

EXPLANATION**Heritage Designation By-law
Re: 6306 Prince Albert Street**

At a public hearing on July 15th, 2014, Council approved a recommendation to designate the structure and exterior envelope, of the improvements and exterior building materials of a building at 6306 Prince Albert Street as protected heritage property. Enactment of the attached By-law will achieve the designation.

Director of Legal Services
July 22, 2014

6306 Prince Albert Street
S.B. Bennett House

BY-LAW NO. _____

**A By-law to designate certain real property
as protected heritage property**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. Council considers that the real property described as:

Structure and
exterior envelope of
the improvements
and exterior
building materials of
heritage building

6306 Prince Albert Street
Vancouver, B.C.

PID: 014-256-461
LOT 1
BLOCK 3
DISTRICT LOT 662
PLAN 1900

PID: 014-256-509
LOT 2
BLOCK 3
DISTRICT LOT 662
PLAN 1900

has heritage value or heritage character, and that its designation as protected heritage property is necessary or desirable for its conservation.

2. Council designates the real property described in section 1 of this By-law as protected heritage property under Section 593 of the *Vancouver Charter*.

3. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this _____ day of _____, 2014

Mayor

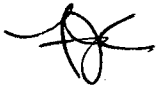
City Clerk

EXPLANATION

Authorization to enter into a Heritage Revitalization Agreement Regarding 6306 Prince Albert Street

At a public hearing held on July 15th, 2014, Council resolved to enter into a By-law to authorize an agreement regarding 6306 Prince Albert Street, pursuant to Section 592 of the *Vancouver Charter*. Enactment of the attached By-law will achieve this.

Director of Legal Services
July 22, 2014



6306 Prince Albert Street
S.B. Bennett House

BY-LAW NO. _____

**A By-law to authorize Council entering into a
Heritage Revitalization Agreement with the Owner of Heritage Property**

PREAMBLE

Council has authority under the *Vancouver Charter* to enter into a Heritage Revitalization Agreement with the owner of heritage property, including terms and conditions to which Council and the owner may agree.

Certain property bearing the civic address of 6306 Prince Albert Street, and the following legal description:

PID: 014-256-461
LOT 1
BLOCK 3
DISTRICT LOT 662
PLAN 1900

PID: 014-256-509
LOT 2
BLOCK 3
DISTRICT LOT 662
PLAN 1900

contains a heritage building.

Council is of the opinion that the building has sufficient heritage value to justify its conservation, and Council and the owner of the property have agreed to facilitate such conservation, by agreeing to the terms and conditions set out in the attached Heritage Revitalization Agreement.

NOW THEREFORE THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. Council authorizes the City to enter into a Heritage Revitalization Agreement with the owner, in substantially the form and substance of the Heritage Revitalization Agreement attached to this By-law, and also authorizes the Director of Legal Services to execute the agreement on behalf of the City, and to deliver it to the owner on such terms and conditions as the Director of Legal Services deems fit.

2. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this day of , 2014

Mayor

City Clerk

**LAND TITLE ACT
FORM C (Section 233) CHARGE
GENERAL INSTRUMENT - PART 1 Province of British Columbia**

LOCK

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent).

Import Profile

Heidi Granger, Solicitor
City of Vancouver
453 West 12th Avenue
Vancouver

LTO Client number: 10647
Phone number: 604.829.2001
Matter number: 14-0260

BC V5Y 1V4

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

SEE SCHEDULE

STC? YES

Pick up STC?

Use 30 Parcel Schedule

Use 3 Parcel Schedule

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Use Schedule

SEE SCHEDULE

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms D.F. No.

(b) Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

Use Schedule

SEE SCHEDULE

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

Use Schedule

**CITY OF VANCOUVER
A MUNICIPAL CORPORATION
453 WEST 12TH AVENUE
VANCOUVER**

**BRITISH COLUMBIA
CANADA**

V5Y 1V4

Joint Tenants?

7. ADDITIONAL OR MODIFIED TERMS:

Use Schedule

N/A

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

Execution Date

Transferor(s) Signature(s)

Y	M	D
14		

_____ **KULDIP SINGH DEO**

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

More Signatures

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

Officer Signature(s)

Execution Date:

Transferor / Borrower / Party Signature(s)

Y	M	D
14		

_____ KAMALJIT KAUR SARAN

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

More Signatures

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Y	M	D
14		

SARANJIT KAUR BAINS

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

More Signatures

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

Officer Signature(s)

(as to both signatures)

Execution Date

Y	M	D
14		

Transferor / Borrower / Party Signature(s)

THE TORONTO-DOMINION BANK
by its authorized signatory(ies):

Name: _____

Name: _____

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

More Signatures

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Y	M	D
14		

CITY OF VANCOUVER
by its authorized signatory:

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

More Signatures

**LAND TITLE ACT
FORM E**

SCHEDULE

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

014-256-461 LOT 1 BLOCK 3 DISTRICT LOT 662 PLAN 1900 ("NORTH PARCEL")

No PID NMBR

STC? YES

Pick up STC?

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

014-256-509 LOT 2 BLOCK 3 DISTRICT LOT 662 PLAN 1900 ("SOUTH PARCEL")

No PID NMBR

STC? YES

Pick up STC?

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

No PID NMBR

STC? YES

Pick up STC?

Additional 30 Parcel Schedule

Additional 3 Parcel Schedule

**LAND TITLE ACT
FORM E****SCHEDULE**

PAGE 7 OF 24 PAGES

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Covenant		Article 2

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Priority Agreement		granting the above Covenant priority over Mortgage CA3235777 Page 24

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Covenant		Article 4

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Priority Agreement		granting the above Covenant priority over Mortgage CA3235777 Page 24

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Statutory Right of Way		Article 5

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Priority Agreement		granting the above Statutory Right of Way priority over Mortgage CA3235777 Page 24

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**LAND TITLE ACT
FORM E**

SCHEDULE

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Equitable Charge		Article 7

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Priority Agreement		granting the above Equitable Charge priority over Mortgage CA3235777 Page 24

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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More Pages

**LAND TITLE ACT
FORM E**

SCHEDULE

PAGE 9 OF 24 PAGES

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM, OR GENERAL INSTRUMENT FORM.

KULDIP SINGH DEO (the "North Parcel Owner")
KAMALJIT KAUR SARAN (as to an undivided 1/2 interest) and SARANJIT KAUR BAINS (as to an undivided 1/2 interest) (together, the "South Parcel Owner")
THE TORONTO-DOMINION BANK, as to Priority

More Pages

TERMS OF INSTRUMENT - PART 2
HERITAGE REVITALIZATION AGREEMENT

WHEREAS:

- A. The Owners are the registered owners of those parcels of land at 6306 Prince Albert Street in the City of Vancouver (which have the legal descriptions shown in Form C - Part 1 of this document) defined herein as the Lands.
- B. The Lands are currently comprised of two legal parcels defined herein as the North Parcel and the South Parcel.
- C. There is a building situated on the Lands (as herein defined) known as the "S.B. Bennett House", which is listed on the Vancouver Heritage Register in the "A" evaluation category and is considered to be of heritage value (the "Heritage Building").
- D. The Owners (as herein defined) wish to develop the Lands by:
 - (i) moving the Heritage Building to be substantially or wholly within the South Parcel and rehabilitating and converting the Heritage Building into a One-Family Dwelling with Secondary Suite;
 - (ii) constructing on the South Parcel a new Infill One-Family Dwelling behind the Heritage Building ("New Building C");
 - (iii) constructing on the North Parcel a new One-Family Dwelling with Secondary Suite ("New Building A") and a new Infill One-Family Dwelling ("New Building B") behind it; and
 - (iv) either:
 - (a) consolidating and subdividing the Lands pursuant to the provisions of the *Land Title Act* into two irregular parcels such that the Heritage Building is wholly contained in the South Parcel and the property line between the North and South Parcels "wraps" around the porch of the Heritage Building; or
 - (b) consolidating and subdividing the Lands under the *Strata Property Act* to create up to two bare land strata parcels and not allowing the stratification of either the Heritage Building or the New Buildings; or
 - (c) retaining the existing property line between the South Parcel and the North Parcel and entering into an agreement that permits the existing porch of the Heritage Building to straddle the common property line between the South Parcel and the North Parcel, if viable,

provided that only one of the options listed in this Recital C be undertaken and, under development permit application No. DE417530 for the Heritage Building and New Building

#166522v4

Heritage Revitalization Agreement - Bennett House
6306 Prince Albert Street/800 East 47th Avenue

C (the "South Parcel DP Application") and development permit application No. DE417529 for New Building A and New Building B (the "North Parcel DP Application") (together, the "DP Applications"), has applied to the City for development permits for that purpose.

- E. The Owners propose that, in exchange for a number of variations to the City of Vancouver *Zoning & Development By-law* and the *Subdivision By-law* needed for the proposed project as contemplated under the DP Applications, the Owners will enter into a heritage revitalization agreement in respect of the Lands and accept the designation of the Heritage Building as protected heritage property under the provisions of the *Vancouver Charter* SBC 1953 c.55.

THEREFORE, pursuant to Section 592 of the *Vancouver Charter* SBC 1953 c.55 and in consideration of the payment ten dollars by the City to the Owners, the mutual obligations and benefits given herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1 DEFINITIONS

1.1 **Definitions.** In this agreement, unless explicitly used differently elsewhere herein, the terms defined in this section have the meanings given to them here:

- (a) "City" means the municipality of the City of Vancouver continued under the *Vancouver Charter* and "City of Vancouver" means its geographic location and area;
- (b) "Conservation Plan" means a written plan and guidelines prepared by and/or under the supervision of a Heritage Consultant and explicitly accepted by the City for the rehabilitation and conservation of the Heritage Building as provided for hereunder;
- (c) "Development" means the proposed development project as described above in Recital D, all pursuant to the DP Applications;
- (d) "Development Permits" means any development permit(s) issued by the City pursuant to the DP Applications in respect of the Development, as such permit(s) may be modified or amended from time to time, including, without limitation, all final reports, plans, drawings and specifications relating thereto;
- (e) "Director of Planning" means City's Director of Planning appointed under the provisions of the *Vancouver Charter*;
- (f) "Director of Legal Services" means the City's Director of Legal Services or his or her delegates;
- (g) "DP Applications" has the meaning given in Recital D above;
- (h) "Heritage Building" has the meaning given in Recital C above;

- (j) **"Heritage Consultant"** means an independent, heritage building rehabilitation and conservation expert, knowledgeable and experienced in and duly qualified for planning and supervising rehabilitation and conservation work for heritage buildings;
- (j) **"Heritage Designation"** means the City's designation of the Heritage Building as a protected heritage property pursuant to section 593 of the *Vancouver Charter*;
- (k) **"Infill One-Family Dwelling"** has the meaning given under the *Zoning & Development By-law*;
- (l) **"Lands"** means the North Parcel and the South Parcel together and includes any other parcels of land into which the Lands may at any time in any way be consolidated or subdivided;
- (m) **"Land Title Act"** means the *Land Title Act*, R.S.B.C. 1996, c.250;
- (n) **"New Building A", "New Building B" and "New Building C"** have the meanings given in Recital D above;
- (o) **"New Buildings"** means New Building A, New Building B and New Building C, together;
- (p) **"North Parcel"** means Lot 1 Block 3 District Lot 662 Plan 1900;
- (q) **"One-Family Dwelling with Secondary Suite"** has the meaning given in the *Zoning and Development By-law*;
- (r) **"Owners"** means the owners of both the North Parcel and the South Parcel and the successors and assigns thereof and, without limitation, if the Lands or either the North Parcel or the South Parcel are subdivided by way of a strata plan under the *Strata Property Act* of British Columbia, then "Owners" includes the strata corporation thereby created;
- (s) **"rehabilitate" and "rehabilitation"** mean the planning and carrying out of restoration, rehabilitation, construction and conservation work to restore, upgrade, improve and conserve the structure, support and heritage characteristics and features of a heritage building or real property heritage feature so as to revitalize it and extend its life and use as such;
- (t) **"Rehabilitation Work"** has the meaning given below herein;
- (u) **"South Parcel"** means Lot 2 Block 3 District Lot 662 Plan 1900;
- (v) **"Subdivision By-Law"** means the City's *Subdivision By-law No. 5208* and any amendments thereto and replacements thereof;
- (w) **"Vancouver Charter"** means the *Vancouver Charter*, S.B.C. 1953, c.55, as amended from time to time, and any and all replacements thereof or any statute

enacted in substitution thereof and all regulations applicable thereto and any amendments, replacements and substitutions thereof;

- (x) **“Zoning & Development By-law”** means the City’s *Zoning & Development By-law No. 3575* and any amendments thereto and replacements thereof.

