



November 16, 1998

Don W. Low, President
Sunshine Valley Developments Ltd.
Room 202, 283 East 11th Avenue
Vancouver, BC
V5T 2C4

Dear Don Low:

Re: Village Incorporation - Sunshine Valley

I am very sorry for the delay in responding to your call and subsequent letter dated September 3, 1998. Upon thinking about the response to your request for information, it seemed necessary to undertake some preliminary research and respond with this letter rather than the material that was originally envisaged in our conversation. In particular, some information was needed from the Fraser Valley Regional District (FVRD), and the Union of BC Municipalities Convention and an unanticipated absence from the office have intervened.

Instead of sending material about the process for Sunshine Valley to become a "Village", it is more appropriate for the Ministry response to focus on some general observations about the nature of municipal status in relation to the specific characteristics of the Sunshine Valley community. These fall into 4 categories, as follows:

- the "public" nature of local government;
- jurisdiction, regulation and enforcement;
- population; and
- local services

Each of these items is discussed further in this letter.

Ministry of
Municipal Affairs

Local Government Structure
Branch

Mailing Address:
PO Box 9460 Stn Prov Govt
Victoria BC V8W 9N7
Tel: (250) 387-4058
Fax: 387-7972

Location:
800 Johnson Street
Victoria

Your description of Sunshine Valley included the fact that there are several separate areas of development, including an area for campground and trailers, residential areas and recreational cottages. The development is a mixture of larger parcels, bare land strata subdivision and subdivided lots.

1. The "Public" Nature of Local Government

A municipality is one of the 2 forms of general local government existing under this Province's *Municipal Act* (the other being the regional district). The purpose of local government (or any government) is, by definition, to deal with matters in the public domain. This is distinct from matters which are in the private domain. There can, of course, be some overlap between the public and private sectors, notably through the use of contractual arrangements. It is fairly common for local government to contract their responsibilities to the private sector, and recent changes to the *Municipal Act* have expanded the scope for Public-Private Partnerships. However, in these cases the service which is the subject of the contractual arrangement is always a *public responsibility* which is being delivered on behalf of the local government by means of arrangements with the private sector.

From our telephone discussion, you stated that your vision of the Village would be based on a series of contractual arrangements. For example, the municipal accounting function might be carried out in this way, and municipal road responsibilities would be contracted out. While such arrangements are possible, the decisions to arrange for municipal functions to be carried out in this way cannot necessarily be assumed, since they are policy decisions of the Council.

More significantly, I inferred that your view of the role of a municipality would be to undertake several functions on a contract basis which are currently a *private responsibility* (that is, non-governmental). This may, or may not, be within the authority of a municipality. However, from a policy perspective this would be a very difficult basis for the incorporation of a new municipality. Some examples of the importance of the distinction between public and private responsibilities are referred to below.

2. Jurisdiction, Regulation, and Enforcement

The regional district has confirmed that the FVRD does not have any land use planning, zoning, building inspection, or other regulations applicable to Sunshine Valley. As you indicated, this situation was agreed to by the regional district at the request of Sunshine Valley Developments Ltd. Although the FVRD does not have any of these regulations in place currently, it is the FVRD which has the *jurisdiction* for such regulations. Other items of regulation (for example, sewage disposal) are governed by Provincial statutes.

You explained that land use, building and related issues in Sunshine Valley are managed through other methods: covenants, statutory building schemes, strata council, etc. These are *not within local government jurisdiction*, since they were established by, and are 'in favour' of, the private property owners or the development company. In other words, these items are in the private domain, not the public domain, and therefore a municipality (or the FVRD) would have no authority to enforce those "private" regulations.

It may be possible for the local government to design zoning and building regulations which regulate property in the same (or approximately the same) way as the private regulatory instruments. This would put the local government in a position to enforce land use and related matters. However, this could be done just as easily by the FVRD as by a municipality, so this is not a reason in support of municipal incorporation.

3. Population

There is no specific minimum population required for incorporation of a new municipality. To some degree, this depends on the particular geographic context, but in the case of communities which are remote from existing municipalities, the Ministry generally considers that a population in the range of at least 300-500 is required to support municipal status. Importantly, this figure must relate to the population *permanently resident* in the community, since that is the basis of all official population figures. You indicated population has increased in recent years, but I understand that the full time resident population consists of about 60-80 families, which would be less than 200 people.

There are many implications of being a municipality, not the least of which is that there is a need for a broad population base from which to elect a municipal

Council. This is also needed from a financial perspective in terms of the population and tax base required to support the costs of a municipal structure. It does not appear that the population is sufficient for incorporation.

4. Local Services

One of the central functions of local government is to provide services to residents and property owners. The services can cover a wide range: recreation, sewer and water infrastructure, protective services such as fire protection, planning and various regulations. Upon incorporation, any services provided by the regional district to the community are transferred to the municipality, but the FVRD presently does not provide any local services to Sunshine Valley. In the case of municipalities, a critical service is that of local roads, since the *Highways Act* defines municipalities as being responsible for public roads within their boundary. To illustrate the difficulties of considering incorporation for Sunshine Valley, two important local services need to be discussed.

First, with respect to local roads, the responsibility of a municipality does not include the roads within a bare land strata subdivision. These roads are not public roads, and the responsibility for maintenance rests with the owners within the subdivision, through the strata council. Similarly, roads which are simply access roads through larger parcels (from one area of the development to another) are not necessarily public roads, and therefore would not be a municipal responsibility. From your description, it appears that the extent to which the Ministry of Transportation and Highways is presently responsible for road maintenance is minimal, which indicates that many of the roads are not public.

Second, the most developed areas of the community are served by a Private Water Utility. Although this water system is subject to Provincial regulation under the *Water Utilities Act*, as the term implies, the system is owned and operated privately. As such, it is independent of local government, and a municipality would have no responsibility for that system.

In conclusion, based on the above, it does not appear that the concept of incorporation of Sunshine Valley as a Village municipality is a feasible response to issues of local governance which may be occurring in the community. The combination of the low permanent population, the essentially private nature of the development, and the current methods of local service delivery tend to rule out incorporation at this time.

Don W. Low, President
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The FVRD has a series of local service authorities, regulatory mechanisms, and local governance options which could, if agreed to by the board, be used to address issues in the community. If there is a desire in the community, either by the residents and owners or by the development company, to look at change in the responsibilities for local services, it is recommended that you work with the FVRD in that direction.

Sincerely,



Derek Trimmer
Director
Local Government Structure Branch

cc: Bob Moore, Administrator
Fraser Valley Regional District

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