



## CITY OF VANCOUVER

### Administrative Report

Date: August 19, 2005  
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Meeting Date: September 13, 2005

TO: Vancouver City Council

FROM: General Manager of Engineering Services in Consultation with  
Manager of Real Estate Services and Director of Legal Services

SUBJECT: Woodward's Building Redevelopment Areaways and Tunnel  
Decommissioning Proposed Amendment to Deadline Dates

#### RECOMMENDATION

**THAT Council authorize the Director of Legal Services to enter into an Amending Agreement with the owner of the Woodward's Site at 101 West Hastings Street to extend the deadline for decommissioning of, and waiving of the annual fees for, the Areaways and Tunnel adjacent to the Woodward's Site under the Areaways and Tunnel Contract (registered on title to the Woodward's Site under numbers BR83600 and BR83601) for a further 5 years ending on November 30, 2010.**

#### COUNCIL POLICY

There is no Council policy directly related to this matter.

The Encroachment By-Law establishes fees to be charged for encroachments, and a requirement for cancellation provisions, but does not establish criteria for setting aside fees.

On March 8, 2001 Council authorized the Director of Legal Services to enter into an agreement with the then owner of the Woodward's Site, for suspension of annual fees and for decommissioning of the Areaways and the Tunnel.

On January 7, 1999 Council approved the recommendations in a report from the General Manager of Engineering Services to:

1. forgive the Woodward's owner (then Fama Holdings Ltd.) the annual fees for encroaching elements from the Woodward's Building including the Areaways and the Tunnel on certain conditions; and
2. achieve elimination (decommissioning) of the Areaways and the Tunnel by November 30, 2000.

## **PURPOSE**

The purpose of this report is to obtain Council authority to extend the "Deadline" for decommissioning of the Areaways and the Tunnel, at the Woodward's Site to November 30, 2010.

## **BACKGROUND**

On March 12, 2003 the City became the owner of (PID: 024-317-560) Lot E, Block 4, Old Granville Townsite, New Westminster District, Plan LMP40092 (the "Woodward's Site") acquiring title from the Provincial Rental Housing Corporation ("PRHC"). In acquiring the Woodward's Site the City, as owner inherited a number of contractual obligations.

In particular the Woodward's Site is encumbered with charges BR83600 and BR83601, being a contract (the "Areaways and Tunnel Contract") that sets out requirements for the decommissioning and removal of:

1. cavities under the sidewalk and lane situated on the south side of Cordova Street, the west side of Abbott Street, the north side of Hastings Street and in the lane running south from Cordova Street, having a total of 6,693 square feet, being the "Areaways" as described in Easement and Indemnity Agreement 552761M registered on April 14, 1972; and
2. a tunnel under and across Cordova Street, west of Abbott Street occupying a total of 1,518 square feet, being the "Tunnel" as described in Easement and Indemnity Agreement B2872 registered on January 15, 1974.

Previously Council, on January 7, 1999 had approved a report from the General Manager of Engineering Services in consultation with the Director of Legal Services and the Manager of Real Estate Services that recommended the annual rentals for the Areaways and Tunnel be forgiven subject to certain conditions including that the Areaways and the Tunnel be decommissioned (filled and sealed) prior to November 30, 2000. If not, all annual fees from December 12, 1995 to November 30, 2000 would be considered due and payable.

By 2001 PRHC had achieved an interim agreement to purchase the Woodward's Site. They requested that the City further forgive the outstanding fees for the Areaways and the Tunnel and that they be given until November 30, 2005 to complete the decommissioning.

On March 8, 2001, Council authorized the Director of Legal Services to enter into an agreement with PRHC requiring that the Areaways and Tunnel be decommissioned by November 30, 2005 and in accordance with that authorization the Areaways and Tunnel Contract was registered on title to the Woodward's Site under numbers BR83600 and BR83601.

The general terms of the Areaways and Tunnel Contract include:

1. The City forego annual fees due and owing for the Areaways and the Tunnel for the years 1996 and following to the "Deadline";
2. "Deadline" to mean November 30, 2005;
3. That the Woodward's owner decommission the Areaways and the Tunnel by the Deadline;
4. If the Woodward's owner does not decommission the Areaways and Tunnel by the Deadline, the Woodward's owner will pay to the City the aggregate of all annual fees then due and owing by the Woodward's owner to the City pursuant to the Areaways Easement, the Tunnel Easement and the Encroachment By-Law.

#### **DISCUSSION**

With the City acquisition of the Woodward's Site the City is currently responsible for the decommissioning of the Areaways and the Tunnel. On the sale of the Woodward's Site to the developer selected by the City to complete the redevelopment, the new owner will be responsible for decommissioning the Areaways and the Tunnel.

The development schedule indicates that a change of the "drop dead" date of November 30, 2005 to November 30, 2010 leaves more than sufficient time for the work to be completed.

#### **CONCLUSION**

The General Manager of Engineering Services in consultation with the Manager of Real Estate Services and the Director of Legal Services recommends Council approve the recommendation.

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