



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

May 16, 2017

Ordinance 18516

Proposed No. 2017-0054.2

Sponsors McDermott

1 AN ORDINANCE authorizing the vacation of a portion of
2 314th Way SE, dedicated as Railroad Avenue, File V-2697,
3 Petitioners: James and Kathleen Pryor.

4 STATEMENT OF FACTS:

5 1. A petition has been filed requesting vacation of a portion of 314th Way
6 SE dedicated as Railroad Avenue, as shown on the Plat of the Townsite of
7 Cumberland, hereinafter described.

8 2. The department of transportation notified our standard stakeholders for
9 review, including utility companies serving the area. The department of
10 transportation was advised that no easements were needed.

11 3. The department of transportation considers the subject portion of right
12 of way useless as part of the county road system and believes the public
13 would benefit by the return of this unused area to the public tax rolls.

14 4. The department of transportation records indicates that King County
15 has not expended public funds for the acquisition or maintenance of the
16 subject portions of 314th Way SE dedicated as Railroad Avenue right-of-
17 way.

18 5. The right-of-way was classified as "C-Class" and, in accordance with
19 K.C.C. 14.40.020, the compensation due to King County was based on

20 fifty percent of the assessed value of the subject right-of-way, which was
21 determined from records of the department of assessments at \$1,884.76.
22 King County is in receipt of this amount from the petitioner.

23 6. Due notice was given in the manner provided by law and a hearing was
24 held by the office of the hearing examiner on the 10th day of April 2017.

25 7. In consideration of the benefits to be derived from the subject vacation,
26 the council has determined that it is in the best interest of the citizens of
27 King County to grant said petition.

28 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

29 SECTION 1. The council, on the effective date of this ordinance, hereby vacates
30 and abandons the portion of 314th Way SE dedicated as Railroad Avenue right-of-way as
31 conveyed to King County by the recording of the Plat of the Townsite of Cumberland,
32 recorded on November 2, 1910, in Volume 19 of Plats, Page 52, records of King County,
33 Washington, as described below:

34 Those portions of 314th Way SE dedicated as Railroad Avenue in King
35 County Washington, described as follows:

36 All that portion of 314th Way SE dedicated as Railroad
37 Avenue situate in the Northwest Quarter of Section 28,
38 Township 21 North, Range 7 East, Willamette Meridian,
39 King County, Washington as shown in the Plat of the
40 Townsite of Cumberland, recorded in Volume 19 of Plats,
41 page 52, records of King Count, Washington abutting and
42 adjacent to Lots 13 and 14 of said Plat of the Townsite of

43

Cumberland.

44

Containing an area of 901.80 square feet, more or less.

45

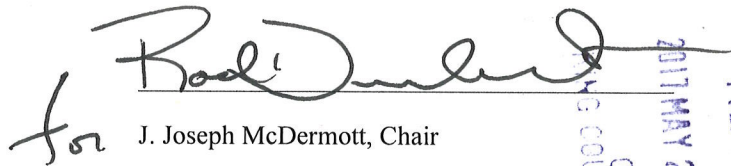
Ordinance 18516 was introduced on 2/27/2017 and passed by the Metropolitan King County Council on 5/15/2017, by the following vote:

Yes: 8 - Mr. Gossett, Ms. Lambert, Mr. Dunn, Mr. McDermott, Mr. Dembowski, Mr. Upthegrove, Ms. Kohl-Welles and Ms. Balducci


No: 0

Excused: 1 - Mr. von Reichbauer

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


for J. Joseph McDermott, Chair

ATTEST:



Melani Pedroza, Acting Clerk of the Council

RECEIVED
2017 MAY 25 PM 3:53
CLERK
KING COUNTY COUNCIL

APPROVED this 25th day of May, 2017.



Dow Constantine, County Executive

Attachments: A. Hearing Examiner Report Dated April 11, 2017, B. Map-Exhibit 9

April 11, 2017

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
Facsimile (206) 296-0198
hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

REPORT AND RECOMMENDATION

SUBJECT: Department of Transportation file no. **V-2697**
Proposed ordinance no. **2017-0054**
Adjacent parcel no. **1871400195**

JAMES AND KATHLEEN PRYOR
Road Vacation Petition

Location: portion of 314th Way SE, Enumclaw, dedicated as Railroad Avenue

Petitioners: **James and Kathleen Pryor**
PO Box 1164
Ravensdale, WA 98051
Telephone: (206) 227-4191
Email: kathypryor60@gmail.com

King County: Department of Transportation
represented by **Leslie Drake**
201 S Jackson Street
Seattle, WA 98104
Telephone: (206) 477-7764
Email: leslie.drake@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary Recommendation:
Department's Final Recommendation:
Examiner's Recommendation:

Approve vacation
Approve vacation
Approve vacation

PUBLIC HEARING:

After reviewing the Department of Transportation (Department) report and accompanying attachments and exhibits, the Examiner conducted a public hearing on the matter on April 10, 2017, in the Fred Conference Room, 12th Floor, King County Courthouse, 516 Third Avenue, Seattle, Washington.

