



## **CITY OF KIRKLAND**

**City Attorney's Office**

**123 Fifth Avenue, Kirkland, WA 98033 425.587.3030**

**[www.ci.kirkland.wa.us](http://www.ci.kirkland.wa.us)**

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### **MEMORANDUM**

**To:** David Ramsay, City Manager

**From:** Robin S. Jenkinson, City Attorney

**Date:** November 17, 2006

**Subject:** Letter from John Lamont

### **RECOMMENDATION**

Authorize the Mayor to sign the proposed letter to John Lamont.

### **BACKGROUND DISCUSSION**

Mr. Lamont's letter to the Council expresses concern about the Washington Department of Transportation's efforts to purchase his property in order to construct proposed improvements at the NE 116<sup>th</sup> Street interchange.

November 9, 2006

Mayor James L. Lauinger  
City of Kirkland  
123 5th Avenue  
Kirkland WA, 98033

Dear Mayor Lauinger:

As a follow-up to my letter to Governor Gregoire dated November 7, 2006, I have recently learned from my attorney, Mike Rodgers, who had a conversation with Steve Dietrich (the DOT's attorney) that the "water retention pond" that the DOT now wants to locate on my property was previously planned for a piece of land designated for that purpose.

It seems interesting that this water retention pond was never discussed in the original full take condemnation which started this whole process in 2005. It has never been mentioned in the partial taking which the DOT and Barry Sullivan had agreed to in their findings resulting in a lengthy study issued to me and Mike Rogers. In addition, it was never discussed at our meeting with Barry Sullivan and Wendy Taylor in the DOT's Bellevue office regarding their decision to go back to a full taking because the contractor felt he needed more space. The pond was never mentioned in any of these discussions. You would assume that at a meeting of this importance that all possible contingencies would have been mentioned. On October 19 my attorney mailed our partial taking proposal to the DOT, which Barry Sullivan requested, showing that legally the DOT could not take all of the property. Suddenly, within 15 days, out of the blue a pond appeared without an engineering study or environmental study. This requirement was clearly made up as just another excuse.

As you can see, I have been honest and above board with the DOT personnel by giving them my lease agreements, access to the property, and meeting deadlines and meetings. In return, I have been lied to and treated unfairly. My investment is too valuable to my family to see it taken by such dishonest means to justify a full taking of the property when it is not necessary. I seek your help in retaining our investment by requiring Barry Sullivan to honor his original findings of 2005 for a partial taking. Thank you.

Sincerely,



John Lamont  
1632 E Lk Sammamish Pl SE  
Sammamish, WA 98075  
(425) 392-2460  
[heli300c@aol.com](mailto:heli300c@aol.com)

**RECEIVED**

NOV 15 2006

CITY OF KIRKLAND  
CITY MANAGER'S OFFICE

December 12, 2006

**DRAFT**

John Lamont  
1632 East Lake Sammamish Place SE  
Sammamish, WA 98075

Dear Mr. Lamont:

Thank you for your letter describing your concerns about the Washington State Department of Transportation's (WSDOT) efforts to purchase your property. WSDOT has apparently determined that acquiring your property is necessary in order to construct proposed improvements at the 116<sup>th</sup> Street interchange. Shortly after receiving your letter the City Council received a copy of a letter to you from David Dye, the Director of the WSDOT Urban Corridors Office explaining WSDOT's position. Mr. Dye was responding to your earlier letter to Governor Gregoire, on which you copied the City Council, and a letter to WSDOT Secretary Doug MacDonald. (For ease of reference a copy of Mr. Dye's letter is attached.)

We understand that you do not want the full acquisition of your property to occur and acknowledge your frustration with the property acquisition process. However, the responsibility for the decision as to full or partial acquisition of your property and the handling of the acquisition process rests with WSDOT, not the City of Kirkland. From Mr. Dye's letter it appears that WSDOT has attempted to find a way to construct the planned improvements without acquiring all of your property, but recently concluded that this is not possible. Again, we are sorry that you are dissatisfied with the acquisition decision and process. Hopefully, your continued negotiations with WSDOT will reach an outcome with which you can feel comfortable.

