

Isfeld, Lori

From: Correspondence Group, City Clerk's Office
Sent: Monday, February 22, 2016 9:31 AM
To: Public Hearing
Subject: FW: Public Hearing: First Shaughnessy Heritage Conservation Area: NOT IN SUPPORT OF CHANGES TO STANDARDS AND GUIDELINES IN THE BY-LAW
Attachments: Maddoff Letter to Council HCA.docx

From: Caroline Adderson s.22(1) Personal and Confidential
Sent: Sunday, February 21, 2016 8:25 PM
To: Correspondence Group, City Clerk's Office
Subject: Public Hearing: First Shaughnessy Heritage Conservation Area: NOT IN SUPPORT OF CHANGES TO STANDARDS AND GUIDELINES IN THE BY-LAW

Dear Mayor and Council,

As a speaker at the first public hearing on the establishment of First Shaughnessy as a Heritage Conservation Area -- a much needed and hard-won protection which earned the unanimous support of council -- I am dismayed at the proposal to remove reference to the Parks Canada Standards and Guidelines for the Conservation of Historical Places in the Official Development Plan By-law. The Parks Canada Standards and Guidelines represent a set of conservation principals used by all level of governments across Canada. To remove them from the First Shaughnessy HCA would weaken our first HCA and set a negative precedent for future HCAs. I do not support this change.

Last week I gave a heritage presentation in Victoria in the Craigflower School House (163 years old and going strong). I stayed overnight as a guest of City Councillor Pamela Madoff in her home (131 years old and going strong) in one of Victoria's 11 successful Heritage Conservation Areas. I asked Councillor Madoff, who has more than two decades of experience creating heritage legislation, for her opinion on these proposed changes. In lieu of a personal answer, she supplied me with a letter to forward to you. I have pasted it here, and attach it as well for your convenience.

Last year Vancouver lost 974 livable single family homes and duplexes, an insulting waste as the photos I send to you weekly attest. The HCA in First Shaughnessy was the first important success of the Heritage Action Plan that has otherwise completely failed in its objective to reduce character home demolitions. If you refuse to stand up for your own by-laws now, I have very little hope that the upcoming Character Home Rezoning By-law will have any impact at all. Rampant demolition contradicts every city goal: it is not green, it does not increase affordability or liveability, it destroys greenspace and in many affected areas decreases density. This by-law is crucial to the protection of neighbourhoods from demolition. Please remember your mandate and vote to retain the Parks Canada Standards and Guidelines.

Sincerely,

Caroline Adderson

Pamela Madoff

Councillor
City of Victoria
#1 Centennial Square
Victoria, B.C.
V8W 1P6

February 21, 2016

To whom it may concern:

I write in support of the recent measures taken by Vancouver City Council in creating Vancouver's first Heritage Conservation area, specifically in the Shaughnessy neighbourhood.

As a long-time member of Victoria City Council and the owner of a designated building, located within a Heritage Conservation area, I am very familiar with the Standards and Guidelines for the Conservation of Historic Places in Canada.

As you may be aware Victoria has hundreds of buildings that are identified on a heritage registry or are captured within one of our eleven Heritage Conservation Areas.

My experience would support the statement by Bill Buholzer, a lawyer with expertise in municipal law, that no legal argument can be made for compensation related to properties that are situated in a Heritage Conservation area.

Staff at the City of Vancouver have recommended that the national standards and guidelines be removed from the Heritage Conservation Area as 'they are too complicated for the average person to understand'.

During my 23 years on Victoria City Council I have reviewed hundreds of applications, for both residential and commercial properties, that were considered within the framework provided by the national standards. Some of these applications involved full-scale restoration and rehabilitation while others focused on the consideration of modest additions and rehabilitation of single family dwellings.

Far from finding the standards and guidelines too complicated to understand property owners are guided and supported by clear, transparent, consistent and defensible principles that greatly aid them in carrying out work on their property.

