



Memorandum

DATE: January 7, 2022

TO: Debbie Tarry, City Manager

FROM: Christina Arcidy, CMO Management Analyst

RE: Seattle City Light Encroachment Program

CC: John Norris, Assistant City Manager

Background

In summer 2018, the Seattle City Light (SCL) Real Estate Division began outreach to Shoreline property owners along the Interurban Trail whose fences, gardens, driveways or even structures appeared to be encroaching on the SCL Right-of-Way (ROW), in order to resolve these encroachments. At the time there were approximately 28 properties, however more properties were added as the program continued for a total of 52 property owners that were contacted by SCL.

The SCL encroachment program was developed in response to [Okeson vs. Seattle](#), which was the first and the foundation of a string of court cases that the City of Seattle lost on the use of utility assets for general government purposes. While the Okeson case was about the use of SCL rate money for general governmental purposes, SCL interpreted the findings that the restraints on the use of City Light assets and property for private purposes would be at least as strong and likely stronger. In other words, use of SCL property for private purposes is allowed at the discretion of SCL, but that use must be compensated so the utility is receiving fair market value for the use. This case and the ones that followed also showed SCL that there are parties and law firms watching how SCL uses its property and other assets.

Based on this litigation, the encroachment program's purpose was to ensure that SCL real property was being used for the purpose of delivering utility services, and where there was private use of real property, that the utility was leasing the property at market price.

19541 Stone Avenue N: Ann and Paul Michel

The property at 19541 Stone Avenue N, which is owned by Ann and Paul Michel, was identified by the SCL encroachment program in summer 2018 as having a fence, shed, property access, parking, carport, and home all encroaching on SCL's property. An aerial photo provided by SCL in 2018 of the Michel's property is attached to this memo as Attachment A.

SCL met with the Michel's at their home to review the concerns and provide possible remedies in August 2018, which included renting back a portion of SCL's property to the Michel's for the Michel's private use and tearing down their fence, which was directly under the SCL transmission lines, that had made a private front yard out of SCL property for the Michel's sole use.

While the Michel's wanted to involve the neighbors and the City of Shoreline in this encroachment issue, SCL noted that because each property encroachment involved particular property owners, each with different specific permits, easements and actual property conditions, SCL's view was and continues to be that open communication between each individual property owner and SCL is likely to be the most productive way to proceed.

The Michel's wrote to the City Manager in late summer 2018 (Attachment B) about the property impacts if SCL were to proceed with removing the fence. City staff met with SCL to learn about the encroachment program and determined that the matter between the Michel's and SCL was a civil matter between two property owners, and the City did not have any interests in the matter.

Following the engagement between SCL and the Michel's, the City was notified by SCL that the fence at this property was removed in November 2018, and Shoreline Police provided support for the removal after SCL staff made calls to Police based on the Michel's behavior during the removal work.

The Michel's then took legal action against SCL when the parties could not come to a resolution on the fair market value use of SCL property for easements and permits. During the litigation process, a new fence was reinstalled due to a court order. While the Michel's initially were successful at the Superior Court level, they later lost their case in the Court of Appeals. Since the Michel's lost on appeal, they have again reached out to the City to intervene on their behalf.

In following up with SCL Real Estate Division staff, they are now working to reengage with the Michel's on easement and permit discussions for their structures on SCL property. SCL staff have also stated that they are (and have always) been willing to allow a fence on SCL property if the fence is closer to the Michel's home and not directly under the SCL transmission lines, and if the fence is appropriately permitted along with all of the Michel's other structures.

Crime Data

In engaging with City staff and the City Council, the Michel's have claimed that they and their neighbors will be at an increased risk of crime as a result of their fence being

removed and a large grassy area adjacent to the Interurban Trail being available to the general public. Shoreline Police data show the following calls for service in the blocks north, east, and south of the Michel’s property from 2018-2021 (area shown in inset).

