



April 27, 2009

Via email: [jca2008@hotmail.com](mailto:jca2008@hotmail.com)  
Original via mail

Jim Alkins  
Alkins Project Services Inc.  
46054 Britton Ave  
Chilliwack, BC V2R 2P9

Dear Jim Alkins,

**Re: Proposed Options for Designation and Usage of former New Westminster Public Cemetery/Douglas Road Cemetery**

Further to our conversations over the past several months, and based on evidence presented by New Westminster School District 40 (SD40) which supports the existence of human remains in the former Douglas Road, New Westminster Public Cemetery site, it is my understanding that SD40, as the owner of the subject property, will be proceeding with an application to designate this site a "cemetery" under the current definition in the *Cremation, Interment and Funeral Services Act* (CIFSA).

Given this, you have sought clarification from this office regarding the steps involved in obtaining a Certificate of Public Interest - the legal mechanism for such a designation - and the steps involved should SD40 wish to use the site for alternate purposes following the designation process and existing school deconstruction process.

The BPCPA acknowledges that while the land has been used as the site for a secondary school, there is a significant history to this location which includes use as a public, institutional, religious and First Nations cemetery.

The BPCPA understands that SD40 has developed a risk assessment which identified the areas on the property which are most likely to contain human remains and has used that assessment to consult with the public on possible options for the site including the designation of the high risk areas as a "cemetery" under the CIFSA.

The BPCPA also understands that this site includes all of the current New West Secondary School. SD40 will likely seek conditions related to the continued use of the site for school purposes while development of a new school proceeds.

**Land designation under the CIFSA:**

SD40 has indicated that it is their intention to proceed with an application for a Certificate of Public Interest in respect of those lands for which a high probability exists that human remains are present and where the site was formerly used as the historic cemetery, Douglas Road Cemetery and New Westminster Public Cemetery.

To that end, the following are the requirements under the CIFSA to apply for a Certificate of Public Interest from the BPCPA:

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**Business Practices & Consumer Protection Authority**  
PO Box 9244  
Victoria BC V8W 9J2  
Telephone: 604 320-1664  
Facsimile: 250 920-7181  
Toll Free: 1 888 777-4393  
[www.bccpa.ca](http://www.bccpa.ca)

1. If the land is within a designated area, the BPCPA may consider only whether the physical characteristics of the land make the land suited to be a place of interment in perpetuity. Meaning, the BPCPA will not consider the public interest aspects related to the application as these are captured as part of the local government process of assenting to the proposed designation of the site under its bylaws.
2. Provide a document that is executed on behalf of the municipal council, if the land is within a municipality, in which the municipal council confirms that the proposed use is permitted by its bylaws.
3. Provide a copy of a plan deposited in the Land Title Office;
4. Provide the legal description of the site;
5. Provide a map that shows the location of the site in relation to surrounding areas and access roads
6. Provide a report on the site by a professional engineer or geoscientist that includes:
  - i. a description of the site and the drainage of the site in respect to adjoining property and the soil conditions and underlying rock formations of the site, and
  - ii. an assessment by the professional engineer or geoscientist of the suitability of the site to be used as the proposed place of interment and a recommendation about the site's suitability for this use;
7. a description of the proposal for development of a place of interment on the site and, if development is to be carried out in stages, a statement of the order of development and a description of each stage of the development of the place of interment;
8. Provide evidence that the applicant owns the site or holds an option to purchase the site.

Assuming the above provisions, where practicable, are complied with, and that the initial proposal related to the site includes continued use of New Westminster Secondary School, the BPCPA may issue a Certificate of Public Interest with the following conditions:

1. That SD40 be permitted to continue the use of the site in it's current form until such time as the construction of a new secondary school is complete and transition to that new location has been effected;
2. That, on completion of the above transition, SD40 undertake to deconstruct and remove the buildings, structures and other additions to the property which are not related to the interment of human remains within a reasonable timeframe to be determined between SD40 and the Director;

**Possible land development or alternate use:**

1. Once the land is subject to the CIFSA, its use for other purposes, or sale, lease or encumbrance, is prohibited;
2. More specifically, land that is subject to a Certificate of Public Interest is restricted by the CIFSA such that an operator may use a place of interment only in accordance with the conditions of the certificate of public interest and any conditions as may be set by the BPCPA, and for a purpose that is associated with, or incidental to, the care and disposition of human remains or cremated remains, or if the BPCPA approves a different purpose, in accordance with that approved purpose.
3. The BPCPA may approve a place of interment being used for a purpose that is not associated with, or incidental to, the care and disposition of human remains or cremated remains, and set conditions on that approval that must be met by the operator.
4. Should SD40 wish to seek approval for an alternate use of the cemetery, without converting or closing the site, the following would be required:
  - a. Evidence that any human remains remaining on the site had been located, identified and action taken to directly serve notice to any possible next of kin regarding the proposal to use the site for another use, explaining the background, issues and approach for the proposed usage, and seeking their response;
  - b. Evidence that a notice was is placed in 2 issues of a newspaper circulating in the New Westminster area at least 14 days apart and running for a period of at least a

- week each. Such notice would outline the proposed alternate usage and seek input from interested parties and the public at large respecting such usage;
- c. Evidence that, beyond the above direct contacts with stakeholders, SD40 engaged in public consultations with all interested parties, and the general public, regarding the proposals for usage of the site;
  - d. Based on the above, a proposal outlining the contemplated alternate usage of the site and the impacts such usage would have on the known or potential graves remaining on the site, as well as the potential impacts such usage would have on the overall historic recognition of the site as a burial ground and the interests of those parties who may have used or had relatives interred in the site. The proposal would contain recommended approach which effectively balances the interests of all parties involved.
2. Once the BPCPA receives the information resulting from the notifications and consultations noted above, the BPCPA may, after providing all interested parties an opportunity to respond, grant SD40, with or without conditions, permission to use the site in accordance with the terms described in the proposal;
  3. The BPCPA may amend the Certificate of Public Interest that was issued under section 24 to reflect the alternate usage of the use of the land on which the place of interment is situated if the BPCPA is satisfied that the approval granted has been complied with.

I trust this assists in outlining some of the requirements and expectations inherent in the CIFSA and the CIFSA Regulation. While this is intended to provide guidance, it should not be construed as legal advice. Should you require specific advice regarding the legality and options for SD40 moving forward, I would recommend you obtain independent legal advice.

Please don't hesitate to call should you have any further questions.

Your truly,

Tayt Winnitoy  
VP, Operations  
BPCPA of BC

Cc: Terry Barnett, CEO  
Tim Monaghan, Manager, Licensing Operations