



## ADMINISTRATIVE REPORT

Report Date: June 29, 2011  
Contact: Michael Flanigan  
Contact No.: 604.873.7422  
RTS No.: 9256  
VanRIMS No.: 08-2000-20  
Meeting Date: July 12, 2011

TO: Vancouver City Council

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

SUBJECT: Funding for Expropriation of 7248 Knight Street for the Construction of Left Turn Bays on Knight Street at 57th 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 7248 Knight Street, legally described as:

Parcel Identifier: 014-325-632, Lot 46 Except The West 7 Feet, Now Road Blocks 29 to 31 District Lot 200 Plan 1770 (the "Property") shown heavily outlined on the plan consisting of approximately 31.2 square metres prepared by James E. Gregson B.C.L.S. on April 4, 2011, as marginally annotated LD5089, 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 Seventy Five Thousand Six Hundred Dollars (\$75,600) to the registered owners of the Site as the advance payment made under the Act.

- B. THAT Council approve funding of \$80,000 for additional costs associated with the expropriation including any amounts which the City as expropriating authority is required to pay under the Act, all such costs to be approved by the Director of Real Estate Services.
- C. THAT the source of funding for such payments be the 2010 Street Basic Capital Budget for Arterial Improvements, Knight and 57<sup>th</sup> Avenue Left Turn Bays.

### ***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 that Council:

- (a) authorize the Director of Real Estate Services, on behalf of the City, as expropriating authority under the Act, to pay Seventy Five Thousand Six Hundred Dollars (\$75,600) to the registered owners of the Site as the advance payment made under the Act for the expropriation of the Site; and
- (b) approve funding of \$80,000 for additional costs associated with the expropriation.

### ***BACKGROUND***

On May 17, 2011, Council authorized the City, as expropriating authority, to commence expropriation proceedings to acquire the Site for construction of left turn bays on Knight Street at 57<sup>th</sup> Avenue.

To date, the City has been unsuccessful in its attempts to negotiate an outright purchase of the Site. Accordingly, as explained in a companion report (RTS No. 9264), the City has now commenced expropriation proceedings and has delivered Expropriation Notices in accordance with the Act.

### ***DISCUSSION***

#### **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

Council, as approving authority, has now approved the expropriation of the Site as required by the Act. Accordingly, as explained above, the City, as expropriating authority, is required to pay compensation to the owner within 30 days of the date that Council, as approving authority, approved the expropriation. The following explains the basis for the payment the City, as expropriating authority, is proposing to make to the owner.

The City retained a qualified professional appraiser to provide an appraisal based on the requirements of the Act. The appraiser concluded that before the proposed taking by the City and as of June 1, 2011, the Property had an estimated market value of \$630,000. The appraiser estimated that based on the before and after valuation approach, as a result of the City taking a portion of the Property for road, the value of the Property after the proposed taking would be 8% to 12% (\$50,400 to \$75,600) lower than before the proposed taking. The appraiser concluded the proposed taking would result in an approximate 10% reduction in the market value of the Property and recommended compensation of \$63,000. The Owner rejected an initial offer from the City to purchase the Site for \$63,000 as well as a subsequent offer of \$75,600. The Director of Real Estate Services is recommending that the City as expropriating authority make an advance payment to the owner pursuant to the Act of \$75,600 which represents the upper end of the loss in value estimated by the appraiser.

As there is a mortgage registered against title to the Property the appraiser also considered the impact of the proposed taking on the mortgagee's interest in the property. Because the exact mortgage details are not available the appraiser is not able to provide an opinion on whether there will be any loss to the mortgagee's interest as a result of the proposed taking however the appraiser has indicated that provided the mortgagee's interest in the Property does not exceed \$567,000 (the estimated value of the Property after the proposed taking) there is no loss incurred to the mortgagee's interest. The mortgage registered against the Property in 2006 indicated a mortgage with a principal of \$480,000. Based on the information available to the City the Director of Real Estate Services has determined that no compensation is payable to the mortgagee.

In addition to the advance payment of \$75,600, the City will incur additional costs including costs to remove and replace the existing retaining wall, fence and landscaping. The Director of Real Estate Services requests that Council approve an additional \$80,000 to cover these and other costs associated with the expropriation including any costs which the City is required and pay under the Act.

***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 the advance payment of \$75,600 and \$80,000 for additional costs incurred by the City is the 2010 Street Basic Capital Budget for Arterial Improvements, Knight and 57<sup>th</sup> 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 now recommends that the City pay Seventy Five Thousand Six Hundred Dollars (\$75,600) to the registered owners of the Site as the advance payment made under the Act for the expropriation of the Site and approve an additional \$80,000 for additional costs incurred by the City.

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