- 2018: 96 (Area check, Well check, Suspicious, Audible Commercial Alarm, Narcotics Activity are the top 5 call types)
- 2019: 73 (Area check, Audible Residential Alarm, Narcotics Activity, Suspicious, Audible Commercial Alarm are the top 5 call types)
- 2020: 101 (Suspicious, Area Check, Well check, Trespass, Disturbance in Progress are the top 5 call types)
- 2021: 105 (Area check, Well check, Audible Commercial Alarm, Suspicious, Larceny are the top 5 call types)



Drugs/Narcotics Activity complaints were in the top 5 calls for service in 2018 and 2019 but dropped to the top 10, tied with several other types of calls in 2020, and there were no calls for service complaining specifically of drug activity in the area 2021. Details of all calls for service described above can be found here: [Call Details for Echo Lake Area.](#)

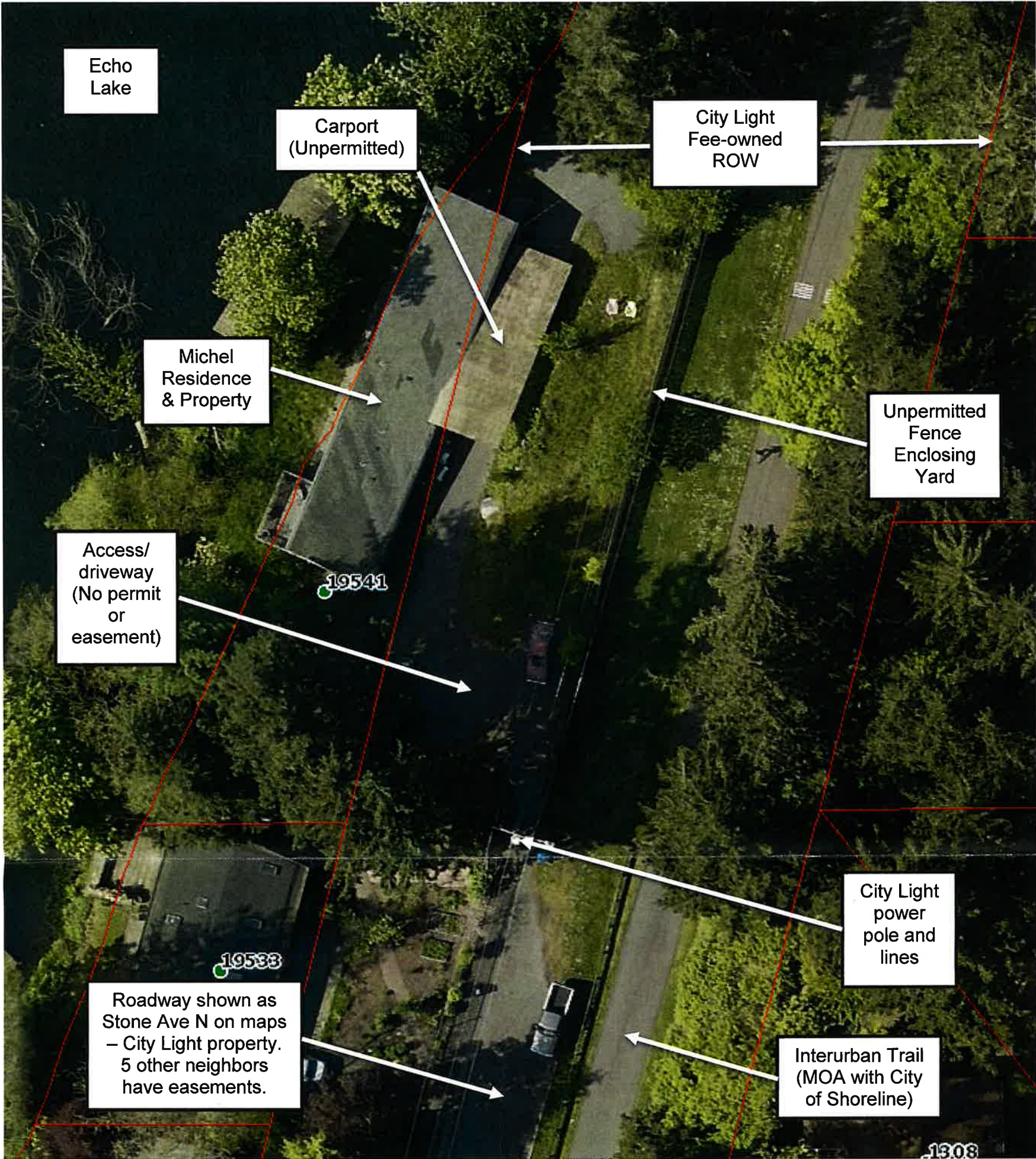
Over the four-year period, the Michel’s address was the 4th most frequent call for service origination. Twenty three (23) of the calls for service were generated from the Michel’s address. This included six (6) of eight (8) total Residential Alarm calls between April 2019 and May 2020 in the area, all of which were either false or canceled.

