

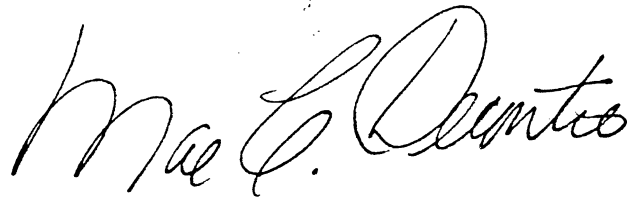
CANADA

Province of Quebec

TO WIT

I, MAE C. DECONTIE, residing at Nepean, Ontario make oath and swear that the paperwriting to which this affidavit is attached is a true copy of a document produced and shown to me and purporting to be the original by-law pursuant to the Indian Act and signed by the Chief and Council of the Qualicum Band of Indians and dated January 23, 1985, the said copy having been compared by me with the said original document.

Sworn to before me at the city of
Hull in the Judicial District of
Hull this *6* day of *March*, 1985



Isser Smith
Commissioner of the Taking of Oaths
Pursuant to Section 108 (a) of the
Indian Act

SOR/85-284 - Mar. 22/85.
Date Enacted
Jan. 23/85.

BAND COUNCIL RESOLUTION

PASSED THE 23RD DAY OF JANUARY, 1985
BY THE COUNCIL OF THE QUALICUM INDIAN BAND
OF THE DISTRICT OF NANAIMO
IN THE PROVINCE OF BRITISH COLUMBIA

The Council of the Qualicum Indian Band DOES HEREBY RESOLVE at a meeting of the Band Council held on the 23rd day of January, 1985 that the following By-Law be made pursuant to Sections 81 and 83 of the Indian Act:

QUALICUM RESERVE BUILDING BY-LAW, 1985, NO. 1

PART 1 - INTERPRETATION AND APPLICATION

Definitions.

1. In this By-Law, unless the context otherwise requires, the following words and expressions shall have the meanings assigned to them below and other parts of speech or grammatical forms of the same words and expressions shall have corresponding meanings:

- (a) "Band" means the Qualicum Indian Band;
- (b) "Band Building Inspector" means the person holding such office pursuant to an appointment made by the Band Council under subsection 3(1) of this By-Law;
- (c) "Band Council" means the council of the Band;
- (d) "Building Code" means the National Building Code of Canada 1980 as issued by the Associate Committee on the National Building Code, National Research

Council of Canada, and numbered NRCC No. 17303, together with all revisions and corrections made thereto prior to the date on which this By-law is adopted by the Band Council;

- (e) "construction" includes erection, repair, alteration, enlargement, addition, demolition, removal and excavation;
- (f) "owner" in relation to allotted land within the Reserve, means the person lawfully in possession of such land as shown by the subsisting Certificate of Possession for such land issued to such person by the Minister of Indian Affairs and Northern Development, and in relation to unallotted land within the Reserve, means the Band as represented by the Band Council;
- (g) "Reserve" means the tract of land known as the Qualicum Indian Reserve that has been set aside by Her Majesty for the use and benefit of the Band.

Application.

2. (1) This By-law shall apply to all land and water areas included within the boundaries of the Reserve.

(2) This By-law applies to each building located within the Reserve, whether owned by the Band or a member of the Band, and whether the building or part thereof is constructed either on-site or as a factory-built unit or

component, and also applies to any building or part thereof which is moved onto the Reserve from a place outside the Reserve.

(3) Except for alterations permitted by subsection (7), when a building or part thereof is altered, this By-law applies to the whole building provided that the By-law shall apply only to that part of the building which is altered if that part is completely self-contained.

(4) When the use for which a building is occupied is changed, this By-law applies to all parts of the building affected by the change.

(5) When materials and equipment regulated by this By-law are replaced or altered in a building, this By-law applies to all such replacements and alterations.

(6) Except in the case of alterations required by this Section 2, when a building has been constructed and equipped before the adoption of this By-law by the Band Council, then, in the absence of an express provision in this By-law to the contrary, this By-law shall not be construed as requiring that the building be reconstructed, altered or otherwise equipped.

