



## ADMINISTRATIVE REPORT

Report Date: January 21, 2013  
Contact: Al Zacharias  
Contact No.: 604.873.7214  
RTS No.: 09954  
VanRIMS No.: 08-2000-20  
Meeting Date: February 12, 2013

TO: Vancouver City Council  
FROM: General Manager of Engineering Services  
SUBJECT: Proposed Closure of Portions of Kingsway and Commercial Street Adjacent to 4338 Commercial Street

### **RECOMMENDATION**

- A. THAT Council authorize the Director of Legal Services to apply and raise title in the name of the City of Vancouver to the portions of Kingsway and Commercial Street that contain the encroachments of the existing building at 4338 Commercial Street (the "Road"), the said portions being shown on a reduced copy of a Reference Plan attached hereto as Appendix "A".
- B. THAT all that volumetric portion of Road included within the heavy outline and illustrated isometrically on a plan of survey, a reduced copy of which is attached as Appendix "B", be closed, stopped-up and that an easement be granted to the owner of abutting Lot A Block 13 District Lot 352 Group 1 New Westminster District Plan BCP45015 ("Lot A") to contain the portions of the existing building which encroach onto the Road. The easement is to be for the life of the encroaching portions of the existing building on Lot A, and to be to the satisfaction of the Director of Legal Services.
- C. THAT the fees for the document preparation, registration and use of the easement referred to in Recommendation "B" are to be in accordance with those charged for an agreement prepared pursuant to the Encroachment By-law.
- D. THAT the Director of Legal Services be authorized to execute all documents and plans required.

## ***REPORT SUMMARY***

The purpose of this report is to obtain Council authority to close and stop-up encroached upon portions of Road and to grant an easement to contain the encroaching elements of the building located at 4338 Commercial Street.

## ***COUNCIL AUTHORITY/PREVIOUS DECISIONS***

The authority for closing and disposing of streets and lanes is set out in the Vancouver Charter.

The provisions of the Vancouver Charter with respect to the raising of title to the street and the granting of a volumetric easement to contain encroachments are used from time to time to validate heritage building encroachments. It is rare that these provisions are used for new construction.

## ***CITY MANAGER'S/GENERAL MANAGER'S COMMENTS***

The General Manager of Engineering Services recommends approval of the foregoing.

## ***REPORT***

### ***Background/Context***

The subject site, Lot A, has recently been redeveloped with a four storey building, with commercial/retail uses at grade and residential units (30) above, in accordance with Development Permit Nos. DE411372 and DE414452. Components of the new building consisting of the roof overhang, third floor balconies, building face at the third floor level, and portions of the concrete foundation at and below grade, are encroaching onto Kingsway and Commercial Street. The building encroachments were not anticipated and were discovered upon final survey of the building.

The owner intends to subdivide Lot A by Strata Plan, and portions of the exterior of the building are encroaching onto Kingsway and Commercial Street. As such, the Registrar of Land Titles has taken the position that to satisfy the provisions of the Strata Property Act, the Strata Corporation must establish control over the portions of street affected by the building encroachments, for the life of the building. To accomplish this, the volumetric portions of street containing the encroachments must be closed and stopped-up, and an easement must be granted for the volumetric portions of the building that encroach. It is also necessary to raise title for the portions of road that are encroached upon.

The Road was dedicated by the deposit of Plan 1515 in 1907 (Commercial Street) and Reference Plan 2394 in 1931 (Kingsway).

### ***Strategic Analysis***

Newly constructed buildings are typically expected to be wholly contained within the external boundaries of the development site, and therefore volumetric easement arrangements are not normally supported in these cases. However, since the

encroachments were not anticipated and their removal would be very costly, staff are supportive of accepting the encroachments, noting the minimal impact to street uses.

It is therefore necessary to seek Council authority to close and stop-up the encroached upon portions of Road, and to authorize registration of a volumetric easement over the portions of Road described in Recommendation "B". Recommendation "A" seeks authority to raise title to the encroached upon portions of Road.

*Implications/Related Issues/Risk (if applicable)*

*Financial*

Fees will be charged in accordance with the Encroachment By-law, and will consist of a \$1500.00 fee for the granting of an easement over the portions of street to accommodate the building encroachments, and the annual charge for the encroachments of \$284.55. The \$1500.00 fee is to be allocated to the Miscellaneous Revenue Account (Business Area 9200, Cost Centre 91220, Account 422020) and the annual charge is to be allocated to the Encroachment Revenue Account (Business Area 9200, Cost Centre 91050, Account 418300).