ARTICLE 2

SECTION 219 COVENANT

REHABILITATION AND CONSERVATION OF HERITAGE BUILDING

2.1 Pursuant to Section 219 of the *Land Title Act*, the Owners covenant and agree, as a covenant and agreement running with, charging and binding the Lands, that:

- (a) the Owners, at the Owners' expense, and to the satisfaction of the Director of Planning:
 - (i) within 24 months after the date upon which the City’s Council enacts the Heritage Designation by-law or such other effective date as may be agreed upon to the satisfaction of the Director of Planning and Director of Legal Services, shall rehabilitate or cause the rehabilitation of the Heritage Building and shall do so in accordance with this agreement, the Heritage Permit and the Conservation Plan (the **“Rehabilitation Work”**);
 - (ii) shall ensure that a Heritage Consultant supervises the Rehabilitation Work;
 - (iii) shall ensure that, at all times during the carrying out of the Rehabilitation Work, the Heritage Building is secure from vandalism and occupation by squatters; and
 - (iv) on completion of the Rehabilitation Work as required by this agreement, shall cause a Heritage Consultant to submit to the Director of Planning, a signed statement stating explicitly that the Rehabilitation Work has been completed in accordance with the Conservation Plan;
- (b) nobody will in any way use or occupy either the Heritage Building or the New Buildings or any part thereof and nobody will apply for or take any other action to compel the City, and, notwithstanding that either the Heritage Building or New Buildings may be ready for occupancy, the City will be under no obligation to issue any occupancy permit for either the Heritage Building or the New Buildings or any part thereof at any time after this agreement is registered on title to the Lands, until:
 - (i) the Rehabilitation Work has been completed in accordance herewith;
 - (ii) the Owners, as required above herein, have submitted or caused to be submitted to the Director of Planning a signed written statement prepared by a Heritage Consultant stating explicitly that the Rehabilitation Work has been completed in accordance with the Conservation Plan; and

- (iii) the City has given the Owners a written notice or confirmation by which the City explicitly accepts or confirms its acceptance that the Rehabilitation Work has been completed in accordance herewith;
- (c) the City may revoke at anytime any occupancy permit(s) issued for either the Heritage Building or any New Buildings prior to completion of the Rehabilitation Work, unless such occupancy permit(s) was obtained in accordance with this agreement; and in such circumstances the Owners, on reasonable notice from the City, will ensure that anyone occupying any part of any such building vacates it immediately on such revocation of occupancy permit(s), and if anyone continues to occupy any portion of any part of either the Heritage Building or any of the New Buildings in contravention of such revocation, this agreement and any applicable City bylaws, the City, at the Owners' expense, may pursue all remedies available to it, including, without limitation, injunctive relief, to ensure that either the Heritage Building or the New Buildings, as the case may be, is vacated and unoccupied in accordance with this agreement;
- (d) after completion of the Rehabilitation Work in accordance herewith, the Owners, at the Owners' expense, will do all things reasonably necessary to conserve the Heritage Building as rehabilitated and, in any event, keep it in good condition in all respects at all times;
- (e) at all times after and while this agreement is registered on title to the Lands, the Owners, at the Owners' expense, shall keep the New Buildings and the Heritage Building insured to their full replacement value against all perils, including, without limitation, damage or destruction by earthquake;
- (f) except for maintenance and repair work, the Owners will not and will not suffer or permit anyone else to do anything at anytime to renovate, alter, modify or reconfigure or that will result in any alteration, modification or reconfiguration of the Heritage Building in any way except as may be permitted or required by this agreement, the Conservation Plan and/or any development and/or heritage alteration permits issued by the City;
- (g) the Owners shall not at any time and shall not suffer or permit anyone else to at anytime do anything that will obscure, deface or remove in any way any heritage related commemorative plaque the City, at its expense, may attach to the Heritage Building pursuant to the statutory right of way granted to pursuant to Article 4 hereof;
- (h) if at any time for any reason the Heritage Building is damaged in any way or destroyed, the Owners, at the Owners' expense, and to the City's satisfaction, shall repair it or replace it with a replica building, except that if the Owners *bona fide* believes that to do so would be uneconomical, in which case and, if for that reason, the Owners wishes to demolish it as damaged or wishes not to replicate it, as the case may be, the Owners, at the Owners' expense, and in consultation with and to the satisfaction of the City, will prepare an economic analysis therefor, but taking into consideration only land related economic factors, such as, for example,

but without limitation, the estimated cost to repair or replicate the Heritage Building, as the case may be, the anticipated market value of the repaired or replicated building, the incentives given by the City for this agreement and the Heritage Designation, the estimated value of the South Parcel under the zoning otherwise applicable thereto, after which the City and the Owners, together, on the basis of that analysis, will determine whether in the circumstances it would be uneconomical to repair or replicate the Heritage Building, failing which the matter in all respects will be determined by arbitration in accordance with the provisions of the *Arbitration Act*, RSBC 1996 c. 55 and, if the Owners and the City agree or if in arbitration it is determined that it would be uneconomical for the Owners to be required to repair or replicate the Heritage Building, then, by explicit written notification, the City will consent to the Owners' wish to not repair or replicate the Heritage Building and will discharge this agreement from title to the Lands and the Owners may request of the City's Mayor and Council that the Heritage Designation be cancelled;

- (i) if at anytime, in default under this agreement, the Owners, in the City's opinion, fails to perform its obligations as required hereby to rehabilitate and conserve the Heritage Building and fails to rectify any such default within 30 days, or within such other longer time as the City may explicitly permit, after notice from the City to so rectify such default, the City, on the Owners' behalf and at the Owners' expense, may, but will be under not be obligated to, rectify the Owners' default; and
- (j) the Owners acknowledge and agree that, notwithstanding that this agreement and the Heritage Designation will result in restrictions with respect to the future use and development and therefore may affect the value of the Lands, the Owners have received full and fair compensation therefor and the Owners hereby waive and renounce any and all claims for any further or other compensation by reason of this agreement and/or the Heritage Designation and acknowledges and agrees that the requirements of Section 595(1) of the *Vancouver Charter* have been fully satisfied and the Owners hereby release the City and its officials, officers, employees and agents from any liability for any loss, injury, damage or expense of any kind the Owners may suffer, incur or experience and the Owners will indemnify the City for any loss, injury, damage or expense the City may incur, suffer or experience and for any complaint, demand, claim, action, suit or judgment for any loss, injury, damage or expense anyone else may suffer, incur or experience arising out of or in any way connected this agreement and/or the Heritage Designation. The release and promise of indemnification contained in this paragraph will survive discharge and termination of this agreement.

ARTICLE 3 LETTER OF CREDIT

- 3.1 Notwithstanding the occupancy restrictions set out above in respect of the Heritage Building and the New Buildings, the City, in its discretion and subject to the approval of the Directors of Planning and Legal Services, may issue occupancy permits therefor and on

that basis it may be occupied prior to the time that the Rehabilitation Work is completed in accordance herewith, provided:

- (a) the Owners duly apply to the City for any and all occupancy permits required therefor and pays all fees required therefor;
 - (b) this agreement has been fully registered in the Land Title Office to the City's satisfaction;
 - (c) the City has issued a building permit and/or heritage alteration permit in respect of the Rehabilitation Work;
 - (d) all legal requirements for occupancy of the New Buildings or the Heritage Building have been fulfilled;
 - (e) the Owners have delivered to the City, in all respects to the City's satisfaction, a letter of credit in the amount equal to 120% of the then estimated cost to complete the Rehabilitation Work, with such estimate to be made in writing by the Consultant and explicitly accepted in writing by the City;
 - (f) the Owners, at the time of application for any such occupancy permits, are not, in the City's opinion, in breach of any of its obligations under this agreement or any other agreement between the City and the Owners with respect to the Heritage Building, the New Buildings and/or the Lands; and
 - (g) the City, in its opinion, is satisfied that the Rehabilitation Work is being carried out diligently.
- 3.2 All letters of credit required under this Article will be issued by a Schedule I Canadian chartered bank or other financial institution acceptable to the City's Director of Legal Services and will be unconditional, irrevocable and self-renewing and otherwise in a form and content which is acceptable to the City and will be provided for a period of one year with a provision for an automatic renewal or extension without amendment from year to year.
- 3.3 The City may call upon the letter or letters of credit provided to it pursuant to the preceding paragraphs herein and apply the proceeds therefrom for any purpose and in any manner it may choose in connection with the Rehabilitation Work, if:
- (a) the bank issuing the letter of credit refuses to extend or renew the expiry date of the letter of credit;
 - (b) the Owners becomes insolvent or commits any act of bankruptcy or becomes bankrupt or takes the benefit of any act or legislation that may be enforced for bankrupt or insolvent debtors;
 - (c) the Owners, in the City's opinion, has not been diligently carrying out the Rehabilitation Work; or

(d) the City in any way undertakes all or any part of the Rehabilitation Work pursuant to this agreement.

3.4 Within a reasonable time of the Owners' request after completion of the Rehabilitation Work in accordance with this agreement, the City will, as the case may be, return to its issuer any letter of credit provided to the City hereunder or, if the City has called upon the letter of credit, deliver to the Owners any remaining balance therefrom.

ARTICLE 4

SECTION 219 COVENANT - NO SUBDIVISION OR SEPARATE SALE

4.1 Pursuant to Section 219 of the *Land Title Act*, the Owners covenant and agree, as a covenant and agreement running with, charging and binding the Lands, that no portion of the Lands, including, without limitation, the South Parcel and the North Parcel, will at any time be either subdivided into bare land strata lots under the *Strata Property Act* or sold separately from any other portion of the Lands and that all of the Lands, including, without limitation, the South Parcel and the North Parcel, will be owned at all times by the Owners.

4.2 Within a reasonable time of the Owners' request after the Rehabilitation Work has been completed in accordance with this agreement, the City, at the Owners' expense, will discharge from title to the Lands the Section 219 covenant contained in this Article 4.

ARTICLE 5

STATUTORY RIGHT OF WAY

5.1 Pursuant to Section 218 of the *Land Title Act*, the Owners hereby grant to the City, effective at all times from and after the date upon which the City issues the Development Permits, a statutory right of way to enter, be and move about on the Lands:

- (a) to install, maintain, repair and replace on the exterior of the Heritage Building or at the perimeter of the South Parcel, at the City's expense and, in consultation with the Owners as to location, a commemorative plaque; and
- (b) in the event the Owners, in the City's opinion, is in default of any of its obligations under this agreement to rehabilitate and conserve the Heritage Building, to carry out any such obligations of the Owners hereunder as the City may choose.

5.2 The statutory right of way granted in the preceding paragraph is necessary for the operation and maintenance of the City's undertaking.

5.3 Notwithstanding any other provision of this agreement, nothing herein obligates the City to exercise any of the rights granted to it by way of the statutory right of way contained herein.

**ARTICLE 6
DEBTS OWED TO CITY**

- 6.1 If the City, pursuant to this agreement, enters upon the Lands or any of them to perform any of the Owners' obligations hereunder to carry out the Rehabilitation Work or to conserve, repair or replace or replicate the Heritage Building:
- (a) there will be no express or implied warranties as to the quality of any work the City may so carry out or the suitability of the materials for the purposes for which they are put; and
 - (b) the Owners will pay to the City, forthwith on demand, to the extent the City has not taken payment for such costs from any letters of credit provided to the City hereunder, as reimbursement for expenses incurred, the full amount of all costs the City incurs to carry out work to rehabilitate, conserve, repair or replace the Heritage Building, plus 20% of such costs as fair compensation for the City's overhead and any such amounts the Owners do not pay or fail to pay to the City forthwith on demand will bear interest, until paid in full, at the prime lending rate at the Bank of Montreal's main branch in the City of Vancouver, plus three percent, calculated monthly and not in advance.

**ARTICLE 7
EQUITABLE CHARGE**

- 7.1 The Owners hereby grant to the City an Equitable Charge over the Lands, which charge will run with, charge and bind the Lands, for the payment of all sums (including all interest thereon) which may at any time be payable by the Owners to the City under the terms of this agreement or otherwise at law.
- 7.2 The Equitable Charge the Owners have granted to the City herein may be enforced by the appointment of a receiver for the sale of the Lands.

**ARTICLE 8
BY-LAW VARIATIONS**

- 8.1 If the Lands are subdivided at any time hereafter either under the provisions of the *Land Title Act* or under the *Strata Property Act* or under other similar legislation enacted from time to time then upon the deposit of a plan of subdivision, strata plan, or similar plan as the case may be, Sections 9.1 and 9.8 of the *Subdivision By-law* are varied to allow for a minimum parcel width of 4.5 metres (15 feet).
- 8.2 The RS-1 District Schedule to the *Zoning & Development By-law* is hereby varied as follows for the Lands, for purposes of the Development:
- (a) Section 3.2.1.DW is varied so that sections (a) to (c) do not apply;
 - (b) Section 4.1.1 is varied to permit a minimum site width of 4.5 metres (15 feet);

- (c) Section 4.4.1 is varied to permit a front yard with a minimum depth of 1.49 metres (4.9 feet) to be provided;
 - (d) Section 4.5 shall not apply, so that a side yard is not required;
 - (e) Section 4.6.1 shall not apply, so that a rear yard is not required;
 - (f) Section 4.7.1 is varied to provide for a maximum floor area of 261m² (2,810 square feet) for New Building A, a maximum floor area of 131m² (1,410 square feet) for New Building B, a maximum floor area of 223m² (2,400 square feet) for the Heritage Building and a maximum floor area of 134m² (1,445 square feet) for New Building C, which together is approximately a floor space ratio of 1.01 based on the total area of the Lands;
 - (g) Sections 4.7.1(a) to 4.7.1(e) inclusive relating to maximum floor space ratio shall not apply;
 - (h) Section 4.7.3(c) is varied to permit a floor area for off-street parking to be excluded from the calculation of permitted floor space area if the Director of Planning is satisfied with the design, number and size of the off-street parking spaces;
 - (i) Section 4.8.1 is varied to permit site coverage of 386m² (4,150 square feet) for the Heritage Building and the New Buildings;
 - (j) Section 4.8.5 shall not apply, provided that the Director of Planning is satisfied with the amount of permeable landscaping and paving;
 - (k) Section 4.16 shall not apply; and
 - (l) Section 4.17 shall not apply.
- 8.3 Section 10 of the *Zoning & Development By-law* is hereby varied as follows for the Lands, for purposes of the Development:
- (a) Section 10.1 relating to number of principal buildings on a site shall not apply;
 - (b) Section 10.7.1(a) is varied to permit steps in any side yard, subject to approval by the Director of Planning; and
 - (c) Section 10.7.1(b) is varied to permit eaves, gutters, sills, chimneys and other similar projections to project into a required or permitted yard, regardless of their projected depth, provided that the Director of Planning is satisfied that they correspond to drawings approved under the DP Applications.

