



## ADMINISTRATIVE REPORT

Report Date: April 28, 2010  
Contact: David Parkin  
Contact No.: 604.873.7328  
RTS No.: 08692  
VanRIMS No.: 08-2000-20  
Meeting Date: May 18, 2010

TO: Vancouver City Council

FROM: General Manager of Engineering Services in consultation with the Director of Legal Services

SUBJECT: Establishment as Lane of City-owned Parcels Westerly of Scotia Street Adjacent to 299 East 7<sup>th</sup> Avenue (Block 38)

### ***RECOMMENDATION***

THAT Council authorize the Director of Legal Services in consultation with the General Manager of Engineering Services to proceed with the necessary arrangements to establish as Lane those City-owned parcels listed in attached Appendix A (the "Block 38 Lane Parcels"), and being the same as shown heavy outlined on the sketch attached hereto as Appendix B.

If Council approves this report, the formal resolution to establish the Block 38 Lane Parcels as Lane will be before Council later this meeting for approval.

### ***COUNCIL POLICY***

The authority for establishing streets and lanes is set out in Section 291 of the Vancouver Charter.

### ***PURPOSE***

The purpose of this report is to seek Council authority to establish City-owned parcels as lane.

### ***BACKGROUND***

Plan 197, the original subdivision plan of the area that includes 299 East 7<sup>th</sup> Avenue, was deposited in the Land Registry Office on December 8, 1885. The area covered by Plan 197 lies between the south shore of False Creek in the north and Broadway in the south, and between Prince Edward Street in the east and Columbia Street in the west. Plan 197 labelled the lanes as parcels rather than showing them as "Lane" as is typically done on subdivision plans and as a result the lanes were not dedicated to the City. Instead, 20 foot wide parcels were created within many of the blocks shown on Plan 197 and titles were raised often in the name of the

owner/developer. The east-west parcels were created as Parcels A and the north-south parcels were created as Parcels B. Over the years, registered ownership of the Parcels A and B did not transfer forward with conveyances of the adjacent lots and title remained in the name of the historic owner. The lane parcels within Block 38, the "Block 38 Lane Parcels", have been considered to be City lane for many years.

Historical records in the Land Title Office dating back to 1885 reflect conveyances of some of the Block 38 Lane Parcels from private owners to the City but the conveyances were never perfected. The Block 38 Lane Parcels have been used as lane since the early 1900's and public municipal money has been spent to operate them as public lane. The Block 38 Lane Parcels have been fully constructed as a paved lane with both underground and above ground utilities and they provide all the normal functions of a lane for provision of utilities and access to the adjacent lands.

The discovery that Land Title Office records show that the City was not the registered owner of the Block 38 Lane Parcels occurred during the review of the development application for the nearby City-owned project at 1 Kingsway (Lot E, Block 43, District Lot 200A, Group 1, New Westminster District, Plan BCP14091), located directly south of the development at 299 East 7<sup>th</sup> Avenue and the Block 38 Lane Parcels. Since the ingress and egress for parking, loading, fire and life safety is located at the rear of the development site and accessed from the lane, and access to the site cannot cross private property, a condition of the Development Permit was the resolution of the lane ownership problem or the provision of an alternative design (which would have been very expensive), prior to the issuance of a building permit. On December 14, 2009 a Section 219 Covenant was registered on the title of Lot D to prevent any building on Lot D other than excavation until the owner satisfied this Development Permit condition to the satisfaction of the General Manager of Engineering Services and the Director of Legal Services.

In 2009, the City petitioned the Supreme Court of British Columbia under the *Land Title Inquiry Act* for a judicial investigation of the titles to the Block 38 Lane Parcels. By her Order of January 8, 2010 (copy attached as Appendix C) the Honourable Madam Justice Loo declared that the City of Vancouver is the legal and beneficial owner in fee simple of the Block 38 Lane Parcels. Title in the Land Title Office for the Block 38 Lane Parcels has now been raised in the name of the City and it is now required to establish the Block 38 Lane Parcels as Lane pursuant to the *Vancouver Charter*.

### ***DISCUSSION***

If this report is approved and the Block 38 Lane Parcels are established as road under the *Vancouver Charter* then Development Permit Condition 2.10 of DE411440 will have been fulfilled and the No Build Covenant registered on the title to 299 East 7<sup>th</sup> Avenue can be discharged.

A successful petition to the Supreme Court of British Columbia dated September 12, 2008 on a similar lane ownership problem for the lane parcels within Block 43, District Lot 200A, Group 1, New Westminster District was used as a precedent for the dealing with the ownership of the Block 38 Lane Parcels. City Staff from the Land Survey Branch and Legal Services are continuing their participation on an inter-municipal committee working to resolve similar problems throughout Metro Vancouver.

***FINANCIAL IMPLICATIONS***

There are no financial implications.

***CONCLUSION***

The General Manager of Engineering Services, in consultation with the Director of Legal Services recommends approval of the Recommendation contained in this report.

