

October 20, 2000

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**
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REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: King County Department of Transportation File No. **V-2410**
Proposed Ordinance No. **2000-0508**

**DAVID LIVERMORE
PROCTOR INTERNATIONAL, INC**
Road Vacation Petition

Location: A portion of Northeast 124th Street, located in
the Kingsgate area of unincorporated King County

Petitioner: **David Livermore**
c/o Proctor International, Inc.
15325 Northeast 95th Street
Redmond, WA 98052
Telephone: (425) 881-7000

Department: King County Department of Transportation
Engineering Services Division
Represented by Tommy Burdette
201 South Jackson Street
Seattle, WA 98104-3856
Telephone: (206) 296-3731
Facsimile: (206) 296-0567

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve road vacation
Department's Final:	Approve road vacation
Examiner:	Approve road vacation, subject to conditions

DEPARTMENT'S REPORT:

The Department of Transportation's written report to the King County Hearing Examiner for Item

No. V-2410 was received by the Examiner on October 6, 2000.

PUBLIC HEARING:

After reviewing the Department of Transportation's Report and examining available information on file with the petition, the Examiner conducted a public hearing on the subject as follows:

The hearing on Item No. V-2410 was opened by the Examiner at 9:50 a.m., October 13, 2000, in the Fifth Floor Conference Room, Union Bank Of California Building, 900 Fourth Avenue, Seattle, WA 98104, and adjourned at 10:10 a.m. The hearing record was administratively continued for the purpose of receiving a copy of proposed Ordinance No. 2000-0456 (Exhibit No. 22), and a copy of the affidavit of publication (Exhibit No. 25). Upon receipt of those documents on October 17, 2000 the hearing record closed. 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 office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Road name and location:	A portion of Northeast 124 th Street, located in the Kingsgate area of unincorporated King County
Right of way classification:	“A class”
Area:	3,540 square feet
Compensation:	\$75,621.10

2. The proposed road vacation implements a condemnation settlement between King County (Property Services Division) and Proctor International, Incorporated. The agreement authorizes trading surplus County right-of-way along NE 124th Street for Proctor International property that is needed for right-of-way and easement rights to construct improvements to NE 124th Street, illustrated by Exhibit Nos. 23 & 24.

3. City of Redmond concerns regarding the need for utility easements have been satisfactorily addressed. The City of Redmond does not need easements for water or sewer within the vacation area.

4. The condemnation agreement between King County and Proctor International had not been approved by the King County Council at the time of this hearing. Proposed Ordinance No. 2000-0508, therefore, should not be approved until proposed Ordinance No 2000-0456 authorizing the property exchange agreement is first approved.

5. Except as provided in subparagraph a and b of this finding, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department of Transportation's report to the King County Hearing Examiner for the October 13, 2000, public hearing and the statement of facts contained in proposed Ordinance No. 2000-0508. The Department's report will be attached to those copies of this report and recommendation that are submitted to the Metropolitan King County Council.
 - a. The King County Roads Division report to the Examiner, dated October 13, 2000, reports that the condemnation agreement provides that *if the King County Council does not approve the land and right-of-way trade, the County will pay Proctor International \$71,621.10*. The Roads Division testimony in the hearing indicates that amount to be incorrect. The Division testifies that the correctly calculated amount is **\$75,621.10**.
 - b. The Roads Division report indicates that a motion which would approve the condemnation property exchange agreement is pending before Council Committee. Actually, it is an ordinance—proposed Ordinance No. 2000-0456—that is pending before the Council's Management, Labor and Customer Service Committee.
6. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are Attachments 1 and 2 to this Report and Recommendation.
7. Vacation of the subject right-of-way would have no adverse effect on the provision of fire and emergency services to the subject property or surrounding area.

CONCLUSIONS:

1. The road subject to this petition is useless as part of the King County road system, and the public will be benefited by its vacation. Further, granting this right-of-way vacation petition will enable King County to expeditiously, efficiently and economically complete scheduled intersection improvements to NE 124th Street.
2. The Notice of Hearing on the report of the Department of Transportation was given as required by law, and a hearing on the report was conducted by the King County Hearing Examiner on behalf of the King County Council.
3. The compensation required by law to be paid as a condition precedent to the vacation of this road has been deposited with King County, and the easements, if any, necessary for the construction, repair and maintenance of public utilities and services have been provided in form satisfactory to the affected public utilities.