**ARTICLE 9
SUBDIVISION**

- 9.1 **Subdivision.** If the Lands are subdivided at any time hereafter either under the provisions of the *Land Title Act* or under the *Strata Property Act* or under other similar legislation

enacted from time to time then upon the deposit of a plan of subdivision, strata plan, or similar plan as the case may be:

- (a) subject to Section 9.2 herein, the rights and benefits of this agreement herein granted will be annexed to and run with each of the new parcels, lots, or other subdivided parcels and areas so created; and
- (b) subject to Section 9.3 herein, the burdens, obligations, covenant, statutory right of way and equitable charge contained in this agreement will continue to charge each of the new parcels, lots, or other subdivided parcels and areas so created.

9.2 **Subdivision by Strata Plan.** If the Lands, or any portion thereof, are subdivided by a strata plan, this agreement will charge title to the strata lots and the common property comprising such strata plan and:

- (a) the Section 219 Covenant and obligations therein and the Statutory Right of Way and Equitable Charge granted herein will be registered against each individual strata lot and noted on the common property sheet;
- (b) the strata corporation or the strata corporations created will perform and observe the Owner's covenants in this agreement, solely at the expense of the strata lot owners; and
- (c) the liability of each strata lot owner for the performance and observance of the Owner's covenants herein will be in proportion to the unit entitlement of his, her or its strata lot as established by the strata plan,

provided that, if the Lands are first subdivided by air space plan and then one or more of these parcels are further subdivided by strata plan, the easements and covenants registered concurrently with the air space plan may designate the air space parcel or the remainder, and therefore the strata corporation, responsible to perform and observe the Owner's covenants in this agreement.

9.3 Should the Lands be subdivided pursuant to the *Land Title Act* to create the North Parcel in which only New Buildings are located, then, at the Owners' request after the Rehabilitation Work has been completed in accordance with this agreement, the City, at the Owners' expense, will discharge from title to the newly created parcel containing only New Buildings, the Section 219 Covenant, the Statutory Right of Way and the Equitable Charge contained in this agreement and will request of the Registrar of the Land Title Office that the legal notation referring to the Heritage Designation be removed from title to the North Parcel containing only New Buildings. Following such discharges, all restrictions, obligations and liability on the Owners with respect to the Heritage Building shall only attach to and run with the South Parcel.

**ARTICLE 10
NOTICES**

10.1 Any notice, request or communication required or permitted to be given hereunder will be in writing and will be deemed to have been duly given if delivered to the party or mailed in Canada by prepaid registered post addressed to the party as follows:

- (a) if to the Owners, to the Owners' address as shown in the Land Title Office records; and
- (b) if to the City:

City of Vancouver
453 West 12th Avenue
Vancouver, BC V5Y 1V4

Attention: City Clerk and Director of Legal Services,

or to such other address in Canada as any party may specify in writing to the other parties, provided that if and when the owner of the Lands or any part thereof should change, then to the address as set out in the State of Title Certificate for the Lands or such part thereof, and such notice will be deemed to have been received, if delivered, on the date of delivery, and if mailed as aforesaid within Canada then on the third business day following its mailing, provided that if mailed, should there be between the time of the mailing and the actual receipt of the notice, a mail strike, slowdown or other labour dispute which might affect delivery of such notice, then such notice will only be effective if and when actually delivered.

**ARTICLE 11
GENERAL**

- 11.1 **Joint and Several Liability.** If the Owner is more than one party, such parties shall be jointly and severally liable to the City for the performance and observance of the Owner's obligations in this agreement.
- 11.2 **Priority of Registration.** The Owners, at their expense, after execution of this agreement, shall do or cause to be done all things and acts necessary to ensure that this agreement is registered against title to the Lands with priority over all other encumbrances on title to the Lands as the City may require.
- 11.3 **Perfection of Intention.** The parties hereto will do such things and execute such further and other documents and instruments and do such further and other acts as may be reasonably necessary to implement and carry out the provisions and intent of this agreement and to ensure timely and effective registration in the Land Title Office.
- 11.4 **Waiver.** No failure on the part of the City to exercise and no delay in exercising any right under this agreement will operate as a waiver thereof nor will any single or partial exercise by the City of any right under this agreement preclude any other or future exercise thereof or the exercise of any other right. The remedies herein provided will be

cumulative and not exclusive of any other remedies provided by law and all remedies stipulated for the City herein will be deemed to be in addition to and not, except as herein expressly stated, restrictive of the remedies of the City at law or in equity.

- 11.5 **Time of Essence.** Time will be of the essence in respect of this agreement.
- 11.6 **Enurement.** This agreement shall enure to the benefit of and be binding upon the Owners and their successors and trustees, and this agreement shall charge and run with the Lands and with any parcel, lot or part into which the Lands may be subdivided or consolidated and shall enure to the benefit of and be binding upon the Owners' successors in title and trustees and successors and all parties claiming through such Owners.
- 11.7 **City's Other Rights and Obligations.** Nothing contained or implied in this agreement will derogate from the obligations of the Owners under any other agreement with the City or prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Vancouver Charter* and the rights, powers, duties and obligations of the City under all other laws, which may be, if the City so elects, as fully and effectively exercised in relation to the Lands as if this agreement had not been executed and delivered by the Owners and the City.
- 11.8 **Headings.** The division of this agreement into articles, sections and paragraphs and the insertion of headings are for the convenience of reference only and will not affect the construction or interpretation of this agreement.
- 11.9 **Number.** Words contained herein importing the singular number only will include the plural and vice versa, words importing the masculine gender will include the feminine and neuter genders and vice versa and words importing persons will include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and vice versa.
- 11.10 **Governing Law.** This agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.
- 11.11 **Severability.** All provisions of this agreement are severable in that if any court or other lawful authority having jurisdiction to decide the matter finds for any reason that one or more of them is void or unenforceable, then such void or unenforceable provisions will be severed from this agreement and all other provisions herein will continue to be binding and enforceable.
- 11.12 **City Approvals.** In this agreement, where City "approval", "acceptance", "consent" or similar authorization or agreement is required, unless provided for otherwise in this agreement, such "approval", "acceptance", "consent" or similar City agreement or authority must be provided in writing, by the City departments, employees, officers or designates, as the case may be, that are authorized to provide such "approval", "acceptance", "consent" or similar authorization or agreement. Any purported "approval", "acceptance" "consent" or similar authorization or agreement provided by a City department, employee, officer or designate, as the case may be, that is not authorized to provide the same, shall be of no force or effect.

IN WITNESS WHEREOF the parties have executed this agreement on Form C which is a part hereof.

#166522v4

Heritage Revitalization Agreement - Bennett House
6306 Prince Albert Street/800 East 47th Avenue

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) "Existing Charges" means the Mortgage registered under number CA3235777;
- (b) "Existing Chargeholder" means the THE TORONTO-DOMINION BANK;
- (c) "New Charges" means the Section 219 Covenant, the Statutory Right of Way and the Equitable Charge and contained in the attached Terms of Instrument - Part 2; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the meaning ascribed to them in the attached Terms of Instrument - Part 2.

For ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which the Existing Chargeholder acknowledges, the Existing Chargeholder:

- (i) consents to the Owner granting the New Charges to the City; and
- (ii) agrees with the City that the New Charges charge the Lands in priority to the Existing Charges in the same manner and to the same effect as if the Owner had granted the New Charges, and they had been registered against title to the Lands, prior to the grant or registration of the Existing Charges or the advance of any money under the Existing Charges.

To witness this consent and priority instrument, the Existing Chargeholder has caused its duly authorized signatories to sign the attached General Instrument - Part 1.

END OF DOCUMENT

EXPLANATION**Heritage Designation By-law
Re: 731 East 22nd Avenue**

At a public hearing on July 15th, 2014, Council approved a recommendation to designate the structure and exterior envelope, of the improvements and exterior building materials of a building at 731 East 22nd Avenue as protected heritage property. Enactment of the attached By-law will achieve the designation.

Director of Legal Services
July 22, 2014

731 East 22nd Avenue
(Emily Durie House)

BY-LAW NO. _____

**A By-law to designate certain real property
as protected heritage property**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. Council considers that the real property described as:

Structure and
exterior envelope of
the improvements
and exterior
building materials of
heritage building,
building

731 East 22nd Avenue
Vancouver, B.C.

PID: 015-640-744
LOT 19
BLOCK 30
DISTRICT LOT 301
PLAN 187

has heritage value or heritage character, and that its designation as protected heritage property is necessary or desirable for its conservation.

2. Council designates the real property described in section 1 of this By-law as protected heritage property under Section 593 of the *Vancouver Charter*.

3. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this _____ day of _____, 2014

Mayor

City Clerk

EXPLANATION

Authorization to enter into a Heritage Revitalization Agreement Regarding 731 East 22nd Avenue

At a public hearing held on July 15th, 2014, Council resolved to enter into a By-law to authorize an agreement regarding 731 East 22nd Avenue, pursuant to Section 592 of the *Vancouver Charter*. Enactment of the attached By-law will achieve this.

Director of Legal Services
July 22, 2014



731 East 22nd Avenue
(Emily Durie House)

BY-LAW NO. _____

**A By-law to authorize Council entering into a
Heritage Revitalization Agreement with the Owner of Heritage Property**

PREAMBLE

Council has authority under the *Vancouver Charter* to enter into a Heritage Revitalization Agreement with the owner of heritage property, including terms and conditions to which Council and the owner may agree.

Certain property bearing the civic address of 731 East 22nd Avenue, and the following legal description:

PID: 015-640-744
LOT 19
BLOCK 30
DISTRICT LOT 301
PLAN 187

contains a heritage building.

Council is of the opinion that the building has sufficient heritage value to justify its conservation, and Council and the owner of the property have agreed to facilitate such conservation, by agreeing to the terms and conditions set out in the attached Heritage Revitalization Agreement.

NOW THEREFORE THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. Council authorizes the City to enter into a Heritage Revitalization Agreement with the owner, in substantially the form and substance of the Heritage Revitalization Agreement attached to this By-law, and also authorizes the Director of Legal Services to execute the agreement on behalf of the City, and to deliver it to the owner on such terms and conditions as the Director of Legal Services deems fit.

**LAND TITLE ACT
FORM C (Section 233) CHARGE
GENERAL INSTRUMENT - PART 1 Province of British Columbia**

LOCK

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, R.S.B.C. 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent). **Import Profile**

Heidi Granger, Solicitor
 City of Vancouver
 453 West 12th Avenue
 Vancouver BC V5Y 1V4

LTO Client number: 10647
 Phone number: 604.829.2001
 Matter number: 14-0229

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
 [PID] [LEGAL DESCRIPTION]
015-640-744 LOT 19 BLOCK 30 DISTRICT LOT 301 PLAN 187

No PID NMBR

STC? YES

Pick up STC? **Use 30 Parcel Schedule** **Use 3 Parcel Schedule**

3. NATURE OF INTEREST CHARGE NO. ADDITIONAL INFORMATION **Use Schedule**

SEE SCHEDULE

4. TERMS: Part 2 of this instrument consists of (select one only)
 (a) Filed Standard Charge Terms D.F. No. (b) Express Charge Terms Annexed as Part 2
 A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S): **Use Schedule**

SEE SCHEDULE

6. TRANSFEREE(S): (including postal address(es) and postal code(s)) **Use Schedule**

**CITY OF VANCOUVER
 A MUNICIPAL CORPORATION
 453 WEST 12TH AVENUE
 VANCOUVER BRITISH COLUMBIA
 V5Y 1V4 CANADA**

Joint Tenants?

7. ADDITIONAL OR MODIFIED TERMS: **Use Schedule**

N/A

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

Execution Date		
Y	M	D
14		

Transferor(s) Signature(s)

BENJAMIN KENNETH REEDER

OFFICER CERTIFICATION:
 Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

More Signatures

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Y	M	D
14		

VANCOUVER CITY SAVINGS CREDIT
UNION, IN TRUST (SEE DF
BL051963)
by its authorized signatory(ies):

Name:

(as to both signatures)

Name:

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

More Signatures

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Y	M	D
14		

CITY OF VANCOUVER
by its authorized signatory:

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

More Signatures

**LAND TITLE ACT
FORM E****SCHEDULE**

PAGE 4 OF 22 PAGES

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Covenant

Article 2

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreementgranting the above Covenant priority over Mortgage
CA3446298

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NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Covenant

Article 4

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreementgranting the above Covenant priority over Mortgage
CA3446298

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NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Statutory Right of Way

Article 5

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreementgranting the above Statutory Right of Way priority
over Mortgage CA3446298

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LAND TITLE ACT
FORM E

SCHEDULE

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Equitable Charge		Article 7

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Priority Agreement		granting the above Equitable Charge priority over Mortgage CA3446298 Page 22

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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More Pages

**LAND TITLE ACT
FORM E**

SCHEDULE

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM, OR GENERAL INSTRUMENT FORM.

