

REGIONAL DISTRICT OF NANAIMO

**COMMITTEE OF THE WHOLE
TUESDAY, SEPTEMBER 8, 2015
7:00 PM**

(RDN Board Chambers)

A D D E N D U M

PAGES

LATE DELEGATIONS (Requires Motion)

2 **Fernando Costa**, re Lot 8 Horne Lake Road (Island Pallets), Electoral Area 'H' –
 Unsightly Premises.

COMMUNICATIONS/CORRESPONDENCE

3-12 **Laurie Gourlay and Jackie Moad**, re Thistledown Farm.

From: Fernando Costa
Sent: Tuesday, September 08, 2015 10:21 AM
Subject: Lot 8.

Would like to attend meeting at 700 pm tonight

Fernando costa.

From: Thistledown Farm
Sent: Wednesday, September 02, 2015 11:36 PM
Subject: Letter to CoW

It was suggested that we might send a letter to you, for the attention of the Committee of the Whole, to be appended to the agenda for the next meeting. Please find our letter attached, along with accompanying reference material.

Feel free to contact us if you have questions or require additional information.

Thank you,

Laurie Gourlay & Jackie Moad

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Thistledown Farm, 2689 Cedar Road, Cedar BC, V9X 1K3, (250-722-7223), www.Thistledownfarm.ca

To: Regional District of Nanaimo
Committee of the Whole
c/o Mr. Matt O'Halloran

Re: Writer's gathering at Thistledown Farm, Aug. 28-30th

September 2, 2015

Dear Directors,

We need to write to you, to correct the false information that the RDN has directed to the public's attention in the two Nanaimo newspapers of yesterday and last week (attached). In doing so the RDN has hurt our B&B business, and our reputation, as well as adversely affecting the region's economy and reputation. Depending on your response we will decide if follow-up is required.

We are additionally concerned that the RDN's lawyers have also threatened to shutdown future gatherings as they wish, without warning, and believe this is irresponsible. This threat must be rescinded as it negatively affects our B&B business, as well as our ability to contribute to the community and larger interests of our society.

It is also interesting to note that we only learned yesterday, through an article in the paper, that the RDN "won't pursue enforcement" against us for daring to hold a gathering of a dozen writers and artisans over the weekend. As quick as the RDN is to accuse and to courier legal threats they should similarly be just as quick and willing to admit when they are wrong, and to personally deliver an apology.

In this regard it is our understanding that we breached no rules or regulations this past weekend, and that we have rights as private property owners that the RDN needs to respect.

Considering how we were treated this past week we would conclude that there is no accountability apparent in RDN by-law and enforcement, no due process, no willingness to discuss differences or even to determine the accuracy of accusations ...and definitely no willingness or process in place that would encourage amicable resolutions to be found.

By way of background, we live on a 20 acre organic farm on ALR in rural south Cedar, drawing water from a well, public services and amenities largely unavailable to us. The farm has embraced the provincial government's goals to attain greater self-sufficiency by diversifying, gradually building our agri-tourism business. We are approved under the BC/Canada Environmental Farm Program, as well as being one of two farms in BC recognized by the BC Agricultural Council for implementation of our bio-diversity plan - for riparian protection and habitat restoration.

Since we are registered with the RDN as a B&B it came as a great surprise to us when the RDN suggested that having a dozen writers and artisans on our property over the past weekend would be in contravention to the RDN's by-laws. Of course we would welcome a dozen writers to stay on our property. Why not? We are registered as a B&B for this purpose - to have people come and stay here on our property. The RDN would not however answer our questions, repeatedly insisting that we were in violation of "public assembly" and "camping" by-laws - and must tell all of the writers, who had already booked their travel, to cancel their plans - that the gathering must be shutdown.

In our opinion the RDN acted without first looking into the accusations they levied against us, and without consideration of the impact to the writers and artisans who were planning to spend a quiet weekend talking and discussing their literary and other pursuits.

The RDN acted improperly in other words, and the insistent and unaccountable manner by which they proceeded raises serious concerns about how the RDN carries out its mandate, and conducts the business and governance of the residents and the region.

