

From: Wayne <[REDACTED]>
Sent: Sunday, December 10, 2023 9:48 PM
To: Timothy Peterson <tpeterson@islandstrust.bc.ca>; Lisa Gauvreau <lgauvreau@islandstrust.bc.ca>; Ben Mabblerley <bmabblerley@islandstrust.bc.ca>; Kim Stockdill <kstockdill@islandstrust.bc.ca>
Cc: Corinne Matheson <[REDACTED]>
Subject: RE: Galiano LTC. GL-RZ 2021.2 and GL-RZ 2023.2 DL 85 and 86

Hello Trustees and Ms. Stockdill,

I just wanted to state my agreement with Coleen. The Trust has proven that they are unwilling or unable to use any form of law to make the DL79 donation binding. If the Trust is unwilling to enforce a condition, then it is unfair to those who would be honorable and incentivising those who are not. I do not believe this was the case, but if it was, I am sure you could see how this could invite corruption. If the Trust needs to make legal changes to be able to enforce the action, then they must do so. If there is no legal framework to force this clause, then the Trust needs to remove it or make it clear that it is only a recommendation. If a bylaw is not legally enforceable then it is simply not valid.

The remainder may or may not be agreed by Coleen and are my thoughts alone and not specific to affordable housing.

I do not believe this donation is currently legally enforceable for the below reasons:

1. **The law has to be equitable:** Since there is no formula, one person may pay vastly different amounts for the same thing as another. This is also an ingress for corruption. An example formula for the donation might be: For every additional residence from the subdivision or rezoning to what was previously accounted for, you need to donate \$X for every house and \$Y per cottage to increase at the rate of inflation from the date this bylaw comes into effect. The fact that one lot is being used to raise the money, (the amenity lot), is irrelevant. The value of the lots is irrelevant, (I could sell to my friend for 50% value). If that lot is to be used for affordable housing, then the lot is sold to whatever organisation is to use it who now has the money from the donation. Consider what this is to do, not how much can you take from your neighbour. If the cost to the island is higher density, then the exchange for that is equitable funding that is desperately needed by our local nonprofits. If it is to preserve and protect the Trust Area and its unique amenities and environment, then it is wise to figure out if the costs of the potential risk of reasonably possible actions of several dozen upset F1 lot owners are to the community especially if they feel they are being extorted, which I believe they do. DL85 and 86 built a 3-million-dollar road with the non legal understanding that it would allow for their subdivision in to 20ac lots. This was required by MOTI and done in good faith as the final stage though the trust had been completed. No one would have done this for a forest lot that they are not allowed to live on. Although legal, this is

hardly honorable. DL87 was also purchased in good faith with the understanding from the Trustees of the time, that this would be considered part of the land donation. This is now being disregarded, possibly illegally since there was offer and acceptance with a reasonable equitable exchange which is bound under contract law. Fine, the past is the past. But part of being a Trust is trust. How are the F1 owners going to trust an organisation that doesn't address their past agreements. How are the F1 lot owners incentivised to treat an organisation that has treated its peers this way. I suspect not in a good way. I am sure this is in part why there is so much animosity on both sides of the community which is harmful to the community and thus not protecting it which is part of the mission statement of the Trust. Both the F1 lot owners and the Trust have proven untrustworthy. Equitability needs to be enforced on both sides.

We had the choice if we made the amenity lot waterfront or not. Making it waterfront will minorly decrease the value of the other two residential lots due to being longer and skinnier and having less frontage. Although it is minor, if we were greedy, the obvious choice would be to have the non ocean front lot as the amenity lot. In fact we are pulling the amenity lot out of our F3 lot instead of the donated land as is specified in the bylaw which is also disincentivized. To some extent we are literally being punished for doing much more for the community.

2. **You can not force a choice:** The bylaw specifies land has to go to affordable housing. Obviously, the wording is being completely ignored by the Trust in our case, making it a monetary donation instead of land, for good reason. However, even though we have two organisations to donate to, it only gives one choice, affordable housing, which is something that some people might not agree with. This level of specificity has already been ruled against by BC courts when donating the land in the 75% - 25% split to the Conservancy or Galiano Club. This is why we can now donate to the Penelakut or BC Parks. In fact, in a few years I think any F1 lot owner could have made a nonprofit themselves or as a group and would be allowed to donate the land to it.

I believe changing the bylaw to be enforceable should be a fairly simple matter but a very critical one as Coleen points out.

On a slightly different topic:

I personally disagree with the 75% donation. We purchased knowing this and will have already donated the land before anything get done about it, so I am not saying this to benefit myself. Why I am saying it is that as far as I understand, the Heritage Forest Option has been tested three times in the last 20+ years. So far it has failed in some major way 100% of the time due to clearcuts or people not abiding by the donation. This is a failed concept. It is our goal to stay here until we die, so again this is not something I would do even if I was immoral as it would be counter to our goals, however, if most the F1 lot owners decided that they had enough, then they could easily all get together and hire a logging company to decimate around half of the island to ensure that they at least get money out of the land they are not legally allowed to use for anything else. This is being incentivised by the current bylaws. If they did this, what could the Trust legally do? I think it is in the islands best interest to get these lots out of F1 status. Being part of the PMFL helps, but there is nothing to stop them from leaving the PMFL and ██████████
██████████ Likely if they were to do anything like this, it would be as a joint effort, and I do not think

it would take much of a push for this to actually happen. I suggest in the next few years, after our subdivision, the Trust needs to find some way to incentivise converting all F1 lots to other zonings, with covenants if still forestry. It needs to be good enough to at least convince half of the F1 owners to proceed to help protect against this. Perhaps allow F3's to have a house and cottage and changing the land donation to 50% if subdivided into residential. Make these only apply to those if the application starts within 4yrs. This should go to community vote with a clear understanding of the risks and the rewards to both the community and the F1 owners.

Regards,

Wayne Bairstow

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