



CITY OF VANCOUVER

A3

ADMINISTRATIVE REPORT

Report Date: August 30, 2010
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VanRIMS No.: 08-2000-20
Meeting Date: September 21, 2010

TO: Vancouver City Council

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

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

RECOMMENDATION

- A. THAT, given that Vancouver City Council, as approving authority under the *Expropriation Act*, R.S.B.C. 1996, C.125 (the "Act"), has approved 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 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 Appendix A to this report (the "Site");

Council authorize the Director of Real Estate Services, on behalf of the City as the expropriating authority, to pay Twenty Five Thousand Dollars (\$25,000) to the registered owners of the Site as the advance payment made under the Act.

- B. THAT Council approve funding of \$50,000 to remove and replace the existing retaining wall and fence and landscaping on the property and to pay consultant and legal fees.
- C. THAT the source of funding for such payments be the 2009 Street Basic Capital Budget for Arterial Improvements, Knight and 33rd Avenue Left Turn Bays.

CITY MANAGER'S COMMENTS

The City Manager recommends approval of A, B and C.

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 that Council authorize the Director of Real Estate Services, on behalf of the City, as expropriating authority under the Act, to pay Twenty Five Thousand Dollars (\$25,000) to the registered owners of the Site as the advance payment made under the Act for the expropriation of the Site, and to approve funding of \$50,000 to remove and replace the existing retaining wall and fence and landscaping on the property and to pay consultant and legal fees.

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 attempts to negotiate an outright purchase of the Site or to enter into a Section 3(1) Agreement allowing for the immediate transfer with later settlement of compensation for such interest in 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 holding 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 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. A copy of the mortgage registered against the Property in 2004 indicates that the principal amount of the mortgage at that time was \$456,900. No compensation will be paid to the mortgagee as 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.

FINANCIAL IMPLICATIONS

The Director of Real Estate Services is of the opinion that the compensation offered is reasonable and is within the parameters set by the *Expropriation Act*. The source of funds for this payment of \$25,000, and the \$50,000 estimated cost of removing and relocating the existing retaining wall and fence and landscaping and related legal and consulting fees, is the 2009 Street Basic Capital Budget for Arterial Improvements, Knight and 33rd Avenue Left Turn Bays.

CONCLUSION

As Vancouver City Council, as the approving authority, has approved the expropriation of the Site, the Director of Real Estate Services recommends that the City pay Twenty Five Thousand Dollars (\$25,000) to the registered owners of the Site as the advance payment made under the Act for the expropriation of the Site.

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