\* \* \* \* \*

City-owned Properties in Block 38, District Lot 200A to be Established as Lane

Parcel Identifier: 028-193-059

The West ½ of Lot B Adjoining Lot 1, Block 38, District Lot 200A, Group 1, New Westminster District, Plan 197;

Parcel Identifier: 028-193-067

The West ½ of Lot B Adjoining Lot 2, Block 38, District Lot 200A, Group 1, New Westminster District, Plan 197;

Parcel Identifier: 028-193-075

The West ½ of Lot B Adjoining Lot 3, Block 38, District Lot 200A, Group 1, New Westminster District, Plan 197;

Parcel Identifier: 028-193-083

The West ½ of Lot B Adjoining Lot 4, Block 38, District Lot 200A, Group 1, New Westminster District, Plan 197;

Parcel Identifier: 028-193-091

The West ½ of Lot B Adjoining Lot 5, Block 38, District Lot 200A, Group 1, New Westminster District, Plan 197;

Parcel Identifier: 015-553-787

The West ½ of Lot B Adjoining Lot 6, Block 38, District Lot 200A, Group 1, New Westminster District, Plan 197;

Parcel Identifier: 028-193-105

The East ½ of Lot B Adjoining Lot 7, Block 38, District Lot 200A, Group 1, New Westminster District, Plan 197;

Parcel Identifier: 028-193-113

The East ½ of Lot B Adjoining Lot 16, Block 38, District Lot 200A, Group 1, New Westminster District, Plan 197;

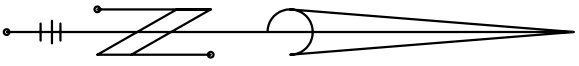
Parcel Identifier: 028-193-130

The East ½ of Lot B Adjoining Lot A, Block 38, District Lot 200A, Group 1, New Westminster District, Plan 197;

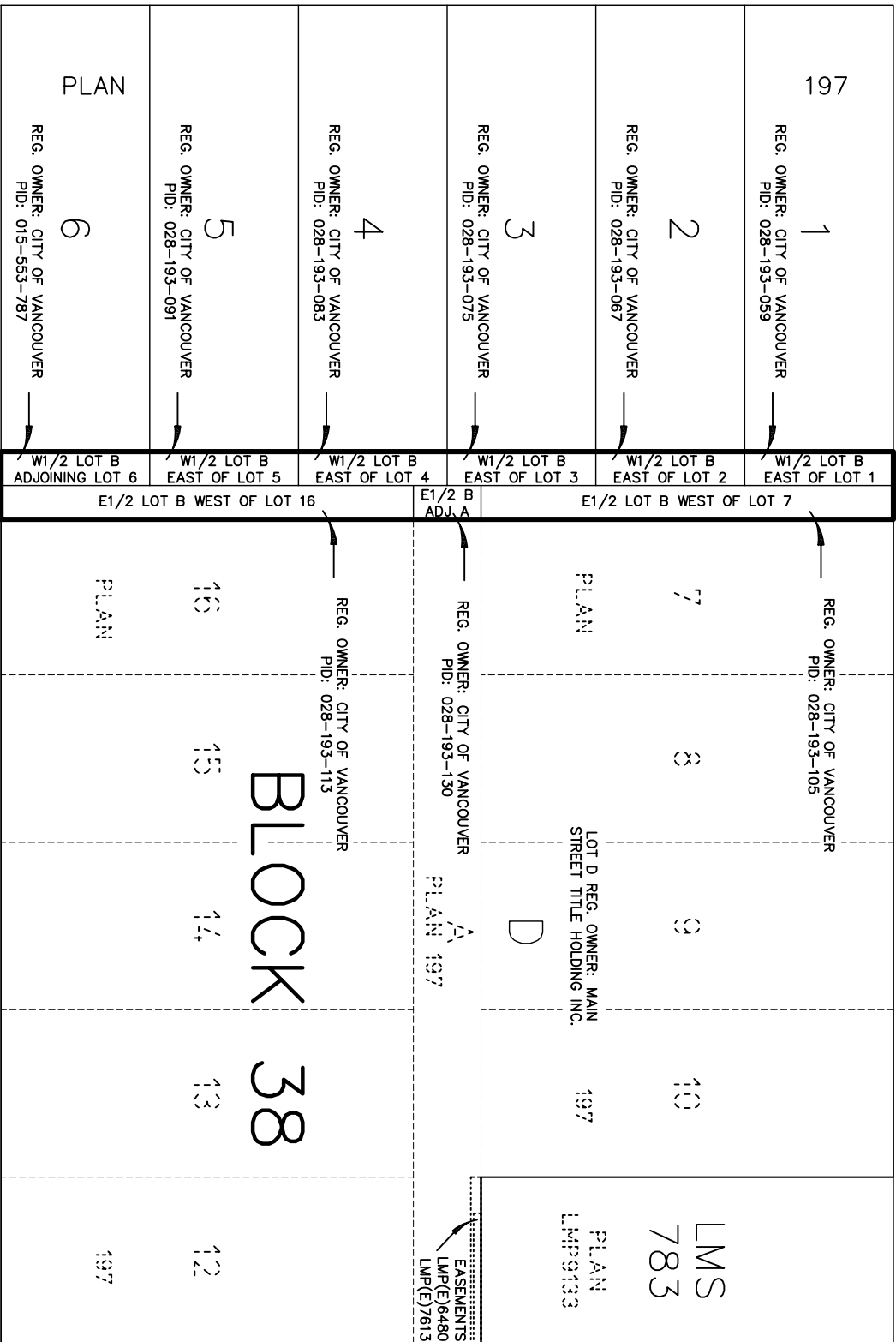
as shown heavy outlined on the sketch plan attached as Appendix B (the "Block 38 Lane Parcels").

