

**Citizens for Responsible Development**  
**PO Box 973, Rossland, BC V0G 1Y0**

May 27, 2008

Office of the Information and Privacy Commissioner for British Columbia  
PO Box 9038, Stn. Prov. Govt,  
Victoria, BC V8W 9A4  
BY FAX: 250-287-1696 and Canada Post

**Re: Review of Denial of FOI request for Golf Course and Commercial and Residential Development Application in Rossland**

Dear Commissioner;

The City of Rossland is refusing to allow citizens access to an application for a proposed golf course and residential development within the City community watershed. We do not believe this matter can be resolved directly with the City after several written and oral requests (see below), therefore we respectfully and urgently request your assistance in our gaining immediate access to the document so that we have adequate time to review, study and comment timely upon its contents at planned future public consultation sessions.

Furthermore, we believe this denial of access is in violation of both our municipal FOI bylaw and the provincial FOI law (see below for details).

All correspondence and requests referred to herein have been made on behalf of a citizen's action group, Citizens for Responsible Development ("CRD"), representing the interests of many citizens of Rossland and who have evidenced the community's concern by the following:

- 935 people signed a petition opposing a golf course resort and residential development in the community watershed. (Delivered to City Hall late February. To put this in perspective, 1,375 people voted in the last municipal election).
- A second petition was delivered to MLA Katrine Conroy to be presented to the Legislative Assembly this week and signed by 959 citizens. This petition requests that the provincial government not modify its operating agreement with Red Mountain Ventures to allow golf and residential development in the watershed.
- Numerous letters have been written to the City Council and local newspapers from citizens with deep concerns about protection of the quantity and quality of water from the community watershed, development of a golf course resort complex in the watershed, and the quantity of water available for the community's present and future needs. (see our website: [www.RosslandBC.org](http://www.RosslandBC.org) letter section)

We made several oral and written requests to review the application and were denied each time. The first request was made orally on April 18 and is described in the April 28 document attached. In writing, on April 28, 2008, ten days after the application was received by the City, we made a written request for the document (see attached). We were refused on the basis that it would be made public within 60 days (see attached). The justification by the City was that the City was occupied with other projects, had not had an opportunity to review the application and did not want to be fielding questions until they had looked at the application. Waiting almost 30 days, on May 25 we emailed another request (see attached) for the document to the Mayor and all members of the City Council and no response has been received except statements made at the May 26 Council meeting which confirm the City's intent to withhold the application from the public as long as is possible.

Time is of the essence. The City staff has been studying the application, the developer/applicant has announced a public consultation meeting on June 24<sup>th</sup> and the City staff has recommended to Council that the developer/applicant proceed with agency consultation. However, the City of Rossland continues to withhold the application from the public (and withhold it from the City Council).

At the City Council meeting on May 26, 2008 the City Manager of Planning and Development Services indicated he and the City Engineer have read the application document several times each. At this meeting, City Council directed staff to work with the developer to obtain information that is incomplete, missing or of question in the application. Council also directed staff to supplement the City's due diligence process by hiring an independent engineer and a planning firm to review the application at the City's direction but at the developer's expense. While incorporating assistance from these additional experts is a positive step, City Staff is being allowed ample time to

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study and work on this development application with the developer's and other consultants while the public has no access to the information for its own review and due diligence process. Also, we have been denied access to the "terms of reference" which would outline the work of these expert consultants, so there remains a great question whether or not the scope of the experts' work is sufficient, appropriate and focused on the community's issues.

Also at the May 26 City Council meeting, staff indicated it hopes to provide a summary (a "couple of pages") of the developer application to City Council on or about June 9. To reiterate, this is not the level of detail which we feel is imperative for a meaningful and productive review, study and understanding of the application by the community and prior to future meetings. (See the FOI letters to the City for specific sections of the application which are of priority interest).

Your immediate intervention is key to a valid public review process because if the City waits the 60 days as stated in the May 1, 2008 correspondence, the application will be released after the June public consultation meeting has been held. Without immediate access to the application there will be insufficient time for the community, and our own experts, to properly review the lengthy and complex application. If the June public consultation is to be meaningful, ample time for review of this important application is warranted.

Due to the sensitive nature of the project's location in the watershed and the clear public interest in the security of the community's water supply we believe that this request should fall under the **Provincial Freedom of Information and Protection of Privacy Act RSBC 1996 Chapter 165:**

**Division 4 — Public Interest Paramount**

Information must be disclosed if in the public interest

**25 (1)** Whether or not a request for access is made, the head of a public body must, without delay, disclose to the public, to an affected group of people or to an applicant, information

(a) about a risk of significant harm to the environment or to the health or safety of the public or a group of people, or

(b) the disclosure of which is, for any other reason, clearly in the public interest.

**(2) Subsection (1) applies despite any other provision of this Act.**

We also believe the City of Rossland has not met its duties under its own **City of Rossland Bylaw # 1842 9(1)(a)** and (b) which states:

9 (1) "The power to, **without delay**, disclose to the public, to an affected group of people or to an applicant information:

a) about a risk of significant harm to the environment or to the health or safety of the public or a group of people, or

b) the disclosure of which is, for any other reason, clearly in the public interest.

The risk of significant harm to the environment and to public health exists through potential contamination of the community's drinking water as a result of this development. The need to see this application is clearly in the public interest. We don't understand why the City of Rossland is refusing its citizens access to this important document.

I have enclosed our correspondence with the City and would greatly appreciate your opinion and assistance in this matter. We respectfully request timely intervention by your office.

Respectfully,

Louise Drescher  
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