I urge you to support the retention of the guidelines within the framework of the Heritage Conservation Area and would be pleased to share any experience that we have benefited from, in this regard, in the City of Victoria.

Yours respectfully,

Pamela Madoff

Isfeld, Lori

From: Correspondence Group, City Clerk's Office
Sent: Monday, February 22, 2016 9:32 AM
To: Public Hearing
Subject: FW: public hearing Feb 23rd 2016 comments

-----Original Message-----

From: Mitch Taylor s.22(1) Personal and Confidential
Sent: Sunday, February 21, 2016 9:18 PM
To: Correspondence Group, City Clerk's Office
Subject: public hearing Feb 23rd 2016 comments

My name is Mitchell Taylor, my wife Anne Taylor and I reside at s.22(1) Personal and Confidential one of the properties affected by the HCA Bylaws.

We are not in favour of the HCA Bylaws and want to see them quashed. Some of our reasons are listed below. Unfortunately I am travelling on Tuesday and unable to attend the hearing and to speak against the bylaws and the amendments.

We think that the bylaws are in fact illegal and that the current petition to quash the HCA bylaws will eventually be successful. Therefore amending an invalid Bylaw does not cure its invalidity. The original Bylaws are not valid for many reasons, including the City's failure to perform any heritage merit reviews and yet we all know there are many houses in this area that do not merit heritage designation.

In any event, the proposed amendments do not address many of the oppressive provisions in the original Bylaws, like no access to the Board of Variance, and a property owner's ability to demolish or renovate his or her home is still severely limited or eliminated.

There is still no compensation for owners who suffer losses because of the HCA Bylaws.

There is still a system of severe punishments. (Up to \$50,000 fine and two years imprisonment for breaching certain aspects of the Bylaws)

There are many other violations of the rights of private property owners in this scheme.

We feel we must add our names to the list of homeowners who oppose this draconian HCA Bylaw and its proposed amendments.

Mitch Taylor s.22(1) Personal and Confidential Vancouver BC

Isfeld, Lori

From: Correspondence Group, City Clerk's Office
Sent: Monday, February 22, 2016 10:43 AM
To: Public Hearing
Subject: FW: First Shaughnessy HCA

-----Original Message-----

From: Frank Bailly s.22(1) Personal and Confidential
Sent: Monday, February 22, 2016 10:03 AM
To: Correspondence Group, City Clerk's Office
Subject: First Shaughnessy HCA

Dear Council Members

My family and I have lived in First Shaughnessy for nearly 29 years and have always loved the neighbourhood . But we are collectively very disturbed by the recent attempts to reclassify the area to Heritage Conservation. We find the arguments to reclassify to be full of inaccuracies and bias and will impede those affected both financially and being able to utilize their property to its best use. We therefore once again would like to state that we are opposed to the proposals as they stand and hope you reconsider before you degrade the area with what is now being put forward.

Yours truly

Frank and Pearl Bailly

s.22(1) Personal and Confidential

Sent from my iPad

Isfeld, Lori

From: Correspondence Group, City Clerk's Office
Sent: Monday, February 22, 2016 11:35 AM
To: Public Hearing
Subject: FW: First Shaughnessy HCA
Attachments: Letter to Mayor and Council re HCA bylaws.docx

From: Richard Sirola 5.22(1) Personal and Confidential
Sent: Monday, February 22, 2016 11:20 AM
To: Correspondence Group, City Clerk's Office
Subject: First Shaughnessy HCA

Please submit the attached letter to the Mayor and Council for consideration at the public hearing scheduled for February 23, 2016. Thank you.

Richard Sirola

To Mayor and Council

Re: First Shaughnessy HCA

My name is Richard Sirola and I am a resident of First Shaughnessy and live in a pre 1940 home. I am in strong opposition to the HCA bylaws and proposed amendments.