(7) Where a building does not conform to the requirements of this By-law and the building was existing at the

time of adoption of this By-law by the Band Council, the building may only be altered or repaired with the permission of the Band Building Inspector, provided that any such permitted alterations or repairs shall conform to the requirements of this By-law to the extent practicable as indicated by conditions of the building permit therefor issued by the Band Building Inspector.

PART 2 - ADMINISTRATION

Band Building Inspector.

3. (1) The Band Council may appoint a Band Building Inspector whose remuneration shall be as fixed from time to time by the Band Council, which remuneration shall be payable from the monies of the Band.

(2) The Band Building Inspector shall:

(a) administer and enforce this By-law; and

(b) establish whether any method or type of construction or material used in the construction of any building conforms with the requirements of this By-law.

Appeal to Band Council.

4. Any person adversely affected by any decision or order made by the Band Building Inspector may appeal such decision or order to the Band Council within thirty (30) days after the date of the decision or order, and the Band

Council may confirm, reverse or vary the decision or order appealed from on such terms and conditions as the Band Council deems just.

Powers of Band Building Inspector.

5. (1) The Band Building Inspector may:
 - (a) enter upon any land and may enter any building at any reasonable time for the purpose of administering or enforcing this By-law;
 - (b) where any building or part thereof is in contravention of this By-law, serve a notice on the owner of the land on which the building is located ordering the owner to demolish or remove the building or part thereof or otherwise remedy the contravention within thirty (30) days after the date of the notice; such notice shall be sufficiently served upon the owner by posting a copy of it on the contravening building;
 - (c) where any building under construction, in whole or in part, is
 - (i) in contravention of this By-law, or
 - (ii) is being constructed without a building permit having been issued therefor,serve a notice upon the owner of the land on which the building is located ordering the owner to immediately suspend all or any portion of such construction and not to resume such construction

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until the contravention of the By-law has been remedied to the satisfaction of the Band Building Inspector or a building permit for such construction has been issued by the Band Building Inspector; such notice shall be sufficiently served upon the owner by posting a copy of it on the building to which the notice relates; and

- (d) order the correction of any work which he considers is being or has been improperly done.

(2) Where the owner fails to comply with an order made by the Band Building Inspector under paragraph (b) of subsection (1), the Band Council may, at the expense of the owner, cause the building or part thereof to be demolished, removed or cause the contravention of this By-law to be otherwise remedied as ordered in the notice given by the Band Building Inspector and may use the monies of the Band for this purpose. Any monies of the Band so expended by the Band Council shall:

- (a) be recoverable by the Band Council from the owner as a debt due from the owner to the Band; and
- (b) the payment of such monies to the Band by the owner shall be secured by a lien and charge in favour of the Band upon the interest of the owner in the land upon which the building is located, such lien and charge to be enforceable against the owner's interest in the land in priority over all other

claims of all other persons, whether such other claims arose before or after the date on which the order was made by the Band Building Inspector.

Forms and Fees.

6. (1) The Band Council may by resolution prescribe a scale of fees payable by applicants for the issuance of building permits under this By-law.

(2) The Band Council may by resolution prescribe the form and content of the building permits and the applications therefor contemplated by this By-law.

PART 3 - BUILDING CODE

Adoption of Building Code.

7. (1) Subject to the provisions of this By-law, the Building Code is hereby adopted and made applicable to all buildings and the construction of all buildings within the Reserve.

(2) The Band Council may by resolution declare that specified portions of the Building Code shall cease to apply to buildings and the construction of buildings within the Reserve or within specified areas of the Reserve if the Band Council, in its discretion, considers such specified portions to be inapplicable by reason of local circumstances or that compliance with such specified portions would be impractical.

PART 4 - PROHIBITIONS

Construction Without Building Permit.

8. No person shall commence or continue the construction of any part of a building to which this By-law is applicable unless he has a valid and subsisting building permit issued by the Band Building Inspector to carry out that part of the construction.

Construction Contrary to By-law.

