

DEPARTMENT OF TRANSPORTATION

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March 4, 2009

Mr. David Thomas
Thomas-Pacifica LLC
3100 Oak Road, Suite 140
Walnut Creek, CA 94597

Dear Mr. Thomas:

The following information is provided in response to your request for clarification of the status of the right of access to and from your property in Pacifica to State Route 1. We have had several meetings with you, your brother, your consultants and staff from local public agencies to discuss this matter and pending highway projects which may impact your property.

The State of California, Department of Transportation acquired Parcel No. 28797 by grant deed recorded on November 2, 1972 from Robert A. Tarver, et al. The parcel was acquired for a proposed project to replace the then existing conventional highway improvements on State Route 1 in Pacifica with a freeway and related frontage roads.

The Department acquired a 5.692 acre portion of the grantors' property in fee together with the grantors' access rights to the then existing highway. The project design and the intent of the parties was that, after construction of the freeway and frontage road facilities, the grantors' remaining property would have access to a frontage road which would be connected to the freeway at locations selected by the Department as part of the overall design of the project.

To this end, the grant deed contained the following clause:

"This conveyance is made for the purposes of a freeway and adjacent frontage road and the grantor hereby releases and relinquishes to the grantee any and all abutter's rights, including access rights, appurtenant to grantor's remaining property in and to said freeway, provided, however, that such remaining property shall abut upon and have access to said frontage road which will be connected to the freeway only at such points as may be established by public authority."

It was the intent and understanding of the parties that after acquisition, until the time of freeway construction, the grantors would continue to enjoy the same access to State Route 1 as they did prior to acquisition. In other words, at no time would the grantors be deprived of access. They would either continue to have direct access to State Route 1 or they would have direct access to the frontage road which would connect to State Route 1 at designated locations.

It was subsequently determined that the project for which the property and the access rights were acquired will not be constructed. The Department is cooperating with local public agencies in the design of another project on State Route 1 which may require a portion of the right of way acquired for the State's original project. Until design is sufficiently advanced to determine the

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full extent of the required right of way, it is premature to declare any of the property and property rights acquired from Tarver, et al as surplus.

In the meantime, property owners who are successors in interest to Tarver, et al, retain and enjoy all the rights which Tarver, et al had. These include the right of access to existing State Route 1 to the same extent that right of access existed prior to the transaction referenced above. These rights include the right to construct, at owners' expense, a driveway or road across Parcel No. 28797, connecting to State Route 1 right of way to serve as access to the remainder of the grantors' property to accommodate a development as may be permitted by the City or other legal due process. The design features of such access are subject to the review and approval of the Department which approval will not be unreasonably withheld or delayed. In that regard, you have provided us with an "Entry Road Plan" prepared by Aliquot Associates, Inc., Planning Civil Engineers and Surveyors described as Job No. 208009.0 which generally describes your engineer's concept as to proposed access to State Route 1. While we cannot approve any design without going through the formal process of an encroachment permit application, provided the ultimate proposed entry roadway plan is substantially similar to that proposed by your engineers, we do believe that we would be favorably disposed conceptually to that design concept.

At such time as you are prepared to construct a driveway or a road across Parcel No. 28797, you will need to furnish the Department with engineered plans together with an encroachment permit application for review and approval. Given that a right of access from the parcel to State Route 1 or a frontage road exists as described and confirmed hereinabove, the Department's role is to ensure that the intersection of the driveway or road with State Route 1 is designed to the State's standards and conforms to State's operational requirements.

Any highway improvement project, by the State and/or another project sponsor, will need to accommodate or acquire the access rights to your property. Any necessary physical modifications to an existing access road as a result of a subsequent highway improvement project will normally be a cost to the highway project, and not be at your expense.

Please contact me if you have any questions or require additional information.

Sincerely,



R. A. MACPHERSON
Deputy District Director
Right of Way

cc: Joe Hurley, Director, San Mateo County Transportation Authority
Van O'Campo, City of Pacifica
Skip Sowles, District Division Chief, Design South
Michael Condie, Chief, Encroachment Permits
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