



This is the 1st Affidavit
of ALANA MULLALY in this case
and was made on 19/Dec/2018

**No. S1811213
VANCOUVER REGISTRY**

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

3L DEVELOPMENTS INC.

PETITIONER

AND:

COMOX VALLEY REGIONAL DISTRICT

RESPONDENT

AFFIDAVIT

I, ALANA MULLALY, municipal civil servant, of 600 Comox Road, Courtenay, British Columbia, V9N 3P6, SWEAR THAT:

1. I have been employed by the Respondent, Comox Valley Regional District, (the "Regional District"), since 2010. From 2010 to 2012, I held the position of Assistant Manager of Planning Services with the Regional District. From 2012 to April 2018, I held the position of Manager of Planning Services with the Regional District. From April 2018 to September 2018, I held the position of Acting General Manager of Planning and Development Services with the Regional District. Since September 2018, I have held the position of Senior Manager of Planning and Protective Services with the Regional District. I have personal knowledge of the matters hereinafter deposed to, save and except where those matters are stated to be based on information and belief, and to such latter matters, I verily believe the same to be true.

2. In April 2018, I became the lead planner involved in the processing of the application (the "RGS Amendment Application") made by the Petitioner, 3L Developments Inc., ("3L Developments"), to the Regional District to amend the "Comox Valley Regional Growth Strategy", (the "RGS"), as a first step to authorizing 3L Developments to proceed with the development of three parcels of land (the "Development Lands") located within Electoral Area "C" of the Regional District for a large-scale commercial and residential development, commonly referred to as the proposed "Riverwood Development".
3. In December 2017, I first became aware of 3L Developments' allegation (the "Allegation") that Ms. Ann MacDonald, the Regional District's then General Manager of Planning and Development Services, had stated that "*it would be a frosty Friday in hell*" before the Regional District would approve the proposed Riverwood Development (the "Alleged MacDonald Statement") to 3L Developments in a meeting in June/July 2016.
4. While Ms. MacDonald was the Regional District's General Manager of Planning and Development Services it was customary for her to make notes in her notebook of all meetings that she had with members of the public in relation to development applications being processed by her department. With respect to the RGS Amendment Application, as there had been previous litigation between 3L Developments and the Regional District, Ms. MacDonald both made notes in her notebook of her meetings with 3L Developments and had another member of her department attend those meetings with her.
5. When Ms. MacDonald's employment with the Regional District ended, she left her notebooks in her office.

6. I have reviewed Ms. MacDonald's notebooks for the period of April 2016 to October 2016, and have only found notes of a meeting she had with 3L Developments on May 17, 2016. I was in attendance at that meeting and have notes in my notebook of the same.
7. Ms. MacDonald never made the Alleged MacDonald Statement, or any other statement to the effect that the RGS Amendment Application would never be approved or was unlikely to ever be approved, in her May 17, 2016, meeting with 3L Developments that I attended. Ms. MacDonald never made the Alleged MacDonald Statement, or any other statement to the effect that the RGS Amendment Application would never be approved or was unlikely to ever be approved, to me otherwise.
8. I did not find any notes of any meetings between Ms. MacDonald and 3L Developments in June or July 2017. If there were a meeting between Ms. MacDonald and 3L Developments in June or July 2017, it is likely that I would have been asked to attend that meeting. I do not have any notes in my notebook for any meetings between Ms. MacDonald and 3L Developments in June or July 2017.
9. When Ms. MacDonald became aware of the Allegation, she was very upset by the Allegation. Ms. MacDonald denied ever having made the Alleged MacDonald Statement or any other similar statement to 3L Developments or otherwise. Ms. MacDonald expressed to me that the Alleged MacDonald Statement was very unprofessional and was not consistent with the manner in which she conducts herself. She was offended by the suggestion that she would speak in such a vulgar manner. In addition, Ms. MacDonald expressed to me that the Alleged MacDonald Statement was something that she would never say as she was well aware that the approval of the RGS Amendment Application was not her decision or the decision of any other member of the Regional District staff, but was the decision of the Regional Board.

