a problem as outlined in this and our previous reports.

(b) Although an odour has been noticed at the site, neither the South Fraser Health Region, the G.V.R.D. nor the City of Surrey could identify a source.

**Paragraph No. 21:**

Issues raised: Mr. Jhand recalls a discussion between Councillor Jeanne Eddington and Mr. Gaunt, the owner of 12504 Old Yale Road. Part of the discussion involves constructing a ditch to resolve the drainage problem.

Response: City staff is unaware of the referenced discussion.

**Paragraph No. 22:**

Issues raised: (a) Mr. Jhand has spent money on the property and is now being asked to spend more money to bring the site into compliance with the requirements of the City of Surrey.

(b) Mr Jhand states there is no drainage problem at the property and asserts the Corporate Report was incorrect in reporting a drainage problem.

(c) Mr. Jhand states that no investigation of the water source or drainage conditions at the site has been undertaken at the site.

Response: (a) This is not disputed.

(b) Although Mr. Jhand's property, 12512 Old Yale Road, drains well enough, the drainage and flooding problems are on the property at 12504 Old Yale Road and are, in the City's opinion, caused by the improper and illegal placement of fill at 12512 Old Yale Road.

(c) The City has made this investigation. The source of the water flow is clearly identified in the original Corporate Report as springs located on undeveloped private land at 12513 and 12519 - 106A Avenue, south of Mr. Jhand's property.

**Paragraph No. 23:**

Issue raised: The only new issue raised in this paragraph is the concept that the water flow at the rear of 12512 Old Yale Road is "City water" and thus a City responsibility to control.

Response: As discussed in the first Corporate Report and previously in this report, the source of the water has been identified as springs on adjacent private property. The City of Surrey is not responsible for these flows, but rather the owners of private lands through which drainage courses run are legally responsible for maintaining such drainage concerns.

**Paragraph No. 24:**

Issue raised: Mr. Jhand states that an oversight has been made with respect to his grading/drainage proposal that compromises the long term use of the property.

Response: The drawing Mr. Jhand refers to is his proposal to the City of Surrey. Mr. Jhand should discuss the merits of the design with his consultant.

**Paragraph No. 25:**

Issue raised: Mr. Jhand is not in a financial position to do the works the City of Surrey is requesting.

Response: Mr. Jhand is being asked to bring the property into compliance with the applicable City bylaws which will correct the drainage problems on adjacent properties that unauthorized filling on his property has created.

**Paragraph No. 26:**

Issue raised: Mr. Jhand asks City Council to halt the imposition of penalties and grant him a soil-depositing permit.

Response: No penalties are contemplated and Mr. Jhand has made application for a soil depositing permit. Mr. Jhand has not met the requirements of the by-law that would allow the issuance of such a permit.

**CONCLUSION**

The submission by Mr. Jhand does not offer any information to alter the facts as contained in the original Corporate Report to Council. That report recommended that Council declare the fill placed on the property a nuisance and order that the fill be removed from 12512 Old Yale Road, pursuant to the provisions in Section 727 of the Local Government Act. It is recommended that Council adopt the resolution attached as Appendix "A" in relation to property described in Appendix "B".

It is further recommended that a copy of this report be forwarded to the owners of the subject property.

Murray D. Dinwoodie  
General Manager  
Planning & Development Department

DO/saw/8118

Attachments:

- Appendix "A" – Resolution
- Appendix "B" – Particulars of property
- Appendix "C" – Document submitted by owner's delegation
- Appendix "D" – Sketch of property
- Appendix "E" – Corporate Report No. R243

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