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Hearing Examiner's Office. Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS AND CONCLUSIONS:

1. General information:

Road name and location:	portion of 314th Way SE, Enumclaw, WA, originally dedicated as "Railroad Avenue"
Right-of-way classification:	C-Class
Area:	901.80 square feet
Compensation:	\$1884.76

2. James-Kathleen Pryor petitioned the County to vacate the above described public right-of-way. On March 16, 2017, the Examiner received the Department Report recommending vacation.
3. The required notice of hearing on the Department's report was provided. The Examiner conducted the public hearing on behalf of the Metropolitan King County Council.
4. Except as provided herein, the Examiner adopts and incorporates the facts set forth in the Department's report and the statements of fact contained in proposed ordinance no. 2017-0054. The Department's report will be attached to those copies of this report and recommendation that are submitted to the County Council.
5. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are in the hearing record as Exhibit 9.
6. Chapter 36.87 RCW sets the general framework for county road vacations, augmented by KCC Chapter 14.40. There are at least two main inquiries in a vacation petition. Is vacation warranted? If so, what compensation is appropriate? We address those in turn.
7. A petitioner has the burden to show that the "road is useless as part of the county road system and that the public will be benefitted by its vacation and abandonment." RCW 36.87.020. While denial is mandatory where a petitioner fails to meet the standard, approval is discretionary where a petitioner does meet the standard:

If the county road is found useful as a part of the county road system it *shall* not be vacated, but if it is not useful and the public will be benefitted

by the vacation, the county legislative authority *may* vacate the road or any portion thereof.

RCW 36.87.060(1) (emphasis added).

8. The subject right-of-way segment here is not currently opened, constructed, or maintained for public use, and is not known to be used informally for access to any property. It is basically a dead-end dogleg at the back of the Pryors' yard. Vacation of the right-of-way would have no adverse effect on the provision of access and fire and emergency services to the abutting properties and surrounding area. The right-of-way is not necessary for the present or future public road system for travel or utilities purposes.
9. The County will obtain the proceeds from essentially selling surplus property. The County gains from adding the road area to the tax rolls. And the County is saved potential costs, as a property owner, for something like cleaning up illegal dumping on the road area, and the general risk the liability a property owner (especially an absentee one) carries.
10. We conclude that the road segment subject to this petition is not useful as part of the King County road system and that the public will benefit from its vacation.
11. Where the vacation is appropriate, the standard for determining the amount the petitioner must compensate the County has historically pegged the amount due to the "class" of road, "class" itself being pegged to whether public funds had been expended in the right-of-way acquisition, improvement, or maintenance. For a class "C" road such as this one—were no public funds were expended in the road's acquisition, improvement, or maintenance—compensation has been slotted at 50 percent of the full appraised value. *See* pre-Ord. 18420 version of KCC 14.40.020(B) & .060. Here the Department calculated the value of the 901.80 square feet to be vacated at \$4.18 per square foot, for a total of \$3769.52. When multiplied by the 50 percent discount for a class "C" road, this led to a compensation estimate of \$1884.76. The Pryors paid this \$1884.76 to the King County Treasury last October. Ex. 14.
12. However, between the time of the Pryors' payment and today, Ordinance 18420 changed the standard for determining compensation, and in disparate directions. On the "more" side (meaning the County should require more compensation), the automatic discount for rights-of-way for which the County did not expend funds acquiring, improving, or maintaining, has disappeared. On the "less" side (meaning the County can require less compensation), in 2016 the state changed the standard for right-of-way compensation to allow the local jurisdiction to "adjust the appraised value to reflect the value of the transfer of liability or risk, the increased value to the public and property taxes, the avoided costs for management or maintenance, and any limits on development or future public benefit." RCW 36.87.120. Ordinance 18420 explicitly adopted this new state standard, effective on December 17, 2016. KCC 14.40.020(A)(1).
13. In our previous recommendation in *Portage right-of-way—V-2672*, and again at yesterday's hearing, we announced that for vacation applications like this one, already

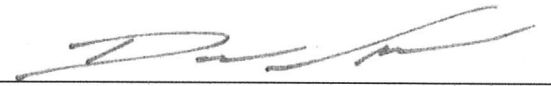
near the end of the pipeline by the effective date of Ordinance 18420, we would continue applying the old standard. That is not a requirement Council must follow; the “vested rights” doctrine—that certain applications are to be decided on the basis of the law as of the date a completed application was submitted, regardless of later regulatory changes—is not applicable to a vacation petition.

