



CITY OF VANCOUVER

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### ADMINISTRATIVE REPORT

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TO: Vancouver City Council

FROM: The Director of the Housing Centre in consultation with the Director of Legal Services

SUBJECT: Legal Agreements for Air Space Parcel to be Acquired by the City at 788 Richards Street

#### RECOMMENDATION

- A. THAT, subject to Recommendation B, Council approve the entering into of legal agreements by the City related to reciprocal easements, indemnities and other legal obligations appropriate to be implemented in connection with the acquisition and operation of an air space parcel by the City at 788 Richards Street; and
- B. THAT the Director of Legal Services be authorized to execute and deliver on behalf of the City all legal documents required to implement Recommendation A, and that all such documents be on terms and conditions satisfactory to the Director of Legal Services.

#### CITY MANAGER'S COMMENTS

The City Manager RECOMMENDS approval of A and B.

#### COUNCIL POLICY

Council approval is required before the Director of Legal Services can execute legal documents on behalf of the City which contain indemnities, unless Council has specifically delegated the authority to the Director of Legal Services.

## **AIR SPACE PARCEL SUBDIVISIONS**

Air space parcel subdivisions allow for separate ownerships within a single building. They involve the creation of volumetric parcels out of a single site, each with its own title, and are increasingly common for multiple use buildings, for example a building that consists of commercial and residential components each of which would occupy a separate air space parcel.

As a condition of approving an air space subdivision, the City's Approving Officer, for Building By-Law compliance and other reasons, requires that a variety of reciprocal easements be entered into among the various parcel owners to provide for pedestrian and vehicular access and egress, for provision of utilities and other services, for support, maintenance, and repairs, etc. It is also the norm for the developer, upon air space parcel subdivision and before transferring ownership of any of the parcels, to include in such agreements reciprocal or joint insurance obligations, cost sharing arrangements for common costs, and provisions to ensure compliance with such obligations in the form of indemnities and equitable charges. Accordingly, upon the City becoming the registered owner of an air space parcel in such a development, the City would become bound by those obligations and agreements in the same manner as all the other owners.

Staff is of the opinion that these are appropriate relations for the ownership and management of air space parcels, and are the most effective and efficient way to ensure ongoing co-operation and accountability among the various owners, one or more of which will often become strata corporations comprised in turn of numerous individual strata lot owners.

## **788 RICHARDS STREET**

On September 5, 2004, Council approved the purchase of an air space parcel to be developed as part of the "L'Hermitage" development at 788 Richards Street (Richards and Robson). "L'Hermitage" is a 29 storey mixed use development that will be subdivided by means of an air space parcel plan to contain four air space parcels and a remainder parcel. The air space parcel to be purchased by the City will consist of 46 studio units that replace 43 Single Room Accommodation units (the Passlin Hotel) that previously occupied the north end of the site. The replacement units will be operated as affordable housing for low income singles living in Downtown South. The "L'Hermitage" project is nearing completion with occupancy expected in the spring. Approval of the air space parcel subdivision is expected shortly and the reciprocal easements, indemnities and related legal agreements are being finalized and will soon be ready for execution.

Approval of the recommendation to provide the Director of Legal Services with the authority to execute appropriate air space parcel related legal agreements will allow the City to take possession of the affordable housing air space parcel in L'Hermitage. The lease to Coast Foundation, who will operate the affordable housing component, would then be registered, allowing the future residents to move in once an occupancy permit is issued.

## **FINANCIAL IMPLICATIONS**

Reciprocal Easement Agreements and related air space parcel agreements necessarily have financial implications, such as cost sharing related to parking, window washing, security,

insurance, etc. which will apply equally to each owner of a parcel after air space subdivision, and which will be divided on a proportional and equitable basis. These are costs that the project would have to bear whether an air space parcel or not, and it is appropriate for the City to assume its share of these costs as an air space owner. Coast Foundation as the lessee of the City's air space parcel will assume the City's obligations and be responsible for the on-going costs related to the air space agreements.

## CONCLUSION

The rights and obligations which the City would acquire by becoming a party to a Reciprocal Easement Agreement and any related agreements, along with the owners of the other air space parcels and the remainder at 788 Richards Street, are standard rights and obligations of air space owners. These agreements are appropriate to implement Council's decision to acquire an air space parcel at that address. Accordingly, it is recommended that Council provide the Director of Legal Services with the authority to execute a Reciprocal Easement Agreement and any related legal agreements in respect of 788 Richards Street, including such indemnities and equitable charges as the Director of Legal Services may deem appropriate in the circumstances, all on such terms and conditions as the Director of Legal Services is satisfied appropriately protect the City's interests.

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