



# Corporate Report

NO: R190

COUNCIL DATE: July 25, 2005

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## REGULAR COUNCIL

TO: Mayor & Council                      DATE: July 20, 2005  
FROM: General Manager,  
Engineering                                  FILE: 6605-003  
SUBJECT: Municipally Gazetted Roads

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## RECOMMENDATION

That Council request the Provincial Government to provide legislation that converts Municipally gazetted roads to dedicated roads.

## INTENT

To request that the Provincial Government consider creating legislation that enables Municipal governments to effectively convert municipally gazetted roads to dedicated roads in a fashion similar to the Ministry of Transportation.

## BACKGROUND

During the late 1800's and early 1900's the Provincial Government and Municipal governments gazetted roads by placing a notice in the BC Gazette specifying the location and width of the road. It is typical within many municipalities that numerous roadways exist only by virtue that they have been published by gazette.

Pursuant to Section 115, Land Title Act, with the support of a Form 12, the Land Title Office will, on application from the Provincial Ministry of Transportation, convert a Provincially gazetted road to a dedicated road, but will not recognize an application from a Municipality to convert a municipally gazetted road to a dedicated road in the same fashion.

The most common process available to Municipalities is to have the original title holder of the lands in question execute a Section 107, Land Title Act plan, dedicating the land as road. This can be very complicated and costly as in the majority of cases the title holder has long deceased. The heirs are difficult to locate and they may not have any knowledge of current or historical status of the road. Alternatively, Section 42, Transportation Act (formerly Section 4, Highways Act) is available to Municipal governments. This is not sufficient in most cases as it only covers the traveled portion of the roadway and does not address the utility corridors contained within the typical urban roadways.

In 1997, a resolution of UBCM was passed, calling on the Provincial government to revise legislation to enable Municipal governments to convert gazetted roads to dedicated roads in a fashion similar to the Ministry of Transportation. Although this resulted in discussion with the Ministry of Attorney General the subsequent year, the matter was not successfully resolved by establishing the necessary legislation revisions.

## DISCUSSION

The right of possession of every highway located within a Municipality is vested in the Municipality. The lands covered by some of these highways were never formally conveyed to the Municipality, or dedicated as highway. A procedure, preferably other than expropriation, is required to formalize the exclusion of these municipally gazetted

roads from several old, but existing titles. Legislation needs to be established to allow the Registrar of Land Titles the authority to cancel those titles where heirs to the estate are no longer living or do not have the authority to deal with the issue. In absence of such a procedure, expensive delays and costs can result when development applications are received or capital projects initiated, where no legal access exists for adjacent affected properties.

## **CONCLUSION**

Surrey By-law No. 88 (Surrey Highway By-law 1909) established five (5) road portions (Station Road, Beecher Road, King George Highway, Cedar Road and River Road) in the City by Municipal gazette and the status of portions of those roads is still in doubt. Therefore, City of Surrey is one of those municipalities that will directly benefit if legislation is established to enable Municipal governments to convert gazetted roads to dedicated roads in a fashion similar to the Ministry of Transportation. This issue will be the subject of a resolution at the 2005 UBCM Conference.

Paul Ham, P.Eng.  
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