

YOUR FILE NO.

ALL COMMUNICATIONS SHOULD BE ADDRESSED TO THE
DIRECTOR OF SURVEYS AND MAPPING
THE REPLY TO THIS LETTER SHOULD BE MARKED
FOR THE ATTENTION OF:

THE DIRECTOR.....
AIR DIVISION.....
GEOGRAPHIC DIVISION.....
LEGAL SURVEYS DIVISION.....
TOPOGRAPHIC DIVISION.....



OUR FILE NO.

SURVEYS AND MAPPING BRANCH
DEPARTMENT OF LANDS, FORESTS,
AND WATER RESOURCES
VICTORIA, B.C.

September 18, 1970

Circular Letter to All British Columbia Land Surveyors and
Registrars, Land Registry Offices

Dear Sir:

Re: Highways Access (Alternatives) Regulation

B.C. Reg. 199/70 appeared in Part II of the B. C. Gazette on August 27th, 1970, and has been reproduced for your information and convenience and is attached hereto.

Accompanying it is a copy of a policy letter from Mr. M. G. Elston of the Department of Highways which will indicate that department's intention regarding application of the Regulation.

Yours truly,

A. H. Ralphs
Surveyor-General and Director

Encl.

B.C. Reg. 199/70.

LAND REGISTRY ACT

REGULATION MADE BY ORDER IN COUNCIL 2734, APPROVED AUGUST 18, 1970,
PURSUANT TO SECTIONS 87 (2), 130 (3), AND 258 (1) (c)

HIGHWAY ACCESS (ALTERNATIVES) REGULATION

1. Where the subdivision

- (a) is consistent with good land-use planning, and, having regard to the type of development, is not contrary to the public interest; or
- (b) affects land outside any established system of highways; or
- (c) affects land, the only access to which is by air or water, or by air and water; or
- (d) is being made by or at the request of the Crown or by a statutory agent of the Crown; or
- (e) is shown on a subdivision plan, and the only connection with such land to the general highway system of the Province is by a tramline, or a cable car, or a gondola lift,

an Approving Officer may, but subject as hereinafter provided, grant relief, either wholly or in part, from the requirements to provide access to all new parcels, as provided in clause (a) of section 86.

Part I

2. Where the subdivision creates a single parcel, which by itself does not abut a highway, the Approving Officer may approve the subdivision plan where

- (a) the subdivider proposes to grant as appurtenant to the new parcel an easement of access to a highway, or where there is no established system of highways, to such alternative private road or way as is deemed sufficient by the Approving Officer; and
- (b) submits to the Approving Officer a subdivision plan showing the new parcel, and, outlined in a colour other than red, the easement area; and
- (c) otherwise complies with the provisions of the Act.

3. (1) Where the subdivision affects land, the only necessary and practical access to which is by air or water, or by air and water, the Approving Officer shall include in his written approval a statement that access is by air only, or as the case may be.

(2) The Registrar shall make on the certificate of title to the newly created parcel, after the description thereof, the following note: "(See plan as to limited access)".

B.C. Reg. 199/70.

Part II

4. The Approving Officer may approve a subdivision plan of the whole of one existing parcel, provided

- (a) the plan shows two or more lots that may not abut a highway (including a highway proposed to be dedicated by the plan); and
- (b) a lot, that is contiguous to both that highway and to each of the other lots, is shown on the plan; and
- (c) the subdivider otherwise complies with the Act and this regulation.

5. (1) An undivided share in the fee-simple in the lot referred to in clause (b) of section 4 shall be combined on the same certificate of title with each one of the lots referred to in clause (a) of section 4, and there shall be no unallotted share.

(2) If any part of the land subdivided is subject to a charge that does or may under any circumstances entitle the holder thereof or his successors to possession, that charge must be extended to include the lands proposed to be combined with the charged land.

6. The plan, as presented to the Approving Officer, shall contain a table listing serially in the left column the lots referred to in clause (a) of section 4, and opposite each of them in the right column the undivided share of the lot mentioned in clause (b) of section 4 that is to be combined with each of the lots listed in the left column.

7. Upon approval, the Approving Officer shall sign the plan in the manner provided by section 97 of the *Land Registry Act*, but using the words "approved under the *Land Registry Act*, see B.C. Reg. 199/70".

8. Before approving the plan, the Approving Officer may require the lot described in clause (b) of section 4 to be designated both as a lot and as a private road, and constructed so as to give sufficient access to each of the lots described in clause (a) of section 4.

9. Concerning the standard of construction of the private road, the Approving Officer may require that the standard authorized by Part VI of the *Land Registry Act* and the relevant subdivision control by-law or existing development permit be met in whole or in part, having regard to the nature of the subdivision and the purpose for which the private road is intended.

10. The Approving Officer may require the subdivider to enter into one or more covenants of the nature envisaged by section 24A of the *Land Registry Act* with respect to the lot referred to in clause (b) of section 4, and, if he does, shall take into consideration whether that lot is to be used

- (a) solely as a private road (with or without utility rights-of-way); or
- (b) in some designated part or parts as a private road or roads (with or without utility rights-of-way), and as to the balance as a private park, garden, recreational area, parking or service area, or for any other purposes of common benefit or utility to purchasers of parcels in the subdivision.

11. The Approving Officer may require the granting of a statutory right-of-way as defined in the Act over the lot referred to in clause (b) of section 4 for municipal or public utility purposes.

B.C. Reg. 199/70.

