

Subject: [Fwd: Berkley-Riverside Landslide]

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To: Corrie Kost <kost@triumf.ca>

Subject: Berkley-Riverside Landslide

Date: Sat, 22 Jan 2005 00:11:02 +0000 (GMT)

From: Elizabeth James <cagebc@yahoo.com>

To: FONVCA <fonvca@fonvca.org>

21 January 2005

Good Afternoon:

There is no doubt that it will take many months to complete and report on a full investigation of the causes that led up to the deadly event at Berkley-Riverside. The worst thing that could happen now is a rush to judgment. Making decisions in a knee-jerk fashion before all of the facts are known, is likely only to complicate an already bad situation.

Instead, residents should encourage CAO James Ridge to maintain his steady hand on the tiller, so as to ensure that the investigation can be conducted in a methodical, though open manner. The quality of his work in the year he has been in the District, suggests that he can be trusted to protect the interests of all residents, most especially the interests of those directly affected by this week's tragedy.

That there is more than one contributing factor appears evident, even from the earliest reports of the unfolding tragedy. As is the case after most such events, the significance of many small flags that were noted along the way was not recognized - even, sadly, by the area residents themselves. It is only in hindsight that the way in which the stars were converging can be so clearly seen. Although the subject of neighbour-to-neighbour discussion, concerns about high-level tree-cutting, about an unpermitted, swimming-pool sized fish pond and about recent small slides, appear not to have been reported to District Staff, or to Council.

More generally, Council, which has been struggling for an acceptable balance between "tree preservation at any cost" and those who demand absolute power over their own domain, agreed to allow homeowners to cut down trees below a certain trunk diameter, while retaining bylaw control over those on District lands. While it remains to be seen whether the Seymour tree-cutting was on public or private land, Common Law requires that a citizen who suspects that an illegal act is in progress has a duty to report the act to the authorities. Did they?

Further, in heeding the pleas of property owners wishing to maximize lot use, Council has rejected opportunities to impose the most stringent setback regulations in favour of fairness. Did insufficient setback in post-1980 development play any part in this week's event? Time alone will tell.

With respect to concerns about the swimming-pool size fish pond up above them, did anyone ask the District whether the construction was permitted, let alone safe? In such glaring cases, the 'live and let live' friendly cooperation between neighbours needs rethinking.

Regardless of the role that the pool/pond may have played in the disaster, it is difficult to understand why an employee of the District would not have sought out the advice of fellow District staff before building such a structure over the heads of his neighbours below.

Other, more general questions might be:

- Did purchasers have their homes inspected, by a provincially-licensed inspector, before signing on the dotted line? If so, did the inspector make any comment as to slope stability?
- Were the seller's/buyer's Real Estate agents asked the questions about the safety of the slope? If so, what were the answers and were those answers given in writing?
- When a municipality receives a geotechnical report, such as that received on the subject area from Klohn-Leonoff, is there any way that the contents of the report can be registered against the title of the property?
- Similarly, when a municipality receives such a report, is it possible for the subject of the document to be flagged for an annual, bi-annual or 5-year follow-up inspection?
- Conversely, is there any way that a homeowner can, or should be required to produce an annual safety inspection report, if their home sits on or above a severe slope?

One suspects that most municipal administrations in British Columbia are breathing a *there but for the grace of God go we* sigh of relief this week. In their struggle to manage scanty budgets, most Councils, for bad reasons and good, fund what they must and cross their fingers that the once in a lifetime disaster will occur in some other lifetime.

For their part, in handing over a hefty portion of their earnings to various governments, citizens might be forgiven for thinking that those dollars are sufficient to cover costs of projects that run the gamut from speed bumps to multi-million-dollar town centres and everything in between. However,

this sanguine attitude to the relationship between the governors and the governed needs to change because each party has a very important duty to the other.

Without question, government in general - in this case, District government - has serious obligations and bears a heavy responsibility for the safety and wellbeing of citizens. This fact notwithstanding, whether or not this tragedy had occurred, government is neither omnipotent nor omniscient and citizens have an obligation to carry out their own role, if the government: citizen partnership is to succeed. It would be tragic indeed, if lessons were not learned - throughout the province - following this week's death of one of the District's well-loved residents.

SUMMARY:

This piece began with the caution that knee-jerk reactions to the recent Berkley-Riverside fatal landslide should be discouraged and that remains true. Nevertheless, there are some steps that can and should be taken without compromising the investigation, and regardless of the outcome of any report as to the various contributing factors.

While it is recognized that some of the suggestions may already be in hand, the following recommendations are presented in the hope they may be of some assistance to District Administration.....

RECOMMENDATIONS:

1. THAT Staff immediately prepare a list of all properties that have been the subject of geotechnical inspection reports commissioned or required by the District:
2. THAT the District seek legal advice as to whether geotechnical and engineering reports can, or should be registered against the title(s) of affected properties, in order that future purchasers are routinely informed as to latent or potential problems;
3. THAT Staff determine whether property owners in all geotechnically-sensitive areas of the District have received copies of relevant engineering reports which have been provided to the District. In the event they have not -
4. THAT Staff correspond with all such property owners to make them aware of the availability of the reports, perhaps at a cost of \$10 or more, as is appropriate;
5. THAT, in light of the Berkley-Riverside slide, Council re-visit its tree-cutting bylaw to determine whether a District permit should be required for all tree-cutting, on public or private property. The permit fee need not be onerous if it is for a straightforward, non-hazardous cut on a relatively flat lot, but at least it would offer an opportunity for Staff to intervene if required; and, further,
6. THAT District regulations covering building setbacks be revisited and amended where required, and further,
7. THAT, wherever possible, such regulations be deemed non-variable unless and until they are formally amended by a minimum of 66% majority of Council. 'Spot zoning' amendments of these regulations by means of Development Variance Permits should cease.
8. THAT the District coordinate with the other four North Shore municipalities to publish a "Bylaw of the Week" in local papers, to reinforce the axiom, "Ignorance of the law is no excuse."
9. THAT, in particular, Staff examine the bylaw which governs construction of swimming pools, to determine whether it includes wording similar to the phrase, "...or like structures which are intended to contain an amount of liquid over XXX litres, and which are above other properties, or on a slope above a XXX-degree slope....."
10. THAT any Staff or Council discoveries, conclusions, changes to regulations, or any other actions that may arise as a consequence of the Berkley-Riverside landslide, be immediately conveyed to the Provincial Government, to all other BC municipalities, as well as to FCM. The purpose of this recommendation would be to assist other governments, encourage reciprocity, avoid duplication of effort and expense and, most important of all, to prevent a repetition of this tragedy.

It is hoped this material may be of assistance to the District - and offer some comfort to the families whose lives and homes have been so badly affected by the recent tragic event in Seymour.

Sincerely,

Liz James

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