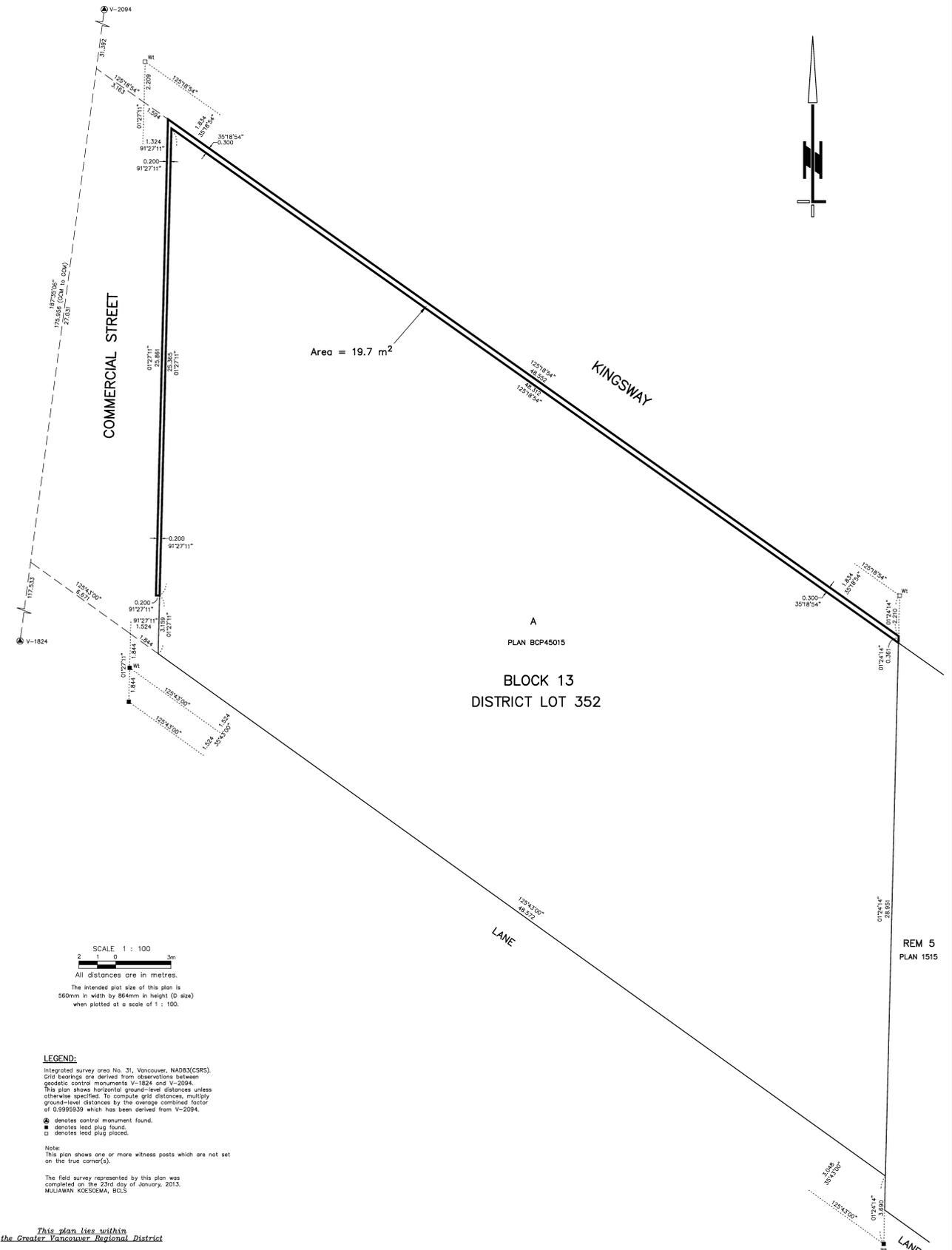
*CONCLUSION*

The General Manager of Engineering Services recommends approval of the Recommendations contained in this report.

\* \* \* \* \*

REFERENCE PLAN TO ACCOMPANY AN APPLICATION FOR THE REGISTRATION OF TITLE IN THE NAME OF THE CITY OF VANCOUVER TO THOSE PORTIONS OF ROAD DEDICATED BY THE DEPOSIT OF PLAN 1515 AND REFERENCE PLAN 2394 ADJACENT TO LOT A, BLOCK 13, DISTRICT LOT 352, GROUP 1 NEW WESTMINSTER DISTRICT, PLAN BCP45015

BCGS 92G.025



Area = 19.7 m<sup>2</sup>

A  
PLAN BCP45015  
BLOCK 13  
DISTRICT LOT 352

SCALE 1 : 100  
0 5m  
All distances are in metres.  
The intended plot size of this plan is 360mm in width by 864mm in height (D size) when plotted at a scale of 1 : 100.

**LEGEND:**  
Integrated survey area No. 31, Vancouver, NAD83(CSRS).  
Grid bearings are derived from observations between geodetic control monuments V-1824 and V-2094.  
This plan shows horizontal ground-level distances unless otherwise specified. To compute grid distances, multiply ground-level distances by the overage combined factor of 0.9999929 which has been derived from V-2094.  
⊙ denotes control monument found.  
■ denotes lead plug found.  
□ denotes lead plug placed.  
  
Note:  
This plan shows one or more witness posts which are not set on the true corner(s).  
  
The field survey represented by this plan was completed on the 23rd day of January, 2013.  
MULAWAN KOESODMA, BCLS

This plan lies within the Greater Vancouver Regional District

**LOUIS NGAN LAND SURVEYING**  
4938 VICTORIA DRIVE  
VANCOUVER, B.C., V5P 3T6  
(604) 327-1635  
FILE: VCO-4338REF

