

## Nicole Gaudette

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**From:** Timothy B. Fitzgerald <TFitzgerald@mcnaul.com>  
**Sent:** Thursday, March 21, 2019 5:21 PM  
**To:** Brian Thomas; Nicole Gaudette; Evan Maxim  
**Cc:** seth@srdassoc.com; Cel Davis; Gerry Kaelin; Larry Gottlieb; 'verushka\_ramirez'  
**Subject:** RE: CA017-010 and SEP19-003

**Importance:** High

Dear Nicole and Evan:

I am the owner of 4817 E. Mercer Way, and am writing to address an additional issue that uniquely impacts my property and those properties immediately to the south of my property – most notably, the property owned by the Kaelin family. In particular, my property is situated atop a large hill that is steeply sloped on all sides, but the slope is particularly steep on the southern portion of my property. The Kaelin household is located at the bottom of the hill on which my house sits, and our two houses are fairly close to one another. 4825 E. Mercer Way is also located directly to the south of my property, and likewise is situated at the bottom of the hill on which my house sits. Given the history of landslides in the area, along with the topography of my particular property, along with the fact that my house sits atop a large hill, along with the proximity of my house to the Kaelin household, along with the proximity of my property to the planned development on 4825 E. Mercer Way, along with the watercourse issues on that property, I am deeply concerned that any development activity on 4825 E. Mercer Way could seriously destabilize the hill which my house sits or the land immediately below it. If there is a landslide or similar issue on my property, not only would that present a potentially devastating risk to me and my family, but it also would pose a risk to the Kaelin family, whose house sits directly below mine at the bottom of the hill. Destabilizing the soil on, under, or near the hill on which my house sits is not something the City should permit under any circumstance, and the City must be completely certain that there is no risk of destabilization before permitting development activity on 4825 E. Mercer Way. If the City makes an error in this regard, the potential damages are staggering.

Therefore, in addition to all of the other concerns that have been raised regarding the proposed development for 4825 E. Mercer Way, in which my wife (Verushka Fitzgerald) and I wholeheartedly join, we further object to the development on the basis that it will increase the risk of destabilizing the soil, and will increase the risk of a potential landslide or related issues that uniquely impact our property. Before the City permits development activity of any kind on 4825 E. Mercer Way, I encourage the City in the strongest possible terms to carefully analyze this serious risk, to advise the residents of East Mercer Highlands – and in particular, my family and the Kaelin family – of the City's findings, and to afford us a meaningful opportunity to review and comment upon those findings prior to the issuance of any permits to the property owner or developer.

Thank you for your attention to this important matter.

Regards,

-Tim

**Timothy B. Fitzgerald | Attorney**



600 University Street, Suite 2700 | Seattle, WA 98101-3134  
T (206) 467-1816 | F (206) 624-5128 | D (206) 389-9338  
[www.mcnaul.com](http://www.mcnaul.com) | [tfitzgerald@mcnaul.com](mailto:tfitzgerald@mcnaul.com)

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**From:** Brian Thomas [mailto:brianth59@hotmail.com]  
**Sent:** Thursday, March 21, 2019 4:51 PM  
**To:** Nicole Gaudette; evan.maxim@mercergov.org  
**Cc:** seth@srdassoc.com; Cel Davis; Gerry Kaelin; Timothy B. Fitzgerald; Larry Gottlieb  
**Subject:** CA017-010 and SEP19-003

Nicole and Evan,

I am submitting comments on the Application submitted by Sang Hou and George Janiewicz for the above-referenced files. As you're likely aware a number of neighbors have submitted comments before the deadline concerning a number of issues including concerns about water conditions in the hills above the property, the risks associated with water diversion from its natural course, and effects on trees including the infamous eagle tree. I am writing about an additional issue.

When the Road Maintenance Agreement (RMA) for the neighborhood was established in 1987 only certain lot owners elected to join the RMA. The RMA envisioned two types of participants in the agreement "Participating Lots" and "Non-participating Lots." Both types of participants were owners of property that were either developed or not developed at the time of the agreement. Owners of both types of property executed the agreement. The agreement (paragraph 13) envisions a process by which Non-participating owners become participating at the time their property begins to be developed. At that time, the Non-participating Lots are supposed to begin paying dues. However, in the case of 4825, the owner did not join the agreement as either a "Participating Lot" or a "Non-Participating Lot." At the present time the lot owner of 4825 is not a member of the RMA and to my knowledge did not sign nor attempt to sign since the agreement was consummated.

The neighbors are very concerned about construction on a lot that is at a very narrow and steep portion of the community's road and by an owner that is not part of the RMA. There has been no effort by the owner of 4825 to seek membership or to coordinate/discuss any community concerns regarding the contemplated project. The owner should not assume that he has any inherent right to begin building or take any further steps until or unless community concerns are reasonably and adequately addressed.

Thanks in advance for considering my comments.

Brian D Thomas  
(206) 409-0408