



ADMINISTRATIVE REPORT

Report Date: June 4, 2013
Contact: Francie Connell
Contact No.: 604.873.7506
RTS No.: 10170
VanRIMS No.: 08-2000-20
Meeting Date: June 25, 2013

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 a Portion of 1201 Franklin Street for the Powell Street Grade Separation Project

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 1201 Franklin Street, legally described as:

Parcel Identifier No. 002-457-083
Lot 3, Except Part Included in Plan 14071, Block M, District Lot 182, Plan 13917 (the "Site"), shown heavily outlined on the plan consisting of approximately 521.9 square metres (5,618 square feet) on Plan EPP29002, a reduced copy of which is attached hereto as Appendix A to this report.

If Council approves this report, the Formal Resolution (shown in Appendix B) 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 April 23, 2013, Council authorized the City, as expropriating authority, to commence expropriation proceedings to acquire the Site for the Powell Street Grade Separation Project. To date, the City has been unsuccessful in its attempt to negotiate an outright purchase of the Site or a Section 3 Agreement.

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 is the registered owner of the Site, as well as the approving authority (namely, Vancouver City Council).

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 Powell Street Grade Separation Project. 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; and
- 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.

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.

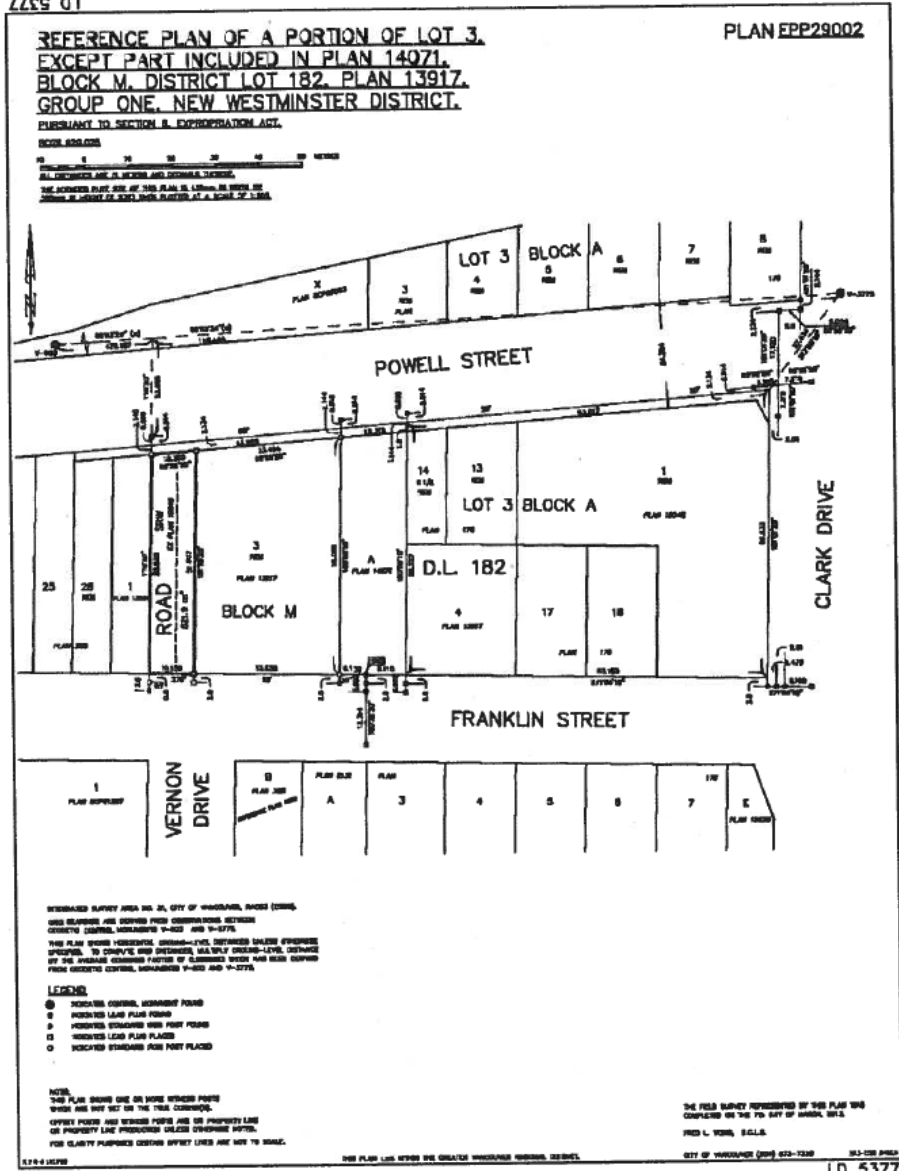
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A companion report (RTS No. 10171) requests that Council authorize the Director of Real Estate Services on behalf of the City as Expropriating Authority to make the payment to the owner as required by the Act.

* * * * *

APPENDIX A

LD 5377



EXPROPRIATION OF LAND

RESOLUTION OF THE VANCOUVER CITY COUNCIL

MOVED by Councillor _____

SECONDED by Councillor _____

WHEREAS:

- A. The City of Vancouver requires a portion of:

Parcel Identifier No. 002-457-083

Lot 3, Except Part Included in Plan 14071, Block M, District Lot 182, Plan 13917;

shown heavily outlined on Plan EPP29002 prepared by Fred Wong, B.C.L.S. completed on March 7, 2013, a reduced print of which is attached as a Schedule to this resolution (the "Site")

for the altering of a linear development, namely, the Powell Street Grade Separation Project;

- 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 April 23, 2013, 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.

I, Janice MacKenzie, City Clerk, of the City of Vancouver, hereby certify the foregoing to be a true and correct copy of a resolution of the City Council of the City of Vancouver passed on

_____.

Janice MacKenzie, City Clerk,

(Expropriation of a portion of property for the Powell Street Grade Separation Project, as per April 23, 2013 Council authority)