	2018	2019	2020	2021	Grand Total
Call for Service Origination Location					
"ECHO LAKE PARK, SHO"	31	28	28	33	120
"1515 N 200TH ST, SHO"	12	3	14	6	35
"1501 N 200TH ST, SHO"	4	4	7	13	28
"19541 STONE AVE N, SHO"	6	9	5	3	23
"1409 N 200TH ST, SHO"	4	1	8	8	21
"1475 N 200TH ST, SHO"	6	1	8	2	17
"1417 N 200TH ST, SHO"	3	3	3	5	14
"1415 N 200TH ST, SHO"	2	1	2	5	10

Recommendation

Staff continues to recommend that the City does not intervene in what is a civil matter between two property owners – SCL and the Michel’s. The City and Shoreline Police

may work with property owners adjacent to the Interurban Trail to make improvements to reduce the likelihood of criminal activity.



Echo Lake

Carport (Unpermitted)

City Light Fee-owned ROW

Michel Residence & Property

Unpermitted Fence Enclosing Yard

Access/driveway (No permit or easement)

19541

City Light power pole and lines

Roadway shown as Stone Ave N on maps – City Light property. 5 other neighbors have easements.

Interurban Trail (MOA with City of Shoreline)

19533

1308

Christina Arcidy

From: Christina Arcidy
Sent: Wednesday, October 24, 2018 2:36 PM
To: paulmichelsea@gmail.com
Cc: Bates, Paula C; Shawn Ledford; Dahlia Corona; Debbie Tarry; John Norris; shorelineparks@shoreline.gov; Eric Friedli; Kirk Peterson
Subject: RE: [EXTERNAL]: Seattle City Light ROW public access program

Mr. Michael,

Thank you for your email. I have been communicating with your wife and Seattle City Light about this situation, so Debbie Tarry, Shoreline City Manager, asked me to respond to your email.

I'm sorry to hear you have found your discussions with SCL to be difficult. SCL contracts with the City of Shoreline to provide vegetation maintenance along the Interurban Trail. When the fence is removed or moved closer to your home, the City intends to reconsider the maintenance need along this stretch of the trail. This is because the City recognizes that effective vegetation management is a critical component of creating natural surveillance areas, which prevents crimes from occurring. This is part of our Crime Prevention Through Environmental Design (CPTED) program, a set of design principles used to discourage crime. Just as design can help property withstand natural disasters and weather, property design and effective use of the built environment should also lead to a reduction in the fear and incidence of crime.

As I said in a recent email to your wife, if you have recommendations of how the vegetation can be managed to help with crime prevention, the City would like to hear from you. The best way to share your thoughts would be speaking to Park Superintendent Kirk Peterson (kpeterson@shorelinewa.gov; 206-801-2611) to discuss these opportunities. He can also bring your concerns to our internal Safe Community team meeting. This interdisciplinary team includes Parks and Recreation and Police. We have successfully worked recently with Seattle City Light regarding vegetation management along the Interurban Trail between 145th and 155th to address similar issues. While we do have some residents who have expressed concerns with the vegetation maintenance (cutting back blackberries/underbrush, removing trees), the City's position remains that safety is a priority for our community.

I want to encourage you to notify the City immediately when you see encampments along the trail, in the park, or in any other area of the city. The City's Encampment Clean-Up Protocol allows staff to remove encampments after 24 hours of posting notice at the site. We hear about encampments from Police and residents. Calling the City's non-emergency line (206-801-2700) or using the [See Click Fix](#) website are two different ways to contact the City about encampments.

As you are aware, the City of Seattle, through Seattle City Light, is managing encroachments on its utility property. The City of Shoreline will continue to monitor the situation and will respond to the changes along the Interurban Trail as needed to continue to address security through CPTED related vegetation maintenance. As the encroachment issues are between Seattle City Light and individual property owners, the City will not be sending Police or other City representatives to a meeting with the City of Seattle to address changes on specific properties.

Thank you again for your email. Let me know if you have any questions, as I would be happy to assist you.

