



SW Trails PDX

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Mr Kurt Krueger
Portland Bureau of Transportation
1121 SW 5th Avenue
Portland, OR 97239
January 5, 2014

Dear Kurt,

Thanks for coming to the SWTrails meeting on the 19th. I hope you have had a good holiday season and had a few days off.

You asked for SWTrails thoughts on the movement of the fence along the SW Coranado ROW.

There appear to be three choices facing you and your staff:

1. Leave the fence where it is
2. Move the fence part way back to the property line
3. Move the fence to the property line.

One. Leave the fence where it is. This will be an excellent example for property owners throughout the City of Portland that they need not leave any place for the public, and they can assure there will be no access of any kind by the public if they just fence off the right of way. Please see the May 17 2013 attached letter from Greg Raisman stating

“As per city and state law, PBOT would also like to remind neighbors that the public has a right to access and travel through the public right of way.”

Assuming Greg is correct, this is against city and state law. I suspect any competent lawyer would not have difficulty in saying that the right of way includes the entire right of way, not just the little bit that the adjacent property owners have chosen to leave unfenced.

If you were to leave the fence in the right of way, you are inviting informed folks to take vigilante action to remove it since the city and state law is clear, and your actions would erode confidence you and your staff have the interests of the general public foremost in your mind. This could lead to feuds and destructive actions that none of us want.

Two, Move the fence part way back to the property line. This raises the question of who should decide where is appropriate, and if a citizen thought the fence was in an in appropriate location, he/she may take action legally or otherwise to get it removed. Even with a process to sort this out, an expensive exercise in terms of staff time and citizen time, there is no guarantee that the public will not request it to be moved at a future date.

Three, Move the fence to the property line. This is the best solution for everyone, there is no question of who has what rights, and the property owner can build a gate to access the right of way for

whatever maintenance they must do. This is also the cleanest solution for you and your staff, you do not have to staff any meetings or do walks to determine where the fence should otherwise be placed.

SWTrails feels moving the fence to the property line is the only appropriate solution at this time and place.

Thanks for asking for our input on this very important issue.

Don Baack

Sent by email, cc Leah Treat, Christine Leon, Dan Bower, Mark Lear, Greg Raisman,