**BENJAMIN KENNETH REEDER
VANCOUVER CITY SAVINGS CREDIT UNION, IN TRUST (SEE DF BL051963) (INCORPORATION
NO. FI 97), as to Priority**

More Pages

TERMS OF INSTRUMENT - PART 2
HERITAGE REVITALIZATION AGREEMENT

WHEREAS:

- A. The Owner (as herein defined) is the registered owner of the parcel of land at 731 East 22nd Avenue in the City of Vancouver (the "Lands") which has the legal description shown in the Form C - Part 1 part of this document.
- B. There is a building situated on the Lands, known as the "Emily Durie House", which is listed on the Vancouver Heritage Register in the "B" Evaluation category and is considered to be of heritage value (the "Heritage Building").
- C. The Owner wishes to develop the Lands by:
- (i) adding to and rehabilitating the Heritage Building to be maintained as a One-Family Dwelling with Secondary Suite;
 - (ii) constructing a new Two-Family Dwelling at the rear of the property; and
 - (iii) subdividing the Lands into two new parcels, one of which will contain the Heritage Building fronting onto East 22nd Avenue (the "Heritage Parcel") and one of which will contain the new Two-Family Dwelling (the "New Duplex Parcel"),
- and under development permit application Nos. DE417636 and DE417637 (the "DP Applications") has applied to the City for development permits for that purpose.
- D. The Owner proposes that, in exchange for a number of variations to the City of Vancouver ("City") *Zoning & Development By-law* and *Subdivision By-law* needed for the proposed project as contemplated under the DP Applications, the Owner will enter into this heritage revitalization agreement in respect of the Heritage Building, and accept the designation of the Heritage Building as protected heritage property under the provisions of the *Vancouver Charter* SBC 1953 c.55.

THEREFORE, pursuant to Section 592 of the *Vancouver Charter* SBC 1953 c.55, and in consideration of the payment ten dollars (\$10.00) by the City to the Owner, the mutual obligations and benefits given herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1
DEFINITIONS

- 1.1 **Definitions.** In this agreement, unless explicitly used differently elsewhere herein, the terms defined in this section have the meanings given to them here:

#167304v4

Heritage Revitalization Agreement - Emily Durie House
731 East 22nd Avenue and 735 East 22nd Avenue

- (a) **"City"** means the municipality of the City of Vancouver continued under the *Vancouver Charter* and **"City of Vancouver"** means its geographic location and area;
- (b) **"Conservation Plan"** means a written plan and guidelines prepared by and/or under the supervision of a Heritage Consultant and explicitly accepted by the City for the rehabilitation and conservation of the Heritage Building as provided for hereunder;
- (c) **"Development"** means the proposed development project on the Lands as described in the introductory paragraphs hereto to add to and rehabilitate the Heritage Building and maintain the Heritage Building as a One-Family Dwelling with Secondary Suite, construct a new Two-Family Dwelling and subdivide the Lands to create the Heritage Parcel and the New Duplex Parcel;
- (d) **"Development Permits"** means any development permit(s) issued by the City under the DP Applications in respect of the Development, as such permit(s) may be modified or amended from time to time, including, without limitation, all final reports, plans, drawings and specifications relating thereto;
- (e) **"Director of Planning"** means City's Director of Planning appointed under the provisions of the *Vancouver Charter*;
- (f) **"DP Applications"** have the meanings given above in the introductory paragraphs hereto;
- (g) **"Dwelling Unit"** has the meaning given under the *Zoning & Development By-law*;
- (h) **"Heritage Building"** has the meaning given above in the introductory paragraphs herein;
- (i) **"Heritage Consultant"** means an independent, heritage building rehabilitation and conservation expert, knowledgeable and experienced in and duly qualified for planning and supervising rehabilitation and conservation work for heritage buildings;
- (j) **"Heritage Designation"** means the City's designation of the Heritage Building as a protected heritage property pursuant to section 593 of the *Vancouver Charter*;
- (k) **Heritage Parcel** means the new parcel of land to be created by the Subdivision which is to contain the Heritage Building;
- (l) **"Lands"** has the meaning given above in the introductory paragraphs hereto and includes any other parcels of land into which the Lands may at any time in any way be consolidated or subdivided;
- (m) **"Land Title Act"** means the *Land Title Act*, R.S.B.C. 1996, c.250;

#167304v4

Heritage Revitalization Agreement - Emily Durie House
731 East 22nd Avenue

- (n) **"New Building"** means the new Two-Family Dwelling contemplated for construction on the Lands under the DP Applications as described in the introductory paragraphs hereto;
- (o) **"New Duplex Parcel"** means the new parcel of land to be created by the Subdivision and which is to contain the New Building;
- (p) **"One-Family Dwelling"** has the meaning given under the *Zoning & Development By-law*;
- (q) **"One-Family Dwelling with Secondary Suite"** has the meaning given under the *Zoning & Development By-law*;
- (r) **"Owner"** means the registered owner or owners of the Lands and the successors and assigns thereof and, without limitation, if the Lands are subdivided by way of a strata plan under the *Strata Property Act* of British Columbia, then "Owner" includes the strata corporation thereby created;
- (s) **"rehabilitate"** and **"rehabilitation"** mean the planning and carrying out of restoration, rehabilitation, construction and conservation work to restore, upgrade, improve and conserve the structure, support and heritage characteristics and features of a heritage building or real property heritage feature so as to revitalize it and extend its life and use as such;
- (t) **"Rehabilitation Work"** has the meaning given below herein;
- (u) **"Subdivision"** means the proposed subdivision of the Lands contemplated in respect of the DP Applications which will create the Heritage Parcel and the New Duplex Parcel, generally as shown on the sketch plan attached hereto as Schedule "A";
- (v) **"Subdivision By-law"** means the City's *Subdivision By-law No. 5208* and any amendments thereto and replacements thereof;
- (w) **"Two-Family Dwelling"** has the meaning give under the *Zoning & Development By-law*;
- (x) **"Vancouver Charter"** means the *Vancouver Charter*, S.B.C. 1953, c.55, as amended from time to time and any and all replacements thereof or any statute enacted in substitution thereof and all regulations applicable thereto and any amendments, replacements and substitutions thereof;
- (y) **"Zoning & Development By-law"** means the City's *Zoning & Development By-law No. 3575* and any amendments thereto and replacements thereof.

ARTICLE 2
SECTION 219 COVENANT
REHABILITATION AND CONSERVATION OF HERITAGE BUILDING

- 2.1 Pursuant to Section 219 of the *Land Title Act*, the Owner covenants and agrees, as a covenant and agreement running with, charging and binding the Lands, that:
- (a) the Owner, at the Owner's expense, and to the satisfaction of the Director of Planning:
 - (i) within twenty-four (24) months after the date upon which the Development Permit for the Heritage Building is issued, plus any additional time by which the date of expiry of the Development Permit may be extended under the provisions of the *Zoning and Development By-law*, but in any event by no later than thirty (30) months after the date upon which this covenant is registered on title to the Lands, shall rehabilitate or cause the rehabilitation of the Heritage Building and shall do so in accordance with this agreement, the Development Permit and the Conservation Plan (the "Rehabilitation Work");
 - (ii) shall ensure that a Heritage Consultant supervises the Rehabilitation Work;
 - (iii) shall ensure that, at all times during the carrying out of the Rehabilitation Work, the Heritage Building is secure from vandalism and occupation by squatters; and
 - (iv) on completion of the Rehabilitation Work as required by this agreement, shall cause a Heritage Consultant to submit to the Director of Planning, a signed statement stating explicitly that the Rehabilitation Work has been completed in accordance with the Conservation Plan;
 - (b) nobody will in any way use or occupy either the Heritage Building or the New Building or any part thereof and nobody will apply for or take any other action to compel the City and, notwithstanding that either the Heritage Building or New Building may be ready for occupancy, the City will be under no obligation to issue any occupancy permit for either the Heritage Building or the New Building or any part thereof it at any time after this agreement is registered on title to the Lands, until:
 - (i) the Rehabilitation Work has been completed in accordance herewith;
 - (ii) the Owner, as required above herein, has submitted or caused to be submitted to the Director of Planning a signed written statement prepared by a Heritage Consultant stating explicitly that the Rehabilitation Work has been completed in accordance with the Conservation Plan; and
 - (iii) the City has given the Owner a written notice or confirmation by which the City explicitly accepts or confirms its acceptance that the Rehabilitation Work has been completed in accordance herewith;

#167304v4

Heritage Revitalization Agreement - Emily Durie House
731 East 22nd Avenue

- (c) the City may revoke at anytime any occupancy permit(s) issued for either the Heritage Building or the New Building prior to completion of the Rehabilitation Work, unless such occupancy permit(s) was obtained in accordance with this agreement, and in such circumstances the Owner, on reasonable notice from the City, will ensure that anyone occupying any part of any such building vacates it immediately on such revocation of occupancy permit(s), and if anyone continues to occupy any portion of any part of either the Heritage Building or the New Building in contravention of such revocation, this agreement and any applicable City bylaws, the City, at the Owner's expense, may pursue all remedies available to it, including, without limitation, injunctive relief, to ensure that either the Heritage Building or the New Building, as the case may be, is vacated and unoccupied in accordance with this agreement;
- (d) after completion of the Rehabilitation Work in accordance herewith, the Owner, at the Owner's expense, will do all things reasonably necessary to conserve the Heritage Building as rehabilitated and, in any event, keep it in good condition in all respects at all times;
- (e) at all times after and while this agreement is registered on title to the Lands, the Owner, at the Owner's expense, shall keep the New Building and the Heritage Building insured to their full replacement value against all perils, including, without limitation, damage or destruction by earthquake;
- (f) except for maintenance and repair work, the Owner will not and will not suffer or permit anyone else to do anything at anytime to renovate, alter, modify or reconfigure or that will result in any alteration, modification or reconfiguration of the Heritage Building in any way except as may be permitted or required by this agreement, the Conservation Plan and/or any development and/or heritage alteration permits issued by the City;
- (g) the Owner shall not at any time and shall not suffer or permit anyone else to at anytime do anything that will obscure, deface or remove in any way any heritage related commemorative plaque the City, at its expense, may attach to the Heritage Building pursuant to the statutory right of way granted to pursuant to Article 5 hereof;
- (h) if at any time for any reason the Heritage Building is damaged in any way or destroyed, the Owner, at the Owner's expense, and to the City's satisfaction, shall repair it or replace it with a replica building, except that if the Owner *bona fide* believes that to do so would be uneconomical, in which case, and if for that reason the Owner wishes to demolish it as damaged or wishes not to replicate it, as the case may be, the Owner, at the Owner's expense, and in consultation with and to the satisfaction of the City, will prepare an economic analysis therefor, but taking into consideration only land related economic factors, such as, for example, but without limitation, the estimated cost to repair or replicate the Heritage Building, as the case may be, the anticipated market value of the repaired or replicated building, the incentives given by the City for this agreement and the Heritage Designation, the estimated value of the Lands under the zoning otherwise

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Heritage Revitalization Agreement - Emily Durie House
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applicable thereto, after which the City and the Owner, together, on the basis of that analysis, will determine whether in the circumstances it would be uneconomical to repair or replicate the Heritage Building, failing which the matter in all respects will be determined by arbitration in accordance with the provisions of the *Arbitration Act* RSBC 1996 c. 55, and if the Owner and the City agree or if in arbitration it is determined that it would be uneconomical for the Owner to be required to repair or replicate the Heritage Building, then, by explicit written notification, the City will consent to the Owner's wish to not repair or replicate the Heritage Building and will discharge this agreement from title to the Lands and the Owner may request of the City's Mayor and Council that the Heritage Designation be cancelled;

- (i) if at anytime, in default under this agreement, the Owner, in the City's opinion, fails to perform its obligations as required hereby to rehabilitate and conserve the Heritage Building and fails to rectify any such default within thirty (30) days, or within such other longer time as the City may explicitly permit, after notice from the City to so rectify such default, the City, on the Owner's behalf and at the Owner's expense, may, but will be under not be obligated to, rectify the Owner's default; and
- (j) the Owner acknowledges and agrees that, notwithstanding that this agreement and the Heritage Designation will result in restrictions with respect to the future use and development and therefore may affect the value of the Lands, the Owner has received full and fair compensation therefor and the Owner hereby waives and renounces any and all claims for any further or other compensation by reason of this agreement and/or the Heritage Designation and acknowledges and agrees that the requirements of Section 595(1) of the *Vancouver Charter* SBC 1953 c.55 have been fully satisfied, and the Owner hereby releases the City and its officials, officers, employees and agents from any liability for any loss, injury, damage or expense of any kind the Owner may suffer, incur or experience and the Owner will indemnify the City for any loss, injury, damage or expense the City may incur, suffer or experience and for any complaint, demand, claim, action, suit or judgment for any loss, injury, damage or expense anyone else may suffer, incur or experience arising out of or in any way connected this agreement and/or the Heritage Designation. The release and promise of indemnification contained in this paragraph will survive discharge and termination of this agreement.