Sincerely,

KIRKLAND CITY COUNCIL

by: Jim Lauinger, Mayor

Attachment



**Washington State  
Department of Transportation**  
**Douglas B. MacDonald**  
Secretary of Transportation

Northwest Washington Division  
Urban Corridors Office  
401 Second Avenue South, Suite 560  
Seattle, WA 98104-3850  
206-464-1220 / Fax 206-464-1190  
TTY: 1-800-833-6388  
[www.wsdot.wa.gov](http://www.wsdot.wa.gov)

November 15, 2006

Mr. John Lamont  
1632 E. Lake Sammamish Place SE  
Sammamish, WA 98075

Re: Quality Transmission, Parcel Number 1-18930

Dear Mr. Lamont:

Thank you for your letter regarding your property in Kirkland. As the Director of the Washington State Department of Transportation's (WSDOT) Urban Corridors Office, I would like to respond to the questions you raised in your letter dated November 4, 2006, to Governor Gregoire and November 9, 2006, to Secretary Doug MacDonald, regarding efforts to purchase your property located at 11630 – 120<sup>th</sup> Avenue NE in Kirkland.

I have been in contact with the I-405 staff involved in this property purchase and have researched your concerns. I would like to respond to the key issues raised in your letter, which mainly focus on the basis of WSDOT's need for your entire parcel.

The I-405 program is a design-build program comprised of multiple projects in different stages of design and construction. As a project's design evolves, our understanding of project land requirements can change. In this case, initially staff determined that the project needed a portion of your property for two purposes. First, the project required construction of a new NE 116<sup>th</sup> Street wall. This wall, running along your southern property boundary, will be approximately 20 feet high with a footing approximately 3 feet from your building's estimated footing location.

Ordinarily we require a 10 to 15 foot wide space to build the new wall. That spacing is not possible here due to the location of your building. Working in this restricted area would significantly increase construction costs and could endanger the structural stability of your building.

In addition to the above wall, the project will require a Temporary Construction Easement along your property's eastern border. This easement is needed to build a smaller retaining wall (10 feet high at its tallest end). This easement would eliminate access to and parking for your building for 24 months during construction.

Project office staff recognized your desire to retain the property after project construction. Although they were concerned about the work restrictions and close proximity to heavy construction, they initially made you an offer to purchase only a small portion of the property and rent the building during the 24-month construction period.

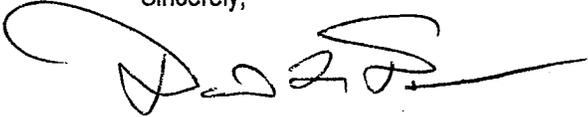
Unfortunately, as design work progressed staff engineers became increasingly concerned about the potential for significant building damage during the wall construction. This risk, coupled with increased construction costs, led them to conclude that the project required all of your property. The property will also be made available to the construction contractor for a construction staging and lay-down area for the project, another project requirement. These new needs caused us to offer to purchase your entire property.

In early 2006, staff began design work for another project along I-405, also in the same vicinity of your property. As the design for that project progressed, engineers determined that your property was an excellent location for the water detention and treatment structures required for the project. This separate project requirement confirmed the need for your entire property.

I understand your concern about replacing the income stream provided by this property. Our purchase offer was based on recent sales of comparable properties. The offered price should enable you to replace the income stream.

We understand the property acquisition process can be very difficult for owners. Oftentimes, balancing the needs of the community at large with those of an individual property owner is difficult. During the course of negotiations, sometimes honest differences occur. I hope this letter will help facilitate further negotiations and addresses the concerns in your letter.

Sincerely,



David L. Dye, P.E.  
Washington State Department of Transportation  
Urban Corridors Office Administrator

cc:

Governor Christine Gregoire  
Secretary Douglas B. MacDonald  
Kim Henry, I-405 Project Director  
Kirkland Mayor James L. Lauinger  
Kirkland Deputy Mayor Joan McBride  
Kirkland Councilman Dave Asher  
Kirkland Councilman Tom Hodgson  
Kirkland Councilman Bob Sternoff  
Kirkland Councilwoman Mary-Alyce Burleigh  
Kirkland Councilwoman Jessica Greenway  
Attorney General Rob McKenna  
Senator Cheryl Pflug

Representative Glenn Anderson  
Representative Jay Rodne  
Senator Bill Finkbiener  
Representative Toby Nixon  
Representative Larry Springer  
KOMO-4 Problem Solvers  
KOMO, Ken Schram  
KIRO 7 Investigators  
KING 5 Investigators  
MegaTalk KITZ, Mike Siegel  
Wendy Taylor  
Barry Sullivan