

ARAMBURU & EUSTIS, LLP

Attorneys at Law

J. Richard Aramburu
rick@aramburu-eustis.com
Jeffrey M. Eustis
eustis@aramburu-eustis.com

720 Third Avenue, Suite 2000
Seattle, WA 98104
Tel 206.625.9515
Fax 206.682.1376
www.aramburu-eustis.com

May 15, 2018

Sarah Pyle, Planner
City of Redmond
15670 NE 85th St
Redmond, WA 98052

Via Email
spyle@redmond.gov

Re: Access from N.E. 51st St. to AEB property, Parcel No. 218250-0080, -0082

Dear Ms. Pyle:

As you are aware, this office represents Eugene Zakhareyev, who resides at 5126 154th Avenue NE in Redmond. I write today to follow up on my letters to WSDOT and to the City dated March 23, 2018. In that correspondence, we set forth the history of the relations between the City and WSDOT regarding the N.E. 51st St. Interchange, indicating that the city lacks authority to change access to the property at 15250 N.E. 51st. Though we have received a response from WSDOT to that correspondence (dated April 25), we believe the basis for that letter is in error and have delivered to WSDOT the attached reply (Attachment A). The transaction history clearly establishes that the City of Redmond does not have authority to grant easements or otherwise change access for this property.

In addition, the Department of Transportation's April 25th response clearly asserts that "neither WSDOT nor the city can grant commercial access from this property (the AEB ownership) onto a fully controlled limited access facility." As described herein, the proposed AEB access must be considered a "commercial access" under applicable traffic planning criteria.

The term "commercial" has a different context in meaning as applied to potential access to a state limited access facility. "Commercial" in this context has to do with traffic and turning volumes of traffic rather than land use. We have asked William Popp Associates, experienced transportation engineers, to review this designation and provide their opinion, which is attached hereto as Attachment B. This opinion makes clear that access for a religious assembly facility such as proposed, with square footage

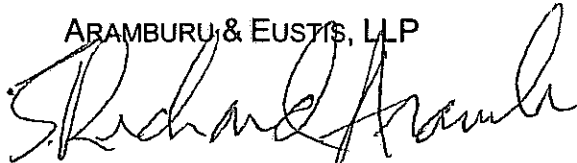
May 15, 2018
Page 2

in excess of 22,000 square feet, in a higher volume access consistent with the WSDOT definition, should be considered commercial and as such is not permissible according to state regulations.

Should you have any questions please do not hesitate to contact me.

Sincerely,

ARAMBURU & EUSTIS, LLP

A handwritten signature in black ink, appearing to read "Richard Aramburu". The signature is written in a cursive, flowing style.

J. Richard Aramburu

JRA:cc

cc: Eugene Zakhareyev
James Haney, Redmond City Attorney (jhaney@omwlaw.com)

Carol

From: Carol <carol@aramburu-eustis.com>
Sent: Tuesday, May 15, 2018 4:55 PM
To: 'Eloise.Hardman@wsdot.wa.gov'
Cc: Rick (rick@aramburu-eustis.com); 'pazookr@wsdot.wa.gov'; jhaney@omwlaw.com; 'spyle@redmond.gov'
Subject: FW: AEB Mosque Access
Attachments: 2018-5-15 to Eng-WSDOT.pdf

Dear Ms. Hardman:

Due to Ms. Eng's retirement, as indicated in her auto-response to the below email, please direct our letter to the appropriate person / office.

Carol Cohoe, Legal Assistant

[206-625-9515](tel:206-625-9515)

From: Carol [<mailto:carol@aramburu-eustis.com>]
Sent: Tuesday, May 15, 2018 4:26 PM
To: 'EngL@wsdot.wa.gov'
Cc: Rick (rick@aramburu-eustis.com); 'pazookr@wsdot.wa.gov'; 'jhaney@omwlaw.com'; 'spyle@redmond.gov'
Subject: AEB Mosque Access

Please review and include in the record the attached letter from Mr. Aramburu.

Carol Cohoe, Legal Assistant

720 Third Avenue, SUITE 2000
Seattle, WA 98104
(206) 625-9515

This message may be protected by the attorney-client and/or work product privilege. If you received this message in error please notify us and destroy the message. Thank you.

