

CITY ATTORNEY

BRUCE REED GOODMILLER



SENT VIA E-MAIL (donmillarchitect@gmail.com)

January 29, 2020

Don Mill Architect
877 Ocean Avenue
Point Richmond
CA 94801

Re: Response to West Wing Neighbors' January 14, 2020 Ocean Avenue Lot Line Appeal

Dear Mr. Mill:

I write in response to your January 14, 2020 email to Roberta Feliciano, Senior Planner for the City of Richmond, regarding the Ocean Avenue lot line adjustment appeal. I understand that you have requested a written response to your correspondence in lieu of an in-person meeting with the City Attorney's Office. Although we would have welcomed an in-person discussion, our response is below:

Lot line adjustments are exempt from the Subdivision Map Act. [Gov't Code § 66412(d)] In Richmond, a lot line adjustment is permitted when all of the following conditions are met: (1) adjustment is between four or fewer parcels; (2) no additional parcels are created; (3) the resulting parcels must comply with the Ordinance (RMC 15.04.714), the Subdivision Map Act, the General Plan, any applicable specific plan, and the Zoning Ordinance, including minimum lot dimension and minimum area; (4) the resulting parcels do not interfere with existing utilities, infrastructure or easements; (5) real property taxes have been paid; and (6) the Director of Engineering and Capital Improvement Projects and the Zoning Administrator approve the adjustment. [Richmond Municipal Code §15.04.714.020] Richmond's Lot Line Adjustment Ordinance is consistent with the lot line adjustment process articulated in Section 66412(d) of the Map Act. The lot line adjustment process under Government Section 66412(d) is ministerial. [*Sierra Club v. Napa County Board of Supervisors*, 205 Cal.App.4th 162, 179 (2012)].

Here, the appeal is focused on the lot line adjustment of four parcels – not a sequential lot line adjustment, as there have been no prior lot line adjustments on these parcels of which we are aware. The property owner applied for a lot line adjustment of four parcels. The Zoning Administrator approved the lot line adjustment because they determined that the application satisfied the required findings under section 15.04.714.020(B)(1-3). The Zoning Administrator does not have discretion to approve the lot line adjustment if the required findings are met. Approval is mandatory.

Even if the basis of the appeal is to challenge a sequential lot line adjustment – which is not currently before the Planning Commission - the court in *Sierra Club v. Napa County Board of Supervisors* held that a local ordinance permitting multiple, sequential lot line adjustments does not violate Government Code section 66412(d). [*Sierra Club* at 174] In *Sierra Club v. Napa County Board of Supervisors*, Sierra Club challenged the trial court's determination that sequential lot line adjustments do not violate the Map Act, and that lot line adjustment approvals were ministerial. The appellate court disagreed with Sierra Club, holding that sequential lot line adjustments do not violate section 66412(d) of the Map Act. The court reasoned that a sequential lot line adjustment is permitted only when (1) a lot line adjustment of four or fewer lots is approved and (2) the deeds are recorded before a new lot line adjustment can be filed. Accordingly, sequential lot line adjustments do not violate the Map Act.

Kind Regards,



Shannon L. Moore
Assistant City Attorney