**ARTICLE 3
LETTER OF CREDIT**

- 3.1 Notwithstanding the occupancy restrictions set out above in respect of the Heritage Building and the New Building, the City, in its discretion, may issue occupancy permits therefor and on that basis either or both of them may be occupied prior to the time that the Rehabilitation Work is completed in accordance herewith, provided:
- (a) the Owner duly applies to the City for any and all occupancy permits required therefor and pays all fees required therefor;

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- (b) this agreement has been fully registered in the Land Title Office to the City's satisfaction;
 - (c) the City has issued a building permit and/or heritage alteration permit in respect of the Rehabilitation Work;
 - (d) all legal requirements for occupancy of the New Building or the Heritage Building have been fulfilled;
 - (e) the Owner has delivered to the City, in all respects to the City's satisfaction, a letter of credit in the amount equal to one hundred and twenty percent (120%) of the then estimated cost to complete the Rehabilitation Work, with such estimate to be made in writing by the Consultant and explicitly accepted in writing by the City;
 - (f) the Owner, at the time of application for any such occupancy permits, is not, in the City's opinion, in breach of any of its obligations under this agreement or any other agreement between the City and the Owner with respect to the Heritage Building, the New Building and/or the Lands; and
 - (g) the City, in its opinion, is satisfied that the Rehabilitation Work is being carried out diligently.
- 3.2 All letters of credit required under this Article will be issued by a Schedule I Canadian chartered bank or other financial institution acceptable to the City's Director of Legal Services and will be unconditional, irrevocable and self-renewing and otherwise in a form and content which is acceptable to the City and will be provided for a period of one (1) year with a provision for an automatic renewal or extension without amendment from year to year.
- 3.3 The City may call upon the letter or letters of credit provided to it pursuant to the preceding paragraphs herein and apply the proceeds therefrom for any purpose and in any manner it may choose in connection with the Rehabilitation Work, if:
- (a) the bank issuing the letter of credit refuses to extend or renew the expiry date of the letter of credit;
 - (b) the Owner becomes insolvent or commits any act of bankruptcy or becomes bankrupt or takes the benefit of any act or legislation that may be enforced for bankrupt or insolvent debtors;
 - (c) the Owner, in the City's opinion, has not been diligently carrying out the Rehabilitation Work; or
 - (d) the City in any way undertakes all or any part of the Rehabilitation Work pursuant to this agreement.
- 3.4 Within a reasonable time of the Owner's request after completion of the Rehabilitation Work in accordance with this agreement, the City will, as the case may be, return to its

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- (b) this agreement has been fully registered in the Land Title Office to the City's satisfaction;
 - (c) the City has issued a building permit and/or heritage alteration permit in respect of the Rehabilitation Work;
 - (d) all legal requirements for occupancy of the New Building or the Heritage Building have been fulfilled;
 - (e) the Owner has delivered to the City, in all respects to the City's satisfaction, a letter of credit in the amount equal to one hundred and twenty percent (120%) of the then estimated cost to complete the Rehabilitation Work, with such estimate to be made in writing by the Consultant and explicitly accepted in writing by the City;
 - (f) the Owner, at the time of application for any such occupancy permits, is not, in the City's opinion, in breach of any of its obligations under this agreement or any other agreement between the City and the Owner with respect to the Heritage Building, the New Building and/or the Lands; and
 - (g) the City, in its opinion, is satisfied that the Rehabilitation Work is being carried out diligently.
- 3.2 All letters of credit required under this Article will be issued by a Schedule I Canadian chartered bank or other financial institution acceptable to the City's Director of Legal Services and will be unconditional, irrevocable and self-renewing and otherwise in a form and content which is acceptable to the City and will be provided for a period of one (1) year with a provision for an automatic renewal or extension without amendment from year to year.
- 3.3 The City may call upon the letter or letters of credit provided to it pursuant to the preceding paragraphs herein and apply the proceeds therefrom for any purpose and in any manner it may choose in connection with the Rehabilitation Work, if:
- (a) the bank issuing the letter of credit refuses to extend or renew the expiry date of the letter of credit;
 - (b) the Owner becomes insolvent or commits any act of bankruptcy or becomes bankrupt or takes the benefit of any act or legislation that may be enforced for bankrupt or insolvent debtors;
 - (c) the Owner, in the City's opinion, has not been diligently carrying out the Rehabilitation Work; or
 - (d) the City in any way undertakes all or any part of the Rehabilitation Work pursuant to this agreement.
- 3.4 Within a reasonable time of the Owner's request after completion of the Rehabilitation Work in accordance with this agreement, the City will, as the case may be, return to its

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issuer any letter of credit provided to the City hereunder or, if the City has called upon the letter of credit, deliver to the Owner any remaining balance therefrom.

ARTICLE 4

SECTION 219 COVENANT - NO SEPARATE SALE

- 4.1 Pursuant to Section 219 of the *Land Title Act*, the Owner covenants and agrees, as a covenant and agreement running with, charging and binding the Lands, that no portion of the Lands, including, without limitation, the Heritage Parcel and the New Duplex Parcel, will at any time be sold separately from any other portion of the Lands and that all of the Lands, including, without limitation, the Heritage Parcel and the New Duplex Parcel, will be owned at all times by the same person or persons.
- 4.2 Within a reasonable amount of time from the Owner's request after the Rehabilitation Work has been completed in accordance with this agreement, the City, at the Owner's expense, will discharge from title to the Lands the Section 219 covenant contained in this Article 4.

ARTICLE 5

STATUTORY RIGHT OF WAY

- 5.1 Pursuant to Section 218 of the *Land Title Act*, the Owner hereby grants to the City, effective at all times from and after the date upon which the City issues the Development Permit, a statutory right of way to enter, be and move about on the Lands:
 - (a) to install, maintain, repair and replace on the exterior of the Heritage Building or at the perimeter of the Lands, at the City's expense, and in consultation with the Owner as to location, a commemorative plaque; and
 - (b) in the event the Owner, in the City's opinion, is in default of any of its obligations under this agreement to rehabilitate and conserve the Heritage Building, to carry out any such obligations of the Owner hereunder as the City may choose.
- 5.2 The statutory right of way granted in the preceding paragraph is necessary for the operation and maintenance of the City's undertaking.
- 5.3 Notwithstanding any other provision of this agreement, nothing herein obligates the City to exercise any of the rights granted to it by way of the statutory right of way contained herein.

ARTICLE 6

DEBTS OWED TO CITY

- 6.1 If the City, pursuant to this agreement, enters upon the Lands or any of them to perform any of the Owner's obligations hereunder to carry out the Rehabilitation Work or to conserve, repair or replace or replicate the Heritage Building:

- (a) there will be no express or implied warranties as to the quality of any work the City may so carry out or the suitability of the materials for the purposes for which they are put; and
- (b) the Owner will pay to the City, forthwith on demand, to the extent the City has not taken payment for such costs from any letters of credit provided to the City hereunder, as reimbursement for expenses incurred, the full amount of all costs the City incurs to carry out work to rehabilitate, conserve, repair or replace the Heritage Building, plus twenty percent (20%) of such costs as fair compensation for the City's overhead, and any such amounts the Owner does not pay or fails to pay to the City forthwith on demand will bear interest, until paid in full, at the prime lending rate at the Bank of Montreal's main branch in the City of Vancouver, plus three percent (3%), calculated monthly and not in advance.

**ARTICLE 7
EQUITABLE CHARGE**

- 7.1 The Owner hereby grants to the City an equitable charge over the Lands, which charge will run with, charge and bind the Lands, for the payment of all sums (including all interest thereon) which may at any time be payable by the Owner to the City under the terms of this agreement or otherwise at law.
- 7.2 The equitable charge the Owner has granted to the City herein may be enforced by the appointment of a receiver for the sale of the Lands.

**ARTICLE 8
BY-LAW VARIATIONS**

8.1 Zoning & Development By-law - New Duplex Parcel and Heritage Parcel

Section 10 of the *Zoning & Development By-law* is hereby varied as follows for the Lands, for purposes of the Development:

- (a) Section 10.7.1(a) is varied so that the Director of Planning may permit steps in any side yard thereon; and
- (b) Section 10.7.1(b) is varied so that the Director of Planning may permit eaves, gutters, sills and chimneys and other similar projections into a required or permitted yard, provided that the Director of Planning is satisfied that they correspond to drawings approved under the DP Applications.

8.2 Zoning & Development By-law - RS-1 District Schedule

The RS-1 District Schedule to the *Zoning & Development By-law* is hereby varied for the Lands, for purposes of the Development as follows:

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(a) **Heritage Parcel**

- (i) Section 4.1.1 is varied to provide for a minimum site area of 3,361 square feet;
- (ii) Section 4.4.1(a) is varied to permit a minimum of 26 feet for a front yard which is existing;
- (iii) Section 4.5.1 is varied to permit a minimum of 3.0 feet for a side yard;
- (iv) Section 4.6.1 is varied to permit a minimum of 4.5 feet for a rear yard;
- (v) Section 4.7.1 is varied to provide that the floor space ratio shall not exceed 0.74 (approximately 2,500 square feet);
- (vi) Sections 4.7.1(a) to 4.7.1(e) inclusive regarding above grade floor area shall not apply; and
- (vii) Section 4.17.2 regarding front and side entrances shall not apply.

(b) **New Duplex Parcel**

- (i) Section 3.2.1 is varied to permit a Two-Family Dwelling;
- (ii) Section 4.1.1 is varied to permit a minimum parcel area of 2,678 square feet and a minimum site width of 4 feet;
- (iii) Section 4.4.1(a) is varied to stipulate that a front yard is not required;
- (iv) Section 4.5.1 is varied to permit a minimum of 3.7 feet for a side yard;
- (v) Section 4.6.1 varied to permit a minimum of 3 feet for a rear yard;
- (vi) Section 4.7.1 is varied to provide that the floor space ratio shall not exceed 0.86 (approximately 2,300 square feet);
- (vii) Sections 4.7.1(a) to 4.7.1(e) inclusive regarding above grade floor area shall not apply;
- (viii) Section 4.8.1 is varied to permit a maximum site coverage of 54%;
- (ix) Section 4.8.5 is varied to permit that up to 96% of the site may be covered by impervious services; and
- (x) Section 4.17.2 regarding front and side entrances shall not apply.

8.3 **Subdivision By-Law**

Section 9 of the *Subdivision By-law* is hereby varied for the Lands, for purposes of the Development as follows:

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- (a) **New Duplex Parcel:** Section 9.1 is varied to permit a minimum parcel area of 2,678 square feet and a minimum width of 4 feet; and
- (b) **Heritage Parcel:** Section 9.8 is varied to permit a minimum parcel area of 3,361 square feet.

**ARTICLE 9
SUBDIVISION**

- 9.1 **Subdivision.** If the Lands are subdivided at any time hereafter either under the provisions of the *Land Title Act* or under the *Strata Property Act* or under other similar legislation enacted from time to time then upon the deposit of a plan of subdivision, strata plan, or similar plan as the case may be:
- (a) subject to Section 9.2 herein, the rights and benefits of this agreement herein granted will be annexed to and run with each of the new parcels, lots, or other subdivided parcels and areas so created; and
 - (b) subject to Section 9.3 herein, the burdens, obligations, covenant, statutory right of way and equitable charge contained in this agreement will continue to charge each of the new parcels, lots, or other subdivided parcels and areas so created.
- 9.2 **Subdivision by Strata Plan.** If the Lands, or any portion thereof, are subdivided by a strata plan, this agreement will charge title to the strata lots and the common property comprising such strata plan and:
- (a) the Section 219 Covenant and obligations therein and the Statutory Right of Way and Equitable Charge granted herein will be registered against each individual strata lot and noted on the common property sheet;
 - (b) the strata corporation or the strata corporations created will perform and observe the Owner's covenants in this agreement, solely at the expense of the strata lot owners; and
 - (c) the liability of each strata lot owner for the performance and observance of the Owner's covenants herein will be in proportion to the unit entitlement of his, her or its strata lot as established by the strata plan,

provided that, if the Lands are first subdivided by air space plan and then one or more of these parcels are further subdivided by strata plan, the easements and covenants registered concurrently with the air space plan may designate the air space parcel or the remainder, and therefore the strata corporation, responsible to perform and observe the Owner's covenants in this agreement.

- 9.3 Should the Lands be subdivided pursuant to the *Land Title Act* to create the New Duplex Parcel in which only the New Building is located, then at the Owner's request after the Rehabilitation Work has been completed in accordance with this agreement, the City, at the Owner's expense, will discharge from title to the New Duplex Parcel, the Section 219 Covenant, the Statutory Right of Way and the Equitable Charge contained in this

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agreement and will request of the Registrar of the Land Title Office that the legal notation referring to the Heritage Designation be removed from title to the New Duplex Parcel. Following such discharges, all restrictions, obligations and liability on the Owner with respect to the Heritage Building shall only attach to and run with the Heritage Parcel.

**ARTICLE 10
NOTICES**

10.1 Any notice, request or communication required or permitted to be given hereunder will be in writing and will be deemed to have been duly given if delivered to the party or mailed in Canada by prepaid registered post addressed to the party as follows:

- (a) if to the Owner, to the Owner's address as shown in the Land Title Office records;
and
- (b) if to the City:

City of Vancouver
453 West 12th Avenue
Vancouver, BC V5Y 1V4

Attention: City Clerk and Director of Legal Services,

or to such other address in Canada as any party may specify in writing to the other parties, provided that if and when the owner of the Lands or any part thereof should change, then to the address as set out in the State of Title Certificate for the Lands or such part thereof, and such notice will be deemed to have been received, if delivered, on the date of delivery, and if mailed as aforesaid within Canada then on the third (3rd) business day following its mailing, provided that if mailed, should there be between the time of the mailing and the actual receipt of the notice, a mail strike, slowdown or other labour dispute which might affect delivery of such notice, then such notice will only be effective if and when actually delivered.

**ARTICLE 11
GENERAL**

- 11.1 **Joint and Several Liability.** If the Owner is more than one party, such parties shall be jointly and severally liable to the City for the performance and observance of the Owner's obligations in this agreement.
- 11.2 **Priority of Registration.** The Owner, at his, her or its expense, after execution of this agreement, shall do or cause to be done all things and acts necessary to ensure that this agreement is registered against title to the Lands with priority over all other encumbrances on title to the Lands as the City may require.
- 11.3 **Perfection of Intention.** The parties hereto will do such things and execute such further and other documents and instruments and do such further and other acts as may be

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reasonably necessary to implement and carry out the provisions and intent of this agreement and to ensure timely and effective registration in the Land Title Office.

