



IN CAMERA

ADMINISTRATIVE REPORT

Report Date: December 2, 2009
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Meeting Date: December 3, 2009

TO: Vancouver City Council
FROM: Director of Legal Services
SUBJECT: Temporary Delegation of Authority to City Manager to Seek Injunctions

IN CAMERA RATIONALE

This report is recommended for consideration by Council in the In Camera agenda as it relates to Section 165.2(1) of the *Vancouver Charter*:

- (g) litigation or potential litigation affecting the city; and
- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

RECOMMENDATION

THAT Council temporarily delegate to the City Manager the authority to instruct the Director of Legal Services to commence, in her discretion, legal proceedings to enforce city by-laws and rights, including proprietary rights, and to seek injunctive relief and give undertakings as to damages, in her discretion, as part of those proceedings. This delegation is to be in effect only between February 1 and 28, 2010 and between March 12 and 21, 2010.

Delegation of executive or administrative power requires eight (8) affirmative votes.

CITY MANAGER'S COMMENTS

The City Manager recommends the approval of the foregoing.

COUNCIL POLICY Section 334 of the *Vancouver Charter* allows the city to seek injunctive relief for any by-law contravention. Under normal circumstances, instructions to commence a proceeding and to seek injunctive relief are given to the Director of Legal Services by Council.

Section 161 of the *Vancouver Charter* allows Council, by a vote of not less than two-thirds of its members, to delegate any of the executive or administrative powers exercisable by the Council to an employee of the city.

PURPOSE

The purpose of this report is to seek temporary delegation of authority to the City Manager for the purposes of efficient enforcement of by-laws and other city rights during the Games.

BACKGROUND

The city regularly relies on the power to seek an injunction to enforce compliance with city by-laws. Most commonly, this power is used to enforce compliance with the *Zoning and Development By-law*, the *Building By-law*, and the *License By-law*. More recently, it has also been very effective in achieving compliance with other by-laws, such as the *Standards of Maintenance By-law* and the *Sign By-law*. Frequently, the mere threat of legal proceedings is sufficient to achieve compliance.

Council instructions are required before commencing any proceedings in which injunctive relief is sought.

DISCUSSION

Because of the short duration of the Games and the need for speedy enforcement, it is critical that proper provision be made for enforcement of city by-laws and other rights, including proprietary rights, during the Games. Such enforcement may require commencement of legal proceedings to seek injunctive relief. In some cases, as a condition of obtaining an interim injunction, the court may require the city to give an undertaking as to damages. Because Council will not be readily available during the Games, staff propose that the City Manager be temporarily authorized to give the necessary instructions, including instructions to seek injunctive relief and to give an undertaking as to damages, to the Director of Legal Services to enforce city by-laws and city rights during the Games.

FINANCIAL IMPLICATIONS

There are no financial implications.

CONCLUSION

Council is asked to enable effective enforcement of city by-laws and other rights by delegating, for the Games period, to the City Manager the authority to instruct Director of Legal Services to commence, in her discretion, legal proceedings and to seek injunctive relief as part of those proceedings.

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