



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Report Date: August 26, 2010
Contact: Francie Connell
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RTS No.: 8867
VanRIMS No.: 08-2000-20
Meeting Date: September 21, 2010

TO: Vancouver City Council

FROM: Director of Legal Services, in consultation with the Director of Real Estate Services and the General Manager of Engineering Services

SUBJECT: Expropriation of 4824 Knight Street for the Construction of Left Turn Bays on Knight Street at 33rd Avenue

RECOMMENDATION

THAT Council, as the approving authority under the *Expropriation Act*, R.S.B.C. 1996, C. 125 (the "Act"), approve the expropriation of that portion of the lands at 4824 Knight Street, legally described as:

Parcel Identifier: 013-635-832, Lot 4, Except: Firstly: The West 7 Feet Now Road, Secondly: Part Plan BCP9378; Block 7, District Lot 705, Plan 2571 (the "Property"),

shown heavily outlined on the plan consisting of approximately 9.8 square metres prepared by Fred L. Wong, B.C.L.S. on June 16, 2010, as marginally annotated LD4976, a reduced copy of which is attached as a Schedule to Appendix A to this report (the "Site").

If Council approves this report, the Formal Resolution (shown in Appendix A) to authorize the land expropriation will be before Council later this day for approval.

CITY MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

COUNCIL POLICY

Section 532 of the *Vancouver Charter* provides that if, in the exercise of any of its powers of acquiring real property, the City fails to come to an agreement with its owner as to the terms of acquisition, the City may, by by-law or resolution of the Council, expropriate such real property.

PURPOSE

The purpose of this report is to request Council to exercise its authority, as approving authority under the Act, to approve the expropriation of the Site.

BACKGROUND

On June 22, 2010, Council authorized the City, as expropriating authority, to commence expropriation proceedings to acquire the Site for construction of a left turn bay on Knight Street at 33rd Avenue. To date, the City has been unsuccessful in its attempt to negotiate an outright purchase of the Site or to enter into a Section 3(1) Agreement allowing for the immediate transfer but later settlement of compensation for the Site.

An expropriating authority that intends to expropriate land must serve an Expropriation Notice on all owners as defined under the Act (which in this case are the registered owners of the Site, and the chargeholder which holds a mortgage charging the Site), as well as the approving authority.

The required Expropriation Notice has now been filed in the Land Title Office and served on all necessary parties and the required sign setting out a copy of the Expropriation Notice has been posted at the Site.

DISCUSSION

If an owner's land is being expropriated for the construction, extension or alteration of a linear development, the owner may not request an inquiry under the Act. In this case, the purpose for which the Site is required is to alter a linear development, namely, the widening of Knight Street to construct a left turn bays on Knight Street at 33rd Avenue. Accordingly, in the opinion of the Director of Legal Services, no affected party may successfully request an inquiry.

Procedure

The Act provides as follows:

where an owner is not entitled to request an inquiry, the approving authority **MUST** approve the expropriation and notify the Expropriating Authority and each owner of the approval in writing,

within 30 days after Council as approving authority has approved the expropriation, the City as the Expropriating Authority, must pay the owners the amount the City

estimates is or will be payable to the owners as compensation, and must serve on the owners a copy of all appraisal and other reports on which the payment is based,

within 30 days after it has paid the money and served copies of the appraisal, the Expropriating Authority must file in the Land Title Office a vesting notice, a copy of which must be served on the owners,

payment to the owner by the Expropriating Authority is without prejudice to the owner's right to have the amount determined in the manner provided for in the Act, but the owner must apply to the court to determine compensation within one year after the payment is made.

Payment to Owners

The appraisal of the Property as of May 1, 2010, along with a Letter of Addendum dated July 26, 2010, estimates the loss in market value of the Property, as a result of the proposed taking of the Site, as \$25,000 which amount is to be paid to the registered owners of the Property as an advance payment. In addition, the City will also be responsible for removing and relocating the existing retaining wall and fence and landscaping at an estimated cost of \$30,000 and this work along with estimated legal fees and consulting fees will result in a total cost of \$50,000. This \$50,000 cost is in addition to the advance payment of \$25,000.

The appraiser is of the opinion that there is no injurious affection to the remainder of the Property, as the proposed taking of the Site is a small percentage of the Property and the remainder of the Property would probably sell for the same amount after the proposed taking as it would have sold before the taking. The appraiser is of the opinion that if the mortgage on the Property does not exceed \$750,000 there is no loss in value to the interest of the mortgagee and the security of the mortgage is not diminished.

CONCLUSION

In the opinion of the Director of Legal Services in consultation with the Director of Real Estate Services and the General Manager of Engineering Services, it is appropriate that Council, as the approving authority, approve the expropriation of the Site.