**PLAN SHOWING OWNERSHIP OF PROPERTIES IN  
BLOCK 38 DISTRICT LOT 200A PLAN 197  
DRAWING NOT TO SCALE**

**EAST 6TH AVENUE**



**MAIN STREET**



**SCOTIA STREET**

**EAST 7TH AVENUE**



FORM 43 (RULE 41(9))

NO.: S096484  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**IN THE MATTER OF the *Land Title Inquiry Act*, R.S.B.C. 1996, c. 251,  
the *Land Title Act*, R.S.B.C. 1996, c. 250**

**AND**

**CERTAIN PROPERTY LEGALLY DESCRIBED AS  
“the West ½ of Lot B adjoining Lots 1, 2, 3, 4, 5, & 6  
and the East ½ of Lot B adjoining Lots 7, 16 & A,  
all of Block 38, District Lot 200A, Plan 197, Group 1,  
New Westminster District”**

**BETWEEN:**

**CITY OF VANCOUVER**

**PETITIONER**

**AND:**

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,  
VANCOUVER BREWERIES LIMITED,  
THE BRITISH CANADIAN AND GENERAL INVESTMENT COMPANY LIMITED,  
MARY VIOLA WATSON, JOHN C. RITCHIE, THOMAS W. MEREDITH  
and KENNETH MEREDITH**

**RESPONDENTS**

**ORDER**

BEFORE THE HONOURABLE )  
MADAM JUSTICE LOO )  
Friday, the 8<sup>th</sup> day of )  
January, 2010 )

THE APPLICATION of the Petitioner coming on for hearing at Vancouver, British Columbia, on the 8<sup>th</sup> day of January , 2010, and on hearing Iain K. Dixon, Counsel for the Petitioner, and no one appearing on behalf of the Respondents, although duly served:


THIS COURT DECLARES that:

1. the City of Vancouver is the legal and beneficial owner in fee simple in possession of the land legally described as: "the West ½ of Lot B adjoining Lots 1, 2, 3, 4, 5, & 6 and the East ½ of Lot B adjoining Lots 7, 16 & A, all of Block 38, District Lot 200A, Plan 197, Group 1, New Westminster District"; subject to the conditions, exceptions and reservations enumerated or referred to in section 23(2)(a) to (j) of the *Land Title Act*, R.S.B.C. 1996, c.250, but free from all other rights, interests, claims and demands; and
2. it has been proven to the satisfaction of the Court that the title of the City of Vancouver is a good safe holding and marketable title pursuant to section 34 of the *Land Title Act*, R.S.B.C. 1996, c.250.

THIS COURT DIRECTS that:

1. notice of this application and the Court's order herein shall be published in the B.C. Gazette as well as in one weekday and one weekend edition of each of the Vancouver Sun and the Globe and Mail on two occasions three weeks apart;
2. this declaration shall not be executed until at least four weeks from the first publication of the notice of this application and the Court's order herein referred to above.

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Iain K. Dixon  
Counsel for the Petitioner

By the Court,

Digitally signed by  
Sewell, Jacquie

\_\_\_\_\_  
Registrar

NO.: S096484  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF the *Land Title Inquiry Act*, R.S.B.C. 1996, c. 251,  
the *Land Title Act*, R.S.B.C. 1996, c. 250

AND

CERTAIN PROPERTY LEGALLY DESCRIBED AS

“the West ½ of Lot B adjoining Lots 1, 2, 3, 4, 5, & 6  
and the East ½ of Lot B adjoining Lots 7, 16 & A,  
all of Block 38, District Lot 200A, Plan 197, Group 1,  
New Westminster District”

BETWEEN:

CITY OF VANCOUVER

PETITIONER

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,  
VANCOUVER BREWERIES LIMITED,  
THE BRITISH CANADIAN AND GENERAL INVESTMENT COMPANY LIMITED,  
MARY VIOLA WATSON, JOHN C. RITCHIE, THOMAS W. MEREDITH  
and KENNETH MEREDITH

RESPONDENTS

---

ORDER

---

City of Vancouver, Legal Services  
401-515 West 10th Avenue  
Vancouver, BC V5Z 4A8

Attention: Iain K. Dixon