In the absence of answers from those charged with enforcing by-laws we need to raise our concerns to the Board's attention. The difficulties we faced in resolving this matter require your attention. Our problems this weekend were particularly significant as they point to serious and questionable behaviour with respect to the RDN's procedures and enforcement of rules and regulations.

With regard to our business as a B&B we also need clarification. For instance, is the RDN suggesting that every time we have a dozen guests staying on the farm we need to seek a permit from the RDN? Is the RDN suggesting that it is not permissible to have a dozen guests staying on our farm, or that we open ourselves to repercussions if we do? Are rather vague and arbitrary by-laws, that speak against "public assembly", to be invoked at the by-law officers discretion - without accountability?

And at the ludicrous end of this slippery slope, is the RDN suggesting we can have a dozen guests - but we need to ensure that they do not talk to one another lest we violate rules against "public assembly"??

We are forced to bring our concerns to the RDN CoW because the RDN's representatives have until now refused to answer our questions about how they apply such vague and discretionary rules. Late last week for instance, the RDN suggested to the media that camping on private property was not allowed, and when we inquired about the particulars the RDN representatives refused to answer.

RDN representatives then made statements, again to the media, that had nothing to do with their original reasons for demanding that we shutdown the writer's gathering - suggesting that other complaints had been directed at our farm in the past. However, no such complaints have ever been given to us in the past, as we note in more detail below*. This new RDN accusation was purely a face-saving measure, at our expense.

It is also worth noting that probably every farm has had one complaint or another levied at it in the past. Can the RDN therefore use this fallback excuse whenever challenged - that a farm has had complaints in the past and is therefore suspect in whatever they do in the future?

As we stated in our response to the first letter from the RDN's lawyers last week, we give away a half-dozen free weekend retreats to non-profit and community groups every year - to convene a meeting with directors, to give to deserving volunteers, or to auction off to raise funds. This year the Cowichan Tribes auctioned off a stay to an RCMP officer. We can let you know when he is coming, and you can arrest him if you wish?

We're being sarcastic to make a point. We consider the RDN's discretionary authority that we were subjected to this past week to be a ridiculous abuse of power. As with the RCMP officer example we have welcomed the Land Conservancy to meet with those who are negotiating to purchase Wildwood Forest for the public use. And this past spring we had an afternoon meeting of the Cedar Women's Institute on the farm. We have also received replies that weekend stays will be arranged with the local

Cafe for the disabled, the Hospice Society, the Women's Auxiliary, and so on. Are these all open to the RDN claiming the rule of "public assembly" and shutting them down?

The RDN does not seem to understand that free weekend giveaways are means to increase business over the long run - that return visits increase once people are treated with respect and hospitality. Promotions, gift certificates and in-kind giveaways are all the normally accepted means of doing business, and we wonder why the RDN went out of its way to take exception to our gathering of writers and artisans this past weekend? We asked, but the RDN ignored our questions and letters.

We believe the threats from the RDN's lawyers, that such gatherings may be shutdown, are completely over the top - totally irresponsible and an abuse of power. In fact by themselves they prove our point, that the RDN uses power arbitrarily and for its own purposes, without accountability or a process in place that requires a reasonable discussion of such gatherings, or their merits - or that applauds our efforts in hosting such 'events' for free.

This abuse of the RDN's power and authority also has ripple effects throughout the community and region; and now, with the problems created this past weekend, the RDN's behaviour raises questions about the treatment the RDN bestows on visitors from across Canada and the US. The writers and artisans here this weekend were local and from the mainland, as well as from the Yukon, Toronto and Missouri.

What message do you think they are taking back with them about the RDN's hospitality, and consideration of their interests? The internet and social networks have also actively been discussing the concerns raised, with some 2-3000 'hits' over the weekend, the majority suggesting the RDN is out of control and that major changes are needed within the RDN to ensure this abuse doesn't occur again.

There are of course effects to Nanaimo and the region's economy as well, along with the impact to our B&B. The tourism and accommodation business throughout the mid-island can expect to be affected as word gets out that writers and artisans, community groups and societies are not welcome to meet for quiet gatherings and retreats. That they're only welcome if they have big budgets and are willing to meet in "appropriate locations", hotels and conference centres as the RDN representative inferred.