9. No person shall construct or maintain any part of a building contrary to:

- (a) any direction, instruction, specification or provision contained in or adopted by this By-law;
- (b) any order made by the Band Building Inspector made pursuant to this By-law; or
- (c) the conditions upon which any building permit has been issued pursuant to this By-law.

Construction Contrary to Drawings and Specifications.

10. No person shall do any work in the construction of a building that is at variance with the drawings and specifications for the building as approved by the Band Building Inspector unless such change has been approved by the Band Building Inspector and his approval to such change has been endorsed upon the building permit and the amended drawings and specifications.

Occupancy Permit.

11. (1) No person shall use or occupy or permit to be used or occupied any building or part thereof until the building or part thereof complies with this By-law, as evidenced by a valid and subsisting occupancy permit issued by the Band Building Inspector.

(2) No person shall use or occupy or permit to be used or occupied any building or part thereof other than as permitted by the subsisting occupancy permit issued by the Band Building Inspector for the building.

PART 5 - DUTIES OF OWNER

To Permit Entry.

12. Every owner or occupant of a building shall permit the Band Building Inspector to enter upon the land on which the building is located and to enter the building at any reasonable time for the purpose of administering or enforcing this By-law.

To Notify.

13. Every owner to whom a building permit has been issued shall:

- (a) give at least forty-eight (48) hours notice to the Band Building Inspector of intention to start construction on the building site;
- (b) give notice to the Band Building Inspector and

obtain his inspection and approval of the construction at the following stages of the construction:

- (i) after the forms for footings and foundations are complete, but prior to placing any concrete therein;
- (ii) after removal of form work from a concrete foundation and installation of perimeter drain tiles and damp-proofing, but prior to back-filling against the foundation;
- (iii) when framing and sheathing of the building are complete, including fire-stopping, bracing, chimney, duct work, rough plumbing, gas venting, rough wiring, but before any installation, lath or other interior or exterior finish is applied to conceal the structural frame;
- (iv) after the building or portion thereof is complete and ready for occupancy, but before occupancy takes place; and
- (v) as may otherwise be required by the Band Building Inspector.

To Obtain Occupancy Permit.

14. (1) Prior to the occupancy of any building or part thereof, the owner of the building shall obtain from the Band Building Inspector an occupancy permit in the form set out in the Schedule to this By-law.

(2) The Band Building Inspector may withhold the issuance of an occupancy permit until he is satisfied that the building or part thereof complies with the requirements of this By-law.

To Keep Documents on Site.

15. The person to whom a building permit is issued shall, during construction, keep:

- (a) a copy of the building permit posted in a conspicuous place on the property in respect of which the building permit was issued; and
- (b) a copy of the approved drawings and specifications referred to in paragraph 18(1)(d) on the property in respect of which the building permit was issued.

PART 6 - BUILDING PERMITS

Issuance of Building Permits.

16. Where an application for a building permit has been made to the Band Building Inspector and he is satisfied that:

- (a) the proposed building and the proposed construction thereof as set out in the application conforms with this By-law;
- (b) the issuance of a building permit for the proposed building is not prohibited by this By-law;
- (c) the intended use of the proposed building conforms to the provisions of the Qualicum Reserve Zoning By-law, 1984, No. 1; and

(d) the applicant for the building permit has paid the building permit fees prescribed by the Band Council pursuant to subsection 6(1);

the Band Building Inspector shall issue the building permit on such conditions as he considers appropriate and shall endorse his approval upon the drawings and specifications for the proposed building which have been approved by him.

Conditions of Building Permit.

17. (1) Every building permit is issued upon the condition that:

- (a) construction is to be started within six (6) months from the date of issuance of the permit; and
- (b) construction is not to be discontinued or suspended for a period of more than six (6) months.

(2) If either condition specified in this subsection (1) is not complied with, the building permit shall thereupon stand revoked.

Application for Building Permit.

