

**From:** [Ryan Sternoff](#)  
**To:** [Jeff Thomas](#)  
**Cc:** [Cassidy Ingram](#); [Bio Park](#)  
**Subject:** RE: Permit No. 2105-227 – Automatic Electric Gate – Niederman  
**Date:** Thursday, August 5, 2021 3:59:59 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[Fire\\_permit\\_application\\_\(002\)\\_fire\\_permit\\_application\\_\(002\).pdf;1\).pdf](#)

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Jeff:

Following my email from yesterday, new evidence has come to light that Chris Niederman falsely certified to the City of Mercer Island, in his application for this permit, that “**all easements**, deed restrictions or other encumbrances restricting the use of the property are shown on the site plans submitted with this application.” See the attached. From our review of the documents submitted in connection with the Niederman permit application, it appears as if the Niedermans omitted the actual location of the deeded access easement to their Property.

Submitting a false sworn statement to a government entity is the crime of perjury under RCW 9A.72.020 and is a Class B Felony.

We believe that there is little question that it is the City’s obligation to withdraw permit approval, without the need to appeal, particularly with this additional evidence that Chris Niederman has submitted false sworn statements to the City, which materially omit the existence and location of easements over the Yang Property.

As requested yesterday, please advise if the permit approval will be withdrawn, which would make the pending appeal moot. I have copied the City Attorney back into this correspondence, as we believe it requires immediate action.



**Ryan W. Sternoff**  
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**From:** Ryan Sternoff  
**Sent:** Wednesday, August 4, 2021 4:08 PM  
**To:** Jeff Thomas <[jeff.thomas@mercerisland.gov](mailto:jeff.thomas@mercerisland.gov)>

**Cc:** Cassidy Ingram <cassidy.ingram@acslawyers.com>  
**Subject:** RE: Permit No. 2105-227 – Automatic Electric Gate – Niederman

Jeff:

As you may be aware, we followed your request to appeal the gate permit approval set forth below.

Notwithstanding the foregoing, I wanted to point out the fact that the City unquestionably has not followed its own permit requirements that the applicant demonstrate “access easement width,” to obtain approval of the gate plans. See the attached. We appreciate that there may be some confusion on this in that the Niedermans omitted deeded access easement from their original construction plans/survey, and instead poured their new driveway in a different location.

In light of this, we believe it is the City’s obligation to withdraw approval of a permit that was unquestionably improperly issued, when the City’s failed to verify easement access prior to approval. Thus, we reiterate our request that permit approval be withdrawn, without even needing to proceed with the appeal.

This would save the City’s valuable resources in dealing with this appeal. Thank you for your consideration of this request. Please advise if the permit approval will be withdrawn, which would make the pending appeal moot.



**Ryan W. Sternoff**  
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**From:** Jeff Thomas <[jeff.thomas@mercerisland.gov](mailto:jeff.thomas@mercerisland.gov)>  
**Sent:** Thursday, July 22, 2021 1:19 PM  
**To:** Ryan Sternoff <[ryan.sternoff@acslawyers.com](mailto:ryan.sternoff@acslawyers.com)>  
**Subject:** RE: Permit No. 2105-227 – Automatic Electric Gate – Niederman

Mr. Sternoff,

Your email below has been forwarded to me by the City Attorney’s Office for response.

Should you believe this permit was issued in error by the City, please refer to the administrative

appeal provisions contained within the Mercer Island Municipal Code for additional information.

Best regards, Jeff Thomas

**From:** Ryan Sternoff <[ryan.sternoff@acslawyers.com](mailto:ryan.sternoff@acslawyers.com)>

**Sent:** Thursday, July 22, 2021 9:16 AM

**To:** Bio Park <[Bio.Park@mercergov.org](mailto:Bio.Park@mercergov.org)>; Andrew Leon <[andrew.leon@mercercisland.gov](mailto:andrew.leon@mercercisland.gov)>

**Subject:** Permit No. 2105-227 – Automatic Electric Gate – Niederman

Dear Mr. Leon and Mr. Park:

I am counsel for Steve and Sophy Yang. As the City is aware, I represent the Yangs in an active litigation adverse to Christopher and Nicole Niederman that is pending under King County Cause Number 20-2-08679-7 SEA.

The subject of the litigation is the Niedermans' construction of a driveway during their 2018-2019 construction project in a location that was inconsistent with the access rights set forth on the attached short plat. Due to the location of the driveway, as constructed by the Niedermans, the Niedermans are trespassing on the Yangs' Property in order to access the Niederman property. Part of the relief requested in the Lawsuit, is that the Yangs will seek to limit the Niedermans access rights to the areas reflected in the recorded documents.

Notwithstanding the foregoing, the Niedermans have submitted Permit No. 2105-227 for an Automatic Electric Gate. The final portion of this permit has been approved as of 7/15/21.

While it is understood that the physical construction may be on the Niederman Property, the proposed gate installation is being installed in a manner that obstructs the deeded access easement and forces the Niedermans to access their property through the Yang Property, in areas where the Niedermans do not have a deeded easement.

We believe that approval of this permit violates the purpose of the Mercer Island Code, including but not limited to Section 19.15.060(8) which requires consent of all owners of the "affected property." While the Niedermans have creatively tried to limit the physical construction activity to their own property, because the construction of this gate forces access across the Yang Property, the Yang Property is very much an "affected property." This is particularly true when a Court may be reluctant to require demolition of improvements made as a matter of economic waste. Thus, by the City approving the permit it may have some role in determining the outcome of the litigation through permit approval, which is not appropriate, and runs contrary to the legal authority of *Halverson v. City of Bellevue*, 41 Wash. App. 457, 461, 704 P.2d 1232, 1235 (1985).

If the Niedermans had submitted a survey with this application, it would show that the gate obstructs the legal access. If such a survey has not been required, we believe that requiring such a survey to demonstrate the inappropriate nature of the Niedermans application, is appropriate.

We believe the status quo should be preserved and the permit application should be revoked. Please respond to this email confirming that the permit approval will be revoked.



**Ryan W. Sternoff**

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