RECOMMENDATION:

APPROVE proposed Ordinance No. 2000-0508 to vacate the subject road; PROVIDED HOWEVER, that the Ordinance should not be adopted until proposed Ordinance No. 2000-0456 approving the

condemnation agreement is first approved. According to the hearing record that proposed ordinance is presently pending in the Council’s MLCS committee.

RECOMMENDED this 20th day of October, 2000.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 20th day of October, 2000, to the following parties and interested persons:

GTE Network Services	Greg Borba	Roderick E. Matsuno
Steve Botts	Tommy Burdette	Ronald J. Paananen
AT&T Cable Services	Don Ding	Dave Preugschat
David Livermore	Thomas Eksten	Lydia Reynolds
Scott Thomasson	Dennis Gorley	Faith Roland
Ray Aspiri	Kristen Langley	Charlie Sundberg
	John O’Brien	Joe Wilson

**NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED**

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before November 3, 2000. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before November 10, 2000. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within twenty-one (21) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of

Washington, for the purpose of review of the action taken.

MINUTES OF THE OCTOBER 13, 2000 PUBLIC HEARING ON KING COUNTY DEPARTMENT OF TRANSPORTION FILE NO. V-2410 – DAVID LIVERMORE/PROCTOR INTERNATIONAL:

R. S. Titus was the Hearing Examiner in this matter. Participating in the hearing and representing the Department were Tommy Burdette and John O'Brien. Participating in the hearing and representing the Applicant was David Livermore. There were no other participants in this hearing.

The following exhibits were offered and entered into the record on October 13, 2000:

- Exhibit No. 1 Report to the Hearing Examiner, dated October 2, 2000 with 15 attachments.
- Exhibit No. 2 Letter dated October 12, 1999 from Property Services Division to Petitioner transmitting vacation information.
- Exhibit No. 3 Memorandum dated October 27, 1999 from Property Services Division to Road Services Division transmitting items required to initiate vacation process.
- Exhibit No. 4 Petition transmittal letter dated November 1, 1999 to Transportation from Clerk of the Council.
- Exhibit No. 5 Petition for Vacation of a County Road including legal descriptions attached.
- Exhibit No. 6 Copy of Filing Fee—Check #1490
- Exhibit No. 7 Fact Sheet Northeast 124th Street widening.
- Exhibit No. 8 Map depicting vacation area.
- Exhibit No. 9 Thomas Bros. Map page 506.
- Exhibit No. 10 Copy of acquisition Quit Claim Deed Recording Number 5809825.
- Exhibit No. 11 Copy of Settlement Agreement.
- Exhibit No. 12 Letter dated November 17, 1999 to Petitioner explaining vacation process.
- Exhibit No. 13 Letter dated November 24, 1999 from the City of Redmond.
- Exhibit No. 14 Road Vacation Worksheet dated June 8, 2000.
- Exhibit No. 15 Letter dated June 23, 2000 from the Department of Transportation, Road Services Division to the Clerk of the King County Council.
- Exhibit No. 16 Letter dated August 24, 2000 from King County Executive to Councilmember von Reichbauer.
- Exhibit No. 17 Proposed Ordinance No. 2000-0508.
- Exhibit No. 18 Notice of Hearing and Affidavit of Posting.
- Exhibit No. 19 Affidavit of Posting.
- Exhibit No. 20 Letter from Tommy Burdette, Road Services, to David Livermore, dated October 3, 2000
- Exhibit No. 21 Letter from Tommy Burdette, Road Services, to Scott Thomasson, City of Redmond, dated October 3, 2000.
- Exhibit No. 22 *Entered by reference*
- Exhibit No. 23 Two page map with yellow highlight, showing vacation area.
- Exhibit No. 24 A more detailed version of Exhibit No. 23, with color legend

The following exhibits were offered October 13, 2000 and received by the Examiner's Office October 17, 2000:

- Exhibit No. 22 Ordinance to Approve Property Exchange
- Exhibit No. 25 Affidavit of Publication

RST:vam

V-2410 rpt

Attachments