From all appearances and statements by the RDN, with respect to this past weekend's gathering of writers and artisans, there is no admission of any error in judgement, no willingness to concede to having gone too far - of being over the top in the use of discretionary power and authority. All of the RDN's statements suggest that we, our B&B, is the problem.

The end result is that the RDN, by acting in this imperial and disrespectful manner, is driving people away, alienating residents and visitors. Fewer people respect the RDN after hearing about how we and the writer's have been treated, and a lot more people are offering their stories of questionable RDN actions against them - telling us of similar abuses and lack of accountability.

In short, the RDN appears to be comfortable with the practice of directing their discretionary authority so as to prevent individuals and property owners from helping their community and non-profit groups. It is important to note that in upholding this approach, and the lack of accountability and due process, the RDN acts to undermine the opportunity for individuals and property owners to contribute in meaningful ways to the needs of residents and the region - needs which are often going unheeded by the RDN and larger governments.

We are then suggesting that a review of the RDN's practices, with respect to interpreting and enforcing by-laws, should be undertaken as a result of our experience. In this regard, given the public interest, we believe the RDN should invite the public's input and suggestions, so that resolving complaints is not a matter of simply issuing threats and demands by lawyers, but rather a means to find solutions.

Sincerely,

Laurie Gourlay & Jackie Moad

Thistledown Farm, 2689 Cedar Road, Cedar BC, V9X 1K3, (250-722-7223), www.Thistledownfarm.ca

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***RDN Abuse of Authority includes:**

- the suggestion that "advice" was offered.
 - Not true. Directives and letters from the RDN's lawyers threatened legal action if the RDN's wishes were not adhered to.
- the suggestion that all complaints to the RDN must be followed up.
 - Not true. Previous to this we have not received a single complaint about any event on our farm over the past 11 years that we have lived here.
- the suggestion that previous complaints about us had something to do with the accusation levied by the RDN, and that this is sufficient reason to require cancellation of the writer's gathering of the past weekend.
 - we have no record of any complaints, except that of dogs barking, which we responded to. Mr Brack, your by-law officer has a full report of the harassment we face from neighbours - who themselves have had a number of complaints against them.
- the contemptuous manner by which the By-law department and its representatives acted, demanding that their orders be followed without question, while refusing to address our requests for a discussion and 'amicable resolution'.
- acting as if the RDN has police powers, as if a breach of by-laws is a criminal offense and the RDN has the ability to enforce such criminal law.
 - the RDN can act to address civil law. If the RDN insists on acting as if they have police powers then, just as the police are required, the RDN will have to act with respect to people's rights, and be required to prove their accusations. Otherwise the RDN leaves themselves open to legal challenges, and lawsuits to recover damages, etc. Clarification from the police and provincial government in this regard should be sought, and adhered to.
- the by-law department couriering letters from the RDN's lawyers - letters which threatened legal action against us via an injunction, fines and potential steps the RDN might take against any other gatherings we have on the farm.
 - offering only vague rationale for this behaviour, once challenged the RDN then changed it's reasons and refused to explain why they were targeting the writer's gathering. (as below)
- the RDN initially challenging us with laws that suggested we were in violation of "public assembly" and "camping".
 - when we raised questions about what constituted such laws, what the definitions and operating guidelines were for enforcement on private property - the RDN refused to answer ...but did then begin to raise questions about "past complaints" - impugning our character, without offering any information. The RDN provided no proof of their accusations of previous complaints against us for past 'events' or 'assemblies' - and the RDN has never delivered such a complaint to us, although their public statements 'suggest' otherwise.