- 11.4 **Waiver.** No failure on the part of the City to exercise and no delay in exercising any right under this agreement will operate as a waiver thereof nor will any single or partial exercise by the City of any right under this agreement preclude any other or future exercise thereof or the exercise of any other right. The remedies herein provided will be cumulative and not exclusive of any other remedies provided by law and all remedies stipulated for the City herein will be deemed to be in addition to and not, except as herein expressly stated, restrictive of the remedies of the City at law or in equity.
- 11.5 **Time of Essence.** Time will be of the essence in respect of this agreement.
- 11.6 **Enurement.** This agreement shall enure to the benefit of and be binding upon the Owner and its successors and trustees, and this agreement shall charge and run with the Lands and with any parcel, lot or part into which the Lands may be subdivided or consolidated and shall enure to the benefit of and be binding upon the Owner's successors in title and trustees and successors and all parties claiming through such owners.
- 11.7 **City's Other Rights and Obligations.** Nothing contained or implied in this agreement will derogate from the obligations of the Owner under any other agreement with the City or prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Vancouver Charter* and the rights, powers, duties and obligations of the City under all other laws, which may be, if the City so elects, as fully and effectively exercised in relation to the Lands as if this agreement had not been executed and delivered by the Owner and the City.
- 11.8 **Headings.** The division of this agreement into articles, sections and paragraphs and the insertion of headings are for the convenience of reference only and will not affect the construction or interpretation of this agreement.
- 11.9 **Number.** Words contained herein importing the singular number only will include the plural and vice versa, words importing the masculine gender will include the feminine and neuter genders and vice versa and words importing persons will include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and vice versa.
- 11.10 **Governing Law.** This agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.
- 11.11 **Severability.** All provisions of this agreement are severable in that if any court or other lawful authority having jurisdiction to decide the matter finds for any reason that one or more of them is void or unenforceable, then such void or unenforceable provisions will be severed from this agreement and all other provisions herein will continue to be binding and enforceable.
- 11.12 **City Approvals.** In this agreement, where City "approval", "acceptance", "consent" or similar authorization or agreement is required, unless provided for otherwise in this agreement, such "approval", "acceptance", "consent" or similar City agreement or

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authority must be provided in writing, by the City departments, employees, officers or designates, as the case may be, that are authorized to provide such "approval", "acceptance", "consent" or similar authorization or agreement. Any purported "approval", "acceptance" "consent" or similar authorization or agreement provided by a City department, employee, officer or designate, as the case may be, that is not authorized to provide the same, shall be of no force or effect.

IN WITNESS WHEREOF the parties have executed this agreement on Form C which is a part hereof.

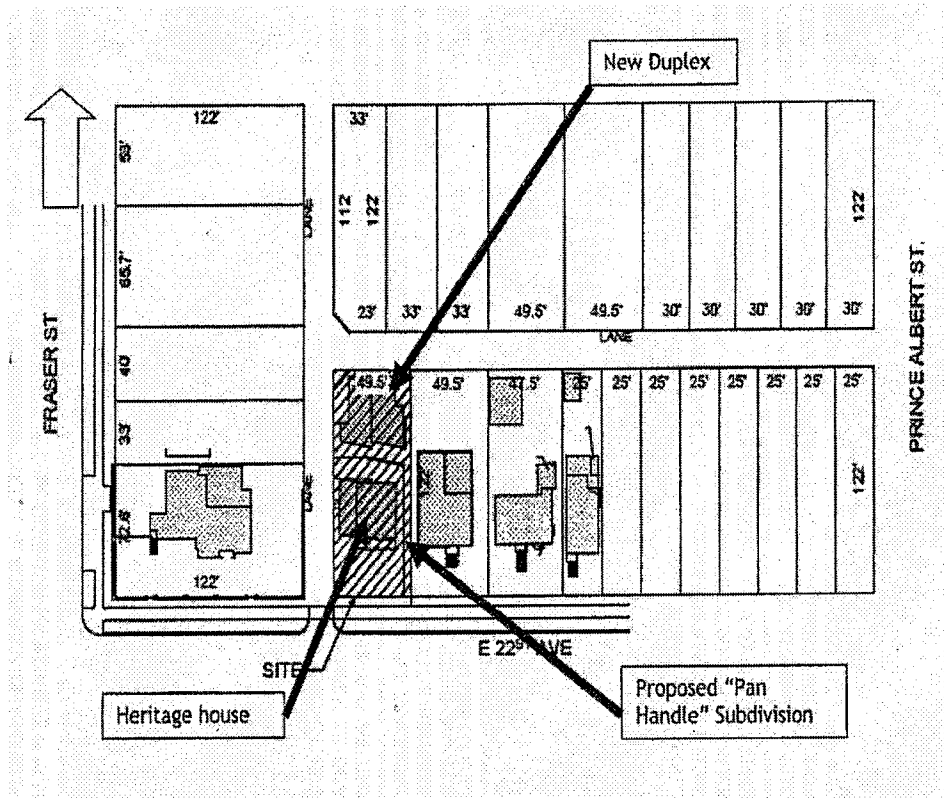
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Heritage Revitalization Agreement - Emily Durie House
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#161247v1

SCHEDULE "A"

SKETCH PLAN



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Heritage Revitalization Agreement - Emily Durie House
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#161247v1

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) **"Existing Charges"** means the Mortgage registered under number CA3446298;
- (b) **"Existing Chargeholder"** means VANCOUVER CITY SAVINGS CREDIT UNION, IN TRUST (see DF BL051963);
- (c) **"New Charges"** means the Section 219 Covenant, the Statutory Right of Way and the Equitable Charge and contained in the attached Terms of Instrument - Part 2; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the meaning ascribed to them in the attached Terms of Instrument - Part 2.

For ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which the Existing Chargeholder acknowledges, the Existing Chargeholder:

- (i) consents to the Owner granting the New Charges to the City; and
- (ii) agrees with the City that the New Charges charge the Lands in priority to the Existing Charges in the same manner and to the same effect as if the Owner had granted the New Charges, and they had been registered against title to the Lands, prior to the grant or registration of the Existing Charges or the advance of any money under the Existing Charges.

To witness this consent and priority instrument, the Existing Chargeholder has caused its duly authorized signatories to sign the attached General Instrument - Part 1.

END OF DOCUMENT

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Heritage Revitalization Agreement - Emily Durie House
731 East 22nd Avenue and 735 East 22nd Avenue

EXPLANATION**A By-law to amend the Sign By-law
Re: 303 East 8th Avenue**

After the public hearing on January 21, 2014, Council resolved to amend the Sign By-law to add this site to Schedule E. The Director of Planning has advised that all prior-to conditions have been satisfied, and enactment of the attached By-law will implement Council's resolution.

Director of Legal Services
July 22, 2014

EXPLANATION

**Street Name By-law No. 4054
Re: Rolston Street and Continental Street**

Enactment of the attached By-law will implement Council's resolution of July 22, 2014 to name the Streets as set out in the attached By-law.

Director of Legal Services
July 22, 2014

BY-LAW NO. _____

**A By-law to amend Street Name By-law No. 4054
regarding Rolston Street and Continental Street**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. Council amends By-law No. 4054 by:
 - a) assigning the name "Continental Street" to that portion of street outlined in black and labeled "Road A" on the plan marginally numbered LF 11977, attached to and forming part of this By-law;
 - b) assigning the name "Rolston Street" to that portion of street outlined in black and labeled "Road B" on the plan marginally numbered LF 11977, attached to and forming part of this By-law; and
 - c) adding to the "Official Street Name Map of the City of Vancouver", which is the plan marginally numbered L325, attached to and forming part of By-law No. 4054, "Continental Street" and "Rolston Street" located as shown on the plan marginally numbered LF 11977.
2. This By-law is to come into force and take effect on the date of its enactment.

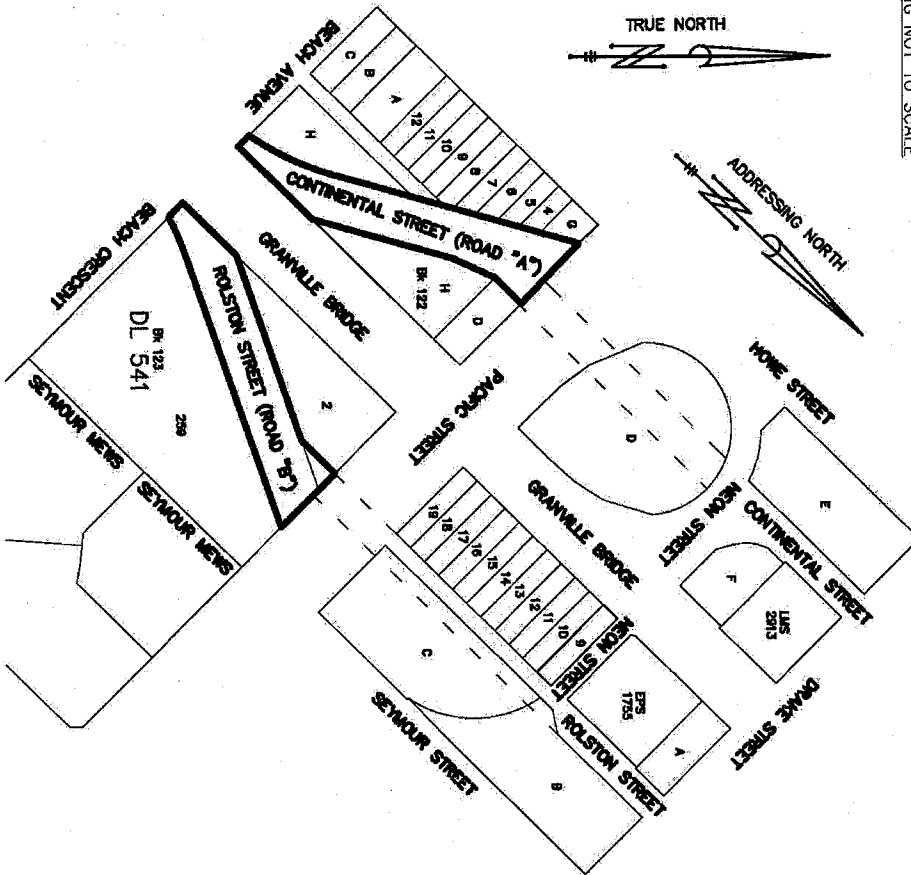
ENACTED by Council this _____ day of _____, 2014

Mayor

City Clerk

**PLAN TO ACCOMPANY A BY-LAW TO
AMEND STREET NAME BY-LAW No. 4054.**

DRAWING NOT TO SCALE



DMK, MAP N-10.

ENGINEERING SERVICES
JUNE 24, 2014.

EXPLANATION

**Authorization to enter into a Housing Agreement
Re: 155 East 37th Avenue**

On March 25, 2013, the Development Permit Board approved Development Application Number DE4166511 to develop on the referenced lands a five-storey multiple dwelling building containing 53 social housing units for seniors and families, with 11 surface parking spaces having vehicular access from Grouse Walk off of East 37th Avenue, subject to a number of conditions, including a condition that the owner of these lands first make arrangements to the satisfaction of the Managing Director of Social Development and the Director of Legal Services to enter into a Housing Agreement for 60 years or the life of the building, whichever is greater, securing 53 dwelling units proposed in this application as social housing; returning residents of Little Mountain to be given first right of refusal on units suitable to their needs at rents comparable to what they formerly paid (adjusted for the Consumer Price Index for Vancouver and subject to normal income testing). If any of the replacement social housing units proposed by this application are surplus to interested returning residents, rents for these units should be set at levels no greater than rents affordable to Housing Income Limits as published by CMHC for Metro Vancouver.

A Housing Agreement has been accepted and signed by the owner applicant. Enactment of the attached By-law, as required by section 565.2 of the *Vancouver Charter*, will complete the process to implement the Development Permit Board's condition regarding a Housing Agreement.

Director of Legal Services
July 22, 2014



155 East 37th Avenue

BY-LAW NO. _____

**A By-law to enact a Housing Agreement
for 155 East 37th Avenue**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. Council authorizes the City to enter into a Housing Agreement with the owner of certain lands described as:

PID: 002-546-787

Parcel C (Reference Plan 3508)
of District Lots 637 and 638
Group 1 New Westminster District

in substantially the form and substance of the Housing Agreement attached to this By-law, and also authorizes the Director of Legal Services to execute the agreement on behalf of the City, and to deliver it to the owner on such terms and conditions as the Director of Legal Services deems fit.

2. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this _____ day of _____, 2014

Mayor

City Clerk

Schedule A

6

TERMS OF INSTRUMENT - PART 2

Housing Agreement and Building Use Covenant 155 East 37th Avenue

WHEREAS:

A. It is understood and agreed that this instrument and Agreement, dated for reference September 15, 2013, shall be read as follows:

- (i) the Transferor, Holborn Properties Ltd., is called the "Owner" as more particularly defined in Section 1 (p); and
- (ii) the Transferee, City of Vancouver, is called the "City" or the "City of Vancouver" when referring to the corporate entity and "Vancouver" when referring to the geographic location;

B. The Owner is the registered and beneficial owner of the Lands;

C. The Owner has applied to the City pursuant to the Development Permit Application to develop the Lands with a five storey multiple dwelling containing 53 social housing units for seniors and families, with 11 surface parking spaces, having vehicular access from Grouse Walk off of East 37th Avenue, which parking spaces may subsequently be relocated into an underground parkade to be built on adjoining lands (the "Redevelopment");

D. After consideration of the Development Permit Application, the Redevelopment was conditionally approved subject to a number of conditions, including that arrangements be made, to the satisfaction of the Director of Legal Services and the Managing Director of Social Development, for the Owner to enter into a housing agreement with the City for a term of 60 years or the life of the Building, whichever is greater, securing the 53 dwelling units proposed in the Development Permit Application as social housing; returning residents of Little Mountain to be given first right of refusal on units suitable to their needs at rents comparable to what they formerly paid (adjusted for the Consumer Price Index for Vancouver and subject to normal income testing). If any of the replacement social housing units proposed by this Development Permit Application are surplus to interested returning residents, rents for these units should be set at levels no greater than rents affordable to Housing Income Limits as published by Canada Housing and Mortgage Corporation for Metro Vancouver (as more particularly defined in Section 1 (a), the "Affordable Housing Conditions"); and

E. The Owner and the City are now entering into this Agreement to satisfy the Affordable Housing Conditions.

NOW THEREFORE THIS AGREEMENT WITNESSES that for good and valuable consideration (the receipt and sufficiency of which the parties hereby acknowledge and agree to) the Owner and the City, pursuant to Section 565.2 of the *Vancouver Charter* and to Section 219 of the *Land Title Act*, agree as follows in respect of the use of the Lands and the Building:

1. Definitions. In this Agreement the following terms have the definitions now given:

- (a) **"Affordable Housing Conditions"** means the terms and conditions outlined in this Agreement applicable to the Building and the 53 Residential Units to be contained therein;
- (b) **"Agreement"** means this housing agreement and building use covenant, including the foregoing Recitals, as the same may be amended from time to time by mutual agreement of the parties;
- (c) **"BC Housing"** means the British Columbia Housing Management Commission, and includes its successor(s) in function if any;
- (d) **"Building"** means the new building containing 53 Residential Units and related amenity spaces, to be built on the Lands as contemplated by the Development Permit, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by the Development Permit;
- (e) **"Building Permit"** means any building permit issued by the City authorizing any part of the Redevelopment;
- (f) **"City Personnel"** means any and all of the elected and appointed officials, and officers, employees, agents, nominees, delegates, permittees, contractors, subcontractors and volunteers of the City;
- (g) **"Development Permit"** means any development permit given by the City pursuant to the Development Permit Application, as the same may be amended from time to time;
- (h) **"Development Permit Application"** means development permit application number DE4166511 made by the Owner to enable it to redevelop the Lands;
- (i) **"Director of Legal Services"** means the chief administrator from time to time of the Legal Services Department of the City and her/his successors in function and their respective nominees;
- (j) **"Housing Income Limits"**, formerly known as Core Need Income Threshold (or CNIT), means the housing income limits (or HILs) for Vancouver published by Canada Mortgage and Housing Corporation from time to time, which is the maximum gross household income an applicant may have in order to be eligible for subsidized housing in Vancouver;
- (k) **"Land Title Act"** means the *Land Title Act*, R.S.B.C. 1996, c. 250, and amendments thereto and re-enactments thereof;
- (l) **"Lands"** means the parcel described in Item 2 in the Form C attached hereto;
- (m) **"Losses"** means all damages, losses, costs, expenses, actions, causes of action, claims, demands, builders liens, liabilities, expenses and indirect or

consequential damages (including loss of profits and loss of use and damages arising out of delays);

- (n) **"Managing Director of Social Development"** means the chief administrator from time to time of the Social Development Department of the City and his/her successors in function and their respective nominees;
- (o) **"Occupancy Permit"** means a permit issued by the City authorizing the use and occupation of the Building contemplated by the Development Permit;
- (p) **"Owner"** means the registered and beneficial owner of the Lands, which as of the reference date hereof is Holborn Properties Ltd., and includes any and all of its respective assigns and successors as registered or beneficial owner of the Lands or any part thereof;
- (q) **"PRHC"** means the Provincial Rental Housing Corporation, and includes its successor(s) in function if any;
- (r) **"Redevelopment"** has the meaning ascribed to that term in Recital C;
- (s) **"Rental Housing"** means a Residential Unit which shall not be occupied by the Owner of the same, or by a family member or affiliate of the Owner, but which is made available by such Owner to the general public, at arms length, for use as rental accommodation on a month-to-month or longer basis in accordance with this Agreement, reasonably prudent landlord-tenant practices for rental residential accommodation and any and all laws applicable thereto, including, without limitation, residential tenancy and human rights legislation in British Columbia;
- (t) **"Residential Unit"** means a self-contained residential unit, comprised of two or more rooms, including toilet, bathing and cooking facilities;
- (u) **"Term"** means the term of this Agreement being 60 years or the life of the Building, whichever is longer; and
- (v) **"Vancouver Charter"** means the *Vancouver Charter* S.B.C. 1953, c. 55, as amended or replaced from time to time.

2. Interpretation.

- (a) **Headings.** The division of this Agreement into Articles and Sections and the insertion of headings are for the convenience of reference only and will not affect the construction or interpretation of this Agreement.
- (b) **Number.** Words importing the singular number only will include the plural and *vice versa*, words importing the masculine gender will include the feminine and neuter genders and *vice versa*, and words importing persons will include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and vice versa.

- (c) Governing Law. This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable in British Columbia.
- (d) References to Statutes. Any reference to a statute is to the statute and its regulations in force on the date the Form C General Instrument - Part 1 is executed by the City and to subsequent amendments to or replacements of the statute or regulations.

3. Restrictions on Use and Subdivision. The Owner covenants and agrees with the City in respect of the use of the Lands and the Building that it will construct and operate, or cause to be constructed and operated, the Building and the Residential Units in accordance with the Development Permit, any Building Permit and the requirements of this Agreement, and throughout the Term, that:

- (a) the Lands and the Building will not be used in any way that is inconsistent with the terms of this Agreement;
- (b) the Building will contain not less than 53 Residential Units;
- (c) all 53 Residential Units will be used only for the purpose of providing Rental Housing;
- (d) returning residents who were temporarily displaced by the redevelopment of the Lands will be offered a right of first refusal to rent and occupy such of the 53 Residential Units as are suitable to their respective needs as determined by BC Housing and/or PRHC, and all Residential Units rented and occupied by such returning residents will be rented at rents comparable to what they paid before being so displaced (adjusted for the Consumer Price Index and subject to normal income testing as may be conducted by BC Housing and/or PRHC);
- (e) such of the 53 Residential Units that are not rented to returning residents as contemplated by paragraph (d) above, will be rented at rates that are affordable for persons with incomes at or below the Housing Income Limits;
- (f) it will establish an income testing protocol for prospective tenants to ensure that all 53 Residential Units are available to low and moderate income households;
- (g) except by way of a tenancy agreement to which the *Residential Tenancy Act* (British Columbia) applies, it will not suffer, cause or permit, beneficial or registered title to any of the 53 Residential Units or the Building to be sold or otherwise transferred unless title to every one of the 53 Residential Units and the Building is sold or otherwise transferred together and as a block to the same beneficial and legal owner, and unless such transferee concurrently enters into an assumption agreement satisfactory to the City whereby it agrees to be and thereafter remain bound by each and every term and condition of this Agreement applicable to the Owner;

- (h) throughout the Term, it will not suffer, cause or permit the Building to be subdivided by strata plan or air space plan without the prior written consent of the City, which consent may be arbitrarily withheld; and
- (i) it will keep and maintain the Building, the 53 Residential Units and all parts thereof in good repair and in a safe, clean, neat and tidy condition, and will insure it to the full replacement cost against perils normally insured against in the City of Vancouver by reasonable and prudent owners of similar buildings and lands. If the Building or any part thereof is damaged, the Owner will promptly restore and repair it whenever and as often as damage occurs, to at least as good a state and condition as existed before such damage occurred. Notwithstanding the foregoing insurance requirements, if and for so long as the Owner is the PRHC, PRHC may self-insure part or all of the risks described in this paragraph, subject always to such self-insurance being on at least equivalent terms and conditions. If so self-insured, PRHC will promptly advise the City in writing, and will provide the City with any additional information that the City deems necessary to evaluate the adequacy of such self-insurance.

4. Partial Discharge Upon Subdivision of the Lands. Upon subdivision of the Lands effected in accordance with all applicable laws and by-laws, the City hereby agrees, upon request of the Owner, to execute and deliver a registrable discharge of this Agreement from any part of the subdivided Lands that does not contain the Building, provided, that:

- (a) any such discharge will be in form and substance acceptable to the Director of Legal Services, acting reasonably and will be prepared by the Owner at its cost;
- (b) the City will have a reasonable amount of time to execute and return any such discharge; and
- (c) the preparation and registration of any such discharge will be without cost to the City.

Following such partial discharge of this Agreement, the term "Lands" where used hereunder shall be deemed to refer to the legal parcel or parcels against which this Agreement remains registered.

5. Occupancy Restriction on the Lands. The Owner covenants and agrees with the City in respect of the use of the Lands and the Building, that:

- (a) it will not suffer or permit the occupation or use of any of the 53 Residential Units, the Building or any part of any thereof until such time as all requirements of this Agreement applicable to the Owner have been fully and strictly complied with by the Owner;
- (b) the City will be under no obligation to issue any Occupancy Permit permitting the use and occupation of any of the Dwelling Units or any part of any thereof until such time as the Redevelopment has been completed and all other City preconditions to the issuance of any such Occupancy Permit have been met to the City's satisfaction; and

- (c) without limiting the general scope of this Section 5, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel for any Losses that may derive from the withholding of an Occupancy Permit until there is compliance with the provisions of Section 5(b).

6. Record Keeping. From and after the date of any occupation of the Building, the Owner will keep, or cause to be kept, accurate records pertaining to the use and occupancy of the Building and the 53 Residential Units, such records to be to the satisfaction of the City. At the request of the City, from time to time, the Owner will make, or cause to be made, such records available for inspection and copying by the City. The City will comply with the Owner's statutory obligations with respect to privacy of such information.

7. Enforcement. This Agreement may be enforced by mandatory and prohibitory orders of the court. In any action to enforce this Agreement if the City is entitled to court costs, it shall be entitled to court costs on a solicitor and own client basis.

8. Release and Indemnity. The Owner hereby releases, and agrees to indemnify and save harmless, the City and all City Personnel for and from any cost, claim, demand, complaint, judgment or order for any Losses suffered, incurred or experienced by any person or entity, including, without limitation, the Owner, the City and any/all City Personnel, in connection with, that arises out of, or that would not have been incurred "but for", this Agreement (collectively, the "Claims" or a "Claim"). This release and indemnity will survive release or discharge of the Section 219 Covenant given hereby. Notwithstanding anything to the contrary herein the Owner shall have no obligation under this Section 8 and shall not release nor indemnify the City or the City Personnel for any Claim or Claims arising from an act or omission occurring after it has ceased to be the registered and beneficial Owner of the portion of the Lands upon which the Building is situate.

9. Notices. All notices, demands or requests of any kind which one party may be required or permitted to give to the other in connection with this Agreement, shall be in writing and shall be given by registered mail or personal delivery, addressed as follows:

- (a) If to the City:

City of Vancouver
453 West 12th Avenue
Vancouver, British Columbia
V5Y 1V4

Attention: City Clerk, with concurrent copies to the attention of the Managing Director of Social Development and the Director of Legal Services;

- (b) If to the Owner:

Holborn Properties Ltd.
Suite 10 - 698 Seymour Street
Vancouver, British Columbia
V6B 3K6

Attention: President

With a copy to PRHC:

Provincial Rental Housing Corporation
1701 - 4430 Kingsway
Burnaby, British Columbia
V5H 4G7

Attention: General Manager of Real Estate Services

And To:

British Columbia Housing Management Commission
1701 - 4555 Kingsway
Burnaby, BC V5H 4V8

Attention: Manager, Real Estate Services

and any such notice, demand or request will be deemed given:

- (c) if made by registered mail, on the earlier of the day receipt is acknowledged by the addressee or the third (3rd) day after it was mailed, except when there is a postal service disruption during such period, in which case delivery will be deemed to be completed upon actual delivery of the notice, demand or request; and
- (d) if personally delivered, on the date when delivered,

or to such other address in Canada as any party may specify in writing to the other parties in the manner described above.

10. Agreement Runs With the Lands. The covenants and agreements set forth herein on the part of the Owner shall be covenants the burden of which shall run with and shall bind its interest in the Lands and shall attach thereto and run with each and every part into which the same may be subdivided or consolidated, subject to partial discharge of this Agreement from such subdivided portions in accordance with section 4. None of the covenants contained herein shall be personal or binding upon the parties hereto, save and except during the Owner's seisin or ownership of any interest in the Lands and with respect only to that portion of the Lands of which the Owner shall be seised or which it shall have an interest.

11. Enurement. This Agreement shall enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

12. Severability. All the obligations and covenants contained in this Agreement are severable, so that if any one or more of the obligations or covenants are held by or declared by a court of competent jurisdiction to be void or unenforceable, the balance of the obligations and covenants will remain and be binding.

13. Vancouver Charter. Nothing contained or implied herein will derogate from the obligations of the Owner under any other agreement with the City or, if the City so elects, prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Vancouver Charter* as amended from time to time and the rights, powers, duties and obligations of the City under all public and private statutes, by-laws, orders and regulations, which may be, if the City so elects, as fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owner and the City.