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EXPROPRIATION OF LAND

RESOLUTION OF THE VANCOUVER CITY COUNCIL

MOVED by Councillor _____

SECONDED by Councillor _____

WHEREAS:

A. The City of Vancouver requires:

Parcel Identifier: 013-635-832, Lot 4, Except: Firstly: The West 7 Feet Now Road, Secondly: Part Plan BCP9378; Block 7, District Lot 705, Plan 2571;

shown heavily outlined on the plan prepared by Fred L. Wong, B.C.L.S. on June 16, 2010, as marginally annotated LD4976, a reduced copy of which is a reduced copy of which is attached as a Schedule to this resolution (the "Site")

for the altering of a linear development, namely, the widening of Knight Street to construct a left turn bay on Knight Street at 33rd Avenue;

B. In the exercise of its powers of acquiring real property for this purpose, the City has failed to come to an agreement with the owners of the Site;

C. The *Vancouver Charter* provides that if, in the exercise of any of its powers of acquiring real property, the City fails to come to an agreement with its owner as to the terms of acquisition, the City may, by by-law or resolution of its Council, expropriate such real property;

D. The *Expropriation Act*, R.S.B.C. 1996, C. 125, provides that an "expropriating authority" means a person empowered under an enactment to expropriate land;

E. On June 22, 2010, Vancouver City Council passed a resolution authorizing the City as expropriating authority to commence expropriation proceedings under the *Expropriation Act* to acquire the Site; and

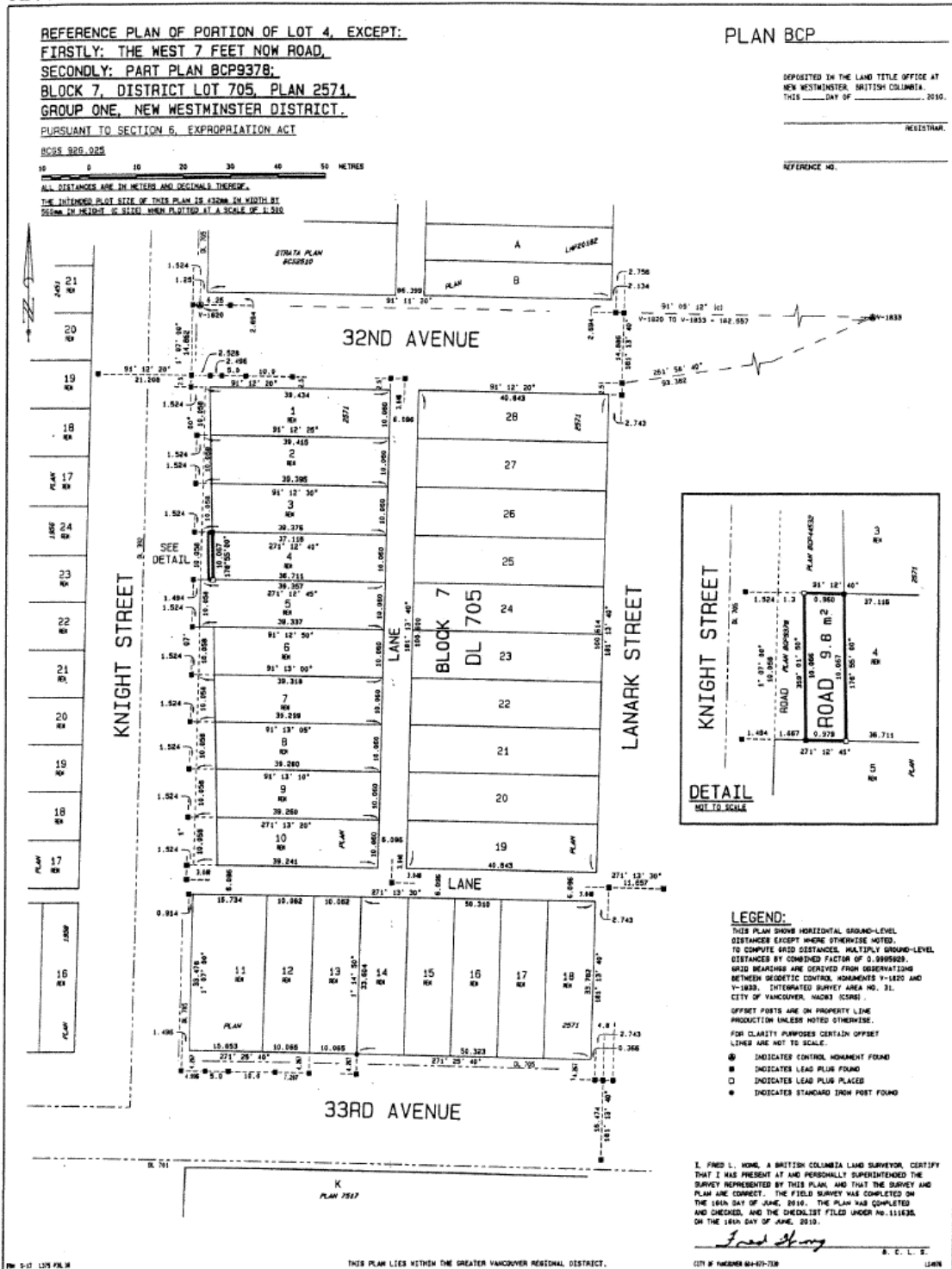
F. Under the *Expropriation Act*, the "approving authority" for an expropriation under the *Vancouver Charter* is the Vancouver City Council, unless the Lieutenant Governor in Council has designated the Minister of Municipal Affairs as the approving authority for the purpose of expropriations under the *Vancouver Charter* or any particular expropriation under the *Vancouver Charter* which designation has not been made;

BE IT RESOLVED that the Vancouver City Council, as the approving authority under the *Expropriation Act*:

1. approve the expropriation of the Site, and
2. authorize the Director of Legal Services to execute on behalf of Vancouver City Council and deliver to the owners a Certificate of Approval of Expropriation evidencing such approval.

SCHEDULE TO APPENDIX A

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