



SPECIAL COUNCIL MEETING MINUTES

OCTOBER 19, 2017

A Special Meeting of the Council of the City of Vancouver was held on Thursday, October 19, 2017, at 2:05 pm, in the Council Chamber, Third Floor, City Hall, for the purpose of hearing a Land Averaging Appeal pursuant to Section 9 of By-Law No. 11759, the 2017 Land Assessment Averaging By-law.

PRESENT: Acting Mayor Raymond Louie
Councillor George Affleck
Councillor Adriane Carr
Councillor Heather Deal
Councillor Kerry Jang
Councillor Andrea Reimer
Councillor Tim Stevenson

ABSENT: Mayor Gregor Robertson
Councillor Elizabeth Ball (Medical Leave)
Councillor Melissa De Genova (Medical Leave)

CITY CLERK'S OFFICE: Tina Hildebrandt, Meeting Coordinator

COURT OF REVISION

MOVED by Councillor Stevenson
SECONDED by Councillor Carr

THAT this Council resolve itself into a Court of Revision for the purpose of hearing a Land Averaging Appeal pursuant to Section 9 of By-Law No. 11759, the 2017 Land Assessment Averaging By-law, Acting Mayor Louie in the Chair.

CARRIED UNANIMOUSLY

2017 Land Averaging Appeal

1. 1019 Nelson Street, Vancouver, BC (Owner: First Baptist Church of Vancouver)
Roll# 027-606-119-57-0000 / 027-606-119-65-0000

The Court of Revision had before it for consideration a brief prepared by the City of Vancouver's Legal Department, which contained the following material, and two Case Summaries: Canada Trustco Mortgage Co. v. Canada, and 65302 British Columbia Ltd. v. Canada (*on file in the City Clerk's Office*):

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Tab	Description
1.	Administrative Report dated February 28, 2017 re: 2017 Property Taxation: Targeted Land Assessment Averaging
2.	2017 Averaging Review Request Form from Bruce Evans-Atkinson, agent to the First Baptist Church of Vancouver, Owner of 1019 Nelson Street, dated July 25, 2017
3.	Letter from Marty Radakovich of the City of Vancouver to B. Evans-Atkinson, dated August 1, 2017
4.	Letter from B. Evans-Atkinson to Court of Revision [undated]
5.	Emails between BC Assessment and M. Radakovich, September 12 to October 2, 2017
6.	Table of First Baptist Property Tax Savings 2010 - 2017
7.	A. Section 374.4 of the <i>Vancouver Charter</i> , S.C.B. 1953, c. 55 B. Section 513.1 of the <i>Vancouver Charter</i>
8.	<i>City of Vancouver By-law No. 11759 - A By-law to Average Land Assessments for 2017</i>

The Court of Revision also had before it the following two submissions from the agent on behalf of the Appellant, First Baptist Church of Vancouver (*on file in the City Clerk's Office*):

- Rebuttal to City of Vancouver "Book of Evidence"; and
- Case Summary: Assessor of Area No. 09 v. AlSCO Canada Corp.

Iain Dixon, Assistant Director - Regulatory Litigation, Legal Department, and Marty Radakovich, Deputy Collector of Taxes, Finance, Risk and Supply Chain Management, were present on behalf of the City of Vancouver (the City). Paul Sullivan and Bruce Evans-Atkinson, both of Burgess, Cawley, Sullivan & Associates Ltd., were present as agent on behalf of the Appellant. Steven Milos, Treasurer, First Baptist Church of Vancouver, was also present on behalf of the Appellant.

Mr. Dixon provided an overview of the Land Averaging Appeal process pursuant to Section 9 of By-Law No. 11759, the 2017 Land Assessment Averaging By-law, and Council's role sitting as a Court of Revision pursuant to Section 10 of the By-law. Mr. Dixon advised that this was an appeal which alleged an error by the Collector of Taxes in the application of the Land Averaging By-law to the property set out in the agenda. He added that the role of the Court of Revision in this case was to determine whether the By-law had been appropriately applied to the property and whether the appeal should be allowed or dismissed.

Mr. Sullivan submitted that there was no change to the classification of the property from Class 1 to Class 6, as there had been no change in property use or zoning, but rather there was a correction and, therefore, removal of the property from land averaging was an error which produced an 'absurd' result, adding the property taxes increased from \$9,000 to \$284,000 or 3,155%. He noted the massive increase in the Appellant's property value was due to the City adopting the West End Plan, however, with the exception of the Appellant's property, all other affected properties remained under land averaging.

Mr. Sullivan referred to Case Summary: Assessor of Area No. 09 v. AlSCO Canada Corp., Section 42, to demonstrate the fact that the 3,155% tax increase produced an absurd consequence for the Appellant. He also referred to Appendix A, page 4 of the staff report contained in the City's evidence brief under Tab 1, noting he had never encountered a tribunal that ruled against the taxpayer in every case since its legislation began.

Mr. Radakovich presented the City's position along with Mr. Dixon and responded to questions.

Mr. Evans-Atkinson referred to the City's evidence brief, in his review of the legislation and taxation related to the property, and reiterated Mr. Sullivan's argument that there was no change to the classification of the property from Class 1 to Class 6.

Mr. Evans-Atkinson responded to questions.

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The Court of Revision recessed at 3:03 pm, and reconvened at 3:08 pm.

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Note: During the recess, Mr. Sullivan left the Court of Revision.

Mr. Milos provided clarification on the evidence put forth by the City in relation to the property use, noting the property is no longer being used for public parking. He also reviewed the impacts the tax increase would have on the Church's ability to serve the community.

Mr. Milos responded to questions.

In closing, Mr. Dixon referred to Case Summaries: Canada Trustco Mortgage Co. v. Canada, and 65302 British Columbia Ltd. v. Canada, which both dealt with legislative interpretation, and reminded the Court of Revision that its role was to determine whether the By-law was appropriately applied to the property and whether the appeal should be allowed or dismissed.

Mr. Dixon responded to questions.

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The Court of Revision recessed at 3:48 pm, and reconvened at 3:53 pm.

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Mr. Evans-Atkinson, in his closing summation, felt the Court of Revision had the power to address this matter and that Council could request the By-law be rewritten when it comes forward in 2018. He asked that, of all the appeals the City has had on land assessment averaging over the years, the Court of Revision reconsider and support this appeal.

Decision

MOVED by Councillor Reimer
SECONDED by Councillor Jang

THAT Vancouver City Council dismiss the Land Averaging Appeal from the First Baptist Church of Vancouver for the property located at 1019 Nelson Street, Vancouver, BC, as there has been no error demonstrated in the application of By-Law No. 11759, the 2017 Land Assessment Averaging By-law.

CARRIED UNANIMOUSLY (Vote No. 02267)

RISE FROM COURT OF REVISION

MOVED by Councillor Stevenson
SECONDED by Councillor Deal

THAT the Court of Revision rise and report.

CARRIED UNANIMOUSLY

ADOPT REPORT OF COURT OF REVISION

MOVED by Councillor Stevenson
SECONDED by Councillor Jang

THAT the report of the Court of Revision be adopted.

CARRIED UNANIMOUSLY

ADJOURNMENT

MOVED by Councillor Reimer
SECONDED by Councillor Jang

THAT the meeting be adjourned.

CARRIED UNANIMOUSLY

The Special Council adjourned at 4:10 pm.

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