

Governance of Pacific National Exhibition and Hastings Park: Overview of Statutory Framework

Special Meeting of City Council
August 1 2013

Hastings Park Transfer and Trust - 1889

- 1889 - Transfer by Province to City:
162 acres of land: "the public park or pleasure ground known as Hastings Park".
- Condition of transfer (the "Hastings Park Trust"): only to be used for "the use, recreation and enjoyment of the public".
- Subsequent provincial legislation ("*Special Acts*") further defined the framework for governance, authority over use, and scope of use permitted for Hastings Park
- Each *Special Act* has further refined the interpretation of the Trust or condition of transfer of the Trust

Overview of HP/PNE Legislation: 1889-2013

- *Vancouver Incorporation Act (Vancouver Charter): 1886*
 - 1900 amendment - gave Council specific authority to lease out areas of HP: since 1906 Council has enabled, through agreements, exhibitions, fairs, amusement park operations, horse-racing operations and PNE (owned by Province of BC)
- *Special Acts:*
 - 1955 *Act to Incorporate Pacific National Exhibition* - includes members of Council on PNE Board
 - 1973 *Pacific National Exhibition Incorporation Act* - reaffirmed 1955 Act and further defined scope of activities allowed at HP
 - 2003 *Pacific National Exhibition Incorporation Act* - replaced 1973 Act; transferred control of the PNE to the City; conferred broad powers on the PNE (as approved by City Council) with respect to operation and use of Hastings Park
 - 2003 *Pacific National Exhibition Enabling and Validating Act* - which confirmed and expanded the powers of City Council to determine in its absolute discretion any uses or activities it deems fit for Hastings Park consistent with existing uses (in addition to retroactively affirming the legality under the Trust of the prior uses)

Impact of Special Acts

- do not “cancel” the Trust - but effectively amend it
- confirm that the 125 years of activity permitted by the various City Councils over that period are permitted by the Trust
- provide future City Councils with authority to permit uses and activities which are within the scope of the legislation

Park Board Jurisdiction

Vancouver Charter Section 488

- general section of the Charter: normally would deem Hastings Park to be under the jurisdiction of the Park Board
- Special Acts are specific to Hastings Park and subsequent in time to Section 488
- By “operation of law” the Special Acts override the general “deemed park” Section of the Vancouver Charter
- 2003 *Pacific National Exhibition Enabling and Validating Act* expressly gives City Council (as opposed to the Park Board) the authority to designate: any uses, activities including the power to regulate, through its zoning powers, those uses and activities on Hastings Park.

Case Law: Beacon Hill Park - City of Victoria

- Beacon Hill Park:
 - Subject to a similar Trust transferring Park to City of Victoria
 - No Special Acts subsequent to Trust
 - 2 cases (1884 and 1998) reaffirmed conditions of Trust to prevail over other uses

Case Law: Hastings Park

- *Hastings Conservancy v. City of Vancouver*:
 - BC Supreme Court, BC Court of Appeal
- Reaffirmed the statutory framework of Special Acts (particularly the last Special Act - 2003 *Pacific National Exhibition Enabling and Validating Act*) to govern authority of Council over HP
- *Hastings Conservancy* appealed decision to the Supreme Court of Canada:
 - Supreme Court of Canada denied leave to appeal
- The B.C. Court of Appeal decision stands as firm and settled law that the Special Acts override the “deemed park” provisions of Section 488 *Vancouver Charter*