My background is real estate finance and over my 37 year career I provided financing totaling nearly 4 billion dollars. As such, I have an extensive knowledge of property valuation and the significant effect, both positive and negative, of bylaws on property values. I can state unequivocally that any bylaw that negatively impacts a property will result in diminished value. This is certainly the case with the pre 1940 homes in First Shaughnessy.

The City has chosen to designate all pre 1940 homes in First Shaughnessy as heritage based on the recommendations contained in the Luxton report. No inspections were made of these homes to actually determine if they are architecturally meritorious and should be designated as heritage. It is merely a blanket designation. Accordingly, the Luxton report has little or no value and should not have been the impetus for HCA bylaws.

This has resulted in bylaws that are invalid as a whole and should be repealed. Amendments to invalid bylaws do not cure the invalidity of the bylaws. Furthermore, the amended bylaws do not address many of the excessive provisions of the original bylaws. For example, the City has placed the full cost of a heritage review and any conservation required onto the homeowner if they wish to prove that their homes have no heritage value and should not be subject to the HCA bylaws. Many homeowners simply do not have the resources to undertake this process. While the City has stated that it was too expensive to undertake an individual review of all the pre 1940 homes in First Shaughnessy (approximately 317 homes) they have no compunction about passing this cost onto the individual homeowners. Without a full heritage review, it is impossible for homeowners to know with certainty if their properties are architecturally meritorious and should or should not be designated as heritage. This creates uncertainty and the market does not respond positively to uncertainty.

Additionally, the amendments to the bylaws do little or nothing to allow the homeowners of heritage designated properties to demolish or renovate their homes. This is a severe limitation on the homeowner's property rights and has a significant negative impact on values and the desirability of pre 1940 homes in the market.

The amendments to the bylaws do not provide for any compensation to the homeowners who suffer losses in value to their property as a result of the HCA bylaws. Unlike the effected homeowners, The City enjoys the benefit of any heritage conservation. The market is providing compelling evidence that there are real and significant losses in value as a result of the HCA bylaws.

The amendments do nothing to reduce the magnitude of punishment for breaching certain aspects of the bylaws. This punishment provides for up to a \$50,000 fine and two years imprisonment.

The City can also still require a homeowner to put up cash or a Letter of Credit equivalent to 120% of the estimated cost of work required as a condition of issuing a heritage alteration permit.

The proposed amendments do not address the numerous other violations to the rights of the effected property owners.

Both the HCA bylaws and the proposed amendments are inappropriate, unfair and invalid and should be repealed.

Isfeld, Lori

From: Correspondence Group, City Clerk's Office
Sent: Monday, February 22, 2016 3:00 PM
To: Public Hearing
Subject: FW: Fourth letter to Mayor Robertson and Vancouver City Council re First Shaughnessy HCA

From: Bryan McKnight s.22(1) Personal and Confidential
Sent: Monday, February 22, 2016 2:38 PM
To: Correspondence Group, City Clerk's Office
Subject: Fourth letter to Mayor Robertson and Vancouver City Council re First Shaughnessy HCA

Mayor Robertson and Councillors -

My wife and I have lived in and looked after our pre 1940 house in First Shaughnessy for the past 27 years. The HCA initiative continues to be a very unwelcome and stressful intrusion into our lives. We feel that many of our fundamental property rights have simply been confiscated by the City. And we completely disagree with the City's inexplicable comfort level with putting the entire financial burden of heritage preservation in First Shaughnessy on the current generation of owners of the 317 pre 1940 properties.

I've written three long letters setting out in some detail our serious concerns over the heavy handed and rushed way this has been handled by the City, and the deeply unfair results. And I've used my five minutes at each of the hearings to try to explain further why we and so many of the homeowners in our neighbourhood think this whole concept is wrong-headed. I also attended the September 29 Council meeting, heard the brief, superficial discussion, and watched the 9-0 vote in favour of the HCA and all of the restrictive, ambiguous and threatening by-laws that go with it. It was as if all the letters and presentations by the affected pre 1940 homeowners over three long public hearings had never happened. We do not feel that our fundamental property ownership rights and our views have been respected at all during this process. The City has rushed headlong towards its objective and its self-imposed deadline with its fingers stuck firmly in its ears. Like many people told us at the beginning, the sweeping HCA really was a fait accompli when we first heard anything about it. We were naive to have had faith in an objective process.