12. Upon the deposit of the plan, the certificate of title issued under section 105 of the *Land Registry Act* shall describe the lands in this style: "Lot 1 and an undivided 1/50th share in Lot 51 (etc.)" and together they shall thereafter for all purposes constitute a single parcel.

13. Land included within a subdivision plan approved under this regulation may be further subdivided, provided that the subdivider's undivided share in the land referred to in clause (b) of section 4 shall be completely allocated to the new lots shown on the resubdivision plan.

Part III

14. Subject to this regulation, the Approving Officer may approve a subdivision where the subdivider is a registered owner in fee-simple of

- (a) an existing parcel; and
- (b) an undivided share or shares in one or more parcels that individually or collectively are contiguous to the parcel referred to in clause (a), and submits a subdivision plan showing
 - (i) the parcel referred to in clause (a) divided into lots; and
 - (ii) a table drawn in the manner prescribed by section 6, completely allotting to the said lots the subdivider's share or shares in the lands described in clause (b).

Part IV

15. A person who is the registered owner in fee-simple of

- (a) an existing parcel; and
- (b) an undivided share or shares in one or more parcels that individually or collectively are contiguous to the parcel referred to in clause (a) may, with the approval of the municipality, or if the lands are situate in unorganized territory, of the Department of Highways, apply to the Registrar for a new certificate of title to his lands.

16. (1) The applicant shall make application pursuant to the appropriate provisions of section 161 of the *Land Registry Act*.

(2) The lands shall be described in the certificate of title in the manner set forth in section 12, and together they shall thereupon for all purposes constitute a single parcel.

(3) Where the parcels are shown on different subdivision plans, the Registrar may require the applicant to deposit an explanatory plan.

Part V

17. For the purposes of this regulation, parcels shown under different subdivision plans may be included in a single application and in a single certificate of title, and the restrictions in section 130 of the *Land Registry Act* are amended accordingly.



THE GOVERNMENT OF
THE PROVINCE OF BRITISH COLUMBIA

TO ENSURE IMMEDIATE ATTENTION
PLEASE QUOTE FILE NO. 4996.....

DEPARTMENT OF HIGHWAYS

Victoria, British Columbia
Sept 10, 1970

Mr. A. H. Ralfs,
Surveyor-General and Director,
Surveys and Mapping Branch,
Department of Lands, Forests and Water Resources,
Parliament Buildings,
Victoria, British Columbia

Dear Sir: Re: Highway Access (Alternatives) Regulation

For your information I would like to explain the policy of the Department of Highways which is responsible for the Approving function in the unorganized territory, except the Gulf Islands, within the Capital Regional District.

The new Regulations boil down to four points:

- 1) Access by easement.
- 2) Access by water/air.
- 3) Access by common lot (private road).
- 4) Access by tramline.

Commenting on each:

1) Access by easement will be approved sparingly for public and quasi public purposes. For example, access to a reservoir for an Improvement District could be by easement. The provision may only be used to access one lot. It will not be approved for access to residential lots which will continue to require public road access except in a few cases where the common lot approach may be allowed.

2) Access by water/air may be approved in rare circumstances. In the water cases there must be a road system within the subdivision satisfying access to all lots, access to navigable water and access to lands beyond. The road system must be connected to a reasonably weatherproof landing area suitable for small boats although no actual slip, ramp or pier will be required to be constructed prior to approval.

Mr. A. H. Ralfs,
Surveyor-General and Director.

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of the plan. The body of water must itself be connected to the public road system. It is intended that access by water only subdivisions be generally confined to small islands. Access by air approval will be confined to public and quasi public purposes such as for example a subdivision for a microwave repeater on a mountain top.

3) Access by common lot will be approved in some cases. The intent of this is to allow creation of lots taking access only from a private road (the common lot) in those rare cases where there is strong land value pointing to subdivision and the topography is such that the development cannot reasonably meet our public road standards and thus could not otherwise subdivide. This section will be used sparingly only where there is a strong case. The private road on the common lot will have to be built to our private road standards. These are 12 foot width for a road serving 15 lots or less and 20 foot width for a road serving 16 lots or more. Maximum grade is 25% (based on the operational characteristics of fire trucks) and minimum curve radius 50 feet. Drainage must be whatever is required and must be closely considered especially where there are steep grades. The intersection of the private road with the public road must conform to the public road standards of sight distance, etc., and the angle of intersection be as close to 90 degrees as possible, and the grade be slack for at least 50 feet from the shoulder of the public road. In snow country the Approving Officer may also insist on a parking lot near the public road. All access by common lot subdivisions must still satisfy the Land Registry Act in other ways including access to navigable water and access to lands beyond. If these cannot be satisfied in the usual way the subdivision will not be approvable. The width of the common lot should be set at whatever the X-section requires plus 10 feet but should never be less than 50 feet. There must be vehicular access to all lots. Please note that whenever a bylaw or regulation has a perimeter frontage rule a variance will still be required for the common lot.

4) Access by tramline will be used where a recreational subdivision (such as a ski development) on a mountain is served by tramline instead of public roads. The lower tramline terminal must have access to a public road, the tramline must have an easement for its right-of-way across all property and the upper terminal must give access to all proposed subdivision lots by a common lot private road. There must be parking at the lower tramline terminal in the amount of one stall per subdivision lot plus one stall per two person hourly capacity of the tramline.

Yours very truly,

APPROVING OFFICER,
M. G. Elston,
Senior Planning Engineer,

MGE:mc

per: M. G. Elston