14. Waiver. The Owner acknowledges and agrees that no failure on the part of the City to exercise and no delay in exercising any right under this Agreement will operate as a waiver thereof nor will any single or partial exercise by the City of any right under this Agreement preclude any other or future exercise thereof or the exercise of any other right. The remedies herein provided will be cumulative and not exclusive of any other remedies provided by law and all remedies stipulated for the City herein will be deemed to be in addition to and not, except as herein expressly stated, restrictive of the remedies of the City at law or in equity.

15. Perfection of Intention. The Owner shall, after execution hereof, do or cause to be done at its own cost and expense all things and acts necessary to ensure that this Agreement is registered on title to the Lands as a charge against its interest in the Lands with priority over all other encumbrances except those in favour of the City.

16. Further Assurances. Each party shall execute such further and other documents and instruments and do such further and other acts as may be necessary to implement and carry out the provisions and intent of this Agreement.

17. Owner's Representations and Warranties. The Owner represents and warrants to and covenants and agrees with the City that:

- (a) it has the full and complete power, authority and capacity to enter into, execute and deliver this Agreement and to bind all of the Owner's interests in the title to the Lands with the interests in land created hereby;
- (b) upon execution and delivery of this Agreement and registration thereof, the interests in land created hereby will encumber all of the Owner's interests in the title to the Lands;
- (c) this Agreement will be fully and completely binding upon the Owner in accordance with its terms and the Owner will perform all of its obligations under this Agreement in accordance with its terms; and
- (d) the foregoing representations, warranties, covenants and agreement will have force and effect notwithstanding any knowledge on the part of the City whether actual or constructive concerning the status of either the Owner or the Owner with regard to the Lands or any other matter whatsoever.

IN WITNESS WHEREOF the parties have executed this Agreement on Form C which is a part hereof.

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) "Existing Charges" means the Mortgage registered under number CA3212928 and the Assignment of Rents registered under number CA3212929;
- (b) "Existing Chargeholder" means the Provincial Rental Housing Corporation;
- (c) "New Charge" means the Covenant contained in the attached Terms of Instrument - Part 2; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the respective meanings ascribed to them in the attached Terms of Instrument - Part 2.

For \$10.00 and other good and valuable consideration, the receipt and sufficiency of which the Existing Chargeholder acknowledges, the Existing Chargeholder:

- (i) consents to the Owner granting the New Charge to the City; and
- (ii) agrees with the City that the New Charge charges the Land in priority to the Existing Charges in the same manner and to the same effect as if the Owner had granted the New Charge, and it had been registered against title to the Lands, prior to the grant or registration of the Existing Charges or the advance of any money under the Existing Charges.

To witness this consent and priority instrument, the Existing Chargeholder has caused its duly authorized signatories to sign the attached General Instrument - Part 1.

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) "Existing Charges" means the Mortgage registered under number CA3212930 and the Assignment of Rents registered under number CA3212931;
- (b) "Existing Chargeholder" means the British Columbia Housing Management Commission;
- (c) "New Charge" means the Covenant contained in the attached Terms of Instrument - Part 2; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the respective meanings ascribed to them in the attached Terms of Instrument - Part 2.

For \$10.00 and other good and valuable consideration, the receipt and sufficiency of which the Existing Chargeholder acknowledges, the Existing Chargeholder:

- (i) consents to the Owner granting the New Charge to the City; and
- (ii) agrees with the City that the New Charge charges the Land in priority to the Existing Charges in the same manner and to the same effect as if the Owner had granted the New Charge, and it had been registered against title to the Lands, prior to the grant or registration of the Existing Charges or the advance of any money under the Existing Charges.

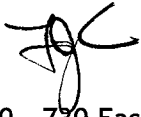
To witness this consent and priority instrument, the Existing Chargeholder has caused its duly authorized signatories to sign the attached General Instrument - Part 1.

END OF DOCUMENT

EXPLANATION**A By-law to amend the Zoning and Development By-law
Re: 720 - 730 East Hastings Street**

After the public hearing on November 19th, 2013, Council resolved to amend the Zoning and Development By-law to create a CD-1 By-law for 720 - 730 East Hastings Street. The Director of Planning has advised that all prior to conditions have been met, and enactment of the attached By-law will implement Council's resolution.

Director of Legal Services
July 22, 2014



720 - 730 East Hastings Street

BY-LAW NO. _____

**A By-law to amend
Zoning and Development By-law No. 3575
to rezone an area to CD-1**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

Zoning District Plan Amendment

1. This By-law amends the Zoning District Plan attached as Schedule D to By-law No. 3575, and amends or substitutes the boundaries and districts shown on it, according to the amendments, substitutions, explanatory legend, notations, and references shown on the plan marginally numbers Z-667 (a) attached as Schedule A to this By-law, and incorporates Schedule A into Schedule D, to By-law No. 3575.

Uses

2.1 The description of the area shown within the heavy black outline on Schedule A is CD-1 (581).

2.2 Subject to approval of the form of development, to all conditions, guidelines and policies adopted by Council, and to the conditions set out in this By-law or in a development permit, the only uses permitted within CD-1 (581) and the only uses for which the Director of Planning or Development Permit Board will issue development permits are:

- (a) Cultural and Recreational Uses, limited to Library;
- (b) Dwelling Uses;
- (c) Institutional Uses, limited to Social Service Centre; and
- (d) Accessory Uses customarily ancillary to the uses listed in this section.

Floor area and density

3.1 Computation of floor area must assume that the site consists of 1,133 m², being the site size at the time of the application for the rezoning evidenced by this By-law, and before any dedications.

3.2 The floor space ratio for all uses must not exceed 3.35.

3.3 Computation of floor area must include:

- (a) all floors of all buildings, having a minimum ceiling height of 1.2 m, including earthen floors and accessory buildings, both above and below ground level, to be measured to the extreme outer limits of the building; and
- (b) stairways, fire escapes, elevator shafts, and other features which the Director of Planning considers similar, measured by their gross cross-sectional areas and included in the measurements for each floor at which they are located.

3.4 Computation of floor area must exclude:

- (a) patios and roof gardens, provided that the Director of Planning first approves the design of sunroofs and walls;
- (b) where floors are used for off-street parking and loading, the taking on or discharging of passengers, bicycle storage, heating and mechanical equipment, or uses which in the opinion of the Director of Planning are similar to the foregoing, those floors or portions thereof not exceeding 7.3 m in length so used, which are in a building located within 8.4 m of the rear property line;
- (c) areas of undeveloped floors which are located:
 - (i) above the highest storey or half-storey and to which there is no permanent means of access other than a hatch, or
 - (ii) adjacent to a storey or half-storey with a ceiling height of less than 1.2 m;
- (d) floors located at or below finished grade with a ceiling height of less than 1.2 m;
- (e) covered porches if:
 - (i) they face a street or a rear property line and are at the level of the basement or first storey,
 - (ii) that portion facing the street or rear property line is open or protected by guard rails,
 - (iii) the total area being excluded does not exceed 5% of the permitted floor area, and
 - (iv) the ceiling height, excluding roof structures, of the total area being excluded does not exceed 3.1 m measured from the porch floor; and
- (f) all residential storage space above or below base surface, except that if the residential storage space above base surface exceeds 3.7 m² per dwelling unit,

there will be no exclusion for any of the residential storage space above base surface for that unit.

3.5 Computation of floor area may exclude, at the discretion of the Director of Planning or Development Permit Board:

- (a) enclosed residential balconies, provided that the Director of Planning first considers all applicable policies and guidelines adopted by Council and approves the design of any balcony enclosure, except that:
 - (i) the total area of all open and enclosed balcony or sundeck exclusions must not exceed 8% of the residential floor area being provided, and
 - (ii) no more than 50% of the excluded balcony floor area may be enclosed; and
- (b) amenity areas, except that the exclusion must not exceed the lesser of 20% of the permitted floor area or 929 m².

3.6 The use of floor area excluded under section 3.4 or 3.5 must not include any purpose other than that which justified the exclusion.

Building height

4. The building height, measured above base surface, must not exceed 23 m.

Horizontal angle of daylight

5.1 Each habitable room in a residential use must have at least one window on an exterior wall of a building.

5.2 The location of each such exterior window must allow a plane or planes extending from the window, and formed by an angle of 50 degrees, or two angles with a sum of 70 degrees, to encounter no obstruction over a distance of 24.0 m.

5.3 Measurement of the plane or planes referred to in section 5.2 must be horizontally from the centre of the bottom of each window.

5.4 If the Director of Planning or Development Permit Board first considers all the applicable policies and guidelines adopted by Council, the Director of Planning or Development Permit Board may relax the horizontal angle of daylight requirement for bedrooms.

5.5 An obstruction referred to above means:

- (a) any part of the same building, including permitted projections; or
- (b) the largest building permitted under the zoning on any site adjoining CD-1 (581).

5.6 A habitable room referred to in section 5.1 does not include:

- (a) a bathroom; or
- (b) a kitchen whose floor area is the lesser of:
 - (i) 10% or less, of the total floor area of the dwelling unit, or
 - (ii) 9.3 m².

Acoustics

6. All development permit applications require evidence in the form of a report, and recommendations prepared by a person trained in acoustics and current techniques of noise measurement, demonstrating that the noise levels in those portions of dwelling units listed below, do not exceed the noise level set opposite such portions. For the purposes of this section, the noise level is the A-weighted 24-hour equivalent (Leq) sound level, and is defined simply as noise level in decibels.

Portions of dwelling units	Noise levels (Decibels)
Bedrooms	35
Living, dining, recreation rooms	40
Kitchen, bathrooms, hallways	45

Severability

7. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

Force and effect

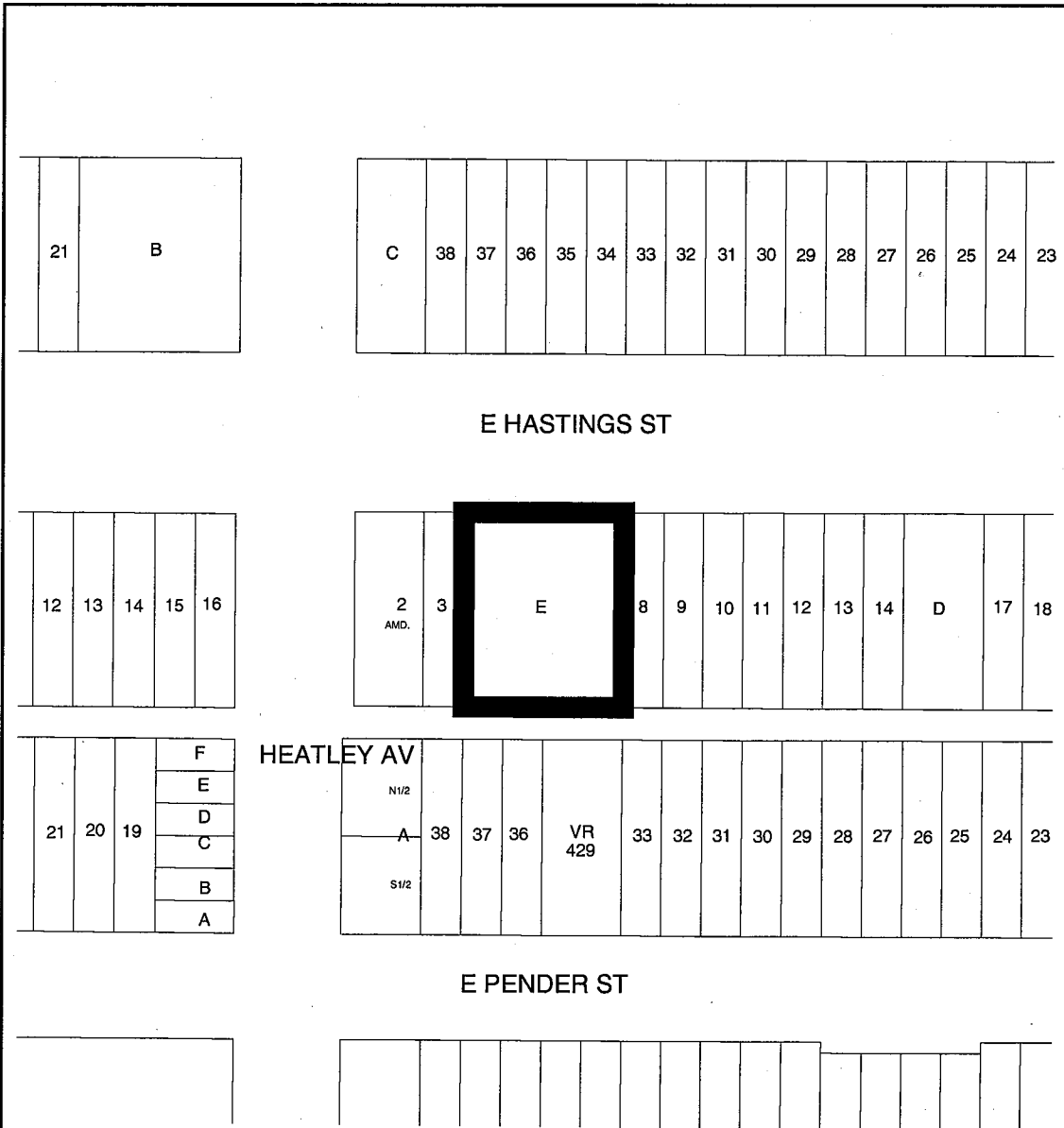
8. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this _____ day of _____, 2014

Mayor

City Clerk

Schedule A



The property outlined in black () is rezoned:
From **M-1** to **CD-1**.

Z-667 (a)

RZ – 720/730 East Hastings Street

map: 1 of 1

scale: NTS



City of Vancouver

date: 2013-10-30