10. Since Ms. MacDonald's employment with the Regional District ended, she has had no involvement with the RGS Amendment Application.
11. On July 11, 2018, after the July 10, 2018, meeting of the Regional District's Committee of the Whole (the "Committee of the Whole"), Mr. Russell Dyson, the Regional District's Chief Administrative Officer, and I met with 3L Developments. At that meeting, 3L Developments expressed concerns with the timing of consideration of the RGS Amendment Application. 3L Developments expressed that it wished for the process to move along in an expeditious manner.
12. On July 17, 2018, Mr. Dyson and I met with 3L Developments. At that meeting, 3L Developments expressed concerns that the Regional Board would likely decide to consider the Amendment on the basis of it being a standard amendment, and that a standard amendment process would be too lengthy.
13. At that meeting, we:
 - (a) Discussed with 3L Developments a number of scenarios for a standard amendment process, fulsome and expedited, as well as a scenario for a minor amendment process;
 - (b) Provided 3L Developments with a schematic that illustrated both what a regular standard amendment process could look like and its timing and what an expedited standard amendment process could look like and its timing;
 - (c) Cautioned 3L Developments that, if a minor amendment process was used, the perception that the RGS Amendment Application was being expedited at the expense of public consultation and consultation with the Regional District's member municipalities, might negatively impact the Regional Board's consideration of the RGS Amendment Application.

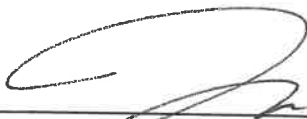
- (d) Indicated to 3L Developments that, if the Regional Board was agreeable to adopting an expedited standard amendment process, an expedited standard amendment process might not take much more time than a minor amendment process; and,
 - (e) Advised 3L Developments that whether the Regional Board would consider the Amendment using a minor amendment process (which was the recommendation of the Committee of the Whole, a regular standard amendment process, or an expedited standard amendment process was solely within the discretion of the Regional Board, and was not the decision of Regional District staff.
14. At no time during that meeting with 3L Developments or otherwise did Mr. Dyson or I commit to the use of an expedited standard amendment process in relation to the Amendment or did Mr. Dyson or I advise 3L Developments that Regional District staff would recommend to the Regional Board that it use an expedited standard amendment process in relation to the Amendment. Mr. Dyson and I always maintained with 3L Developments that an expedited standard amendment process was only a possibility if it was deemed appropriate by the Regional Board. Mr. Dyson also reminded 3L Developments that it was the Regional District's RGS Technical Advisory and Steering Committees that made recommendations to the Regional Board, and not Regional District staff.
15. At its July 24, 2018, meeting, the Regional Board considered the Amendment in the context of the Committee of the Whole's recommendation of July 17, 2018 that the Regional Board proceed with the Amendment using a minor amendment process.

16. Representatives of 3L Developments were in attendance at the July 24, 2018, meeting of the Regional Board and spoke in favour of the Amendment being processed as a minor amendment. In that context, 3L Developments spoke in favour of the application of the full spectrum of public engagement, including an open house and public hearing.

17. At the July 24, 2018, meeting of the Regional Board:

- (a) The Regional Board was aware of the differences between a minor amendment process and a standard amendment process for the Amendment;
- (b) Regional District staff addressed the fact that a standard amendment process for the Amendment could require not much longer than the time required for a minor amendment process or could be a significantly lengthier process, at the discretion of the Regional Board; and,
- (c) Regional District staff advised that, if the Regional Board chose to proceed with a standard amendment process, Regional District staff would report back to the Regional Board with options and timing for a standard amendment process.

SWORN BEFORE ME at Courtenay, British Columbia, on 19/Dec/2018.



A Commissioner for taking Affidavits for British Columbia



Alana Mullaly

**A COMMISSIONER FOR TAKING
AFFIDAVITS FOR BRITISH COLUMBIA**

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