14. However, trying to apply a new standard now would require sending the parties back to the drawing board after so much time has passed, because the record contains no information from which we could base a finding of, for example, the value of the transfer of liability or risk or the increased value to the public and property taxes. A remand would certainly increase the Department’s (and thus the public’s) administrative costs, not to mention the Pryors’ burden, and so little compensation here is at stake: at the highest end, the County should be requiring the Pryors to pay the entire \$3769.52 (instead of \$1884.76); at the lowest end, the County should be forgoing compensation altogether.
15. Thus, we recommend sticking with the old formulation for today’s case—and perhaps for a few in the near future where the compensation analysis was completed prior to the code change. The Council, however, retains the discretion to go in a different direction.

RECOMMENDATION:

APPROVE proposed ordinance no. 2017-0054 to vacate the subject road right-of-way.

DATED April 11, 2017.



David Spohr
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

A person appeals an Examiner recommendation by following the steps described in KCC 20.22.230, including filing with the Clerk of the Council a sufficient appeal statement and a \$250 appeal fee (check payable to the King County FBOD), and providing copies of the appeal statement to the Examiner and to any named parties listed on the front page of the Examiner’s recommendation. Please consult KCC 20.22.230 for exact requirements.

Prior to the close of business (4:30 p.m.) on **May 5, 2017**, an electronic copy of the appeal statement must be sent to Clerk.Council@kingcounty.gov and a paper copy of the appeal statement must be delivered to the Clerk of the Council's Office, Room 1200, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104. Prior mailing is not sufficient if the Clerk does not actually receive the fee and the appeal statement within the applicable time period.

Unless the appeal requirements of KCC 20.22.230 are met, the Clerk of the Council will place on the agenda of the next available Council meeting a proposed ordinance implementing the Examiner’s recommended action.

If the appeal requirements of KCC 20.22.230 are met, the Examiner will notify parties and interested persons and will provide information about “next steps.”

MINUTES OF THE APRIL 10, 2017, HEARING ON THE ROAD VACATION PETITION OF JAMES AND KATHLEEN PRYOR, DEPARTMENT OF TRANSPORTATION FILE NO. V-2697.

David Spohr was the Hearing Examiner in this matter. The following people were in attendance: Leslie Drake and James and Kathleen Pryor.

The following exhibits were offered and entered into the hearing record:

- | | |
|----------------|--|
| Exhibit no. 1 | Roads Services report to the Hearing Examiner, sent March 16, 2017 |
| Exhibit no. 2 | Letter from Clerk of the Council to KCDOT transmitting petition, dated August 4, 2015 |
| Exhibit no. 3 | Petition for vacation of a county road, received August 4, 2015 |
| Exhibit no. 4 | Filing fee check no. 8530 in the amount of \$100, dated July 28, 2015 |
| Exhibit no. 5 | Receipt no. 01002 for filing fee, dated August 5, 2015 |
| Exhibit no. 6 | Petitioner’s vacation area vicinity map |
| Exhibit no. 7 | Plat map of the Townsite of Cumberland |
| Exhibit no. 8 | Map of vacation area |
| Exhibit no. 9 | Aerial map of structures located within vacation area |
| Exhibit no. 10 | Email from KCDOT to agencies of final notice of road vacation, sent August 16, 2016 |
| Exhibit no. 11 | Letter from KCDOT to Petitioner acknowledging receipt of petition and explaining road vacation process, dated September 21, 2016 |
| Exhibit no. 12 | Compensation worksheet |
| Exhibit no. 13 | Letter from KCDOT to Petitioner recommending approval and requesting compensation, dated October 6, 2016 |
| Exhibit no. 14 | Compensation payment, check no. 9555406468 in the amount of \$1,884.76, dated October 18, 2016 |
| Exhibit no. 15 | Letter from KCDOT to KC Council recommending approval, dated October 6, 2016 |
| Exhibit no. 16 | Letter from King County Executive to Councilmember Joe McDermott transmitting ordinance, dated January 27, 2017 |
| Exhibit no. 17 | Proposed ordinance 2017-0054 |
| Exhibit no. 18 | Fiscal note |
| Exhibit no. 19 | Affidavit of posting, noting posting date of February 28, 2017 |
| Exhibit no. 20 | <i>Reserved for affidavit of publication</i> |

DS/ed

King County iMap



Exhibit 9 - 001

Exhibit 9

The information included on this map has been compiled by King County staff from a variety of sources and is subject to change without notice. King County makes no representations or warranties, express or implied, as to accuracy, completeness, timeliness, or rights to the use of such information. This document is not intended for use as a survey product. King County shall not be liable for any general, special, indirect, incidental, or consequential damages including, but not limited to, lost revenues or lost profits resulting from the use or misuse of the information contained on this map. Any sale of this map or information on this map is prohibited except by written permission of King County.

Date: 3/14/2017

Notes:

Exhibit no.	9
Case name	James and Kathleen Pryor
Case number	V-2697
Date received	April 10, 2017
KING COUNTY HEARING EXAMINER	



 **King County**
GIS CENTER