Thistledown Farm, 2689 Cedar Road, Cedar BC, V9X 1K3, (250-722-7223), www.Thistledownfarm.ca

- the RDN refusing to tell us how they will apply their authority to deny the right to "public assembly", or to "camping" on private property.
 - the RDN should not be able to accuse people of various vague infractions, without being required to provide explanations or proof of those accusations.
- apparent targeting of the writer's gathering, and a fixation in attempting to find our farm in violation of any rule or regulation ...so as to rationalize legal threats made through their lawyers, and to save face for RDN representatives.
 - a quick web search will find many places where people and groups gather throughout the region without enduring the RDN's threats to shut them down
 - for instance, a Farm only a half-mile from us annually hosts and advertises their writer's festival; and there are many more examples that we won't name, since we are concerned that the RDN will again abuse their authority and act against the public interest by visiting each establishment and attempting to shut them down.
- the RDN representative asserting that events of the kind we hosted are in fact welcome in the region, in "appropriate locations"
 - what does that mean? Is the RDN saying that "appropriate locations" are only those that charge large fees - fees which small community groups, artists and writers can usually not afford to pay? And why would it not be appropriate to help small businesses like B&B's, which are often considered to be the backbone of the economy? (...at least they are the economic backbone when politicians are looking to be elected.)

* * * *

Our Proactive Declaration:

Having been accused by the RDN's lawyers of "admitting" to other events and "public assemblies", let us be clear then about our yearly activities on our 20 acre farm in south Cedar.

Yes, we admit it. We have an annual nurse's party with doctors and health care professionals and their children coming to the farm for a 'Harvest Party' every year. The next one is September 13th.

We cannot imagine this violating "public assembly" regulations, but of course didn't believe it possible that the RDN would charge a writer's gathering of such heinous accusations last week. So yes, we expect to have fun and to sit around a bonfire. Some people may also stay over as it is a byob gathering, and free for all. It may also be on the internet since an invitation was sent around to remind everyone. It would help us therefore if the RDN could now tell us if we are violating 'event', 'public assembly' or some other obscure overnight rules that private property owners are expected to abide by.

And we should really also admit to having one or two of Jackie's colleagues from the NRGH asking each year to get married here on the farm. Photographers and the wedding parties are prolific in their praise for the pictures and classic farm feeling they get. It sure beats the high-priced, utility atmosphere of public halls and regional centres they tell us.

Apart from this we have no other parties or gatherings or events all year round - though every few years we may have a dozen or so friends over for a Rabbin Burns night, and afterwards a number of them may stay over - some preferring to sleep in a ditch where they fall, as was traditional for the Bard in his hey day.

There's nothing else that we do with our farm or B&B that we could in any way consider to be a breach of the RDN's rules and regulations - unless you wish to consider our hosting of the RDN's Green Building open house event last year? A lot of people came by to see what we had done to renovate an old barn into an energy efficient residence. And they asked about our work to be recognized by the BC/Canada Environmental Farm Program, as well as being one of two farms in BC recognized by the BC Agricultural Council for implementation of our bio-diversity plan - for habitat restoration. And a couple or three of them have come back for a night or weekend since, or suggested to their friends that we have a B&B accommodation on our farm - a rare and welcome initiative if you are to believe the agri-tourism experts on the Island and in the Province! It's a pity the RDN goes out of its way to take issue with writers and artisans, and those who would assist them by providing a rural retreat to gather.

We welcome your questions ...and your visit to our rural and hospitable homestead.

RDN won't pursue enforcement



— *image credit:*

- by [Spencer Anderson - Nanaimo Daily News](#)
- posted Sep 1, 2015 at 9:00 AM

The Regional District of Nanaimo will not pursue enforcement action against the owners of a farm that hosted a writers' retreat this past weekend, despite warnings to the contrary.

The RDN said last week the Sharing the Fire writers event, planned to take place on Thistledown Farm in Cedar, constituted a public gathering, which was not allowed under the rural residential zoning for the property.

Jeremy Holm, manager of current planning for the RDN, said last week that the zoning also does not allow for camping, which had been advertised as part of the event.

The RDN's lawyers had sent a letter to the farm's owners, Jackie Moad and Laurie Gourlay, warning of possible legal action if the event was to proceed.

The letter said the RDN "if necessary may obtain an injunction to prevent this or any future planned events from occurring."

Organizers for the event nonetheless proceeded to host the event, criticizing the RDN for its approach.

It was estimated that roughly a dozen writers would attend the event.

