

# POLICY 809: ENCROACHMENTS ON BOARD PROPERTY

## ADMINISTRATIVE PROCEDURES

### **Encroachment:**

The Board of Education will undertake an annual review of its lands and properties to clearly identify if any specific unauthorized encroachments or encumbrances have occurred. Measures will then be implemented to protect the Board of Education's land and indemnify the Board of Education with respect to unauthorized encroachments and encumbrances.

Where an Encroachment is identified, or reported, the Board of Education will undertake the following steps:

1. Any recent land surveys will be reviewed to locate the property lines. Where a recent land survey is not available, the Board of Education will engage a land surveyor to identify the Board of Education's property lines and identify the Encroachment.
2. Upon confirmation that an Encroachment exists the Board of Education will:
  - a. Review records to determine if there has been any past correspondence related to the Encroachment.
  - b. Undertake a property title search.
  - c. Seek legal counsel.
  - d. Send a Notice of Encroachment to the Property Owner.

Unless it specifies otherwise, a Notice of Encroachment will require the Property Owner to remove the Encroachment and restore the Board of Education's property to the condition it was in prior to the Encroachment within 30 days after receiving the Notice of Encroachment. All costs of such removal and restoration must be borne by the Property Owner.

All expenses, liabilities, or other risks associated with an Encroachment will be borne by the Property Owner.

If a Property Owner refuses to remove an Encroachment, the Board of Education may proceed to remove the Encroachment and seek reimbursement from the Property Owner for all costs associated with the removal of the Encroachment and the restoration of the Board's property.

In the process of removing an Encroachment the Board of Education may also consider doing any or all of the following:

- Immediately fence off the Board of Education's property at the property line.
- Seek legal action to support recovery of costs.
- Seek support from the local municipality.

## **Encumbrance:**

Where an Encumbrance is related to a lien placed against a Board of Education property, the Board of Education will undertake the following steps:

1. A property title search will be undertaken and reviewed to determine the nature of the lien.
2. The Board of Education will investigate the lien claim and take such appropriate actions as recommended by legal counsel to have the lien removed.
3. Where a Municipality requires an easement, covenant, statutory right of way, or other form of Encumbrance, The Board of Education will undertake the following steps;
  - a. Seek legal counsel prior to entering into any form of agreement.
  - b. When an Encumbrance benefits the Board of Education, the Board of Education shall investigate alternate measures to help minimize, offset and compensate for any financial loss or burden upon the Board of Education created by such Encumbrance.
  - c. Where an Encumbrance directly impacts and reduces the development potential on Board of Education land, the Board of Education will seek compensation for such Encumbrance based on an independent third party real estate appraisal, which considers a fair market value based on the highest and best use of the land.

Subject to legal advice, the North Vancouver School District may require that all expenses, liabilities, or other risks associated with a municipally requested Encumbrance be borne by the requesting municipality.