Attachment A

ARAMBURU & EUSTIS, LLP

Attorneys at Law

J. Richard Aramburu
rick@aramburu-eustis.com
Jeffrey M. Eustis
eustis@aramburu-eustis.com

720 Third Avenue, Suite 2000
Seattle, WA 98104
Tel 206.625.9515
Fax 206.682.1376
www.aramburu-eustis.com

May 15, 2018

Lorena Eng
Northwest Region Administrator
Washington State Department of Transportation
15700 Dayton Avenue North
PO Box 330310
Seattle, WA 98133-9710

Via Email:
EngL@wsdot.wa.gov

Re: SR 520, Mile Post 10.74, N.E. 51st Street Intersection Vicinity
(AEB Mosque)

Dear Ms. Eng:

Thank you for your letter of April 25, 2018, responding to mine of March 23, 2018. In your response, you contend that the decision to grant or deny revised access to this property lies with the City of Redmond, not WSDOT. Respectfully, we believe that your position is incorrect and that revisions to access must be approved by WSDOT and that under these circumstances no modifications to access are permissible.

You correctly note that the Right of Way Agreement, dated August 7, 1969, provided that the City would protect the control of access from the roadway. A similar obligation was found in the quit claim deed which conveyed title to the property on March 12, 1991. Both the 1969 Agreement and the 1991 Quit Claim Deed identified restrictions regarding access to Parcel 5326, which is the subject of this correspondence. In particular, Sheet 11 of the interchange plan, attached to the 1991 Quit Claim Deed, indicated "access to be prohibited" to Parcel 5326 by a cross hatch symbol in the lower left corner of the drawing. The Quit Claim Deed explicitly states that the City of Redmond:

will maintain the control of ingress and egress to, from and between the lands herein conveyed and the lands adjacent thereto, as indicated by the prohibition of access symbol appearing on said Exhibit "A"; . . .

The Access Notes specifically allow a Type A Approach to Parcel 5326 which is "Not To

Exceed 14' Feet in Width, For Sole Purpose Of Serving a Single Family Residence.”

These restrictions are consistent with the definition of a “Fully controlled limited access highway” in WAC 468-58-010 as follows:

Definitions.

The following definitions shall designate limited access highways and shall indicate the control of access to be exercised by each:

(1) "Fully controlled limited access highway" is a highway where the right of owner or occupants of abutting land or other persons to access, light, air, or view in connection with the highway is controlled to give preference to through traffic by providing access connections with selected public roads only, and by prohibiting crossings or direct private driveway connections at grade, with the exception of Type C and F approaches, where no other reasonable means of access exists as solely determined by the department.

(Emphasis supplied.) This section makes clear that access decisions are made by the Department, not other entities.

This same prohibition applies to interchange ramps under WAC 468-58-080 as follows:

Guides for control of access on crossroads and interchange ramps.

(1) Fully controlled highways, including interstate.

* * *

(c) In both urban and rural areas access control on a fully controlled highway shall be established along the crossroad at an interchange for a minimum distance of three hundred feet beyond the centerline of the ramp or terminus of transition taper.

(Emphasis supplied.) As noted, in ordinary course even a Type A approach is not permissible.

Based on the very specific language herein, and adopted regulations, the grantee to the 1991 Quit Claim Deed, the City of Redmond, has no authority to grant access or easements inconsistent with the terms of the deed and the attached drawings. As Assistant Attorney General Ann Saley said in her June 20, 2014, email, no option is available in this deed for the WSDOT to approve a request from the city to permit access.

May 15, 2018
Page 3

The specificity of the deed from the WSDOT to the City of Redmond makes clear that no access modification is permissible. Significantly, the current property owner was well aware of this restriction and cannot claim some special right.

Respectfully, my clients request that you rescind the opinion in your April 25, 2018, letter and determine that no modification in access to the subject parcel is permissible.

Should you have any further questions regarding this situation, please contact the undersigned.

Sincerely,

ARAMBURU & EUSTIS, LLP



J. Richard Aramburu

JRA:cc

cc: Eugene Zakhareyev
Ramin Pazooki, WSDOT, pazookr@wsdot.wa.gov
James Haney, Attorney, City of Redmond, jhaney@redmond.gov
Sarah Pyle, Planner, City of Redmond, spyle@redmond.gov