18.(1) The application for a building permit referred to in Section 16 shall:

- (a) be made in the form prescribed by the Band Council;
- (b) be signed by the owner or his agent;
- (c) state the intended use of the proposed building;

(d) include copies in duplicate of the specifications and scale drawings of the proposed building showing:

- (i) the dimensions of the building,
- (ii) the proposed use of each room or floor area,
- (iii) the dimensions of the land on which the building is, or is to be, situated,
- (iv) the location of the streets abutting the land referred to in subclause (iii) and the location of the street access for the land,
- (v) the position, height and horizontal dimensions of all buildings on the land referred to in subclause (iii),
- (vi) if required by the Band Building Inspector, a current plan of survey of the building site prepared and certified by a registered British Columbia Land Surveyor, and
- (vii) such other information as is necessary to illustrate all essential features of the design of the proposed building as may be required by the Band Building Inspector; and

(e) contain any and all other information necessary to establish compliance with this By-law as may be required by the Band Building Inspector.

(2) Notwithstanding the provisions of subsection (1), the Band Building Inspector may issue a building permit

without drawings or specifications where he considers the work to be of a minor nature or otherwise considers the drawings and specifications to be unnecessary.

Issuance of Building Permit Prohibited.

19. The Band Building Inspector shall not issue a building permit for a building or any part thereof unless he, in his discretion, is satisfied that:

- (a) adequate street access exists connecting the land upon which the building is, or is to be, located to the street system within the Reserve;
- (b) the land upon which the building is, or is to be, located is not subject to an undue risk of flooding;
- (c) adequate facilities and services exist and are available to the land upon which the building is, or is to be, located for fire protection, sewerage or septic disposal, drainage collection, garbage collection, water supply and electrical supply; and
- (d) the proposed building will not injuriously affect the established amenities of adjoining or reasonably adjacent properties.

Revocation of Building Permit.

20. The Band Council, on its own motion or upon the recommendation of the Band Building Inspector, may revoke a building permit where:

- (a) there has been a violation of any condition under which the building permit was issued;
- (b) there has been a violation of any provision of this By-law; or
- (c) the Band Council is satisfied that such permit was issued by reason of incorrect information furnished by or on behalf of the person to whom the building permit was issued.

PART 7 - OFFENCE AND PENALTY

21. (1) Any person who contravenes any provision of this By-law is guilty of an offence punishable on summary conviction and, on conviction, is liable to a fine of not more than one hundred (\$100.00) dollars or to imprisonment for not more than thirty (30) days, or to both.

(2) Where any contravention of this By-law is committed on more than one day or is continued for more than one day, then the contravention on each day shall be deemed to constitute a separate offence for each day on which the contravention is committed or continued.

(3) All penalties imposed in respect of an offence under this By-law shall be recoverable and enforceable by summary proceedings taken under the provisions of the Criminal Code of Canada relating to summary convictions.

Obstruction of Band Building Inspector

22. No person shall prevent or obstruct the Band Building Inspector in the exercise of his powers or the performance of his duties under this By-Law, or any person acting in aid of the Band Building Inspector.

PART 8 - GNERAL

Severability.

23. If any part of this By-Law is declared or adjudged to be invalid or unenforceable by any court, such invalidity or unenforecability will not affect the validity or enforceability of any other part of this By-Law.

Citation.

24. This By-Law may be cited for all purposes as the "Qualicum Reserve Building By-Law, 1985, No. 1".

Considered, passed and adopted by the Council of the Qualicum Indian Band on the 23rd day of January, 1985.

(Signed) M. Recalma
Chief R. Mark Recalma

(Signed) A.P. Recalma
Councillor Arnold P. Recalma

(Signed) David J. Reid
Councillor David J. Reid

SCHEDULE TO QUALICUM RESERVE BUILDING BY-LAW, 1984, NO. 1

QUALICUM INDIAN BAND

OCCUPANCY PERMIT FOR A BUILDING

Issued pursuant to Section 14 of the Qualicum Reserve Building By-Law, 1984, No. 1 made by the Council of the Qualicum Indian Band pursuant to Sections 81 and 83 of the Indian Act.

Description of Building:

Location of Building:

Present Owner of Building:

Approved Occupancy and Use:

The Building described above constructed under the authority of Building Permit No. _____ may now be occupied.

No person shall occupy or use the Building or any part thereof for any use or occupancy other than that approved above.

BAND BUILDING INSPECTOR

Per: _____

Date: _____, 19__.