We're now left with an unfair, ill-conceived scheme for First Shaughnessy. And the city trying to put a few patches on the gushing leaks of a very badly flawed flood of demanding, confusing, property rights stealing, and controlling legislation. My letters to Council of July 20, July 27 and September 14 are on record and still reflect our views - I will not repeat all of that here.

We believe that the September 29 HCA by-laws are invalid. A principal reason is the City's failure to perform any review of the heritage merits of the 317 pre 1940 properties before designating all of them as protected heritage properties. Also, the city conducted no negotiations with the owners and is offering no compensation for the loss in the value of our properties caused by the severe restrictions imposed by the HCA. Amending an invalid by-law doesn't cure its invalidity.

Putting that fundamental issue of validity of the by-laws aside for a minute, there are many areas of the amended by-laws/regulations that we take fundamental issue with. Here are just a few;

- the amended by-laws are still convoluted and extremely confusing in many areas - for example, what you can and can't do without a Heritage Alteration Permit, say in your front yard. I called City Hall with some specific questions
- for example, could I remove an 18 inch hedge that we planted in the front yard about 20 years ago. To all of my

questions, I got 'maybes, probablys and perhaps'. I find that it's still very unclear as to when you need to apply for a Heritage Alteration Permit. And the stakes are high if you get this wrong!

- Section 606 of the Vancouver Charter says that a person who does anything requiring a Heritage Alteration Permit without obtaining one, or doesn't comply with the terms of the permit is "liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than two years, or to both". This is absolutely ridiculous and unacceptable!!! We've looked after our place just fine for 27 years. Now our own city forces lengthy volumes of awkwardly worded, confusing and ambiguous legislation on us and threatens to put us in jail if we slip up and don't follow it to the letter. You almost need to be a lawyer to figure out what new legislation and guidelines we now have to follow. Actually reading and trying to understand all of it is even worse. How did Planning have a second look at this and decide to continue to threaten us with jail for not being able to fathom these circuitous and bizarre by-laws?? Does Council understand that we're being threatened with jail time? And how would other citizens feel about being subjected to this?

- under 4.7 of the Heritage Procedure By-Law, the Director of Planning may require a security deposit of 120% of the value of work authorized under a Heritage Alteration Permit. Another blunt instrument of really punitive control!

'Loss of market interest' in pre 1940 houses in First Shaughnessy

There was a great deal of discussion over the summer, as the HCA process ground on, about the negative impact of the HCA on the value of pre 1940 properties. Coriolis described the 'loss of market interest' factor resulting mainly from the inability to demolish and build new but also from the sea of other restrictions. A large part of the market is not interested in a 100 year old wooden house that has to be preserved forever amid the very restrictive, overbearing new by-laws administered by a city which is trying to be the greenest in the world. Houses full of asbestos and knob and tube wiring, and with under-height basements and obsolete layouts that don't suit today's expectations. Coriolis acknowledged that it's significantly more expensive to renovate one of these old houses, with all that that entails, than it is to demolish it and build exactly what you want brand new. And the market has a strong preference for new. Notwithstanding anyone's personal views on heritage preservation, the HCA does cause major value destruction!

The passage of time is helping to crystallize this fact. I've reviewed all of the sales in First Shaughnessy in 2015 and up to date. The ones up to September were detailed in a schedule tabled with Council in the September 15 hearing material. That showed that lots available for building (post 1940 demo candidates) were selling at a significant premium per square foot of land over similar lots containing unrestored pre 1940 houses.

