

REPORT TO COUNCIL
SPECIAL COUNCIL MEETING MINUTES

OCTOBER 21, 2009

A Special Meeting of the Council of the City of Vancouver was held on Wednesday, October 21, 2009, at 2:08 p.m., in the Council Chamber, Third Floor, City Hall.

- PRESENT:** Councillor George Chow, Acting Chair
Councillor Suzanne Anton
Councillor David Cadman
Councillor Kerry Jang*
Councillor Geoff Meggs
Councillor Andrea Reimer
Councillor Tim Stevenson
Councillor Ellen Woodsworth
- ABSENT:** Mayor Gregor Robertson (Leave of Absence - Civic Business)
Councillor Heather Deal (Leave of Absence - Civic Business)
Councillor Raymond Louie (Leave of Absence - Civic Business)
- CITY MANAGER'S OFFICE:** Ken Bayne, General Manager, Business Planning and Services
- CITY CLERK'S OFFICE:** Pat Boomhower, Meeting Coordinator

* Denotes absence for a portion of the meeting.

COURT OF REVISION

MOVED by Councillor Cadman
SECONDED by Councillor Jang

THAT this Council resolve itself into a Court of Revision for the purpose of hearing a Land Averaging Appeal, Councillor Chow in the Chair.

CARRIED UNANIMOUSLY

1. Averaging Appeal for 856 Homer Street

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 as well as an area map of 856 Homer Street, also known as "Lot B" in some materials (*on file in the City Clerk's Office*).

Tab

1. Letter from City of Vancouver Financial Services Group of August 24, 2009
2. Fax Memo from BCS Property TaxCo of August 28, 2009
3. Exchange of emails between June 16, 2009 and September 29, 2009
4. Letter from City of Vancouver Financial Services Group of October 14, 2009
5. By-Law No. 9822

Circulated at the meeting was a brief by Burgess, Cawley, Sullivan & Associates on behalf of the Appellant (*on file in the City Clerk's Office*).

Iain Dixon, Legal Services, and Ken Bayne, Business Planning and Services, were present on behalf of the City of Vancouver. Paul Sullivan, Burgess, Cawley, Sullivan & Associates, was present on behalf of the Appellant, Wentworth Properties Inc.

Mr. Dixon provided an overview of the Land Averaging Appeal process, reviewed the By-law (No. 9822) and provided a summary of facts related to the Averaging Appeal for 856 Homer Street. He explained this is an appeal seeking an exemption from the By-law and the issue before the Court of Revision is whether the By-law has been appropriately applied to the site at 856 Homer Street.

Mr. Dixon responded to questions.

Mr. Sullivan submitted that 856 Homer Street has had a change in zoning and therefore should be exempted from assessment averaging under Section 3(a) and (b) of By-law No. 9822. He described the change in assessed value from 2008 to 2009 for both 856 and 888 Homer Street, and explained that the Single Site Covenant for 888 Homer Street restricted both properties to a different use and treats both as one site. Mr. Sullivan submitted that this creates change in the zoning of 856 Homer Street and therefore it is exempt from the By-law. In addition, Mr. Sullivan suggested that the Single Site Covenant is a de facto consolidation of 856 and 888 Homer Street, which would also be exempt from the By-law.

Mr. Sullivan responded to questions.

Ken Bayne, General Manager, Business Planning and Services, explained the City's interpretation of the Land Averaging By-law and why averaging is used. Mr. Bayne noted the City does not control the assessment and the tax consequences are incidental to this appeal. Mr. Bayne submitted that although the covenant agreement restricts the site, the zoning has not changed and it remains as zoning district C3. In addition, although the owners chose to cooperate on the commercial arrangement, 856 and 888 Homer Street are independent sites, separately registered on land titles and on separate tax bills.

In closing, Mr. Bayne highlighted reasons why staff determined averaging was appropriate in this circumstance, and advised the land averaging program is revenue neutral, and the Court of Revision is to decide whether there was a zoning change.

Mr. Bayne responded to questions related to averaging.

Mr. Dixon reiterated the Court of Revision's role to decide whether the interpretation of the By-law to Average Land Assessments for 2009 has been appropriately applied to the site 856 Homer Street, and noted hardship is not a case to be considered here.

Mr. Dixon responded to further questions.

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Council recessed for three minutes at 3:48 pm and reconvened with the same members present except for Councillor Jang who was absent for the remainder of the meeting.

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Mr. Sullivan submitted the covenant makes reference to zoning district, and noted a change in density constitutes a change in zoning.

Council members noted that although there was potential negative impact on tenants, the landlord was entitled to do the transaction. Councillors discussed whether there was no change in zoning, and cited view corridors as an example which affect zoning but does not take a property in and out of land averaging.

MOVED by Councillor Reimer
NOT SECONDED

THAT Council accept the appeal to allow an exemption from the Land Averaging By-law (No. 9822) for 2009 for the property known as 856 Homer Street in the City of Vancouver.

not put

The Motion having not received a Seconder was not put to vote.

MOVED by Councillor Meggs
SECONDED by Councillor Cadman

THAT Council dismiss the Land Averaging Appeal for an exemption from the Land Averaging By-law (No. 9822) for 2009 for the property known as 856 Homer Street in the City of Vancouver.

CARRIED
(Councillor Reimer opposed)
(Councillor Jang absent for the vote)

RISE FROM COURT OF REVISION

MOVED by Councillor Stevenson
SECONDED by Councillor Cadman

THAT the Court of Revision rise and report.

CARRIED UNANIMOUSLY
(Councillor Jang absent for the vote)

ADOPT REPORT OF THE COURT OF REVISION

MOVED by Councillor Stevenson
SECONDED by Councillor Cadman

THAT the report of the Court of Revision be adopted.

CARRIED UNANIMOUSLY
(Councillor Jang absent for the vote)

MOVED by Councillor Stevenson
SECONDED by Councillor Cadman

THAT this meeting of Council be adjourned.

CARRIED UNANIMOUSLY
(Councillor Jang absent for the vote)

The Special Council adjourned at 4:12 pm.

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