



December 22, 2022

Raft Island Improvement Association
Andy Flood, Trustee
P.O. Box 64
Gig Harbor, WA 98335

Sent via Email Only

Dear Mr. Flood,

This letter is in response to your letter dated 10/25/22 regarding the installation of a privacy gate at the bridge to the island that USDA Rural Development financed. In conjunction with our national office staff, we reviewed the regulations and discussed your inquiry.

As was noted when this topic was discussed with former CP Director Peter McMillin, 7 CFR 1942.17(e) states “all facilities financed under the provisions of this subpart shall be for public use”. You asked for clarification of what public use meant.

Public use means anyone in the service area is allowed access to the project/service/facility/etc. In addition, 7 CFR 1942.17(b)(1)(ii) states “Essential community facility applicants other than utility-type must have significant ties to the local rural community. Such ties are necessary to ensure to the greatest extent possible that a facility under private control will carry out a **public** purpose and continue to primarily serve rural areas. Also further supported by eligible loan purposes §1942.17(d)(1)(B) “essential community facilities are those **public** improvements requisite to the beneficial and orderly development of a community operated on a nonprofit basis” and §1942.17(d)(1)(C)(ii) “to construct or relocate **public** buildings, roads, bridges, fences or utilities, and to make other **public** improvements.”

In part, our definition of an essential community facility states an essential community facility must be something that is customarily provided by a local unit of government (the government is not allowed to provide a private access road or bridge) and it must not include private affairs. A restricted access to a private island would be construed as a private affair.

Based on the above, USDA Rural Development is not able to fund the installation of a gate before the bridge. We are also unable to approve the installation of a gate financed by other means. Your Loan Resolution Security Agreement, Form RD 1942-9, item K, that was signed when the loan was closed, states “It (borrower) will provide adequate service to all persons within the service area who can feasibly and legally be served and will obtain Government's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Organization or public body”.

USDA is an equal opportunity provider and employer.

You do have the option to refinance with commercial credit and then the restrictions would no longer apply and you would be able to install the gate.

If you have any questions, please call me at 360-704-7737 or email koni.reynolds@usda.gov.

Sincerely,

A handwritten signature in black ink that reads "Koni Reynolds". The signature is written in a cursive, flowing style.

Koni Reynolds
Community Programs Director