My best,
Christina

Christina Arcidy
Management Analyst, City Manager's Office | City of Shoreline
[17500 Midvale Avenue N, Shoreline, WA 98133](#)

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From: Paul Michel [<mailto:paulmichelsea@gmail.com>]

Sent: Tuesday, October 23, 2018 10:03 AM

To: Bates, Paula C <Paula.Bates@kingcounty.gov>; Ledford, Shawn <Shawn.Ledford@kingcounty.gov>; Corona, Dahlia <Dahlia.Corona@kingcounty.gov>

Cc: Tarry, Debbie <dtarry@shorelinewa.gov>; Norris, John <jnorris@shorelinewa.gov>; shorelineparks@shorelinewa.gov

Subject: Seattle City Light ROW public access program

Hello,

I'm writing to alert you to a very worrisome situation in Shoreline regarding a new push by Seattle City Light to reclaim all of its ROW property to be made available for public access, including homeless encampments. While some SCL representatives strenuously deny that this is the objective of the new program, others are quite vocal about the need to make "surplus" SCL property available for "public use," with a wink and a nod. The "official" reason for this new approach is to enhance utility access, but pressed to defend this SCL admits that utility access is not their driving concern, but rather the elimination of "encroachments" on SCL property.

Many if not most of these "encroachments" are security fences. We, for instance, live adjacent to Echo Lake Park along the Interurban Trail, to which we moved about a year ago. Our fence has been in place since at least 1980, according to aerial photography, and the configuration of our yard and driveway vis-a-vis the ROW has been unchanged since the 1960s or before. SCL is adamant that our fence be removed, and in answer to our security concerns they shrug and say "we *might* let you build a fence immediately outside of you front door," (where no such fence can physically be constructed, and we couldn't afford one in any case), "but that's not out problem, so go sue whoever didn't tell you we own your yard." (There is no mention of SCL's ROW on any deed, title, etc. regarding the property.). asked to defer the fence removal until security issues can be resolved, they simply refuse: "You're lucky we're allowing you driveway access (for a staggering, unprecedented fee), but we might revoke too that if you keep resisting" sort of response.

While our personal issues with SCL are not a police concern, the fence issue is, or should be. As you know, crime along this stretch of the Interurban Trail along Highway 99 is very high, and looks to increase soon when the new residential transition units are constructed. Just yesterday we awoke to two vagrants asleep immediately adjacent to the fence, one an intravenous drug user who later in the day broke into the neighbor's house and car and (we understand) was apprehended with stolen property, leaving a litter of hypodermic needle in the grass. When we moved onto the property there was a homeless encampment on our side of the fence, accessed through a cut hole that we repaired. Encampments, drug use and dealing, violence, prostitution and other criminal activity is rampant in the park, just a few feet from our door, but we have felt in some sense protected by our security fence. The same applies to our neighbors the length of Stone Avenue North by the Trail. Without these fences, we will look out our front doors on what were once safe lawns (and SCL's secure property), but will now be an open invitation to campers, users, vagrants, dealers, pimps, etc. We will live in fear.

Opening additional camping space (in what will be a partially secluded "hidey-hole" sort of area) so close to the Park--and especially to the wooded areas of the Park where much criminal activity occurs--doesn't seem consistent with public safety protection and stewardship of the Park itself.

SCL is vague about the maintenance and security of its newly-reclaimed properties, though they essentially admit that, once open to the public, these ROW areas will no longer be their concern, and any increased crime, maintenance, cleanup, etc. will be the burden of the City of Shoreline and King County.

On behalf of the Echo Lake neighborhood I implore you to get involved in this matter and express directly to SCL and the City of Seattle that the Public Access "Encroachment" Program is an unsound, unsafe idea with regard to community and resident security, and that removal of our existing protections will only exacerbate an already untenable situation.

Please make your views known directly to Pete Holmes, City Attorney, and Steven Karbowski, Assistant City Attorney. SCL personnel have been completely dismissive, to the point of derisive, about our concerns, so we're trying to deal directly with the City of Seattle, though they are becoming entrenched in their position due (apparently) to legal concerns and in-City politicking. (They hope to reclaim as much property before they lose a lawsuit, (that we can't afford to bring) and of course there is well-publicized City in-fighting about the homeless camp issue.)

Perhaps you'd be willing to send a representative to a meeting with the City and residents to address our concerns?

Thanks for your help,

Paul Michel
19541 Stone Ave N
Shoreline, WA 98133
206-478-4511