



September 9th, 2024

Islands Trust

Regional Planning Committee
C/O Gabriola Islands Trust
700 North Road, Gabriola Island
BC, V0R 1X3

Via e-mail (and mail) to lpatrick@islandstrust.bc.ca RPC@islandstrust.bc.ca

Attention; Ms. Laura Patrick, Chair Regional Planning Committee and Members of the Regional Planning Committee, Islands Trust,

RE: MICA Input for Proposed *Bylaw Compliance & Enforcement Policy Revisions*

Dear Members,

Members of the Mudge Island Community Association attended the Regional Planning Committee meeting on September 4th, 2024. We have a vested interest in reviewing and providing input into the Bylaw Enforcement Policy, particularly given the issues on Mudge Island, which Trustee Elliot eloquently highlighted during the discussion of our submitted letter. We also noted Chair Peter Luckham's comments regarding the existing lack of trust between communities and the Trust, particularly in how bylaw enforcement issues are approached. We would like to offer our perspective on this matter.

Approach and Audience

We heartily agree with the view expressed by Trustee Patrick that updated Policy 5.1.1 should be written in plain language so that it is easily understood by members of the community. Further, the policy addresses too narrow an audience. The current policy and its drafting seem more focused on the effective prosecution of bylaw violations rather than the resolution of complaints. It is a manual for enforcement staff and does not provide guidance for either complainants or those receiving complaints. This is particularly problematic for smaller, less-serviced Gulf Islands, where invasive, on-site investigations clash with the values of privacy and self-sufficiency held by our communities. Further, we find it remarkable that the Trust is seeking to adopt the policy without consultation with the various island communities.



Ready, Fire, Aim

Our recent experience demonstrates how traumatic the issuance of a complaint notice and commencement of an investigation can be for residents. In many cases, we feel that our homes and very lifestyle is being threatened. The problem is that enforcement staff interpret the policy to mean that they have no discretion about whether or not to commence an investigation once they receive a complaint. While discretion is embedded in the existing enforcement policy, Manager Dingman suggested, without clear reference, that officers have no discretion in deciding whether to investigate a complaint. Though an amendment is forthcoming that may allow some discretion, it is solely based on resource availability, which appears self-serving and fails to address the core issue we raised. Furthermore, this does not align with the spirit of discretion recommended in the BC Ombudsperson's Best Practices.

Section 8, Use of Discretion, in the draft policy applies to enforcement but not to the investigation process. The Ombudsperson's Special Report No. 36 (page 27) specifically recommends providing staff with guidelines on whether to investigate a complaint. This critical point remains unaddressed in the current policy, and we sensed resistance to the idea during the meeting. Please understand that the commencement of an investigation creates a huge amount of anxiety, time and cost, which in many cases could be avoided entirely by the judicious exercise of discretion by staff. Waiting until the enforcement stage to exercise discretion causes unnecessary time, cost, work, aggravation and anxiety for all involved over many months.

Lack of Trust

At the Gabriola LTC meeting held on Mudge Island on July 16, Manager Dingman expressly stated that enforcement officers would be investigating only the subject matter of the complaints and would not be on a fishing expedition for other violations. There have been troubling examples from our community of bylaw officers exceeding the scope of their contravention notices, demanding to "poke around" and inspect unrelated matters, despite that assurance. This approach not only undermines trust but also exacerbates the culture clash between Gulf Islanders and the Trust. The perceived authoritarian approach to bylaw enforcement is fostering distrust and fear, rather than cooperation.

On Mudge Island, there is a pervasive sense that Bylaw Enforcement Officers are not seeking to help residents find ways to achieve compliance, but rather are applying the narrowest possible interpretation of land use bylaws without taking a more practical approach, considering the spirit and intent of the bylaw and the impact of the violation.

We respectfully submit that the Bylaw Enforcement Policy should provide clear guidelines allowing discretion for whether investigations should even begin. Furthermore, bylaw

enforcement should take a consultative approach, working with islanders to find reasonable ways to comply with bylaws, with an emphasis on the spirit, rather than the strictest letter, of the regulations. The Ombudsperson's report also recommends implementing a code of conduct to ensure that staff better collaborate with the self-sufficient communities of the Gulf Islands.

We thank you for your time and the opportunity to make this submission and look forward to your comments and input.

Yours truly,

Mudge Island Community Association (MICA)


Rich Brooks, Chairman

cc: MICA Committee Members

The Mudge Island Community Association acknowledges that Mudge Island is traditional territory of many First Nations, including the Coast Salish peoples and the Hul'qumi'num speaking Nations. We are grateful to have the opportunity to live, learn, work and play in their traditional and unceded territories.