There haven't been a lot of sale transactions in First Shaughnessy since then, perhaps for obvious reasons. But here are a few interesting more recent sales;

Post 1940 teardowns;

- 3775 Angus - sold October/15 - 11,078 sq ft, \$614 per square foot of land. Sale \$6,800,000, assessed by BC Assessment at \$5,667,400 (assessments as shown on BC Assessment EValue website)
- 2003 West 19th - sold February/16 - 11,564 sq ft, \$523 per square foot of land - poor lot, poor location. Sale \$6,050,000, assessed by BC Assessment at \$5,195,200

These are teardowns (house value assessed as nominal). **Weighted average sale price per square foot - \$568 per foot of land. Sold 18.3% in aggregate above assessment.** Both sold quickly.

Pre 1940 unrestored;

- 1947 West 19th - sold September/15 - 12,500 sq ft, \$430 per square foot of land. Sale \$5,380,000, assessed by BC Assessment at \$5,680,000

- 1961 Cedar - sold October/15 - 15,650 sq ft, \$319 (triangular lot, adjusted up to \$387 using BC Assessment's 17.5% discount factor re this triangular lot) per square foot of land. Sale \$5,000,000, assessed by BC Assessment at \$5,756,500

Both pre 1940 properties are nice lots but are severely constrained by pre 1940 houses. **Weighted average sale price per foot - \$406 (including 1961 Cedar adjusted up by 17.5%) per square foot of land. Sold 9.2% less in aggregate than assessment.** Both sold slowly.

The lower value for the latter group has to be due to the presence of an old house which can't be demolished! And the differences in sale prices from the assessments in both groups clearly show the value trends.

This is not even mentioning 1799 Cedar which sold in November for \$468 per foot of land, including a fully restored gorgeous pre 1940 house assessed at \$1,240,000 on its own. This house sold for \$5,850,000 which was **\$1,270,000 (17.6%) less than the BC Assessment value.**

It's very clear that a lot with an unrestored pre 1940 house on it is worth MUCH less than the same lot with no house or one that can be demolished.

The discussion of value impact shouldn't be clouded by personal opinions on heritage preservation, or whether you think the HCA is a good thing or a bad thing. It's simply about the fact of the materially significant negative impact of the restrictions imposed by the HCA on the desirability of pre 1940 houses to the market, and therefore on the market value of our properties. There is undeniably a significant loss in value. A very valid question is - If the city imposes this on the homeowners, who should pay?

The city is on record as saying "If the city were exposed to compensation claims in connection with the preservation of the heritage value and character of the landscape and architectural features of the FSD, staff and/or Council may well have concluded that the City simply could not afford such protection". Since the City of Vancouver, with all of its resources, can't afford it, Planning and Council apparently think they'll just impose the enormous cost on the 317 homeowners. Council, on behalf of the City, apparently wants an HCA in First Shaughnessy, with all 317 pre 1940 properties designated as protected heritage properties. We homeowners didn't ask for this, and all but a few of us who have spoken have said we don't want what the City has imposed. The City should either pay for the implementation of its idea or conclude that blanket designation of 317 pre 1940 properties is not feasible because it can't afford the cost to implement it. By refusing to provide compensation, the City has arbitrarily taken enormous value away from individual homeowners while appropriating for itself the benefit of heritage conservation. Why does Planning or Council or anyone else think that is fair to the homeowners??

Clearly, there are worthy heritage houses that warrant protection in First Shaughnessy, as there are in other areas of the city. But certainly not all 317 pre 1940 houses in First Shaughnessy and, relatively, virtually none in the rest of the residential areas of the city. Under the Vancouver Charter, the process for designating a **single** property as heritage protected involves a thorough and careful evaluation of the heritage value and qualities, and the condition and economic viability of the individual property, discussion with the individual owner, and compensation to the owner for any loss in value if the property is designated against his wishes. None of that happened in the First Shaughnessy bulk designation HCA process. And I think that, along with the continuing one-sided, onerous requirements and threats in the detailed by-laws themselves, is what has caused so many strong objections throughout the process!

Thank you for reading this.

Sincerely,

Bryan McKnight

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Confidential