Holm had said the RDN had received complaints about past events on the property in the past and was "providing advice" to the property owners about RDN regulations.

Gourlay and Moad said in a statement last week they were prepared to fight any RDN claims in court if necessary.

"As far as we're concerned, it's still going on because we don't believe the RDN is applying its regulations in a fair manner," Gourlay said. "I don't know why they're taking exception to a dozen writers, it's beyond me."

On Monday, the RDN's Chris Midgley said he was "not aware" of any complaints received about the event over the weekend.

"We have no reason to take enforcement action based on what (took place) on the property," he said.

Midgley said that when residents make complaints, the RDN has a responsibility to look into those

complaints.

“If somebody raises an issue . . . we are obliged to communicate with the property owner,” he said.

“It’s not always a popular job.”

“We do want to welcome these kinds of events in the community and there are appropriate locations for that . . .” he said.

<http://www.nanaimodailynews.com/news/323678541.html>

Writers' retreat hosted despite legal warnings from regional district

- by Tamara Cunningham - Nanaimo News Bulletin
- posted Aug 31, 2015 at 4:00 PM

Cedar farm owners forged ahead with a writers' retreat last weekend despite warnings of legal and enforcement action from the Regional District of Nanaimo.

Thistledown Farm owners Laurie Gourlay and Jackie Moad hosted a retreat for about a dozen writers, poets and authors at their eight-hectare bed and breakfast, defiant of a warning by the regional district and its legal counsel that the event – or any public assembly – is not allowed on the property and could prompt enforcement action.

The Regional District of Nanaimo reports that it's received complaints about the retreat and that zoning regulations do not allow public assembly or camping on the property. An advertisement for the event showed there would be both.

Gourlay, however, told the News Bulletin Thursday that he and Moad were prepared to go to court. He's frustrated, confused and feels the district was unwilling to answer questions. This also isn't the first time they've hosted an event. They open their property to non-profits and other activities, including the regional district's Green Building home tour last year.

"It's not like it's Woodstock or something that's going on," said Gourlay. "It's just a little gathering, quiet, some writers getting together to talk and compare notes."

Jeremy Holm, regional district manager of current planning, who spoke to the News Bulletin prior to the event, said the RDN has had complaints and is obligated to enforce land use regulations. They provided advice on the issue and are open to talking to the property owners but believe the use, as described in the event program, is contrary to zoning regulations and constitutes public assembly.

It will be up to the regional district board if any enforcement action is taken, he said.

<http://www.nanaimobulletin.com/news/323459901.html>

RDN, farm owners disputing writers' retreat



**REGIONAL
DISTRICT
OF NANAIMO**

— *image credit:*

- by [Spencer Anderson - Nanaimo Daily News](#)
- posted Aug 28, 2015 at 10:00 AM

A dispute is brewing between the Regional District of Nanaimo and the owners of a Cedar farm over a planned writers retreat on the property this weekend.

The RDN has sent a letter through its lawyers asking the owners of Thistledown Farm to cancel the planned retreat because the event allegedly contravenes the rural residential RU4 zoning for the property.

Land use regulations prohibit “special events” or meetings from being held on land that falls under the zoning, as well as camping.

Jeremy Holm, manager of current planning for the RDN, says the RDN has also received complaints about the planned event and past events, on the property, although he said he could not specify how many or who had complained.

Farm owner Laurie Gourlay said he does not understand why the RDN is calling for the event to be cancelled and said he considers it to be an “abuse of power and authority” by the regional government.

The event is being organized by a third party and has been advertised online, where participants are invited to register. Approximately 12 writers are slated to attend, Gourlay said.

“Does this mean we can’t have a dinner party?” he said.

“As far as we’re concerned, it’s still going on because we don’t believe the RDN is applying its regulations in a fair manner,” Gourlay said. “I don’t know why they’re taking exception to a dozen writers, it’s beyond me.”

Holm said the RDN’s objection to the event is regulatory and has nothing to do with the nature of the planned event.

“It’s a little bit of a weird situation, obviously, because this is about a proposed event, and all we’ve done regarding this event at this point is provided advice,” he said.

<http://www.nanaimodailynews.com/news/323235201.html>